



Franciscans International
A voice at the United Nations

UNIVERSAL PERIODIC REVIEW

BOSNIA AND HERZEGOVINA

Submitted by

Franciscans International (FI)

48th Session of the Working Group on the Universal Periodic Review (UPR)

Human Rights Council

(January – February 2025)

Geneva

11 July 2024

Introduction

1. Franciscans International (www.franciscansinternational.org) was founded in 1989 and has had General Consultative Status with the ECOSOC since 1995. FI supports Franciscans and partners working at local and national levels all over the world and

assists in bringing their concerns and expertise to the UN to address structural causes of human rights violations.

2. It is important to set the Franciscan presence in Bosnia and Herzegovina in context as it dates back to the thirteenth century, and may be divided into three main periods: the establishment of the Province known as Bosna Srebena in 1291 under Bosnian national rulers until 1463; the period of Turkish rule from 1463 until 1878; the Austro-Hungarian occupation from 1878 through the old Yugoslavia up to the present day situation¹. A knowledge of this history, together with that of the country in general, is necessary to avoid recommendations which do not consider the political realities on the ground in the country.
3. Franciscans have been actively involved in the search for peace and reconciliation, a combination of Bosnian and Croatian Provinces establishing the Franciscan Institute for the Culture of Peace back in 1996. Apart from the promotion of peace, the Institute raised social justice and environmental concerns in various campaigns to improve the life of the people in the region². From the 1990s onwards, Franciscans in the country have actively pursued the same themes which FI currently promotes including dignity of persons, dialogue for peace and care for creation.
4. Franciscans work in schools open to all faiths and ethnic origins and invest in youth work which again involves all communities and promote dialogue for peace, supporting such initiatives as the Inter-Religious Council. This submission will be dedicated to the areas which come within the purview of State responsibility in the field of human rights in general, in respect of the right to a clean, healthy and sustainable environment and the treatment of migrants.
5. This report will refer to the previous recommendations and voluntary pledges assumed by Bosnia and Herzegovina in its previous Universal Periodic Review (UPR) and suggest new recommendations to assist in the effectiveness of the implementation of human rights.

I. Human Rights in General

(a) Legal and Institutional Framework

6. The Constitution of Bosnia and Herzegovina sets human rights at the center. The Institution of the Human Rights Ombudsman of Bosnia and Herzegovina (IHROBiH) is an independent body established with the aim of promoting good governance and the rule of law. It was created by Annexes IV and VI of the General Framework Agreement for Peace in Bosnia and Herzegovina, generally known as the Dayton Peace Accords. It began operations in 1996. At present, there are three Ombudspersons emanating from the three main ethnic/religious communities in the country.

¹ Divisions of historical periods taken from Fra Ignacije Gavran: *Fellow Travellers of Bosnian History*, Sarajevo 2001.

² [The Visit to the Franciscan Institute of the Culture of Peace in Split, Croatia - Frati Francescani \(ofm.org\)](http://www.fratifrancescani.org)

7. A complaint in respect of an infringement of human rights can be made by any natural person or legal entity, with legitimate interests. It is initiated by a written and signed statement which the IHROBiH can then investigate. If it finds that there has been a violation of the complainant's human rights, it can make a recommendation to the relevant body to take restorative measures to deal with the violation of the complainant's human rights and/or improve the poor functioning of the administration concerned. It cannot change the decisions, however, of the public authorities impugned nor act as an appeals court.

(b) Third cycle UPR Recommendations

8. In the third cycle of the UPR of Bosnia and Herzegovina the IHROBiH, as the National Human Rights Institution (NHRI), was the subject of no less than nine recommendations from other States. All of these recommendations may however be described as supportive of the organization calling for it to be strengthened in terms of its independence, and/or its financial resources.

(c) Comment

9. The IHROBiH is a NHRI and declares itself openly both to the public in its website and to FI directly to have as its priorities the promotion of the rule of law and the protection of human rights. It was accredited with "A" status by the Sub-Committee of Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI) and an application for reaccreditation is being processed for 2024. The figure given to FI regarding ongoing cases is around 5,000, and there is a backlog in relation to dealing with these. Where however cases have been dealt with the recommendation made by the IHROBiH is not always respected. About 50% are fully implemented and about 13% are described as being partially implemented after further contact with the party to whom the recommendation was made. FI respectfully submits that improvements could and should be made to facilitate the examination of cases and to strengthen the effect of the IHROBiH's findings to assist in the efficacy of its current recommendations.
10. Bosnia and Herzegovina has a tragic history of religious and ethnic conflict which may be described as almost unparalleled in Europe. Perhaps the most similar situation which appeared to be intractable is that which appertained in Northern Ireland where communities are split upon religious and ethnic grounds, and discrimination on religious and political grounds was in fact widespread. This was dealt with, in part, in a legislative manner by the creation of a Fair Employment Agency (FEA) -which subsequently became the Fair Employment Commission. In its early days the FEA like the IHROBiH was given the ability to investigate complaints of unlawful discrimination and make determinations regarding the case. The procedure laid out in the 1976 Fair Employment Act, as originally enacted, allowed the Agency after the investigation to make a finding of unlawful discrimination and make recommendations, which could be pursued by the Agency in court if they were not complied with under section 30 of the Act.
11. The IHROBiH has produced a considerable amount of reports on a wide range of human rights issues from special reports on such topics as migration (2018), hate speech (2021), underage marriage (2024) as well as their annual reports on human

rights which present them as a solid institution working for justice and peace in line with the Sustainable Development Goal (SDG) (No. 16). In line with the objective of enhancing the strength of such institutions FI makes the following recommendations.

(d) Recommendations

We recommend the Government of Bosnia and Herzegovina to

1. Amend the law so as to make the recommendations of the IHROBiH enforceable subject to court supervision.
2. Ensure human and financial resources to IHROBiH, so as to enable it to deal with the backlog of cases it currently has and to cover any additional expenditure necessary to enable the strengthening of its functions.

II Right to a clean, healthy and sustainable environment

(a) Legal and Institutional Framework

12. The Bosnia and Herzegovina (BiH) Constitution states that jurisdiction in environmental issues is split between entities (Federation of Bosnia and Herzegovina - FBiH and Republika Srpska - RS), the district of Brčko (BD), and at the cantonal/municipal level. The only institution at the state level with jurisdiction in environmental issues is the Ministry of Foreign Trade and Economic Relations (MoFTER).³
13. The Law on Environmental Protection of BiH came into force on 26 June 2021,⁴ that repeals the 2003 Law on the Environmental Protection. The general objectives of the Law are, among others, to reduced use, prevention of pollution and environmental pollution, prevention of disturbances, as well as improvement and restoration of the damaged environment; and improvement of environmental conditions, protection of human health, including the right to a healthy life.
14. The air pollution which afflicts Bosnia and Herzegovina includes the emission of particulate matter, nitrous oxides and sulphur dioxides which undoubtedly are hazardous substances and infringe the citizens of Bosnia and Herzegovina's right to health. It is also important to note that each of the three constituent parts of the country enshrine the right to a healthy environment, thus fulfilling the country's treaty obligations under the Aarhus Convention on Access to Justice for Environmental Matters.
15. In respect of the Republic of Srpska, the right is embodied in its Constitution

³ Information according to the European Environment Agency, available at <https://www.eea.europa.eu/soer/2015/countries/bosnia-and-herzegovina>

⁴ For details see [Law on environmental protection. | FAOLEX](#)

in article 35, developed then in Article 3 of the Law on Environmental Protection which is exactly replicated in the Federation of Bosnia and Herzegovina, and also in the Brcko District, as follows: -

Every person has the right to a healthy and ecologically acceptable environment; and every human being is entitled to a life in an environment suitable for health and well-being, therefore it is an individual and collective responsibility to protect and improve the environment for the benefit of present and future generations.

(b) Third cycle recommendations

16. The only recommendation specifically dealing with the issue of air pollution and the associated SDG of Good Health and Wellbeing, SDG 3, was that proposed by Canada which stated, “Adopt and implement an overall strategy to fight air pollution, which affects enjoyment of the rights to health, particularly for children and older persons”.⁵
17. Whilst this recommendation was accepted and supported by the State, and each of the constituent parts of the State declared individual and collective responsibility to protect and improve the environment, the issue of air pollution has not been alleviated.

(c) Comment

18. The European Environment Agency’s factsheet on Bosnia and Herzegovina begins with the general comment as regards the importance of clean air.

“Air pollution continues to have significant impacts on the health of Europeans, particularly in urban areas. These health impacts have economic costs, cutting short lives, increasing medical costs and reducing productivity through lost working days.”⁶

19. The most quoted figure for the impact of air pollution in Bosnia and Herzegovina is that of the World Bank report in 2019,⁷ which estimated that 3,300 people die prematurely every year, which accounts for 9% of the total annual mortality. Instead of improvements however the situation appears to be getting worse.
20. In an article by Associated Press dated 30 December 2023 ⁸ it is reported that Sarajevo was intermittently under a toxic haze for most of that month and was placed first on a list of the world’s most polluted cities for two days in a row. It cites the measurements of air quality index provided by the Swiss technology firm IQ Air which gave Sarajevo’s figure as 301, for one described as “very unhealthy”, well clear of the second city of Kolkata in India at 239. In regard to the city, the pollution and emissions have in fact increased by 3% each year for the last decade, whilst the reliance on coal and wood for heating, together with coal and lignite for electricity generation cause high air pollution in other cities in the country.
21. The motivation for the recommendations of FI in respect of the infringement of the right to a healthy environment and the right to health is to be found in the priorities of

⁵ A/HRC/43/17/Add.1 - Para.30

⁶ [Bosnia and Herzegovina – air pollution country fact sheet — European Environment Agency \(europa.eu\)](#)

⁷ [AirQualityManagementinBosniaandHerzegovinaExecutiveSummaryeng.pdf \(worldbank.org\)](#)

⁸ [Choking smog lands Sarajevo at top of Swiss index of most polluted cities for 2nd straight day | AP News](#)

the World Health Organization (WHO) for the European region which states that air pollution is one of the main risk factors for noncommunicable diseases and that tackling air pollution is a regional priority to improve health.⁹ More immediately in the words of Amra Jaganac, a Sarajevo resident, quoted in the above-mentioned Associated Press article who says, “I felt like crying this morning because I had to go out and inhale poison to get to work, I know that change takes time, but our authorities are too slow and (pollution) is killing us.”¹⁰

22. FI in response to this heartfelt cry point to the Special Rapporteur on Human Rights and the environment whose report in 2019¹¹ set out guidance in regard to the improvement of air quality. FI notes that clean air is a substantive element of the right to a healthy environment. As underscored by the mandate of the Right to a Healthy Environment States should review existing laws and other actions to ensure that they are consistent with their obligations.

(d) Recommendations

We recommend the Government of Bosnia and Herzegovina to:

1. Urgently act to reduce the levels of air pollution in the cities of Bosnia and Herzegovina and safeguard the health of its citizens in light of the country’s duty to provide citizens with a clean, healthy and sustainable environment.
2. Provide public and update information on the air quality and health effects.
3. Implement air quality legislation, prepare air quality action plans and enforce air quality rules.
4. Evaluate and revise air quality standards and plans accordingly.

III Human Rights of Migrants

(a) Legal and Institutional Framework

23. The Special Report¹² compiled by the IHROBiH on the situation in regard to migration in Bosnia and Herzegovina takes some twelve pages to set out the legal framework in respect of migration and does so in a comprehensive manner from national to international law. There is no need to go into this detail, it suffices to deal with how the rights given to migrants are respected on the ground.

(b) Third cycle recommendations.

24. There are seven recommendations which address the issue of human rights of migrants in the previous UPR cycle of Bosnia and Herzegovina. They concern different aspects of the plight of the migrants. These recommendations remain

⁹ [Annual meeting of the Joint Task Force on Health Aspects of Air Pollution \(who.int\)](https://www.who.int/news-room/fact-sheets/detail/ambient-air-pollution-and-health-effects)

¹⁰ <https://apnews.com/article/sarajevo-pollution-swiss-index-9c73da9253461aadaaf3f86076378773>

¹¹ [Clean Air and Human Rights | OHCHR](https://www.ohchr.org/en/press-releases/2019/04/clean-air-and-human-rights)

¹² [obnudsmen_doc2019010713545979eng.pdf \(ombudsmen.gov.ba\)](https://www.ombudsmen.gov.ba/obnudsmen_doc2019010713545979eng.pdf)

relevant to the situation today. The most pertinent recommendation is that of the United Kingdom of Great Britain and Northern Ireland¹³

“Ensure humane and lawful conditions of detention and accommodation of migrants, including by implementing appropriate procedures, oversight mechanisms and effective coordination within government, especially to prevent the trafficking and abuse of women and girls”

(c) Comment

25. The issues that come up in terms of migration according to the IHROBiH as per their submission to the 4th UPR Cycle of Bosnia and Herzegovina,¹⁴ in the section on migrants and asylum seekers are that,

“Foreign nationals in the territory of BiH request IHROBiH to act in order to provide a possibility to express intent to seek asylum, to act because of the failure to issue decisions concerning applications for asylum, appoint guardians to unaccompanied minors, because of illegal actions of competent services in procedures concerning applications for asylum/attestations of expressed intent to seek asylum in BiH.”¹⁵

26. In regard to the overall migration into Bosnia and Herzegovina it is important to be aware of the context that the country is not generally the target destination of refugees, asylum seekers and migrants. It is a transit country, and the aim of the migrants is to seek entry into a country of the European Union. A lot of the complaints about migrant treatment come from the “pushback” from the Croatian authorities at the border which also marks the confines of the European Union. The tough attitude in relation to the protection of the Schengen Border has been lauded by the European Union, but there are well documented cases by non-governmental organizations, journalists, the Croatian Ombudswoman and even the European Court of Human Rights as to violations of human rights.¹⁶ Recommendations in these matters, however, must be directed to that country. Nevertheless, FI’s partners in Bosnia and Herzegovina underscore the need for migrants to access medical and translation services, and to ensure separate accommodation for minors and women in the migrant camps.

(d) Recommendation

We recommend the Government of Bosnia and Herzegovina to

1. Ensure humane and lawful conditions for migrants, including for accommodation provided to them, considering the safety of women and minors, and ensure proper access to medical and translation services for them.

¹³ A/HRC/43/17/Add.1 - Para.54

¹⁴ [obmudsmen_doc2024040314070521eng.pdf \(ombudsmen.gov.ba\)](#)

¹⁵ Ibid

¹⁶ See [Microsoft Word - 20230327_Croatia factsheet draft dr_hh_cg_dr.docx \(ecchr.eu\)](#)

