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SERBIA AND MONTENEGRO

HUMAN RIGHTS DEVELOPMENTS

A major restructuring of the Yugoslav federation was under way in 2002, although by November it had not come to a formal conclusion. On March 14, the authorities in the two constituent republics agreed to create a new state under the name of Serbia and Montenegro. The new arrangements confirmed the exceptionally high level of autonomy that both republics already enjoyed. But the agreement slowed the drive to independence favored by a narrow majority of the Montenegrin electorate. Montenegrin officials stated that they entered into the agreement under pressure from the European Union and with an understanding that the agreed constitutional framework was provisional. As of November, the Serbian and Montenegrin sides had been unable to agree on a system for electing the future parliament and had therefore failed to produce a constitutional charter that would finalize the restructuring.

In October parliamentary elections in Montenegro, the moderates with a long-term goal of independence for Montenegro won an absolute majority of seats against the parties advocating closer ties with Serbia and the pro-independence radicals. Presidential elections in Serbia, held in September and October, failed to produce a winner because the second round turnout was below the 50 percent threshold required by the election law.

Progress on accountability was slow, both with regard to the surrender of indictees to the International Criminal Tribunal for the former Yugoslavia (ICTY) and the tribunal's access to archives and witnesses in the Federal Republic of Yugoslavia (F.R. Yugoslavia). As of November 2002, only one individual, Bosnian Serb Ranko Cesic, accused of war crimes in a detention camp in the Bosnian town of Brcko in 1992, had been arrested

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cases of political assassination that were committed or attempted during the rule of Slobodan Milosevic.

The authorities did not use police violence against the political opposition, but during the year police abuses against ordinary citizens were still commonplace. The Serbian Ministry of Interior either ignored allegations of police torture and ill-treatment made in the media and human rights reports, or claimed that it had no knowledge of the alleged events. Of the eight known court decisions since October 2000 dealing with torture and ill-treatment by the police, all but one of a dozen convicted law enforcement officers received sentences of less than eight months in prison, even where the torture resulted in serious bodily injuries. The exception was an August 2002 court decision in which one accused policeman was sentenced to eighteen months of imprisonment.

Serbian human rights groups and media registered a dozen serious cases of police torture between December 2001 and October 2002. The abuses often occurred in police stations, when officials attempted to compel detainees to admit to theft or other crimes. As a consequence of the abuse, in one case the victim underwent brain surgery (Nenad Tasic, tortured in August in Vranje); other victims suffered a ruptured eardrum (Nemanja Jovic from Belgrade), bruised ribs (Marko Brkic from Novi Sad), and other physical injuries.

On July 18, the Serbian parliament amended the law on the judiciary to strengthen the role of parliament in the selection of judges, at the expense of an independent body of experts, the High Judicial Council. The new provisions left the council its role in nominating judicial candidates but, in cases where parliament rejects the nomination, gave the decision on alternative candidates to parliament's judicial committee. The amendments also excluded the High Judicial Council from the procedure for the election of the presidents of the courts.

On February 26, new legislation in Serbia replaced the death penalty with a maximum prison sentence of forty years. In June, Montenegro also abolished death penalty.

Although the Yugoslav constitution and law on the army allowed for alternative military service in civilian institutions, the army continued to reject all requests by conscientious objectors for service in humanitarian, health, or other similar institutions.

While most of the media operated freely during 2002, the cabinet of the Serbian Prime Minister Zoran Djindjic effectively shaped the editorial policy of the two main private television stations in F.R. Yugoslavia, Television BK and Television Pink, through behind-the-scenes pressures.

The governments of Serbia and F.R. Yugoslavia failed to protect freedom of expression when extreme nationalists repeatedly disrupted an exhibition of war photographs by American artist Ron Haviv. The exhibition mostly consisted of images documenting war crimes in Bosnia, Croatia, and Kosovo. The nationalists' threats and violence, which no government official denounced, forced the organizers to close down the exhibition in Uzice, Kragujevac, and Cacak. Only in Cacak were misdemeanor charges brought against the perpetrators, resulting in three minor penalties.

On February 13, the federal parliament adopted a Law on the Rights and Freedoms of National Minorities. The law was prepared with the assistance of the Council of Europe and the Organization for Security and Cooperation

in Europe, and it provided for broad protection of minority rights. The treatment of Hungarians, Bosniacs, Croats, and Albanians in Serbia (outside of Kosovo) was satisfactory in 2002, but police brutality against Roma continued to take place, and discrimination against Roma in various fields of public life remained wide-spread. Prosecutors continued to dismiss complaints of discrimination or simply failed to take any action to address them, and legal provisions against discrimination remained inadequate. Thousands of Roma families, many of them displaced from Kosovo, continued to live in makeshift settlements in the vicinity of towns, without electricity, running water, or sewers, or access to public health and education services. Authorities attempted on several occasions to evict the families from one such settlement in Belgrade, without providing them with adequate alternative accommodation. In September and October, the affected Roma staged large protests in Belgrade, and the authorities postponed the eviction until such time as alternative accommodation could be found, but by mid-November the companies owning the land plots evicted all displaced Kosovo Roma from the settlement, using threats and employing excavators to destroy the Roma shacks.

Over half a million refugees and displaced persons continued to live in Serbia and Montenegro. Statistics from the U.N. High Commissioner for Refugees (UNHCR) for February 2002 showed that two hundred thousand displaced persons from Kosovo lived in Serbia and thirty thousand in Montenegro; it was generally acknowledged that the actual numbers were higher. Half of the displaced persons were unemployed, and many lacked appropriate housing or access to public health and education services. Almost four hundred thousand Serbs and Montenegrins from Croatia and Bosnia lived as registered refugees in F.R. Yugoslavia. They were free to opt for Yugoslav citizenship without renouncing their Croatian or Bosnian citizenship first, but the procedure was slow, generally taking from six to twelve months. The Serbian government announced in September that it would carry out a revision of status for the minority of refugees who lived in collective centers (municipal and socially owned buildings now housing refugees), with the aim of canceling refugee status for those who had repossessed their homes and apartments in their countries of origin.

Yugoslavia was repeatedly named in connection with illegal arms sales. In September, the United States government and the NATO-led Stabilization Force in Bosnia obtained information indicating that a large quantity of military components and tools produced in Republika Srpska (in Bosnia and Herzegovina) had been exported to Iraq through a Yugoslav state-owned firm based in Belgrade. In October, a ship that departed from a Montenegrin port was intercepted off Croatia's coast and was found to contain more than two hundred tons of an explosive substance, believed by Croatian police sources to be destined for Iraq (which is subject to a mandatory U.N. arms embargo). That same month, U.N. experts reported that a Belgrade-based arms dealer supplied weapons from old Yugoslav stocks to Liberia, in violation of a U.N. arms embargo on that country.

DEFENDING HUMAN RIGHTS

The Humanitarian Law Center, with offices in Serbia and Montenegro, was a reliable source of information on police abuses, violations of Roma rights, and domestic war crimes trials. The Council for Human Rights, in the southern town of Leskovac, reported on the police violence that was particularly widespread in that part of Serbia. The Helsinki Committee for Human Rights in Serbia, Belgrade Center for Human Rights, Lawyers Committee for Human Rights, and several other groups sustained their

high-quality work promoting human rights. In both Serbia and Montenegro, the governments prepared draft laws to establish an ombudsman. The laws had not been adopted as of November.

THE ROLE OF THE INTERNATIONAL COMMUNITY

United Nations

In a report presented on March 25 to the U.N. Commission on Human Rights, Jose Cutileiro, special representative on the situation of human rights in Bosnia and Herzegovina and F.R. Yugoslavia, criticized police ill-treatment in Serbia and the lack of implementation of government plans for national minorities in Montenegro.

On February 12, the trial of former Yugoslav President Slobodan Milosevic began at the ICTY. Milosevic stood accused of command responsibility for crimes committed against non-Serbs in Kosovo, Bosnia, and Croatia. Between February and September, the prosecutor presented evidence of alleged crimes against humanity and war crimes committed in 1999 in Kosovo. On September 26, the presentation of evidence for crimes in Croatia and Bosnia began. Milosevic was conducting his own defense, and he often used the significant latitude the trial chamber allowed him in the cross-examination of witnesses to make arguments only vaguely related to the charges contained in the indictment.

Six other individuals were transferred from F.R. Yugoslavia to the custody of the ICTY in 2002 (see above), but trial had not begun in any of these cases as of November. The tribunal provisionally released two indicted Yugoslav citizens, Pavle Strugar and Miodrag Jokic, after receiving guarantees from the Yugoslav government that the two would appear for trial.

Organization for Security and Cooperation in Europe

The Organization for Security and Cooperation in Europe (OSCE) mission to F.R. Yugoslavia organized, jointly with the Serbian Ministry of Interior, multiethnic police trainings aimed at establishing an ethnically mixed police presence in the area of Presevo, Bujanovac, and Medvedja, the three municipalities in southern Serbia with a significant Albanian minority. The OSCE also monitored and positively evaluated the July 28 municipal elections in this area. In June, it organized a conference focusing on domestic war crimes trials. The session concluded with an observation that there were "substantial problems within the judiciaries now that should be addressed if the administration of justice is to meet international standards and the standards set out in the European Convention on Human Rights." The OSCE mission in Belgrade assisted the Serbian authorities in the reform of media and the judiciary. In Montenegro, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) focused on the October 20 parliamentary and presidential elections. In a report issued in August, the ODIHR gave a negative assessment of the new legislation on the elections and the media, which had been enacted by an ad hoc coalition of pro-Serb parties and the pro-independence radicals. On ODIHR's advice, the elections took place under the old legislation in place at the time the elections were called, supplemented by a limited number of additional rules that the major parties adopted by consensus in September. ODIHR concluded that the elections were conducted generally in

accordance with international standards.

Council of Europe

The Parliamentary Assembly of the Council of Europe (PACE) recommended membership for F.R. Yugoslavia at its plenary session in September. In connection with its vote the PACE outlined a list of commitments on which progress would be scrutinized post-accession, in areas including cooperation with the ICTY, domestic war crimes trials, police abuse, and discrimination against Roma. The Committee of Ministers declined at its November session, however, to formally invite F.R. Yugoslavia to become a Council of Europe member, because Serbia and Montenegro had failed to produce a constitutional charter of a new state.

In a recommendation on the situation of refugees and displaced persons in F.R. Yugoslavia, adopted in June, the PACE expressed concern about "the still unresolved question of refugees and internally displaced persons" in the country and called for renewed efforts on the part of the international community and the authorities of F.R. Yugoslavia to address the problem.

On December 19, 2001, the European Court of Human Rights declared inadmissible for lack of jurisdiction the application by six Belgrade families against the seventeen member states of NATO that are also parties to the European Convention on Human Rights. The complaint concerned the April 23, 1999 bombing by NATO during the Kosovo conflict of the Belgrade headquarters of Radio-Television Serbia, in which relatives of the applicants had been killed. The court found that the deceased were not within the jurisdiction of the respondent states, due to the NATO states' lack of effective control of Serbia at the time the bombing took place.

European Union

In the course of 2002, the E.U. acted as a mediator in negotiations between the Serbian and Montenegrin authorities over constitutional reform. Montenegrin officials occasionally accused the E.U. of bias in favor of Serbia. E.U. High Representative for Foreign Policy and Security Javier Solana, and his special envoys, visited Yugoslavia on a number of occasions and participated in the negotiations. European Commissioner for External Relations Chris Patten also met with Serbian and Montenegrin officials on July 3 in Belgrade. He announced that financial assistance to Yugoslavia would increase from €195 million (U.S.\$192 million) in 2002 to €255 million (\$251 million) in 2003.

In an April 4 Stabilization and Association Report, the European Commission identified police reform, eradication of corruption, improvements in freedom of expression, and cooperation with the ICTY as the main outstanding issues that the authorities needed to address. The E.U.'s failure to insist on Yugoslav cooperation with the ICTY, however, prompted ICTY Prosecutor Carla Del Ponte in April to urge stronger E.U. pressure.

United States

On May 21, U.S. Secretary of State Colin Powell lifted a freeze on financial

assistance to F.R. Yugoslavia, after receiving assurances from Yugoslav officials that they would cooperate with the ICTY. U.S. economic pressure was instrumental in the adoption of the ICTY cooperation law and other measures taken by Belgrade to improve cooperation with the ICTY. At the same time, in August the U.S. requested that the Yugoslav government enter into an agreement with the U.S. whereby Yugoslavia would commit itself not to transfer U.S. citizens accused of war crimes to the International Criminal Court. Individual Yugoslav officials either opposed the request in strong terms or stated that Yugoslavia would take a stance identical to that of the E.U. No such agreement with the U.S. had been signed as of this writing.

KOSOVO

HUMAN RIGHTS DEVELOPMENTS

Kosovo's first post-conflict general elections, held in November 2001, were largely peaceful and fair. Ibrahim Rugova's Democratic League of Kosova (LDK) won a significant lead over the other parties, but not enough for a majority in the 120-seat Assembly. Thirty-five seats, including twenty guaranteed by the Constitutional Framework, went to the Kosovo Serb "Return" Coalition and five other minority parties. The successful conduct of the election was overshadowed, however, by difficult subsequent negotiations among the LDK, the Democratic Party of Kosova (PDK), and the Alliance for the Future of Kosova. It took until the end of February 2002, and three abortive parliamentary votes, for the parties to agree on Rugova's election as president of Kosovo and the appointment of Bajram Rexhepi, a physician and former PDK mayor of Mitrovica/Mitrovce, to head the new government.

In February, the U.N. secretary-general appointed German diplomat Michael Steiner as his new special representative in Kosovo. In April, Steiner presented the U.N. Security Council with an "exit strategy" that contained a series of benchmarks to be met before Kosovo's final status would be decided and the international mission terminated; these included respect for the rule of law, freedom of movement, and the right of all Kosovars to return to their homes. Questions about Kosovo's final status--that is, its future relationship with Serbia--continued to affect the overall stability of the province and led to the first tensions between the newly elected institutions and the U.N. Mission in Kosovo (UNMIK).

Municipal elections held in October 2002 were judged "within European standards" by international monitors, but were marred by the killing of Uke Bytyçi, the LDK mayor of Suva Reka/Suhareke, the day after the ballot. The majority of Kosovo Serb voters boycotted the elections, in a blow to U.N. efforts to integrate them into the local political processes.

The year saw, for the first time since 1999, a significant decline in the number of life-threatening attacks against minority communities. In order to remove psychological barriers to free movement, the Kosovo peacekeeping force (KFOR) replaced checkpoints and other static security arrangements around minority areas with mobile patrols. Serbs and other non-Albanians began to venture out of their enclaves onto the main roads and into towns. Despite these improvements, however, minorities--including Roma and other non-Albanians as well as Serbs--generally faced a precarious security environment. The greater mobility made them subject to persistent intimidation and harassment, such as stone throwing,

vandalism, and verbal abuse. In October, a large Albanian mob attacked a bus carrying Serb pensioners in the town of Pec/Peja and injured several UNMIK police officers escorting it.

Realities and perceptions of insecurity, as well as scarce donor commitment, affected the return of refugees and internally displaced Kosovars. The number of returns remained low, despite statements of support by the new local institutions and an UNMIK campaign to inform potential returnees about improving circumstances in the province. UNMIK faced repeated threats of mass returns from groups of displaced Kosovo Serbs, and pressures by the Belgrade authorities to build large, segregated enclaves for returning minorities. Kosovo Roma refugees in Macedonia protested unbearable camp conditions and complained that the international community was neglecting their plight. Ethnic Albanian local officials in Kosovo, on the other hand, continued to resist significant minority returns, despite their proclaimed support for the process.

With the exception of the high-profile Milosevic trial at the ICTY, there was little progress toward accountability for war crimes committed during the conflict, clearly undermining the processes of refugee return and reconciliation. Neither the Serbian authorities nor UNMIK took effective steps to hold accountable lower-level Serbs for crimes committed against Albanians; at the same time, no Albanians were indicted for war crimes against Serbs, Roma, and other civilians. The ICTY prosecutor said in October that investigations of ethnic Albanian suspects were being hampered by witnesses' reluctance to confirm their earlier statements and appear in court. The number of war crimes convictions handed out by the Kosovo courts remained insignificant, with most trials ending in acquittals or convictions for lesser crimes.

Although the U.N. stepped up efforts to hold accountable those responsible for post-war ethnically motivated crimes, most such perpetrators remained at large. In December 2001, the Supreme Court ordered the release of three Kosovo Albanians implicated in the February 2001 bombing of a bus full of Serb civilians. The U.N. administrators complied, after having held the suspects for months in extrajudicial detention in defiance of similar court orders; they claimed "it had not been possible to transform the [relevant] intelligence ...into evidence that would secure their conviction in a court of law." To address such problems, the UNMIK Department of Justice and the UNMIK police set up specialized structures to gather and analyze evidence in sensitive cases.

While police statistics showed a general decrease in violent crime during the year, KFOR troops and the UNMIK police faced some of the most aggressive confrontations since their deployment. The attackers were often Serb and Albanian extremist groups that had been tolerated for too long by the peacekeeping mission. The hottest security spot continued to be northern Mitrovica/Mitrovice, where the February arrest of two "bridge watchers" (a violent gang supposedly organized to protect the town's Serbian population from Albanian attacks) triggered a wave of growing vandalism against the international forces. On April 8, when UNMIK police arrested a bridge gang leader, a rioting crowd responded with hand grenades and gunfire, leaving twenty-two police officers injured.

Later in the year, the UNMIK police made a failed attempt to arrest Milan Ivanovic, the extremist leader of the Serb National Council for northern Kosovo, who was reportedly caught on tape attacking the police during the April riots. When Ivanovic fled to Serbia, the Belgrade authorities not only refused to hand him over, but also urged him not to surrender. This was

only the most blatant refusal by Belgrade to stop supporting Kosovo Serb radicals and illegal parallel institutions (including parallel courts and security structures) that undermined UNMIK's authority, individual rights, and the Serb minority's reintegration into a multiethnic Kosovo. After months of international pressure, Ivanovic surrendered to UNMIK police in October and was released on bail by an international judge.

Kosovo Albanian leaders' support for the rule of law was tested throughout 2002 as UNMIK police conducted a series of arrests of former Kosovo Liberation Army (KLA) members. At least four different groups, including several active members of the Kosovo Protection Corps (KPC), were charged with serious crimes against fellow ethnic Albanians allegedly committed during and after the armed conflict. In November 2001, Gani Ymeri, a senior KPC officer, was arrested for the alleged kidnapping and attempted murder of a Kosovo Serb family in the last days of the conflict; investigations into the case were ongoing as of October 2002, but Ymeri had in the meantime been released on bail.

The arrests of Kosovo Albanians met with negative reaction from the Albanian public, frustrated by the judiciary's ongoing failure to address the crimes they had suffered as well. Each of the high-profile arrests was followed by protests, which turned violent in February and August, but subsided with time. However, the August detention of former KLA commander Rustem Mustafa, on reported charges of wartime murder and torture of fellow Albanians, triggered a barrage of accusations against UNMIK by the media and politicians associated with the rebel movement. The Kosovo government issued an official statement charging that the KLA leaders' arrests were politically motivated. Such attitudes put unacceptable pressure on the pending judicial proceedings and prejudged their outcome.

Women's groups welcomed the inclusion of rape charges in the Milosevic indictment on Kosovo, as amended in October 2001. In 2002, Kosovar Albanian victims of rapes committed during the 1999 campaign of "ethnic cleansing" gave testimony on those charges at the ICTY, facing Milosevic in the courtroom.

The UNMIK police estimated that 104 establishments operated with trafficked women and girls forced into prostitution throughout the province. Despite efforts to train prosecutors and judges, both still failed to observe elements of a new anti-trafficking regulation designed to protect trafficking victims. The lack of witness protection for victims who agreed to testify against their traffickers remained a major concern. This, coupled with bribery and intimidation of the judiciary, frustrated police efforts to crack down on traffickers, who continued to operate with widespread impunity.

DEFENDING HUMAN RIGHTS

Human rights groups did important monitoring, reporting, and advocacy in the province, although they were constrained by the security situation and, on occasion, the international administration. In January, Serb "bridge watchers" in Mitrovica/Mitrovice seized two vehicles and harassed staff members of the Humanitarian Law Center. The center said that the bridge gang consistently prevented its staff from crossing into the northern part of town to observe trials. The Council for the Defense of Human Rights and Freedoms protested against the refusal of the Pristina/Prishtina prison authorities to grant them access to detainees.

Ombudsperson Marek Antoni Nowicki, who was reappointed for a second term, made good headway toward the consolidation of the ombudsperson institution and started preparations for its gradual handover to local leadership. The ombudsperson's second annual report was highly critical of UNMIK's human rights record, citing, among other things, its arbitrary restrictions of liberty and property rights, violations of basic suffrage, and failure to make legislation available in local languages.

THE ROLE OF THE INTERNATIONAL COMMUNITY

As new crises unfolded around the world, the international community began to show signs of peacebuilding fatigue in Kosovo. This led to calls for a speedier handover of authority to local institutions, but also raised concerns that a premature disengagement would be counter-productive for regional peace and stability.

United Nations

The U.N. mission strengthened its efforts to steer Kosovo toward a path of democracy, rule of law, and economic recovery. More than three years into its international administration, however, the mission continued also to restrict and derogate from basic rights, invoking vague justifications of internal emergency and threats to international peace and security. One instance of such arbitrariness was the decision--taken without any due process--to bar three party leaders from contesting the November 2001 election.

On a number of occasions, members of the peacekeeping mission violated fundamental rights and set negative precedents for the rule of law in Kosovo. In one egregious example, in February an Austrian officer of the UNMIK police, along with two local subordinates, beat an ethnic Albanian detainee for three hours, made him dig his own grave, and forced him to walk through a Serb village wearing a sign that read: "I kill all Serbs!" The officer was detained and stripped of his U.N. immunity, but was then illegally whisked out of Kosovo by the Austrian authorities, who, as of this writing, refused to send him back for prosecution in Kosovo. UNMIK served an indictment to the Austrian government, but no trial date had been set as of late October.

A lengthy report by Mental Disability Rights International revealed that patients at Kosovo's psychiatric facilities were routinely subjected to physical and sexual violence, arbitrary committal, and grossly inadequate treatment. According to the rights group, UNMIK was informed of the abuses, but did little to guarantee the patients' physical integrity and basic rights.

Organization for Security and Cooperation in Europe

The Organization for Security and Cooperation in Europe (OSCE) Mission in Kosovo continued to play an important role, in particular through its monitoring and reporting on the situation of minorities, the judicial system, and property rights. A detailed analysis of seventeen war crime trials, published in September, found serious deficiencies in their prosecution and adjudication. These included lack of evidence gathering capacities,

insufficient support for judges and prosecutors, ignorance of international humanitarian law, and poor legal reasoning in general.

North Atlantic Treaty Organization

In May, the North Atlantic Treaty Organization (NATO) announced a reduction of its thirty-eight thousand-strong presence in Kosovo by around five thousand troops, stressing that this reflected the improved security situation rather than a waning commitment to the region. The NATO-led KFOR continued to violate habeas corpus rights by detaining individuals without charge and without bringing them promptly before a judge. An OSCE report charged that neither international law nor the security situation on the ground supported such practices.

European Union

The E.U., Kosovo's biggest donor, announced in September a significant reduction in future aid to the province--€50 million (U.S.\$48.3 million) for 2003, down from €134 million (\$129.6 million) in 2002. E.U. officials said they were shifting focus from physical reconstruction aid to the strengthening of Kosovo's institutions. The E.U. supported UNMIK's efforts to uphold the rule of law and condemned the government's allegations of bias regarding the arrests of former KLA commanders.

United States

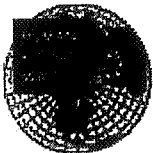
The United States pushed for accelerated efforts to reach sustainable self-government in Kosovo, while encouraging the E.U. to take the lead in assisting and integrating the region. The State Department's second report on trafficking in persons included only a cursory statement on the Kosovo situation, even though its annual human rights report found that trafficking "was a serious and growing problem" in the province.

RELEVANT HUMAN RIGHTS WATCH REPORTS:

Human Rights Concerns in the Federal Republic of Yugoslavia, 7/02

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