

Resolution CM/ResCMN(2015)5
on the implementation of the Framework Convention for the Protection of
National Minorities
by Bosnia and Herzegovina

(Adopted by the Committee of Ministers on 12 May 2015 at the 1227th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Articles 24 to 26 of the Framework Convention for the Protection of National Minorities (hereinafter referred to as “the Framework Convention”),

Having regard to Resolution [Res\(97\)10](#) of 17 September 1997 setting out rules adopted by the Committee of Ministers on the monitoring arrangements under Articles 24 to 26 of the Framework Convention;

Having regard to the voting rule adopted in the context of adopting Resolution [Res\(97\)10](#);¹

Having regard to the instrument of ratification submitted by Bosnia and Herzegovina on 24 February 2000;

Recalling that the Government of Bosnia and Herzegovina transmitted its State report in respect of the third monitoring cycle under the Framework Convention on 22 May 2012;

Having examined the Advisory Committee's third opinion adopted on 7 March 2013, as well as the written comments of the Government of Bosnia and Herzegovina received on 7 April 2014;

Having also taken note of comments by other governments,

1. Adopts the following conclusions in respect of Bosnia and Herzegovina:

a) Positive developments

In addition to the national minority laws already in force at State and entity levels, Tuzla and Sarajevo Cantons have adopted legislation with respect to national minorities. On 30 January 2013, Sarajevo Canton also approved amendments to its constitution that will place persons not identifying with one of the constituent peoples – including persons belonging to national minorities – on the same footing as the constituent peoples as concerns the functioning of the cantonal assembly. Comprehensive antidiscrimination legislation was enacted at State level in 2009 and the State-level institution of Human Rights Ombudsman published its first report on discrimination in Bosnia and Herzegovina in February 2012.

After considerable delays, a population census in Bosnia and Herzegovina took place in October 2013 and its results will be published in 2015. It will provide up-to-date information

on the population of Bosnia and Herzegovina for the first time since the end of the war, including information broken down by ethnic affiliation, religion and language. Census forms and background information were translated into the languages of all 17 national minorities. Efforts were made to ensure that persons belonging to national minorities were present in municipal census committees as well as amongst census enumerators, to guarantee free and optional self-identification, to ensure that questions related to ethnic, linguistic and religious identity were voluntary and that multiple affiliations could be adequately expressed.

Considerable work has been done over the past several years towards ensuring that Roma persons do not lack identity documents, and new legislation on birth registration has been adopted in both entities. The civil registration process is now largely completed and work to resolve the remaining cases is ongoing. The Ministry of Human Rights and Refugees has also conducted an extensive process of recording the number of Roma throughout Bosnia and Herzegovina and creating a database of their needs.

In the field of culture, some cities and cantons provide strong support to the cultural activities of national minorities. In education, the co-ordinating body of Ministers of Education of the Federation adopted in August 2012 a set of Recommendations for the Elimination of Segregating and Parallel Structures in Educational Institutions in the Federation of Bosnia and Herzegovina. A manual on national minorities for use in schools has also been developed.

Councils of National Minorities are now established at State level and in both entities, as well as in Tuzla and Sarajevo Cantons. Representatives of national minorities were also able to be elected to reserved seats in municipal and city councils and assemblies in both the 2008 and 2012 local elections.

As part of Bosnia and Herzegovina's participation in the Decade of Roma Inclusion, the authorities have adopted Action Plans for Roma in the fields of health, employment and housing as well as education. These include a range of positive measures designed to remedy the inequalities experienced by Roma in these fields.

b) Issues of concern

The Constitutions of Bosnia and Herzegovina and of the entities still distinguish between Bosniacs, Croats and Serbs, as constituent peoples, and "Others". No progress has been made towards remedying the exclusion of persons belonging to national minorities from access to certain political posts, despite a judgment of the European Court of Human Rights finding that this was in breach of the European Convention on Human Rights. The failure to include representatives of national minorities adequately in current discussions on this point moreover means that they are not in a position significantly to influence the outcome of these debates.

Efforts need to continue to ensure that questions related to ethnic, linguistic and religious identity are made voluntary in all data collection exercises and that multiple affiliations can be adequately expressed in order to enhance trust in these processes amongst persons belonging to national minorities. Cutbacks made to the budget of the Institution of the Human Rights Ombudsman may be disproportionately affecting its capacity to work effectively to guarantee protection against all forms of discrimination. There is a need to take a more systematic, comprehensive approach to the handling of cases of possible direct or indirect

discrimination against persons belonging to national minorities. Moreover, awareness of standards and remedies against discrimination amongst citizens – and in particular persons belonging to national minorities – remains low.

Some difficulties with birth registrations still persist for the Roma population and the lack of identity documents is still cited as one of the major causes of the Roma population's lack of access to other rights. Uncertainty remains as to the number of Roma living in the country, and information regarding access to key social rights has reportedly not been included in the database on the needs of Roma. This undermines the authorities' capacity to assess the main challenges and measures needed to improve the access to rights of Roma.

The implementation of the legal framework in place to protect the rights of national minorities remains weak. The lack of co-ordination between authorities at State, entity and cantonal level and lack of monitoring of the extent to which the provisions of law have been implemented in practice also continue to have a negative impact on the advancement of minority rights in Bosnia and Herzegovina.

The overwhelming focus in political spheres on the situation of the constituent peoples leaves national minorities sidelined from public debates. Strong nationalist rhetoric on the part of politicians fuels rather than defuses ethnic tensions. Numerous attacks against religious properties and sites have also occurred and problems have been reported in the context of religious education in schools. This situation, combined with ethnic discrimination in access to the labour market and to other social rights, continues to act as a barrier to minority returns.

Support for cultural activities of national minority associations and organisations remains limited and ad hoc. National minorities also suffer from low visibility in the mainstream media: despite provisions allowing for national minorities to establish their own media and requiring public broadcasters to include specific programmes for national minorities in their schedules, there appears to be little effort to maintain a regular presence of national minorities in the public media. Nor have efforts been made to evaluate the needs and demands of national minorities as regards the use of minority languages in contacts with the administrative authorities or as regards the display of topographical and other information signs in minority languages.

Ethnic segregation in schools persists: progress in eliminating the phenomenon of “two schools under one roof” remains slow and the number of mono-ethnic schools has not decreased. The common core curriculum is not yet applied throughout the country and the subjects of history, geography and religion continue to be taught differently to pupils depending on the “national” curriculum that they follow. The lack of appropriate textbooks, teaching materials, qualified teachers and available premises moreover hampers efforts to promote the teaching of national minority languages. While a small number of schools provide optional classes for the teaching of minority languages, in most cases such teaching occurs outside the school environment, and no public schools deliver instruction in the language of a national minority.

Although a number of positive measures are in place to improve Roma children's access to education, these measures do not always reach Roma children in practice and are insufficient for families living in extreme poverty. Flaws in the design and operation of the measures foreseen as part of Bosnia and Herzegovina's participation in the Decade of Roma Inclusion

reduce their effectiveness, and Roma continue to experience marginalisation and discrimination in the fields of access to employment, health and housing. Roma living in informal settlements in particular face substandard living conditions and remain vulnerable to forced evictions.

As regards political representation of national minorities, abuses of the system of reserved seats for national minorities in local elections have been reported and there was a significant drop between the 2008 and 2012 local elections in the number of such representatives elected. Problems regarding the composition of the Councils of National Minorities at the level of the State and of the Federation of Bosnia and Herzegovina, as well as a lack of interest in their work displayed by their parliamentary interlocutors, have also affected their capacity to influence the affairs of national minorities. Problems regarding the transparency of appointments to the Roma Board, affecting its representativeness, have also been reported.

2. Adopts the following recommendations in respect of Bosnia and Herzegovina:

In addition to the measures to be taken to implement the detailed recommendations contained in sections I and II of the opinion of the Advisory Committee, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

Issues for immediate action:²

Ø amend the constitution and other relevant legal provisions so as to eliminate the exclusion of “Others”, including persons belonging to national minorities, from running for presidential office and for office as a member of the House of Peoples of Bosnia and Herzegovina, adopting an approach that enhances the participation of all without further entrenching divisions and ensuring that persons belonging to national minorities are directly involved and adequately consulted in this process;

Ø take as a matter of priority all necessary steps to eliminate segregation in education, in particular through accelerating the work to abolish all remaining cases of “two schools under one roof” and replace them with integrated education, as well as through working to ensure that mono-ethnic schools do not come into being in areas inhabited by a mixed population, drawing in this context on the experiences of areas where successful integrated education is in place;

Ø ensure that the existing common core curriculum is applied in every school in Bosnia and Herzegovina and extend the subjects it covers to include history, geography and religion; introduce inclusive and multi-perspective teaching of these subjects;

Ø ensure that the implementation of the Action Plan on the Educational Needs of Roma and Other National Minorities is adequately funded and evaluated; ensure that Roma children are not prevented from enrolling in school because they lack identity papers; develop further practices that strengthen the link between Roma families and schools; take resolute measures to improve the implementation of the Action Plans for Roma Employment, Health and Housing and address the situation of Roma living in informal settlements.

Other recommendations:³

Ø ensure, in consultation with national minorities, that the possibilities of self-identification in census and other data collection exercises allow clearly for the expression of multiple affiliations and for identification with groups other than one of the constituent peoples or national minorities; undertake awareness-raising measures among persons belonging to national minorities in advance of all data collection and take measures to ensure their effective participation in such processes;

Ø provide the Institution of Human Rights Ombudsman with all the necessary financial and human resources to carry out its functions effectively and efficiently; support awareness-raising activities about discrimination and the available remedies, with a particular focus on reaching persons belonging to national minorities;

Ø complete the process of civil registration of Roma rapidly and introduce free and universal birth registration to ensure that vulnerable children, in particular, are in all cases registered;

Ø strengthen co-ordination between the relevant authorities to ensure that legislation on national minorities is fully and consistently implemented; provide regular and more substantial support to national minorities in order for them to maintain and develop their cultural heritage and languages;

Ø promote intercultural dialogue and mutual understanding between the different ethnic and religious groups in Bosnia and Herzegovina; condemn all manifestations of intolerance and ethnically motivated hostility in the political sphere and intensify efforts to combat all forms of hostility directed at minority groups;

Ø step up efforts to ensure that persons belonging to national minorities have effective access to the media; evaluate needs and demands regarding the use of minority languages in relations with the administrative authorities and for the display of topographical and other signs; fully apply the existing provisions of entity legislation in this field;

Ø step up efforts to develop the teaching in and of minority languages in areas where persons belonging to national minorities are settled traditionally or in substantial numbers;

Ø take resolute measures to ensure that the possibilities of representation in municipal councils and assemblies laid down by law for persons belonging to national minorities are real and effective in practice; amend the provisions governing membership of the Roma Board and of the various Councils of National Minorities where necessary to ensure that they are transparent and duly representative.

3. Invites the Government of Bosnia and Herzegovina, in accordance with Resolution [Res\(97\)10](#):

a. to continue the dialogue in progress with the Advisory Committee;

b. to keep the Advisory Committee regularly informed of the measures it has taken in response to the conclusions and recommendations set out in sections 1 and 2 above.

¹ In the context of adopting Resolution [Res\(97\)10](#) on 17 September 1997, the Committee of Ministers also adopted the following rule: “Decisions pursuant to Articles 24.1 and 25.2 of the Framework Convention shall be considered to be adopted if two-thirds of the

representatives of the Contracting Parties casting a vote, including a majority of the representatives of the Contracting Parties entitled to sit on the Committee of Ministers, vote in favour”.

² The recommendations below are listed in the order of the corresponding articles of the Framework Convention.