

SERBIA¹

IHF FOCUS: freedom of expression and media; judicial system and independence of the judiciary; conditions in prisons and detention facilities; intolerance, xenophobia, racial discrimination and hate speech; national minorities; refugees and returnees; social rights; international humanitarian law.

With Slobodan Milosevic out of power and awaiting trial at the International Criminal Court for the Former Yugoslavia (ICTY) in The Hague, the main precondition for transition and a climate of respect for basic human rights in Serbia was fulfilled. Thirteen years of Milosevic's rule and his warmongering policy laid waste to the whole area, destroyed its institutions and society, laid bare the mechanisms of repression used in the conduct of war, and kept the whole region in a state of siege for a full ten years. The war crimes committed in the name of the Greater Serbia project additionally complicate the situation in the Serbian society because its transition now depends largely on the attitude of the new authorities towards the Hague Tribunal. Co-operation with the Tribunal is crucial for civil society, the rule of law, the individualisation of criminal responsibility, reconciliation in the region, and the region's integration into Europe.

The indictments brought against Mr Milosevic for war crimes in Kosovo (1999) and in Croatia and Bosnia (2001) marked the end of an epoch and the start of a process (currently still vague), the outcome of which will depend largely on how successful international factors are in laying down the foundations for the region's recovery. It is in this context that the situation of human rights should be viewed, particularly since 11 September. The wake-up effect initiated by these terrorist attacks, largely contributed to the considerable pressure brought to bear on both sides in Macedonia to amend the Constitution, and on both sides in Kosovo to take part in the local elections, as well as to the constant pressure applied on the new authorities in Belgrade to co-operate with the Hague Tribunal.

The army, police, judiciary, and media played key roles in human rights developments in the whole region of the former Yugoslavia, and particularly in Serbia. It should also be noted that in 2001, Serbia had just embarked on transition that had been going on for a decade elsewhere in the post-communist world. Saddled with the many problems left over from the Milosevic era, this process is arduous, slow and painful.

More than a year after the October 2000 elections, the Yugoslav Army (VJ) remained outside civilian control. This was best illustrated by the fact that there had been no change in the VJ leadership, with General Nebojsa Pavkovic, who was involved in war operations in the former Yugoslavia, remaining its Commander-in-Chief. A number of incidents – e.g. the mutiny of the special anti-terrorist units (SAJ) popularly known as the Red Berets – raised the question as to who had really won the 2000 elections. The fact that President Vojislav Kostunica had defended the position of the VJ ever since he came into office and tried to exculpate it from responsibility for its role in the recent wars, indicated that the balance between the pro- and anti-ICTY forces was still precarious.

The reorganisation of the police – a crucial issue for the future of Serbia – was also slow moving, being constantly thwarted by those segments of the institution which had played a key role in the wars in Croatia, Bosnia, and Kosovo.

The judiciary, practically unchanged since before 5 October 2000, was one of Serbia's largest and most deep-seated problems in 2001. Nothing of much consequence was done towards its fundamental reform. The judges were as dependent

on politics as they had been before the 2000 elections, a fact that obstructed substantial progress in this field. The Serbian judiciary was far from independent. This was also because it lacked one of the fundamental prerequisites, namely economic independence. To make matters worse, there were not many competent judges and other personnel to choose from whose reputation remained untarnished. A lustration process, which had not yet started, will be the test of whether this institution will be able to recover.

In 2001, during the very important stage of transition, the role of the media was of central importance largely because many of the inherent problems of so-called independent as well as former state-run establishments were beginning to take their toll. In addition to being equally afflicted by the absence of a professional approach, most of them struggled with financial and management problems and were noticeably unwilling to face the recent past. The media were politicised and preoccupied with day-to-day politics, discoursing as they did upon the utterances of politicians in the limelight, while disregarding the analytical and research-related aspects of the profession. While only a few journalists took war crimes seriously, those courageous enough to raise topics such as corruption and organised crime ran the risk of being subject to death threats, intimidation, blackmail, and other harassment. The public at large was denied a clear picture of the situation of human rights in certain spheres and thus prevented from exerting its influence on the State to make the necessary changes.

National minorities and their rights suffered from ethno-nationalism, the break-up of the former state, anti-European hysteria, isolation, centralization, the curbing of autonomy, and the general decline in standards. The new authorities failed to address the issue adequately in the short time they had been in power. This was also because the bloc bent on creating an ethnic state was still influential – an illusion, considering

that even without Kosovo, Serbia has a 25-30% minority population. In addition to this, the legal status of some national minority communities such as Croats, Bosniaks and Macedonians, who might be joined by Montenegrins in the near future, remained unclear. A law on minorities was still in the process of being adopted. As a result of the prevailing atmosphere of intolerance in society, the minorities still felt marginalized although they themselves had become more radical in the last ten years.

The question of minorities was closely linked to the question of refugees. Serb refugees from Croatia, Bosnia and Kosovo, numbering just under 400,000, were systematically settled in parts of Serbia with a pronounced multi-ethnic structure. Considering that both minorities and refugees share a general feeling of vulnerability, there was marked intolerance in regions where demographic engineering was at work with the object of consolidating Serbia ethnically.

Viewed as a whole, the greater part of the region undergoing transition faced serious problems such as corruption, organised crime, illicit trafficking, smuggling, etc. However, it is unlikely that such criminal methods of earning income can be suppressed in a generally impoverished environment without at the same time initiating economic development to cushion the effects. In view of the limited democratic and economic potential of the region, the international community needs to assist establish the foundations for a legal and an economic framework for the respect of human rights in the Balkans.

Freedom of Expression and Media

In the year after the overthrow of President Milosević's regime, the media in Serbia were freed of repression, but they failed to restore their lost self-confidence. As such, they were faced with fundamental – legal, economic, security and professional – difficulties, due to which they were unable to make necessary steps in the transition process.

A journalist who wrote about crimes committed by members of the former regime was killed, while others, in the first year of "freedom", substituted their fear of the Public Information Act for fear of the mafia.

The new authorities did not make the position of the media easier either, still not having formulated a legal and political framework defining the directions of development in the media sphere. The unregulated situation suited the new authorities, since it barred the media from becoming autonomous and from monitoring social developments. Despite the Government's numerous promises, the state-run television, as the most powerful media outlet, still did not become a public service, but continued to be a mouthpiece of DOS views. Information on Radio and Television of Serbia (RTS) was presented through statements by representatives of the ruling establishment, and their view, being the only one, was presented as generally accepted. Voices of criticism were on the sidelines and they reached the viewers only through journalists' interpretations. Instead of Milosevic's domination, control by people from the Democratic Opposition of Serbia (DOS) now expanded to include all the media.

The rift within the ruling coalition was also followed by a division among the media, into those supporting one side or the other, with representatives of the respective sides also serving as informal sources of information for only part of the media, namely the ones "on their side". This indicated that officials lacked total awareness of the state bodies' obligation to offer the media information about their work, especially when something was of public interest.

The most influential independent electronic medium, Radio-television B92, still operated without approved frequencies, i.e. illegally, which was not the case with any of the mass media that had played a prominent role in spreading hate-speech during the war.

Except for a few outlets, the media in Serbia still had not accepted the fact that

one of the fundamental keys to Serbia's improved future lies precisely in their coming to terms with the recent past.

Judicial System and Independence of the Judiciary

Some of the most important promises made by the opposition before coming into power on 5 October 2000 included the creation of a State governed by law, the establishment of the rule of law at all levels, the formation of an independent judiciary, and thus the appropriate norms of punishment to all those who violated the law. The functional and personnel reconstruction of courts and the Prosecutor's Office, named "the cleaning up of the judiciary" and announced as such prior to the adoption of the packages of laws regulating the sphere of the judiciary in November 2001, stopped at several dismissals and at a large number of judges having their employment terminated on personal requests or due to the fulfilment of conditions for retirement. Such acts by the new authorities, all under the motto of "there is no revanchism", produced a dual negative effect. First of all, it was precisely this kind of "removal" of people that created a climate of revanchism, since their responsibility for abuse was not legally or judicially established (except in a few cases), thus raising doubts about the legality of the dismissals. Secondly, the profoundly dissatisfied citizens, who had experienced ten years of unlawful arbitrariness by judges and the flagrant violation of basic rights and freedoms, could not even get the smallest degree of satisfaction from procedures that aimed at establishing their potential responsibility.

Unfortunately, this unfavourable climate persisted even after the adoption of the package of new, considerably better laws, that came into force on 1 January 2002. The reason for this was the conduct of the Serbian Justice Minister who, when these laws were being adopted in November, published lists of judges to be

dismissed without prior consultations with representatives of courts or judges. These lists provoked the outrage of all judges, not only because the mentioned act represents veritable political pressure on the body that is to decide on the dismissals, but also because of the obvious arbitrariness and vague criteria the Ministry was guided by when compiling the list.

A particular problem in the functioning of the judiciary was the lack of legal presuppositions for the work of the Constitutional Court of Serbia, and actual preconditions for the proper work of the Supreme Court of Serbia, as the court of highest instance in the republic, as well as the fact that there was no republican public prosecutor - since the beginning of 2001, the Constitutional Court had not had a quorum for taking decisions. As a result, there was no court that could formally decide on the constitutionality and legality of adopted acts. As there was no quorum, none of the old cases or of the 120 or so new requests filed in 2001 were processed. In view of the fact that many of those who had submitted proposals and initiatives to the Court believing that their rights had been violated by the acts adopted by the new authorities, were deprived of the protection of their rights, one can presume that the elimination of this legal obstacle was dependent on daily political needs.

The situation was identical to that in the Federal Constitutional Court which only reached a quorum for decision-making in November 2001, and whose existence and operation is dependent on the resolution of problems at the federal level.

The problem of the operation of the Supreme Court of Serbia was more of factual than of legal nature. First of all, at least half of the seventy or so judges in the Supreme Court had "earned" their position owing to many years of loyal service to the previous regime. As a result, only a small number of those working at this court, including the president, were professionally and morally competent to judge and take deci-

sions of the last instance. The second problem was related to the Supreme Court's competencies in the process of establishing the grounds for terminating the employment of judges and for their dismissal. Under the 1991 Law on Courts, valid until the end of 2001, the court president and a session of all judges for judges of the given court, the president of the immediate higher court, the Justice Minister and the responsible body of the National Assembly could submit a request of dismissal to the Supreme Court. This Court carried out the procedure for establishing whether or not there existed grounds for dismissal and informed the National Assembly thereof. However, in order to establish, for instance, someone's negligence and incompetence as grounds for dismissal, the Supreme Court's Rules of Procedure stipulated that this must be done at a general session of the Supreme Court, which required the presence of two thirds of the total number of judges, and decisions were taken by a majority of the total number of judges of the court. In view of the procedure envisaged for dismissal, as well as the personnel structure of the judges who were to decide on their own dismissals and the dismissals of others, by establishing their own "incompetence and negligence" and that of others, it was clear why the work of the Supreme Court was blocked even in this segment of its competencies.

Since the new Law on Judges stipulates that the establishment of grounds for the dismissal of judges falls under the jurisdiction of the Grand Personnel Council comprising nine judges of the Supreme Court, it is obvious that the composition and decisions of the Supreme Court will be decisive in dismissal procedures.

Following the dismissal of the republican public prosecutor on 14 February 2001, these duties were performed by an acting public prosecutor. Under the law, the republican public prosecutor was directly responsible for the entire prosecution system in the republic and the person most re-

sponsible for prosecuting criminal offences and protecting legality in the sphere of lawsuits and misdemeanour proceedings. The special importance attached to his function was reflected in the fact that he was to be the main link between the police and the court. The failure to appoint a republican public prosecutor, and the maintenance of a situation where such an important institution was headed by an "acting prosecutor", intentionally or not, paralysed the work of the entire prosecution and the prosecution of the perpetrators of criminal acts.

A serious obstacle to the establishment of an independent judiciary was the extremely poor financial position of judges and of the judiciary in general. Courts were poorly equipped with regard to the basic means needed to work, while judges' salaries were below the minimum level necessary to ensure an adequate standard of living for them and their families.

In situations where the judiciary was faced with high-risk challenges such as trials for abuse and fraud of one-time politically, but still financially powerful people, trials related to war crimes, corruption and organized crime, the question was whether judges and prosecutors would be able to resist the pressure, threats and corruption if their salaries remain at the present level.

Conditions in Prisons and Detention Facilities

In addition to the declining economic situation in the country, the maintenance and multiplication of inhumane conditions in Serbian prisons was worsened by years-long isolation, as a result of which no international organisation, except the International Red Cross, had access to prisoners. The same was true of domestic NGOs, which had sporadic insight into the situation in prisons. After the change in power, with the establishment of the new democratic authorities and their reference to legality and the respect of human rights, keeping the situation in prisons away from the public

eye proved to be unsustainable. Constant prison monitoring to be carried out by non-state and independent institutions, which could provide a realistic picture of the situation in prisons, became one of the conditions for the State in its aspiration towards membership in the Council of Europe and other international institutions.

After several months of discussions between the Helsinki Committee for Human Rights and the Serbian Justice Ministry, for the first time in the history of the Serbian State an NGO received permission to visit prisons freely and conduct interviews with the prisoners in the absence of jail personnel.

In the six prison facilities visited by the end of 2001 (one detention centre, two prisons for adult male convicts, one for adult female convicts, a juvenile-remand centre and a hospital for those undergoing obligatory psychiatric treatment and institutionalisation), mostly poor conditions were encountered. The cells where the prisoners were serving their sentences were dilapidated, unpainted, without any or with indirect sources of heating, poorly equipped and often overcrowded. Due to the decade-long neglect, the hygiene conditions were at a very low level, even though both the prison staff and the prisoners tried to keep them as best as possible. The sanitary conditions were practically unbearable, since there were no funds for the repair or replacement of the worn-out waterworks and sewage installations. In obtaining personal hygiene items (tooth paste, soap, shampoo, etc.), prisoners were mostly left to fend for themselves, so they either received them through packages or purchased them in prison canteens at market prices.

The quality of the food was usually below the minimum envisaged by the Act on Enforcement of Criminal Sanctions and was one of the things the inmates most often complained about. The second, equally frequent complaint concerned poor health care and the chronic lack of medication and medical equipment.

However, far more serious than the poor conditions in which prisoners served their sentences, was the problem of relations between the prison administration, staff and inmates, which were generally bad, and the general atmosphere was "tense". The disinterest of people working in correctional services, owing to their low salaries, and the *a priori* negative attitude of the prison security service, created dissatisfaction among the prisoners which often escalated into verbal or physical conflicts with either other prisoners or staff members. On the other hand, the privileged position of the staff vis-à-vis the prisoners, the frequent provocative attitude towards inmates and the very rare disciplinary and criminal penalties for various forms of abuse or misconduct, created relations of mutual mistrust, animosity and an insurmountable distance between these two groups.

The resolution of the problem of poor conditions in prisons and their harmonization with standards envisaged by the European Prison Rules and the UN Minimum Rules for the Treatment of Prisoners, apart from having the state allocate large funds, need also to begin with the urgent education of prison staff so as to acquaint them with international standards in this sphere and with human rights in general.

Intolerance, Xenophobia, Racial Discrimination and Hate Speech

Hate speech, xenophobia and racial discrimination remained prominent in Serbian society. Although removed from front pages and moved to columns for readers' letters, hate speech reflected the society's general attitude towards minority groups, which was practically the same as it had been under the previous regime. The failure to bring up the question of the causes of the bombardment of Serbia in 1999 and the relativization by the media of the role of Milosevic's regime in this, indirectly justified the use of excessive force. In this regard, the conflict in Kosovo was interpreted ex-

clusively as the Serbian forces' showdown with terrorism, which became especially pronounced after the US tragedy on 11 September 2001. Even though representatives of the Belgrade authorities failed to address sincere expressions of condolences to the US Government, on the domestic political scene the authorities were presented as America's close ally in the fight against terrorism, or more specifically, they tried to present their fight during the Kosovo crisis as the war against terrorism. The language used by most of the media and an overwhelming majority of those in charge was hate speech.

This language acquired its most serious forms in excessive anti-Semitic pronouncements, which intensified considerably after Milosevic stepped down from the political scene. Incidents including the desecration of Jewish facilities, the drawing of swastikas and writing of anti-Semitic messages were registered approximately once a week in various places in Serbia. Apart from Jews, these messages were also directed against Roma, the group towards which the new Serbian right-wing demonstrated the largest racist prejudice, and towards all liberally-minded people as well. Anti-Semitism was open to all opponents of democratisation; from the betrayed followers of Slobodan Milosevic to those who had supported right-wing ideas for decades, as well as rigid opponents of an open society.

A major role in the dissemination of these ideas was played by parts of the Serbian Orthodox Church and the Faculty of Theology in Belgrade, a large group of publishers, issuing numerous and mostly reprint editions of titles written by both fascists and those on the right-wing from the period before World War II and contemporary authors. A prominent place in this was held by the organization *Obraz* and the Students' Association *Sv. Justin Filosof*, which, together with parts of the cultural elite, re-established dangerous right-wing ideas through the media.

All this took place with the tacit or overt support of state bodies; the District Prosecutor's Office in Belgrade dismissed criminal charges demanded by the Alliance of Jewish Communities against the publisher of the *Protocols of the Learned Elders of Zion*. The goal of the anti-Semitic activity was apparently to relativize the Holocaust and, indirectly, to relativize the crimes committed during the war on the territory of the former Yugoslavia.

National Minorities

Only in its election campaign did the DOS speak about the equality of minorities. This was due to the necessity of gaining their support, which was subsequently obtained. However, since then, apart from occasional statements about the need for "positive discrimination" there has been no major improvement in the position of minorities. One of the reasons for this was the fact that the Federal Government, under whose jurisdiction this issue lay, continued to adhere to a state ethnic concept despite the fact that minorities account over 20% of the population of Serbia.

However, after coming to power, the DOS was confronted with the international community's requests for resolving the status of national minorities in the FRY. The visit by the OSCE High Commissioner for Minorities, Max Van der Stoel, was one of the first visits to be made following the October elections. During his meeting with President Kostunica, Mr Van der Stoel presented his expectations, as he had been acquainted with the situation at his numerous meetings with minorities in the FRY. The Federal Government promised to immediately commence drafting a law on minorities, and in order to show its concern for minorities it mentioned the fact that a Federal Ministry of Minorities had been established, and that Rasim Ljajic, himself belonging to the Bosniak minority, had been appointed Minister.

As the atmosphere changed with Milosevic's repression out of the way, minorities themselves became more open in their re-

quests and far more present in the media. With the Federal Government speaking in principle in favour of their rights and position, the impression was created that the situation would soon change for the better. However, a year later, the situation remained unchanged despite the fact that the law on minorities had entered assembly procedure. This law is, in effect, one of the main preconditions for the FRY's membership in the Council of Europe. The ever-present nationalism of the majority, xenophobia, anti-Semitism and the general radicalisation of the society contributed to a change in the general attitude towards minorities. The prevailing opinion was that their position was satisfactory and in line with European standards, and also that there were other far more urgent problems.

The Ministry of Minorities and Minister Rasim Ljajic himself were conducting a broad campaign for tolerance and the communal existence of different ethnic communities. Serbia continued to boast a multi-ethnic nature, despite the ten-year long efforts by Serb nationalists to change its national structure.

The population census scheduled for April 2001 was postponed for a year. Meanwhile, the process of granting citizenship to Serb refugees, presently numbering around 400,000, was stepped up. It was believed that the number of new citizens would change the population structure, especially in Vojvodina, where a majority of the refugees were systematically settled.

Vojvodina, as a pronounced multi-ethnic region, constantly remained the focal point of nationalists, who aimed to finalize its ethnic consolidation, through various associations (Svetozar Miletic) and a series of administrative measures inherited from Milosevic's period. In this sense, the Serb People's Movement Svetozar Miletic was founded under the patronage of Serb academics. One of the goals of this organisation is to prevent restoration of Vojvodina's autonomy, abolished in 1989, and to annihilate its historical and regional specificity.

Among the tasks awaiting the Government before or after the adoption of the new law on minority communities in Serbia is the removal of numerous discriminatory norms from Serbian legislation.

However, a special problem in this process was the existence of four different legal systems in the Federal Republic of Yugoslavia (FRY): in Serbia, Montenegro, Kosovo and at the federal level. For instance, there existed discriminatory acts, including those regulating the right to child allowance, which was granted in larger amounts in environments with a negative growth rate of the majority population. It was precisely this measure that affected Serb refugees and other minorities. The new regulations also redefined territories and the territorial organisation, especially referring to the Law on Districts and Municipalities.

The practice of organisational redefinition was characteristic of Sandzak, with a majority Bosniak population. This was believed to be only part of a broadly developed strategy, which was to lead to the emigration of as many Bosniaks as possible from the FRY, and whereby a new demographic structure would be established. At the same time, the self-imposed tax, paid by all the inhabitants of the region, was used only by areas inhabited by the majority population because precisely these areas were proclaimed underdeveloped and endangered parts of Serbia and were, therefore, in need of assistance.

The new authorities took no measures to shed light on and definitively resolve the group and individual kidnappings and murders of Bosniaks in 1992 and 1993, during the war in Bosnia-Herzegovina.

Over the past ten years, in Sandzak, over 10,000 people were taken in by the police and tortured. As a result of this, the Sandzak Human Rights Committee filed over 20 criminal charges against members of the State Security Service. Most of these people continued to work for security bodies and the Ministry for Internal Affairs (MUP).

The terrorist attacks in the US on 11 September had a negative impact on the

position of Bosniaks. A campaign was launched against Muslims-Bosniaks, presenting them as potentially culpable for every act of terrorism, while an attempt was made to present Serbia as a victim of Islamic terrorism. The media once again afforded a prominent place to "experts" who "proved" that Islamic fundamentalism is the cause of all the misfortunes that befell the Yugoslav territory in the last decade. The 11 September event was presented as "key proof" of such theories. People belonging to the Muslim (Bosniak) minority once again found themselves in the position of victims, to which the new authorities turned a blind eye, so that no distinction was made between various qualifications.

The Roma were the most vulnerable minority. According to estimates of Roma organizations, there were around 500,000 Roma in Serbia as of the end of 2001,² and they lived in worse conditions than ever before. Non-governmental organisations continued to highlight the State's total disinterest in their fate. Around 50,000 Roma children did not go to school at all. About 30% of the Roma were functionally illiterate, having finished only primary school. Over 60% were totally illiterate, around 200 Roma had two-year post-secondary school or college education, while only a thousand had a high school degree. The Roma who fled Kosovo additionally aggravated their position (only some 40,000 of the pre-war number of 150,000 Roma were left in Kosovo in 2001).

In view of the general atmosphere in society, minorities saw the resolution of their problems primarily in the engagement of the international community, i.e. the Council of Europe and the OSCE. It was for this reason that they frequently addressed these institutions and took a very active part in their work.

Refugees and Returnees

The position of refugees in the FRY did not improve significantly even after the elections and after the DOS took power.

Refugees were far more present in the public and they were widely spoken of, but apart from verbal support, little was done in practice to resolve their problems. Talks were conducted with representatives of the Croatian authorities in 2000, and the most important result was the agreement on pension and disability insurance signed and verified in 2001.

Minor cosmetic improvements were made and certain deficiencies in collective centres were eliminated, but the situation remained disturbingly bad. The food was often inedible and the assistance offered to refugees was minimal. With the introduction of dual citizenship, those who opted for such a possibility actually exchanged humanitarian assistance for social welfare. In every appearance in the media, representatives of the authorities gave priority to integration and encouraged refugees to make this choice, consciously pushing return into the background. They justified their strategy for integration by referring to the results of the refugee census in 2001, when, responding to a poorly formulated question, refugees stated where they wished to live. The experiences of the Helsinki Committee for Human Rights in Serbia indicated that, if the conditions for return in the Republic of Croatia were to change significantly, this percentage would also change in favour of returning. This showed that the intention was still to manipulate the misfortune of refugees – probably because of the money that would possibly be invested in such a project, or because of the potential investment of money that would come from the realisation of tenancy rights in the Republic of Croatia, a project that would be carried out by the State.

Refugees from Bosnia-Herzegovina (a large majority of whom are from the territory of the Muslim-Croat Federation) had no problems returning, since they did not require passports or travel certificates. However, they did experience problems

due to the confiscation of their property or because their entire property was destroyed: as a result, they had nothing from which to make a living upon return.

Refugees from Kosovo were in a difficult position. They were accommodated throughout Serbia in camps that did not offer even basic living conditions, i.e. abandoned houses, cellars, cardboard settlements, etc, and they were not offered sufficient assistance. Children, mostly of the Kosovo Roma, did not go to school. As of the end of 2001, there were no conditions for returning to Kosovo.

Croatian authorities frequently called on refugees to return and become loyal citizens of their home country. This used to instil hope, but the circumstances surrounding the realisation of their return discouraged them. When refugees decided to return, they could not get their property back and had no place to live; their property is used by refugees from Bosnia-Herzegovina. They were offered the possibility to stay in collective centres in the Republic of Croatia, envisaged as emergency accommodation, until they obtained the right to move into their own houses or apartments.³

Social Rights

The process of transition in Serbia began after enormous delay and with certainly the worst starting position in relation to all the post-communist countries of Eastern Europe, as well as in relation to the new States created on the territory of the former Socialist Federal Republic of Yugoslavia (SFRY). The extremely negative and truly difficult legacy of President Milosevic's rule made the reform processes in Serbia sensitive, complex and even uncertain in regard to their final outcome.

Even though representatives of the new authorities defined economic revival as the basis and precondition for the reform of the entire society, the will of the citizens expressed at the elections did not prove to be tantamount to support of radi-

cal systemic changes, while the defeated rightwing and nationalist forces still had a significant impact on the events in Serbia in 2001. Since the catastrophic economic situation directly dictated the development of the social crisis, and in view of the unstable political situation in the country and region, it was realistic to expect even the very first steps on the road to reform to encounter resistance not only from members of the former regime, but also from a broad segment of the citizens unable to acquire an objective perception of reality. The internal conflicts within the ruling coalition and the essential differences in the ideological and programmatic approach additionally burdened and jeopardised the initially positive results and gave rise to general apprehension and dissatisfaction within society. At the end of the first year of their tenure, the authorities in Serbia were faced with their uncertain and in many ways delicate political survival, while the further reform process was brought into question and was largely dependent on political solutions within the ruling bloc.

Although the process of economic recovery will undoubtedly be a long and difficult one, it is evidently proceeding at a slower pace than expected. The considerable financial assistance obtained from numerous international donors was mostly used to consolidate the extremely difficult social situation in society. This largely unburdened domestic funds, which had been completely empty for years and unable to meet even a minimum of their obligations towards their beneficiaries. According to employees of the Centre for Social Work, the Government and responsible Ministries made important steps in assisting the most vulnerable segments of the population. Noticeable was the general attention devoted to social institutions and their beneficiaries: all the arrears from the previous years were largely paid, and the current obligations were met regularly. What was disturbing, however, was the fact that the number of requests for social welfare was

constantly on the rise as a result of the inherited, extremely difficult position of an enormous number of citizens, but also of the bankruptcy and liquidation procedures being carried out in a large number of companies. According to data of the Republican Institute of the Labour Market, at the end of October, the unemployment rate in Serbia increased by around 6.9%, reaching around 800,000 people, however, the real figure was believed to be much higher. In view of the fact that employment also grew by 18.4% in the observed period, it was clear that the process of economic revival and the employment of the population was slower than the inevitable demise of long-since unprofitable Serbian companies.

The privatisation process will inevitably create large redundancies, which will represent an additional burden for social funds. According to certain estimates, out of the total number of those officially employed, between 600,000 and 800,000 represented redundant labour. Although this is a problem that has to be faced in the transition process, the political tensions in Serbia can easily lead to manipulation of workers, who could change their requests for social justice into requests for blocking the necessary reforms. Such a scenario is all the more possible since the Serbian Government has not managed to achieve the necessary social consensus with the leading trade unions in the country. The Government's obstinate and persistent refusal to truly acknowledge and recognize trade unions as equal partners in a joint undertaking, along with the traditionally present (mutual) inclination to use trade unions for one's own purposes, will represent a major obstacle to the reform processes and the cause of serious social tensions in society.

International Humanitarian Law

Even a glance at the social and political scene of Serbia conjured up a picture of a country torn between cooperation with the ICTY (both morally necessary and providing

foreign donations) and the still very pronounced aversion to the Tribunal, as a result of the refusal to accept the responsibility of Serbs for war crimes committed during the wars on the territory of the former Yugoslavia.

The law on cooperation with the ICTY, even though unnecessary from the formal and legal point of view, but insisted on by the ruling structures in order to commence cooperation (extradition), was not adopted even a year after the institution of the new authorities. Due to strong international pressure, the extradition of Slobodan Milosevic to the ICTY was carried out on the basis of the Serbian Government's Decree that was later proclaimed unconstitutional. Secondly, the extradition to the ICTY of the Banovic brothers (indicted for crimes in Bosnia), provoked public protests and a blockade of the highway by special anti-terrorist units (SAJ) of the police, who had carried out the arrest. Members of the SAJ participated secretly in all the conflicts on the territory of ex-Yugoslavia and stated that, without legal grounds, they would no longer obey the Interior Ministry's orders to arrest persons indicted by the Hague Tribunal, at the same time requesting the Minister's resignation. Even though this situation was under control as of the end of 2001, it was clear that as the list of the Hague Tribunal's indictees grows, the tension and aggressiveness on the part of the still active military and police structures directly involved in the former conflicts will also grow.

The question of the accountability of certain people from these structures will also have to be raised in the country soon. Investigations were conducted against unidentified persons following the discovery of mass graves on the territory of Serbia (including on the training polygons of SAJ) where the remains of 427 persons (probably Albanians) had been found by the end of 2001. The total number was estimated to be around 800. The evidence compiled before that date unequivocally

pointed to a link between the political and police leaderships of the time, which tried to cover up crimes committed by Serbian armed forces in Kosovo by removing bodies from Kosovo and transporting and burying them in Serbia.

In order for the Serbian public to come to terms with the question of these crimes, it is of vital importance for these investigations to end with indictments of persons who had command responsibility, the Helsinki Committee for Human Rights in Serbia stated. However, this should not happen in the way that this was done by the Yugoslav Army (VJ), in its "showdown" with criminals among its ranks i.e. in April 2001, the VJ stated that proceedings had been instituted against 245 VJ members for criminal acts committed between 1 March 1998 and 26 June 1999 in Kosovo and Metohija. These persons were charged "with criminal acts that resulted in deaths or the endangering of the lives and bodies of people, their personal dignity and morality, or the property of citizens, and some of them have already been convicted", which meant that they were convicted for ordinary murders, theft or rape. However, even though such proceedings needed to be instituted, the real legal grounds and reasons for their institution were, nevertheless, evaded.

As far as the public knew, not a single person has been indicted or convicted for crimes against humanity and international law pertaining to war crimes. Therefore, the trials represented yet another attempt by the VJ to relieve itself of responsibility, shifting the blame to individual criminals and people of deviant behaviour in its ranks.

The issuing of the ICTY's indictment against Milosevic for the war and crimes in Bosnia, Croatia and Kosovo will finally open up the most painful questions and initiate the process of confronting the responsibility not only of those who committed war crimes, but also of those who abetted their commission.