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BOSNIA-HERZEGOVINA

BOSNIA AND HERZEGOVINA

Head of state: rotating presidency: Haris Silajdžić, Nebojša Radmanović, Željko Komšić

Head of government: Adnan Terzić

President of the Federation of Bosnia and Herzegovina: Niko Lozančić

Death penalty: abolitionist for all crimes

International Criminal Court: ratified

Many perpetrators of war crimes and crimes against humanity during the 1992-95 war continued to evade justice, and thousands of enforced disappearances remained unresolved. Lack of full co-operation with the International Criminal Tribunal for the former Yugoslavia (Tribunal) by the Republika Srpska (RS) was an obstacle to justice. Progress was made in the domestic prosecution of war crimes, including in proceedings at the War Crimes Chamber in Sarajevo, although efforts to bring perpetrators to justice were insufficient. Minorities faced discrimination, including in employment and in access to education. Approximately 3,600 refugees and internally displaced people had returned to their homes by October.

Background

Bosnia and Herzegovina (BiH) remained divided in two semi-autonomous entities, the RS and the Federation of Bosnia and Herzegovina (FBiH), with a special status granted to the Brčko District.

The international community continued to exert significant influence over the country's political process, in particular through a High Representative with executive powers nominated by the Pe'ce Implementation Council (PIC), an intergovernmental body monitoring the implementation of the Dayton Peace Agreement. In June the PIC began preparing the closure in June 2007 of the Office of the High Representative (OHR). The engagement of the international community was expected to continue through a strengthened European Union (EU) Special Representative. Approximately 6,000 troops of the EU-led peacekeeping force EUFOR remained. EUFOR's mandate was extended by the UN Security Council in November for a further year.

General elections in October, the first to be fully administered by local authorities, showed that the electorate remained divided along ethnic lines. Widespread nationalist rhetoric included calls for a referendum on independence for the RS. A new government had not been formed by the end of 2006.

International prosecutions for war crimes

The Tribunal continued to try alleged perpetrators of serious violations of international humanitarian law. Former Serbian President Slobodan Milošević died at the Tribunal Detention Unit following a heart attack on 11 March. He had been on trial before the Tribunal for war crimes and crimes against humanity in BiH, Croatia and Kosovo, and for genocide in BiH.

- In March, Enver Hadžihasanović and Amir Kubura, former Army of Bosnia and Herzegovina (ABiH) commanders, were sentenced to five and two and a half years' imprisonment, respectively. They were convicted of failing to prevent or punish crimes against non-Bosniaks by volunteer foreign fighters, Enver Hadžihasanović for crimes including murder and cruel treatment, and Amir Kubura for the plunder of villages.

- In May, Ivica Rajić, a former commander of the Croatian Defence Council (HVO), the Bosnian Croat armed forces, was sentenced to 12 years' imprisonment for his involvement in the attack on the village of Stupni Do. The Tribunal found that forces under his command wilfully killed at least 37 people. He had admitted charges of wilful killing, inhuman treatment, appropriation of property, and extensive, unlawful and wanton destruction not justified by military necessity.

- In June, Dragan Zelenović, former sub-commander of the RS military police and paramilitary leader in Foča, was transferred to the Tribunal's custody. He had been arrested in the Russian Federation in 2005. He faced charges of torture and rape as war crimes and crimes against humanity against the non-Serb population in Foča, for allegedly raping, sexually assaulting and participating in the gang rape of detained women.

- Also in June Naser Orić, former commander of the Srebrenica Armed Forces Staff, was convicted of failing to prevent murders and the cruel treatment of Bosnian Serb prisoners in 1992 and 1993. He was sentenced to two years' imprisonment.

- In September, Momčilo Krajišnik, who held high-ranking positions in the Bosnian Serb leadership between 1991 and 1995, was sentenced to 27 years' imprisonment for the persecution, extermination, murder, deportation and forced transfer of non-Serbs. He was acquitted of genocide and complicity in genocide charges.

Co-operation between the RS and the Tribunal remained inadequate and no progress was made by the RS in locating former Bosnian Serb leader Radovan Karadžić, indicted by the Tribunal on charges including genocide and still at large. In December, in her address to the UN Security Council, the Tribunal Prosecutor noted that central institutions were not working efficiently and that the RS authorities, despite some recent improvements, had not shown a robust willingness to arrest Radovan Karadžić and Stojan Ćupljanin, the fugitives most likely to be in BiH.

Under a 'completion strategy' laid down by the UN Security Council, the Tribunal was expected to conclude all cases in 2010. As a result of the tight deadlines imposed by the strategy, the Tribunal continued to refer cases involving lower level perpetrators to national jurisdictions in the former Yugoslavia. In 2006 cases involving seven suspects were transferred to BiH.

Domestic prosecutions for war crimes

The War Crimes Chamber within the BiH State Court, set up to try particularly sensitive cases or cases referred by the Tribunal, issued its first convictions.

- In April, former member of Bosnian Serb forces Neđo Samardžić was convicted of unlawful imprisonment, rape, and aiding and abetting sexual slavery of non-Serb victims in the Foča area. He was sentenced to 13 years and four months' imprisonment. In September the verdict was quashed and a re-trial before an appellate panel in December raised the prison sentence to 24 years.
- In May, Dragoje Paunović, a former local commander of Bosnian Serb forces, was sentenced to 20 years' imprisonment for crimes against humanity in 1992. He was convicted of persecuting Bosniak civilians, for his command and individual responsibility for killings and other inhuman acts. The verdict was confirmed on appeal in November.
- In July former RS police officer Boban Šimšić was convicted of assisting members of the Bosnian Serb Army (VRS) in enforced disappearances and rapes of non-Serbs in 1992. He was sentenced to five years' imprisonment.
- Marko Samardžija, a former VRS commander, was convicted of crimes against humanity, including for his role in the killing of at least 144 Bosniak detained men, and sentenced to 26 years' imprisonment in November.
- Also in November, the War Crimes Chamber rendered its first judgement in a case transferred by the Tribunal. Radovan Stankovic was convicted of crimes against humanity against the non-Serb population in the Foča area. A former VRS member, he was found to have participated in the rape of women detained by Bosnian Serb forces and sentenced to 16 years' imprisonment.
- In December, Nikola Andrun, a former HVO member, was sentenced to 13 years' imprisonment for war crimes committed in his capacity as Deputy Commander of the Gabela detention camp, including the torture and intimidation of non-Croat detainees.

Some war crimes trials of low-level perpetrators were also held in local courts, including in the RS, which continued to have difficulties in dealing with these cases because of a lack of staff and effective witness protection programmes.

Enforced disappearances unresolved

According to estimates of the International Commission on Missing Persons (ICMP), approximately 13,000 people who went missing during the war were still unaccounted for. Many of them were victims of enforced disappearances, whose perpetrators enjoyed impunity.

Progress was slow in transferring competencies from the missing persons commissions of the FBiH and RS to the national Missing Persons Institute. The Institute's directors were appointed in March, and Steering and Supervisory Board members in December.

Approximately 2,500 sets of human remains were exhumed from various locations in BiH.

- In August the exhumation of a mass grave in Kamenica, near Zvornik, uncovered 1,009 incomplete and 144 complete skeletons. The site is believed to contain the remains of victims killed by Bosnian Serb forces in Srebrenica in 1995, and was reportedly the biggest mass grave excavated since the end of the war.
- In January the OHR ordered the RS authorities to implement a 2001 decision by the BiH Human Rights Chamber to form a commission to investigate the enforced disappearance of Avdo Palić. The ABiH war-time commander in the UN 'safe haven' of Žepa, Avdo Palić was last seen negotiating the surrender of Žepa to the VRS in 1995 and was later reportedly detained by Bosnian Serb forces. His fate and whereabouts have remained unknown. A Commission was appointed, and in April presented a report to the OHR, claiming to contain information on the location of his remains. However, this

information proved insufficient for an exhumation and no progress was made in the case. The Commission was reportedly reactivated in December.

Right to return

Of an estimated 2.2 million people displaced during the conflict, more than a million refugees and internally displaced persons (IDPs) were estimated to have returned to their homes. Progress on returns was limited. UNHCR, the UN refugee agency, registered approximately 3,600 returns between January and October. Of these, some 3,000 returned to areas where they were part of a minority community.

Violence towards and harassment of returnees and members of minorities by private individuals were reported.

- In February, a Bosnian Croat 78-year-old returnee was beaten to death in Bugojno. Three men were convicted of the murder.
- In May an elderly returnee was murdered in her home on the outskirts of Sanski Most. A suspect was reportedly arrested by local police.

The lack of jobs was a major obstacle to sustainable returns. Generally scarce employment opportunities reflected the weak economy and difficulties of transition and post-war reconstruction. In addition, returnees faced discrimination on ethnic grounds.

"War on terror"

Six men of Algerian origin, unlawfully transferred in 2002 by the FBiH authorities to US custody, remained in detention in Guantánamo Bay, Cuba. In April, following a complaint by the wife of one of the detainees, Hadj Boudellaa, the Human Rights Commission within the BiH Constitutional Court concluded that the BiH authorities had failed to implement a 2002 decision of the BiH Human Rights Chamber in the case. They had failed to use diplomatic channels to protect the rights of the detainee, provide him with consular support, and take all necessary steps to ensure he would not be subjected to the death penalty, including by asking the US government for guarantees to that effect.

In June, the Rapporteur appointed by the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe to investigate alleged secret detentions and unlawful inter-state transfers of detainees, reported that the six men were "a well documented example of the abduction of European citizens and residents by the American authorities with the active collusion of the authorities of a Council of Europe member state". The report called for a credible diplomatic intervention by the BiH authorities with the US government to secure the rapid repatriation of the detainees.

Accountability of peacekeepers

In January, Italian members of EUFOR, during an operation to arrest war crimes suspect Dragomir Abazović, shot dead his wife, and seriously wounded him and their 11-year-old son. Reportedly, a EUFOR internal investigation found the troops had acted in self-defence and cleared them of any wrongdoing. An investigation by the East Sarajevo District Prosecutor reportedly found indications that the EUFOR troops fired first. The outcomes of both investigations were forwarded to the competent Prosecutor in Italy.

Exclusion from education

Primary school attendance rates for Romani children were low, and extreme poverty remained one of the main causes of the exclusion of Roma from education. Romani language, culture and traditions were not included in a systematic way in school curricula. Insufficient progress was made in the implementation of the 2004 Action Plan on the Educational Needs of Roma and Members of Other National Minorities. A Council for National Minorities of Bosnia and Herzegovina, tasked with overseeing its implementation, was formally created in April, but was not operational by the end of 2006.

Violence against women

In June the UN Committee on the Elimination of Discrimination against Women expressed concern that BiH remained a country of origin, transit and destination in the trafficking in women, and that victims of sexual violence during the 1992-1995 war suffered additional disadvantages as both female heads of households and IDPs.

AI country reports/visits

Reports

- Partners in crime: Europe's role in US renditions (AI Index: EUR 01/008/2006)
- Europe and Central Asia: Summary of Amnesty International's concerns in the region, January-June 2006 (AI Index: EUR 01/017/2006)
- False starts: The exclusion of Romani children from primary education in Bosnia and Herzegovina, Croatia and Slovenia (AI Index: EUR 05/002/2006)
- Appeal to the United Nations Security Council to ensure that the International Criminal Tribunal for the former Yugoslavia fulfils its mandate (AI Index: EUR 05/006/2006)
- Bosnia and Herzegovina: Behind closed gates - ethnic discrimination in employment (AI Index: EUR 63/001/2006)

Visits

An AI delegate visited BiH in January and March.