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Committee on the Elimination of Racial Discrimination

Seventy-seventh session

2–27 August 2010

Consideration of reports submitted by States parties under article 9 of the convention**Concluding observations of the Committee on the Elimination of Racial Discrimination****Bosnia and Herzegovina**

1. The Committee considered the combined 7th and 8th periodic report of Bosnia and Herzegovina (CERD/C/BIH/7-8), submitted in one document, at its 2036th and 2037th meetings (CERD/C/SR.2036 and CERD/C/SR.2037), held on 18th and 19th August 2010. At its 2045th meeting (CERD/C/SR/2045), held on 25 August 2010, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined seventh and eighth periodic reports of the State party, which included responses to the concerns raised in the Committee's previous concluding observations (CERD/C/BIH/CO/6), and the opportunity thus offered to resume the dialogue with the State party. In the same way the Committee acknowledges and thanks the State party for its submissions dated 12 November 2007 and 28 May 2009 on follow up measures taken by the State party with regard to the previous concluding observations of the Committee. It also expresses great appreciation for the sincere and constructive dialogue held with the delegation as well as the oral responses provided to the list of themes and the questions posed by the Committee members.

B. Positive aspects

3. The Committee welcomes the following legislative and institutional developments towards full implementation of the Convention in Bosnia and Herzegovina:

(a) the establishment of a single, unified office of the Human Rights Ombudsman for Bosnia and Herzegovina;

(b) the adoption of two new laws in 2009: on prohibition of discrimination, and on freedom of religion and the legal position of churches and religious communities;

(c) the adoption of the laws on protection of the rights of the members of national minorities by the Republic Srpska and by the Federation of Bosnia and Herzegovina in 2008;

(d) the adoption of the Action plan for Roma issues with regard to employment, housing and health care and the establishment of the respective coordinating board for monitoring its implementation in 2008;

(e) the commitment to implement the declaration and program of work of the European Decade of inclusion of Roma 2005-2015 in Bosnia and Herzegovina;

(f) the establishment of a working group by the Council of Minister of Bosnia and Herzegovina to offer solutions for the phenomenon of “two schools under one roof” in 2008.

4. The Committee also welcomes efforts to adopt specific legislation prohibiting all fascist and neo-fascist organizations in Bosnia and Herzegovina.

5. The Committee notes with appreciation that the State party consulted with organizations of civil society working in the area of human rights protection in connection with the preparation of its periodic report.

C. Concerns and recommendations

6. The Committee notes the steps undertaken by the State party towards conducting a population census in 2011. It is concerned, however, over the legacy of the war which caused significant ethnic based demographic changes and the impact that this circumstance can bring for the proper conduct of the census (Arts. 1(1) and 2).

The Committee recommends that appropriate measures be undertaken and adequate mechanisms established that can ensure efficient methods of collection of data that give complete and reliable disaggregated statistics on the ethnic composition of its population. It recalls its general recommendation 8 (1990) concerning the self-identification of members of racial and ethnic groups, which should be done without fear of repercussions. The State party is encouraged to seek technical cooperation from the United Nations Population Fund in this regard.

7. The Committee, while commending the State party for its willingness to amend relevant laws, where necessary, notes with concern the constitutional stipulations that grant some important political rights on the basis of ethnic affiliation (Arts. 1(4), 2(1) (c) and 5(6)).

The Committee reiterates its recommendation that the State party proceed with amending the relevant provisions of the State, and Entities Constitutions and the Election Laws, with a view to remove all discriminatory provisions and ,in particular, to ensure the equal enjoyment of the right to vote and to stand for elections by all citizens irrespective of their ethnic background.

8. While welcoming the various measures adopted by the State party to ensure an effective solution to the problems related to the return of refugees and displaced persons, the Committee is concerned that a large number of war displaced persons remain unable to return to their former residence or to effectively integrate into their former or new communities (Arts. 5 (d) (i), (e)).

The Committee encourages the State party to continue implementing measures to accelerate the sustainable return of refugees and internally displaced persons to their places of origin, *inter alia* by improving their reception conditions. The Committee recommends that further activities be devised to improve the socio-economic integration of those who have returned, and by ensuring equal enjoyment of their social, economic and cultural rights, especially in the field of social protection and pension, health care, equal employment and equal education. Returnees should receive appropriate assistance or compensation, as the case may be, in order to prevent a further worsening of their human rights situation.

9. While praising the State party for establishing a single office of Human Rights Ombudsman and other advisory bodies on issues of national minorities, the Committee is concerned that adequate mechanisms for monitoring acts of ethnic based discrimination and violence remain virtually non-existent (Arts. 2 and 6).

The Committee recommends the State party to take the relevant political, professional, financial, technical and other measures that ensure effective independence and autonomy to the Office of the Human Rights Ombudsman in accordance with the Paris Principles of 1993 (GA Res. A/48/134 of 20 December 1993), and to enable the effective and efficient work of local national minorities' councils.

10. While noting the relevant criminal law provisions criminalizing incitement to racial or ethnic hatred, the recent laws on prohibition of discrimination and on freedom of religion and the upcoming law on the prohibition of all fascist and neo-fascist organizations, the Committee is concerned about the continuous public manifestations of hate speech and intolerance, especially by politicians (Arts. 4(2) and 6).

The Committee recommends that the State party continue to endeavour to combat inter-ethnic prejudices, by *inter alia*, applying existing criminal provisions on hate speech and hate crimes, continuing to strengthen, and to promote, through awareness-raising campaigns, and other concrete steps, national unity, tolerance and the peaceful coexistence of members of various nationalities and religious groups, and by strengthening the monitoring powers of the Communications Regulatory Agency with regard to acts of public incitement to ethnic and religious hatred.

11. While taking note of the measures adopted by the State party to eliminate the remnants of the system of the so-called "two schools under one roof", the Committee believes that segregated education in the territory of the State party perpetuates non-integration, mistrust and fear of the "other" (Arts. 3, 5(e) and 7).

The Committee reiterates its recommendation to the State party to end the segregated system of mono-ethnic schools and to ensure that the same basic curriculum be taught to all children promoting tolerance among the different ethnic groups in the country and appreciating their specificities.

12. While welcoming the steps taken to eliminate discrimination against Roma in the field of housing, employment, education and health care, the Committee continues to be concerned about the persistence of acts of discrimination targeting this marginalized minority group. It notes, in particular, that the Roma children birth registration campaign that should have been concluded by 2008 has not yet achieved its objectives, with serious implications in their eligibility for health care insurance, social aid and school enrolment (Arts. 2, 3 and 5(e)).

The Committee reiterates its recommendations to the State party, with reference to its general recommendation 27 (2000), to continue to endeavour to combat prejudices against Roma, and to ensure that all Roma have access to personal documents that are necessary for them to enjoy their civil and political rights, as well as their economic social and cultural rights. The Committee recommends also that the State party fully implements its various Roma strategies and action plans in line with the declaration and program of work of the Decade of Roma Inclusion 2005-2015, with action mainly devoted to ensure adequate housing, health care, employment, social security and education for Roma people.

13. While welcoming the steps (legislative and others) adopted in the State party, the Committee continues concerned that racial and ethnic based discrimination remains alive in the Bosnian society (Arts.2, 3, 4,5(d)(i),(e) and 7).

The Committee reiterates its recommendation to the State party to continue fostering inter-cultural dialogue, tolerance and understanding, paying due attention to the culture and history of different ethnic groups within Bosnia and Herzegovina.

14. In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the Outcome Document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

15. The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

16. The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

17. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992. In this connection, the Committee cites General Assembly resolution 61/148 and 63/243, in which the Assembly General strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

18. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

19. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 9, 11 and 13 above.

20. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 7, 8 and 12., and request the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

21. The Committee recommends that the State party submit its 9th, 10th and 11th periodic reports in a single document, due on 16 July 2013, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations.
