

Bosnia and Herzegovina

The discovery in August 2008 of a mass grave near Kamenica, believed to hold the bodies of up to 100 victims of the 1995 Srebrenica massacre, was a reminder that Bosnia remains marked by the legacy of the 1992-95 war. The appearance of Radovan Karadzic in the dock of the International Criminal Tribunal for the former Yugoslavia (ICTY), 13 years after his indictment, was a major blow against impunity; but progress in prosecuting war crimes in Bosnia's courts was mixed. The number of refugees and displaced persons returning to their areas of origin continues to decline. The climate for civil society in Republika Srpska worsened.

War Crimes Accountability

On July 30, 2008, Radovan Karadzic was transferred from Serbia to The Hague (for his apprehension see Serbia chapter). His initial appearance before the ICTY took place the following day. Karadzic is charged with genocide, including at Srebrenica; crimes against humanity; and war crimes. Karadzic refused to enter a plea during his second appearance in August, saying he did not recognize the court's jurisdiction. A "not guilty" plea was entered on his behalf. In September prosecutors streamlined the indictment, narrowing the geographic scope and clarifying the allegations against Karadzic. In a disappointing move, the amended Karadzic indictment remains vague on charges of sexual violence.

Ratko Mladic, fellow indicted architect of the Srebrenica massacre, remains at large.

In November Karadzic testified as a defense witness in the ongoing ICTY appeal of Momcilo Krajisnik, a Bosnian Serb wartime leader convicted in 2006 of crimes against humanity.

In June Stojan Zupljanin, accused of war crimes and crimes against humanity against non-Serbs principally in Republika Srpska, was transferred to the ICTY. In July the

appeals chamber acquitted Naser Oric, Bosniak (Bosnian Muslim) wartime commander in Srebrenica, on all counts, reversing his 2006 conviction and two-year sentence for crimes against Serb civilians. In September the ICTY sentenced Rasim Delic to three years' imprisonment for crimes against Serb prisoners; his conviction is under appeal.

In July 2008 a Dutch district court in The Hague ruled that it lacked jurisdiction to hear a civil claim against the United Nations brought by some 6,000 relatives of Srebrenica massacre victims.

Bosnia's War Crimes Chamber (WCC) continued successfully to pursue its mandate of prosecuting those responsible for war atrocities. In September 2008 the chamber launched a new national war crimes strategy to address the backlog of cases, which could involve as many as 10,000 suspects. According to the strategy, prosecutions before the WCC will focus on "those who planned the worst atrocities" during the war.

In November 2007 the WCC appeals chamber sentenced Gojko Jankovic, the former commander of Republika Srpska military units operating in Foca, to 34 years' imprisonment for sexual violence and other wartime abuses in Foca. Notable developments in the WCC during 2008 included sentences ranging from 38 to 42 years handed down in July to seven Serb defendants in the "Kravica case" convicted of genocide in and around Srebrenica.

Local (district and cantonal) criminal courts continue to face challenges in their efforts to effectively tackle war crimes trials. According to the Organization for Security and Co-operation in Europe (OSCE), Republika Srpska prosecutors have brought a total of 21 indictments against 44 accused, with district courts reaching 12 verdicts and 9 cases ongoing. In the Federation, cantonal courts have decided a total of 85 verdicts against 119 defendants, with 16 cases still in process.

The absence of witness support or protection services in most local courts discourages witnesses from testifying. Other shortcomings include an insufficient number of prosecutors and support staff; inadequate cooperation between

prosecutors and police, as well as between police across entity lines; lack of legal harmonization; and insufficient outreach to affected communities.

Return of Refugees and Internally Displaced Persons

Returns of refugees and internally displaced persons (IDPs) to their areas of origin continued to decline. As of June 2008 more than 132,000 Bosnians remained displaced. The United Nations High Commissioner for Refugees registered 286 IDP and 246 refugee returns during the first half of 2008, the majority in both categories being Bosniaks. Not all registered returnees remain permanently, especially in areas where the returnees' ethnic group now constitutes a minority. Limited economic opportunities and lack of adequate housing constitute the two main practical obstacles to sustainable return.

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

Citizenship and National Security

The Bosnian commission that reviews wartime decisions on the naturalization of foreign citizens, including those who came to fight alongside Bosniaks, continued its work. Attou Mimoun, a naturalized Bosnian of Algerian origin, was stripped of his citizenship and expelled in December 2007. Many others (now estimated at around 300 persons) also had their citizenship revoked. While the process is said to be motivated solely by concerns over irregularities in naturalization decisions, it appears also to be linked to concerns about the presence of alleged Islamist radicals in Bosnia with links to terrorism.

Some whose citizenship was revoked left Bosnia voluntarily. Others appealed against the loss of their citizenship and have been allowed to remain in Bosnia pending the outcome of those appeals. In a February report, the Council of Europe Human Rights Commissioner Thomas Hammarberg echoed NGO concerns about the lack of adequate safeguards against the risk of return to serious human rights abuse, including torture or ill-treatment, for those subject to forced removal. His comments followed the January 2008 intervention by the European Court of Human Rights to

halt the removal to Syria of Imad Al-Husin, pending the decision of the Bosnian Constitutional Court on his appeal against revocation of citizenship and deportation. At this writing, Al-Husin remains in detention in Bosnia.

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. Their cases were among those considered by the US Supreme Court when it ruled in June 2008 that detainees held at Guantanamo have the right to challenge their detention in civilian courts in the United States. Their petition to the European Court of Human Rights was expedited for consideration, but at this writing the court has yet to rule on the petition.

Human Rights Defenders

Branko Todorovic, the president of the Republika Srpska Helsinki Assembly, received threatening phone calls directed toward him and his family on July 23. While the police responded promptly by opening an investigation and providing protection, Republika Srpska authorities failed to condemn the threats. In May the Bijelina district court convicted two men for their role in the unrelated February 2007 murder of the organization's previous head, Dusko Kondor, and the wounding of his daughter. The defendant convicted of the murder received a 20-year prison sentence, while his accomplice received seven years. An appellate court rejected the latter's appeal against conviction in June.

Transparency International Bosnia and Herzegovina temporarily closed its office in Banja Luka in July following what the Office of the High Representative (OHR) called a "propaganda campaign" against the organization by Republika Srpska authorities. Republika Srpska Prime Minister Milorad Dodik accused the organization of racketeering and extortion, and offered "full witness protection" to citizens who came forward with information on its alleged wrongdoings. Dragomir Babic, a human rights activist from Republika Srpska, had alerted OHR about the campaign in an anonymous letter in February 2008. Babic came forward as the author following the July office closure, and received anonymous death threats during that month.

Lesbian, Gay, Bisexual, and Transgender Rights

The inauguration of Bosnia's first cultural festival for lesbian, gay, bisexual, and transgender people in September 2008 met with widespread denunciation and anonymous death threats. Violence at the opening injured at least eight participants; organizers were forced to make the rest of the festival a private event.

Key International Actors

In June the Peace Implementation Council agreed, despite Russian opposition, that no date should be set for closure of the Office of the High Representative, a further move away from its 2006 assessment that Bosnia would be ready for full self-governance by mid-2007.

In a positive move, the European Union concluded a Stabilization and Association Agreement with Bosnia on June 16, 2008, the first step toward opening membership negotiations, although its progress report in November was somewhat downbeat.

In May the European Court of Human Rights ruled in *Rodic v. Bosnia* that Bosnian Serb prisoners serving sentences for war crimes in Zenica prison had been subject to prohibited ill-treatment in 2005 because Bosnian authorities failed to protect the men from abuse at the hands of Bosniak prisoners. The European Court also received written submissions during 2008 in *Finci and Sedjic v. Bosnia*, which contests Bosnia's constitutional requirement that its three-person presidency must consist of a Serb, a Croat, and a Bosniak; thereby barring Jews, Roma, and other minorities from standing for election.