

Bosnia & Herzegovina

Report by the Centre on Civil and Political Rights for the Universal Periodic Review of Bosnia and Herzegovina

The present report concentrates on the issues selected by the Human Rights Committee (HRC) for the follow up procedure and the main concerns raised in this regard by the local NGO called Helsinki Committee of Bosnia and Herzegovina in cooperation with the Centre for Civil and Political Rights.

A first concern taken up by the Human Rights Committee (HRC) dealt with the pending constitutional reform and especially with the changes within the electoral law. So far only persons belonging to one of the “constituent peoples” can be voted into the House of Peoples and to the tripartite Presidency. In other word it is necessary for a person to be elected into one of these foras to declare himself / herself affiliated with one of the three constituent peoples of Bosnia and Herzegovina, meaning either, Serb, Croat or Bosniak. That means that no independent experts or minority representatives have a right to be elected into these bodies and are excluded from such a move. However, a first positive change can be seen on the candidate lists of the 2008 local elections which allowed individuals to be put on them without being affiliated to one of the above mentioned three groups. This situation is severed by the fact that the Bosnian Constitution does not know the term of “ethnic minorities” but “others” and therefore implying that representation of ethnic minorities within the government bodies has not been foreseen clearly within the Constitution. However, this is a crucial factor as there exist about 17 groups within the State of Bosnia and Herzegovina understanding them as being minorities. From these 17 groups the Roma community is the biggest one. It can be seen from above that almost none of the articles of the Law on Protection of Rights of Ethnic Minorities have been implemented in practice. In other words this means that people have been excluded to participate in the process of constitutional change and were left to the information brought to them by the newspapers, radio stations and tv.

It is therefore necessary that a constitutional change within the State of Bosnia and Herzegovina focuses on:

- Changes with the aim of affirmation of a citizen – an individual and his/her individual rights are recommended. The assumption for this is consistent respect for ethnic equality and equality of citizens on the whole territory of Bosnia and Herzegovina;
- It is necessary to change provisions of the Constitution of Bosnia and Herzegovina that deprive any citizen of Bosnia and Herzegovina of passive voting rights, regardless of his/her place of residence. It is also necessary to change provisions which reserve positions of chairs and their deputies in the two houses of the Parliamentary

Assembly of Bosnia and Herzegovina for members of the three constituent peoples only;

- Changes guaranteeing rights of members of ethnic minorities, as well as those citizens who do not belong to constituent peoples or ethnic minorities, need to be incorporated into the Constitution of Bosnia and Herzegovina.

The issue of missing persons continues to be a pressing issue of concern as the whereabouts of approximately 15 000 persons is still unclear and the process of identifying found bodies is still ongoing. It must be reminded that a failure to investigate the cause and circumstances of death, as well as to provide information relating to the burial sites, of missing persons increases uncertainty and, therefore, suffering inflicted to family members and may amount to a violation of article 7 of the Covenant. The State of Bosnia and Herzegovina should therefore ensure that the created Institute of Missing Persons starts to be fully operational and is best equipped to fulfil its task. In this respect it is necessary that the cooperation between NGOs, dedicating its work to find out about the fate of missing persons, and the government intensifies and is well improved. In this respect the Institute of Missing persons shall ensure that it fulfils its work regardless of the ethnic background of the victim in question, however, until today it can be appreciated that the background of the victim still furnishes the rapidness of an investigation or the promptness of its outcome. Furthermore, the law regarding missing persons should be implemented as a whole and ensured that its implementation is reached to its fullest capacity. In addition to this the Government has not yet fully agreed on the financing of a fund dealing with missing persons and dedicated to support the search of families affected, who are in the need of assistance in their efforts due to the economic hardship they live in.

An additional pressing issue of concern are the conditions under which people are detained and possible improvements which must be made in this respect. In particular the Detention and Correctional Facility Zenica is of concern and the facility of Sokolac Psychiatric Hospital. In this respect the Detention and Correctional Facility Zenica is of concern as the prison is not only 122 years old but in addition to that the conditions of detention are as well an issue of concern. On a prison visit, conducted by the Helsinki Committee of Bosnia and Herzegovina, on 2 June 2008 the investigators were confronted with standards below the minimum requirements which have to be met by such an institution. In particular the issue of overcrowding, lack of staff and a respective lack of education of the present staff, lack of security within the prison, no measures are taken to avoid the contact between juvenile and adult offenders and lastly there is no women section found within the prison.¹ In addition to these severe conditions there is as well a lack of a future plan to reform and improve the above mentioned conditions which should be made and agreed upon by the parties of concern in future time.

¹ For a more detailed outlook in the findings see: Information on the visit of the Mission of the Helsinki Committee of Bosnia and Herzegovina to the Zenica Prison on 2 July 2008.

Forcible relocation of Roma families in Butmir is another challenge the State of Bosnia and Herzegovina has to meet. It is of particular concern in these cases that families of non-Roma origin were not made to leave their houses and relocated although living in the same street across the Roma families. Not only is the total number of the Roma community unknown but as well only 1.5 % of the Roma population who are able to work have jobs. In addition there are large numbers of Roma children either not attending school or dropping out at a very early stage and there exist no programs within the State to ensure a change in the present conditions. The overall setting is pretty bad, access to health care, education is still limited, as well as the possibilities for employment. Schools do not have classes in culture and history of ethnic minorities, or classes in Roma language.

The Centre for Civil and Political Rights suggests that, in the course of the Universal Periodic Review, Bosnia and Herzegovina should be asked about its current efforts to change and adopt the present Constitution with respect to ethnic minorities and their rights. In addition it should present its attempt to ensure the rights of detainees and what actions are taking place to improve the current situation. With regard to missing persons the State of Bosnia and Herzegovina should present the changes that have been taking place in order to make the Institute of Missing Persons more work effective. Finally the State of Bosnia and Herzegovina shall as well demonstrate its concern and changes with regard to the Roma population of Butmir and their living conditions.

The Centre for Civil and Political Rights is an NGO based in Geneva which aims to facilitate the participation of national NGOs in the reporting processes of the UN Human Rights Committee and so contribute to the promotion and protection of the rights guaranteed by the International Covenant on Civil and Political Rights.