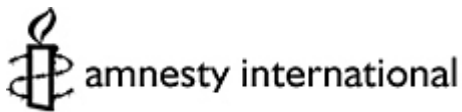


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Amnesty International Annual Report 2011 - Bosnia and Herzegovina

Head of state: rotating presidency – Zeljko Komsic, Nebojsa Radmanovic, Bakir Izetbegovic (replaced Haris Silajdzic in November)

Head of government: Nikola Spiric

Death penalty: abolitionist for all crimes

Population: 3.8 million

Life expectancy: 75.5 years

Under-5 mortality (m/f): 17/12 per 1,000

Adult literacy: 97.6 per cent

Nationalistic rhetoric was widespread. Prosecution of war crimes cases continued, but progress remained slow. Civilian victims of war continued to be denied access to justice and reparations.

Background

In the run-up to the October general elections, relations between the main ethnic groups – Bosnian Muslims (Bosniaks), Croats and Serbs – continued to be marked by nationalistic rhetoric. Continuous calls for separation by several high-level politicians in the Serb entity of Republika Srpska in Bosnia and Herzegovina (BiH) threatened the stability of the country. On some occasions Croat politicians also proposed the creation of a Croat-dominated entity within BiH.

In July, just before the 15th anniversary of the genocide at Srebrenica in 1995, several high-level politicians of Republika Srpska made statements glorifying the perpetrators of this crime and other people accused of being responsible for it, including Radovan Karadzic. Some of them denied the fact that genocide had taken place in Srebrenica.

The main ethnic parties representing Serbs and Bosniaks – the Alliance of Independent Social Democrats (SNSD) and the Party of Democratic Action respectively – secured most seats in the decision-making institutions of the country. However, the elections also introduced a non-ethnic political party – the Social Democratic Party (SDP) which gained the majority of seats in the Federation of BiH (the predominantly Bosnian Muslim and Croat entity).

The international community continued to maintain its presence in BiH, and Valentin Inzko continued to serve as the High Representative – head of the civilian peace implementation agency created by the 1995 Dayton Peace Agreement. The High

Representative also acted as the EU Special Representative.

The EU maintained its peacekeeping force with approximately 1,600 troops as well as a police mission with just under 300 staff.

The accession negotiations with the EU continued. As part of the process, in December the country entered into a visa liberalization agreement which allowed citizens of BiH to travel freely in the 25 countries within the Schengen area of Europe.

In January, BiH started to serve its two-year term as a non-permanent member of the UN Security Council.

Justice system – crimes under international law

Prosecution of crimes under international law continued before the domestic judiciary in BiH, at a slow pace.

The War Crimes Chamber (WCC) of the State Court continued to play the central role in war crimes prosecutions in BiH. At the end of September, 50 war crimes trials were pending before the WCC. A further 20 cases were on trial in the Federation of BiH and 13 in the Republika Srpska. The Brcko District had four pending cases. Prosecution of rape and other war crimes of sexual violence continued to receive little attention. Fewer than 20 such cases had been prosecuted in total by the WCC since its creation in 2005.

However, it was estimated that there was a backlog of up to 10,000 untried war crimes cases. The implementation of the State Strategy for the Work on War Crimes, which was adopted in 2008 in order to address the issue, was delayed.

Witness support and protection measures in BiH remained inadequate, and continued to be one of the main obstacles for victims of war crimes and their families in seeking justice.

Despite some efforts, the authorities failed to grant access to reparation for many victims of war crimes, including survivors of sexual violence, families of those forcibly disappeared and victims of torture.

Verbal attacks on the justice system and denial of war crimes – including of the genocide in Srebrenica in July 1995 – by high-ranking politicians further undermined the country's efforts to prosecute war crimes cases.

International justice

At the end of 2010, six war crimes cases concerning BiH were pending before the Trial Chamber of the International Criminal Tribunal for the former Yugoslavia (Tribunal). In addition, two cases were on appeal.

- In June, the Trial Chamber of the Tribunal convicted seven former Bosnian Serb high-ranking military and police officials on charges related to crimes under international law committed in 1995 in Srebrenica and Zepa. Vujadin Popovic and Ljubisa Beara were found guilty of genocide along with other charges and sentenced to life imprisonment. Drago Nikolic was convicted of aiding and abetting genocide, extermination and murder, among other charges, and sentenced to 35 years in prison. Ljubomir Borovcanin, who was found guilty of aiding and abetting extermination, murder, persecution and forcible transfer, was sentenced to 17 years in prison. Radivoje Miletic, convicted of murder, persecution and forcible transfer, was sentenced to 19 years' imprisonment. Milan Gvero was found guilty of persecution and inhumane acts and sentenced to five years. Vinko Pandurevic was found guilty of aiding and abetting murder, persecution and inhumane acts and was sentenced to 13 years' imprisonment.

The Trial Chamber found that at least 5,336 individuals were killed in several executions following the fall of Srebrenica but noted that the final number of victims could be as high as 7,826.

- The proceedings against Radovan Karadzic continued before the Trial Chamber on various charges, including two counts related to genocide. The first related to the crimes committed between 31 March and 31 December 1992 in a number of municipalities in BiH, including killings, torture and forcible transfer or deportation, and whose aim was the destruction of Bosnian Croats and Bosnian Muslims as ethnic or religious groups. The second referred to the killing of more than 7,000 men and boys in July 1995 in Srebrenica. There were also five counts of crimes against humanity, including persecution, extermination, murder and deportation of non-Serbs. The indictment also contained four charges of violations of the laws or customs of war such as hostage-taking and spreading terror among the civilian population.

During the proceedings Radovan Karadzic rejected all charges, claiming that both Sarajevo and Srebrenica were legitimate military targets.

- The appeals proceedings in the case against Rasim Delic started in January. He had been found guilty of failing to take necessary and reasonable measures to prevent and punish the crimes of cruel treatment committed by members of the El Mujahedin Unit of the Army of BiH. He had been sentenced to three years' imprisonment by the Trial Chamber in September 2008. On 16 April, while on provisional release, Rasim Delic died. In June, the Appeals Chamber terminated the appeals proceedings and announced that the Trial Chamber judgement should be considered as final.

Some victims and their families sought justice before other international courts.

- On 28 January 2010, the Court of Appeals in The Hague heard a civil case filed by 6,000 relatives of the victims of genocide in Srebrenica (the "Mothers of Srebrenica") against the Netherlands and the UN.

The applicants claimed compensation from the Dutch authorities and the UN for having failed to protect them and their families from genocide committed in Srebrenica in July 1995 by members of the Bosnian Serb Army led by General Ratko Mladic. In the first instance judgement in July 2008, the District Court in The Hague had stated that it had no jurisdiction over actions by the UN personnel. It also discharged any responsibility of the Dutch government.

On 30 March, the Court of Appeals in The Hague rejected the appeal in the case. The court stated that the immunity of the UN from prosecution was absolute and that it was not competent to deal with the compensation claim.

Women's rights

Survivors of war crimes of sexual violence

Despite some efforts by the Ministry for Human Rights and Refugees to introduce relevant state laws and policies, survivors of war crimes of sexual violence continued to be denied access to economic and social rights.

Many women who were raped during the war continued to live in poverty. They were unable to find work as they still suffered from the physical and psychological consequences of their war-time experience.

In July, the Ministry, together with the UN Population Fund and NGOs, started work on a state strategy for reparation for these survivors. However, crucial political support for the initiative was missing.

A lack of government support for psychological support for the survivors meant that services were almost exclusively provided by NGOs, and often had limited reach. Many survivors of war crimes of sexual violence could not access the health care system. They were also discriminated against in access to social benefits compared to other groups of victims of war, such as war veterans.

At the November session of the UN Committee against Torture, the government acknowledged that only 2,000 women survivors of war crimes of sexual violence were receiving social benefits in the country based on their status of civilian victims of war.

Freedom of expression

In August the Serb SNSD party proposed in the State Parliament of BiH a draft law which would prohibit wearing clothes in public which prevent identification. Concerns were expressed that the draft law, if adopted, would violate the rights of women who choose to wear a full-face veil as an expression of their religious, cultural, political or personal identity or beliefs, and would violate their right to freedom of expression and religion.

Enforced disappearances

Progress in identifying the whereabouts of victims of enforced disappearance during the 1992-1995 war was slow. Due to the inadequate response of the justice system, those responsible often enjoyed impunity.

Although exhumations conducted by the Missing Persons Institute continued at various locations, the whereabouts of between 10,000 and 11,500 people remained unknown.

The state authorities failed to create a database of the missing people and to open the Fund for Support to the Families of Missing Persons – both of which were envisaged by the Law on Missing Persons adopted in 2004.

In June, the UN Working Group on Enforced or Involuntary Disappearances visited BiH and urged the authorities to implement in full the 2004 law. It also noted with concern that many judgements of the Constitutional Court of BiH in cases involving enforced disappearances remained unimplemented. It recommended that the authorities establish a national programme on reparations for relatives of victims of enforced disappearance, which should include measures such as compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition.

Discrimination

Minority rights

The authorities failed to implement the December 2009 judgement of the European Court of Human Rights in the case brought by Dervo Sejdic (a Romani man) and Jakob Finci (a Jewish man). The applicants complained that, as they did not belong to any of the main ethnic groups, they were denied the right to be elected to the state institutions (as under the current legal framework this right was restricted to Bosniaks, Croats and Serbs). The Court had ruled that the constitutional framework and the electoral system discriminated against the applicants and the authorities were obliged to amend it. However, political attempts to change the constitutional framework, the electoral system and to reform the state institutions failed.

Roma

In August, the CERD Committee expressed concerns about discrimination of Roma in access to adequate housing, health care, employment, social security and education. The Committee also recommended that the authorities take measures to ensure that all Roma had access to identity documents.

Counter-terror and security

The authorities of BiH continued to violate the rights of some people who had settled in BiH during or after the war and who had subsequently been granted BiH citizenship. As a result of decisions by the State Commission for the Revision of Decisions on Naturalization of Foreign Citizens, some of them lost their citizenship and deportation procedures were initiated against them.

Several individuals were placed in prolonged detention in the immigration deportation centre in Lukavica awaiting deportation to their countries of origin. They included Imad Al-Husein (detained since October 2008), Ammar Al-Hanchi (detained since April 2009), Fadil El-Hamdani (detained since June 2009) and Zijad al-Gertani (detained since May 2009). The authorities continued to imprison these people, whose citizenship had been revoked, on the grounds of unspecified national security concerns. If deported, they would be at risk of torture or the death penalty in their countries of origin.

There was no legal provision for the four men to examine the evidence brought against them, and consequently they could not effectively challenge the decisions on their detention before the courts in BiH.

Two of the detainees appealed to the European Court of Human Rights against the revocation of their citizenship and their subsequent removal from the country. In both cases, the Court granted temporary measures against their deportation.

In November, the UN Committee against Torture recommended among other things that the authorities ensure that national security considerations did not undermine the principle of *non-refoulement*. The Committee urged BiH to fulfil its obligations to respect the principle of absolute prohibition of torture in all circumstances.

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