
Bosnia and Herzegovina

Entrenched ethnic divisions among the political elites in Bosnia continue to shape political and human rights developments in the country. While ethnic violence has for the most part ended, ongoing ethnic divisions among Bosnia's constituent peoples – Bosniacs (Bosnian Muslims), Serbs, and Croats – continue to impede progress in key human rights areas, such as war crimes accountability and the return of refugees and displaced persons.

War Crimes Accountability

For the first time in years, the NATO-led Stabilization Force (SFOR) did not arrest a single Bosnian citizen indicted before the International Criminal Tribunal for the former Yugoslavia (ICTY) in 2004. Nevertheless, SFOR intensified efforts to arrest Bosnian Serb wartime leader Radovan Karadzic, conducting several operations near Sarajevo and in remote mountain villages in the east of the country, where Karadzic was believed to be hiding. SFOR also arrested several individuals believed to belong to the network of persons who were helping Karadzic hide. Still, Karadzic remained at large as of October 2004.

Leading political and military figures in the wartime Croatian Republic of Herzeg-Bosnia – Jadranko Prlic, Bruno Stojic, Slobodan Praljak, Milivoj Petkovic, Valentin Coric, and Berislav Pusic – surrendered to the Tribunal on April 5, 2004. They are charged with crimes against humanity and war crimes committed against Bosnian Muslims in Western Bosnia and Herzegovina during the early 1990s.

Although officials in Republika Srpska (the majority Serb area of Bosnia) repeatedly agreed to cooperate with the ICTY, Republika Srpska continued to be the only area of the former Yugoslavia that has not surrendered a single war crimes indictee to the Tribunal. On October 15, 2004, the Republika Srpska Commission on Srebrenica submitted to the Republika Srpska government a report concerning the 1995 events in Srebrenica and acknowledged for the first time that the Bosnian Serb Army had been responsible for the killing of more than seven thousand Bosniac men and boys. Republika Srpska authorities had previously claimed that only one hundred Bosniacs had been executed and that another 1,900 had died in combat or from exhaustion.

Local officials in each entity of Bosnia remain unwilling to prosecute members of the ethnic majority in their region for war crimes. Hundreds, possibly thousands, of war crimes committed in Republika Srpska have yet to be investigated and tried before the Republika Srpska courts. In May 2004, Republika Srpska opened the first war crimes trial ever against ethnic Serbs; eleven Serbs are accused of the illegal detention of Catholic priest Tomislav Matanovic in 1995, who was later found murdered. In the

Federation of Bosnia and Herzegovina (the Bosniac majority area), there have been more indictments against members of the local ethnic majority, but these efforts have been plagued by a lack of support on the part of police and political elites, as well as poor cooperation between the countries in the region and entities in Bosnia and Herzegovina on judicial matters, and a lack of witness protection mechanisms.

At the end of 2004, the process of establishing a special war crimes chamber, as part of the State Court of Bosnia and Herzegovina, was nearing completion. The chamber, which is to be based in the Bosnian capital Sarajevo, is expected to try the most serious war crimes cases. As of October, however, the position of the special war crimes prosecutor had not yet been established.

Return of Refugees and Displaced Persons

According to the United Nations High Commissioner for Refugees (UNHCR), as of the end of August 2004, 1,001,520 out of a total of more than 2 million people forcibly displaced during the war had returned to their home areas. Of these, 445,735 persons had returned to municipalities where they currently constitute an ethnic minority. UNHCR hailed the figures as a sign of success. However, these statistics would appear to show that the results of ethnic cleansing in the country remain largely intact.

The sharp decrease in minority returns that began in 2003 continued in 2004. Between January and the end of August, UNHCR registered 11,529 minority returns to pre-war homes, two-thirds less than in the same period in 2003. This trend reveals that, nine or more years after they initially fled, a decreasing number of people are willing to return to their pre-war homes. Limited economic opportunities in the areas of return, aggravated by ethnic discrimination in employment, are a principal impediment to return. What is more, nine years after the war ended, the homes of tens of thousands of families who had expressed a desire to return have yet to be repaired.

Key International Actors

The Office of the High Representative (OHR), which oversees civilian aspects of the 1995 Dayton Peace Accords, stepped up its efforts to advance the process of war crimes accountability. The OHR played a key role in establishing the special war crimes chamber in Bosnia's State Court and in drafting the legislation on witness protection, use of ICTY evidence in domestic proceedings, and the Office of the State Court Prosecutor, which was introduced in the Bosnian parliament in October 2004.

The ICTY issued a series of important, and in some cases controversial, judgments in cases arising from the war in Bosnia in 2004. Other important trials commenced or reached an advanced stage during the year. On April 19, the Appeals Chamber of the ICTY confirmed an earlier finding by a trial chamber that in July 1995, Serb forces had committed genocide in Srebrenica. The Appeals Chamber sentenced Bosnian Serb Army General Radislav Krstic to thirty-five years of imprisonment. A trial chamber in the case of Bosnian Serb Radoslav Brdjanin, however, found that no genocide had occurred in 1992 in the area of Krajina, where Serb forces killed hundreds of Muslim and Croat civilians and expelled hundreds of thousands. In another controversial decision, on July 29, the Appeals Chamber reversed the majority

of the trial chamber's March 2000 conviction of Bosnian Croat Tihomir Blaskic and reduced his sentence to nine years. He had initially been sentenced to forty-five years of imprisonment. While ICTY decisions have sometimes caused at least initial perplexity among some victim groups in Bosnia, the integrity of the proceedings before the tribunal and the legal reasoning underlying its decisions remained remarkable.

Other ICTY judgments in 2004 include the ten year prison sentence for Miroslav Deronjic, a Bosnian Serb guilty of crimes against humanity in eastern Bosnia in 1992, and the eighteen year prison sentence for Ranko Cesic, another Bosnian Serb, for crimes against humanity and war crimes committed in 1992 in the Luka prison camp near Brcko.

The court also tried two major cases against accused Bosnian Muslims. On July 23, the prosecution presented its closing argument and concluded its case against Bosnian Muslim generals Enver Hadzihasanovic and Amir Kubura, both charged with war crimes against Bosnian Croats and Serbs in Central Bosnia in 1993-94. The trial of Naser Oric, commander of the forces of the Army of Bosnia and Herzegovina in the Srebrenica area, for crimes against Serb civilians, began on October 6.

Along with the OHR, the ICTY initiated the establishment of the special war crimes chamber in Bosnia's State Court. In September, the Office of the Prosecutor made a motion to refer the cases against Bosnian Serbs Zeljko Mejakic, Momcilo Gruban, Dusko Knezevic, and Dusan Fustar, regarding the Omarska and Keraterm detention camps in northwestern Bosnia, to the war crimes chamber. The president of the ICTY requested additional information from the Office of the Prosecutor on the ability of Bosnia and Herzegovina to provide fair trials before a competent court.

In June, the E.U. Council approved European Partnership, a document detailing short- and medium-term priorities for Bosnia and Herzegovina's preparations for further integration with the E.U., which had been identified in the European Commission's 2004 Annual Report. The human rights objectives, which serve as a checklist against which to measure progress, include: assuming full organizational and financial responsibility for the 2004 municipal elections; creating an effective judiciary (including establishing a single High Judicial and Prosecutorial Council for Bosnia and Herzegovina); adopting and bringing into force outstanding legislation supporting refugee returns; completing the transfer of the human rights bodies to Bosnian control; making progress on the merger of the State and Entity Ombudsmen; and, full cooperation with the ICTY, particularly on the part of Republika Srpska. On October 4, the Commission praised the conduct of the municipal elections and declared that Bosnia had fulfilled this political condition from the Partnership.

The E.U. police mission to Bosnia and Herzegovina (EUPM) continues the international policing operation in the country, which it took over from the United Nations in the beginning of 2003. At the June 28-29 summit in Istanbul, NATO announced that an E.U.-led peacekeeping force (EUFOR) would replace its Stabilization Force (SFOR) before the end of 2004. On July 12, the E.U. Council indicated

formally that, beginning in December 2004, the E.U. would conduct a peacekeeping operation in Bosnia in order to contribute to a safe and secure environment in the country.