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Bosnia and Herzegovina

While a number of themes unrelated to the 1992-95 war in Bosnia and Herzegovina—including prison conditions, rights of asylum seekers, and implementation of libel laws—received attention during 2005, war crimes accountability and the return of persons displaced by the war remained the key human rights issues in the country.

War Crimes Accountability

Republika Srpska (the Serb-majority entity) for the first time transferred war crimes indictees to the International Criminal Tribunal for the former Yugoslavia (ICTY). On January 15, 2005, Bosnian Serb authorities transferred Savo Todovic, former deputy commander in a detention camp in Foca, to the tribunal. Gojko Jankovic, also charged in relation to crimes against Bosnian Muslims in Foca, surrendered to Bosnian Serb authorities on March 13. Finally, Sredoje Lukic, charged with crimes against Bosnian Muslims in Visegrad in 1992, surrendered on September 14. Todovic had been in hiding in Serbia, while Jankovic and Lukic had been living in Russia. The circumstances surrounding their surrender in Republika Srpska remain unknown.

On October 9 and 10, 2005, Republika Srpska police raided several buildings in Banja Luka, Kotor Varos and Celinac, ostensibly in an attempt to apprehend war crimes indictee Stojan Zupljanin.

Six war crimes trials took place in Republika Srpska during the year, more than in the entire period since the end of the war. While still insufficient, recent efforts to prosecute war crimes suspects in the Bosnian Serb entity may indicate a change in the decade-long policy of impunity. Two war crimes trials were completed in Banja Luka, the capital of Republika Srpska; three war crimes trials were ongoing in Trebinje and one in Banja Luka at year's end. In all but one trial the defendants were Bosnian Serbs. Republika Srpska also arrested sixteen Bosnian Serb war crimes suspects in June, September, and November 2005, at the request of the Bosnian State Prosecutor and cantonal prosecutors in the Federation of Bosnia and Herzegovina (the Bosniac- and Croat-majority entity).

The Federation of Bosnia and Herzegovina held twenty trials against suspects of various ethnicities during 2005. A major impediment to successful war crimes prosecutions in the Federation was the non-availability of Bosnian Croat and Serb suspects who had fled to Croatia and Serbia after the war and received citizenship there. The constitutions of Croatia and Serbia prohibit extradition of their nationals to other countries.

Availability of the accused is likely to be the greatest challenge to the effective functioning of the newly established special war crimes chamber, based in the Bosnian capital Sarajevo as part of the State Court of Bosnia and Herzegovina. The chamber became operative in 2005, and the first case, against Boban Simsic, a Bosnian Serb, began on September 14.

Return of Refugees and Displaced Persons

With the exception of a few areas in Republika Srpska (Prijedor, Doboj, Janja) and the Federation (Drvar, Bugojno, Stolac), the current figures on the return of refugees and displaced persons in the country appear too small to reverse the effects of the wartime ethnic cleansing. According to the United Nations High Commissioner for Refugees (UNHCR), as of the end of September 2005, just over a million, out of a total of more than two million people forcibly displaced during the war, had returned to their home areas. Of these, 453,464 persons had returned to municipalities where they currently constitute an ethnic minority (so-called “minority returns”). However, both the local authorities in Bosnia and Herzegovina and respected human rights activists argued during the year that the official figures grossly exaggerate the actual number of minority returns, because, according to a field survey by the Bosnian Helsinki Committee for Human Rights, fewer than half of those who repossessed their properties and registered as returnees remained to actually live in their pre-war places of residence.

The return figures were particularly discouraging in 2005. Between January and the end of September, UNHCR registered 5,059 minority returns, a twelve-fold drop compared to the same period in 2002. Continuing attacks and harassment targeting returnees, scarce employment opportunities in places of return, insufficient funding for reconstruction of destroyed properties, and obstacles affecting social and economic needs of prospective returnees, frustrated the return process.

Human Rights Defenders

Human rights activists faced a hostile environment when their activities challenged the dominant attitudes relating to the wartime period. In the Federation, the work of the independent Research and Documentation Center was largely ignored by the government, and met with occasional threats from private actors, because the organization assessed the number of casualties during the Bosnian war at around one hundred thousand. The estimate challenged the widespread belief among the war’s principal victims, the Bosnian Muslims, that the number of casualties exceeded two hundred thousand. The Helsinki Committee for Human Rights in Republika Srpska experienced similar responses to its efforts to promote accountability for war crimes and ongoing human rights abuses. The High Representative for Bosnia and Herzegovina, Paddy Ashdown, failed to express strong support for the work of independent human rights groups in the country.

Key International Actors

The focus of the work of the Office of the High Representative (OHR), which oversees civilian aspects of the 1995 Dayton Peace Accords, was police reform. On October 5, 2005, under intensive pressure from the OHR, the United States, and the European Union, the Republika Srpska parliament finally

accepted the fundamentals of the proposed reform, which envisage a more unified police force. Between December 2004 and October 2005, the OHR imposed sixteen laws at the state and entity level, and removed eleven officials and public servants from office.

The debate in Bosnia about the proper role for the high representative intensified during the year, with an increasing number of critics arguing that the removals from office under a procedure that allows for no legal remedies, and the practice of imposing laws, did not encourage respect for human rights and the rule of law. In an authoritative report published in March 2005, the Council of Europe's European Commission for Democracy Through Law (Venice Commission) concluded that the need for wide powers had existed in the early period following the conclusion of the 1995 Dayton Peace Agreement, but that the longer such an arrangement stayed in place, the more it risked becoming incompatible with Council of Europe human rights standards.

On January 17, 2005, a trial chamber of the ICTY sentenced Bosnian Serbs Vidoje Blagojevic and Dragan Jokic to eighteen and nine years in prison respectively, for their role in the killings of some eight thousand Muslim men in Srebrenica in July 1995. The ICTY Appeals Chamber affirmed the sentences of four Bosnian Serbs and two Bosnian Croats guilty of crimes in Prijedor and in central Bosnia.

Three important trials against Bosnian Muslim indictees took place in 2005. On November 16, a trial chamber acquitted the Bosnian Army General Sefer Halilovic, accused of crimes against Bosnian Croat civilians in Herzegovina in 1993. In the trial against Generals Enver Hadzihasanovic and Amir Kubura, both charged with war crimes against Bosnian Croats and Serbs in central Bosnia in 1993-94, the prosecution and the defense presented closing arguments in July 2005. The trial of Naser Oric, commander of Bosnian Muslim forces in the Srebrenica area, for crimes against Serb civilians, continued throughout the year. The spate of trials against Bosnian Muslims somewhat eroded the once unanimous support for the tribunal's work within Bosnia's most numerous ethnic community. At the same time, support for the tribunal increased among Bosnian Croats and Serbs, where the prevailing stance since the war has been one of mistrust.

On November 21, 2005, the day of the tenth anniversary of the Dayton Peace Accords, the E.U. General Affairs and External Relations Council decided to start negotiating a Stabilization and Association Agreement (SAA) with Bosnia and Herzegovina. The Council had previously decided, on October 3, that it was not possible to open the negotiations because of the failure of the Republika Srpska parliament to accept the proposed police reform. The Council emphasized that the establishment of a more unified and efficient police force, free from political interference, was crucial for respect for human rights, the rule of law, and the protection of minorities. The parliament of Republika Srpska accepted the principles of the proposed reform on October 5.

On December 2, 2004, the E.U.-led peacekeeping force in Bosnia (EUFOR) replaced the NATO-led Stabilization Force (SFOR). For the second consecutive year, international forces in Bosnia and

Herzegovina did not arrest a single Bosnian citizen indicted by the ICTY. While most indictees resided in Serbia and were not within the reach of the seven thousand EUFOR troops or a 150-strong contingent of U.S. troops based in Bosnia and Herzegovina, Bosnian Serb wartime leader Radovan Karadzic was believed to be hiding in the eastern parts of the country. The absence of a requisite political will and intelligence resources may account for the failure of the international forces to locate Karadzic and bring about his arrest.

The Council of Europe's European Commission against Racism and Intolerance (ECRI) issued a report in February 2005 faulting ethnically based political parties with nationalist policies that engender "severe problems of racism and racial (including ethnic and religious) discrimination and segregation" and make it difficult for those not belonging to locally or nationally dominant ethnic groups to access rights and opportunities.