

PRACTICE UNDER PRESSURE

**HOW THE LEGAL PROFESSION IN
BOSNIA & HERZEGOVINA
EXPERIENCED THE BOSNIAN WAR**

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Building damaged during the Bosnian War

Part I – Eppur si Muove

Bosnia & Herzegovina, the mountainous country on the Balkan peninsula that is the shared home of Muslims, Croats, and Serbs, each with their own ethnic, religious, and cultural habits and beliefs, is now twenty years beyond the terrible civil war that saw the three groups explode into open conflict.

How the lawyers in this proud European country survived that bloody conflict – not only living through it, but to some extent helping mend the wounds that lingered into the years beyond – is a story rarely told.

A Home to Many Masters

The territory that is now Bosnia & Herzegovina has been fought over for centuries, claimed over years by many and diverse occupying forces. The land was conquered by the Ottoman Empire in the 15th century, annexed by Austria-Hungary in 1908, made part of the Kingdom of Serbs, Croats and Slovenes in 1918, then occupied by Axis forces in 1941, before, in 1945, becoming a founding part of the Socialist Federal Republic of Yugoslavia (known colloquially as the SFRY), where it remained for over five decades.

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Although Bosnia was considered a “free federal unit” – the 1974 Yugoslav Constitution defined it as a “federal republic of equal nations and nationalities, freely united on the principle of brotherhood and unity in achieving specific and common interest” and gave each republic the

right to self-determination and secession if done through legal channels – Yugoslavia’s Belgrade-based centrally-planned government dictated the country’s every move for the 45 years following World War II, essentially robbing it of any actual agency in developing its own economy. The movement of people, labor, and capital, although free on paper, was in fact severely restricted and controlled. Foreign investment was limited, and a lack of capital meant that legal professionals had few opportunities to give (or learn how to give) business advice.

In 1987, near the end of that time, Bosnia’s debt was USD 21.9 billion, the inflation rate was 167%, and the unemployment rate was 16.1%. The country reported an annual growth of -1.4%, and debt represented, roughly, 26% of GDP. These numbers – which actually represented a step forward from five years before (in 1982 debt accounted for 32% of GDP, and annual growth was -7.07%) – continued a downward decline from the 1970s, when growth was reported to be about 13-14% a year.

Antebellum Practice of Law

“In the seventies, the principles of the profession were the same, really,” recalls Branko Maric, Senior Partner of Maric & Co., for many decades among the most respected attorneys in Bosnia & Herzegovina. “The former Yugoslavia really only had one free profession that the state didn’t meddle in – and that was the legal profession.” According to Maric, the terms and structures of the profession were dictated not by the centralized, controlling state, but rather by the bar of the Socialist Republic of Bosnia & Herzegovina, which he describes as “the true regulator of the legal profession.” He insists that, “the state only ever interfered when it came to regulating attorney fees.”

According to Maric, while the principles of the profession were the same, the practice was quite different. “Virtually all lawyers working in the country were engaged almost exclusively in their capacity as litigators,” he recalls.

“There used to be a lot fewer law offices, back then, before the war, and most of those that did practice law did so as litigators,” agrees Aleksandar Sajic, Managing Partner of the Sajic Law Firm. “One would hire a lawyer when the problem was already there; lawyers were an afterthought. Most firms were actually solo practitioners; even a two-person ensemble was a rarity, let alone a larger office,” he reports. And with commercial law a limited field, he says, “people would work on whatever they could. There was no marketing involved, no client hunting – work would present itself.”

Maric agrees that, “before the war, there were no large client mandates. You’d get work and clients by word of mouth or via personal connections with those working in other business areas.”

Despite the different atmosphere, and the limited need for business development skills – or perhaps because of it – Sajic insists that the quality of service may have actually been superior. “The average lawyer was way more qualified than today – being a solo practitioner then, and owning a firm, was a crowning achievement of one’s career and people would prepare for that for a long time, gathering experience, knowledge, and courage.” Sajic’s mother, he recalls, had over 20 years of experience before she opened her own office in 1989 (a move that inspired him to abandon his plans of becoming an electrical engineer and enrolling in law school himself).

Still, even with the opportunity to open an individual law practice, business opportunities remained limited. “Nearing the end of the eighties, there still weren’t a lot of foreign companies and foreign capital involved in the SFRY market,” Maric recalls.

And then, at the end of the eighties, long-stifled ethnic divisions began to express themselves. “There was a lot of tension at the time, nobody really took note of what was going on with foreign investment and foreign capital, with Yugoslavia slowly coming apart at the seams,” Sajic

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the eighties, began to express a lot of tenacity took note of foreign investment Yugoslavia seams," Sajic

says. "On top of that, there were already tangible issues with inflation, and even with SFRY's maybe trying to attract foreign investments, those efforts were not in any meaningful way noticeable." In 1989, the inflation rate hit 2700%, with unemployment at 15% and a growth rate of -1%. Debt was roughly USD 17 billion.

And then the war came.

The Yugoslav War – All Hell Breaks Loose

In 1980 Marshall Josip Broz Tito – the Balkan freedom fighter who led the resistance against the Nazis and the Axis powers in World War II and then led a unified SFRY in the decades that followed – died. With his death, the glue that had bound the various Balkan cultures, ethnicities, and nationalities started to dissolve

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In 1987 Slobodan Milosevic, the President of the League of Communists in Serbia, proclaimed himself, in essence, a protector of Serbs. That same year, the Central Committee of the League of Communists of Yugoslavia started to lose power, and the slow drifting apart of the republics that had begun after Tito's death started to pick up speed.

In 1989, the Iron Curtain fell across Eastern Europe. The first multiparty elections in SFRY were held shortly thereafter, in 1990, with nationalist parties making the strongest showing in each republic.

Almost immediately, Croatia and Slovenia – the most affluent of the six republics – started advocating for more autonomy and independence. Alarmed, Milosevic-led Serbia, the largest of the six republics, doubled down on its consolidation of centralized power, waving anti-nationalistic and pro-Yugoslavian banners.

Undeterred, in June of 1991, Slovenia and Croatia declared independence. The Yugoslav National Army – the JNA – immediately deployed troops to the borders and relevant airports. After a brief and ultimately inconsequential ten-day conflict, the JNA stood down and backed away from Slovenia. In Croatia, however, the Serbian troops sided with Serb rebels on the ground who were opposed to independence – starting a conflict that ended up lasting four brutal years. Soon thereafter, the Croatian community of Vukovar was overrun (with 2,000 civilians killed, 800 declared missing, and 22,000 forced into exile) and Dubrovnik was shelled.

Meanwhile, Bosnia – by far the most ethnically diverse of the republics – organized an independence referendum at the end of February, 1992. Although the Bosnian Serbs, accounting for some 30% of the population, boycotted in referendum, 63.4% of all voters turned out, with between 92% and 99% of them – the specific results are disputed – voting for independence. On March 3, Alija Izetbegovic, the Chairman of the Presidency of Bosnia and Herzegovina, declared the independence of the Republic of Bosnia and Herzegovina and the parliament ratified the action.

The celebrations were shortlived. Although there had been isolated skirmishes and clashes before, the same day that Bosnia & Herzegovina's independence was recognized by the United States and the European Economic Community – April 6, 1992 – full-scale hostilities broke out between Bosnian Muslims and Croats on one side and Bosnian Serbs on the other (later in the conflict, the Bosnian Croats would turn against the Bosnian Muslims).



Aleksandar Sajic



Andrea Zubovic



Branko Maric

By May of 1992 – the same month the country was admitted into the United Nations – Bosnian Serbs controlled approximately two-thirds of Bosnia and initiated a horrific campaign of ethnic clashing and cleansing. A siege of Muslim-held Sarajevo began, with 13,000 troops stationed in the hills surrounding the city and mauling it with tanks, artillery, and small arms. The Bosnian Government defence force, which was located inside the besieged city, was poorly equipped

and unable to break through.

Inside the city, things weren't much better. Supplies were scarce, and both heat and power were hard to come by. Snipers took up positions throughout the area, leading certain streets to become known as "sniper alleys." Signs reading *Pazite Snajper!* ("Look out, sniper!") became a common sight in the city. In addition, an average of 329 shells impacted the city each day – with a peak of 3,777 shells on July 22, 1993 – eventually damaging virtually all buildings in the city, with as many as 35,000 completely destroyed.

The siege eventually lasted 44 months – a full year longer than the siege of Leningrad in WWII – with 350,000 residents being deprived of basic necessities and almost 14,000 deaths.

In August, 1995, moved to action by the previous month's massacre of as many as eight thousand Muslim men and boys in Srebrenica and the continued bombings of Sarajevo, NATO launched airstrikes on Bosnian Serb positions.

Finally, in November 1995, after three weeks of talks in Dayton, Ohio, the combatants agreed to a peace, with the country divided into a Muslim-Croat Federation, covering 51% of the territory, and Republika Srpska on the rest. The Bosnian Government officially declared the end to the siege of Sarajevo on February 29, 1996, just 23 days after the last act of hostility – the death of a 55-year old man riding a tram down the city's main by a single rocket-propelled grenade

The International Criminal Tribunal for the former Yugoslavia was formed as early as 1993, and after the war 161 people were indicted of war crimes – including such prominent figures such as Slobodan Milosevic and Radovan Karadzic, the President of the Republika Srpska during the war. Karadzic, who was ultimately among the 83 individuals convicted, was sentenced to forty years, and Milosevic died in prison before a verdict was reached.

That was after the war. *During* the conflict, however – in the middle of this chaos, warfare, and bloodshed – were normal people trying desperately to maintain livelihoods, protect themselves and their families, and retain their sanity in the most stressful of times. These normal people, of course, represented all trades and professions, including salesmen, bakers, bankers, doctors ... and lawyers.

Lawyers and the Law in Wartime

"When the war started, the Bar of Republic of Bosnia & Herzegovina continued to function and I was the head of its Executive Committee," says Branko Maric, who maintained that position, in Sarajevo where he lived, throughout the entirety of the conflict.

"In spite of all the ethnic tensions and problems, all the religious conflicts and fighting, the legal profession in Sarajevo kept its dignity and its face. It never, ever, happened that any lawyer refused to take up a client or provide legal assistance to those in need based on their faith, ethnicity, or nation."

Amazingly, despite the years of shelling, sniper fire, and chaos, Maric insists that the bar's operations were relatively unaffected, "as much as it was possible given the political divide and the military conflict. There weren't, actually, any serious hiccups in the work of the bar. It worked rather normally during the entirety of the war, and it stayed on as the Bar of Bosnia & Herzegovina after the war ended."

Maric recalls his colleagues' commitment

to their profession under arduous circumstances with pride. "In spite of all the ethnic tensions and problems, all the religious conflicts and fighting, the legal profession in Sarajevo kept its dignity and its face. It never, *ever*, happened that any lawyer refused to take up a client or provide legal assistance to those in need based on their faith, ethnicity, or nation."

And, Maric insists, it wasn't simply the lawyers that remained focused. "Even the courts," he says, "believe it or not, were functional – even more efficient than today!"

Aleksandar Sajic says that law offices and the judicial system continued to operate as normal in Banja Luka as well. "My mother stayed at her job and worked the cases she had throughout the entire war. Of course, there was turmoil, as in all parts of the country – many men were drafted and left for the warring areas. Still, the courts worked, law offices worked, and in spite of all the tribulations and turbulency – the system kept going on."

Of course, that doesn't mean the fighting had no effect on a *personal* level. Andrea Zubovic-Devedzic, now a Local Partner at CMS Sarajevo, was eight years old when the siege of her home town started. "I wasn't really aware of what was going on, precisely, it was all 'grown-up talk' back then," she says. Still, she remembers that her school didn't take place in a classroom but rather in "apartments and basements – and with shorter periods. Being a teacher took guts and bravery back then, not just because of the war but because they were not of this profession – some of the teachers were, in fact, driving instructors."

"I remember, for a certain period of time, when my family and I were forced to live as refugees in our own city," Zubovic-Devedzic recalls. "All because we went to visit some friends over the weekend and couldn't get back to our apartment after." Now, she says, she finds it difficult to imagine how they were able to

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live the way they did, admitting that she often wonders to herself “how it was so easy to simply accept it all like a new reality – one without access to power, water, and even food.” She believes that the war left no lasting effects on her, though she admits that “I still cannot fully and peacefully enjoy fireworks to this very day.”

If children were able, to some extent, to adapt to the new reality, adults found it more difficult. “It was in the very first days of the war, I remember a grenade hitting the roof of the building in which our office was located,” Maric remembers. “I worked from home from that day on.” “The court and the bar were both some half an hour away from my house – I walked to work every day not trying to pay any attention to the bullets that buzzed somewhere over my head as I kept repeating to myself that I only had a five percent chance of being shot.”

Surprisingly, Maric insists that, while he has never disputed that terrible crimes took place during the war, “people that didn’t commit them were set up to take the fall,” and he reports that some of the cases that came across his desk were “run in an utterly disgusting manner,” which, he says, only increased his commitment to his ethical responsibilities. He recalls being “assigned to defend a Serb that was indicted for genocide – a trumped-up charge, as I deeply believed back then, only brought to demonstrate to the world that atrocious crimes were committed in Bosnia.”

In that case, he says, “the opposing team was a cohort of military prosecutors that worked in fully-equipped (and fully-powered) offices, while I was forced to prep under candlelight.” He chuckles as he recalls that the ordeal forced him to learn how to ride a bicycle. “I had to use my son’s bike to get to the Military Court every day because it was quite far and the roads weren’t that safe for walking. I had never been on a bike before, but after this – I got proficient.” Ultimately, he says, his client was sentenced to death three times – but each time he succeeded

in overturning the verdict, and ten years later his client was released from prison. “I risked my life defending that man, not just because simply getting to the court was a challenge, but because the authorities that organized the process deemed my defense to be ‘too serious’ and said that I was ‘trying too hard’ for their tastes. This only motivated me even more to defend the man and save his life from a death sentence – for something he hadn’t committed.”

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During the war Maric received around thirty draft letters and “a lot of ‘call-to-labor’ letters,” which he describes as “a mild way of saying that you are to go and dig trenches before enemy lines.” He gets angry recalling the order. “I thought at the time that this was a move made for political reasons, in order to get me to leave my position, and I still think that. This led me to question everyone and everything I knew. To know people for who they truly were was a question of survival. It was crucial to know whom you could count on and eliminate the false friends from your life.”

Ultimately, though, Maric says that the number of reliable people was high. “The weight of it all, of the fact that somebody might grenade you away from a nearby hill or that a paramilitary formation could

simply decide to take your life, that you’re hungry and cold and living in an apartment without power and no glass in any of the windows – it’s easier to bear when there are people that you can rely on.”

And the long conflict caused some administrative challenges for lawyers as well. “As the war started the territory got divided and borders shifted constantly,” Maric says. “The bar in Sarajevo had no direct contact with lawyers from the area that proclaimed itself to be Republika Srpska. That area had, at the very start of it all, formed its own bar, as did the Herzeg-Bosnian Federation – so you had a situation where there were, *de facto*, three bars operating independently at the end of the war.”

“When the peace talks bore fruit the bar of Republika Srpska remained in place,” Maric recalls, “and talks started to form the Bar of the Federation of Bosnia and Herzegovina. The Office of the High Representative gathered some eminent lawyers that drafted an act about the profession of lawyers.” The act was first imposed by OHR and then adopted by parliament, leading to the formation of the Bar of the Federation of Bosnia and Herzegovina. “Since that time, practically, there have been two bars in Bosnia and Herzegovina: one of the Federation and one of Republika Srpska.”

Ultimately, in addition to the horrific casualty numbers and lasting psychic scars imposed on the surviving Bosnian population, the war caused serious damage to the country’s economy, with over USD 200 billion in material damages, and GDP reduced by about 90%.

Repairing the damage – both psychological and structural – would take years.

End of Part I

Part II of this article will appear in the March 2020 issue of the CEE Legal Matters magazine.

Andrija Djonovic