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# INTERNATIONAL HELSINKI FEDERATION FOR HUMAN RIGHTS

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## ANNUAL REPORT 1999

### Bosnia - Herzegovina [1]

#### IHF Focus:

Elections; freedom of the media; the judicial system and independence of the judiciary; right to fair trial; misconduct by law enforcement officials; accountability for war crimes; protection for ethnic minorities; freedom of movement and communication; social rights.

Three years after the signing of the Dayton Agreement, the legal framework for the area of human rights remained under work, and the constitutions of the different entities had not yet been harmonized with the constitution of Bosnia-Herzegovina. The failure to accomplish this task could largely be attributed to the desire of the leading nationalist parties - the Serbian Democratic Party (SDS), the Croatian Democratic Community (HDZ), and the Party of Democratic Action (SDA) of the Bosniaks - to maintain their political monopoly over specific areas and to preserve the division of the country on an ethno-religious basis. Each of them, to various degrees, attempted to hinder the realization of genuine equality of individuals, nationalities, and ethnic and political minorities and the full protection of human rights and freedoms.

Physical, legal, economic and social insecurity in Bosnia-Herzegovina resulted in the determination of a great number of individuals to emigrate to the US, Canada and Australia.

On the positive side, the issue of human rights became an essential part of overall social awareness and, consequently, an unavoidable topic in everyday political life. No political party of civic orientation could count on political success in the September elections unless it proved its commitment to the implementation of human rights. But despite political commitments, in practice individual rights and freedoms were being disregarded in the political system and were exposed to daily assaults throughout the country.

The activities of a number of domestic and international organizations contributed to the increasing reaffirmation and protection of human rights. The independent media - under severe pressure by leading political parties and under attack by hard-line nationalists - provided for important support in this field. Still, despite the growing interest in the rights of individuals, there was little interest in the promotion of

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COOPERATING ORGANIZATIONS:

The European Roma Rights Center – Human Rights Without Frontiers – Mental Disability Advocacy Center

collective interests such as the equality of ethnic and political groups, the right of refugees and internally displaced persons to return to their homes, and the protection and return of property.

Another positive sign was the commencement of the work of the Ombudsmen's Office and the Human Rights Chamber. The binding decisions of the Human Rights Chamber already proved to be important in clearing up evident injustices.

The federation ombudsmen continued to work successfully and was able to create a network of offices throughout the country. However, the so-called Republika Srpska (RS) still did not have ombudsmen. Also, in the Bosniak-Croat Federation (Federation BH), governmental authorities resisted many decisions and positions of the official agencies supporting human rights. Violations of the rule of law occurred daily, particularly in RS.

Following the signing of the peace agreement, the general and local elections were held twice in Bosnia-Herzegovina, and extraordinary elections in the RS. These elections did not in essence change the balance of power, although in the RS there were changes in favor of the alternative parties to the Serbian Democratic Party (SDS), while in the Federation BH support for social democracy was strengthened.

Due to the war, the establishment and operation of new governmental authorities were still paralyzed. Therefore, the highest officials of the peace mission were forced, on the basis of the Dayton Agreement and authorizations given by the steering board for its implementation, to take various decisions, which made Bosnia-Herzegovina seem like a protectorate. In such a way the Office of the High Representative (OHR) took decisions on the design of the flag, new money bills and car license plates. The international officials also decided to dismiss or force to resign some domestic officials because of their extremist positions or for not performing their duties.

## Elections [2]

On 12-13 September, parliamentary and presidential elections were held in Bosnia-Herzegovina. These elections did not in essence change the balance of power, although in the RS there were changes in favor of the alternative block of parties.

The elections were carried out under improved conditions compared to the 1997 local elections. During the election campaign, the media covered the programs of the

competing parties in a relatively balanced manner, and due to restrictions set by the OSCE, hate speech and expressions of extreme nationalism were largely avoided. There was considerable in-depth political debate about key questions such as the return of refugees, minority issues, economy, reconstruction, employment, improvements in the educational system, and social rights.

Another important feature of the elections was a high degree of security provided for voters and a greater respect for freedom of movement. The voting was carried out without any reported incidents of intimidation or pressure on voters in most polling stations. The irregularities registered during the two days of elections could not significantly effect the results of the elections and their democratic character.

However, OSCE election monitors reported, that the electoral materials were delivered with delay to 107 polling stations (1.3 percent of the total number of polling stations), and approximately 60 stations were, therefore, unable to open on the first day of the elections. The final voter registers were incomplete and inaccurate, causing a high number of tendered ballots. The complex design of the ballot caused problems for many voters, leading to a high number of invalid votes (approximately 10 percent).

The few incidents of violence and intimidation, which were reported during the elections took place in Zvornik, Banja Luka (RS), Stolac, and Bihac (Federation BH). In addition, the fact that many indicted war criminals remained at large influenced the political atmosphere in some areas, particularly in Pale and western parts of Herzegovina.

Following the elections, the main concern was that the establishment of new municipal assemblies, especially in the RS, was postponed, and many were not operating as of December 1998, because SDS and the Serbian Radical Party (SRS) refused to accept the results of the elections in those areas where they were dominating. In Zvornik and Bratunac (RS), newly elected Bosniak representatives of the municipal bodies belonging to the Coalition for Integral and Democratic Bosnia-Herzegovina (KCD) were physically attacked. In Foca (RS), where the KCD won 40 percent of the vote, the ultra-nationalistic parties flatly disregarded the results of the elections, and the elected representatives were threatened.

Freedom of the Media

A great number of media outlets operated in Bosnia-Herzegovina, including some 300 radio and television stations, and new ones were in creation. Many of them disseminated ethnic propaganda and hatred. The genuinely independent media faced great problems with a weak economy, limited market, and few people who could afford to buy newspapers and magazines.

### Electronic Media

The reform of the media was high on the priority list of international authorities in Bosnia-Herzegovina, particularly the reform of the former state electronic media, RTV. Its transformation was initiated in 1998. A provisional board of directors, international supervisory body and new director of RTV B were appointed. As the RS was not interested in participating in the joint RTV network, there were plans to allocate channels according to the ethnic proportion (Croat and Bosniak programs). Such a concept met wide criticism because it was said not to contribute to the democratization but rather to further partition and ethnic confrontation.

The first steps toward reform were taken also by the Serb radio TV in Banja Luka (RS) where a new board of directors, international supervisors and management were appointed. However, such measures were not carried out throughout the whole local network, a fact enabling ultra-nationalist influence.

The High Representative also set up the Independent Media Commission (IMC) and charged it with the task of drafting regulations for the operation of the electronic media, and to punish the violations of the code of professional behavior of the media, including the closure of media outlets. The composition of this commission was criticized for including three former foreign soldiers and the OSCE representative on Freedom of the Media. According to the International Press Institute, the membership of the latter could potentially lead to a conflict of interests. [3]

### Harassment of Journalists

The political developments were reflected in the media that remained under pressure by the dominant political forces. Conflicts of interests between different media outlets were commonplace. The independent media and journalists were subjected to physical and verbal harassment, and were attacked by the police and courts. Such abuses occurred particularly during the election period. Many were denied access to information.

- In Cajnice (RS), the president of the municipal assembly was the only person who was allowed to give information on local matters to the media. No other authorities dared to speak with journalists.

- In Sarajevo, the independent magazine Dani was particularly targeted. Ismet Bajramovic, accompanied with four other men, threatened and harassed and ill-treated the magazine's editor-in-chief Senad Pecanin and other editorial staff, among other things, with a mock execution. In addition, Dani journalists were threatened because of an article charging that, due to political reasons, SDA authorities had failed to punish unlawful acts.

- In the area under the HDZ control, Mika Damjanovic, editor-in-chief of Posavske novine (Orasje) was under constant pressure. Among other things, the attorney general of the Posavski canton asked him to submit a copy of all the newspaper's issues to authorities prior to their publication. Damjanovic's newspaper had uncompromisingly criticized the cantonal authorities whose blackmailing and harassment had already led to dismissals of journalists.

- Journalist Mirjana Micic received a five-month prison sentence suspended for one year for writing an article for the independent Extra Magazine, published in Bijeljina (RS). The article was published under a pseudonym and reported about the individuals in Zvornik who had financially profited from the war. The former police chief of Zvornik, Dragomir Vasic, filed a private suit against Micic on the ground that she might have been the author of the text. She was immediately dismissed from her work. According to Micic, she had no legal assistance during the trial and the judge did not allow her to present all details concerning the article or otherwise defend herself.

In a rare case of corrections of injustice towards journalists, court in Gradacac (under SDA control) reinstated Mehmed Imsirovic, editor of center for culture, information and economy in Gradacac, to his previous work and compensated him the missing salaries. Imsirovic was harassed because he was not a member of the SDA.

In the mainstream media under local political control, the policy of ethnic and religious intolerance, even hatred, continued throughout the country..

- On 14 January, S-Kanal began transmitting in Pale (RS). It was reportedly co-founded by Radovan Karadzic's daughter, Sonja, and most of its staff were former employees of the ultra-nationalist television station Serb Radio-Television (SRT)- Pale. In October 1997 the OHC banned SRT from broadcasting because it had tampered recordings of a press conference given by a judge from the International Criminal Tribunal (ICTY) and broadcast distorted and inflammatory reports. [4]

### The Judicial System and Independence of the Judiciary

One of the priorities of the international peace mission was to reform the judicial system. In 1998, this task was still at an initial phase. In many parts of the country, the judiciary was under direct political control, particularly in the areas where ultra-nationalists were in power.

The former chairperson of the Bosnia-Herzegovina presidency and the president of the SDA, Alija Izetbegovic, convened the meeting of all the highest ranking persons in charge of the judicial system in the Federation BH and cantonal judges criticizing their operation, quoting individual examples. Local human rights NGOs criticized Izetbegovic for this act stating that he had no constitutional rights to take such action but actually exerted pressure upon the judiciary.

Judges were financially dependent on the executive branch because the courts of law have not adopted annual budgets, but the funds for their operation came from the local authorities. The dependency was also reflected in the appointment procedure. For example, in the canton of Sarajevo, the president of the Cantonal Court could appoint the cantonal judges only with the approval of the seven mayors of the local municipalities. In the Central Bosnia canton, the judiciary and members of the legal

profession were not consulted about the appointment of judges at all.

### Right to Fair Trial

Procedural irregularities in judicial proceedings were common. On many occasions, pressure by human rights organizations could correct the obvious mistakes and irregularities in higher court instances.

In the RS, investigations and trials in cases involving Bosniaks were characterized by irregularities. Terrorist acts and other forms of violence and harassment were rarely punished anywhere in Bosnia-Herzegovina.

- In Mostar, foreign nationals who also possessed Bosnian IDs were sentenced for placing a car bomb in the Croat-controlled part of Mostar. More than 50 people were injured and the explosion caused severe material damage. However, the act was not judged as a terrorist act (as initially required in the indictment) but merely as endangering the safety of people and property.

On the positive side, police arrested eight Bosniaks in central Bosnia and brought them before court in December for planting an explosive at Croat-owned houses in Bugojno. This was the first major success of the recently established anti-terrorist unit within the Ministry of the Interior.

### Misconduct by Law Enforcement Officials

The establishment of the police forces in accordance with the new constitutional system proceeded slowly. The aim was to release the police forces from the control of the ruling parties and to professionalize them in accordance with international standards. However, this target remained far away.

The UN International Police Task Force (IPTF), whose enlarged mandate allowed them to conduct their own investigations into human rights abuses perpetrated by the local police, took minimal use of their new powers. As a result, police officers who had allegedly committed war crimes remained in powerful posts – also within the police force - without interference by the IPTF although its main task was to ensure

that individuals who had committed war crimes, crimes against humanity or other grave human rights violation be excluded from the police force. [5]

One of the priorities was the formation of the multi-ethnic police force. In two ethnically mixed cantons of the Federation BH such police forces were set up after great resistance and many impediments. In the Herzegovina-Neretva canton, 90 percent of the police officers were Croats, while in the Una-Sana canton the forces were to 90 percent Bosniak. The situation was even more difficult in the RS where there were only 42 non-Serb police officers, and all of them were stationed in Brcko, which was under international supervision.

A great number of reports on violence and harassment, along with the enormous number of unresolved police cases, all demonstrated the inefficiency of the police and its political dependence. In addition, both the police and the secret services often resorted to committing abuses.

- The media reported about internal struggles within the Agency for Information and Documentation (AID, under SDA control), resulting in one murder and one attempted murder.

The police involvement in unlawful acts and non-observance of duties resulted in the dismissal of high police officers and administrative workers in both entities.

The political manipulation with the police was evident particularly during the elections. Leading political parties even misused the police forces to physically combat their political opponents. In many cases the target of the police were the independent media and journalists in both entities, while in Central Bosnia canton the police forces were used to disperse protests by coal miners.

### Accountability for War Crimes

The clarification of war crimes and the fate of the victims proceeded at a very slow pace and faced many difficulties. In Foca and some other municipalities indicted war criminals were able to hold powerful public posts with little reaction by the international community. [6]

Both international and domestic experts were working on the exhumation of victims of the war. After the agreement was reached to perform the exhumations without



applying the principle of reciprocity, the commissions started working in the entire territory of Bosnia-Herzegovina, regardless of where they were based. In addition, cooperation was established between Bosniak, Croatian and Serbian sides.

Lack of funds considerably slowed down the exhumation process and other investigations into alleged war crimes. The ethno-political control of the mass media resulted in the selected dissemination of information about the results of such investigation: only the atrocities against one's "own" group were published while those targeted at other were largely ignored.

The media in Sarajevo were mostly open for information on war crimes, although they, too, reported rarely about Serb victims. In November, in agreement with Sarajevo authorities, the exhumation commission from the RS carried out exhumations in the area of Sarajevo. During 1998, some 1,700 victims were exhumed from 250 graves in all of Bosnia-Herzegovina.

The State Commission for the Search of Missing Persons, a body originally established to primarily search for murdered Bosniaks, informed the public about its results on a regular basis. According to its report covering the period between April 1996 to November 1998, remains of some bodies 3,500 were exhumed from 103 mass graves. Ninety-eight percent of the victims were Bosniaks, the youngest being a 16-day old child. The task of the commission was huge: the fate of about 25,000 people remained to be clarified.

Due to the failure of state institutions to effectively clarify the cases of the missing, the right of the survivors to know the truth about their closest family members was being heavily violated. This omission also greatly aggravated the return of refugees and displaced persons, and poisoned the overall atmosphere in Bosnia-Herzegovina.

In 1998, the SFOR units were more actively involved in the arresting of suspects and their delivery to the International Tribunal in the Hague than in previous years. Still, the main suspects of the most severe crimes such as genocide were not brought to justice despite the fact that their places of residence and activities were well-known and they were within the reach of the international peace forces. Therefore, the trials before the International Criminal Tribunal for the Former Yugoslavia (ICTY) were neither by number nor by the rank of suspects adequate in comparison with the crimes committed in Bosnia-Herzegovina.

Local authorities cooperated insufficiently or not at all with the ICTY. The latter was

the case particularly in RS and the Federal Republic of Yugoslavia (FRY). International authorities were also slow in bringing the indictees to the ICTY and in securing financial resources and other working conditions for its operation. Another problem that greatly weakened the trust of the public was the fact that the ICTY often interpreted the crimes and the circumstances of crimes differently than local experts. For example, while Bosnian experts interpreted an incident an "aggression from outside," the ICTY did not regard it as "aggression." The differences in interpretation also resulted in different sentences. However, the ICTY deserved full support in order to enable it to make a greater contribution in overcoming the post-war trauma in Bosnia-Herzegovina.

The issue of war crimes was visibly politicized both inside and outside the country. Political manipulations and calculations, especially from the part of the international authorities, substantially effected the normalization of the situation in Bosnia and Herzegovina and the protection of human rights.

## Protection of Ethnic Minorities

### Return of Refugees and IDPs [7]

The year of 1998 was proclaimed "the year of return" in Bosnia and Herzegovina. However, conflicts between ethnic groups and terror against minority members and returnees illustrated the aspirations of nationalists to preserve their domination zones. Only a fraction of refugees and displaced persons were able to return. According to figures released by the UNHCR, between the signing of the Dayton Peace Accord and 30 June 1998, 475,000 out of a total of over two million refugees and displaced persons had returned. Of those, only some 15,000 could return to an entity in which they now form a "minority."

Local authorities continued to express their will for the return of minority groups. However, such statements mostly remained pure lip service. Prime Minister Dodik promised to allow 70,000 Bosniaks and Croats to return to the RS, but the UNHCR figures showed that between the signing of the Dayton Peace Accord and 30 July 1998, only 1920 members of minority groups had returned to that entity.

Federation authorities also continued to obstruct the return of refugees and IDPs. Although discriminatory federal housing legislation were finally revoked, there continued to be obstacles for return, and authorities consistently failed to meet their

targets. A striking example was the fact that by the end of August, only 1,752 individuals had returned to Sarajevo even though the target was the return of 20,000 minority members in 1998. This failure led to the July suspension of aid projects amounting to US\$ 22 million by the US and the EU. All in all, many more inhabitants have left Sarajevo since the signing of the Dayton Peace Accord than have returned.

### Violence Against Minority Members

In all regions, minority members were subjected to harassment and violence.

In Eastern Bosnia, the area in which the most massive genocide over the Bosniaks was committed, there were virtually no Bosniaks. The spearhead of the Croatian extremists was especially turned against Bosniaks in Herzegovina and Serbs in the area of Drvar. The Bosniak extremists, again, were active particularly in central Bosnia.

- In Stolac (under HDZ control), Croat nationalists attacked minority members at least on 70 occasions. In most cases, they demolished the empty houses of Bosniak returnees but also ill-treated or harassed them psychologically. Croat extremists were active also in Vitez and Zepce in Central Bosnia.

- Bosniak extremism was directed both against Croats and Serbs in Central Bosnia (under SDA control), including the Sarajevo canton. The violence was often motivated by serious religious intolerance.

- In Banja Luka (RS), some 300 Serb extremists, instigated by the extreme nationalist politicians, attacked and beat up Bosniak Muslims during their prayer service following the death of their religious leader. Serb extremists also threatened the Archbishop of Vrhbosna, Cardinal Vinko Puljic and a group of Croat Catholics who had come to attend a mass in Derventa. Some 1,000 Serbs blocked the road, encircling the church in which the believers, together with the Cardinal, were held for six hours. Explosives

were planted in the c  
church as well. Many were injured by stones.

Religious sites and cemeteries of all the three religions were targeted throughout Bosnia-Herzegovina. In the RS, intolerance was at its deepest: All mosques and nearly all Catholic churches had been destroyed and local authorities did not permit the building of new ones. In Brcko, an Orthodox church was being built in the place of a mosque. In all parts, harassment against the minority population multiplied during their religious festivals.

Radical Muslims, especially members of organization Active Muslim Youth, advocated religious intolerance during public events, verbally and through posters.

Ethnically motivated abuses peaked during election campaigns. Particularly supporters of the Serb Radical Party (SRS) and the Serb Democratic Party (SDS) bullied members of opposing parties. In addition, members of the SDA attacked supporters of the Bosniak People's Democratic Community (NDZ) in northwest Bosnia, and supporters of the HDZ harassed members of the New Croatian Initiative (NHI) and the Croatian Peasant Party (HSS). Among all groups, individuals with social-democratic orientation were most under attack.

Extremists did not even refrain from committing murders.

- A celebration following the Croat victory of a football match in the World Championships led to the death of two Bosniaks in Mostar.
- Three Croats, two of them police officers, were killed in Travnik in Central Bosnia.
- Two Bosniaks were killed in Brcko and Kotor Varos in and Republika Srpska.
- Two Serbs were killed by extremists in Drvar in the Federation.

Those murders were not necessarily primarily politically motivated, but as they occurred in the areas of high risk for minorities and the local authorities failed to react to them adequately, they suggested ethnic motivation.

Discrimination

In the areas with Croat majority, Bosniaks, Serbs and member of other minority nationalities were prevented from returning to their jobs.

- In the Aluminum Combine in Mostar, only Croats were employed. In a positive development, the French aluminum giant Pechiney stopped cooperating with the Aluminum Combine because of such discrimination.

The members of minorities and returnees faced blackmail and serious impediments when trying to exercise their fundamental rights, particularly in the RS. In order to obtain various official documents, they had to pay fees several times higher than the members of the majority population, and everything was done to discourage them in their efforts.

In addition to the three largest ethnic groups, also smaller minority groups such as Roma faced discrimination.

### Property Rights

Throughout Bosnia-Herzegovina, property rights were manipulated. Despite constant pressures, laws on the restitution, privatization and protection of property of individuals, transformation and legal regularization of the state-owned ( formerly socially-owned ) property were not adopted. The property of refugees and displaced persons as well as the former socially-owned property were particularly subjected to manipulation and corruption.

Corruption added to the problems. In areas under SDA control, unlawful manipulation was reported in Bugojno with the Croat property, and in Sarajevo with the Serb property. In the HDZ-dominated areas, Bosniak and Serb property fell victim of abuse in Mostar, Stolac and Caplinja. Upon the insistence of the Office of the High Representative, the People's Assembly of RS abolished the discriminatory provisions regarding taking over property. There was also pressure for amendments respective of regulations in the BH Federation and for their implementations.

### Freedom of Movement and Communication

Improvements in the area of freedom of movement were carried out, although that freedom was not yet fully respected. The roads became safer and bus and air lines were opened. Gradual normalization of railroad traffic was under way.

The absurd issue of delivering mail from other parts of Bosnia-Herzegovina to recipients in RS was finally solved. In February, after two years of waiting, some one million letters and other mail addressed to recipients in RS were finally delivered. The mail had been held in the General Post Office in Sarajevo because the RS authorities Srpska refused to accept it.

## Social Rights

The violations of social rights became a growing concern. The destruction caused by the war, the slow renewal of economy, the failure to abide by legal obligations and improper operation of governmental authorities led to the social rights of hundreds of thousands of people being jeopardized.

Only in the area of the Federation, a half million people were living under subsistence level, with 240,000 being unemployed. Some had managed to get a job where they were employed illegally, without respect to working hours and contributions for health and pension insurance. Especially the young were subject to exploitation.

The non-payment of contributions severely depleted the health and pension insurance funds, this having further negative impact upon the lives of many people. The most vulnerable groups were displaced persons, veterans, the disabled and pensioners.

## FOOTNOTES:

1. Unless otherwise noted, based on the Annual Report 1998 of the Helsinki Committee for Human Rights in Bosnia and Herzegovina.
2. Information from the Helsinki Committee for Human Rights in Bosnia and Herzegovina, September 1998.
3. 1998 World Press Freedom Review, International Press Institute.
4. Ibid.
5. Bosnia and Herzegovina: Beyond Restraint, Politics and Policing Agenda of the United Nations International Police Task Force, Human Rights Watch/Europe and Central Asia Division, June 1998.
6. See Bosnia and Herzegovina: "A Closed, Dark Place," Past and Present Human Rights Abuses in Foca, Human Rights Watch/Europe and Central Asia Division, July

1998.

7. Information from the Helsinki Committee in Bosnia and Herzegovina to the IHF, September 1998.