

**ECRI CONCLUSIONS
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS
IN RESPECT OF BOSNIA AND HERZEGOVINA
SUBJECT TO INTERIM FOLLOW-UP**

Adopted on 5 December 2013¹

¹ Any developments which occurred after 14 March 2013, date on which the response of the Bosnia and Herzegovina authorities to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, are not taken into account in this analysis.

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FOREWORD

As part of the fourth round of ECRI's monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI's country reports.

Accordingly and in line with the guidelines for the fourth round of ECRI's country-by-country work brought to the attention of the Ministers' Deputies on 7 February 2007¹, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2007)986/4.1.

1. *In its report on Bosnia and Herzegovina (fourth monitoring cycle) published on 8 February 2011, ECRI strongly recommended that the authorities of Bosnia and Herzegovina provide judges and prosecutors with initial and on-going training, as a matter of priority, on the Law on the Prevention of All Forms of Discrimination in particular and on issues pertaining to racial discrimination in general. It also recommended that training be offered to lawyers on the Law and on issues pertaining to racial discrimination more generally. It underlined that in line with the definitions of direct and indirect discrimination set out by ECRI in its General Policy Recommendation No. 7, this training should cover grounds such as “race”, colour, language, religion, nationality or national or ethnic origin.*

ECRI has been informed that the Centres for Training of Judges and Prosecutors of the two entities organised in 2011 and 2012 courses on the application of the Law on the Prevention of All Forms of Discrimination (“the Law”). According to NGO estimates, 16 % of judges, prosecutors and “legal associates working in the courts and prosecutors’ offices¹” have received some training on this topic. The 2012 courses were financially supported by the OSCE mission in Bosnia and Herzegovina, which has also pledged funds for 2013. ECRI has also been informed that, apart from one counselling meeting, lawyers have not received any training on the Law.

ECRI welcomes the authorities’ efforts, which require strengthening and the results of which should be assessed. ECRI concludes that the recommendation has been partly implemented.

2. *In its report on Bosnia and Herzegovina (fourth monitoring cycle), ECRI urged the authorities to bring to completion as a matter of priority their work to resolve all remaining cases of “two schools under one roof”. It emphasised that in so doing, the authorities should ensure not only that these schools are unified administratively but also that pupils are taught together wherever possible.*

ECRI has been informed that the “two schools under one roof” practice has been challenged in the courts of two Federation cantons, the Herzegovian-Neretva Canton and the Central Bosnia canton. The Mostar municipal court found it illegal. The Travnik municipal court did not. The Mostar court ordered the cantonal ministry for education to ensure compliance with its judgment. However, the ministry considered that this was a matter for the municipal council.

ECRI has also been informed that the conference of the ministers for education of the Federation has adopted recommendations in this connection. They propose schools that are administratively and physically unified but which use two types of school curricula between which pupils have to choose (the understanding being that they will have classes in common). Such schools function already in Mostar and Zepce.

ECRI is fully aware of the complexity of the issue. However, it regrets that the phenomenon of “two schools under one roof” still exists. ECRI concludes that this recommendation has not been implemented.

¹ These are the three groups to which the courses were “primarily addressed”.

3. *In its report on Bosnia and Herzegovina (fourth monitoring cycle), ECRI urged the authorities to put an end to instances of discrimination on ethnic grounds in the field of pension entitlements, and to take all the necessary legislative steps to ensure that new, similar cases do not arise in future.*

Following the judgments of the European Court of Human Rights in the *Karanovic and Sekerović* and *Pasalic*² cases, the Federation amended its Law on Pension and Disability Insurance, Article 4 of which now provides that “returnees” from Republika Srpska to the Federation, who were beneficiaries of the Sarajevo fund³ and who received pensions in what is now Federation territory until 30 April 1992, are eligible to pensions from the Federation. As a result, the Committee of Ministers closed the examination of the cases⁴.

Republika Srpska has requested that the Federation fund take over the payment of the pensions of all those who were beneficiaries of the Sarajevo fund and who received pensions in what is now Federation territory until 30 April 1992, including those who have not returned to the Federation and still live in Republika Srpska. According to NGO estimates, these would be around 23 500 persons (while those who have returned to the Federation are 3 402). The Government of the Federation has rejected this request, indicating at the same time its readiness to set up a single pension and disability fund for the entire country. The Serbian members of the House of Peoples have brought the issue of compliance of the amendments of the Law on Pension and Disability Insurance with the Constitution before the Constitutional Court of Bosnia and Herzegovina.

Under these circumstances, ECRI concludes that the recommendation has been partly implemented.

² *Karanovic against Bosnia and Herzegovina* (judgment of 20 November 2007) and *Sekerović and Pasalic against Bosnia and Herzegovina* (judgment of 8 March 2011).

³ As a result of the armed conflict, pensions in Bosnia and Herzegovina were administered by three separate funds: the Social Fund of Pension and Disability Insurance of Bosnia and Herzegovina (the Sarajevo fund), the Bureau of Pension and Disability Insurance of Mostar (the Mostar fund) and the Public Fund of Pension and Disability Insurance of Republika Srpska. In November 2000 the Sarajevo and Mostar funds were merged into the Federation Institute for Pension and Disability Insurance (the Federation fund).

⁴ CM/Res DH (2012) 148.

