



# 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

### Concluding observations on the third periodic report of Bosnia and Herzegovina\*

1. The Committee considered the third periodic report of Bosnia and Herzegovina (CMW/C/BIH/3) at its 433rd and 434th meetings (CMW/C/SR.433 and 434), held on 3 and 4 September 2019. At its 443rd meeting, held on 11 September 2019, it adopted the present concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the third periodic report of the State party, its replies to the list of issues (CMW/C/BIH/Q/3/Add.1) and the additional information provided by the high-level and multisectoral delegation.

3. Notwithstanding the fact that the Committee recognizes, for the most part, Bosnia and Herzegovina as a country of origin of migrant workers, it also considers it as a country of transit and destination.

4. The Committee notes that some countries in which Bosnian migrant workers are employed are not States parties to the Convention, which may constitute an obstacle to their enjoyment of the rights guaranteed under the Convention.

#### B. Positive aspects

5. The Committee welcomes the State party's efforts to:

(a) Promote and protect the rights of Bosnian migrant workers abroad and in the State party itself, including those in transit, in particular with respect to reintegration support, including under annex 7 of the Dayton Peace Agreement;

(b) Provide information to migrant workers, including those in transit;

(c) Ensure the right to vote, which has led to a significant increase in the participation of Bosnian migrant voters abroad in elections since 2010.

6. The Committee notes with appreciation the ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, on 17 May 2018.

7. The Committee welcomes the adoption of the following legislative measures:

\* Adopted by the Committee at its thirty-first session (2–11 September 2019).



- (a) The Law on Free Legal Aid in 2016, providing, inter alia, the legal preconditions for migrant workers and members of their families to receive free legal aid;
  - (b) Amendments to the Law on Prohibition of Discrimination in 2016, which added grounds of prohibited discrimination;
  - (c) The Law on Labour of Republika Srpska of 2016, which applies to foreign nationals, stateless persons and citizens alike;
  - (d) The Law on Aliens in 2015, which prohibits discrimination against foreign nationals.
8. The Committee also welcomes the following institutional and policy measures:
- (a) The creation, in 2018, of the Coordination Body for Migration Issues in Bosnia and Herzegovina, which deals with migration and asylum issues;
  - (b) The migration and asylum strategies and the action plan on migration and asylum for the period between 2016 and 2020;
  - (c) The Action Plan against Trafficking in Human Beings 2016–2019.
9. The Committee notes that the State party voted in favour of the Global Compact for Safe, Orderly and Regular Migration and recommends that the State party work towards its implementation, ensuring full compliance with the Convention.
10. The Committee notes the standing invitation extended by the State party to special procedures of the Human Rights Council in 2010.

## **C. Principal subjects of concern and recommendations**

### **1. General measures of implementation (arts. 73 and 84)**

#### **Legislation and application**

11. The Committee notes the State party's initiatives to improve its legal framework concerning the rights of Bosnian migrant workers and members of their families abroad, especially in the areas of social security, employment, pension schemes, reintegration support and the right to vote. The Committee further notes that the Coordination Body for Migration Issues in Bosnia and Herzegovina also coordinates activities for Bosnian migrant workers and members of their families abroad, including by assessing future migration movements, proposing measures to improve the State party's migration policies, monitoring their implementation and analysing their effectiveness. It is, however, concerned at the lack of information provided by the State party on specific, time-bound and measurable goals and targets set for the implementation of Bosnian migrant workers' rights abroad.

12. The Committee welcomes the State party's initiatives to improve its legal framework concerning the rights of migrant workers and members of their families, especially in the areas of employment and education. It also notes the efforts, in particular in the Republika Srpska, to harmonize the relevant legislation with the Convention, according to which regular migrant workers and foreign nationals with approved international protection, including temporary protection, have the same rights and obligations as citizens of the State party in employment.

13. The Committee is, however, concerned that the full implementation, at both the legislative and administrative levels, of the rights enshrined in the Convention throughout the territory of the State party is hindered due to the complexity of the State party's constitutional structure and the difficulties that the federal Government faces in carrying out legal reforms in some parts of the State party.

**14. Reiterating its previous recommendations (CMW/C/BIH/CO/2, para. 12), the Committee recommends that the State party:**

(a) **Strengthen its efforts to overcome the remaining legislative fragmentation in its national laws in order to ensure that all relevant legislation is in full conformity with the Convention, including the Law on Aliens, the revision of which is already envisaged for 2019 and 2020, and the new Law on Labour of Brcko District;**

(b) **Take effective measures for the implementation of all relevant legislation, with clear time frames, indicators, monitoring and evaluation benchmarks, and provide detailed information in its next periodic report;**

(c) **Ensure that the provisions of the Convention are implemented in all parts of the federal State and within its jurisdiction, without any limitations or exceptions, in accordance with the general legal obligation imposed on States parties to the Convention;**

(d) **Engage with stakeholders at all levels to identify ways to give greater effect to the Convention at the federal, Entity and municipal levels, given that the obligations under the Convention are binding on the State party as a whole.**

#### **Articles 76–77**

15. **The Committee takes note with regret of the State party’s decision, communicated to it on 4 April 2019, to not make the declaration pursuant to article 77 of the Convention, and, reiterating its previous recommendations (CMW/C/BIH/CO/2, para. 10, and CMW/C/BIH/CO/1, para. 14), recommends that the State party consider making the declaration provided for in article 76 of the Convention, recognizing the competence of the Committee to receive and consider communications from States parties concerning violations of the rights established by the Convention, and invites the State party to reconsider its decision related to the declaration provided for in article 77 of the Convention, recognizing the competence of the Committee to receive and consider communications from individuals.**

#### **Ratification of relevant instruments**

16. **Noting the support of Republika Srpska to do so, and reiterating its previous recommendation (CMW/C/BIH/CO/2, para. 8), the Committee invites the State party to reconsider its decision not to ratify the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189) and ratify it as soon as possible.**

#### **Comprehensive policy and strategy**

17. **The Committee welcomes a specific policy, under the migration and asylum strategies for the period between 2016 and 2020, for the Bosnian diaspora aimed at facilitating knowledge transfer and attracting investments back to the State party; an employment strategy in Republika Srpska aimed at ensuring policy coherence between labour migration and employment policies; and a project for promoting inclusive labour market solutions in the western Balkans. The last two initiatives were carried out with ILO technical assistance support. The Committee is, however, concerned that the migration and asylum strategies lack focus on the Convention and that the State party has not yet put full administrative capacity in place for the specific measures taken to implement the Convention, including specialized training.**

18. **The Committee recommends that the State party, when developing its future migration and asylum strategies for the period beyond 2020:**

(a) **Ensure that the strategies place emphasis on the implementation of the Convention and provide for a comprehensive gender-responsive and human rights-based migration policy and strategy;**

(b) **Take effective measures, with clear time frames, indicators, monitoring and evaluation benchmarks, to implement the strategies and the action plan, provide sufficient human, technical and financial resources for their implementation, and include in its next periodic report relevant information on the results obtained and the difficulties encountered, supported by statistics.**

### Coordination

19. While noting the existence of the Coordination Body for Migration Issues in Bosnia and Herzegovina, which participated in the preparation of the State party's report, and of a government department that deals with the diaspora, the Committee is concerned that there is no mechanism with a mandate or authority to coordinate all the activities relating to the implementation of the Convention at all levels, including follow-up action on the recommendations of the Committee.

**20. The Committee recommends that the State party mandate a high-level interministerial mechanism with sufficient authority to coordinate all the activities relating to the implementation of the Convention at federation, Entity, district and municipal levels across all sectors of the Government. The Committee further recommends that the State party equip such a coordinating body with the human, technical and financial resources necessary for its effective operation.**

### Data collection

21. The Committee remains concerned about the absence of comprehensive statistical information on migration, disaggregated not only by sex and age, but also other characteristics, such as nationality and occupational field, in particular on migrant workers and members of their families residing in Bosnia and Herzegovina, regardless of their status, and Bosnian migrant workers and members of their families abroad.

**22. With reference to its previous recommendations (CMW/C/BIH/CO/2, para. 16), the Committee recommends that the State party, in accordance with target 17.18 of the Sustainable Development Goal, apply a human rights, gender-responsive and non-discrimination approach to:**

- (a) **Improve its data collection system, covering all aspects of the Convention;**
- (b) **Strengthen the automation processes for the entry and exit of people, including by maintaining the quality and reliability of information at all border points;**
- (c) **Ensure the protection of the personal information of migrant workers and members of their families, so that personal data are not used for the purposes of immigration control or discrimination in the public and private spheres.**

### Independent monitoring

23. The Committee welcomes the fact that national legislation provides for three ombudspersons' offices and that the Institution of Human Rights Ombudsman of Bosnia and Herzegovina was reaccredited with A status in 2017 by the Global Alliance of National Human Rights Institutions, while continuing its activities to monitor and fulfil the obligations of the State party under the Convention, including in cooperation with civil society, and to process the relevant individual complaints. The Committee is, however, concerned that the Institution does not have adequate human, technical and financial resources to carry out its mandate effectively as it relates to the rights of migrant workers and members of their families, and that a bill aimed at improving its financing structure, enhancing cooperation with civil society organizations and assigning additional competencies to it, notably to act as the national preventive mechanism against torture, has not been passed.

**24. The Committee recommends that the State party take all measures necessary to provide the Institution of Human Rights Ombudsman of Bosnia and Herzegovina with adequate human, technical and financial resources to allow it to effectively promote and protect the rights of migrant workers and members of their families, including when dealing with their complaints.**

### Training on and dissemination of information about the Convention

25. The Committee notes the information provided by the State party on human rights education and training initiatives for journalists and media professionals and training initiatives for State officials, including police officers and staff of the Ministry of Security,

on immigration and asylum. However, it regrets that training planned to take place on the Convention could not be realized due to a lack of financial resources and that efforts to disseminate information on the rights enshrined in the Convention among all stakeholders are insufficient.

26. **The Committee recommends that the State party:**

(a) **Develop and implement training programmes on the rights under the Convention of migrant workers and members of their families;**

(b) **Make such programmes available to all stakeholders, in particular members of the security forces, border officials, judges, prosecutors, social workers and other stakeholders working in the area of migration;**

(c) **Engage with the media and civil society in training and the dissemination of information on the Convention.**

## 2. General principles (arts. 7 and 83)

### Non-discrimination

27. The Committee notes with appreciation the State party's efforts to improve its legal framework to ensure non-discrimination, including amendments to the Law on Prohibition of Discrimination; the Law on Labour of Republika Srpska; the Law on Aliens, article 9 of which prohibits discrimination against foreign nationals; the Law on Employment of Foreign Citizens of the Federation of Bosnia and Herzegovina; the Law on Employment of Foreign Citizens and Stateless Persons of Republika Srpska; and the Law on Labour of Brcko District, according to which regular migrant workers, including domestic workers, have the same rights and obligations as citizens of the State party in employment, including with respect to social protection. The Committee is, however, concerned about the absence of a specific provision prohibiting the intersecting and multiple forms of discrimination faced by migrant workers and members of their families, and that existing legislation does not provide special protection for women migrant workers, including migrant domestic workers, irrespective of their status. The Committee regrets the lack of information about how, in practice, the legislative framework has created better conditions for the protection of migrant workers and members of their families.

28. **The Committee recommends that the State party:**

(a) **Incorporate in its legislation a specific prohibition on the intersecting and multiple forms of discrimination faced by migrant workers and members of their families, so that they are able to enjoy the rights provided for in the Convention without discrimination;**

(b) **Raise awareness among the authorities, migration officials and the general public of the rights of all migrant workers and members of their families, and of the importance of eliminating discrimination against them;**

(c) **Take measures to guarantee the rights under the Convention of all women migrant workers, including domestic workers, irrespective of their status;**

(d) **Provide information in its next periodic report on the measures taken to implement its legislative framework on non-discrimination as regards the rights of migrant workers and members of their families, irrespective of their status.**

### Right to an effective remedy

29. The Committee notes with appreciation that migrant workers enjoy the same rights and have the same obligations as citizens of the State party in employment, according to the relevant laws of the federation, Republika Srpska and Brcko District, and are, in principle, entitled to free legal aid like citizens, pursuant to the Law on Free Legal Aid. The Committee is, however, concerned that no information is available on the number of court or administrative proceedings initiated by migrant workers or members of their families, including those in an irregular situation. It is also concerned at the lack of information, such as statistics and examples, on the legal assistance provided to migrant workers and

members of their families in cases of violations of their rights under the Convention and that all free legal assistance in the State party is currently provided by five officials, in addition to their regular duties, during or outside of their regular working hours, pending the creation of the office for the provision of legal aid.

30. **The Committee recommends that the State party:**

(a) **Ensure that migrant workers and members of their families, including those in an irregular situation, have, in law and in practice, opportunities equal to those of citizens of the State party to file complaints and to obtain effective redress in administrative proceedings and before courts in cases in which their rights under the Convention have been violated;**

(b) **Take additional measures to inform migrant workers and members of their families, including those in an irregular situation, about the judicial remedies, including restitution, compensation, rehabilitation, satisfaction and assurances of non-repetition, available to them in such cases;**

(c) **Set up the office for the provision of free legal aid without delay and equip it with the human, technical and financial resources necessary for its effective operation in order to provide free legal assistance to migrant workers and members of their families, and provide statistics and examples of such cases in its next periodic report.**

3. **Human rights of all migrant workers and members of their families (arts. 8–35)**

#### **Border management and migrants in transit**

31. The Committee notes the flows of migrants transiting through the State party, comprising, inter alia, migrant workers and members of their families, asylum seekers, trafficked persons, smuggled migrants, unaccompanied and separated children, stateless migrant workers and undocumented migrants. It also notes an increase in the influx of migrants, in particular from Middle Eastern countries in 2018, as well as from North African countries, Afghanistan and Pakistan. The Committee is concerned about insufficient border management capacity, including the lack of infrastructure at border-crossing points, as well as the living conditions at the informal Vučjak camp near Bihać. Furthermore, while noting that the State party maintains that collective expulsions are absolutely prohibited by law, the Committee is concerned about information received about the lack of safeguards to ensure that border governance measures are non-discriminatory and in accordance with the principle of non-refoulement and the prohibition of arbitrary and collective expulsions.

32. **The Committee recommends, in accordance with the Recommended Principles and Guidelines on Human Rights at International Borders of the Office of the United Nations High Commissioner for Human Rights, that the State party:**

(a) **Increase border management capacity, including training of public officials serving at border-crossing points, and take measures to improve the infrastructure at these points to ensure respect for the human rights of all migrants, regardless of their status;**

(b) **Strengthen its efforts to ensure that its border governance measures address and combat all forms of discrimination by State and private actors at international borders and are in accordance with the principle of non-refoulement and the prohibition of arbitrary and collective expulsion.**

#### **Due process, detention and equality before the courts**

33. The Committee remains concerned about:

(a) The placement of foreigners, including migrant workers and members of their families, in administrative detention for reasons related to irregular migration, including concealment of their identity, and the mandatory character of this measure, which is

therefore not legally defined as an administrative measure taken and enforced as a last resort;

(b) The lack of information on the conditions and maximum period of detention of migrants, including migrant workers and members of their families, awaiting expulsion.

**34. In the light of the Committee's general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families, and joint general comments No. 3 and No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 and No. 23 (2017) of the Committee on the Rights of the Child on the human rights of children in the context of international migration, and reiterating its previous recommendations (CMW/C/BIH/CO/2, paras. 26 and 30), the Committee recommends that the State party:**

(a) **Ensure that administrative detention in immigration centres is used only as a measure of last resort, including for migrant workers and members of their families in an irregular situation;**

(b) **Provide information in its next periodic report on the effectiveness of the measures taken to ensure that all immigration facilities provide adequate basic services, including food, health care, hygiene and access to outdoor areas, as well as the number of cases and the maximum period of immigration detention imposed in practice on migrant workers and members of their families awaiting expulsion.**

#### **Expulsion**

35. The Committee notes that it is possible to lodge an appeal (with suspensive effect) against expulsion decisions with the Ministry of Security and that surveillance measures that are more lenient than detention are legally available in the State party to ensure the execution of an expulsion decision. It remains concerned, however, at the short time limit of 24 hours for migrant workers and members of their families to lodge administrative appeals against such decisions under article 106 (1) (k) of the Law on Aliens. It regrets the lack of information from the State party on the extent to which migrant workers and members of their families awaiting expulsion make use of the right to appeal. The Committee is concerned that an appeal against an expulsion order to the courts does not have automatic suspensive effect; the appellant has to provide specific reasons, such as invoking the principle of non-refoulement, for it to have suspensive effect.

**36. Reiterating its previous recommendations (CMW/C/BIH/2, para. 32), the Committee recommends that the State party:**

(a) **Consider extending the time limit for lodging administrative appeals against expulsion orders;**

(b) **Allow for subsequent appeals to the courts with automatic suspensive effect without the appellant having to provide specific reasons;**

(c) **Take the steps necessary to ensure that migrant workers who are subject to an expulsion order are aware of and able to exercise their right to appeal such an order.**

#### **Consular assistance**

37. The Committee welcomes the impact of measures, including the opening of new consular offices, the training provided to consular officers and awareness-raising initiatives, that have increased the participation in elections of Bosnian migrant workers and members of their families abroad. It is, however, concerned at the low participation rate in elections of Bosnians living abroad and the lack of capacity of the State party in encouraging such individuals to vote, at the lack of information on other services, including consular services, and on the protection and assistance provided by the State party's consulates, especially in cases involving deprivation of liberty and/or expulsion decisions.

**38. The Committee recommends that the State party take further steps to strengthen its consular services to protect and promote the rights of Bosnian migrant**

**workers and members of their families, and to provide, in particular, assistance to those who are deprived of liberty and/or subjected to an expulsion order.**

#### **Trade unions**

39. The Committee regrets the lack of information provided concerning the right for migrant workers in the State party to join freely and take part in the meetings of trade unions.

**40. The Committee recommends that the State party take all measures necessary, including legislative amendments, to guarantee that all migrant workers, including those in an irregular situation, may exercise the right to take part in trade union activities and to join freely trade unions, in accordance with article 26 of the Convention and the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and provide relevant information in its next periodic report.**

#### **Social security**

41. The Committee notes with appreciation that the State party has concluded several bilateral social security agreements and that regular migrant workers have the same rights and obligations as citizens of the State party in employment. The Committee notes the intention of the State party to conduct research on the number of Bosnian nationals in the countries of the region and the European Union that do not operate employment-based social security systems and to initiate agreements with these countries.

**42. The Committee recommends that the State party:**

(a) **Ensure that all migrant workers and members of their families are able to subscribe to a social security scheme and that they are informed of their rights in this regard;**

(b) **Enter into bilateral and multilateral social security agreements with all destination countries that are gender responsive and non-discriminatory, to guarantee the social protection of migrant workers, and strive to expedite the conclusion of those agreements under negotiation.**

#### **Medical care**

43. The Committee notes with appreciation the measures taken as part of reintegration programmes to ensure that returning migrant workers and members of their families, including returnees under annex 7 of the Dayton Peace Agreement, are provided with access to health insurance and services. The Committee is, however, concerned about the lack of information on whether migrant workers in an irregular situation also enjoy such access.

**44. The Committee recommends that, in accordance with article 28 of the Convention, the State party adopt concrete and effective measures to ensure access to health-care services, including but not limited to emergency and urgent medical care, for all migrant workers and members of their families on the basis of equality of treatment with nationals and provide information in this regard in its next periodic report.**

#### **Birth registration and nationality**

45. The Committee welcomes the measures taken by the State party, including those provided with the technical assistance of the Office of the United Nations High Commissioner for Refugees, to significantly increase birth registration and the issuance of identity documents and reduce the risk of statelessness of migrant workers and members of their families, as well as the Roma community. The Committee is, however, concerned about the remaining obstacles in legislation at federation, Entity and district levels to ensure universal birth registration, and that laws on free legal aid at the municipal level do not cover members of the Roma community in this regard.

46. **In the light of joint general comments No. 3 and No. 4/No. 22 and No. 23, and reiterating its previous recommendations (CMW/C/BIH/CO/2, para. 36), the Committee recommends that the State party:**

(a) **Take all legislative and practical measures necessary, including amendments to the laws on free legal aid at the municipal level, to ensure that the children of migrant workers and members of their families, including Roma children and children born to migrant workers in an irregular situation, are registered at birth and issued with personal identity documents, in accordance with target 16.9 of the Sustainable Development Goals;**

(b) **Continue to raise awareness of the importance of birth registration among the Roma community and migrant workers and members of their families, including by seeking technical assistance from the Office of the United Nations High Commissioner for Refugees.**

### **Education**

47. The Committee notes with appreciation the measures taken to ensure access to education for the children of migrant workers or those having returned to the State party, including a special programme for children living in camps. However, it is concerned that the children of migrant workers, including those in an irregular situation, are still not systematically enrolled in public schools, sometimes because of the existing legal barriers, such as requirements concerning regulated residence status, asylum cards, or the consent of their parents or guardians.

48. **In line with joint general comments No. 3 and No. 4/No. 22 and No. 23, the Committee recommends that, in accordance with article 30 of the Convention, the State party remove existing legal and administrative barriers and adopt concrete measures to ensure universal access to education free of discrimination, including addressing linguistic barriers, for all children of migrant workers, irrespective of the migration status of their parents.**

## **4. Other rights of migrant workers and members of their families who are documented or in a regular situation (arts. 36–56)**

### **Family reunification**

49. While noting that articles 48 and 50 of the Law on Aliens provide for family reunification, the Committee is concerned that only temporary residence permits for a period not exceeding one year, renewable, are being issued and that article 93 of the same law provides for the termination of residence permits if the stay was granted for the purpose of family reunification with a foreigner whose stay has been terminated or cancelled in accordance with the same law.

50. **The Committee recommends that the State party take the measures necessary to ensure the protection of the unity of the family of migrant workers, including by adopting laws to ensure that the residence permits of family members of migrant workers are not terminated in the event of a change of status on the basis of which the permits were initially issued.**

### **Right to transfer earnings and savings**

51. The Committee is concerned about the absence of information about partnerships with financial institutions to facilitate the transfer of remittances by Bosnian migrant workers to Bosnia and Herzegovina and by migrant workers in the State party to their countries of origin.

52. **The Committee recommends that the State party:**

(a) **Facilitate the transfer of remittances by Bosnian migrant workers to Bosnia and Herzegovina;**

(b) **Take measures to facilitate the transfer of remittances by migrant workers in Bosnia and Herzegovina to their countries of origin, with preferential transfer and reception fees, in accordance with target 10.c of the Sustainable Development Goals, and make savings abroad more accessible to migrant workers and members of their families in the State party.**

**5. Provisions applicable to particular categories of migrant workers and members of their families (arts. 57–63)**

**Frontier and seasonal workers**

53. While noting with appreciation the measures taken by the State party to protect the rights of Bosnian seasonal workers through cooperation with the countries of the Danube Region Information Platform for Economic Integration of Migrants, the Committee remains concerned about the lack of data on the number and situation of Bosnian migrant workers abroad, including frontier and seasonal workers.

54. **Reiterating its previous recommendations (CMW/C/BIH/CO/2, para. 42), the Committee recommends that the State party:**

(a) **Provide information in its next periodic report on the measures taken to ensure that Bosnian frontier and seasonal workers abroad enjoy the rights to which they are entitled by reason of their presence and work in the territory of the State of employment, in accordance with articles 58 and 59 of the Convention;**

(b) **Harmonize its legislation so as to specifically refer to frontier and seasonal workers in order to protect them from unjust and exploitative conditions of work.**

**6. Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families (arts. 64–71)**

**International cooperation with countries of transit and destination**

55. While noting that the State party has entered into a number of bilateral agreements, including employment agreements for Bosnian migrant workers abroad, the Committee is concerned that some of them do not adequately cover the provisions contained in the Convention.

56. **The Committee recommends that the State party enter into agreements with the countries of employment with a view to better protecting the rights of Bosnian migrant workers, including frontier and seasonal workers, and members of their families in line with the Convention, and facilitate the provision of appropriate consular and other services to them.**

**Recruitment agencies**

57. The Committee is concerned about the lack of information on the measures taken to strengthen the regulatory regime for private recruitment agencies and to monitor their activities.

58. **The Committee recommends that the State party provide information in its next periodic report on the measures taken to strengthen the regulatory regime for private recruitment agencies and improve recruitment monitoring and inspections to ensure respect for the rights of migrant workers, in accordance with article 66 of the Convention.**

**Return and reintegration**

59. The Committee welcomes the information provided on the measures taken to facilitate the voluntary return and reintegration of Bosnian migrant workers and members of their families, including under annex 7 of the Dayton Peace Agreement, and to implement agreements between the State party and the States of the western Balkans, Turkey and the (former) European Community, including protocols with 16 European

Union member States thereunder on the readmission of persons residing without authorization, while providing accommodation and care for 30 days upon return. The Committee is, however, concerned about the lack of durable reintegration measures in place and regrets the lack of information on procedural safeguards for migrant workers covered by readmission agreements.

**60. Reiterating its previous recommendations (CMW/C/BIH/CO/2, paras. 22 and 46), the Committee recommends that the State party:**

(a) **Take the measures necessary to ensure that any bilateral or multilateral agreement on migration, as well as its implementation, is in conformity with the Convention, and in particular that such an agreement include appropriate procedural guarantees to prohibit the return, expulsion or deportation of migrant workers to their countries of origin or to third countries in which their right to life or physical integrity may be violated, in which the principle of non-refoulement is not respected or in which torture and other cruel, inhuman or degrading treatment or punishment is not prohibited;**

(b) **Promote voluntary return, including by providing information thereon, bearing in mind that for the return to be qualified as voluntary it has to be a fully informed decision taken without constraints and backed by the availability of sufficient valid alternatives, such as temporary permits for work or study or humanitarian purposes or opportunities for obtaining permanent residence or nationality. Such a decision cannot be said to be voluntary if a migrant decides to return to avoid, among other things, expulsion or detention, escape abusive or exploitative situations in destination or transit countries or avoid the deprivation of his or her socioeconomic rights in the country of destination;**

(c) **Implement the readmission agreement with the European Community in compliance with the provisions of the Convention and provide the Committee with information on its implementation in its next periodic report;**

(d) **Take effective measures to facilitate, in accordance with the principles of the Convention, the durable reintegration of returning migrant workers and members of their families into economic, social and cultural life in the State party, as provided for in article 67 of the Convention;**

(e) **Ensure gender-responsive support for the return and reintegration of migrant workers and members of their families in order to address the specific physical and mental health needs of those who have experienced violence, abuse and sexual exploitation, particularly for women who have been trafficked.**

#### **Trafficking in persons, smuggling of migrants and irregular migration**

61. The Committee is deeply concerned that, despite the efforts taken to prevent and combat the phenomenon, the State party remains a source, transit and destination country for the smuggling of migrants, and for victims of trafficking, including women and children, in particular Roma children.

**62. Reiterating its previous recommendations (CMW/C/BIH/CO/2, para. 48), and in accordance with the Recommended Principles and Guidelines on Human Rights and Human Trafficking of the Office of the United Nations High Commissioner for Human Rights, the Committee recommends that the State party:**

(a) **Adopt effective measures to detect, prevent and curtail irregular flows of migrant workers, and investigate, prosecute and punish criminal groups responsible for the smuggling of migrants and other related offences;**

(b) **Bring its national criminal law framework for the offence of trafficking in persons fully into line with international standards, including the Council of Europe Convention on Action against Trafficking in Human Beings and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and specifically criminalize the sale of children;**

(c) Take effective measures, with clear time frames, indicators, and monitoring and evaluation benchmarks, to implement its legislative and administrative framework to prevent and combat trafficking in persons, in particular by strengthening mechanisms for the early identification of victims of trafficking, including training for law enforcement and border officials, judges, prosecutors and lawyers throughout the Entities of the State party, and for providing support for and referral, rehabilitation and social integration of trafficking victims, such as by providing shelters and legal, medical and psychosocial assistance, and allocate sufficient human, technical and financial resources for the implementation of anti-trafficking measures;

(d) Include in its next periodic report detailed data on trafficking and smuggling of migrants, including for the purposes of sexual exploitation and forced labour, the number of prosecutions and convictions, and the sentences imposed.

## **7. Dissemination and follow-up**

### **Dissemination**

63. The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official language of the State party, to the relevant State institutions at all levels, including to government ministries, the legislature, the judiciary and relevant local authorities, as well as to non-governmental organizations and other members of civil society.

### **Technical assistance**

64. The Committee recommends that the State party further avail itself of international and supranational assistance for the implementation of the recommendations contained in the present concluding observations in line with the 2030 Agenda for Sustainable Development. It also recommends that the State party continue its cooperation with specialized agencies and programmes of the United Nations.

### **Follow-up to concluding observations**

65. The Committee requests the State party to provide, within two years (that is, by 1 October 2021), written information on the implementation of the recommendations contained in paragraph 34, on due process, detention and equality before the courts; paragraph 36, on expulsion; paragraph 46, on birth registration and nationality; and paragraph 62, on trafficking in persons, smuggling of migrants and irregular migration.

### **Next periodic report**

66. The Committee requests the State party to submit its fourth periodic report by 1 October 2024. In doing so, the State party may wish to follow the simplified reporting procedure. The Committee draws the State party's attention to its harmonized treaty-specific guidelines (HRI/GEN/2/Rev.6).

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