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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights, including
the right to development**

Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on his visit to Bosnia and Herzegovina

Comments by the State*

* The present document is being issued without formal editing.



Information on Preliminary Observations from the Official Visit to Bosnia and Herzegovina by the Special Rapporteur (2-10 December 2021)

1. The Ministry of Human Rights and Refugees of Bosnia and Herzegovina has informed the competent institutions in Bosnia and Herzegovina about Preliminary Observations of the Special Rapporteur on the Promotion of Justice, Reparations and Guarantees of Non-Repetition of Crimes, and requested answers, comments or information which the Special Rapporteur will take into consideration during the preparation of the final report.

2. Institutions to which the Preliminary Observations were submitted are:

Constitutional-Legal Committee of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina; Constitutional-Legal Committee of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina; Joint Committee on Human Rights of the Parliamentary Assembly of Bosnia and Herzegovina; Constitutional Court of Bosnia and Herzegovina; High Judicial and Prosecutorial Council of Bosnia and Herzegovina; Court of Bosnia and Herzegovina; Prosecutor's Office of Bosnia and Herzegovina; Attorney General's Office of Bosnia and Herzegovina; Presidency of Bosnia and Herzegovina; Ministry of Foreign Affairs of Bosnia and Herzegovina; Ministry of Justice of Bosnia and Herzegovina; Ministry of Defense of Bosnia and Herzegovina; Ministry of Security of Bosnia and Herzegovina; State Investigation and Protection Agency; The Missing Persons Institute of Bosnia-Herzegovina; Supreme Court of the Federation of Bosnia and Herzegovina; Supreme Court of Republika Srpska; Prosecutor's Office of Republika Srpska; Federal Ministry of the Interior; Federal Prosecutor's Office; Federal Ministry of Justice; Ministry of Justice of Republika Srpska; Ministry of Internal Affairs of Republika Srpska; Judicial Commission of Brčko District of Bosnia and Herzegovina; Brčko District Police.

3. The following institutions submitted their answers/comments to the Preliminary Observations:

The Prosecutor's Office of Bosnia and Herzegovina, the Ministry of Justice of Bosnia and Herzegovina, the Ministry of Security of Bosnia and Herzegovina and Nikola Lovrinović, Member of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina.

4. In its letter no: AP-200/21 dated February 2, 2022, the Prosecutor's Office of Bosnia and Herzegovina has delivered the following:

“Preliminary observations represent a comprehensive analysis of the real situation in Bosnia and Herzegovina in terms of observed elements of truth, justice, reparations and guarantees of non-recurrence of crimes, both in the observed shortcomings and in the proposed recommendations and encouragement of Bosnia and Herzegovina in the process of transitional justice and reconciliation. Therefore, we have no additional suggestions to the text of the Preliminary Observations. ” They also expressed their gratitude to the Special Rapporteur and believe that the final report which will be presented to the UN Human Rights Council will encourage relevant stakeholders in Bosnia and Herzegovina to start implementation of the proposed recommendations contained in the final report, hoping that the international community will continue to support Bosnia and Herzegovina on this path.”

5. The Ministry of Justice of Bosnia and Herzegovina has paid special attention to the part of the report entitled "Justice" which notes the establishment a special chamber on war crimes within the Court of Bosnia and Herzegovina, current legislation in this area and adoption of the National War Crimes Prosecution Strategy (2008) and Revised National War Crimes Strategy (2020) which defines new criteria for selection and prioritization of cases between the State, entities and Brčko District.

6. Bearing in mind that the above mentioned is within the jurisdiction of this Ministry, we note that we have no suggestions or recommendations for any additional activities in this area.

7. The Ministry of Security of Bosnia and Herzegovina has informed us that, by inspecting the submitted Preliminary Observations, they did not find information or observations on the non-adoption of the Decision on the Establishment of the Supervisory Body for monitoring the implementation of the Revised National War Crimes Processing Strategy.

8. Namely, as stated in the report, on September 24, 2020 the Council of Ministers of Bosnia and Herzegovina has adopted the Revised National War Crimes Strategy prepared in 2018. It stipulates that all war crimes cases be completed within five years, ie by 2023. According to the Revised Strategy, the Supervisory Body for its implementation must be established within 30 days of its adoption and Bosnia and Herzegovina is a year and a half behind the deadline for establishment of the above mentioned Supervisory Body. In this situation, neither the BiH Council of Ministers nor any other body outside of the judiciary, has information on the work on war crimes cases, which certainly is a problem in the implementation of the Strategy itself, especially as we approach the deadline for completion of war crimes cases (2023).

9. Mr. Nikola Lovrinović, Member of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, appreciates the opportunity to get acquainted with the Preliminary Observation of the Special Rapporteur on the promotion of truth, justice, reparations, guarantees of non-recurrence of crimes and submitted several remarks on Preliminary Observations stating the following:

“General remarks, fourth paragraph, states “rhetoric of national/ethnic division” and “calls for separation”. I think that the use of the term "rhetoric of national/ethnic divisions" is just a cliché and does not explain anything. In my opinion, it is better to use the term "insisting on the rights of constituent peoples and seeking political solutions for the establishment and functioning of government bodies is a very complex job and a constitutional category”.

10. So, it is not about divisions but about political demands which those, who do not like it, represent as divisions, wanting to hide the demand for centralization and unitarization of authority by majority. Thus, the term "rhetoric of national divisions" shows nothing but bad and undemocratic representation of legitimate political demands of representatives of the people living in BiH, in order to achieve a multiethnic and multiple governance structure of BiH, in accordance with the BiH Constitution and the Dayton Peace Agreement.

11. In the chapter "Guarantee of Non-Recurrence" in the third paragraph, I think that the use of the terms that the education system in the country, segregates students based on the national/ethnic background should not be used in this context. As far as I know, the education system is related to the official languages, including the school curricula, and is organized in accordance with the pedagogical profession.

12. Therefore, it is important to ensure that every nation exercises its right to education in its own language, because it is a contribution to the realization of the rights of students and parents in this area. It is very dangerous to consider it "separation" to the detriment of the exercise of rights. The solution is to agree on the content of learning (common core) especially in interesting subjects. Certainly, any obstruction of attending any school, according to the choice of students and parents, should be prevented. So the choice must exist and it must not be disabled.

13. After all, when it comes to history, it is very questionable whether and to what extent is possible to study events without respecting the flow of at least fifty years from the event. Nevertheless, we agreed on history and geography textbooks in Braunschweig, maybe 2003 or 2004, but we did not implement the agreement. On behalf of the OSCE, this work was performed by Mr. Falk Pingel.

14. In paragraphs related to the denial of genocide and crimes, in my opinion, criminal responsibility should be established for persons who hold positions in government bodies because their actions of non-acceptance of court rulings cause consequences of harassment and spreading of hatred.

15. This should not turn into mechanisms of general persecution of people and thus provoke the spread of new distrust of government and rule of law. We should be working on

finding other ways of acting in society, raise awareness and culture of dealing with other and different victims of crime. Prohibitions and penalties may only have a counter-effect.

16. In the “Final observation”, the term "nationalist rhetoric" is used again and may have different meaning, so I repeat, it would be better to use the term "rights of constituent peoples and seeking political solutions." It would be especially good to insist on respecting and implementing of what has been agreed, and not to insist on political and constitutional changes, "political violence", "false accusations" against someone's political demands all in desire to create a state which fulfill wishes not justice, equality or mechanism which will suit everyone.”
