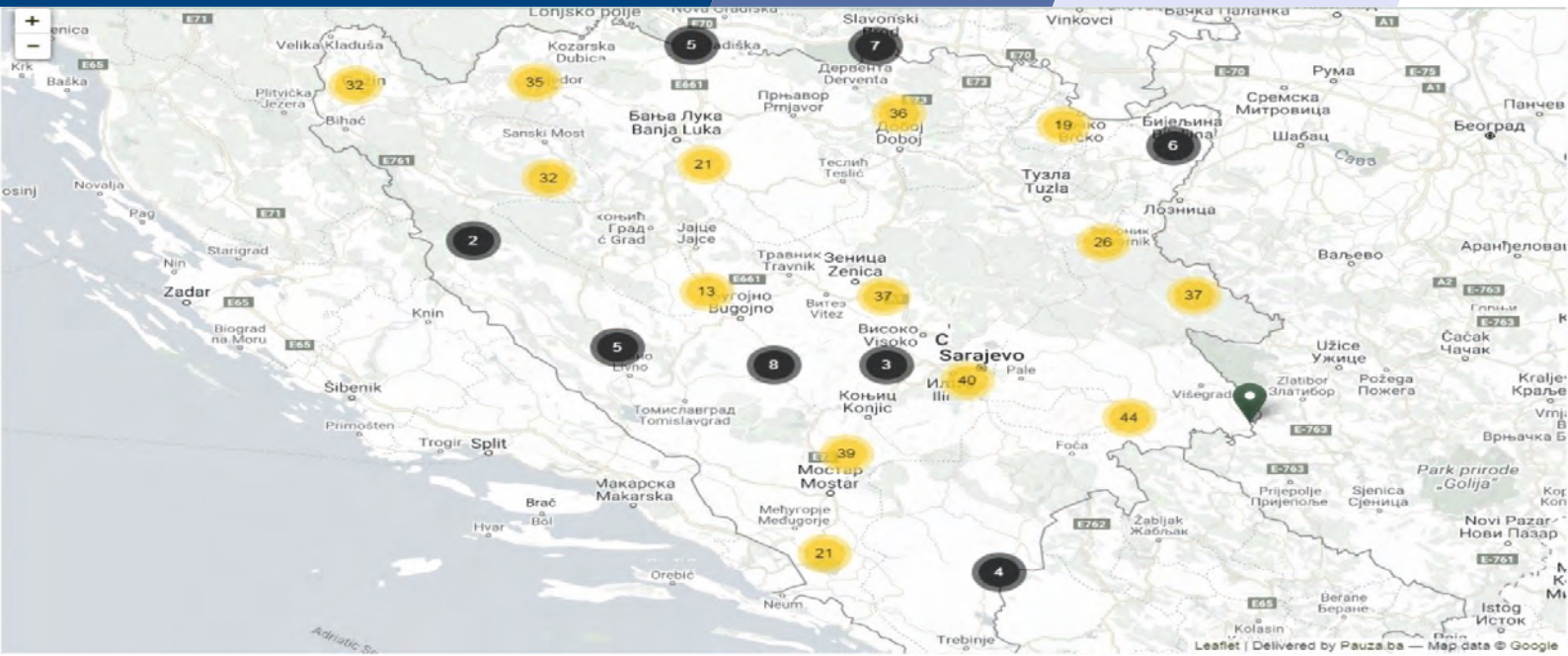


Accountability for War Crimes



The OSCE Mission to Bosnia and Herzegovina monitors and reports on war crimes proceedings to provide an objective and accurate assessment of the ability of the judicial system to prosecute and try cases in an effective, human rights compliant, and expedient manner.

The Mission also supports the judiciary in Bosnia and Herzegovina (BiH) in reaching out to communities to increase transparency and the availability of public information in the area of war crimes and justice.

Domestic War Crimes Prosecutions

Courts and prosecutors' offices in BiH have been dealing with war crimes cases since the end of the 1992-1995 war. In 2003, specialized departments in the Court of BiH and BiH Prosecutor's Office were given jurisdiction over these cases. Since the institutions became

fully operational in 2005, over 250 cases have been processed successfully. In addition, war crimes proceedings are still ongoing in a number of courts in the entities and Brčko District, as the processing of less complex war crimes cases is foreseen before cantonal and district authorities. Since 2004, the OSCE Mission to BiH has monitored more than 570

proceedings concerning war crimes, crimes against humanity, and genocide before the domestic courts of BiH. In addition to its monitoring and reporting functions, the Mission continues to highlight the need to increase the capacity and efficiency of courts and prosecutors' offices at the entity level and to ensure that state level institutions continue to receive adequate support and resources.

National Strategy for War Crimes Processing

Estimates indicating that BiH had about 1,300 cases involving some 8,000 potential suspects in its backlog of war crimes cases led to the adoption of the National Strategy for War Crimes Processing (NWCPS) as a policy document in December

2008. In the process of its adoption and implementation, the Mission advocated for the development of a clear and efficient mechanism for the transfer of less complex cases to the entities in order to allow the Court of BiH and BiH Prosecutor's Office to focus on the most complex cases. The Mission has also taken other steps to support this. The Mission designed and developed the **Database of Open Case Files** – a software tool – to serve as a centralized database of war crimes case files at the BiH Prosecutor's Office and to permit mapping of the caseload to assist in determining the number and nature of cases for prosecution. This process will subsequently allow the prioritization and selection of viable cases for prosecution according to the criteria identified in the NWCPS.

Pioneering judicial outreach

A lack of publicly-available information about the judicial system has fostered misconceptions about war crimes prosecutions and the capacity of the BiH criminal justice system to deal with such cases. This situation has contributed to distrust in the criminal justice system and a growing reluctance to co-operate with courts and prosecutors.

As part of efforts to support the implementation of outreach activities in courts and prosecutors' offices, the Mission regularly brings together actors from international and national justice systems, including representatives of the International Criminal Tribunal for the Former Yugoslavia (ICTY), the Court of BiH, the BiH Prosecutor's Office, judges, prosecutors, civil society organizations, and members of the press. These forums stimulate debates about enhancing transparency, outreach, and support to victims and witnesses. The Mission also supports projects with civil society organizations aimed at fostering the public's level of understanding of and trust in war crimes processing in BiH.

Rule 11bis cases

In the context of the ICTY Completion Strategy, the ICTY transferred six cases involving ten defendants from The Hague to the BiH authorities, in accordance with Rule 11bis of the ICTY Rules of Procedure and Evidence (known as Rule 11bis cases). Upon request of the ICTY Prosecutor and in line with its mandate, the Mission agreed to monitor and report on Rule 11bis cases. The Mission submitted approximately 60 reports on these cases, describing the main developments and focusing on challenges identified from the human rights perspective, as well as on positive steps taken to address them. After the final Rule 11bis case was completed in 2011, the Mission assessed that the handling of these cases demonstrated the capacity of the BiH system to process war crimes cases with fairness and efficiency, notwithstanding some concerns identified in the Mission's reports.

Extra-budgetary projects

In addition to its core activities, the Mission has implemented a number of extrabudgetary projects thanks to the generous support of its international partners. Such projects addressed aspects of war crimes processing in BiH and aimed at supporting the judiciary in ending *de facto* impunity for crimes of genocide, crimes against humanity, and war crimes. For example, from 2009 onwards,

the Mission implemented the *Capacity Building and Legacy Implementation* (CBLI) project. The aim of this initiative was to strengthen the professional capacity of justice actors through the co-ordinated efforts of education providers. CBLI targeted legal practitioners' actual needs while ensuring that steps were undertaken to put mechanisms in place allowing domestic justice sector practitioners, the ICTY, and neighbouring countries to closely co-operate in a sustainable manner. In 2014-2017 period, the Mission implemented the *War Crimes Capacity Building Project* (WCCBP) which focused on strengthening capacities of prosecutors, judges, defence attorneys, and investigators. Currently, the Mission is implementing two projects, namely the European Union funded War Crimes Monitoring Project (WCMP), to expedite the fair and effective processing of war crimes cases, and United Kingdom funded project *Strengthening Rule of Law by Improving War Crimes Processing in BiH*, to address persisting systemic challenges in the Special Department for War Crimes of the Prosecutor's Office of BiH as identified in the 2016 report *Processing of War Crimes at the State Level in Bosnia and Herzegovina*, written by Judge Joanna Korner.

Thematic Reports on War Crimes Processing

Since 2012 the Mission has published numerous reports in this area. In the 2014-2017 period, in order to assess progress and challenges in processing conflict related sexual violence (CRSV) cases, the Mission published three reports on processing of these cases by the State and entity/Brčko District BiH level judiciary, *Combating Impunity for Conflict - Related Sexual Violence in Bosnia and Herzegovina: Progress and Challenges*, 2014 and 2015, respectively, and a comprehensive follow-up report, *Towards Justice for Survivors of Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress before Courts in BiH 2014-2016* (2017). The Mission has paid particular attention to the implementation and advancing the NWCPs. In the spot report *Observations on the National War Crimes Processing Strategy and its 2018 Draft Revisions*, including its relation to the Rules of the Road "Category A" cases (2018), the Mission analysed the benefits of adopting the Proposal of Revised NWCPs, while the Mission's most recent report on war crimes, *War Crimes Case Management at the Prosecutor's Office of Bosnia and Herzegovina* (2019), analysed specific challenges in the prioritization of legally and factually complex war crimes cases in line with the NWCPs. These and further OSCE reports can be found at <https://www.osce.org/mission-to-bosnia-and-herzegovina/rule-of-law>.

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OSCE Mission to Bosnia and Herzegovina
Fra Anđela Zvizdovića 1, UNITIC Tower A
71000 Sarajevo
Bosnia and Herzegovina