

Bosnia-Herzegovina (79)



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HUMAN RIGHTS DEVELOPMENTS

Bosnia and Herzegovina made some progress toward the return of displaced persons, accountability for war crimes, and constitutional protection of its citizens regardless of their ethnicity. In each of these areas, however, much remained to be done before the country could be considered a stable democracy genuinely respectful of human rights.

In April, constitutional amendments entered into force giving the three major ethnic groups the status of constituent peoples on the whole of the territory of Bosnia and Herzegovina. The amendments established mechanisms for protection of the so-called vital national interests of each constituent people, such as those pertaining to education, religion, language, promotion of tradition and cultural heritage, and a public information system. In addition, they provided for ethnically balanced representation in the entity parliaments and highest courts, based on the 1991 census taken prior to wartime forced changes in the ethnic composition of various parts of the country. Implementation of the new constitutional rules remained a challenge.

Elections were held on October 5 for the Bosnian central Parliament and presidency, as well as for the assemblies in the Bosniac- and Croat-controlled Federation of Bosnia and Herzegovina and the Serb-controlled Republika Srpska. For the first time since the 1992-95 war, after six rounds of previous elections arranged and supervised by the Organization for Security and Cooperation in Europe (OSCE), a permanent Bosnian election commission organized the elections. The election campaign was mainly devoid of the ethnic violence seen in recent past elections. Bosniac, Serb, and Croat nationalist parties won the most votes in the parliamentary elections, and their candidates were elected to the Bosnian three-member presidency.

The year saw continued incremental progress toward war crimes accountability. The NATO-led Stabilization Force (SFOR) arrested four Bosnian Serbs indicted by the International Criminal Tribunal for the former Yugoslavia (ICTY): Momir Nikolic (on April 1), Darko Mrdja (June 13),



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Miroslav Deronjic (July 7), and Radovan Stankovic (July 9). On February 28 and March 1, SFOR troops twice attempted to arrest Bosnian Serb wartime leader Radovan Karadzic in remote mountain villages in the east of the country. On August 14 and 15, SFOR conducted a new operation in the area, purporting to investigate the network of persons who were helping Karadzic hide. In falling short of bringing Karadzic to justice, however, SFOR efforts drew criticism from the ICTY Prosecutor, Carla Del Ponte, who characterized them as "public relations operations." Pasko Ljubicic, a Bosnian Croat accused of persecution of Bosniacs in central Bosnia in 1993, surrendered voluntarily to the tribunal on November 21, 2001. Wartime prison commanders and guards in Serb-run camps near Prijedor, Dusan Fustar, Momcilo Gruban, and Dusan Knezevic also surrendered on January 31, May 2, and May 18, 2002 respectively.

The authorities in Republika Srpska continued to refuse to cooperate with the ICTY. They denied having knowledge of the presence of Radovan Karadzic or any other Bosnian Serb indictee in the entity's territory. Republika Srpska President Mirko Sarovic and Prime Minister Mladen Ivanic condemned the SFOR actions in eastern Bosnia in March and August. In the beginning of September, the Republika Srpska Government Bureau for Liaison with the ICTY issued a report concerning the 1995 events in Srebrenica, during which the Bosnian Serb Army was believed responsible for the killing of more than seven thousand Bosniac men and boys. The report claimed that only one hundred Bosniacs were killed in violation of law, and 1,900 died in combat or of exhaustion.

Domestic war crimes trials continued in the Federation, sometimes marred by judges' ethnic bias and inadequate witness protection measures. No war crimes trials were conducted in Republika Srpska, but in November the ICTY authorized Republika Srpska authorities to proceed in a case against eighteen Bosnian Serbs on war crime charges. In both entities, public prosecutors initiated dozens of war crimes cases against persons belonging to the local ethnic minority.

Between January and the end of August, the United Nations High Commissioner for Refugees (UNHCR) registered 69,550 minority returns to pre-war homes, a 30 percent increase over the same period in 2001. The year also saw improvements in the return of property to its pre-war owners. As of the end of August, housing authorities had solved 62 percent of property claims in the Federation and 54 percent in Republika Srpska, while at the end of 2001 the respective figures had been 49 and 31 percent.

Property rights violations remained widespread, however. Many people, including public officials, continued to occupy others' property. Authorities in Republika Srpska encouraged or tolerated Serb construction of houses on land owned by displaced non-Serbs.

Violent incidents against returnees in Republika Srpska continued. In Prijedor, Zvornik, Doboj, Bratunac, Derventa, Modrica, and other locations, unknown perpetrators planted bombs under returnees' cars or hurled explosives into their yards and houses. A sixty-six-year-old Bosniac returnee to Srpsko Gorazde was shot at on September 16. Also in September, during a celebration of a Yugoslav national team victory at the World Basketball Championship, local Serbs vandalized houses and business premises of Bosniac returnees in Prijedor and Bijeljina. During the year, unknown perpetrators planted explosives or threw bombs at Muslim religious shrines in Bijeljina, Gacko, and Kozarska Dubica. In most cases the police failed to identify and arrest the perpetrators.

Although freedom of expression was largely respected, independent journalists faced defamation suits and threats from public officials and other individuals. Between February and September, the Free Media Help Line, operated by the international community's high representative, registered forty-eight cases of abuse suffered by journalists, in line with rates in 2000 and 2001.

Roma continued to suffer discrimination and other forms of abuse, while the authorities failed to undertake adequate measures to address these problems. The newly established National Advisory Commission on Romani Issues, a body consisting of representatives of relevant ministries, the Romani community, and international organizations to elaborate a coordinated response to problems faced by Roma, had the potential to bring about some positive change, but it was too early to assess its effectiveness as of this writing.

Trafficking of people into Bosnia continued unabated in 2002, as did the corruption that allowed it to flourish. The United Nations Mission in Bosnia and Herzegovina (UNMIBH) de-authorized eleven local police officers in October for using sexual services in nightclubs. In several of the cases the officers had tipped off bar owners to upcoming raids; one of the officers, a team leader in the anti-trafficking force, faced one month's imprisonment for using his position to sexually abuse a number of women. In a letter submitted to a United States (U.S.) Congressional committee on the eve of an April hearing on United Nations (U.N.) complicity in trafficking into Bosnia, the U.N. admitted that eighteen officers of the International Police Task Force (IPTF, part of UNMIBH) faced repatriation for "incidents of sexual misconduct." In February, a U.N. spokesman announced that an Office of Internal Oversight report found no evidence of "widespread or systematic involvement of U.N. police monitors in trafficking activities." Nongovernmental organizations criticized the U.N.'s public pronouncements on the report for failing to address allegations that a small number of police monitors had purchased trafficked women from brothels. The report was not publicly released.

A new demining law was approved in February 2002. With donor mine action funding of U.S.\$16.6 million, demining operations in 2001 cleared 5.5 to 6 million square meters, and surveyed 73.5 million square meters.

DEFENDING HUMAN RIGHTS

Refugee associations and human rights groups continued to be active. The ombudsmen of the Federation and the Republika Srpska continued to receive thousands of requests for assistance, the majority relating to violations of the right to housing; discrimination complaints ranked second. The Human Rights Chamber, Bosnia's human rights court, had over ten thousand cases pending as of October 2002. On January 17, the chamber issued an injunction to halt removal of six Algerians sought by the U.S. for alleged involvement in terrorism, but the Bosnian government ignored the chamber decision and handed over the six on January 18. (See also below.) The Bosnian human rights movement suffered a blow when differences over the surrender to the U.S. led to a split in the Helsinki Committee for Human Rights.

THE ROLE OF THE INTERNATIONAL COMMUNITY

Office of the High Representative

On May 27, Paddy Ashdown succeeded Wolfgang Petritsch as high representative overseeing civilian aspects of the Dayton Peace Agreement. While the priorities of the former high representative had been accelerated refugee return, institution building, and economic reform, the new high representative declared that the fight against organized crime and regeneration of the Bosnian economy would be his main areas of focus.

United Nations

On June 30, the U.S. vetoed U.N. Security Council renewal of the UNMIBH mandate. The veto followed failed U.S. demands for a Council resolution that would exempt U.S. peacekeepers from the jurisdiction of the nascent International Criminal Court (ICC). On July 12 the mandate was extended until December 31, along with a resolution that suspended for one year any ICC investigation or prosecution of U.N. peacekeepers from countries such as the U.S. that have not ratified the ICC treaty.

UNMIBH continued the certification process for Bosnian police. The procedure involved a check of police officers' performance, wartime conduct, and housing status, as well as verification of their citizenship and academic qualifications. Between November 2001 and September 2002, UNMIBH withdrew authorization for 130 police officers, due in nearly half of the cases to their wartime conduct. By the U.N. secretary-general's own admission, however, the officers often moved to administrative positions outside the authority of UNMIBH, or to positions in public companies. UNMIBH also continued its efforts to increase minority representation within the police. As of May, however, only 15.5 percent of the police in the Federation were minorities, and the respective percentage in Republika Srpska was 4.9.

In a report presented to the U.N. Commission on Human Rights in March, Jose Cutileiro, special representative on the situation of human rights in Bosnia and Herzegovina and the Federal Republic of Yugoslavia (F.R. Yugoslavia), described Bosnia's human rights progress as "slow and limited." Cutileiro concluded that genuine inter-ethnic reconciliation in the country had not taken place, and that there would be no real progress while the country depended on foreign civilian executives and foreign military to hold it together.

On April 19, the Commission on Human Rights passed a resolution on the situation of human rights in parts of southeastern Europe, welcoming progress and urging the states in the region to effectively enforce minority rights. The commission also called on the authorities in Bosnia, particularly in Republika Srpska, to cooperate fully with the ICTY.

In February, the ICTY commenced the high-profile trial of former Yugoslav President Slobodan Milosevic, facing charges including for crimes against humanity and genocide committed during the Bosnian war.

On June 12, the ICTY Appeals Chamber upheld the convictions and sentences of Bosnian Serbs Dragoljub Kunarac, Radomir Kovac, and Zoran Vukovic for rape, torture, and enslavement committed in Foca during the war. On October 17, the tribunal sentenced Milan Simic, a Bosnian Serb, to five years in prison for crimes against Bosniacs in 1992 in the area of Bosanski Samac. The sentence followed Simic's May 15 guilty plea to

two counts of torture charged as crimes against humanity.

In June, the tribunal devised a plan to focus on prosecuting only the highest-ranking political and military figures, while referring cases of the lower-ranking accused to national courts. A report by the Office of the Prosecutor, the Judges, and the Registrar concluded that Bosnia and Herzegovina was the only country in the territory of the former Yugoslavia to which the tribunal could consider referring such cases.

Organization for Security and Cooperation in Europe

The Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) organized international monitoring of the October 5 elections and concluded that they were "largely in line with international standards."

The OSCE Bosnia mission tackled areas of persistent discrimination, embarking in July on a project on fair employment practices aimed at promoting principles of equal opportunities regardless of national origin, gender, political affiliation, or a person's status. The OSCE also acted as a coordinator for education matters in Bosnia.

Council of Europe

On January 22, the Parliamentary Assembly gave a favorable opinion on Bosnia's application for membership in the Council of Europe. The assembly's decision was conditioned on Bosnia's acceptance of an exhaustive set of post-accession commitments, including implementation of the Dayton Peace Agreement, cooperation with the ICTY, ratification of a number of international conventions, respect for human rights, legislative reform, and the proper functioning of state institutions. On March 20, the Committee of Ministers invited Bosnia to join, and accession took place on April 24.

European Union

In February, E.U. foreign ministers decided that in January 2003 the E.U. would deploy a police mission to Bosnia to take over the international policing operation in the country. The E.U. planned a mission of five hundred officers, whereas the U.N.-led IPTF it would replace numbered 1,800 in 2002. In an April 4 Stabilization and Association Report, the European Commission assessed that Bosnia was yet to satisfy ten out of eighteen conditions—including four of the five human rights conditions—identified in the commission's March 2000 Road Map toward European integration. The commission donated €71.9 million (U.S.\$70.2 million) in 2002 to finance democratic stabilization, administrative capacity building, socioeconomic development, environmental protection, and justice and home affairs. It continued to be the principal donor for the reconstruction of housing destroyed in the war.

United States

After seven years of laudable efforts on the part of the U.S. to foster peace and the rule of law in Bosnia, some of its actions in Bosnia during 2002 seriously undermined the rule of law. In January, the U.S. put intense pressure on Bosnia to hand over six Algerians sought for alleged links to terrorism. Bosnia revoked the citizenship of five of the six suspects and turned over all six, although a day earlier the Supreme Court of the federation had ordered the release of the detained suspects due to lack of evidence, and the Bosnian Human Rights Chamber had made an interim order halting their removal from Bosnian jurisdiction. The U.S. transferred the six to its detention camp at Guantánamo Bay.

At the end of August, the U.S. submitted a formal proposal to the Bosnian authorities to sign an agreement to exempt U.S. citizens from transfer from Bosnia and Herzegovina to the International Criminal Court. Bosnian officials declined to either reject or accept the offer. Both the U.S. and Bosnian officials emphasized in public that the U.S. was not threatening withdrawal of the three thousand U.S. troops in the eighteen thousand-member peacekeeping force, should Bosnia refuse to sign the agreement.

On a visit to Banja Luka on April 19, U.S. Ambassador-at-Large for War Crimes Issues Pierre Prosper warned Republika Srpska leaders that the entity was facing isolation because of its failure to meet international obligations to surrender war crimes indictees to the ICTY. During the year, the U.S. carried out a "Rewards for Justice" program, offering a monetary reward for information leading to the arrest of Radovan Karadzic and other war crimes suspects. As part of the initiative, SFOR airplanes distributed leaflets in Republika Srpska in mid-March, and in September, Republika Srpska state television began broadcasting U.S. government advertisements seeking information leading to arrests.

DynCorp, Inc., the U.S. contractor responsible for employing IPTF officers and SFOR contractors, lost one lawsuit and settled a second relating to allegations of wrongful termination of two employees who exposed human trafficking-related activities in Bosnia.

RELEVANT HUMAN RIGHTS WATCH REPORTS:

Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution, 11/02

The NATO Summit and Arms Trade Controls in Central and Eastern Europe, 11/02

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