

Folbundsrep. Jugoslavien (31)



Human Rights Watch

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Human Rights Watch World Report 2002 - Federal Republic of Yugoslavia - January 2002

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Human Rights Developments

The December 2000 Serbian parliamentary elections consolidated the transition from the authoritarian rule of former president Slobodan Milosevic, with the Democratic Opposition of Serbia (DOS) winning 64 percent of the vote. In Montenegro, the early elections in April 2001 served as an informal referendum about the status of the smaller of the two Yugoslav republics. Pro-independence parties only won slightly over half the votes, less than generally anticipated, but the ruling coalition continued to boycott the work of the federal institutions. The authorities in Serbia and Montenegro made little progress toward solving the federal constitutional crisis, but the real risk of armed conflict under the Milosevic government gave way to a political process.

On April 1, Serb authorities arrested Milosevic on corruption charges. Faced with mounting pressure from human rights organizations, the United States, and the European Union to surrender Milosevic for war-crimes prosecution before the International Criminal Tribunal for the former Yugoslavia (ICTY), Yugoslav President Vojislav Kostunica and other officials argued that Milosevic's transfer required adoption of a law on cooperation with the ICTY first. The Yugoslav Ministry of Justice drafted a law in June, but the Montenegrin partner in the federal coalition government, the Socialist People's Party (SNP), blocked its adoption. On June 23, the cabinet, dominated by DOS members, adopted a cooperation decree in lieu of the law. The Federal Constitutional Court, filled with appointees from the Milosevic era, stayed application of the decree while examining its constitutionality. To avoid the emerging political and legal gridlock, the government of Serbia transferred Milosevic to The Hague on June 28, invoking the Statute of the Tribunal and the Constitution of Serbia as the legal basis.

Progress on accountability for wartime abuses was otherwise disappointing. Serbian authorities arrested and surrendered to the tribunal indicted Bosnian Serb Milomir Stakic on March 23, and Bosnian Serb brothers Nenad and Pedrag Banovic on November 9. Blagoje Simic, another Bosnian Serb living in Serbia, surrendered himself to the tribunal under pressure from the Serbian government, as did retired General Pavle Strugar and former naval commander Miodrag Jokic, who both had been indicted for crimes committed in Dubrovnik in 1991. Nonetheless, at the time of this writing, at least four senior Yugoslav and Serb officials or former officials remained at liberty in Serbia who were charged with crimes against humanity committed by troops under their command in Kosovo, along with three Yugoslav Army officials indicted on charges relating to the destruction of Vukovar and two other officers indicted for

crimes committed at Dubrovnik.

Public debate on crimes committed by Serb forces in Kosovo and Bosnia slowly started in 2001. Between June and September, the police exhumed five mass graves in Serbia, containing more than three hundred bodies thought to be Kosovo Albanians killed by the police and the army during the 1999 NATO bombardment. In an unprecedented move, the state-run television showed a BBC documentary about the 1995 killings of more than 7,000 Bosnian Muslims in Srebrenica.

In contrast to the Milosevic era, the political opposition in Serbia could openly express its views and operate free of government harassment. The new government initiated criminal investigations into corruption and other charges against dozens of former Milosevic cronies, with the proceedings apparently driven by the demands of the rule of law rather than by political revanchism. Only one of these cases had proceeded to trial as of October, resulting in convictions for former head of Serbian State Security Radomir Markovic and two of his closest collaborators. Their trial was closed to the public on grounds of state security, raising questions about the fairness of the proceedings.

The Serbian parliament replaced fifty-seven of two hundred presidents of municipal courts by July 2001, substantially clearing the judiciary of Milosevic appointees. Although the new government stopped short of exerting direct pressure on the judiciary, well-known judges repeatedly complained that pro-government media and some politicians obstructed judicial independence by publicly recommending criminal prosecutions and "appropriate" punishments.

An amnesty law adopted in February covered Kosovo Albanians convicted for seditious conspiracy and armed rebellion, but not those convicted on terrorism charges. When Slobodan Milosevic was ousted from power in October 2000, 850 Kosovo Albanian prisoners detained during the 1999 Kosovo war remained in Serbian prisons. By August 2001, an estimated 225 Kosovo Albanian prisoners remained, an estimated fifty of whom had been sentenced for political reasons in unfair trials.

The new Serbian government generally respected freedom of expression. Some media were closer to one or the other party in the political conflict between nationalist Yugoslav President Vojislav Kostunica and pro-Western Serbian Prime Minister Zoran Djindjic, but neither leader directly controlled the state-run media or major private outlets.

The media in Montenegro generally operated free of government intrusion. In a surprising setback, on September 3, a court in Podgorica convicted the editor of the opposition daily *Dan* on a charge of criminal libel and handed down a suspended five-month prison sentence. The newspaper had published a series of articles on cigarette smuggling, implicating a businessman associated with Montenegrin President Milo Djukanovic.

The police practice of so-called informative talks, much abused during the Milosevic era, occasionally reappeared in 2001. On May 29, State Security agents interrogated student Milos Cvorovic, an activist in a nongovernmental group in Belgrade, about his contacts with Kosovo Albanians. A reporter from Valjevo with the daily *Blic*, Predrag Radojevic, was taken to the police station on July 12 for an "informative talk" about his work as a journalist. Radojevic had written a series of articles during the previous months on the presence of the mafia in the town. *Blic's* editor-in-chief Veselin Simonovic was also interrogated on August 14,

following the publication of an article about a former State Security agent who was killed on August 3.

The authorities in Belgrade made positive steps toward reducing ethnic tensions in the Presevo valley, where ethnic Albanians were a majority of the population. As a result of months-long negotiations, armed Albanian groups there voluntarily disbanded in May, and civilian life began returning to normal. At the end of May the first multiethnic police patrols were deployed in the area, following a short training course under the auspices of the Organization for Security and Cooperation in Europe (OSCE). Two more courses were completed by mid-July. Nearly 4,000 of the estimated 15,000 local Albanians who had left their homes during and after the 1999 Kosovo conflict returned in June and July 2001.

Police brutality against Roma was a common occurrence in 2001. On September 22, two policemen broke the arm of a fourteen-year-old boy in Novi Sad after beating him and a group of other Roma children. Police in Leskovac detained Daka Zekic, a seventy-six-year-old Roma for two days in January, deprived him of food and water, and subjected him to beatings and racial insults. On March 5, four policemen beat and uttered racial insults against Miroslav Milic, a Roma teenager from Belgrade. On May 7, three police officers in Backa Topola beat up and uttered racial slurs against two Roma villagers, Stevan Brancic and Sasa Gojkov. In a positive development that may help counter these abuses, the Federal Republic of Yugoslavia acceded to the Framework Convention for the Protection of National Minorities on May 11.

According to a large-scale recount of refugees in the Federal Republic of Yugoslavia, 390,000 persons from Croatia and Bosnia were registered as refugees, a 30 percent drop from 1996 figures. The government failed to support the return of Serb refugees to their pre-war homes in Croatia and Bosnia, while facilitating Serb refugee integration in Yugoslavia. The Serbian commissioner for refugees stated that between 230,000 and 250,000 internally displaced persons from Kosovo also lived in Serbia proper.

Defending Human Rights

With the one known exception of the police interrogation of Milos Cvorovic, human rights activists carried out their activities free of government intrusion. The positive change reflected the fact that several human rights and minority rights advocates, including federal ministers Goran Svilanovic, Momcilo Grubac, and Rasim Ljajic, assumed prominent positions in the government. The Humanitarian Law Center continued to be the leading source of reliable information on the treatment of Roma, police brutality, and violations committed by all parties in Kosovo. Among other leading human rights groups were the Helsinki Committee for Human Rights, the Belgrade Center for Human Rights, the Yugoslav Lawyers' Committee for Human Rights, and the Leskovac Council for Human Rights.

The Role of the International Community

United Nations

On November 1, 2000, the General Assembly approved admission of the Federal Republic of Yugoslavia to membership in the United Nations. Yugoslav efforts toward a peaceful settlement of the crisis in the Presevo valley won praise from the Security Council in December 2000 and from

The Federal Republic of Yugoslavia signed the Statute of the International Criminal Court on December 19, 2000, and it ratified the statute on September 6, 2001.

Yugoslavia, which was suspended from the OSCE in July 1992, became a participating state following a decision by the OSCE Permanent Council on November 10, 2000. An International Election Observation Mission, including representatives of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the OSCE Parliamentary Assembly, concluded that the December 2000 elections in Serbia were conducted in line with accepted international standards. An ODIHR mission also monitored the April 22 elections in Montenegro and found the entire electoral process transparent. On March 16, the OSCE opened a mission office in Belgrade.

On November 9, 2001, Yugoslavia applied for Council of Europe membership. In January, the Parliamentary Assembly granted special guest status to the Federal Assembly of Yugoslavia and adopted conditions for membership. Among other conditions, it called on Yugoslavia to cooperate fully with the ICTY and to surrender war crimes suspects, to carry out legislative reforms including the abolition of the death penalty, and to amnesty political prisoners. On March 16, a Council of Europe office was opened in Belgrade for a renewable one-year term. The Parliamentary Assembly representatives who made up part of the International Election Observation Mission that monitored the December 23, 2000, parliamentary election in Serbia praised the way in which they were conducted. A delegation from the Parliamentary Assembly also observed and positively assessed the elections in Montenegro in April 2001.

After the fall of Slobodan Milosevic in October 2000, the European Union provided 200 million euros (U.S. \$168 million) to help Serbia with electricity, heating fuel, and food payments during the winter. On February 27, 2001, European Union foreign ministers lifted all sanctions imposed on the Federal Republic of Yugoslavia since 1998, except the financial, trade, and travel restrictions on firms and individuals connected to the Milosevic regime. On April 10, the European Commission allocated the first part of a 240 million euros aid program for Yugoslavia to support energy supply, healthcare, agriculture, and medium-sized companies. Included in that sum was the allocation of 49.5 million euros for human

rights projects. In mid-July, the Council of Ministers invested 300 million euros in macro financial aid for the Federal Republic of Yugoslavia, consisting of 225 million euros in loans and 75 million euros in grants.

While E.U. bodies called on the new authorities in Belgrade to cooperate with the International Criminal Tribunal for the former Yugoslavia, they failed to condition financial assistance on the country's cooperation. The European Parliament called on the Yugoslav government to release all political prisoners by presidential pardon or on the basis of an amnesty law.

In November of 2001, the European Union and a Federal Republic of Yugoslavia Consultative Task Force met in Belgrade to discuss various topics, including democracy, human rights and minority issues as well as regional cooperation and compliance with international obligations. The commissioner for external relations, Chris Patton, visited the Federal Republic of Yugoslavia in October. The two parties hoped to initiate discussions that would draw the Federal Republic of Yugoslavia closer to the European Union. Further meetings were expected in 2002.

United States

The U.S. Congress prohibited the continuation of economic aid to Belgrade past March 31, 2001, unless Yugoslavia arrested and transferred those indicted by the war crimes tribunal to its custody, cut off economic assistance to the Bosnian Serb army, and took steps in democratization and minority protection. The conditionality placed considerable pressure on Serb and Yugoslav authorities and contributed to the eleventh-hour detention of Slobodan Milosevic on April 1. On April 2, the secretary of state certified the conditions for continued aid were present but stressed that the United States' support for the holding of an international donors conference for Yugoslavia would depend on the country's continued progress toward full cooperation with the tribunal. Lack of progress and the refusal of the United States to participate led to a postponement of the conference from May 31 to the end of June. On the eve of the conference, Serbian and Yugoslav officials firmly committed themselves to cooperation, and on June 28 Slobodan Milosevic was transferred to the custody of the tribunal. The United States participated at the conference and pledged U.S.\$182 million, the largest individual state pledge.

Kosovo

Human Rights Developments

In the third year of Kosovo's international administration the human rights situation in the province continued to be of serious concern. Violence and hostility rendered normal life impossible for Serbs, Roma, and other minorities. Participation of minorities in the November 2001 elections for the Kosovo Assembly gave, however, some hope for the prospects of ethnic coexistence in the province. The U.N. administration came under growing local and international criticism for attempting to improve the security situation by curtailing fundamental rights. And despite the efforts of the United Nations, the administration of justice continued to suffer from judicial bias, inadequate enforcement of human rights norms, and poor investigations of serious crimes.

Ibrahim Rugova's Democratic League of Kosovo (Lidhja Demokratike e Kosovës, LDK) overwhelmingly won the October 2000 municipal elections

with 58 per cent of the overall vote and a majority in twenty-four out of thirty municipal assemblies. The main parties led by former KLA commanders, the Democratic Party of Kosovo (PDK), and the Alliance for the Future of Kosovo (AAK), fared less well, receiving 27.3 and 7.7 percent of the vote, respectively. Members of the more moderate LDK suffered numerous violent attacks in the months preceding the election. Moreover, the elections were marred by the collective refusal of the Kosovo Serb community to register and vote. While the United Nations Interim Administration Mission in Kosovo (UNMIK) pointed to the Belgrade authorities' influence over the Serb community's decision, the preelection environment was rife with incidents of violence and intimidation against members of the minority groups. After the elections, the special representative of the U.N. secretary-general (SRSG), who exercises ultimate legislative and executive power in Kosovo, appointed municipal assemblies in three localities with a majority Serb population. Representatives of Kosovo's Ashkalija, Bosniac, Egyptian, and Roma minority communities generally accepted appointments to the new local government bodies.

In May 2001, UNMIK promulgated a Constitutional Framework for Provisional Self-Government in Kosovo. The framework contained guarantees for the rights of the minority communities and their members, including proportional or equal representation in parliamentary committees, and safeguards against simple outvoting by the majority on matters related to the minorities' "vital interests." UNMIK retained exclusive authority in the sensitive areas of the judiciary, law enforcement, and external relations. The framework incorporated into the document a number of international human rights treaties that are directly applicable in Kosovo. Its human rights chapter suffered, however, from two serious omissions: the failure to incorporate the International Covenant on Economic, Social and Cultural Rights and the lack of any judicial review mechanisms through which individuals and groups would enforce their constitutional rights. A special constitutional chamber was established within the Supreme Court, but only governmental actors were given standing to file motions with the chamber.

Whatever promise the new Constitutional Framework held for the future of the Kosovo's minorities, their members – the Serbs and Roma in particular – continued to face severe threats to their personal safety, freedom of movement, and socio-economic well-being. The year 2001 saw some of the worst cases since the end of the NATO campaign of organized violence targeting minorities, who make up a disproportionate 20 percent of the victims of major crimes. In late January and early February, Serb homes, churches, and cultural sites were damaged by mortar fire and other similar attacks. Some of these sites had been designated for the accommodation of potential returnees. On February 13, a convoy of Kosovo Serbs en route to Strpce, escorted by peacekeepers of the multinational Kosovo Force (KFOR), was the target of a shooting that left one person dead. Only three days later a weekly convoy of civilian buses carrying about 250 Serbs to Gracanica, with a KFOR escort of seven armored vehicles, fell victim to a brutal bomb attack killing eleven people and injuring dozens. On April 18, the head of the Federal Republic of Yugoslavia passport office in Prishtina, Aleksandar Petrovic, was killed in yet another deadly bomb attack.

Attacks on minorities appeared to be increasingly focused and sophisticated. Groups of Serbs and Roma returning from Serbia and other neighboring countries were frequent victims of armed attacks. On November 9, 2000, three Ashkalija men and a fifteen-year-old boy were

shot dead, in execution style killings, a few days after they had returned to Dosevac near Prishtina. Another group of Roma that had recently gone back to Shtime was injured in a bomb attack on August 8. In August 2001 the first organized return of a group of fifty-four Serb refugees to Osojane was followed by ethnic Albanian protests in nearby Istok. These and other incidents had a devastating effect on the efforts of the international community to help refugees and internally displaced persons return to their homes. The number of returnees remained very small, and in some areas more minority residents were still leaving Kosovo than returning.

Non-Albanians were not the only victims of organized violence. In November 2000, Xhemal Mustafa, a chief aide to Rugova and head of the Kosovo Information Center, was assassinated in central Pristina. A pattern of politically motivated killings which began in the spring of 2000 continued in 2001 with several attacks against Kosovar Albanian political activists, generally LDK supporters. In April 2001, unidentified gunmen murdered Ismet Rraci, Mayor of Klina and chairman of the local LDK branch. On September 1, the houses of two LDK officials from the villages of Belobrod and Brodosavce were bombed. However, no other serious incidents took place in the run-up to the November 17 general election, and the election day itself was largely peaceful.

Twenty-six political parties and independent candidates, including representatives of five minority groups, were certified by the OSCE to contest the November election. These included a coalition of twenty Kosovo Serb parties and organizations, named Coalition Return, which decided to register at the last minute. In contrast with the 2000 municipal elections, Kosovo Serb and other minority voters registered in large numbers: 70,000 within the province and an additional 100,000 in Serbia and Montenegro. And in spite of the drawn-out hesitation both in Belgrade and among the Kosovo Serbs about their participation in the vote, about 46 percent of all eligible Kosovo Serb voters turned out to vote on November 17. In northern Kosovo, where Serbian extremists were responsible for widespread intimidation of voters into abstention, the participation of ethnic Serbs was considerably lower than the average.

Trafficking of women into Kosovo for forced prostitution continued to surge in 2001: the International Organization for Migration reported that 160 trafficked women and girls received repatriation assistance between February 2000 and May 2001. Implementation of a new UNMIK regulation providing for victim and witness assistance came slowly, and only a handful of prosecutions went forward. The United Nations disciplined four civilian police officers for alleged involvement in trafficking. According to a report issued by the OSCE Legal Systems Monitoring Section, women who brought charges for domestic violence, rape, or trafficking faced bias, discrimination, and contempt from the judicial system, and the average sentence for sexual violence cases declined from three years to one year.

Defending Human Rights

The Humanitarian Law Center (HLC) looked into allegations of unlawful detention and monitored trials against Kosovo Serbs charged with war crimes and other serious offences. In one case it protested to UNMIK when international authorities at the Mitrovica prison denied an HLC attorney access to his clients and conducted unlawful searches of his effects. The Council for the Defense of Human Rights and Freedoms continued to monitor and report regularly on human rights violations in

the province. Although the council was still more sensitive to violations of the rights of ethnic Albanians than those of non-Albanians, it condemned attacks against minority members in stronger terms than in previous years. The Ombudsperson Institution, which started work in November 2000, dealt mostly with complaints related to property rights, employment controversies, due process, and personal security. The Ombudsperson, Marek Antoni Nowicki, issued a number of public reports on human rights violations by the U.N. administration, and requested the latter to remedy them. One report concluded that a 2000 regulation on privileges and immunities granted to KFOR and UNMIK violated the property and due process rights of Kosovar individuals; another report looked into the lawfulness of cases of executive detention ordered by the SRSG and found them in violation of the defendants' rights to a fair trial.

The Role of the International Community

United Nations

In response to the unsatisfactory performance of the justice and law enforcement systems, UNMIK created a new justice and police component and adopted legislation to combat organized crime, weapons trafficking, and terrorism. But these measures did not result in any significant improvement in the overall security situation. Most major incidents of ethnic and political violence remained unresolved, while the SRSG ordered the prolonged detention of certain suspects. Following widespread criticism of its practices of administrative detention, in September UNMIK set up a commission of international legal experts to make final decisions on the legality of administrative detentions. A new UNMIK regulation authorized potential victims of ethnic bias in the criminal justice system to request that their case be tried by a panel with a majority of international judges. The number of international judges and prosecutors, however, fell short of what was needed to implement the regulation. UNMIK's failure to adequately consult and involve local and international organizations in drafting legislation also caused frustration.

Acting pursuant to an indictment charging Slobodan Milosevic and four other Yugoslav and Serbian officials with crimes against humanity and violations of the laws and customs of war committed in Kosovo, the Serbian authorities handed Milosevic over to the International Criminal Tribunal for the former Yugoslavia on June 28, 2001. The tribunal was also investigating allegations of crimes committed by the KLA during the 1998-1999 conflict in Kosovo; however, it had issued no public indictments at the time of writing. The U.N.'s special rapporteur on human rights in the former Yugoslavia at the time, Jiri Dienstbier, reported in January and March 2001 on the human rights situation in Kosovo. The U.N. Commission on Human Rights appointed José Cutileiro as its special representative with a one-year mandate to monitor the human rights situation in certain parts of the former Yugoslavia, including Kosovo.

Organization for Security and Cooperation in Europe (OSCE)

The OSCE Mission in Kosovo (OMIK) continued to monitor and report on the situation of Kosovo's minorities and the human rights performance of the justice system. A February OSCE report highlighted the persistence of bias in criminal proceedings, the absence of habeas corpus procedures, and the lack of effective access to defense counsel. The OSCE was particularly critical of several convictions of Kosovo Serbs and Roma charged with war crimes and genocide, which its monitors found

inconsistent with the evidence presented in the courtroom. In one of the genocide cases, the OSCE called for review of the sentence by a panel of international judges. The organization of the November elections in line with international standards was a major challenge for the OSCE, which cooperated with the International Organization for Migration to open registration centers for Kosovo refugees in neighboring countries.

North Atlantic Treaty Organization (NATO)

The 40,000-strong NATO-led KFOR made greater efforts in 2001 to cooperate with the U.N. civilian police in confronting organized violence and crime. In a number of cases, however, it refused to share information with U.N. officials investigating serious crimes in which members of the Kosovo Protection Corps (KPC) were thought to be implicated. In an attempt to address a major public relations problem, KFOR offered to review Kosovar claims relating to land and properties damaged or taken by its troops without compensation. Between November 2000 and June 2001 the ombudsperson received sixty-two compensation claims against KFOR, despite making it clear that he lacked jurisdiction over the multinational force.

European Union

In January 2001 the European Union called on the Belgrade authorities to release Kosovo Albanian political prisoners detained in Serbia. E.U. officials condemned the violent attacks against Kosovo's minorities and threatened to withdraw promised economic aid if violence did not stop. The European Union nevertheless continued to be Kosovo's main donor, with 362.5 million euros pledged in 2001 for reconstruction assistance and humanitarian aid.

United States

The incoming U.S. administration avoided a blow to the stability of Kosovo and the Balkans by declaring that the United States had no intention of withdrawing troops unilaterally from the region. In July President Bush blacklisted five senior KPC officers for their support of the ethnic Albanian armed insurgency in Macedonia. The five were promptly discharged by the head of UNMIK. U.S. officials came under criticism, however, for their alleged failure to support criminal investigations involving top KPC officials, and in some cases for attempting to unduly influence the investigations.

Relevant Human Rights Watch Reports:

Under Orders: War Crimes in Kosovo, 10/01

