



Follow-up Report on the Level of Implementation of the Decision of the Committee against Torture in the Case No. 854/2017 *Mrs. A. v. Bosnia and Herzegovina*

1. On 2 August 2019, the United Nations (UN) Committee against Torture (hereinafter, “the Committee”) adopted a decision concerning the above-mentioned Communication, finding a violation by Bosnia and Herzegovina (hereinafter, “BiH”) of Art. 14, para. 1, read in conjunction with Art. 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter, “the Convention”). The author of the communication was notified about the adoption of the decision on 22 August 2019.
2. The Committee considered that BiH is required to:
 - a) **ensure that the complainant obtains prompt, fair and adequate compensation;**
 - b) **ensure that the complainant receives medical and psychological care immediately and free of charge;**
 - c) **offer public official apologies to the complainant;**
 - d) comply with Concluding observations with respect to **establishing an effective reparation scheme at the national level to provide all forms of redress to victims of war crimes, including sexual violence and development and adoption of a framework law that clearly defines criteria for obtaining the status of victims of war crimes, including sexual violence, and sets out the specific rights and entitlements guaranteed to victims throughout the State party.**
3. Finally, the Committee also requested BiH **to inform it, within 90 days of the date of the decision’s transmission**, of the steps undertaken to respond to the above-mentioned observations.
4. On 22 November 2019 the State party submitted an “Information of the Ministry of Human Rights and Refugees of Bosnia and Herzegovina on the activities

undertaken in connection with Communication No. 854/2017 filed by Mrs. A.” to the Committee.

5. On 20 January 2020, the author submitted “Comments on the information of the Ministry of Human Rights and Refugees of Bosnia and Herzegovina on the activities undertaken in connection with Communication No. 854/2017 filed by Mrs. A.” to the Committee.
6. In the above-mentioned document, the author informed the Committee about the activities undertaken by the author’s representatives to establish a dialogue with BiH’s authorities, in particular towards the Ministry of Human Rights and Refugees of BiH (hereinafter, “MHRR”). The author also informed the Committee about the status of implementation of the decision and presented requests made to the BiH authorities about the implementation.
7. The author of the communication notes that in the latest follow-up report on decisions relating to communications submitted under Art. 22 of the Convention published by the Committee, reference is made to her communication. However, only the State’s reply of 28 November 2019 is considered, while no reference is made to her submission of 20 January 2020. In fact, the report published by the Committee indicates that “the State party’s observations have demonstrated *partial implementation*. The Committee decided to keep the follow-up dialogue ongoing, and to consider further steps in the light of the counsel’s comments”.¹
8. The author of the communication welcomes the inclusion of the case in the Committee’s follow-up report on decisions and the decision to maintain open the follow-up dialogue. In this regard, Mrs. A. respectfully calls on the Committee to take into account her submission dated 20 January 2020 and, in addition, the present document, which contains information directed at updating the Committee on the status of implementation of its decision and the situation of Mrs. A.

I. Activities undertaken by the author’s representatives in cooperation with the Ministry of Human Rights and Refugees of BiH

9. The author’s representatives planned to organize in cooperation with the MHRR a round table discussion on the implementation of the Committee’s decision in March

¹ Committee against Torture (CAT), *Follow-up Report on Decisions relating to Communications submitted under Art. 22 of the Convention*, UN Doc. CAT/C/68/3 of 19 June 2020, para. 44 (emphasis added).

2020. From the adoption of the decision in August 2019 until March 2020, the authorities in BiH had not taken any steps towards the implementation of the decision. The author's representatives intended to organize the round table discussion in order to try to speed up the implementation process. It was designed to be a platform for consultations of relevant actors on the implementation of the respective measures. It was important that the MHRR representatives also support the process and cooperate with author's representatives because of its function of BiH's coordinating body for the implementation of UN treaty bodies decisions. The author's representatives took lead in the process of organizing the round table discussion, moderating the discussion and organizing media-outreach. Due to the pandemic, the round table discussion was cancelled and rescheduled for June 2020.

10. On 25 June 2020, the author's representatives as lead, in cooperation with MHRR representatives, finally managed to organize a round table discussion on the implementation of the Committee's decision. The representatives of the following State institutions participated in the discussion: the Constitutional Court of BiH, the Court of BiH, the Prosecutor's Office of BiH, the Judicial Commission of Brčko District, the Ministry of Finance and Treasury of BiH.
11. The representatives of the Ministry of Justice of BiH, the Ministry of Justice of the Federation of BiH and the Ministry of Justice of Republika Srpska were invited to the discussion, but have not attended. It is noteworthy that the **Ministry of Justice of the Federation of BiH and the Ministry of Justice of Republika Srpska refuse to cooperate when it comes to the implementation of the decision**, since those are the only two institutions that have not named representatives in charge of the implementation of the decision upon the MHRR's request made on 8 November 2019.
12. The representatives of the Delegation of the European Union to BiH (hereinafter, "EU Delegation to BiH") and the European Union Special Representative in BiH (hereinafter, "EUSR"), the representatives of the Organization for Security and Co-operation (hereinafter, "OSCE") in BiH, as well as several independent legal experts, were also present. The discussion during the round table mostly concerned general issues faced by victims in a similar situation as the author, since the participants from the relevant state institutions present insisted on adopting a systemic approach to the implementation of the indicated measures, which would

at the same time also enable the author to obtain her rights. The author's representatives insisted that the State party must ensure that the author's rights are being protected, as a priority. After the discussion, the round table participants agreed upon several conclusions, which shall be interpreted as unofficial guidelines on the desirable methods of implementation of the respective recommendations, and on ways to prevent further human rights violations similar to the ones experienced by the author. There is yet no guarantee that those conclusions will indeed be implemented.

a) Round table conclusions concerning the individual measures related to Mrs. A

1. As mentioned above, when it comes to ensuring adequate and effective compensation, participants of the round table from relevant institutions stated that enabling Mrs. A to receive compensation would only be possible through the establishment of a systemic compensation model towards all victims.²
2. Some of the participants proposed that the MHRR of BiH should include a public apology to the author in a public statement, press release or other similar content that would be issued on the UN International Day in Support of Victims of Torture, in June 2021. The MHRR could, according to this proposal, include a commitment to do so in a document which it is usually preparing at the end of the year for the upcoming one. The document named "Program for celebrating significant dates in the field of human rights in Bosnia and Herzegovina for 2021", would then be sent to the Council of Ministers of BiH for adoption in January 2021.

b) Round table conclusions concerning possible general measures to be taken, considering problems faced by victims of torture in BiH :

1. Collection of awarded compensation - improvement measures:

² Mrs. A case is unfortunately not the only one. The new practice of criminal courts, that started in 2015, of not only sentencing perpetrators but also obliging them to pay compensation to victims having testified against them resulted in 18 judgments in CRSV cases so far and there are a few more that are upcoming. The vast majority of them will have a similar outcome in terms of the impossibility to be enforced because of the fact that the accused perpetrators lack the necessary assets or hide them.

Participants of the round table concluded that, on the one hand, the Prosecutor's Office of BiH should work on raising awareness of prosecutors on the importance of investigating the property of the suspect / accused, in order to facilitate at a later stage a potential freezing of assets and the payment of the awarded compensation in criminal proceedings to victims-injured parties.

At the same time, an agreement was reached that there needs to be a systemic solution for ensuring access to effective compensation, in case the enforcement procedures fail nevertheless, **but no concrete measures were presented by the authorities.**

It was also recognized that the organization of additional expert round tables is needed, with the aim of identifying the sources and amounts of funds for reparation, and finding the best economic model, as well as ensuring the amounts needed within the BiH budget.

2. Free medical and psychological care - improvement measures

It was emphasized that there is a need to develop guidelines for the establishment of a standardised package of assistance to victims of torture throughout BiH, and the provision of an integrated service of the package of assistance. **This should have been prepared within the few months after the round table and recommended to the competent institutions dealing with health care, but until the time of this writing it was not implemented.**

3. Public official apology - proposals for actions and initiatives

The discussion pointed to the need to ensure that the MHRR strengthens initiative that would lead to a public official apology to Mrs. A, which can also include apology to other victims in similar situations.

4. Effective reparation system in BiH - continuous work and advocacy

Regarding the establishment of an effective reparation system at the state level, it was recognized as necessary to continue striving for an adequate legal solution that would systematically resolve the issue of payment of compensation for victims of all war crimes in BiH.

13. The conclusions were not presented in an order of priority but followed the course of the round table discussion. It must be stated that the author and the author's representatives support initiatives towards ensuring rights for all victims of torture, but in the light of the Committee's decision implementation, insist on the priority of the implementation of the recommendations concerning Mrs. A. The author's

representatives urged the relevant state institutions to find the most effective model which would enable Mrs. A. to receive compensation without delay.

14. It should be highlighted that from the round table in June until the time of the writing, **none of the above-mentioned conclusions from the section a) and b) were implemented.**

15. In an email communication in July 2020, the author's representatives was informed by the MHRR that the institution has prepared an "Information of Bosnia and Herzegovina on the activities undertaken in relation to the Decision adopted by the UN Committee against Torture in accordance with Article 22 of the Convention, regarding the application number: 854/2017" (hereinafter, "Information") and that the Information will be sent to the Council of Ministers of BiH for adoption, with the following conclusions:

- a) The Council of Ministers of BiH takes note of the "Information of Bosnia and Herzegovina on the activities undertaken in relation to the Decision adopted by the UN Committee against Torture in accordance with Article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, regarding the case no. 854/2017".
- b) The competent institutions, including the competent entity bodies, are invited to, in cooperation with the MHRR of BiH, define a comprehensive set of measures and activities related to the implementation of the decision adopted by the UN Committee.
- c) The MHRR of BiH is instructed to submit to the Council of Ministers of BiH, within 90 days, a plan of measures related to the implementation of the decision adopted by the UN Committee with designated bodies in charge of their implementation.
- d) The MHRR of BiH is instructed to inform the UN Committee that no later than 20 November 2020, BiH will provide information on further measures and activities related to the implementation of the Decision adopted by the UN Committee against Torture in accordance with Article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in relation to the case No. 854/2017.

16. On 27 November 2020, the representatives of the MHRR, in an email communication, informed the author's representatives that the Information was forwarded to the Council of Ministers of BiH for the adoption.

17. On 7 December 2020, the author's representatives were informed that the Information was withdrawn from the session of the Council of Ministers, and that an additional opinion on the Information will be requested from the Ministry of Justice of Bosnia and Herzegovina, as well as from the Government of the Federation of BiH and the Brčko District of BiH.
18. Throughout the communication with the MHRR representatives and the advocacy activities undertaken by author's representatives, it seems that no further activities on the implementation of the decision will be conducted by national authorities until the Information is adopted.
19. The author's representatives' express concerns that any further step towards the implementation of the decision is conditioned by the adoption of the Information. It is also worrying that already the sole conduct of preparatory activities for the decision's implementation process is progressing too slowly. It is currently uncertain if the Council of Ministers will obtain the required positive opinions from the entity bodies and thus if the Information, as a prerequisite for any further implementation step, will be adopted at all.
20. It is also important to mention that almost all email correspondence with MHRR representatives was initiated by author's representatives and that all information about any developments were given upon author's representatives requests.
21. The current dynamics of taking only the first preparatory steps toward the implementation of the decision by national authorities is unsatisfying and it leaves concerns regarding the question what can be expected when it comes to dynamics of the further implementation process.
22. The author believes that it is of utmost importance to promptly accelerate the process of the implementation of decision.

II. Activities undertaken by the author's representatives

23. In order to ensure a broader support of the international community in BiH for the implementation of the Committee's decision, in September 2020 the author's representatives sent letters, by email, to the following institutions: the Embassy of United States in BiH, the Embassy of the Netherlands in BiH, the Embassy of Italy in BiH, the German Embassy in BiH, the Embassy of Sweden in BiH, the Office of the High Representative, the OSCE Mission in BiH, the UN International Residual

Mechanism for Criminal Tribunals³. In the letter, the author's representatives informed the above-mentioned institutions about the status of implementation of the decision and requested meetings to be held with appointed persons within the respective organizations, in order to further discuss their support to the implementation process.

24. The author's representatives received e-mail confirmations and held online meetings with the representatives of the British Embassy in BiH⁴, the EU Delegation to BiH and the EUSR⁵, the Embassy of the United States in BiH, the Office of the High Representative, the OSCE and the UN International Residual Mechanism for Criminal Tribunals and the Embassy of Sweden in BiH in November and December 2020.

25. All above-mentioned representatives confirmed the interest and the commitment of their respective organizations to follow and support the implementation of the Committee's decision.

26. At the online meeting with a representative from the EU Delegation to BiH and EUSR, the author's representatives were informed that the implementation of the decision is considered to be a short-term priority, with the aim of meeting 14 priorities from the European Commission's Opinion on BiH's application for the EU membership.⁶

27. In October 2020, in an email communication with the MHRR representatives, the author's representatives insisted that the MHRR must take first steps for ensuring that the author receives medical and psychological care, free of charge, as explicitly requested by the Committee in its decision. In BiH, there is indeed an existing system of services, but it is the responsibility of the MHRR to contact the author and give her instructions for accessing those services.

³ Annex 1 – Sample of a letter sent to the embassies and other international organizations in BiH by author's representative in September 2020 (english)

⁴ The letter wasn't send to the representatives of British Embassy in BiH, since they were in detail informed about the decision before.

⁵ The letter wasn't send to the representatives of EU Delegation to BiH and the EUSR in BiH, since they were in detail informed about the decision before.

⁶ In May 2019, the European Commission has adopted an Opinion on Bosnia and Herzegovina's EU membership application. The Opinion identifies 14 key priorities for the country to fulfil in order to be recommended for opening of EU accession negotiations. The author's representative is informed by the representatives of the EUSR and EU Delegation to BiH that the adoption of the Committee's decision would help secure progress in the area of reconciliation (KP5) and improving the status of vulnerable groups (KP13);

https://ec.europa.eu/commission/presscorner/detail/de/COUNTRY_19_2778

28. In October 2020, the MHRR sent an email letter to the Court of BiH, requesting information about the author's possibility to access the services, having in mind that author was granted identity protection measures in criminal proceeding and that any kind of author's identity disclosure must be allowed by the court.⁷
29. On 29 October 2020, the author's representatives were informed that, according to the Court of BiH's answer, there are no obstacles for the author's access to the services concerned, namely psychological care in the Centre for Mental Health in her municipality.⁸
30. The author can therefore, as any other victims, access regular psychotherapeutic and psychiatric treatment services at the Centre for Mental Health in her place of residence. However, what the author identified as a necessity for her physical and psychological wellbeing is to undergo a one-off rehabilitation program at some rehabilitation centre established for this purpose.
31. Through her representatives, on 25 December 2020 the author requested information about the possibility of receiving a one-off rehabilitation program at the Centre for Mental Health in her place of residence.⁹
32. The author's representatives were given the information that the Centre for Mental Health does not have the possibility to refer Ms. A to access this kind of services.
33. In the Federation of BiH victims of sexual violence, even when granted the status of civilian victim of war, are deprived of accessing rehabilitation services. While the Law on the protection of victims of war-time torture of Republika Srpska previews for such a possibility for victims of torture, this is not the case in the Federation of BiH.
34. On 31 December 2020, the author's representatives sent a letter to MHRR in order to request that ensuring rehabilitation program for Mrs. A. is included in the implementation plan of the Committee's decision.¹⁰

⁷ Annex 2 – Copy of an email forwarded to author's representatives, sent by MHRR to the Court BiH on 12 October 2020 (in the local language and unofficial translation in English)

⁸ Annex 3 – Copy of an email forwarded to author's representatives, sent by the Court of BiH to the MHRR on 20 October 2020 (in the local language and unofficial translation in English)

⁹ Because of the current situation with the pandemic and the fact that the author should not expose herself to going to medical institutions and risk contracting the virus just to receive the information, the author's representatives, in the name of the author, communicated directly with the Centre for Mental Health by phone.

¹⁰ Annex 4 – Copy of a letter sent by author's representatives to the MHRR on 31 December 2020

35. In December 2020, the author's representatives prepared and launched a public advocacy campaign for the implementation of the decision, consisting of several video messages, in order to highlight the State's responsibility.¹¹
36. On 16 December 2020, the author's representatives have hosted an online meeting to which all above-mentioned representatives of the international community in BiH had been invited. The aim of the meeting was to inform, in detail, the representatives about the recent developments in the implementation process and discuss further strategic advocacy steps towards BiH authorities, with the support of the international community in BiH. The meeting, which was attended by representatives of the EU delegation in BiH, OSCE, the British Embassy, and the Embassy of the United States to BiH, resulted with a fruitful discussion on the best approaches to be taken towards the implementation of the respective recommended measures. On this occasion, the participants reiterated their organisation's commitment to closely follow and support in different possible ways any steps towards implementation of the decision.

III. Status of implementation of the measures indicated by the Committee

37. In the light of all above written, it must be stressed that at the time of writing, **none of the measures of reparation indicated by the Committee in its decision has been fully implemented.**

In particular:

- a) Mrs. A. has not received prompt, fair and adequate compensation;
- b) Mrs. A. has not received psychological care identified as a necessity for her physical and psychological wellbeing through the rehabilitation program free of charge.
- c) No public official apologies were provided to Mrs. A.;
- d) No effective reparation scheme has been adopted at the national level to provide all forms of redress to victims of war crimes, including sexual violence, and BiH has failed to develop and adopt a framework law that clearly defines criteria for obtaining the status of victims of war crimes, including sexual

¹¹ <https://youtu.be/Z8ZN2fLSQpw>; <https://youtu.be/Qc6WgN9PFBc>; <https://youtu.be/yypsieQIVqE>; https://youtu.be/DkQkr_taHpg

violence, and sets out the specific rights and entitlements guaranteed to victims throughout the State party.

Conclusions and Requests

38. In light of the above, the author welcomes the cooperation between her representatives and the MHRR. In this regard, Mrs. A. stresses the crucial importance of an ongoing dialogue and the fact that a fair and full cooperation between her representatives and the MHRR should be continued.
39. Mrs. A. also considers positively the initiative of the MHRR to compile a comprehensive Information for the Council of Ministers of BiH. She remains however concerned by the fact that the full implementation of the Committee's decision is not being taken as a priority by authorities and, at the time of the writing, the Information has not yet been adopted.
40. All in all, Mrs. A. remains concerned that at the time of writing none of the measures indicated in the decision of 2 August 2019 has been fully implemented and therefore respectfully calls on the Committee to **keep the follow-up dialogue ongoing, and to consider further steps in the light of the State party's activities**, including considering the opportunity to meet with the Permanent representative of the State in Geneva to discuss the subject
41. Mrs. A. remains fully engaged, through her representatives, in the follow-up dialogue and commits to submit all relevant information and updates to the Committee in a timely fashion. Indeed, she considers that **if no further progress is made in the implementation of the Committee's decision by the end of March 2021, the Committee should reflect this in its annual report.**

On behalf of Mrs. A.

Philip Grant

TRIAL International *Executive Director*



Geneva, 21 January 2021

Annexes

1. Annex 1 – Sample of a letter sent to the embassies and other international organizations in BiH by author's representative in September 2020 (English)
2. Annex 2 – Copy of an email forwarded to author's representatives, sent by MHRR to the Court BiH on 12 October 2020 (in the local language and unofficial translation in English)
3. Annex 3 – Copy of an email forwarded to author's representatives, sent by the Court of BiH to the MHRR on 20 October 2020 (in the local language and unofficial translation in English)
4. Annex 4 – Copy of a letter sent by author's representatives to the MHRR on 31 December 2020 (in the local language and unofficial translation in English)