

Bosnia and Herzegovina

Bosnia and Herzegovina formally applied for European Union membership in February 2016, but progress on human rights remains largely stalled. Authorities failed to end political discrimination against Jews, Roma, and other minorities. There was slow progress towards accountability for war crimes in domestic courts. Journalists remain vulnerable to intimidation and threats. Lesbian, gay, bisexual, and transgender (LGBT) people face hate speech and threats.

Ethnic and Religious Discrimination

The government and assembly made no progress towards amending the constitution to eliminate ethnic and religious discrimination in candidacy for the national tripartite presidency and the House of Peoples. Currently, the constitution requires candidates for these institutions to come from one of the three main ethnic groups—Bosniaks, Serbs, and Croats, thereby excluding Jews, Roma, and other minorities from political office.

The European Court of Human Rights ruled in 2016 that the arrangements violate the European Convention on Human Rights—the third time it has done so. Implementation of prior rulings lost momentum after the EU dropped implementation of the original 2009 European Court ruling as a condition for the entry into force of the Stabilisation and Association Agreement.

Local elections were held in Bosnia and Herzegovina on October 2, 2016, for all municipalities except for the city of Mostar. Mostar has been excluded over failure by local authorities to give effect to a BiH Constitutional Court decision that its election rules are discriminatory. Residents of the city have been unable to vote in local elections since 2008.

The results of the 2013 census of BiH were finally published on June 30, 2016, showing a changed demographic picture in which the country lost almost one-fifth of its pre-war population.

Refugees and Internally Displaced Persons

According to the Ministry for Human Rights and Refugees, the official number of internally displaced persons at the end of 2015 was 98,324. The government published a revised strategy on the return of refugees and internally displaced persons in December 2015. But a lack of reliable public information either from the Bosnia authorities or UNHCR about returns of displaced persons and refugees to their pre-war homes makes it difficult to assess what progress if any has been made under the previous 2010 strategy, and what impact the new strategy will have.

Accountability for War Crimes

There was slow progress in prosecuting war crimes in domestic courts. The goal to finish the most complex cases in the War Crimes Chamber of the State Court by the end of 2015 has not been reached. At time of writing, the Special Department for War Crimes of BiH Prosecutor's Office was still working on 346 of the most complex war crimes cases in relation to 3,383 individuals.

Bosnia and Herzegovina's national war crimes strategy was critically assessed in two separate studies published in 2016, one by the Supervisory Body for Overseeing the Implementation of the National War Crimes Strategy and the other commissioned by the Organization for Security and Co-Operation (OSCE) in Europe and International Criminal Tribunal for the Former Yugoslavia (ICTY). Both found that that authorities had failed to meet the targets in the strategy and identified a lack of strategic planning, understaffing, and poor training as contributing factors.

Between January and August 2016, the State Court War Crimes Chamber reached 13 verdicts (3 acquittals, 10 convictions) at the first instance in relation to 25 defendants, and 19 verdicts (11 upheld, 7 modified, and 1 revoked) at the second instance in relation to 26 defendants, increasing the total number of completed cases at the first instance to 169 and at the second instance to 158 since the court became fully operational in 2005.

Between January and October 2016, the cantonal courts reached 20 verdicts (5 acquittals, 15 convictions) in relation to 27 defendants. The district courts reached 5 verdicts (3 acquittals, 2 conviction) in relation to 5 persons in the same period.

In August 2016, research conducted by Balkan Investigative Reporting Network showed that cantonal courts and the Basic Court in Brcko have allowed five war crime convicts who were sentenced to up to one year in prison to pay fines to avoid going to jail.

The trial in the State Court against Naser Oric, a former Bosnia army general, and Sabahudin Muhic, a former Bosnian army soldier, started on January 26, 2016. The trial started after the Mechanism for International Tribunals rejected a request by Oric's lawyers to order the State Court to stop the case against him because he has already been acquitted of the same charges at the International Criminal Tribunal for the Former Yugoslavia (ICTY). The prosecution alleges that Oric and Muhic killed three Serb prisoners in the villages of Zalazje, Lolic, and Kunjerac in 1992.

At the ICTY in March, Bosnian Serb wartime President Radovan Karadzic was convicted of genocide, crimes against humanity, and violations of the laws or customs of war and sentenced to 40 years' imprisonment. Karadzic was convicted of genocide in the area of Srebrenica in 1995, of persecution, extermination, murder, deportation, inhumane acts (forcible transfer), terror, unlawful attacks on civilians and hostage-taking. He was acquitted of the charge of genocide in other municipalities in BiH in 1992.

At time of writing, the defense case in the trial of Ratko Mladic, the former commander of the Republika Srpska Army, was in progress at the ICTY. Mladic's case experienced a substantial slowdown due to delays in evidence presentation by the defense. Mladic is on trial for genocide in Srebrenica and seven other municipalities in Bosnia and Herzegovina, the persecution of Bosniaks and Croats throughout the country, terrorizing the civilian population of Sarajevo and taking UN peacekeepers hostage. The trial judgment was expected in November 2017.

National Security

Imad Al-Husin (also known as Abu Hamza), a naturalized Bosnian from Syria detained in 2008, was released in February 2016 from the immigration center in Sarajevo where he was held for over seven years on national security grounds without ever being indicted. The Ministry of Security announced in a press release in February 2016 that the decision

to expel Imad Al-Husin still stands; until then his movement remains limited to the Canton of Sarajevo.

Zeyad Khalaf Al Gertani, an Iraqi citizen, detained without charge on national security grounds from 2009 until 2014, remains under a supervision order confining him to the Bosnian town of Banovici, apart from his family.

Human Rights Defenders and Civil Society

By October 2016, Civil Rights Defenders had registered 12 incidents targeting groups and individuals working to defend human rights, including six physical attacks against journalists and three incidents against one human rights organization in Prijedor municipality.

Freedom of Media

Journalists continue to face threats and intimidation. In the first nine months of 2016, the national journalists' association registered 40 cases of violations of media freedom and expression, including 5 physical attacks, 2 death threats, 6 cases of pressure, 3 cases of defamation, and 3 cases of verbal threats.

Borka Rudic, general secretary of the Association of Journalists of Bosnia and Herzegovina, and the Journalists' Association itself were accused in July by Salmir Kaplan, a member of parliament and adviser to the security minister, of supporting the Gulen movement in Turkey and Rudic was called a "Chetnik" (right-wing nationalist Serb), after Rudic spoke out against curbs on media freedom in Turkey.

In May, a Croatian television journalist Petar Panjkota was struck on the head after reporting from a demonstration in Banja Luka. Two crew from Bosnian TV station BN TV covering the same demonstration were verbally abused and a third received threats on social media.

Sexual Orientation and Gender Identity

Sarajevo Open Centre, the lesbian, gay, bisexual, and transgender rights organization, documented 23 cases of hate speech and incitement of violence and hate and two crimes and incidents motivated by prejudice on the basis of sexual orientation and/or gender identity in the first three months of 2016. The reaction of authorities to these incidents is generally inadequate. There was no progress in police investigations into the 2014 attack on a film festival that Sarajevo Open Centre organized.

Key International Actors

In April, Dunja Mijatovic, the Organization for Security and Co-operation in Europe's representative on freedom of the media, urged authorities to address attacks against journalists who are experiencing a growing number of online threats. The problem is particularly severe when it comes to female journalists.

A July 2016 report prepared by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noted allegations of widespread physical ill-treatment of detainees by law enforcement officials and inmates by prison staff, and was critical of the failure by prosecutors and judges to investigate such allegations.

The United States State Department annual report on human rights in Bosnia and Herzegovina, published in April 2016, underlined the issue of severe mistreatment of detainees in prisons, remand detention centers, and the harsh and sometimes life-threatening conditions in the country's prisons. Furthermore, the report highlighted the widespread violence against women, including sexual assault and domestic violence, exacerbated by ineffective, underfunded social services and an inadequate police response.

In its annual progress on Bosnia and Herzegovina published in November, the European Commission highlighted the failure of authorities to amend the constitution, in breach of the European Convention on Human Rights and to implement rulings by the Constitutional Court. The report also identified inadequate legal protection for LGBTI persons and the failure of authorities to protect adequately the rights of minorities and to ensure media freedom.