
BOSNIA-HERZEGOVINA

Bosnia and Herzegovina

Population: 4.1 million (0.9 million under 18)
Government armed forces: Federation: 13,200 (estimate); Republika Srpska: 6,600 (estimate)
Compulsory recruitment age: 18
Voluntary recruitment age: 18
Voting age: 18
Optional Protocol: ratified 10 October 2003
Other treaties ratified (see glossary):
CRC, GC AP I and II, ICC, ILO 138, ILO 182

There were no reports of under-18s serving in the armed forces. In line with defence reforms the minimum age for voluntary recruitment was raised to 18.

Context

The country remained largely under the authority of the international community and the High Representative, nominated by the intergovernmental body responsible for implementing the 1995 Dayton Peace Agreement. By the end of 2003 nearly one million people displaced by the 1992-95 war had returned to their homes, although many continued to face discrimination and violence. Thousands of “disappearances” remained unresolved and a lack of cooperation by the authorities hindered efforts to bring those responsible to justice.¹ By June 2004 the NATO-led Stabilisation Force (SFOR) had been reduced to 7,000 troops from its initial 60,000 in 1996.²

Government

National recruitment legislation and practice

The state of Bosnia-Herzegovina consists of two “entities”, the Federation of Bosnia and Herzegovina, and the Republika Srpska, each with its own constitution covering primarily domestic issues, as prescribed by the Dayton Agreement.³ Until reforms in 2003 and 2004, each had its own defence laws and armed forces, those of the Federation of Bosnia and Herzegovina divided into Bosniac and Bosnian Croat components.⁴

Fundamental constitutional and defence law reforms took place throughout the last quarter of 2003 and into 2004 to ease Bosnia-Herzegovina’s entry into NATO’s Partnership for Peace (PfP) program.⁵ These reforms harmonized the laws of both entities and unified the command structures of both armed forces into a single, centralized

system under a State Law on Defence in Bosnia-Herzegovina of December 2003.⁶

On ratification of the Optional Protocol in October 2003, Bosnia-Herzegovina made a declaration that, under the Law on Defence of the Federation of Bosnia and Herzegovina and the Law on the Army of Republika Srpska, it “will not permit voluntary recruitment into its national armed forces of any person under age of 18 ... in compliance with the Optional Protocol”.⁷

Federation of Bosnia-Herzegovina

The Federation parliament amended the constitution and defence laws in October and December 2003 to transfer military authority from entity to state level.⁸

The constitution contains no specific provision for mandatory military service.⁹ The legal basis for military service is provided by the Defence Law and the Law on Serving in the Bosnia-Herzegovina Federation Army, as amended by parliament in May 2004 to bring the military service procedures of the Bosnian Croat component into line with the rest of the Federation army.¹⁰

Amendments to the Federation’s Defence Law aimed at the abolition of compulsory military service were proposed in February 2003.¹¹ However, conscription continues, with all citizens required to do 12 months’ military service from the age of 18. There is provision in law for conscientious objectors to perform alternative, non-military, service for 24 months. Previously, voluntary service was permitted from the age of 17, but legal amendments nullified that provision.¹²

Republika Srpska

As part of the defence reforms, in November 2003 the Bosnian Serb parliament adopted amendments to the constitution to amalgamate the entity forces with those of the state: “Republika Srpska shall have its army, which is part of the armed forces of Bosnia and Herzegovina” (Article 105). In other amendments, independent command of the armed forces and, crucially, the right to declare a state of war, was ceded to the Presidency of Bosnia-Herzegovina.¹³

The amended constitution states that “Any citizen has a right and duty to defend and protect the territory and the constitutional order of Bosnia and Herzegovina and the Republika Srpska” (Article 104). Conscription is effectively ended by amendment to Article 105, which states that “the army of Republika Srpska shall consist of professional and reserve forces”, and by related amendments to the Law on Defence and the Law on the Army of Republika Srpska.¹⁴ Over a period of 12 months from December 2003 military service is to be replaced by an obligatory four-month training period for those aged 18 and over, to maintain the reserve corps.¹⁵ In March 2004 this four-month national service training was approved as a transitional measure until the

end of 2005.¹⁶ Previously, the minimum voluntary recruitment age was 17, but this was raised to 18 under the defence reforms.¹⁷

Military training and military schools

The course on defence provided in schools during the war has been succeeded by a course on democracy and human rights.¹⁸ Sectarianism, however, continues to pervade schooling, with local authorities resisting the unification of the education system.

- 1 *Amnesty International Report 2004*, <http://web.amnesty.org/library/engindex>.
- 2 South East European (SEE) Security Monitor, "Weekly roundup for Bosnia-Herzegovina 21-27 May 04", 28 May 2004, Centre for South East European Studies, <http://www.csees.net> (SEE Security Monitor).
- 3 Constitution of Bosnia and Herzegovina (Article I) (Annex 4 to the Dayton Agreement), at Office of the High Representative, <http://www.ohr.int/ohr-dept/legal/const>.
- 4 Sgt. Peter Fitzgerald, "The armed forces in Bosnia and Herzegovina", *SFOR Informer 127*, SFOR Stabilisation Force, 28 November 2001, <http://www.nato.int/sfor/indexinf/127/p03a/chapter4.htm>.
- 5 SEE Security Monitor, "Reuters: Pfp membership in sight for Bosnia after defence reform", 2 December 2003.
- 6 SEE Security Monitor, "Bosnia's lower house adopts defence law", 1 December 2003.
- 7 Declaration made by Bosnia and Herzegovina on ratification of the Optional Protocol, <http://www.ohchr.org>.
- 8 SEE Security Monitor, "Bosnian government adopts draft defence law", 10 October 2003; "Bosnian Federation upper house adopts defence amendments to constitution", 3 December 2003.
- 9 Constitution of the Federation of Bosnia and Herzegovina, at Office of the High Representative, <http://www.ohr.int/ohr-dept/legal/const>.
- 10 SEE Security Monitor, "Bosnian Federation parliament adopts final text of draft defence bill", 26 May 2004; "Bosnian defence reform commission stipulates defence budget for 2004", 4 February 2004.
- 11 SEE Security Monitor, "Bosnian Party chairman presents changes to Federation Defence Law", 27 February 2003.
- 12 South East European Refugee Assistance Network, *Military service and conscientious objection*, 25 April 2002, <http://www.see-ran.org/expanded/?id=00111>; Declaration, op. cit., citing legal amendments.

- 13 Constitution of Republika Srpska, Amendments CVI-CXIII, Official Gazette No. 98/03, at Office of the High Representative <http://www.ohr.int> (Legal Department, Laws of Bosnia and Herzegovina); SEE Security Monitor, "Bosnian Serb parliament adopts constitutional amendments on defence", 28 November 2003.
- 14 Constitution of Republika Srpska, Amendments, op. cit.; SEE Security Monitor, "Bosnian Serb defence minister says defence law abolishes military service", 11 December 2003.
- 15 SEE Security Monitor, "Bosnian Serb draft defence law gets mixed reaction in parliament", 10 December 2003; "Bosnian Serb defence minister says defence law abolishes military service", 11 December 2003.
- 16 SEE Security Monitor, "Bosnian Serb parliamentary committee approves four-month national service", 30 March 2004.
- 17 Declaration, op. cit., citing legal amendments.
- 18 Confidential source, May 2004.