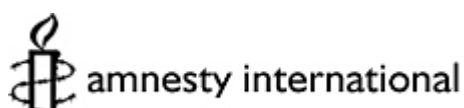


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Amnesty International Report 2009 - Bosnia-Herzegovina

Head of state: rotating presidency – Zeljko Komsic, Nebojsa Radmanovic, Haris Silajdzic

Head of government: Nikola Spiric

Death penalty: abolitionist for all crimes

Population: 3.9 million

Life expectancy: 74.5 years

Under-5 mortality (m/f): 15/13 per 1,000

Adult literacy: 96.7 per cent

The use of nationalist rhetoric increased in Bosnia and Herzegovina (BiH) and the country continued to be deeply divided along ethnic lines. Despite some progress, impunity for war crimes committed during the 1992-1995 war continued. Lesbian, gay, bisexual and transgender people were subjected to attacks and the measures undertaken by the authorities to respond to such attacks remained inadequate.

Background

Political disagreement between the nationalist parties representing the three constitutive nations – Bosnian Muslims (Bosniaks), Croats and Serbs – continued over the administrative division of the state. In October municipal elections were held and again brought nationalist parties to power.

The international community maintained a significant influence over political life in BiH. In June, the mandate of the Office of the High Representative was extended for an unspecified period. This office was set up as the chief civilian peace implementation agency in 1995, tasked by the Peace Implementation Council with the supervision of the Dayton Peace Agreement. The High Representative also acted as the EU Special Representative. An EU-led peacekeeping force (EUFOR) of approximately 2,200 troops remained stationed in the country. The EU also maintained its police mission in BiH.

In April, after several unsuccessful attempts, police reform legislation was introduced as one of the conditions of BiH's progress towards integration with the EU. As a result, a Stabilization and Association Agreement was signed with the EU in June.

International justice – war crimes

Senior politicians and military officers indicted for war crimes committed during the 1992-1995 war continued to be tried before the UN International Criminal Tribunal for the former Yugoslavia (Tribunal).

- In April, the Appeal Chamber of the Tribunal reduced the sentences of Enver Hadzihasanovic and Amir Kubura to three and a half years and two years respectively. In 2006 the accused had been convicted for having failed to take the necessary and reasonable measures to prevent or punish crimes committed by forces under their command, including by the El Mujahedin detachment of foreign Muslim volunteers of the Army of Bosnia and Herzegovina (ABiH). The Appeal Chamber found that they could not have been held responsible for the crimes committed by the detachment as they had not had effective control over it.
- In July, the Appeal Chamber acquitted Naser Oric, a former commandant of ABiH in Srebrenica and surrounding areas, of all charges of war crimes. The Appeal Chamber stated that although there were no doubts that grave crimes were committed against Bosnian Serb detainees in the two detention facilities in Srebrenica between September 1992 and March 1993, the evidence presented was insufficient to attribute responsibility for those crimes to the accused.
- Rasim Delic, a former ABiH general, was sentenced in September by the Trial Chamber to three years' imprisonment for crimes committed by the El Mujahedin detachment. He was found guilty of failing to take the necessary and reasonable measures to prevent and punish some crimes of cruel treatment committed by the detachment but acquitted of all other charges, including murder. He appealed in October.
- In June, Stojan Zupljanin, who had been indicted by the Tribunal for war crimes and crimes against humanity committed against Bosnian Croats and Bosniaks, was arrested in Belgrade and transferred to the custody of the Tribunal in The Hague.
- In July, Radovan Karadzic, the war-time Bosnian Serb president, was arrested in Belgrade and transferred to the Tribunal's custody (see Serbia entry). He had been indicted by the Tribunal for, among other things, the siege of Sarajevo and murder of over 7,000 Bosniak men and boys in Srebrenica.

Justice system – war crimes

A large number of war crimes cases continued to be prosecuted by domestic courts throughout the country, including by the War Crimes Chamber (WCC) of the BiH State Court. The capacity of the domestic judiciary to deal with complex war crimes cases remained limited, especially taking into account the scale of yet unprosecuted cases.

- The case of Mitar Rasevic and Savo Todorovic was transferred to the WCC from the Tribunal. Both the accused were convicted in February and sentenced to eight and half and twelve and a half years in prison respectively. They had been charged with participation in the establishment and maintenance of a system of punishment and mistreatment of Bosniak detainees in Foca detention facility during the 1992-1995 war and participation in the establishment of a forced labour system in the prison.
- After a guilty plea agreement in April 2008, Dusan Fustar was sentenced to nine years' imprisonment by the WCC for murder, torture and illegal detention of Bosnian Croat and Bosniak detainees in the detention camp Keraterm. The indictment against Dusan Fustar had been transferred to the WCC from the Tribunal. Following an agreement with the BiH State Prosecutor, the indictment against Dusan Fustar was modified and some charges dropped (he was initially

included in the case against Zeljko Mejakic and others, below).

- The remaining accused – Dusko Knezevic, Zeljko Mejakic and Momcilo Gruban – were sentenced in May to 31, 21 and 11 years' imprisonment respectively. They were charged with murder, rape, torture and unlawful detention of prisoners in the camps of Keraterm and Omarska.
- Pasko Ljubicic, the former commander of the Bosnian Croat military police, pleaded guilty as charged, and was sentenced to 10 years' imprisonment in April. Pasko Ljubicic had ordered his subordinates to execute 27 Bosniak civilians in the town of Busovaca. He also conveyed orders to kill or expel all adult Bosniak men from the area of Ahmici in BiH in April 1993, which resulted in the murder of more than 100 civilians.
- In May, Zeljko Lelek – a former Bosnian Serb police officer – was found guilty of taking part in "ethnic cleansing" operations in the Visegrad area in BiH during 1992. He was sentenced to 13 years' imprisonment on charges including unlawful imprisonment, torture and rape as well as participating in the forcible transfer of non-Serb civilians.
- In July, seven out of 11 accused were found guilty of genocide committed at Kravica farm near Srebrenica in July 1995. They were convicted of killing more than 1,000 Bosniak men and sentenced to between 38 and 42 years' imprisonment. The remaining four accused were acquitted of all charges.

Courts in the two semi-autonomous entities of BiH (Republika Srpska, RS, and the Federation of Bosnia and Herzegovina, FBiH) continued to prosecute war crimes cases. A more proactive approach of the authorities in RS started to emerge with approximately 150 cases under investigation in this entity in 2008.

- On 17 November, upon appeal the Supreme Court of RS convicted Milo Govedarica – a member of the White Eagles brigade – for war crimes against the civilian population of Gacko municipality.

Earlier, in July, Milo Govedarica was convicted and sentenced by the District Court in Trebinje to seven years and six months in prison for the rape of a Bosniak woman and for the killing of a civilian, Aziz Hasanbegovic.

Enforced disappearances

Almost 13 years after the war ended an estimated 13,000 people still remained unaccounted for.

The Missing Persons Institute (Institut za Nestale Osobe, INO) started its work in full capacity in 2008.

In June, the ICRC donated its database of missing persons to the INO, facilitating the establishment of a centralized system of information on all missing people in the territory of BiH.

- In May, the Constitutional Court of BiH delivered two verdicts in a hearing concerning 230 cases filed by the families of missing persons. It found the applicants' right to family and private life as well as their right to freedom from inhumane treatment had been violated because the state authorities had not opened investigations into the enforced disappearance and deaths of their relatives.

Internally displaced people and refugees

People displaced during the 1992-1995 war continued to return to their homes but the scale of the return considerably decreased.

According to the BiH Ministry of Human Rights and Refugees, more than 1.2 million people had not yet returned to their homes. The ones that had come back were often faced with inadequate access to housing. About 2,700 families still lived in collective housing establishments. Some of the returnees were not able to repossess their property.

Minority returnees continued to face problems exercising their social and economic rights, including access to health services and education. Lack of access to employment, caused partly by the poor economic situation of the country as well as by discrimination, continued to be one of the main obstacles to return.

Counter-terror and security

On 20 November Judge Richard Leon of the US District Court for the District of Columbia ordered the release of five of a group of six men of Algerian origin who had been illegally arrested in BiH and transferred to US custody at Guantánamo Bay, Cuba, in 2002. The judge ruled there was enough evidence to keep the sixth man (Belkacem Bensayah) in detention. Despite the order, the authorities of BiH agreed to accept only three of the men (Mustafa Aït Idir, Boudella El Hadj and Mohammed Nechle) and failed to undertake diplomatic measures to release the remaining two detainees. The three men were released from Guantánamo and arrived in Sarajevo on 16 December.

In June the Sarajevo Canton Prosecutor's Office opened an investigation against Zlatko Lagumdžija (former Prime Minister of BiH) and Tomislav Limov (former Minister of Interior) as well as against some lower ranking public officials for their alleged role in the unlawful arrest and handover of the six men to US custody.

The State Commission for the Revision of Decisions on Naturalization of Foreign Citizens continued its work. Up to 1,500 individuals came to BiH during the 1992-1995 war in order to work for humanitarian NGOs or to join the ABiH and subsequently took BiH citizenship. If their citizenship were to be revoked, these individuals could face deportation to their country of origin where they could be at risk of torture or the death penalty.

- Imad al Husein appealed against the revocation of his citizenship and his case was pending before the BiH judiciary. In January, the European Court of Human Rights requested that the BiH authorities undertake temporary measures to stop his deportation to Syria pending the final decision of the Constitutional Court of BiH and for a period of seven days after the notification of its verdict. However, a deportation order was still issued. In October, the Constitutional Court asked for a re-trial at the BiH State Court. Despite this decision on 6 October Imad al Husein was placed in a deportation facility.

Torture and other ill-treatment

Ill-treatment by the police and in prisons continued. Impunity prevailed due to an ineffective complaints mechanism and lack of investigations by the prosecutors into allegations of ill-treatment.

Conditions of detention were below international standards. Of particular concern were conditions in the Zenica Prison Forensic Psychiatric Annexe, where patients with mental health problems lacked adequate medical assistance.

The police reform law passed in April failed to address the problem of police accountability.

Discrimination – Roma

Measures taken to combat discrimination and social exclusion of members of Romani communities remained insufficient and sporadic. The co-ordination of such steps undertaken by different authorities was very low.

According to the international NGO Save the Children, only 20 to 30 per cent of Romani children attended primary education, and only 0.5 to 3 per cent attended pre-school education.

The State Council of Ministers developed action plans for Roma integration in the areas of employment, health services and housing, and in September BiH joined the Decade of Roma Inclusion.

Freedom of assembly – Sarajevo Queer Festival

The authorities failed to protect the organizers and participants of the Sarajevo Queer Festival which was organized for the first time in BiH in September. The event was closed earlier than planned, due to death threats received by the organizers and physical attacks on participants. The festival was surrounded by an atmosphere of intimidation as some BiH politicians and some media ran a homophobic campaign.

In November the Sarajevo Canton Prosecutor's Office indicted two men for physical attacks against the participants of the festival.

Amnesty International visits

Amnesty International delegates visited BiH in February and December.

Amnesty International reports

- Bosnia and Herzegovina: "Better keep quiet" – ill-treatment by the police and in prisons (7 February 2008)
- State of denial – Europe's role in rendition and secret detention (24 June 2008)

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