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Bosnia and Herzegovina

The legacy of the 1992-95 war in Bosnia and Herzegovina continued to define the key human rights challenges during 2006, with war crimes accountability and the rights of former refugees and displaced persons the most pressing concerns.

While nationalist parties lost some ground in the October 2006 elections, the election of Bosnian Muslim and Serb nationalists to the country's three-person presidency threatened to continue the dangerous rhetoric of the pre-election period. The presidency's Muslim representative Haris Silajdzic called for the dissolution of the two entities that make up Bosnia (Republika Srpska and the Federation), while Milorad Dodik, the Republika Srpska prime minister and head of the party holding the Serb seat on the presidency, called for Republika Srpska's self-determination. The international community's high representative in Bosnia responded by threatening to remove Dodik from office should he call a mooted referendum on the issue.

War Crimes Accountability

During 2006 the specialized war crimes chamber within the Bosnian State Court began to hear cases referred from the International Criminal Tribunal for the former Yugoslavia (ICTY). The ICTY has transferred five cases (involving nine accused) since September 2005 as part of its completion strategy. In June 2006 the United States extradited two Bosnian Serbs accused of war crimes in Srebrenica in July 1995 for trial by the State Court.

At this writing, the Bosnian war crimes chamber was hearing 18 cases, some involving multiple suspects, including 11 Bosnian Serbs charged with genocide relating to Srebrenica. The chamber delivered judgments in four cases during 2006. In October its conviction of Nedjo Samardzic for war crimes was overturned by the appeal chamber and a retrial ordered.

The district courts in Republika Srpska continued to try war crimes cases, albeit at a slow pace. Only two of the entity's five district courts—Banja Luka and Trebinje—were hearing war crimes cases (one in each court) at this writing. In the Federation, war crimes trials continued at a faster pace, with half of its 10 cantonal courts hearing cases during 2006.

The efforts of cantonal and district courts to prosecute war crimes continue to be hindered by lack of support from the public, under-resourcing, and witness cooperation issues: victims are generally reluctant to travel to another entity's courts to testify against the accused, and entity-level witness protection schemes need developing. But the non-availability of suspects remains the biggest impediment to accountability.

Many war crimes suspects are Bosnian Serbs and Croats now resident as citizens in Serbia and Croatia. The constitutions of these countries prohibit extradition of their citizens. Bosnia refused to sign up to a September 2006 agreement between Croatia and Serbia that would facilitate prosecutions in the country of residence, insisting that defendants be tried in the country where the crimes took place.

At this writing, the Bosnian authorities during 2006 had not apprehended any persons indicted by the ICTY. Five indictees remain at large, including Radovan Karadzic and Ratko Mladic.

In March the ICTY sentenced Bosnian Muslim Gens. Enver Hadzihanovic and Amir Kubura to five and three-and-a-half years' imprisonment respectively for failing to prevent crimes against Croats and Serbs in central Bosnia. It sentenced Bosnian Croat Ivica Rajic to 12 years' imprisonment in May after he pleaded guilty to war crimes committed against Bosnian Muslims in Stupni Do village in October 1993. In July 2006 the ICTY sentenced Bosnian Muslim Naser Oric to two years' imprisonment for crimes against Bosnian Serbs in Srebrenica during 1992 and 1993. In September it sentenced high-ranking Bosnian Serb wartime official Momcilo Krajisnik to 27 years in prison for crimes against humanity across Bosnia, but acquitted him of genocide.

The ICTY Appeals Chamber affirmed in May the convictions and sentences of Bosnian Croat commanders Mladen Naletilic and Vinko Martinovic for crimes against Bosnian Muslims in the Mostar area. In March the Appeals Chamber confirmed the conviction of Milomir Stakic, a Bosnian Serb wartime official in Prijedor, for crimes committed there in 1992, but reduced his life sentence to 40 years' imprisonment.

In June 2006 the Russian Federation extradited Bosnian Serb ICTY indictee Dragan Zelenovic to Bosnia, which transferred him to the ICTY the same month.

Return of Refugees and Displaced Persons

The annual numbers of refugees and displaced persons returning to their homes continue to decline. The United Nations High Commissioner for Refugees (UNHCR) registered 2,946 such returns by July 31, 2006, compared to 5,059 by the same point in 2005. Around half of more than two million people displaced during the war have registered return to their pre-war homes, around 450,000 of them to areas where they now constitute an ethnic minority. But the actual numbers of returns are much smaller: a 2005 field study by the Bosnian Helsinki Committee for Human Rights indicated that fewer than half of those registered as returnees actually live in their pre-war places of residence.

The situation for those returning to areas where they now constitute a minority remains the most difficult. Cases of harassment and attack against minority returnees increased in the pre-election period. There was also evidence of public and private sector employment discrimination against minority returnees. Other obstacles included insufficient funds to reconstruct destroyed properties, and lack of access to social and medical benefits.

Citizenship and National Security

The formation in March of a state commission to examine more than 1,000 decisions to grant citizenship to foreign nationals since 1992 raised human rights concerns. Suspicion on the part of the Bosnian and foreign governments that a number of naturalized Bosnian citizens may be involved in terrorism provided the impetus for its establishment. Many of those under scrutiny are Arab and other Muslims who

arrived during the war, either to fight for Bosnian Muslim forces or work in Islamic charities. Human rights groups are concerned that the commission's decisions and the lack of effective procedural safeguards may put individuals at risk of return to places where they could face torture or persecution. To date, the commission has revoked the citizenship of 92 persons, citing involvement in terrorism, and upheld decisions in 99 other cases.

In his June report on European states' involvement in "extraordinary renditions" by the CIA, Dick Marty, rapporteur of the Parliamentary Assembly of the Council of Europe, found that Bosnia had deliberately assisted in the 2002 rendition of six Algerian terrorism suspects to United States custody at Guantanamo.

Human Rights Defenders

In February 2006 the staff of the independent Research and Documentation Center were threatened through an anonymous phone call and warned to stop their analysis on war-related deaths. The center's downward revision of the number of wartime casualties has drawn criticism from Bosnian Muslims, the war's principal victims.

Key International Actors

In January 2006, Bosnia and Herzegovina began the first round of negotiations with the European Union on a Stabilization and Association agreement (SAA), a precursor to eventual membership. Despite initial signals from Brussels that the SAA talks could be concluded by the end of 2006, the limited progress on reform assessed in the European Commission's November progress report on Bosnia made agreement unlikely within that timeframe. The EU continues to give an insufficient focus to domestic war crimes prosecutions in its relations with Bosnia.

Also in January, Christian Schwarz-Schilling replaced Paddy Ashdown as the international community's (and the EU's) high representative to Bosnia and Herzegovina. He did not fulfill his promise to exercise his powers in a more limited manner than his predecessor: during the summer, Schwarz-Schilling lifted bans on individuals holding public office imposed by previous high representatives. In June he imposed amendments to the law on the transfer of cases from the ICTY to Bosnia, and

to Bosnia's criminal procedure code (extending detention time limits). In September he appointed a special envoy to resolve outstanding issues in ethnically divided Mostar, as well as warning Dodik over calls for a referendum.

In June the Peace Implementation Council (PIC, which represents 55 governments and agencies), announced that the office of High Representative would be abolished by June 2007, and replaced by the office of the European Union's Special Representative (EUSR) with much more limited powers. The PIC will review and confirm its decision in early 2007.

In January 2006 EU peacekeeping force in Bosnia (EUFOR) personnel killed the wife of war crime suspect Dragomir Abazovic as they sought to arrest him in Rogatica; Abazovic and his 11-year-old son were wounded in the operation. EUFOR officials claimed that Abazovic, his wife and son fired first and that Abazovic's head wound was self-inflicted. EUFOR said it was acting on an arrest warrant from Sarajevo Cantonal Court. The case was later taken up by the State Court, which released Abazovic from custody in February without charge. EUFOR had previously been criticized for failing to apprehend any war crime suspects.

In September the United States announced the withdrawal from Bosnia of its remaining 150 NATO soldiers by the end of 2006, leaving peacekeeping entirely in the hands of the EU. In October EU defense ministers agreed at a meeting in Finland to reduce their force numbers in Bosnia and Herzegovina to about 1,500 from the current 6,000 personnel, but did not set a date for the reduction.