

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	261
Land:	Bosnien-Hercegovina
Kilde:	Amnesty International.
Titel:	Amnesty International Annual Report 2013 – Bosnia and Herzegovina.
Udgivet:	23. maj 2013
Optaget på baggrundsmaterialet:	2. juli 2013



Amnesty International Annual Report 2013 - Bosnia and Herzegovina

Publisher [Amnesty International](#)

Publication Date 23 May 2013

Cite as Amnesty International, *Amnesty International Annual Report 2013 - Bosnia and Herzegovina*, 23 May 2013, available at: <http://www.refworld.org/docid/519f51af63.html> [accessed 7 June 2013]

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Head of state: **rotating presidency – Željko Komšić, Nebojša**

Head of government: **Vjekoslav Bevanda (replaced Nikola Šprić in January)**

Nationalist rhetoric by main political parties across the country increased. Challenges to the integrity of the state intensified. Institutions at the state level, including the judiciary, were weakened. Prosecution of crimes under international law continued before domestic courts, but progress remained slow and impunity persisted. Many civilian victims of war were still denied access to justice and reparations.

Background

The country faced a deteriorating economic situation, high unemployment and accompanying social problems. The Council of Ministers was formed in January, and the state budget was adopted in April, finally ending the stalemate that had continued since the 2010 general elections.

Nationalist rhetoric by leading political parties across both entities, including increasingly secessionist remarks by top politicians in the Republika Srpska (RS), weakened state-level institutions, particularly the judiciary. The Office of the High Representative (OHR) in Bosnia and Herzegovina (BiH), the body in charge of overseeing the implementation of the Dayton Peace Accord, reported in November that "Not only was there little progress towards closer integration with the European Union, but direct challenges to the General Framework Agreement for Peace, including to the sovereignty and territorial integrity of Bosnia and Herzegovina, intensified significantly." The lack of political will hampered the efficiency of the work of the Parliamentary Assembly. The leadership of RS intensified its policy of direct challenges to the Dayton Peace

Agreement and use of separatist rhetoric. Local elections, held in October, were assessed as generally in line with democratic standards by election observers.

The international community maintained its presence in BiH. Both the EU Special Representative to BiH and the OHR continued their respective mandates. The decision to reduce the EU military mission from 1,300 to 600 personnel was partially offset by some EU member states stationing additional reserve forces in the country.

International justice

By the end of the year, five cases concerning BiH were pending before the Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia (the Tribunal). Three other cases were on appeal.

- Proceedings against former Bosnian Serb leader Radovan Karadžić continued. In June, the Trial Chamber of the Tribunal issued an oral decision dismissing the motion for acquittal on 10 counts of the indictment. However, it granted it in relation to count one, in which the accused was charged with genocide for crimes committed in several municipalities in BiH between March and December 1992. The Tribunal reported that the evidence "even if taken at its highest, did not reach the level from which a reasonable trier of fact could infer that genocide occurred in the municipalities".
- Following his arrest in Serbia and his transfer to the Tribunal in 2011, the trial of Ratko Mladić, former commander of the main staff of the Army of Republika Srpska, commenced in May before the Trial Chamber. Ratko Mladić was charged on the basis of individual criminal responsibility and superior criminal responsibility with two counts of genocide, persecutions, extermination, murder, deportation, inhumane acts, terror and unlawful attacks on civilians, and the taking of hostages.

Justice system – crimes under international law

The justice system continued to work on the large backlog of war crimes cases.

In early 2012, the BiH Prosecutor's Office obtained an overview of cases investigated in all jurisdictions within BiH. It handed them over to the State Court of BiH to decide, in accordance with the criteria set in the National Strategy for Prosecution of War Crimes (Strategy), which cases should be prosecuted at the state or entity levels.

There were 1,271 cases reviewed in the process, 592 (47%) of which were transferred to the entity Prosecutors' Offices, and 679 (53%) were pending before the State Prosecutor's Office. This represented a positive development as the significant delay in establishing the exact number of criminal case files was holding up the implementation of the Strategy. The possibility of parallel investigations and prosecutions at state and entity levels was also greatly reduced.

However, around half of these case files had already been pending in entity Prosecutors' Offices for many years prior to the review and transfer process. The fact that an additional 120 case files were transferred to the entity Prosecutors' Offices did not automatically accelerate the investigations.

The War Crimes Chamber of the State Court of BiH continued to play a central role in prosecuting crimes under international law. However, verbal attacks on this and other judicial institutions dedicated to investigating and prosecuting those crimes, along with the denial of crimes under international law – such as the genocide in Srebrenica in July 1995 – by high-ranking politicians, undermined the state's efforts to prosecute them. In February, a coalition party from RS filed a motion to abolish the State Court of BiH and the Prosecutor's Office of BiH. The draft proposals were rejected by the BiH Parliament, but politicians continued to make public declarations undermining the work of the state judicial institutions.

Despite calls from various international human rights treaty bodies for the BiH authorities to amend its legislation to include a definition of sexual violence in line with international standards and jurisprudence, the 2003 Criminal Code was not changed. This Code required that the victim be subjected to force or threat of immediate attack on his or her life or body. It still did not take into account the circumstances of armed conflict, which could create a coercive context that would vitiate consent to sexual intercourse.

Moreover, the entity courts continued to apply the Criminal Code of the former Socialist Federal Republic of Yugoslavia in prosecuting crimes committed during the conflict. As noted in the concluding observations of the UN Human Rights Committee in November, this Code had serious gaps, including the absence of a definition of crimes against humanity and command responsibility.

Although witness support services at the state level were available, adequate witness support and protection measures in cases tried in entity courts were absent. This continued, despite the fact that half of all pending war crimes cases were due to be heard at this level.

The authorities failed to provide a comprehensive programme of reparations for victims of crimes under international law.

Women's rights

Survivors of war crimes of sexual violence

Between its creation in 2005 and the end of 2012, the State Court of BiH had issued final decisions in 29 cases involving crimes of sexual violence committed during the 1992-1995 war. Two additional cases were pending appeal. There were no reliable figures available of the total number of allegations of rape and other forms of wartime sexual violence under investigation at the state and entity level.

The state failed to adopt the draft Law on the Rights of Victims of Torture and Civilian War Victims, the Strategy on Transitional Justice, and the Programme for Victims of Sexual Violence in Conflict, all of which would have improved the ability of survivors of sexual violence to realize their right to reparation.

Many survivors continued to be denied their right to reparation and were stigmatized as rape victims. Female survivors were denied access to adequate health care services even when they suffered from medical conditions developed as a result of rape. Only a few of those who suffered from post-traumatic stress disorders were able to secure psychological assistance.

Enforced disappearances

Around 10,000 people who disappeared during the 1992-1995 war were still unaccounted for. The state's failure to implement the 2004 Law on Missing Persons led to problems for the families of the disappeared, including the denial of their rights to justice and reparation. The Fund for Providing Assistance to the Families of Missing Persons envisaged by the 2004 Law had still not been established. Many judgements of the Constitutional Court of BiH in cases involving enforced disappearances remained unimplemented.

Discrimination

Minority rights

The authorities failed to implement the December 2009 judgement of the European Court of Human Rights in the case brought by Dervo Sejdić (a Romani man) and Jakob Finci (a Jewish man). The European Court had ruled that the constitutional framework and the electoral system discriminated against the applicants as they did not belong to any of the three named constituent peoples (Bosniaks, Croats and Serbs).

Rights of lesbian, gay, bisexual, transgender and intersex people

Despite the Anti-discrimination Law prohibiting discrimination on the grounds of sexual orientation and gender identity, the authorities did not develop a system to register discrimination cases. The state failed to publicly condemn violent attacks against LGBTI people. No individuals responsible for the attacks on the organizers and the participants of the 2008 Sarajevo Queer Festival were investigated or prosecuted.

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