



**International Convention
on the Protection of the
Rights of All Migrant
Workers and Members
of Their Families**

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COMMITTEE ON THE PROTECTION OF THE
RIGHTS OF ALL MIGRANT WORKERS AND
MEMBERS OF THEIR FAMILIES

Ninth session

Geneva, 24 – 28 November 2008

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 73 OF THE CONVENTION**

**List of issues to be taken up in connection with the consideration of the
initial report of Bosnia and Herzegovina (CMW/C/BIH/1)**

I. GENERAL INFORMATION

1. Please provide updated data or, in the absence of such data, official estimates with regard to the number of Bosnian and Herzegovinian migrant workers and members of their families abroad, including those who are non-documented or in an irregular situation, and of migrant workers and members of their families in the territory of Bosnia and Herzegovina (paras. 73 et seq. of the initial report of Bosnia and Herzegovina (CMW/C/BIH/1)). What measures have been taken by the State party to set up a coherent system of data collection in order to evaluate the dimension and nature of migration flows?
2. Please provide more detailed and updated information on specific legislative, administrative, judicial or other measures taken to implement the provisions of the Convention following its ratification by the State party (para. 473 of the report).
3. Please indicate the rank of the Convention in domestic law and provide examples of cases, if any, in which the Convention was directly applied by national courts or administrative authorities.
4. Please provide information on the legislative and practical measures taken by the State party to ensure the rights guaranteed in Part III of the Convention to migrant workers and members of their families who are non-documented or in an irregular situation (para. 24 of the report).

5. Please explain whether national legislation provides for the application of the Convention to refugees and/or stateless persons (art. 3 (d) of the Convention).

6. Please provide more detailed information on the steps taken by the State party to promote and publicize the Convention, and to increase awareness and understanding of its provisions, among the general public, its nationals intending to migrate abroad, migrant workers and members of their families in the territory of the State party and State employees. Please also indicate whether law enforcement and other public officials receive training on the Convention and its application.

7. Please provide more detailed information on the involvement of non-governmental organizations in the implementation of the Convention and in the preparation of the State party's report (para. 7 of the report and the Committee's provisional guidelines regarding the form and content of initial reports, para. 3 (d)).

II. INFORMATION RELATING TO EACH OF THE ARTICLES OF THE CONVENTION

A. General principles

8. Please provide information on (a) judicial and/or administrative mechanisms competent to examine and decide on complaints by migrant workers and members of their families, including when they are non-documented or in an irregular situation, in case of a violation of their rights; (b) the complaints examined by such mechanisms since 1 July 2003 and their outcome; and (c) any redress provided to victims of such violations.

B. Information relating to Part III of the Convention (Human rights of all migrant workers and members of their families)

9. With regard to article 21 of the Convention, please explain the measures that the State party has taken to prevent retention of identity documents by employers or by employment of recruitment agencies of migrant workers.

10. With regard to articles 22, paragraph 4, and 83 of the Convention, please clarify whether appeals against expulsion orders have suspensive effect and whether all decisions of the Bosnia and Herzegovina Ministry of Security on residence and asylum applications, withdrawal of residence authorization and expulsion can be appealed to an independent judicial body (paras. 33, 162, 307, 451 and 478 of the report).

11. With regard to article 23 of the Convention, please provide information on (a) measures taken to ensure that effective consular assistance is provided to Bosnian and Herzegovinian nationals working abroad and to members of their families, and (b) whether foreign migrant workers and members of their families in Bosnia and Herzegovina are informed of their right to have recourse to consular assistance in the case of detention or expulsion.

12. Please describe how the different social security schemes in place in the State party are applied to migrant workers who are documented or in a regular situation and to those who are non-documented or in an irregular situation. Please provide more detailed information on the bilateral treaties on social security concluded by the State party regulating pensions, health care, unemployment benefits, children's allowances and other aspects of social insurance (paras. 352 and 356 of the report).
13. With regard to article 28 of the Convention, please clarify to what extent migrant workers and members of their families who are non-documented or in an irregular situation have access to health care (paras. 364-381 of the report).
14. Please indicate whether primary education is compulsory and available free for all children of migrant workers, including those who are non-documented or in an irregular situation, and provide statistical data on the enrolment of children of migrant workers at the primary, secondary and tertiary levels of education.
15. Please indicate whether and how the State party has established programmes to inform Bosnian and Herzegovinian nationals wishing to migrate abroad about their rights arising out of the Convention, their rights and obligations in the State of employment, and any other information that would facilitate their integration in the State of employment (art. 33).

C. Information relating to Part IV of the Convention (Other rights of migrant workers and members of their families who are documented or in a regular situation)

16. Please provide information on the steps taken by the State party to facilitate the exercise by Bosnian and Herzegovinian workers living abroad of the right to vote and to be elected at elections held in the State party.
17. Please indicate whether the State party considers the establishment of procedures or institutions to take account of the special needs, aspirations and obligations of migrant workers and their families in Bosnia and Herzegovina and/or Bosnian and Herzegovinian migrants abroad, in accordance with article 42, paragraph 1, of the Convention.
18. What special measures are in place to facilitate the integration of children of migrant workers in the local school system in all parts of the State party, while at the same time providing them with instruction of their mother tongue (paras. 391, 436 and 456 of the report)? What measures are being taken to ensure respect for the cultural identity of migrant workers and members of their families (para. 392)?
19. Please provide information on remittances transferred by Bosnian and Herzegovinian migrant workers abroad (para. 353 of the report). Are any taxes levied on incoming remittances? In the light of article 47 of the Convention, please also provide more detailed information on measures taken by the State party to facilitate transfers of migrant workers' earnings and savings (para. 460).

20. Please indicate whether Law for Non-Citizens of the Federation of Bosnia and Herzegovina has been amended in order to repeal the requirement of permanent or temporary residence for issuing work permits to non-citizens, with a view to bringing the Law into compliance with the Law on Non-Citizens' Movements, Residence and Asylum in Bosnia and Herzegovina (paras. 80, 88, 95 and 106 of the report). Please indicate whether it is the general rule that a work permit expires upon expiry of the period of a temporary residence permit and, if so, how this is considered compatible with article 49, paragraph 1, of the Convention (paras. 403 and 463).

21. Please explain whether the requirement to justify the need to hire a non-citizen on the basis that there is no unemployed national registered with the Bureau of Employment of the Federation of Bosnia and Herzegovina, the Republika Srpska or the Brcko District, respectively (paras. 320, 321 and 325 of the report), ceases to apply to a migrant worker who has resided lawfully in the State party for a period of time that should not exceed five years, in accordance with article 52, paragraph 3 (b) of the Convention.

D. Information relating to Part V of the Convention (Provisions applicable to particular categories of migrant workers and members of their families)

22. Please provide detailed information on the number of seasonal workers engaged in a remunerated activity in the State party, as well as of Bosnian and Herzegovinian seasonal workers engaged in a remunerated activity abroad, disaggregated by gender and nationality, and on the bilateral and multilateral agreements governing migration by seasonal workers to which Bosnia and Herzegovina is a party (para. 357 of the report).

E. Information relating to Part VI of the Convention (Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families)

23. What progress has been achieved in the establishment of "a common body in the region to promote cooperation in the field of migration and employment, monitor implementation of and respect for the conclusion of international contracts and coordinate efforts with similar bodies in other regions in order to strengthen cooperation in the field of labour and migration outside the region" (para. 355 of the report)?

24. In view of the large number of Bosnian and Herzegovinian nationals abroad, please provide information on measures taken by the State party to minimize the negative consequences of such migration on the communities and families concerned (art. 64).

25. In the light of article 66 of the Convention, please provide information on (a) the ways and means by which Bosnian and Herzegovinian nationals, in particular women, are typically recruited for work in foreign countries; (b) the efforts undertaken to regulate recruitment activities within the State party of Bosnian and Herzegovinian nationals for employment abroad; and (c) the efforts undertaken to cooperate and consult with the main destination countries of Bosnian and Herzegovinian migrant workers with a view to promoting sound, equitable and

humane working and living conditions for nationals of Bosnia and Herzegovina in those countries.

26. In the light of article 67, what measures is the State party taking to facilitate the safe and sustainable return of nationals working abroad, inter alia, when they decide to return to Bosnia and Herzegovina, or when their authorization of residence or employment expires, or when they are in an irregular situation in the State of employment. In particular, please indicate the measures taken by the State party to ensure access by returnees, especially minority returnees, to reconstruction assistance, employment, pensions and social protection, health care and education and mother tongue instruction for their children?

27. As regards article 68 of the Convention, please provide information on measures taken to prevent illegal or clandestine movements of migrant workers, including through organized smuggling. In this context, what measures has the State party taken against the dissemination of misleading information by smuggling, trafficking or other criminal networks? Please provide information on migrant workers who transit through the State party, in particular with regard to their protection from all forms of criminal networks.

28. Please provide information on the number of persons trafficked to, from, in transit through and within the State party since 1 July 2003, disaggregated by gender, age, nationality and ethnic origin. If no precise numbers are available, please provide estimates.. Please provide more detailed information on cases where persons were convicted of crimes related to trafficking in human beings and smuggling of migrants, as well as on the severity of sentences imposed on perpetrators under articles 185, 186, 189 and 250 of the Criminal Code of Bosnia and Herzegovina (paras. 43, 138, 139, 142, 152, 216 and 219 of the report).

29. Please provide detailed information on the concrete improvements achieved in the protection and assistance to victims of trafficking under the National Action Plan for combating trafficking in persons and illegal migration in Bosnia and Herzegovina for the period 2005-2007, the Action Plan for combating trafficking in children and the Law on Non-Citizens' Movements, Residence and Asylum (paras. 47, 52 and 221 of the report). In particular, what progress has been achieved in ensuring adequate funding and increasing the capacity of shelters, enhancing victims' access to free medical and legal assistance, psychological counselling, long-term rehabilitation and reintegration programmes, as well as compensation (paras. 62, 63, 79 (i))? Please also provide information on awareness-raising and prevention campaigns targeting potential victims of trafficking, in particular women and children, to eliminate their vulnerability to traffickers. Please explain the approach of the State party in granting temporary residence on humanitarian grounds to victims of trafficking (paras. 51 and 106).

30. Please indicate whether the State party considers the possibility of regularizing the situation of migrant workers and members of their families within its territory who are in an irregular situation, such as informal sector workers and long-term residents without legal status, in line with article 69 of the Convention. If so, what concrete steps have been taken to regularize such persons, based on, inter alia, the length of time that they have resided in the State party, and to provide them with information and assistance regarding the requisite formalities?
