



January 2008

country summary

## Bosnia and Herzegovina

There was progress on accountability for war crimes from the armed conflict of the first half of the 1990s, including through domestic prosecutions. However, the number of refugees and displaced persons returning to their areas of origin continues to decline.

### War Crimes Accountability

Improved Bosnian official cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), including by Republika Srpska, delivered concrete results in 2007. Bosnia's War Crimes Chamber continued successfully to pursue its mandate of prosecuting those responsible for war atrocities. Nonetheless, there are concerns regarding the chamber prosecution's prioritization of cases, excessive use of closed sessions (justified on witness protection grounds), and inadequate public outreach.

Bosnian collaboration with Serbian authorities and the European Union peacekeeping force in Bosnia (EUFOR) resulted in the arrest of indicted Bosnian Serb army general Zdravko Tolimir in May and his transfer to the ICTY. The two most wanted ICTY indictees, Ratko Mladic and Radovan Karadzic, remain at large, however. Dragan Zelenovic pled guilty and was sentenced to 15 years' imprisonment by the ICTY in April for the rape and torture of Bosniak (Bosnian Muslim) women and girls in the Foca area. The ICTY Appeals Chamber reduced the sentences of Radoslav Brdjanin (convicted of failing to prevent war crimes against Bosniak and Croat civilians) and Vidoje Blagojevic (convicted for crimes against humanity at Srebrenica) in April and May, respectively.

In Bosnia's War Crimes Chamber defendants included former Yugoslav Army commander Marko Samardzija; Gojko Jankovic, the former commander of Republika Srpska military units operating in Foca; and 11 members of the Serbian special police and military charged with genocide over the Srebrenica massacre. Gojko Klickovic,

former prime minister of Republika Srpska, was extradited to Bosnia from Serbia in June 2007. Klicovic is charged with crimes against humanity.

In May Radovan Stankovic, the first indictee to be transferred from the ICTY to Bosnia, escaped while being transferred to hospital. Stankovic was serving a 20 year sentence for crimes against Bosniak civilians in the Foca area, following his November 2006 conviction by the Bosnian chamber. At this writing he remains at large.

The ICTY transferred five cases to the chamber for trial during 2007, including that of Milorad Trbic, charged with involvement in the Srebrenica genocide. But the ICTY Appeals Chamber ruled in July 2007 against the transfer of the case of Milan and Sredoje Lukic for their alleged role in the killings of civilians in the Visegrad area, reversing an earlier decision. The court cited the enormity of crimes committed and possible distress to victims if the case was transferred.

War crimes prosecutions also continue in the Federation cantonal courts (26 cases at this writing), Republika Srpska district courts (nine cases), and Brcko special area court (one case). Local prosecutors and judges are increasingly proactive in investigating and prosecuting war crimes, but remain hampered by weak witness protection, a lack of funding, and limited political and public support. The unwillingness of the Banja Luka court (Republika Srpska) to classify wartime sexual crimes as war crimes drew criticism domestically.

The number of lawsuits filed in the Republika Srpska and Federation courts against both entities for compensation for wartime death and injury continue to grow. Neither entity has a strategy to systematically address the thousands of claims.

On February 26 the International Court of Justice ruled that the Serbian government was not directly responsible for genocide during the Bosnian war (see chapter on Serbia). Bosnian victims' associations were dismayed at the verdict and staged a number of peaceful protests.

The whereabouts of approximately 13,000 missing persons from the war remain unknown. The majority are Bosniak. Mass graves containing 200 victims of the Srebrenica massacre, including children, were discovered in September.

## **Return of Refugees and Displaced Persons**

As of June more than 134,000 Bosnians remain internally displaced. The United Nations High Commissioner for Refugees (UNHCR) registered around 1,250 IDP and 300 refugee returns during the first half of 2007, around half the number from the same period in 2006. The majority of returning refugees in 2007 were Bosniak, while most returning IDPs were Bosniaks or Bosnian Serbs.

Not all of those registered as returning remained permanently, especially in areas where the returnees' ethnic group is now in a minority. Limited economic opportunity and perceptions of insecurity provide part of the explanation. Anti-minority violence remained sporadic, but in some instances—such as the violent assault in July on Bosnian Serb Bishop Hrizostom in Bosanski Petrovac, for which no one has yet been charged—it undermines confidence in return. Property repossessions by pre-war owners under a national restitution scheme increased, but most minority returnees then sell their property, particularly in urban areas.

Many of those who remain displaced lacked property before the war. Despite government housing schemes in 30 municipalities aimed at displaced persons, lack of housing remains an obstacle to return. Approximately 7,000 IDPs still live in collective centers, some of which are sub-standard.

Roma refugees in Bosnia, the majority of whom come from Kosovo, remain vulnerable and dependent on periodic extensions of their temporary protection status.

## **Citizenship and National Security**

The Bosnian commission established to review wartime decisions on the naturalization of foreign citizens continues its work. At this writing around 1,300 cases have been reviewed, with around 500 individuals stripped of Bosnian

citizenship, including some 350 of North African origin who came during the war. While the process is said to be motivated solely by concerns over irregularities in naturalization decisions, it is clearly linked to concerns about the presence in Bosnia of Islamist radicals with links to terrorism.

Many appealed against loss of their citizenship and were allowed to remain in Bosnia pending the outcome. At this writing none has been deported. National and international human rights organizations expressed concern that Bosnia lacks adequate safeguards against risk of return to serious human rights abuse, including torture or ill-treatment, for those subject to deportation.

The six Algerian national security suspects illegally transferred to Guantanamo Bay in 2002 with the complicity of the Bosnian authorities remain there at this writing. In May 2007 the men (four of whom are Bosnian citizens) filed a claim against Bosnia in the European Court of Human Rights for failing to intervene on their behalf with the United States government, resulting in ongoing human rights violations.

### **Police Decertification**

In April 2007 the United Nations Security Council agreed to terms under which 598 Bosnian police officers disqualified from service on the grounds of alleged involvement in human rights abuses could reapply for police jobs. The decision followed concerns expressed by the Council of Europe's Venice Commission and commissioner for human rights that the decertification process lacked transparency and a meaningful appeals system. Decertified former police seeking reappointment must admit to the previous decertification when applying for a new position.

In July the international high representative dismissed Republika Srpska senior police officer Dragomir Adnan for using his position to protect fugitives, and 35 other police officers for their alleged role in the Srebrenica massacre.

### **Human Rights Defenders**

The killing in February of Dusko Kondor, co-founder of the Helsinki Committee for Human Rights in Republika Srpska, in a machine gun attack carried out by local

gangsters, in which his daughter was also severely injured, was viewed with alarm among Bosnian human rights defenders. Although the attack appeared unrelated to Kondor's human rights work, colleagues claimed that the police failed to give him adequate protection, despite requests for assistance following earlier threats. The trial of persons accused of involvement in Kondor's death is ongoing at this writing.

In March the Ministry of Justice simplified the requirements for nongovernmental organization registration at state level.

### **Key International Actors**

The mandate of the international high representative was extended to June 2008, reversing a plan by the Peace Implementation Council to end it in June 2007 and retain only an EU special representative with limited powers. In July Slovak diplomat Miroslav Lajcak was appointed to both positions.

Bosnia's negotiations with the EU for a Stabilization and Association Agreement (SAA) remained stalled due to unresolved issues concerning police, public broadcasting, and public administration reform. The EU peacekeeping force in Bosnia was reduced from 6,000 to 2,500 in December 2006 in light of an improved security situation. The mandate of the EU Monitoring Mission (EUMM) expires in December 2007.

In May Bosnia was elected to the UN Human Rights Council. Members are required to "uphold the highest standards in the promotion and protection of human rights."

To its credit, the government of Bosnia and Herzegovina agreed in June to publish the report of the Council of Europe's Committee for the Prevention of Torture (CPT) following their March visit. The report published in July noted the failure to segregate dangerous prisoners and some incidents of mistreatment of prisoners by prison guards, and inadequate provisions and safeguards for juvenile and mentally ill offenders.