

Bosnia and Herzegovina

Country:

Bosnia and Herzegovina

Year:

2016

Freedom Status:

Partly Free

Political Rights:

4

Civil Liberties:

3

Aggregate Score:

57

Freedom Rating:

3.5

Overview:

A state-level coalition between the Party of Democratic Action (SDA), a Bosniak party; the Croatian Democratic Union of Bosnia and Herzegovina (HDZ BiH); the Serb Democratic Party (SDS) and its allies in the Republika Srpska-based Alliance for Change coalition; and the newly-formed Democratic Front (DF) struggled to enact legislation in 2015. An initiative backed by Germany and Britain to restart the country's stalled European Union (EU) bid likewise faltered, as the parties were unable to agree on details of reform efforts.

Meanwhile, Republika Srpska president Milorad Dodik began laying groundwork for a controversial referendum on the jurisdiction and legality of the country's state-level courts, within the framework of the 1995 Dayton Accords. The vote, initially scheduled for November 2015, was postponed. Dodik's push for a referendum was a major blow to the German-British reform agenda, which was initiated after the 2014 general elections and endorsed in writing by all the relevant political actors in the country, including Dodik.

Political Rights and Civil Liberties:

Political Rights: 22 / 40 (-1) [Key]

A. Electoral Process: 8 / 12

The 1995 Dayton Accords that ended the civil war in Bosnia and Herzegovina (BiH) created a loosely knit state composed of two entities—the Federation, whose citizens are mainly Bosniak and Croat, and the largely Serb Republika Srpska—that operate under a weak central government. The role of head of state is fulfilled by a three-member presidency comprising one Bosniak, one Serb, and one Croat; each is elected to a four-year term, which the three presidents serve concurrently.

The Parliamentary Assembly, a state-level body, has two chambers. The 15-seat upper house, the House of Peoples, consists of five members from each of the three main ethnic groups, elected by the Federation and Republika Srpska legislatures for four-year terms. The lower house, the House of Representatives, has 42 popularly elected members serving four-year terms, with 28 seats assigned to representatives from the Federation and 14 to representatives from the Republika Srpska. The House of Representatives elects the head of the Council of Ministers (equivalent to the prime minister), who leads the state-level government. The Federation and the Republika Srpska have their own presidents, parliaments, and other governing bodies, which are responsible for policymaking on the entity level. Many political posts are awarded under a population-based ethnic quota system prescribed by the Dayton Accords.

Recent elections were deemed generally free and fair. The SDA, the HDZ-BiH, and the SDS dominated the 2014 general elections, underlining ethnic divisions in Bosnian politics. The SDA took 10 of the 28 seats allotted to the Federation in the House of Representatives. The vote to fill the 14 seats allotted to the Republika Srpska was largely split between the Alliance of Independent Social Democrats (SNSD), which won 6 seats, and the SDS, which took 5. Denis Zvizdić of the SDA was appointed as head of the Council of Ministers. Mladen Ivanić of the Party of Democratic Progress (PDP), Dragan Čović of the HDZ-BiH, and Bakir Izetbegović of the SDA were respectively elected to the Bosnian Serb, Bosnian Croat, and Bosniak seats of the tripartite presidency.

A grand coalition consisting of the SDA, the HDZ BiH, the SDS and its Republika Srpska-based allies, and the DF exists in principle at the state level, although the group has managed to pass little in the way of legislation.

At the Federation level, a coalition between the SDA, HDZ BiH, and DF dissolved only a few months after the 2014 polls, with the DF citing irreconcilable differences with the two leading partners. A new coalition, led by the SDA and backed by a number of smaller parties, emerged in August 2015.

In the Republika Srpska, the SNSD secured a tenuous parliamentary majority following the 2014 elections. Shortly after the polls, audio recordings emerged in which Republika Srpska prime minister Željka Cvijanović of the SNSD can apparently be heard making a

deal to purchase the votes of two opposition representatives in order to secure the party's control of the entity-level legislature.

Local elections are scheduled for October 2016, with the electoral status of Mostar still unresolved. Due to disputes between Bosniak and Croat parties, Mostar lacks legally elected representatives and has not held local polls since 2008.

B. Political Pluralism and Participation: 10 / 16

Political parties typically organize and operate freely, though the political arena in the Federation is generally limited to Bosniaks and Croats, while Serbs dominate politics in the Republika Srpska. Coalitions at all levels of government shift frequently.

The Office of the High Representative (OHR), which was created by the Dayton Accords, operates under the auspices of the United Nations and has the authority to remove elected officials if they are deemed to be obstructing the peace process. In recent years, the OHR has been reluctant to intervene in the country's politics. Additionally, under the Dayton Accords, representatives from each of the three major ethnic groups, at both state and entity levels, may exercise a veto on legislation deemed harmful to their interests. As a result, Bosniaks, Serbs, and Croats must agree on major legislation before it can advance. Such consensus is rarely reached.

Citizens who do not identify as Bosniak, Bosnian Serb, or Bosnian Croat are ineligible to run for the state-level presidency or serve in the House of Peoples. BiH's leaders have not enacted reforms addressing the 2009 Sejdić-Finci ruling at the European Court of Human Rights (ECHR), which ordered that this exclusion be rescinded.

C. Functioning of Government: 4 / 12 (-1)

Legislative deadlock continued across all levels of government in 2015. Only one major piece of legislation, a controversial labor law, has been passed in the Federation since the 2014 elections. The Republika Srpska assembly has similarly seen little meaningful debate.

The country's complex institutional framework provides many avenues for corrupt behavior among politicians, and corruption remains a serious problem. Enforcement of legislation designed to combat corruption is weak due to the lack of strong and independent anticorruption agencies and a dearth of political will to address the issue. When corruption probes are actually opened, they rarely result in convictions. In the Republika Srpska, there was no institutional response to recordings implicating Cvijanović in a vote-buying scandal benefitting the SNSD. Meanwhile, critics of the SNSD-led, entity-level government in the Republika Srpska have suggested that Dodik's drive to reject the jurisdiction of state-level courts was designed to both distract from a banking scandal involving figures

linked with the SNSD, and strip state institutions of their ability to investigate corruption cases in the Republika Srpska.

Civil Liberties: 35 / 60 (-2)

D. Freedom of Expression and Belief: 10 / 16

The constitution and the human rights annex to the Dayton Accords provide for freedom of the press, but this right is not always respected in practice. While a large number of independent broadcast and print outlets operate, they tend to appeal to narrow ethnic audiences, and most neglect substantive or investigative reporting. The public broadcaster, BiH Radio Television (BHRT), which targets multiethnic audiences, has faced growing political and financial pressure in recent years. Police in December 2014, acting on a court order, raided the offices of the news website Klix.ba after it had publicized the recordings that appeared to reveal a vote-buying scheme in the Republika Srpska. Computers and other equipment belonging to the organization were confiscated, though in 2015 the Sarajevo Municipal Court ordered that they be returned, and later ruled that the raid had been illegal. In February 2015, the Republika Srpska's legislature passed a measure that criminalized the dissemination on social media of material that disturbed public order. The law drew a prompt rebuke from the Organization for Security and Co-operation in Europe Representative on Freedom of the Media. Following an outcry from nongovernmental organizations (NGOs), journalists, and other domestic and international observers, the law was amended to exclude material that criticized government bodies, but not public officials. A coalition of journalists and other activists had launched a legal challenge of the measure by the year's end. Authorities are not known to restrict or illegally monitor communications on the internet.

Citizens enjoy freedom of religion, but only in areas where their particular ethnic group represents a majority. Acts of vandalism against holy sites of all three major faiths have been reported in recent years.

While the authorities do not restrict academic freedom at institutions of higher education, academic appointments are heavily politicized, with ethnic favoritism playing a significant role. Primary and secondary school curricula are also politicized; some Bosniak returnees in the Republika Srpska have sent their children to temporary alternative schools in protest of curricula they call discriminatory. Depending on their ethnicity, children use textbooks printed in Croatia, Serbia, or Sarajevo. At some schools in the Federation, Bosniak and Croat students are divided into classes on the basis of their ethnicity, meeting in segregated classrooms despite attending school in the same building. In 2014, the Federation's Supreme Court ruled that these divisions are discriminatory, but at the end of 2015 no action had been taken to implement the ruling.

E. Associational and Organizational Rights: 7 / 12

The constitution provides for freedoms of assembly and association, and the various levels of government generally respect these rights in practice. However, in 2014, security forces employed excessive force against people who participated in a series of antigovernment demonstrations, and at the end of 2015 no police officials had been convicted of wrongdoing.

A variety of NGOs operate. NGO representatives have claimed that the process of registering a new group is unnecessarily complex, and that officials in both the Federation and the Republika Srpska at times have interfered with NGO operations.

While no legal restrictions on the right of workers to form and join labor unions exist, discrimination against union members is common. In August 2015, the Federation approved a labor reform law over the objections of union members, who argued that it empowered business interests and eroded workers' rights. The measure, meant to be adopted in the Republika Srpska as well, was backed by the EU and the International Monetary Fund, from which BiH was seeking a loan. Unemployment in BiH is among the highest in Europe, and many workers have reportedly declined to file anti-union-related complaints with labor inspectors for fear of losing their jobs. However, courts in both the Federation and Republika Srpska frequently rule in favor of workers when faced with such cases.

F. Rule of Law: 8 / 16 (-2)

The judiciary remains susceptible to influence by nationalist political parties and faces pressure from the executive branch. The lack of a single, supreme judicial body and the existence of four separate court systems—for the central state, the Republika Srpska, the Federation, and the self-governing Brčko district—contributes to overall inefficiency. In 2015, Republika Srpska president Dodik began laying groundwork for a referendum intended to allow the entity to reject the jurisdiction of BiH's state-level courts. Dodik claimed that the Dayton Accords provide no basis for a state-level court system, and that state-level judicial authorities had demonstrated a pattern of anti-Serb bias. The referendum, if approved, would further impede the ability of BiH's judicial institutions to handle corruption and organized crime cases. Originally set for November 2015, the vote had yet to take place by the year's end. Dodik launched a similar initiative in 2011, but the EU helped to defuse the situation by initiating a dialogue on judicial reform.

The country has made some efforts to reduce its case backlog, but the number of cases pending in the court system remains high. The police do not always fully inform people of their rights upon arrest, and witness protection programs are not always available to those who need them. Prisons are overcrowded and prisoners sometimes face abuse. The state court—which handles organized crime, war crimes, corruption, and terrorism cases—has made progress on adjudicating cases. Results of the 2013 census, the release of which has been delayed at least until 2016, are expected to formally display the extent of wartime ethnic cleansing. The rate of attacks against people displaced during the war but

who later returned to their homes has decreased over the years. However, two attacks against returnees were reported in the Republika Srpska in 2015.

There are concerns about the small but increasingly visible presence of Islamic extremism in BiH. The Islamic State militant group in 2015 expanded efforts to lure Bosnian recruits to fight in Syria and Iraq, and the government has been ineffective in addressing the issue. In April, a purported Islamic radical attacked a police station in Zvornik, killing one police officer and injuring two more, before being fatally shot himself.

Members of the LGBT (lesbian, gay, bisexual, and transgender) community face discrimination and occasional physical attacks, as well as harassment in the country's media. In 2014, masked assailants burst into an LGBT film festival in Sarajevo and attacked panel speakers. The 2015 festival saw increased police protection, and took place without incident. Entity-level laws do not protect LGBT people from discrimination. While national laws do offer such protection, these measures are often disregarded.

G. Personal Autonomy and Individual Rights: 10 / 16

The law protects freedom of movement. Some issues surrounding the return of people displaced during the civil war persist, but few refugees are now attempting to return to their homes.

Unemployment hovers at around 44 percent, though there is a large informal economy. Individuals face discrimination in employment, housing, and social services in regions that are not dominated by their own ethnic group.

Women are legally entitled to full equality with men but are underrepresented in politics and government and face discrimination in the workplace. Sexual harassment is common. Police are largely unresponsive to violent domestic disputes, particularly in rural areas. Severe corruption helps to enable human trafficking for the purpose of prostitution and forced labor. The government has made some limited progress in training prosecutors and judges to handle trafficking cases, and has provided some funding for programs to assist victims. However, the legal system's capacity to adjudicate trafficking cases remains inadequate, and few services are available for male victims.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology