

QUICK GUIDE TO ADDRESS WOMEN'S ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON BOSNIA AND HERZEGOVINA

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- A reference to “gaps”, that is, issues on which the National Report should/could have applied a gender perspective but failed to do so.
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.
- In some cases we have included suggested questions and recommendations

References in the two working languages of the Council (English and French) have been kept in their original language.

Issues are highlighted. References from the National Report are *in Italics*.

Recommendations - including those from UN treaty-monitoring bodies, are at the end of the document.

All women's rights issues (included sexual rights' issues related specifically to women) are referred to in this Guide. Other sexual rights issues are referred to in the Sexual Rights Guides for each state under review

CEDAW ratified. OP-CEDAW ratified. Rome Statute ratified. Palermo Protocol ratified. (all without reservations)

Gaps

The National Report should/could have applied a gender perspective -that is, make reference to how the issue affects women and men in particular ways- but failed to do so in the following sections: Law on Freedom of Religion and Legal Position of Churches and Religious Communities (11), The relationship of international and domestic law (21), Implementation of decisions of international bodies (22), Independence of the courts and the right to judicial protection (23-29), Rights of national minorities, with special reference to the position of Roma (38-42), Rights of the Child (43-46), Prohibition of discrimination (47-51), Cooperation with the NGO sector (52-55), Protection of the rights of persons with disabilities (60-64), Freedom of opinion and expression (65-74), Freedom of association and peaceful assembly (75-79), Corruption and Human Rights (80), Refugees and displaced persons (81-84), Refugees (85-88)

ISSUE	N Report	Compilation	Summary
Economic rights/ Right to development		See Recommendations, CEDAW (41), CEDAW and UNHCR (41)	
Equality and Non discrimination	Constitutional status (47). Law on Gender Equality. Several strategic documents harmonized with CEDAW. (12). Equal treatment on the grounds of gender and sexual orientation (56)	Gender Equality Agency (14). Exclusion in political and labour fields and violence (65)	Laws on Gender Equality and Prohibition of Discrimination (4)

Gender mainstreaming	Institutional mechanisms for gender equality (56)		Lack of legal harmonization (18)
Maternal mortality /maternal health		See Recommendations, CEDAW (45)	
Participation in public and political life	No satisfactory level in gender quotas in legislative and executive bodies (56)	Low rates. Decreased Parliamentary representation (39)	
Right to education		Low attendance rates (50) Early dropout, esp. Roma girls (51)	
Right to work			Lack of measures to integrate war crime victims in labour market (40)
Sexual Violence		Underreporting, lenient sentences, inadequate assistance for victims (27)	Underage girls. Victims are forced to live with perpetrators (24)
Sexual violence in conflict and post-conflict situations		Concern at the situation of victims (25)	Impunity. Inadequate typification of sexual crimes and protection for victims (29). Psychological and physical problems. Unemployment, poverty. No provision of adequate access to health care services (45) Inadequate property restitution programs for victims (52)
Trafficking of women/ Forced prostitution	Increasing trafficking of local women and girls. Creation of sustainable system to provide data registration, direct aid and assistance to victims. (59)		
Violence against Women /Gender Violence	Strategic plan and legislation, including protective measures and shelters (58)	Legislation on family violence (8)	Victims stigmatized. No adequate legal instruments (20)
Women in prison			Not separate sections (22)

Economic rights/Right to development

See Recommendations, the Committee on the Elimination of Discrimination against Women - CEDAW (41), CEDAW and UNHCR (41)

Equality and non-discrimination

The Constitution of BiH and Entity Constitutions establish the right to protection from discrimination (Para 47, NR). The Law on Gender Equality of BiH provides formally an equal access to rights of women and men in accordance with international standards () In addition to these legislative projects it is also worth mentioning that strategic and planning documents were made to ensure more effective prevention of discrimination in practice, especially against women and so BiH adopted several strategic documents: the BiH Gender Action Plan for the period 2006-2012,

the National Action Plan for combating domestic violence, the National Action Plan to combat human trafficking and illegal migration 2008-2012, Rules on protection of citizens of BiH victims of trafficking and witnesses of trafficking in human beings and the Rules on protection of foreign victims of trafficking. These laws and above mentioned plans are harmonized with CEDAW (Para 12, NR)

BiH has established appropriate mechanisms to prevent discrimination based on sex by defining within the legal framework the right to equal treatment on the grounds of gender and sexual orientation of any person by his/her own choice (Para 56, NR)

CEDAW, HR Committee and the Committee on Economic, Social and Cultural Rights (CESCR) welcomed the establishment of the Gender Equality Agency at the State level (Para 14, Compilation). According to The Informal UPR Coalition¹, the Law on Gender Equality () which was harmonized with international norms and contained anti-discriminatory provisions, is not being applied in an adequate manner. The Law on Prohibition of Discrimination has been adopted recently (Para 4, Summary)

The 2008 Common Country Assessment (CCA) indicated that while gender-based discrimination is ubiquitous throughout the society, three issues of particular concern are exclusion from political processes, access to employment and the labour market, and gender-based violence (Para 65, Compilation)

See Recommendations, CESCR (14); CEDAW (14, 15, 22); CESCR and CEDAW (3); The Organization for Security and Cooperation in Europe - OSCE (4)

Gender mainstreaming

BiH established institutional mechanisms for gender equality in order to integrate gender concept in all laws, policies, strategies and program documents. The established gender mechanisms include the Agency for Gender Equality of BiH, the entity gender centers, the commissions for gender equality within the BiH Parliament and entities assemblies, and the commissions for gender equality in the cantons and municipalities. It is important to note that the institutional mechanisms for gender equality cooperate with NGOs in the implementation of the activities (Para 56, NR)

Ombudsman noted the establishment of gender mechanisms and the adoption of "Law on Gender Equality" and the National Plan of Action. However, the lack of harmonization between other legislations and the Gender Law had resulted in an exclusion of women from decision-making bodies (Para 18, Summary)

See Recommendations, the Council of Europe Commissioner for Human Rights - CoE Commissioner (18)

Maternal mortality/maternal health

See Recommendations, CEDAW (45)

¹ Joint submission by 30 NGOs in Bosnia and Herzegovina: Human Rights UPR Coalition House of Sarajevo, Helsinki Committee for Human Rights in Bosnia and Herzegovina, CURE Foundation, Serb Civic Council of Sarajevo Canton, Woman and Society Center, Association of Citizens „Renaissance“, Regional Coordinator for Youth Groups in Wester Balkans, Center for Informative and Legal Help – CIPP, ICVA, Prava za sve (Rights for All), Association Q, Transparency International in B&H, Association of Roma Women „Better Future“, European Law Students' Association - ELSA, Center for Human Rights Sarajevo, Youth Club „Diamond“, Association of Decertified Policemen in B&H, Bona Fides, Zemlja djece (Land of Children), League for Protection of Private Property and Human Rights, Association for Civic Rights – UGP, Zdravo da ste (Hello Neighbour), Foundation „Truth, Justice, Reconciliation“, NGO of Altruists „Svjetlo“ („The Light“), Red Half-Moon of B&H, Association „Friends of Family“ and Center for Youth Development – PRONI.

Participation in public and political life

Although the BiH Election Law provides for quotas for candidate lists, gender equality is not at a satisfactory level in the legislative and executive bodies (Para 56, NR)

The 2008 CCA highlighted the fact that only 9 per cent of leadership positions and only 6 of 64 ministerial positions in Government, at State and Entity levels, are held by women. The proportion of seats held by women in the national Parliament decreased from 16.7 per cent in 2006 to 11.9 per cent in 2009 (Para 39, Compilation)

See Recommendations, CEDAW (39)

Right to education

The 2008 CCA indicated that the education system was characterized by low attendance rates (Para 50, Compilation). CEDAW remained concerned about the early dropout rates of girls in rural areas, especially of Roma girls (Para 51, Compilation)

See Recommendations, CESCR (50); The Committee on the Rights of the Child - CRC (51); CoE Commissioner (48)

Right to work

AI expressed concern that the Bosnia and Herzegovina authorities had not provided survivors of war crimes of sexual violence with meaningful measures of employment restitution or enabled them to re-integrate in the labour market (Para 40, Summary)

See Recommendations, CEDAW (41)

Sexual Violence

HR Committee and CESCR were concerned about underreporting, lenient sentences and inadequate assistance for victims of domestic violence (Para 27, Compilation). The Informal UPR Coalition noted that the victims of domestic violence were mainly women and girls. Underage girls were often reported to be victims of sexual violence. It further noted that the victims were forced to live under the same roof with a violent person (Para 24, Summary)

Sexual violence in conflict and post-conflict situations

CEDAW expressed concern at the situation of victims of sexual violence of the 1992-1995 armed conflict, as highlighted also by UNHCR (Para 25, Compilation)

Amnesty International (AI) expressed concern that the authorities had failed to develop a strategy to address the needs of the survivors of war crimes of sexual violence and to provide them with reparation, rehabilitation, and guarantees of non-repetition. (Para 12, Summary). AI expressed concern at continued impunity for crimes of sexual violence arising from the armed conflict in Bosnia and Herzegovina. Only a few prosecutions had been conducted before the War Crimes Chamber of the State Court or, in some cases, the cantonal and district courts in the Federation of Bosnia and Herzegovina. AI also expressed concern that many perpetrators of war crimes of sexual violence continued to evade justice, and they often live in the same communities as their victims. AI further stated that the failure to provide survivors of war crimes of sexual violence with access to justice derived from, inter alia, the inadequate definition of those crimes in the legal framework of the country as well as from inadequate protection of and support for witnesses in those cases (Para 29, Summary). AI noted that survivors of war crimes of sexual violence suffered trauma and other psychological and physical problems. Psychological support was often not available and access to health services was limited especially for women in remote areas. Many survivors were unemployed and lived in poverty and could not afford medicines.

Ombudsman also noted that it is only possible to exercise the right to health care exclusively from citizen's place of residence, as this right is not transferable. Such an approach endangered the citizens who temporarily lived out of their registered places of residence (Para 45, Summary). () According to AI, existing programmes of property restitution for refugees and internally displaced persons have failed to take into account gender needs of the survivors of sexual violence as well as their psychological condition. As a result, survivors have all too often been forced to return to their pre-war places of residence, which in many cases has caused their re-traumatisation (Para 52, Summary)

See Recommendations, CEDAW and CESCR (25); AI (5, 32); CoE Commissioner (29)

Trafficking of women/Forced prostitution

() in the past few years there appeared a new phenomenon - trafficking in women and girls who are recruited in the chain of human trafficking at the local level, with the aim of sexual exploitation in other parts of the country, while the number of identified foreign victims of trafficking is in permanent decline and the number of female citizens of BiH identified as victims of trafficking in BiH until this year (2009) is constantly growing. However, the current data on victims of trafficking are not disturbing and there is a continuous trend of reduced number of identified victims. BiH has invested sufficient efforts in terms of creating a sustainable system including establishment of a uniform system of data keeping and establishment of the system of direct aid and assistance to victims of trafficking, which provides intervention resources at the state level. This system was established in partnership of government, NGO and international sector and therefore has a special value especially in terms of strengthening both the partnership of the governmental and non-governmental sector and international and regional cooperation (Para 59, NR)

See Recommendations, CEDAW (28); Special Rapporteur on trafficking in persons (29)

Violence against Women/Gender Violence

The Strategy of prevention and fight against domestic violence for BiH for the period from 2009 to 2011 was adopted at the level of BiH, and the entity governments have adopted a strategic plan and action plan. The domestic violence is incriminated at the entity level, the laws against domestic violence were enacted and they define the protective measures (measures of expulsion, prohibition of access, compulsory treatment, etc.). The SOS lines for victims of violence were established in th FBiH and RS, while nine safe houses operate in BiH in order to protect victims of domestic violence (Para 58, NR)

In 2006, the HR Committee and CEDAW welcomed the adoption of a Law on the Protection from Family Violence (Para 8, Compilation). Ombudsman noted that despite all measures undertaken, trafficking, domestic violence, sexual harassments as forms of gender violence were still present in Bosnia and Herzegovina. The victims were stigmatized since there were no adequate legal instruments for the protection of their rights (Para 20, Summary)

See Recommendations, CoE Commissioner (20)

Women in prison

Regarding conditions of detention, CCPR expressed concern over overcrowding, lack of staff and lack of education of the present staff, and lack of security within the prison. It was further reported that () there was no women section found within the prison (Para 22, Summary)

Suggested questions and/or Recommendations

CEDAW

- § That (Gender Equality Agency) would directly report to the Council of Ministers (Para 14, Compilation)
- § The adoption of the draft gender action plan, that the State allocate funds for its implementation and continue gender training of officials (Para 15, Compilation)
- § To eliminate discrimination against women and to include women in political, economic and social transformation processes (Para 22, Compilation)
- § That protection be extended to cover women trafficked internally; that trafficked women and girls who have support to provide testimony (Para 28, Compilation)
- § To harmonize the election law with the Law on Gender Equality and to increase the representation of women in elected and appointed bodies (Para 39, Compilation)
- § To bring to justice employers who violate equality provisions, to increase women's representation in the formal economy, to eliminate occupational segregation, and to ensure access to vocational training. (Para 41, Compilation)
- § To ensure that women have access to adequate services, that maternal mortality rates are reduced, and to guarantee access to information and services regarding sexual and reproductive health (Para 45, Compilation)

CEDAW and CESC

- § To ensure the justiciability of the ICESCR and CEDAW rights in domestic courts. (Para 3, Compilation)
- § To recognize and protect, through a State law, women victims of sexual violence (Para 25, Compilation)

CEDAW and UNHCR

- § To ensure that national poverty alleviation programmes fully benefit women, in particular marginalized groups of women. (Para 45, Compilation)

CESCR

- § That the State increase the agency's resources (Gender Equality Agency) (Para 14, Compilation)
- § To promote equal access by Roma children to education (Para 50, Compilation)

CRC

- § To pay particular attention to the high dropout rates and increase the availability of vocational training (Para 51, Compilation)

The Special Rapporteur on trafficking in persons

- § That increased attention be devoted to the prevention of internal trafficking and trafficking from Bosnia and Herzegovina to other countries, with particular attention to the root causes of the phenomenon. Long-term prevention should also include anti-discrimination measures, job opportunities for women, legal migration projects targeting women, awareness raising programmes targeting violence against women (Para 29, Compilation)

The Organization for Security and Co-operation in Europe (OSCE)

- § That the executive and judicial branches appreciate the full potential of the Law against Prohibition of Discrimination for addressing general human rights concerns. Effective strategies for its progressive implementation in civil, cultural, economic, political and social

rights should be developed and supervised at the highest level of government (Para 4, Summary)

AI

- § Amending the Bosnia and Herzegovina Criminal Code to include a definition of "sexual violence" in accordance with international standards and jurisprudence related to the prosecution of war crimes of sexual violence and to remove the condition of "force or threat of immediate attack" from the present definition (Para 5, Summary)
- § That the State Investigation and Protection Agency should take measures to ensure respect for the right to privacy of the survivors, given that many survivors of war crimes of sexual violence may never have disclosed they were sexually abused during the war, and would prefer to keep this fact secret (Para 32, Summary)

CoE Commissioner

- § To ensure effective implementation of the Action Plan on Gender issues by giving more resources and authority to the Gender Equality Agency, and develop further policy measures to address persistent inequality of women in the labour market, in public life and administration (Para 18, Summary)
- § That Bosnia and Herzegovina make further investments to build the infrastructure necessary for addressing violence, including shelters for women and children, and allocate funds to relevant institutions and NGOs from the State funds. (Para 20, Summary)
- § To strengthen efforts to fight impunity; arrest and prosecute war criminals and bring them to justice (Para 29, Summary)
- § To take comprehensive measures to increase the attendance of Roma children in school and to prevent their drop-out, ensure the inclusion of Roma children in pre-school education and of Roma girls in education at all levels (Para 48, Summary)

SRI

- § To implement sustained policies, in order to promote women's active and equal participation in decision-making in all spheres of public and political life.
- § To establish, as a matter of urgency, the adequate legal instruments and the necessary mechanisms to ensure that women's complaints of domestic violence are received, properly investigated and create the necessary institutional framework to provide shelter and support to victims.