

Serbia and Montenegro

Serbia and Montenegro is a loose union of two republics which face different human rights challenges. In 2005, inadequate official responses to intimidation and violence against ethnic minorities continued to be a problem in Serbia. Cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) depended on the government of Serbia, where most of the ICTY indictees resided years after the tribunal brought charges against them. Also in Serbia, treatment of human rights defenders took a marked turn for the worse. In both republics, the judiciary appeared subservient to the executive.

International Criminal Tribunal for the Former Yugoslavia

Serbia and Montenegro's cooperation with the ICTY has improved significantly after the near stalemate for the most part of 2004. Between October 2004 and April 2005, the government transferred fourteen indictees to the tribunal in the Hague. Serbian generals Nebojsa Pavkovic, Vladimir Lazarevic and Sreten Lukic, all indicted for war crimes in Kosovo in 1999, were among those surrendered, although the year before the government had insisted that they should be tried in Belgrade. Serbia also surrendered nine Bosnian Serb former army and police officials charged with genocide and crimes against humanity for the killing of eight thousand Bosnian men in Srebrenica in July 1995.

The change of attitude towards the ICTY resulted more from the willingness of the international community to use a "carrot and stick" approach than from any new-found commitment to justice on the part of the Serbian authorities. The cooperation began only after European Union and United States officials made it clear that closer relations with Serbia were dependent on the latter's full cooperation with the tribunal. In a troubling trend, Serbian government representatives often praised the accused who decided to surrender as "patriotic" and "responsible," without making any reference to the crimes for which they were indicted. On December 30, 2004, Minister of Interior Vladan Jovic even expressed his conviction that the Serbian army and police generals indicted for crimes in Kosovo were innocent.

Four indictees were believed to remain at large in Serbia and Montenegro as of November 2005, or to travel back and forth between Serbia and Montenegro and Republika Srpska (Bosnia and Herzegovina), including Ratko Mladic, the former commander of the Bosnian Serb army.

Domestic War Crimes Trials

The prosecution of war crimes cases before domestic courts in Serbia is hampered by a lack of political support in the country to establish accountability. The creation of a special war crimes chamber in 2003 appeared to signal an increased seriousness of purpose, but so far the chamber has dealt with only one crime, the November 1991 killing of two hundred Croats near Vukovar, Croatia. Two more indictments

involving twelve persons were issued in August and October 2005, relating to war crimes in Bosnia, but the two trials had not started as of mid-November. There were no persons holding positions of seniority in the army or police among the accused.

Judiciary

The executive in Serbia openly encroached upon the independence of the state prosecutor's office in 2005. Invoking his supervisory powers, Minister of Justice Zoran Stojkovic insisted in a newspaper interview in January 2005 that the prosecutors launch criminal proceedings against six individuals who had held positions in the Serbian government between 2001 and 2003. On February 13, Stojkovic repeated a call for the prosecution of former Deputy Prime Minister Cedomir Jovanovic. A municipal prosecutor in Belgrade indicted Jovanovic in September for abuse of official position in 2001, but the municipal court in October rejected the indictment as groundless.

In a newspaper interview published on September 17, 2005, Stojkovic stated that he had asked the competent bodies to look into the legality of certain activities of opposition leader Vladan Batic in 2003, when he had been Serbia's justice minister. On September 28, police detained Batic for 48 hours and then released him without charge.

The slow and inept handling by the Montenegrin judiciary of a case possibly implicating government officials in commission of a war crime in the 1990s exemplified the longtime concerns about the lack of judicial independence in the republic. The case concerned the handing over of eighty Bosnian Muslim refugees in Montenegro to Bosnian Serb soldiers in May 1992, resulting in the execution of most of the refugees. Dozens of victims' families sued the state for compensation in 2004, but as of October 2005 only four civil proceedings had begun. Under public pressure, in October, the Montenegrin state prosecutor requested the opening of a criminal investigation into the 1992 case. The prosecutor's motion was seriously flawed by including a dozen victims among the potential witnesses and omitting important documents from the evidence. The motion also failed to include any senior official among the suspects.

Ethnic and Religious Minorities

Compared to the previous year, in 2005 incidents of ethnically motivated attacks decreased in the Vojvodina region of northern Serbia, but intensified in other parts of Serbia, often taking the form of anti-Semitic and anti-Muslim graffiti, as well as physical assaults on Roma. Criminal and misdemeanor sentences against the perpetrators of ethnically motivated crimes were light. On July 26, for example, the district court in Nis sentenced eight defendants to prison sentences of between three and five months for their roles in burning down the city mosque in March 2004. On March 23, 2005, a Belgrade misdemeanor court sentenced to ten days' imprisonment three persons who had written graffiti at the entrance to the Jewish cemetery calling for "Jewish parasites" to be expelled from Serbia.

In a positive development, in areas of southern Serbia bordering Kosovo and mainly inhabited by ethnic Albanians, the authorities have made initial steps to include Albanians in the judiciary and to incorporate

Albanian culture and history in the local school curriculum. There has also been some progress in providing pre-school education for Roma children in Serbia. However, thousands of Roma continue to face discrimination in most areas of life, and lack basic access to education, health services and housing.

Human Rights Defenders

High-profile government officials expressed hostility towards leading human rights defenders. The head of the State Security Service, Rade Bulatovic, and Minister for Capital Investments, Velimir Ilic, suggested in July and September 2005 that leading human rights organizations in Serbia were working for unspecified foreign powers. In June and July the head of the parliamentary group of Prime Minister Vojislav Kostunica's Democratic Party of Serbia repeatedly expressed contempt for "characters like Natasa Kandic [one of Serbia's most prominent human rights activists]," while Justice Minister Stojkovic accused Kandic of indifference to Serb victims of war crimes. Physical assaults on Serbian Helsinki Committee Director Sonja Biserko and break-ins at her home and at the home of well-known human rights lawyer Biljana Kovacevic-Vuco during 2005 appeared to be the work of Serbian extremists incited by such statements. Verbal harassment of these three leading activists in public places was frequent.

Key International Actors

The U.S. government, which enjoys considerable influence with the authorities in Serbia, took a more uncompromising stance than in previous years on the issue of Serbia's cooperation with the ICTY. In January 2005, for the second consecutive year, the U.S. withheld a portion (U.S.\$10 million) of the economic assistance planned for 2005 to Serbia, over its non-cooperation with the tribunal. The aid was released for payment in June, following the transfer of a number of indictees to the Hague in the intervening period. On October 7, Under Secretary of State for Political Affairs Nicholas Burns reiterated that assistance would be again suspended if Serbia did not surrender Ratko Mladic.

The overall perception of the work of the ICTY among the Serbian public remained negative, although it improved somewhat during the year as a result of the improved cooperation by the Serbian authorities and the increase of prosecutions for crimes committed against ethnic Serbs. The trial of former President Slobodan Milosevic, on charges of crimes against humanity and genocide, continued into its fourth year, amidst a lively debate in Serbia and abroad, on the effect the trial has had on the process of coming to terms with the past in Serbia.

The E.U. rewarded Serbia and Montenegro politically for the improved cooperation with the ICTY by deciding in October 2005 to open negotiations on a Stabilization and Association Agreement, following a positive feasibility study by the European Commission in April. The October decision, by the European Council, did not include an explicit "brake clause" that would suspend the negotiations if the E.U. were dissatisfied with the human rights situation in the country, but it put a heavy emphasis on the importance of continued cooperation with the ICTY. The European Parliament adopted a resolution on Vojvodina on September 29, finding that no real progress has been made in reversing the deterioration

in the conditions for national and ethnic minorities in Vojvodina, and calling for E.U. monitors to be sent to the province.