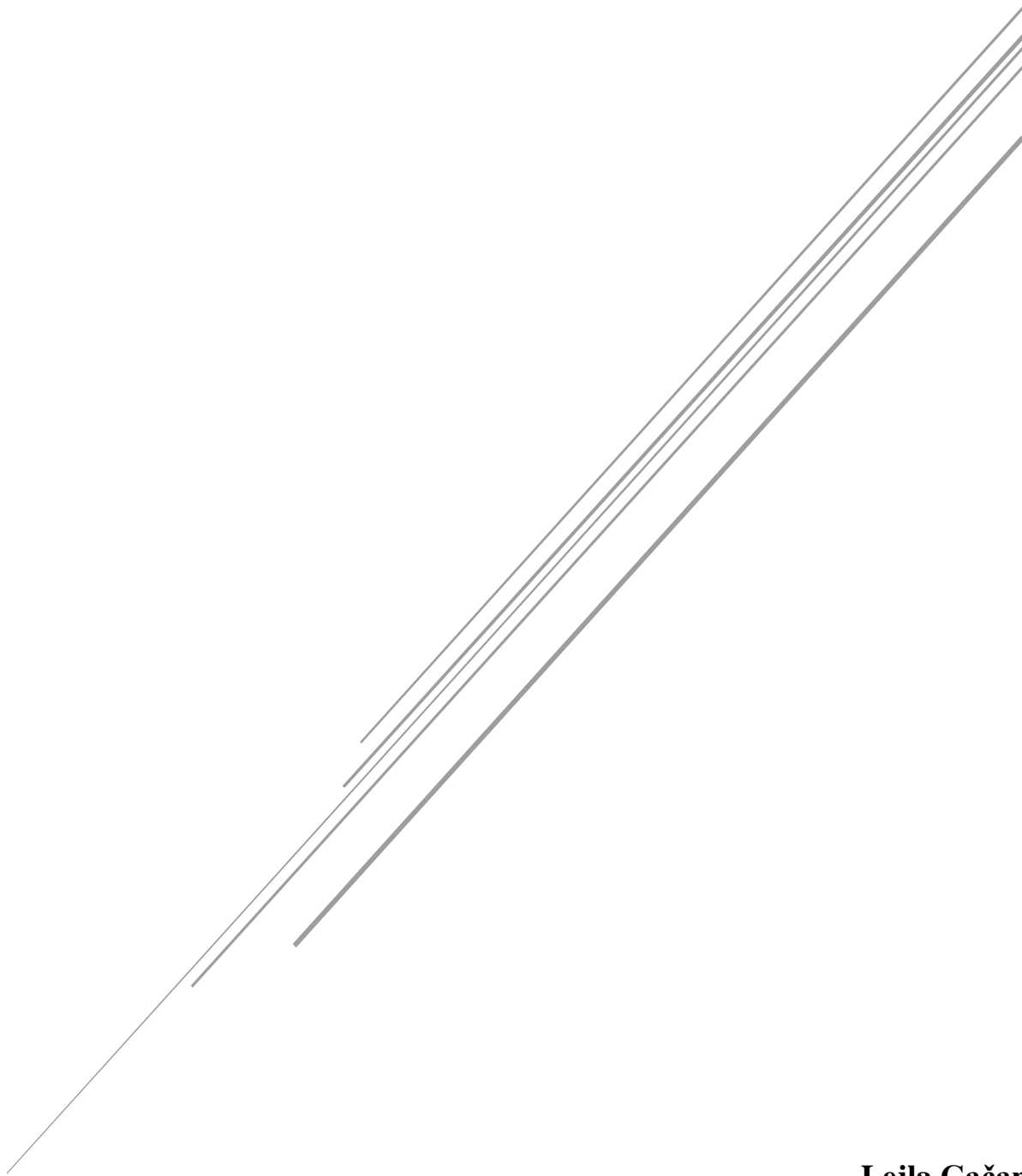


Reparations in Bosnia and Herzegovina: Justice is (not) Coming

Balkan Investigative Reporting Network in Bosnia and Herzegovina



Lejla Gačanica

Introduction

The aim of reparations, which constitute the third pillar of transitional justice, is to compensate victims for damage and suffering during conflict and to enable them to have a dignified life. Understandably, it is impossible to fully compensate victims and their families, but the purpose of this mechanism is to provide, in the post-war period, a sense that in the face of war experiences and violence, some justice has been achieved. As societies recover, it is important not to forget or brush aside victims and survivors. It is through a “sense of justice” that society, and particularly survivors, can live after a conflict. It is therefore the duty, primarily of the state, to provide a functional system which contributes to the recognition of suffering and enables societal recovery. A state’s obligation to make reparations derives from the fact that it is either responsible for the crimes or it failed to prevent mass violations of human rights. State reparations to individuals developed as a concept after World War Two with the development of human rights advocacy within the United Nations (UN) system. These reparations aim to remediate the consequences of violence and acknowledge the suffering of victims while respecting their dignity and reintegrating them into society.

As with other transitional justice mechanisms, there is no reparations model that suits everyone. Different states have developed their own models, learnt from mistakes and even faced failures. There are relevant international standards for reparations: they must be proportionate to the severity of damage suffered, clearly stipulated by law and enforceable.¹ This policy brief provides an overview of what has been done so far in terms of reparations in Bosnia and Herzegovina (BiH) as well as the shortcomings that call for interventions into current practices and systems. In its Report on Bosnia and Herzegovina for 2023, the European Commission states that BiH should resolve outstanding issues concerning missing persons, transitional justice and reparations for wartime victims of torture and sexual violence.²

It is important to highlight that without other transitional justice mechanisms, reparations cannot achieve their purpose (and vice versa). But the joint application of all mechanisms, combined with continuous work on social awareness and critical questioning of the past, can lead to justice. Anything less results in individual, fragmented successes that will not produce a substantial change. Although reparations may overlap with other transitional justice processes, such as criminal prosecutions, truth initiatives and institutional reforms, they are a separate component that should not be subsumed under or replaced with other mechanisms. At the same time, reparations must not be reduced to “social benefits”, “disability benefits” or individual proceedings before courts. Nor should they remain in the domain of civil society. The responsibility and obligation to achieve justice, including reparations, must come from above, from the state (and, accordingly, entities) which must use their full capacity. This policy brief will therefore not consider

¹ The European Convention on the Compensation of Victims of Violent Crimes expressly states that when compensation for damages is not fully available, the state shall compensate the victims. Based on the obligation arising from the European Convention, BiH is obliged to pay compensation to all victims of violent crimes, particularly when compensation is not forthcoming from perpetrators or other sources. The interpretation of Article 14 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provided by the UN Committee against Torture contains the same obligation – each state party shall ensure that the victim of an act of torture or other inhumane treatment has the right to redress and an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.

² Report by the European Commission on Bosnia and Herzegovina for 2023. Brussels, 2023.

<https://www.eeas.europa.eu/sites/default/files/documents/2023/lzvje%C5%A1taj%20o%20Bosni%20i%20Hercegovini%20za%202023.%20-%20BHS%20prijevod%20%28002%29.pdf>

initiatives by victims' associations and civil society organisations for achieving justice following grave human rights violations during the war. Instead it will focus on an overview of and conclusions about what the state – taking into consideration the entities (the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS)) and Brcko District (BD) – has undertaken in the field of reparations, an inseparable part of transitional justice for victims and society.

A victims' right to reparations constitutes an integral part of the right to justice and is often recognised as the most significant and direct way to achieve justice for victims. However, the basic feature of reparations in BiH today is that we have very little time left for survivors to access this type of justice. Time is inevitably doing its work – there are fewer and fewer survivors, and there is a diminishing will to engage in a fight with a dysfunctional system. The ethnic division of everything, including victims, is deeply rooted in society, so there is a real question as to whether there is a possibility of achieving justice through reparations in BiH.

Post-war reality

Numerous crimes were committed in BiH during the war that made their mark on the post-war period. These include forced displacement and persecution, destruction of property, torture, murder, sexual violence and bodily injury. Besides physical injuries and traumas, which were carried over into peacetime, a large number of people were thrown into an economic or existential crisis due to the war and survived afterwards on the brink of poverty. Numerous victims have experienced economic and social exclusion due to the inadequate or non-existent approach to legal and health protections. This has left permanent marks on victims, regardless of their ethnicity.

For example, from 1992 to 1995, more than 200,000 civilians survived detention camps and prisons throughout BiH, while 30,000 detainees were killed or are listed as missing.³ The Missing Persons Institute of Bosnia and Herzegovina is still searching for 7,626 missing persons,⁴ and the number is not final. Wartime sexual violence has created lasting mental, physical, economic and social consequences for survivors and their families. Many survivors still suffer from traumas associated with wartime sexual violence. Most suffer from post-traumatic stress disorder (PTSD), which is associated with various mental health conditions. Survivors still suffer from the physical effects and health problems and many of those injuries and conditions are not being treated because survivors still face stigma that prevents them from seeking rehabilitation. At times, medical services are simply not available to them if, for example, they live in a rural area.⁵

In such circumstances, the introduction of effective reparations in BiH would have been of key importance. That is, society needed state support to establish the highest possible safety and living conditions for victims after the violence they suffered. However, reparations programmes developed by the state are incomplete, administratively burdensome and retraumatise survivors. Their existence “on paper” is almost meaningless if it is hard or impossible to access the benefits. The draft National Transitional Justice Strategy was supposed to provide a comprehensive platform for establishing truth and justice and to ensure an efficient institutional approach to

³ The Association of Detainees of Bosnia and Herzegovina, <https://savezlogorasaubih.ba/>.

⁴ *Appeal on the occasion of International Human Rights Day: Families have the right to know the fate of their loved ones.* The Missing Persons Institute of Bosnia and Herzegovina, 2023, <http://www.ino.ba/odnosi-s-javnoscju/saopcenja-za-javnost/default.aspx?id=2084&langTag=bs-BA>.

⁵ *Reparations for survivors of war sexual violence.* Trial International, 2022, <https://trial.ba/wp-content/uploads/2021/10/Studija-o-reparacijama-BiH-Preliminarni-nalazi.pdf>.

compensation and other forms of supporting civilian victims of war. The failure to adopt that document since 2012 (which delay now calls into question its suitability for adoption in the current day) has very negatively affected the development of reparations programmes, among other things.

The Ministry of Human Rights and Refugees of BiH and the Ministry of Justice of BiH, with the international community's assistance, launched a wide-ranging government programme for improving the status of civilian victims of war in 2012/2013. The programme consisted of the draft National Transitional Justice Strategy, the Programme for Victims of Sexual Violence Committed During the War and the draft Law on the Protection of Torture Victims in BiH. These documents were designed as a framework to achieve justice beyond the courthouse and included provisions for victims' compensation, protecting collective memory and restoring trust in government institutions. These three documents represent the most concrete attempt by the Bosnian government to acknowledge the suffering of victims and provide support to help them move on with their lives. However, the programme did not gain sufficient political support to get adopted at the state level. In the absence of a formal reparations system, which was supposed to be created under the above framework, victims must rely on a complex social assistance system as well as individual proceedings before criminal and civil courts in order to pursue some sort of compensation.

Today there are two common ways in BiH to receive material reparations. There are administrative reparations granted on the basis of the status of a civilian victim of war through administrative procedures and there are judicial reparations granted through criminal and civil proceedings. Both approaches have achieved some success, but there are still serious limitations, especially through the judicial reparations process. As regards symbolic reparations, there is no unified approach. Most often, memorialisation officially goes on within the framework of monoethnic narratives (only in-group victims being commemorated). There were some public apologies between 2003 and 2013, when there was a certain readiness to work on the past and build peace. But in later years, this was replaced by more radical nationalist policies in the region. Civil society and victims' associations mostly work on the critical culture of remembrance, but this most often remains in the form of alternative narratives.

Reparations in BiH weren't developed with a systemic approach, which ultimately resulted in discriminatory practices. This is partly because of disparities in the scope of rights and partly because of a lack of political will to develop approaches to victims and the past on ethical and responsible remembrance policies. Victims not only encounter difficulty in exercising the right to reparations, but also in facing the fact that they may never receive any type of compensation.⁶

What follows is a more in-depth overview of administrative and judicial reparations in BiH.

Administrative reparations

BiH has developed its administrative reparations system at the level of entities (and the Brcko District). This system was established by the Law on the Protection of Civilian Victims of War in the Federation of Bosnia and Herzegovina,⁷ the Law on the Protection of Victims of War Torture

⁶ Gacanica, L. *Is reconciliation a priority for Bosnia and Herzegovina?* Initiative for Monitoring the EU Integration, 2023, <https://eu-monitoring.ba/da-li-je-pomirenje-prioritet-za-bosnu-i-hercegovinu/>.

⁷ <https://fbihvlada.gov.ba/bs/9-zakon-o-zastiti-civilnih-zrtava-rata-u-federaciji-bosne-i-hercegovine>

in Republika Srpska⁸ and the Law on Civilian Victims of War in Brcko District.⁹ The mechanism for the administrative reparations programme is implemented through competent ministries and various other bodies.

This type of reparations is based on acquiring the status of a civilian victim of war, which offers a possibility to receive a monthly allowance and other social benefits, including health protection and support. The abovementioned laws define civilian victims of war (relative to the duration of their exposure to torture) as follows:

- FBiH: “a civilian victim of war is a civilian person that suffered damage to their body during the war or immediate threat of war, between April 30, 1991 and February 14, 1996, due to injury or some other form of war torture, which also includes mental impairment or significant damage to health or disappearance or death of that person”.
- RS: “the status of a victim of war torture can be obtained by all civilians who were exposed to torture in the territory of former SFRY in times of war from August 17, 1990 to June 19, 1996, on condition that they reside (or resided immediately before going abroad) in the territory of Republika Srpska or the Brcko District of BiH”.
- BD: a civilian victim of war is a person who suffered damage to their body or permanent mental impairment after August 17, 1990, as well as a civilian victim of war from World War Two.

These laws regulate categories of victims in detail from the type of violence they suffered to the forms of reparations they are entitled to. These forms of reparations can include monthly cash benefits, the right to health insurance, the right to spa rehabilitation, incentives for employment and self-employment, family disability allowance, personal disability allowance, allowance for care and assistance by another person, orthopaedic allowance, the right to financial assistance for medical treatment, the right to assistance when settling housing issues, as well as the right to free legal assistance.

In FBiH, the status and rights of civilian victims of war was addressed through the joint Law on the Principles of Social Protection, Protection of Civil Victims of War and Protection of Families with Children of the Federation of BiH (1999). This had the result of somewhat limiting the reach of reparations in FBiH, as they were regulated within an already complex social protections field. In April 2022, a draft Law on the Protection of Civilian Victims of War in the Federation of Bosnia and Herzegovina was brought forward, which numerous victims’ associations and nongovernmental organisations took part in helping to write. The law was adopted in August 2023 and implementation began as of January 1, 2024. As compared with the previous regulations, the law introduces several significant changes. It allows for persons with disabilities who suffered from war actions as civilians to claim reparations compensation; it introduces children born of rape as a category into the law; it abolishes the deadline for special categories, namely rape victims, to report rape, as well as for victims of leftover war material; it abolishes the mandatory expert examination at the Medical Expertise Institute (having to relive everything in front of strangers several times is traumatic for victims), while the special commission dealing with identification of rape victims shall continue work (with victims coming for interviews on their own

⁸ Official Gazette of RS, No. 90/2018, <https://www.narodnaskupstinars.net/?q=la/akti/usvojeni-zakoni/zakon-o-za%C5%A1titi-%C5%BErtava-ratne-torture>.

⁹ <https://skupstinabd.ba/ba/zakon.html?lang=ba&id=/Zakon%20o%20civilnim%20z--rtvama%20rata%20Brc--ko%20distrikta%20BiH>.

and applying for identification personally); it abolishes means testing for families exercising the right to family disability allowance (discriminatory means testing for parents who lost their child during the war in BiH has been abolished: under the previous law, if a family that lost a child had income that exceeded the average salary in FBiH, they lost the right to disability allowance). The law is under the shared competence of FBiH and the cantons, which leaves open the possibility for cantons, which have an obligation to align cantonal legal regulations with this law, to make further improvements in the rights of civilian war victims in accordance with cantonal financial capacity and depending on the needs and requests of local civilian victims of war. The introduction of the status of a civilian victim of war for children born of wartime sexual violence and the abolition of the deadline for obtaining the status of a civilian victim of war for victims of wartime sexual violence represent a progressive legal solution and goes far towards recognising the significance of these categories of victims.

The first Law on the Protection of Civilian Victims of War in Republika Srpska, which was adopted in 1993, did not recognise victims of sexual violence committed during the war as a separate category of civilian victim of war. Without their status being legally recognised, no assistance was practically available to victims and neither were the rights that are regularly available to civilian victims of war. Furthermore, the law marked January 2007 as the final deadline for filing a claim to acquire the status of a civilian victim of war. In 2018, RS adopted its own Law on the Protection of Victims of War Torture. Its adoption is laudable as it enables victims of wartime torture, irrespective of their ethnicity, to access compensation measures. However, during the first two years of its application, several provisions of this law created obstacles for certain categories of victims to fully exercise their rights and receive compensation. For instance, there are evidential obstacles for some victims of sexual violence in accessing their rights, particularly if they were raped outside war detention camps or if they lack medical documentation issued prior to 2006. Another problem is the fact that victims under identity protection measures (which were granted to them during criminal proceedings at war crime trials) face difficulties when attempting to claim their rights under this law without disclosing their identity. Additionally, the law creates a complicated procedure for acquiring legal status by introducing a rigorous evidentiary procedure. Victims can acquire the status by having a medical analysis immediately after the torture, or providing a certificate issued by the Center for the Investigation of War, War Crimes and Search for Missing Persons of RS or through evidence accessible to other state organs, institutions or services in RS. Victims can also submit a certificate issued by the International Red Cross or achieve the status through final court judgements of domestic or foreign courts from which it can be unquestionably proved that the victims suffered torture. As a result, many victims have given up because they did not want to go through the additional traumatising that this procedure could entail. This applies in particular to returnees to RS and victims of wartime sexual violence, both male and female. In October 2023, the deadline for filing claims for acquiring the status of a civilian victim of war in RS expired. Considering the complex procedure and conditions under which victims of wartime torture were forced to file their claims, this deadline came too soon. Despite warnings, requests and initiatives by associations of victims and civil society organisations,¹⁰ no changes have been introduced. This means that persons with a residence in RS can no longer acquire the status of a civilian victim of war, while persons in FBiH and BD still can. An analysis titled “Challenges and Implementation of the Law on the Protection of Victims of War Torture in Republika Srpska” highlights that, besides the abovementioned problems in regulation, the legal

¹⁰ Kovacevic, V. *Victims of war torture need new deadline for status in Republika Srpska*. Detektor, 2024, <https://detektor.ba/2024/02/20/zrtvama-ratne-torture-potrebno-novi-rok-za-status-u-republici-srpskoj/>.

right to spa rehabilitation has not been implemented and that a series of social problems face victims, most often connected to overcoming war traumas.¹¹ In 2024, by a RS government decision, a tender announcement went out for a spa rehabilitation project for “disabled war veterans, family members of soldiers who died in the Defensive-Fatherland War”,¹² and, for the first time ever, for victims of war torture in Republika Srpska. Although the Law on the Protection of Victims of War Torture provides for that right for individuals who have acquired official status, none of the public announcements issued so far has included this category.¹³

In 2022, BD instituted the Law on Civilian Victims of War, which replaced the Decision on the Protection of Civilian Victims of War in Brcko District. This was the first law in BiH and globally to recognise the status of a civilian victim of war for children born of war. The status entails associated rights, such as priority access to scholarships and when enrolling in educational institutions.

As a result of long-term efforts of victims’ associations and civil society organisations, laws were adopted which granted victim status to children born of wartime rape. There is no data on the number of children born of wartime rape in BiH.

In July 2022, as part of the Law on Civilian Victims of War, the Brcko District was the first state unit in BiH to legally recognise children born of wartime rape as civilian victims of war. However, under the law, some children of wartime rape are unable to achieve official status because it is granted only to people whose mothers received official status as wartime rape victims. This excludes those whose mothers did not apply for such status and those who were born of wartime rape but who do not know their biological mothers.

A year later, the Law on the Protection of Civilian Victims of War in the Federation of BiH also granted the status of civilian victim of war for children born of wartime rape. This law provided more extensive compensation than the comparable one in BD, including the right to priority employment, priority housing, psychological and legal assistance. The law in FBiH does not condition the status of children on their mothers’ statuses.

There are no similar provisions in RS.

Without diminishing the importance of these laws, it is necessary to emphasise that legal regulation and the introduction of rights for now is only accessible to adults aged between 28 and 32. They did not benefit from the lifelong rights granted to children of disabled war veterans or children of killed veterans.¹⁴

At the state level, the administrative reparations programme is regulated through the Law on Missing Persons.¹⁵ Under the law, civilians and veterans who went missing during the armed conflicts in BiH any time between April 30, 1991 to February 14, 1996 are considered missing persons. According to this law, the conditions that have to be met for a person to be considered

¹¹ Udovcic, R., and Cvjetkovic, S. *Challenges and implementation of the Law on Protection of Victims of War Torture of Republika Srpska*, 2024,

https://trial.ba/wp-content/uploads/2024/03/TRIAL_ZAKON_ANALIZA_2024_DIGITAL.pdf.

¹² Public call for applications for referral of 750 disabled war veterans and family members of killed soldiers of the Fatherland Defensive War of Republika Srpska to spas and climatic health resorts, <https://shorturl.at/jctxK>

¹³ The issuance of a public call for tenders is a result of efforts by TRIAL International, Udružene Zene Foundation and Lara Foundation, as well as the work of representatives of institutions and international organisations.

¹⁴ Arnautovic, M. *Breaking the institutional silence on survivors of war sexual violence/children born of war*.

Diskriminacija.ba, 2023, <https://www.diskriminacija.ba teme/prekid-institucionalne-ti%C5%A1ine-o-pre%C5%BEivjelima-ratnog-seksualnog-nasiljadjece-ro%C4%91ene-zbog-rata> .

¹⁵ <http://www.ino.ba/dokumenti/zakoni/default.aspx?id=65&langTag=bs-BA>.

missing are that the family has no news on the missing person, that the disappearance has been reported and that no reliable information exists on the fate of the missing person. Family members of a missing person include children born in or out of wedlock, adopted children, foster children who were supported by the missing person, married or unmarried partner, parents (including step-parents), foster parents, sisters and brothers by birth whom the missing person supported. The condition for gaining the rights of a missing person's family member is for the family member to have lived in a joint household with the missing person, to have been economically dependent, and to have a need to be supported. The law guarantees a number of rights to the missing person's family members, including the right to financial assistance, the right to temporarily manage the property of the missing person, funeral and burial costs, priority access to employment and education for the missing person's children, free health protection, costs for any necessary reburial or excavations, and financial assistance for associations of missing persons' families.

One of the biggest problems in administrative reparations is the unequal treatment of survivors and the lack of a uniform framework for the whole of BiH. A fragmented legal framework results in unequal procedures for claiming one's rights as well as unequal treatment of survivors in different parts of BiH. Additionally, civilian victims of war, including victims of wartime sexual violence in both entities, continue to receive significantly lower disability benefits compared to military victims of war (demobilized veterans). Furthermore, monthly financial compensation allocated to victims in RS is four times lower than in FBiH. There is also the question of the deadline for acquiring the status of a civilian victim of war. In FBiH, the deadline for survivors of wartime sexual violence has been abolished, while in RS it expired in 2023. The recognition of the status of a victim and the rights arising from this status depend on which entity the victim lives in. This kind of discrimination is unacceptable, particularly considering the still very fragile peace in BiH.

Judicial reparations

Acquiring the status of a civilian victim of war through the administrative reparations process does not prevent the victim from also filing a claim for compensation through court proceedings. Judicial reparations are established by a court judgement in proceedings before the competent court. In BiH, judicial reparations are available through two types of proceedings – criminal and civil proceedings.

In *criminal proceedings*, reparations are obtained by submitting a compensation claim. This is regulated by criminal procedure laws (the Criminal Procedure Law of Bosnia and Herzegovina, the Criminal Procedure Law of the Federation of Bosnia and Herzegovina, the Criminal Procedure Law of Republika Srpska, and the Criminal Procedure Law of the Brcko District). Criminal proceedings protect survivors' identity and provide psychological support. They also bypass issues such as the statute of limitations and procedural costs, which impede access to justice in civil proceedings. BiH does not have specific legislation dedicated to the rights of victims of crime, nor are there specific rules in the general legislation on criminal proceedings or enforcement

proceedings to ensure that victims of war crimes or violent crimes are in practice able to obtain compensation.¹⁶

The first verdict of the Court of Bosnia and Herzegovina to oblige war crime perpetrators to also pay compensation to the injured person (in this case a victim of war rape¹⁷) in addition to facing a prison sentence came in June 2015. It marked a turning point for reparations in criminal proceedings for war crimes. In cases that have come to completion before the Court of BiH, the District Court in Doboj and the Cantonal Court in Novi Travnik, one or more perpetrators have been obliged to pay compensation to victims of war crimes in the amount of between KM 20,000 and 60,000, and the highest amount per victim was KM 40,000. When determining the compensation amount, the courts in FBiH and the Court of BiH are guided by the Orientation Criteria of the Supreme Court of the Federation of BiH,¹⁸ both in criminal cases and in war crimes cases. RS does not have this type of criteria, but the general rules for compensation for non-material damage apply. By March 2023, a total of 20 compensation claims had been awarded in BiH (in over 700 war crimes cases). Among the claims awarded, three compensation claims were paid through an enforcement procedure and two through a voluntary payment by convicted persons. All other claims were either paid to the victims partially or not paid at all.

A 2022 analysis titled “Assessing the Effectiveness of Compensation Claims in Criminal Proceedings” indicates that there has been a change in the challenges faced by the judiciary and injured parties when pursuing compensation claims in criminal proceedings. While basic problems existed previously (lack of will and readiness to attend to reparations within criminal proceedings, lack of understanding of the importance of this right for victims, absence of implementation), today’s additional challenges relate to the challenge of achieving uniform case-law standards. There is a particularly pronounced difference between proceedings conducted before the Court of BiH (state level), which has developed case-law in this area, and the entity levels (cantonal and district courts), where compensation claims in criminal proceedings in war crimes cases are still rarely fulfilled. The primary focus of criminal war crimes cases at the level of the entities and BD is on proving guilt, so there is a lack of interest and readiness on the part of prosecutors and courts to deal with claims for compensation within these processes. There is an additional concern due to the fact that, according to the Revised National Strategy for Processing of War Crimes Cases (extended in 2023), a large number of war crimes cases are transferred from the state level to lower levels, where there is still insufficient readiness to address reparations as part of criminal proceedings. Progress was achieved in RS in 2024 when the Chief Prosecutor of the Public Prosecutor’s Office of Republika Srpska issued a decision on the Mandatory Instruction to Prosecutors for Work and Procedures in Relation to Compensation Claims by Injured Parties in Cases of War Crimes – Rape and Sexual Violence. Under this instruction, all prosecutors of the RS Prosecutor’s Office are obliged to undertake all necessary measures and actions in order to

¹⁶ Meskic, Z. *Effective enforcement of compensation for victims of war crimes within the criminal procedure in Bosnia and Herzegovina – International law and EU law requirements and standards*. TRIAL International, Sarajevo, 2017, <https://trial.ba/wp-content/uploads/2017/04/20170322-TRIAL-Djelotvorno-ostvarivanje-WEB.pdf>.

¹⁷ The Court of BiH in the case against Bosiljko and Ostoja Markovic, who committed crimes as members of the Bosnian Serb Army, decided on a compensation claim by a war crime victim for the first time ever.

¹⁸ The highest courts in BiH have set out a common framework for determining the level of fair monetary compensation for physical pain, fear, mental anguish due to death of a close relative, as well as compensation for damage due to unjustified conviction and unjustified deprivation of liberty, i.e. detention. The information is available here: <https://vsud-fbih.pravosudje.ba/vstvfo/B/142/article/60774>.

enforce the compensation claims by injured parties, including the establishment of facts and collection of evidence necessary to prove the amount of the claim.

The challenge that remains at all levels in terms of reparations in criminal proceedings relates to the enforcement procedures, for which there is no systemic solution in sight. In fact, when perpetrators are pronounced guilty and the victim is awarded compensation, it is unlikely that it will be paid if the perpetrator doesn't have sufficient assets, or if they've concealed their assets.¹⁹ Voluntary settlements are very rare. There are situations when defendants indeed have no assets or when settlements are not performed in full,²⁰ but much more often defendants (after the indictment is filed) conceal their assets. When that happens, there is no alternative procedure through which survivors can be awarded monetary reparations because the state does not have a fund from which to pay the amount.

A 2019 decision by the UN Committee against Torture (UNCAT) calls for BiH to publicly apologise and ensure payment of compensation to a war rape victim in accordance with a verdict of the Court of BiH, as well as to establish a comprehensive and effective state-level compensation mechanism for all victims of war crimes. This is the first UNCAT decision given regarding an individual's complaint against the state of BiH, the first decision at the global level relating to a victim of wartime sexual violence and the first UNCAT decision on an individual's appeal that condemns the use of a statute of limitations to prevent torture victims from claiming compensation.²¹ The Ministry of Human Rights and Refugees of Bosnia and Herzegovina formed a working group in 2021 on the implementation of the UNCAT decision, but no significant steps have yet been taken to enforce the decision.²²

In 2020, the UN Committee on the Elimination of Discrimination against Women (CEDAW) issued a decision against BiH prompted by a petition regarding a case in which the state of BiH failed to provide a survivor of wartime sexual violence with an impartial and effective investigation and failed to ensure access to full reparations for the damage suffered. The Committee emphasised the importance of providing compensation and other forms of reparations to survivors. In its decision, the UN CEDAW specifically emphasised that survivors' compensation claims for sexual violence cannot be subject to the statute of limitations.²³ This is the first decision to hold BiH accountable, as well as the first to acknowledge the suffering of survivors of sexual violence. The authorities in BiH have not yet implemented the decision.

In both petitions, survivors were represented by the Office of Trial International in BiH.²⁴

¹⁹ Gacanica, L. *Assessment of effectiveness of compensation claims in criminal proceedings*. TRIAL International, Sarajevo, 2022.

²⁰ For instance, there are situations where the convicted cease to earn income due to serving their prison sentence. If they do not have property, there is no possibility of enforcing collection. Furthermore, Vuk Ratkovic, who was sentenced to eight years in prison for multiple rapes of a woman in Visegrad and who was obliged to pay the injured party a total amount of KM 35,000 as compensation for non-material damage, died before the amount of compensation awarded was paid.

²¹ *UNCAT decision given against BiH*. Trial International, Sarajevo, 2019, <https://trial.ba/wp-content/uploads/2022/02/UNCAT-odluka-donesena-protiv-BiH.pdf>.

²² *Report of the European Commission on Bosnia and Herzegovina for 2023*, Brussels, 2023.

²³ *Press release on the occasion of CEDAW decision against BiH*, Trial International, 2020, <https://trial.ba/wp-content/uploads/2021/02/UN-osudio-propust-BiH-u-podrsци-prezivjelim-ratnog-seksualnog-nasilja.pdf>.

²⁴ TRIAL International is a non-governmental organisation fighting against impunity for perpetrators of grave international crimes and supporting victims in their fight for justice.

Despite there being a firm legal basis and despite the fact that there is an efficiency to resolving compensation claims in criminal proceedings, courts often still refer survivors, as injured parties in criminal proceedings, to seek compensation for damages in civil proceedings. The Criminal Procedure Laws prescribe that in criminal proceedings a compensation claim shall be decided upon if such a decision would not significantly delay the proceedings. Although the practice in BiH has shown that the consideration of compensation claims can rarely significantly delay the criminal proceedings, courts still unjustifiably use this provision. The law is not adequately applied here and the matter is often left to the discretion of the court (even when all conditions are met). Since 2015, there has been noticeable progress in the work of the Court of BiH, where decisions on compensation claims within criminal proceedings are practically standard practice, especially in cases of wartime sexual violence. Yet, it is necessary to emphasise that “in the end, a large number of survivors will never be able to access compensation in this way either due to the inability to identify the perpetrators of crimes against them or because the competent authorities cannot find them, or they have died”.²⁵

Unlike in criminal proceedings, however, in *civil proceedings* there are no identity protection measures. For this reason many survivors whose identity was protected in criminal proceedings often give up. Additionally, initiating and conducting civil proceedings involves costs for survivors (lawyers, fees, reimbursement of costs in case of losing the dispute). In RS, a very unfair practice is still being carried out by which victims of war who could not claim compensation in civil proceedings due to the statute of limitations are requested to reimburse procedural costs. The RS government has not yet taken measures to abolish procedural costs for victims of war torture. As a result, victims have faced seizure of property for non-payment,²⁶ have had part of their income confiscated, or have been forced to take out loans.²⁷

The third major challenge for achieving reparations through civil proceedings is the use of the limitation period for non-material damage claims. In the period 2010/2011, survivors (mostly former detainees) initiated a number of requests for compensation for non-material damage against individual entities and/or the state. This was a result of the lack of a collective administrative mechanism to provide compensation for damage suffered during the war. These proceedings have actualised the application of the provisions of the Law on Obligations. According to this law, when damage is the result of a criminal offence and a longer statute of limitations is called for due to the criminal prosecution, the compensation claim against the person facing criminal proceedings is subject to time limitations only after the specified limitation period for the criminal prosecution itself has expired. While the courts in RS decided that compensation claims filed on the principle of strict liability against the entities after 1999 (or 2001, depending on the limitation period) should be rejected due to the statute of limitations,²⁸ the Supreme Court of

²⁵ Hanusic Becirovic, A. and others. *Study on options for achievement of reparations for survivors of wartime sexual violence in Bosnia and Herzegovina – Together we raise our voice* Trial International, Vive Zene, Global Survivors Fund, 2022, <https://trial.ba/wp-content/uploads/2022/03/Studija-o-mogucnostima-ostvarivanja-reparacija-za-prezivjele-ratnog-seksualnog-nasilja-u-Bosni-i-Hercegovini-%E2%80%94-Zajedno-dizemo-glas.pdf>.

²⁶ *Report of the European Commission on Bosnia and Herzegovina for 2023*, Brussels, 2023.

²⁷ Hanusic Becirovic, A. and others. *Study on options for achievement of reparations for survivors of wartime sexual violence in Bosnia and Herzegovina – Together we raise our voice*, Trial International, Vive Zene, Global Survivors Fund, 2022.

²⁸ There is a subjective period of three years and objective limitation period of five years – whereby June 19, 1996 is taken as the beginning of the limitation period, as the day when the state of war and the state of imminent threat of war was abolished by a Decision of the National Assembly of Republika Srpska.

the Federation of BiH took an opposing position. According to them, claims for compensation for damage caused by crimes against humanity and international law for which the Criminal Code does not indicate a statute of limitations shall not be subject to the statute of limitations. This decision refers to an earlier position of the Constitutional Court of BiH. (This all stands regardless of whether the perpetrator has been identified, criminally prosecuted or found guilty). Such inconsistent case law resulted in legal uncertainty and inequality of citizens before the law, which varied depending on the court before which the proceedings were initiated. After the Constitutional Court of BiH rendered decisions in 2013, siding with the views of the RS judiciary, thus abandoning its previous opinion,²⁹ FBiH courts were also forced to adopt a restrictive approach in the application of statutes of limitation.³⁰

According to data available to the Association of Detainees of BiH, more than 30,000 detainees lodged actions for compensation for non-material damage due to baseless arrest and detention, as well as for torture suffered in detention camps in the period from 1992 to 1995. More than half of the detainees whose claims were rejected received an order to pay the costs of judicial proceedings, court fees and legal defence costs. The amounts ranged from KM 1,000 to 12,500, with some of these court claims having been subject to enforcement proceedings (forcibly taken from salaries and pensions). For some detainees, a property inventory was made for the purpose of valuation and sales with the aim of settling procedural costs.³¹

In 2022, RS courts issued two decisions by which former detainees were exempted from the costs of civil proceedings following a rejection of compensation lawsuits against the entity. Further similar decisions would confirm the change to the case-law in the fight for reparations, in line with decisions by the Constitutional Court and European Court of Human Rights.³²

Survivors of war crimes have found it difficult in recent years to initiate civil proceedings, even when they are provided with free legal aid. This happens for various reasons, including due to feelings of re-victimisation, disclosure of identity, the length and uncertainty of the procedure, the procedure for establishing proof, statutes of limitations, and the risk of having to pay the costs of the proceedings. What is rarely thought about when referring victims from criminal to civil proceedings is that this seriously prolongs the survivor's psychological suffering and intensifies their sense of helplessness and distrust in the justice system.³³

²⁹ By decision No. AP – 289/03 (Constitutional Court of BiH, November 19, 2004), the Court adopted the appeal of S.P. et al against RS for compensation of non-material damage in the amount of KM 5,000 per person after the appellants' missing relatives had been declared deceased, and created a legal position on strict liability (in the case of the entity) for compensation for non-material damage caused by a criminal act.

³⁰ Hanusic Becirovic, A. and others. *Study on options for achievement of reparations for survivors of wartime sexual violence in Bosnia and Herzegovina – Together we raise our voice*, Trial International, Vive Zene, Global Survivors Fund, 2022.

³¹ Begic, J. *Instead of reparations, detainees forced to pay procedural costs*, Detektor, 2022, <https://detektor.ba/2022/01/10/umjesto-reparacije-logorasi-prinudjeni-placati-sudske-troskove/>.

³² Begic, J. *Two decisions of courts in Republika Srpska a precedent in cases of compensation to detainees*, Detektor, 2022, <https://detektor.ba/2022/04/22/dvije-odluke-sudova-u-republici-srpskoj-presedan-u-predmetima-odstete-logorasima/>.

³³ Gacanica, L. *Assessment of effectiveness of compensation claims in criminal proceedings*. TRIAL International, Sarajevo, 2022.

Symbolic reparations

Symbolic reparations are government measures undertaken with the aim of symbolically acknowledging the truth about crimes and human rights violations in the past. Under these initiatives, representatives of the state publicly and officially recognise the responsibility of the state for misdeeds to the victims, individually or collectively. There are several types of symbolic reparations: memorial centres and memorials, commemorations, apologies by state representatives, etc.

Symbolic reparations have a public component, i.e. it is important that representatives of the state publicly and unequivocally condemn the crimes that were committed, acknowledge the suffering of victims and thus contribute to a sound basis for dealing with the difficult past. Although it seems simple, in our region symbolic reparations are perhaps the hardest and the least realised segment of transitional justice. Instead of building a fact-based history (that is, the first and second pillar of transitional justice – conducting war crimes trials and establishing the truth), the authorities have opted for one-sided ethnic interpretations of the past, in which self-victimising collective sentiments prevail and real victims are used to uphold the image. Very rarely are victims from other ethnic groups commemorated and acknowledged or crimes committed by a group's own ethnic group admitted. The recognition of all war crimes and mass violations of human rights contributes to building trust and reconciliation, while the absence of recognition leads to justification and legitimisation of violence. As stated by Nenad Dimitrijevic, "if we remain silent or deny, the survivors will understand our attitude not only as our relationship to the past, but also as our relationship to the present... It is humiliating if these people have to live in a world where their suffering will be forgotten or declared irrelevant".³⁴

Memorialisation in BiH is marked by a lack of a uniform, systemic, organised state effort in marking places of remembrance. This is partly because there is no answer to the question of what will be marked, where and how. The fragmented way that monuments are built and commemorations organised (beyond the larger already established ones) corresponds with the fragmented and disunited narratives of the past in which victims and their needs are neglected and marginalised. The fragmentation is also partially a result of a lack of uniform legislation on the construction of monuments commemorating the war of the 1990s. In fact, it is primarily the entity and cantonal laws (as well as the Law of Brcko District) on spatial planning and land use that form the basis for the erection of memorials in BiH. Approval for the erection of monuments is most often given by the urban planning section of local governments. However, relevant legislation does not establish the relevant criteria and standards for erecting memorials in terms of transitional justice.

The only memorial established by law and with a clear goal of creating "a dignified place for burial of persons who died as a result of the events in Srebrenica", by a decision of the Office of the High Representative (OHR) in 2000, is the Srebrenica-Potocari Memorial Center, a memorial and cemetery for victims of the 1995 genocide in Srebrenica. In 2001, the OHR issued a decision to establish the Srebrenica-Potocari Memorial Center and Cemetery Foundation. In 2007, the High Representative in BiH presented a decision that enacted the Law on the Center for the Srebrenica-Potocari Memorial and Cemetery for the Victims of the 1995 genocide,³⁵ according to

³⁴ Dimitrijevic, N. *Moral foundations for peace building*, Pescanik, 2017, <https://pescanik.net/moralne-osnove-izgradnje-mira/>.

³⁵ <https://www.ohr.int/odluka-kojom-se-donosi-zakon-o-memorijalnom-centru-srebrenica-potocari-spomen-obiljezje-i-mezarje-za-zrtve-genocida-iz-1995-godine-2/>.

which the Memorial Center is the legal successor of the Foundation Srebrenica-Potocari Memorial and Cemetery.

The building of monuments in BiH is essentially a political issue, and monuments that get built carry a clear political message about who the victim is and who the perpetrator is – who the aggressor is, and who the defender is. This is clear as much as by what events of suffering aren't commemorated as by what events are. In BiH, more than 2,100 monuments dedicated to the events related to the war in the 1990s have been built. A large number of these monuments are located in FBiH (more than 1,400), a predominant number of which are located in Tuzla Canton (288 monuments). In RS, most monuments have been built in the broader Bijeljina region, including around Zvornik (231 monuments).³⁶ Monuments are less often erected to civilian victims of war (only 38), and even less often are monuments blind to ethnicity. Only in five cases were monuments erected to all civilian victims, irrespective of ethnic affiliation. These are in Vares, Zepce, Bosanski Petrovac, and Brcko (2023)³⁷, as well as the Peace Monument in Srebrenica, which triggered resentment and misunderstanding when it was built in 2020.³⁸ A large number of memorials to military and civilian victims from one ethnic group were also erected in places of return, public places, schools, cultural institutions, as well as at sites where members of other ethnic groups suffered, or in returnee settlements where members of only one ethnic community live.³⁹ All this has had a negative effect on the process of reconciliation, as well as on the return and sense of security of returnees (many of whom are also victims).

After years of controversy, silence and unwillingness to memorialise the crimes at Kazani in Sarajevo, the local government erected a monument in 2021 that is “actually more a monument of denial than a monument to the victims”.⁴⁰ In fact, the city authorities decided not to state on the monument that the perpetrators of the crime were members of the Army of the Republic of BiH and that the victims were primarily targeted because of their ethnic identity. The monument was erected at Kazani, far from the city centre and difficult to access and the places where abductions occurred in the city's centre were not marked in any way, nor was the location of the 9th Mountain Brigade's Command, through which most of the victims passed and where they were tortured. Victims' families were not part of the process of erecting the monument, nor were the activists and organisations who had been advocating for the erection of the monument for years, and who eventually withdrew as they were dissatisfied with the moves of the Sarajevo mayor. It was arbitrarily decided that the commemoration date would be November 9, which marks the date of the first exhumations at Kazani in 1993, rather than October 26, which is the

³⁶ *International Day of Monuments and Sites – UDIK press release, 2021*, <https://cdtp.org/medjunarodni-dan-spomenika-i-spomenickih-cjelina-3/>.

³⁷ A monument to civilian victims of war in the period 1939–1945 and 1992–1995 in Brcko (2023) was erected by the Brcko District (through an order by supervisor Gregorian) and commemorates all civilian victims, who were killed in this area. The monument has no religious features, and, according to the BD Supervisor and local authorities, it represents part of the reparation process and commitment to the building of trust.

³⁸ The decision to build the monument was issued by the Municipal Assembly of Srebrenica in 2019, at the initiative of the Office of the High Representative in BiH. The Peace Monument in Srebrenica is a brass sculpture on a pedestal, in the form of forearms, with the palms holding planet Earth. Four children, embracing each other, stand on the monument. Bosniak councilors in the Municipal Assembly of Srebrenica opposed the construction of the monument, and victims' associations stated that it is pointless to erect monuments to peace while the genocide is still being denied at the same place.

³⁹ *Transitional justice strategy in Bosnia and Herzegovina 2012-2016 (working draft)*, Ministry of Human Rights and Refugees, <http://www.mpr.gov.ba/aktuelnosti/propisi/konsultacije/strategija%20tp%20-%20bosanski%20jezik%20fin%20doc.pdf>

⁴⁰ Novalic, N. *Between denial and recognition: Who and what does the Kazani monument serve?*, Analiziraj.ba, 2023, <https://analiziraj.ba/izmedju-poricanja-i-priznanja-kome-i-cemu-sluzi-spomenik-na-kazanima/>.

day of remembrance for crimes that parts of the ARBiH committed in Sarajevo. The new date for commemorating Kazani is in fact an attempt to move away from the fact that members of ARBiH were responsible for the crimes, and also that they were not individuals, but quite powerful and well-organised units that required a serious counter force to subdue.⁴¹

However, it is necessary to emphasise that memorialisation is not only a turn towards the past. In addition to acknowledging victims, memorialisation looks towards the present as a process that enables healing and confidence building, and to the future with the aim of preventing future violence and making sure that crimes aren't repeated.⁴² Therefore, memorialisation should be much more than the installation of "correct" monuments which do not meet the social need for remembrance in BiH, particularly when it comes to communities with violent pasts.⁴³

Public apologies have the potential to strongly contribute to the moral satisfaction of victims, and in certain contexts, to symbolically revitalise victims and their wider community. In most cases, an apology is not sufficient reparations for victims of gross human rights violations – apologies should be an integral part of a broader approach to attaining full rights for victims (which includes effective material reparations). It is important to distinguish between "expressions of regret" and apologies – besides the words of an apology, a meaningful apology must contain the assumption of responsibility for the relevant events, as well as the use of words that describe the specific events and consequences of the (mis)deeds for which they are apologising unambiguously and without justification.⁴⁴ The aim of apologies is to empower citizens and society as a whole to confront the causes of conflict, violence and repression, as well as the causes of massive human rights infringements. The apology must unequivocally affirm the fact that crimes occurred and that these acts caused harm to victims whose rights were trampled on.

Although there have been several public apologies in the post-war period regarding the crimes committed during the "Yugoslav wars" by political and military leaders on all sides, their true impact has often been called into question, especially considering the continued absence of a comprehensive approach to reparations. Examples of public apologies, which happened in the period 2003–2013, and then largely ceased, include:

- President of Serbia and Montenegro Svetozar Marovic apologised to everyone in BiH who suffered pain from someone from Serbia and Montenegro (2003);⁴⁵
- President of Serbia Boris Tadic apologised for crimes committed in BiH during his first visit to BiH (2004);
- President of Republika Srpska Dragan Cavic said: "First as a human and Serb, and then as a father, brother and son, and only then as the president of RS, I have to say that these nine days of July of the Srebrenica tragedy are the dark side of the history of the Serbian people. The participants in that crime cannot justify their act with anything or to anyone.

⁴¹ Ibid.

⁴² Shaheed, F. *Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed: Memorialization processes (A/HRC/25/49)*. United Nations General Assembly Human Rights Council, 2014, <https://digitallibrary.un.org/record/766862?ln=en>.

⁴³ Gacanica, L. *Is reconciliation a priority for Bosnia and Herzegovina?* Initiative for Monitoring the EU Integration, 2023, <https://eu-monitoring.ba/da-li-je-pomirenje-prioritet-za-bosnu-i-hercegovinu/>.

⁴⁴ *How to apologize for crimes – Manual for politicians*. YIHR, https://yihhr.hr/system/publication/document/24/5_YIHR-Kako-se-ispri%C4%8Dati-za-zlo%C4%8Dine.pdf.

⁴⁵ Susic, A. *Svetozar Marovic apologizes to Bosnian citizens*, *Nezavisne Novine*, 2003, <http://www.infobiro.ba/article/315514>.

Whoever committed such a crime while perhaps claiming it was done in the name of their own people, to which they belonged by their first and last name, committed the crime also against their own people” (2004);⁴⁶

- Member of the Presidency of BiH Bakir Izetbegovic said on Radio B92 that he “apologises for every innocent person killed by the Army of BiH”, but he added that “when all crimes of the Army of BiH are added up, they are not equal to one hour of crimes in Srebrenica” (2010);⁴⁷
- President of Serbia Tomislav Nikolic apologised for crimes committed in Srebrenica and asked for forgiveness, but he refrained from describing the crime as genocide (2013).⁴⁸

Representatives of countries in the region have had different approaches in their public speeches about their countries’ role in the war in BiH, including apologies.

Serbian President Boris Tadic apologised on behalf of the Serbian people during his first visit to BiH: “The Serbian people did not do that, because criminals are individuals. It is impossible to accuse one nation because the same crimes were also committed against the Serbian people. I think we all owe each other an apology because we were all victims and witnesses of crimes in a relatively short period of time ... I will start first and apologise to all those against whom crimes were committed in the name of the Serbian people. I wish to emphasise that these crimes were not committed by the Serbian people, but by individuals who have a name and surname and who should answer before the Tribunal in the Hague.”⁴⁹

After the media reported in 2010 that Croatian President Ivo Josipovic apologised for crimes committed by Croat forces in BiH during his address to the Parliamentary Assembly of BiH, Josipovic said his words were incorrectly interpreted, stating, “it was not an apology, but I expressed regret over wartime events.”⁵⁰

These apologies had a strong symbolic value, and came at a time when there was constructive action on building a positive climate for transitional justice. However, the apologies themselves should have been accompanied by clear policy and action. Not only were these missing, denials, justifications, contestations about war crimes and the glorification of war criminals have since intensified. As regards symbolic reparations, recent years have not brought significant positive development. Though the period up to 2014 can be considered as a time when an opportunity for critical confrontation with the past and sincere piety towards all victims was opened, the opportunity unfortunately was later abandoned. It is worth pointing out that even at the time when they were pronounced, the apologies did not go without criticism and denial by various authorities, often with claims that the person apologising did not speak on behalf of the nation or the state. Nevertheless, the apologies were and still are important.

State representatives’ visits to places of suffering in order to pay tribute to victims also have a symbolic value. In BiH, these practices are frequent, such as visits of local and regional government representatives to Potocari (at the time of commemoration or during official visits);

⁴⁶ Smoljanovic, S. *Cavic admits massacre in Srebrenica*, Deutsche Welle, 2004, <https://www.dw.com/bs/%C4%8Davic-priznao-masakr-u-srebrenici/a-2485548>.

⁴⁷ Mihajlovic, B. *The circle of mutual apologies of Balkan leaders closes*, Radio Free Europe, 2010, https://www.slobodnaevropa.org/a/balkan_zrtve_ratovi_izvinjenja_izetbegovic_tadic/2208585.html.

⁴⁸ *Nikolic apologizes for Srebrenica*, RTS, 2013, <https://www.rts.rs/lat/vesti/politika/1312406/nikolic-se-izvinio-zbog-srebrenice.html>.

⁴⁹ <https://www.slobodnaevropa.org/a/833337.html>

⁵⁰ <https://www.klix.ba/vijesti/bih/nisam-se-izvinio-nego-sam-izrazio-zaljenje/100416003>

paying tribute to victims in Ahmici, at Kapinja (Tuzla), or Bradina; attending the commemoration of the White Armband Day in Prijedor and other places of suffering. However, there are sometimes complaints that the presence and addresses by politicians “steal” these commemorations and politicise them instead of contributing to broader public support for victims and dealing with the past.

Conclusion

Despite numerous obstacles to achieving reparations in BiH, it is necessary to emphasise that there is evident progress and development in this part of transitional justice. Over the years, the state and entities have gone from lacking understanding and genuine interest to establishing standards and involving victims and civil society in planning and reform processes. This is a real result of the persistent work and advocacy of victims’ associations and other civil society organisations, i.e. the work of marginalised people whose rights haven’t been respected. However, the progress made by BiH should also be measured by how much has been achieved for victims, and there is a real fear that this progress has been too little and come late, and for many, too late.

The biggest problem victims face in exercising their right to claim reparations is the complicated and fragmented Bosnian legal system which leads to unequal treatment of victims, lack of access to an effective legal remedy through criminal proceedings and extremely inefficient civil proceedings. The system itself ultimately leads to a lack of political will to better regulate this legal field. It has been so many years since the end of the war in BiH and not enough has been done to address the urgent needs of civilian victims. Civilian victims of war face not just the damage suffered around the war, but the inability to exercise their own rights in the aftermath. This prolongs their trauma, prevents them from living a life of dignity (in which an acknowledgement of their trauma and suffering would be the minimal basis for a new beginning), and deepens mistrust in authorities and institutions. Some victims state that going through the process of trying to claim their right to reparations feels like a renewal of violence against them.

Recommendations

- A uniform framework of administrative reparations for the whole of BiH should be established to replace the multitude of existing laws and ensure the provision of readily available support to victims, free from any form of discrimination, including discrimination based on place of residence. It is essential to ensure equal access to social benefits and other support measures to which victims are entitled.
- The practice of awarding compensation claims in criminal proceedings must be ensured and continued. Uniform practices before all judicial institutions in BiH, including district or cantonal institutions, must also be ensured. Judges should decide on compensation claims within criminal proceedings without unduly referring victims to civil proceedings.
- BiH authorities should ensure the immediate and comprehensive implementation of the 2019 UNCAT Decision and 2021 CEDAW Decision, including public apologies, compensation for damages, and the establishment of an effective state-level compensation mechanism for all victims of war crimes.
- It is necessary to establish uniform criteria for the entire territory of the country on the amount of compensation awarded for various types of damages in war crimes cases.
- Authorities in BiH should ensure that victims receive the compensation awarded in criminal proceedings. This means that, even in cases where the perpetrator fails to pay the

awarded amount of compensation, the authorities must ensure the payment of compensation awarded to victims. BiH authorities should establish a fund from which compensation and other forms of reparations would be provided to victims.

- Amend the Laws on Civil Procedure of the Federation of BiH, Republika Srpska and Brcko District so that victims who have been granted identity protection in criminal proceedings will have their identity protected also in civil proceedings when seeking compensation.
- Authorities in BiH should ensure that in war crimes cases the statute of limitations does not apply to proceedings for compensation for non-material damage and that victims whose claims have been rejected as a result of the application of the statute of limitations are exempted from paying procedural costs.
- It is essential to establish standards and criteria for erecting memorials and holding commemorative activities at the state level.
- Government representatives should acknowledge the suffering of all victims in BiH, without ethnic discrimination or exclusivity. Only a responsible policy of remembrance can produce the effects of symbolic reparations and moral satisfaction by acknowledging the suffering of victims and their families.
- Reparations programmes must be developed and implemented in continuity and be coordinated alongside other transitional justice mechanisms.

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