



STATE PARTY EXAMINATION OF BOSNIA AND HERZEGOVINA'S COMBINED SECOND TO FOURTH PERIODIC REPORT

61ST SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

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Contents

Opening Comments	1
General Measures of Implementation.....	2
General Principles	4
Civil Rights and Freedoms	5
Family Environment and Alternative Care.....	6
Basic Health and Welfare.....	7
Education, Leisure and Cultural Activities.....	8
Special Protection Measures	9
Concluding Remarks	10

Bosnia and Herzegovina ratified through succession the Convention on the Rights of the Child (CRC) on 1 September 1993. On 19 September 2012, the Committee on the Rights of the Child (the Committee) examined the integrated second to fourth periodic report of Bosnia and Herzegovina. It was last examined under the CRC on 19 May 2005. Bosnia and Herzegovina ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC) on 4 September 2002 and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict (OPAC) on 10 October 2003. It was last examined under OPSC and OPAC on 16 September 2010.

Opening Comments

The delegation of Bosnia and Herzegovina was led by Mrs Saliha Duderija, Assistant Minister of Human Rights and Refugees. She was supported by a delegation of representatives from the Ministry of Human Rights and Refugees, the Ministry of Health and Social Welfare of the Republic of Srpska, the Ministry of Health and Social Welfare of the Federation of Bosnia and Herzegovina as well as two Representatives of the Permanent Mission of Bosnia and Herzegovina to the UN at Geneva.

Mrs Duderija thanked the Committee and explained that the Committee's previous recommendations following the dialogue in May 2005, combined with Bosnia and Herzegovina's examination under both optional protocols, had formed the basis of the latest report.

The State reporting process had involved extensive dialogue with civil society through meetings and public debates and an internal multi-disciplinary approach involving collaboration with different ministries. It was hoped that this process would not only produce

a balanced report but also stimulate discussion about child rights and facilitate dissemination of the CRC principles.

Mrs Duderija highlighted several achievements of the State party. The Action Plan for Children of 2010 to 2014¹ had established State priorities regarding child rights. Key focus areas included the creation of favourable conditions for child development, social inclusion and participation in decision making for all children. A multidisciplinary team had been established within the Ministry of Human Rights and Refugees to continue the work of the 2007-2010 National Strategy to Combat Violence against Children and monitor the progress of implemented strategies and public awareness. The Ministry of Human Rights and Refugees had maintained strong ties with both the VESTA NGO Association and UNICEF in order to sustain a process of stringent monitoring and connect with civil society as a whole. Mrs Duderija detailed new strategies that had been put in place to improve vocational training opportunities and a Revised Action Plan on Roma Educational Needs. She explained that in 2011 the Ombudsman had received 110 individual complaints proving the office's capacity to act when rights were breached.

The head of delegation also recognised some of the challenges within the State party. Bosnia and Herzegovina had faced serious economic difficulties and Mrs Duderija explained that the period of democratic transition was not yet complete.

Mr Gehad Madi and Ms Yanghee Lee served as the Country Rapporteurs for Bosnia and Herzegovina. Mr Madi offered a warm welcome to the delegation and congratulated the State party for the withdrawal of its reservation under Article 9(1). The Rapporteur welcomed the adoption of the Action Plan for Children of Bosnia and Herzegovina 2010 to 2014 but stressed that the priority at this stage should be the nation-wide harmonisation of child rights protection at all levels to prevent discrimination. He expressed particular concern about implementation consistency especially in the district of Brčko. Mr Madi also acknowledged coordination problems in general largely due to a fragmented political structure. He was concerned that this could lead to the unequal treatment of children especially in rural and less developed areas of the country.

Ms Lee also welcomed the delegation and expressed concern about several areas including the implementation of Anti-Discrimination legislation, as well as the segregation of Roma children, especially within the education system. She also asked about the independence of the Office of the Ombudsman and the discrepancies within the legal system pertaining to corporal punishment.

General Measures of Implementation

Coordination and monitoring

The Committee expressed concern about coordination of law and policy implementation for child rights in the State party and how this affected harmonisation of domestic law with the provisions of the CRC, OPAC and OPSC. The delegation confirmed that there were organisational disparities but that many initiatives such as training had been carried out at both entity and canton level to ensure consistency of law and policy. It was also noted that in the Republic of Srpska a coordinating mechanism had been established.

¹ Note: In the State Report the Action Plan for Children of Bosnia and Herzegovina is dated 2011 to 2014

The Committee asked which body was the overall authority responsible for the implementation of the CRC. The delegation replied that the Ministry of Human Rights for Bosnia and Herzegovina was the central coordinator but that the Council for Children would strengthen this coordination when the proposal for its re-establishment was approved. The delegation explained the need for inter-ministerial cooperation due to the comprehensive nature of child rights but that this often caused confusion in terms of coordination. The Committee recommended strengthening coordinating mechanisms to ensure the equal treatment of all children at national, entity and cantonal level.

Office of the ombudsman

The Committee asked about the capacity of the Office of the Ombudsmen especially with regard to addressing complaints. The delegation confirmed that the Ombudsmen's office had been fully established including separate offices in the Republic of Srpska and in the Federation of Bosnia and Herzegovina but that capacity was still lacking.

Regarding complaints procedures, the delegation stated that children could submit complaints at every government level and that mechanisms existed outside the Office of the Ombudsmen. It was explained that complaints could be addressed directly to the courts as well as to the competent ministry and that most of these complaints were remedied accordingly often with compensation to the victim. The Committee asked what measures were in place to ensure that all children knew about the various complaints procedures.

Budget

The Committee asked about the allocation of funds and expressed its concern about the recurring issue of disparity between entity and national level especially regarding benefits and services for children. The delegation confirmed that national level authorities did not administer funds as this lay under entity level authority. Within the Federation of Bosnia and Herzegovina itself, health and social welfare policy had a fragmented structure as the cantons maintained jurisdiction over resource allocation.

The delegation confirmed that in the Republic of Srpska in 2010 some of the child benefits had been reduced because of the economic crisis. The funding system in the Republic of Srpska was explained as unique, run by contributions and administered through the Public Childcare Fund. The system of allocation was described as needs-based and had been operational for 10 years. In the Federation of Bosnia and Herzegovina, economic policy depended on each canton though there had been efforts to apply the model of the Republic of Srpska to generate consistency. The delegation explained that specific social welfare funds were also available but that they were also determined by the cantonal authority.

Dissemination and training

The Committee acknowledged the State party's efforts to disseminate information on the CRC, OPAC and OPSC and asked what awareness-raising measures had been undertaken to help children understand their rights. The delegation replied that CRC education was included at all levels of education. As a document the CRC was accessible to all levels of society especially children. There was also electronic access for civil society groups. The legislation pertaining to freedom and access of information was cited as a basis for redress if children or their representatives felt they did not have sufficient access to this material. The delegation

said that to date they had not received any complaints at the Ministry of Human Rights and Refugees to this end.

The Committee noted that most of the training of professionals on child rights was being conducted by NGOs and asked what measures were being undertaken by the State to equip all those working in the child rights sphere with appropriate knowledge. The delegation replied that judicial training included reference to the CRC, OPAC and OPSC as it remained crucial for legal and police officials to understand these instruments as standards. It was reiterated that lower levels of government had also held meetings to discuss the provisions contained in the CRC.

Data collection

The Committee stated that the lack of data collection and analysis undertaken by the State party was of serious concern. Noting that the last national census was in 1991 it was asked why plans to conduct a census in 2010 had been delayed. Regarding the status of the census, the delegation explained that the necessary state-level law had not been approved, thereby delaying proceedings. It was said that preparations were already underway and the census would be carried out next year. To that effect, there would be practical actions to facilitate this including appropriate budget allocation.

The delegation explained that some progress had been made in the area of data collection, including a new violence against children database and data about the social inclusion of children. The State party was endeavouring to employ best practices from neighbouring states in terms of data collection and had begun a new methodology for data on vulnerable groups of children under the Ministry of Human Rights and Refugees. The delegation reiterated that the contemporary system was very complex and needed further development.

With regard to Roma children, the delegation stated that a change of approach was necessary. The Ministry of Human Rights had collaborated with other relevant ministries and a coalition of NGOs to develop new strategies on data collection. The delegation stated that this had proved challenging because there were more than 70 NGOs working on Roma issues often utilising different approaches. Notwithstanding, it was stated that through collaboration with the Roma Board progress had been made in terms of data collection.

General Principles

Non-discrimination

The Committee recognised that anti-discrimination legislation had been passed but expressed concern about implementation efforts acknowledging that *de facto* discrimination continued specifically against Roma children and children with disabilities. The delegation confirmed the prohibition of discrimination at every level and stated that such legislation was not contentious and was being rigorously implemented. Describing available remedies, the delegation said that children clearly understood that should their right to non-discrimination be violated they could submit a complaint to any court with territorial jurisdiction. It was reiterated that such complaints were, under normal circumstances, addressed within 30 to 60 days and that they held strong legal backing.

Best interest of the child

The Committee asked what alternative representation was available to children engaged in court proceedings in situations where it could be proven that his or her parents were not acting in the child's best interests. The delegation explained that usually children were claimants together with their parents and that it was rare for a child to initiate a case without parental consent. Under special circumstances, however, the social welfare centre would represent the interests of the child.

Right to life, survival and development

The Committee asked for more information about Early Childhood Development measures undertaken in the State party.

Respect for the views of the child

The delegation was asked to comment on evidence given to the Committee suggesting that student councils had little influence on important issues and that opinions of the girl child were often not respected.

Civil Rights and Freedoms

Birth Registration

Regarding birth registration, the Committee asked about the payment procedure and the registration of minority children. The delegation confirmed that birth registration was free of charge. It stated that six years ago the failure to register minority children, especially amongst Roma communities, had been identified as a problem. In response to this, under UNICEF guidance, the situation had greatly improved. Approximately 6,500 cases of unregistered births had been identified and of these, only 1,000 were currently outstanding. The delegation explained that this situation was more complicated in cases where the parents were not citizens of the State party. Notwithstanding, it was affirmed that the deadlines for registration were very strict and healthcare institutions were required by law to register births. The delegation indicated that they sensed reluctance from sectors of the Roma community, sometimes hindering birth registration efforts.

Right to Privacy

The Committee asked what measures were in place to protect the privacy of children in the media. The delegation said that this was monitored by legislation as well as the Regulatory Agency for Communications who took action and imposed sanctions where relevant. Regulating the print media presented a substantial challenge due to private ownership but nevertheless the situation had substantially improved. The delegation explained campaign efforts to inform journalists about the code of conduct, specifically in relation to the protection of minors. Journalists who breached such standards would be held liable.

Corporal Punishment

The Committee expressed concern about the widespread practice of corporal punishment especially in alternative care institutions. The delegation affirmed the strict prohibition of corporal punishment in alternative care settings, enforced through bylaws. It was stated that any malpractice would incur punishment.

The Committee asked about the practice of corporal punishment in the family and expressed particular concern about paragraph 227 of the State Report entitled ‘disciplining children’. The delegation stated that legislation in the State party addressed domestic violence, including corporal punishment. In terms of procedure in cases of breach, sanctions would be imposed. It was noted that where possible the perpetrator would be removed from the family environment but in extreme cases the child could be removed and placed in an alternative care setting. The delegation explained that there had been a positive shift in attitude in recent years and that denouncing domestic violence had become increasingly practised.

Access to appropriate information

The Committee asked what measures were in place to protect children from accessing inappropriate information especially via the internet. The delegation explained how the State party had participated in Council of Europe initiatives aimed at protecting children from inappropriate information online. It was also noted that the Regulatory Agency for Communications cooperated with the government to produce awareness campaigns aimed at affected youths. Whilst previously there had been leaflets as part of an ongoing strategy, efforts had been halted due to budgetary constraints.

Family Environment and Alternative Care

Adoption

The Committee expressed concern about the discrepancy in adoption age noting that in the Federation of Bosnia and Herzegovina and the District of Brčko full adoption could take place as long as the child was under 10 years of age, whereas in the Republic of Srpska the limit was five years old. The Committee also noted that often children exceeded the age of adoption before the process had been completed. The delegation spoke at great length about adoption processes. It was explained that the social welfare centres in charge of these processes were key institutions. There were two types of adoption: full adoption and partial adoption, the latter of which aimed to enable children to maintain contact and enjoy their rights with their biological family.

The delegation stated that the lengthy procedures were regrettable but necessary to ensure the suitability of the adoptive parents and that decisions were taken in the best interests of the child. It was noted that the final decision often lay with the courts and that the age limit of potential adoptive parents was 45 years. The delegation detailed a planned initiative to introduce training programmes for potential parents in order to make the transition easier for the child.

The Committee asked if there were any plans to ratify the Hague Convention on the Protection of Children and Cooperation in Respect of Inter-Country Adoption 1993 (Hague Convention on Adoption) The delegation replied that as of yet no uniform position in the Federation of Bosnia and Herzegovina had been reached.

Alternative care

The Committee recommended that the age of full adoption be raised in the Republic of Srpska as it expressed concern that children between the ages of five and eighteen remained in alternative care settings and were therefore deprived of the right to family life

Capacity of social work centres

The Committee asked about the mandate of the social welfare centres and how their capacity had been strengthened. The delegation replied that there had been significant capacity-building efforts and that although not entirely adequate, substantial improvements had been made, largely resulting from international efforts. The social work centres were established under social security laws with the aim of performing tasks pertaining to social protection and the protection of families, particularly those families with children

Basic Health and Welfare

Health insurance

The Committee asked about free access to health care in the State party. The delegation explained that before 2008 children were covered under their parent's health insurance but legislation had amended this, providing that children could be insured separately from their parents or guardians. It was noted that there were administrative challenges related to this new provision. The delegation explained that a new law on health insurance was being drafted and that it would cover many of these issues. The Ministry of Health had not received any complaints related to the issue of health insurance

Substance abuse

The Committee acknowledged that the age to buy or sell tobacco in the State party had been raised from 16 to 18 but expressed concern about high levels of substance abuse amongst youths. The delegation replied that advertising tobacco was illegal but that companies often made indirect references to tobacco products. These advertisements presented a serious challenge.

Pertaining to drug abuse among youths, the delegation noted that there had been substantial developments to improve the situation. The results of recent research conducted on the topic were being analysed and would be released in due course. Practical measures such as the distribution of sterile syringes and surveillance of school playgrounds had been installed to address incidences of drug dealing in schools. The delegation said that in recent years the situation had improved largely due to the rapid response of coordinated police units.

With regards to prevention, the delegation explained that there had been efforts to raise awareness in schools and a Youth Health Policy had been implemented through the collaboration of various ministries and NGOs. Other initiatives included sporting programmes. The delegation confirmed that in terms of treatment, mental health care centres were considered part of primary health care and specialists had been trained.

Adolescents' health

The Committee asked about health services available to adolescents. The delegation stated that there was a Youth Health Policy as well as a Reproductive Health Strategy. Outpatient clinics provided user-friendly services such as counselling and gynaecological services.

HIV/AIDS

The Committee asked for updated data on HIV/AIDS in the State party. The delegation replied that the data from 2006 was the most recent available, but that subsequent data could

be provided at a later date. There were no systematic tests for HIV/AIDS provided to children, but such tests could be requested and were free and anonymous.

Pollution

The Committee was concerned about high levels of pollution in certain areas of the State such as the city of Zenica. The delegation said that appropriate legislation was in place and regularly amended to be brought into line with EU regulations. Inspectors regularly monitored implementation of such laws. Uranium and contamination levels were monitored regularly and there had been measures taken to encourage the use of solar energy but it remained rare due to high initial costs.

Vaccinations

The delegation was asked to comment on reports suggesting low-level immunisation coverage. It was noted that vaccination coverage proved challenging in the State party. It was provided for in government legislation but there had been difficulties meeting the legal minimum and negative assessments made by the media had further jeopardised immunisation programmes.

Education, Leisure and Cultural Activities

Education

The Committee asked about the quality of education in the State party. The delegation responded that pursuant to the Constitution, education was regulated by entity, cantonal and district law and coordinated by the Ministry of Civil Affairs of Bosnia and Herzegovina. Professionals were trained at pedagogic institutes and since 2005 a series of training and discussions under the title ‘Children as Monitors of Human Rights’ had been established.

The Committee asked the delegation to comment on religious education. It was explained that whilst religious education had been introduced in all primary schools, attendance was not mandatory. The parents took the decision and for children that did not attend, other options were available such as a class addressing all religious cultures entitled ‘culture of religions’.

Roma children

The Committee expressed concern about the segregation of Roma children in schools. The delegation affirmed that all children were involved in inclusive education and that such segregation did not exist in the State party. The revised Action Plan adopted on 30 August provided that 76 per cent of Roma children were in primary education. The precise number of Roma children in the State party was not known. The government had initiated a scholarship scheme, which enabled access to education for a number of Roma children; a Roma communities project for preschool education had also been put in place under which 230 children were covered. Guidelines to improve the situation of Roma children’s access to services were being finalised. The process involved consultation with all relevant stakeholders in education, social welfare and health. The delegation also outlined a draft for a common core curriculum and methodology which aimed to provide consistency within the education system.

Pre-school education

With a focus on early childhood development, the Committee asked about data suggesting low attendance rates in pre-school initiatives. The delegation explained that pre-school education was provided by a new government scheme and it was hoped that coverage would soon reach 90 per cent. The Committee asked for clarification about the age group concerned. The delegation replied that this initiative only covered the one year period after kindergarten and before primary school which started at age six. The Committee stressed that early childhood development usually referred to younger children and the delegation explained that initiatives for children up to three years old were minimal as kindergartens had low capacity, were costly and tended to be in urban areas. Subsidies were available under specific circumstances but were awarded extremely rarely.

Children with disabilities

The Committee asked about access to schooling for children with disabilities. The delegation explained that the government was attempting to improve the situation of people with disabilities generally within the State party. It was noted that the process to establish an inclusive educational system had already begun. There was no data on specific schools but teachers and professionals underwent specialised training about how to cater for the needs of a child with a disability as well as overcoming prejudice and stereotypes.

The inclusion of a child with a disability in mainstream education was determined by relevant criteria, taking into consideration the wishes of the child wherever possible. The Committee explained that it was not the child's responsibility to fulfil such criteria but rather that schools must adapt to meet the needs of every child. The delegation replied that in many cases the choice lay with the parents, many of whom opted to send their children to specialised schools. It was noted that more should be done to strengthen the capacity of schools to incentivise parents to consider inclusive education. It was also stated that more work was needed to challenge attitudes of parents and guardians.

Special Protection Measures

Child labour

The Committee expressed concern about paragraph 226 of the State Report, which noted that six per cent of children aged 5 to 14 were engaged in child labour. The delegation replied that confusion had arisen from the criteria used in the survey. The statistic concerned children who undertook chores in the home and not child labour. It was explained that a new labour act was being drafted. Under the new act, sanctions for those found guilty of forcing a child to work would be increased.

Juvenile justice

It was noted that the administration of juvenile justice remained regulated by the laws of the individual entities and the Brčko district. The Committee welcomed the passing of the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings in the Republic of Srpska and asked about developments in the Federation of Bosnia and Herzegovina.

The law on the Protection and Treatment of Minor Children in Proceedings had been adopted in the Federation of Bosnia and Herzegovina, introducing a new legal procedure. It was primarily based on international standards including CRC guidelines and the Beijing Rules as

well as examples of best practices. Such procedures included alternatives to prosecution, emphasised diversion techniques and stressed legal proceedings as a last resort. The focus was on rehabilitation and the return of the young offender to society. The juvenile offender was assumed innocent until proven guilty at every level of procedure and was further entitled to legal representation, accompaniment by parents and effective remedy. Such measures were to be based on the individual modality of each juvenile's specific needs with respect to the best interest principle. Hearing a juvenile was to be done with the help of a psychologist, counsellor or teacher.

The delegation described alternative measures to detention including 'reception centres', which provided temporary care and observation of potential offenders. It was further explained that a new law was to be drafted specifically addressing the regulation of preventive mechanisms. Such mechanisms fell under the jurisdiction of the Ombudsman for Human Rights.

Regarding training, legal personnel and 'reception centre' staff working with young offenders were required to undergo specialised training. For prosecutors and legal council, this was carried out by legal centres. For others, such as security guards, responsibility lay with the relevant line ministry.

Pre-trial detention

The Committee asked about regulations for the pre-trial detention of minors. The delegation replied that the limit was 30 days and that a prosecutor must visit the child. It was explained that the duration of the detention period could be extended to 90 days but that in this case a sentence must be pronounced.

Internally displaced persons

With reference to Annex 6 of the Dayton Accords, the Committee expressed concern about services offered to internally displaced children and refugees who had reportedly not returned home following the war. The Committee asked what measures had been undertaken to fulfil the State's commitment under the Dayton Accords and what obstacles had been encountered.

Concluding Remarks

Ms Lee thanked the delegation for a constructive dialogue, but regretted that many questions had gone unanswered due to time constraints. She commended the State party on achievements in several areas including the withdrawal of the reservations, adoption of new legislation - especially those tackling discrimination - and the recent ratification of international instruments. Ms Lee stated that the Committee was still concerned about areas of internally displaced children, the segregation of Roma children and children with disabilities. She also noted that the lack of data collection and analysis hindered developments, stressing that the fulfilment of many rights required strict coordination and monitoring mechanisms. Ms Lee also highlighted the need for a more proactive response by the State party as many of the Committee's concerns expressed during the examination of the initial report had not yet been addressed.

The head of delegation expressed her thanks to the Committee for the fruitful dialogue. She assured the Committee that many of the provisions of the CRC would be implemented in due

course. She apologised for not having all the information to hand but promised to provide further details in writing where relevant.