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Rule of Law – a Way to Democratic Development
Implementation of Transitional Laws in Serbia

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Introduction

Youth Initiative for Human Rights (YIHR) has been monitoring the implementation of five transitional laws in the period from March to June 2005. YIHR supervised the implementation of Law on cooperation of State of Serbia and Montenegro with International Tribunal for Criminal Prosecution of the Persons Responsible for Severe Crimes against International Humanitarian Law Committed on the Territory of former Yugoslavian Republics Since Year 1991 (further in text: Law on cooperation with the Hague Tribunal), Law on protection of rights and freedom of national minorities (further in text: Law on minorities), Law on responsibility for human rights violation (further in text: Law on lustration), Law on public information and Law on the Transfer of Competences of Military Courts, Military Prosecutor's Offices and Military Public Defense Attorney's Offices (further in text: Law on Transfer of Competences).

These five supervised laws are transitional laws whose application represents the grounds for establishment of democratic governmental structure and state of law. Law on cooperation with Hague Tribunal represents state relations towards the crimes committed in the past and towards the politics which created those crimes. This Law should contribute in establishment of justice by sanctioning the ones who committed those crimes and in recuperation of dignity for the victims.

Law on minorities contains basic rights and freedom which are guaranteed to the members of national minorities. Law decrees prescribe that European standards should be applied in this area.

Law contains particular obligations of state institutions when the promotion of national minority issue in State of Serbia and Montenegro is in question. Law on lustration prescribes sanctions for the violators of human rights at the time when they performed significant public functions. This regulation disables individuals who violated human rights to perform public function in the next five years and in this way come to an opportunity to endanger democratic governmental structure in Serbia. Law on public information gives precise rights and obligations of journalists, editors and media owners in performance of journalist work. Law defines right to public information, as well as restriction of these rights. Area supervised by YIHR is prohibition of hate speech in media. Law on transfer of competences regulates the position of judges, prosecutors and public defense attorneys who performed their functions in military judiciary, as well as the status of cases that were trialed before these institutions. Jurisdiction of military judiciary is transferred to civic and in this way taken away from Army of Serbia and Montenegro creating conditions to trial

the cases in accordance with modern principles of independent judiciary with the respect towards the possibility of fair trials.

YIHR is going to determine with this research, the level of obeying the rules of transitional laws, as well as functioning of rule of law in practice. Existing Laws have to be obeyed entirely in order to establish stabile legal state. Respect towards these Laws by Serbian government would show the existence of rule of law and enable successful passage of country trough period of transition changes.

Implementation of the Law on cooperation with The Hague Tribunal

Law on cooperation of State of Serbia and Montenegro with International tribunal for criminal prosecution of the ones responsible for severe crime against international humanitarian law committed on the territory of former Yugoslavian republics since year 1991 (further in text: Law on cooperation with Hague Tribunal) was adopted in April 2002, in General Assembly of Federal Republic of Yugoslavia, later State of Serbia and Montenegro. This Law regulates obligations of State of Serbia and Montenegro towards the Tribunal in Hague and gives a precise procedure of performing these obligations. Obligations consist in enabling investigators of Hague Tribunal to investigate in Serbia, supply documentations requested from this Court and cooperate with domestic and Hague prosecutors in leading the case. Obligation of arrest and handing over of crime suspects and indicted on Hague indictments, is also précised. Since the Law was adopted until end of year 2003 this cooperation was incomplete, but existing, and during this time indicted for severe violations of international humanitarian laws were arrested and handed over to Hague Tribunal. During the beginning of year 2004, with formation of new Serbian Government, application of Law on cooperation with Hague Tribunal comes to a complete stop. Even with firm pressure coming from USA and European Union, as well as from UN Security Council to continue with cooperation, Serbian Government officially promotes the concept of “two-way cooperation” and insists on volunteered surrender of indicted. This attitude coming from Serbian Government brought to situation that police does not act on orders coming from Belgrade District Court to bring the indicted before the Court. This behavior represents the precedent and threatens to undermine the authority of justice administration in the country.

- **Legal procedure during the arrest and extradition of the Hague Tribunal indicted**

Arrest and surrender of Hague Tribunal indicted is regulated in details with domestic Law on cooperation with this tribunal.¹ It contains prescribed procedure which is to be respected in the case when the indictment raised by Hague prosecution, against persons located under jurisdiction of Serbia and Montenegro, is confirmed. The indictment is to be sent to Ministry of Foreign Affairs of State union who then sends it to authorized court². Court, in return, is obligated to inform Ministry on taken actions, with three days deadline. Court orders detention or undertakes other measures in order to ensure the presence of indicted and is obligated to adopt a resolution on competition of conditions for his surrender, in the matter of three days. Conditions which are investigated are the identity of indicted, if the indictment is confirmed in accordance with Hague Tribunal statute, if the crime act is punishable in domestic Laws and if it is in jurisdiction of Court in Hague. Indicted has a right to file a complaint on investigation judge's order to Court Panel consisting of three members, who also has three days to bring the final decision. Court Panel's decision is final and executable and there is no possibility of taking extraordinary legal measures. This decision is being sent to Ministry for human and minority rights which bring a resolution on transfer of the indicted. Such procedure enables the indicted his basic rights and regulates the surrender procedure of indicted to Hague Tribunal which is obligatory by Tribunal statute itself. Resolution brought by investigation court on detention is executed by police. This obligation is reinforced by article 23. Law on cooperation with Hague Tribunal that says: "Members of police are going to arrest the indicted without the orders from investigation judge, if there is a released wanted circular after indicted by the authorized domestic officials or by International Criminal Court. Members of police are obligated to escort the indicted to authorized investigation judge, who is to determine detention or release the arrested." International Criminal Court wanted circulars are released after the people whose indictments are confirmed in Hague Court, so it is obligations of members of Serbian police to arrest these people and hand them over to investigation judge. However, this did not happen in neither of the cases so far. It remains unanswered who allowed the police members to violate, this severely, their legal obligations and in spite of all that does not bear consequences. Police of Republic of Serbia went further in disrespect of the Law; they did not act on orders of Belgrade District Court, who released wanted circulars after four military and police generals in September 29, 2004, and all this according to request from Ministry of Foreign Affairs of Serbia and Montenegro. This behavior of the police is imaginable in the state of law and it contributes the undermining the credibility of legislative officials and general deterioration of legislative order in Serbia. It is important in particular to underline that none of state officials did not react to this violation of the Law procedures and disobedience from Serbian police.

¹ It is interesting that precisely Kostunica and his political party were loudspeakers of the Law, opposite to political parties of former DOS who represented the cooperation with the Hague without the legal regulations defining this cooperation

² In charge of this are: In Serbia – Belgrade District Court and in Podgorica – Higher Court

- **National Council for cooperation with the Hague Tribunal**

In accordance with the Law on cooperation with Hague Tribunal, National Council for Cooperation with Hague Tribunal (further in text: Council), was established. Council presiding is Rasim Ljajic, minister for human and minority rights in Council of Ministers of State Union Serbia and Montenegro. According to the Law, Council is competent “in particular for status of indicted, support for their families, status of witnesses, admission to archive documentation and other questions important for establishing of cooperation”³ Running of the Council was, for a long time, the only excuse for Serbian Government that the country is completing its international obligations. Considering the fact that this body decides on demands to take the responsibility of guarding state, military or service secret from witnesses, as well as on removing the top secret marks from the files and its submission to Hague Tribunal, this was used by Serbian officials as a sign of existence of cooperation. Since end of January 2005, when the position of Serbian Government towards the extradition of war crimes indicted to Hague Tribunal changed, Council lost its importance. Despite it all, impression is that this body (especially its presiding, Mr.Ljajic) always surface when a controversy appears related to this subject. So, Law on congealing of Hague indicter’s property, whose adoption was requested from European Union, was prepared and promoted precisely by this body, or by Minister Ljajic.⁴ This transfer of responsibility to the body that does not perform any actual administration triggers the confusion amongst Serbian citizens and creates an impression that politicians who perform an effective administration avoid to take on the responsibility for severe problems.

- **Voluntary surrender of war crimes indicted**

Since March 2005, when YIHR began with monitoring of application of Law on cooperation with Hague Tribunal, nine war crimes indicted voluntarily surrendered to the Court. Those being: Vinko Pandurević, indicted for genocide and crimes against humanity in Srebrenica; Milorad Trbić, indicted for crimes against humanity in Srebrenica; Mićo Stanišić, indicted for crimes against humanity and violation of customs of war in Bosnia and Herzegovina; Nebojša Pavković, indicted for crimes against humanity and violations of customs of war on Kosovo; Sreten Lukić, indicted for crimes against humanity and violations of customs of war on Kosovo; Ljubomir Borovčanin, indicted for accomplishing the genocide in Srebrenica; Drago Nikolić, indicted for genocide or accomplishing in genocide in Srebrenica; Vujadin Popović, indicted for genocide or accomplishing in genocide and Gojko Janković, indicted for crimes against humanity and severe violations of Geneva Convention. These surrenders were operated in understanding with Serbian Government and were

³ Act 7, paragraph 2. Law on cooperation with the Hague Tribunal

⁴ Blic, March 22, 2005

presented as a success of state officials in accomplishment of international conditions. In negotiations with indicted participated Serbian Government Ministers: Zoran Stojković, Dragan Jočić and Zoran Lončar. Indicted went to Hague accompanied by Ministers in Serbian Government and with press releases filled with odes to their decision to surrender as patriots and therefore performed an act of honor. General Vladimir Lazarevic, indicted for severe violations of international humanitarian law was welcomed in joined visit to Prime Minister Vojislav Kostunica's cabinet and head of Serbian Orthodox Church, Patriarch Pavle. Prime Minister made a following remark concerning their surrender: "General acted in accordance with long tradition of Serbian army. Our officer fought until the end for the interests of his people and the country."⁵ Former Minister of Police of Republic of Srpska, Mico Stanisic decided to surrender to Hague Tribunal on March 11, after talks with Serbian Minister for state administration and local autonomy Zoran Loncar, who stated on this occasion that this is „all about moral and patriotic decision made in the best interest of State Union Serbia and Montenegro and Republic of Srpska”⁶ Gojko Janković, indicted for crimes against Bosnian population in Foca in 1992, surrendered on March 14, marked by Serbian Government as decision which is „moral and responsible and in the interest of State Union Serbia and Montenegro and Republic of Srpska.”⁷ Drago Nikolić, indicted for accomplishing in genocide in Srebrenica in 1995, surrendered after talks with Serbian Minister of Justice Zoran Stojkovic. Serbian Government released a statement pointing that Nikolic brought this decision in order to „help his people, state and nation”.⁸ Soon after that Minister Stojkovic welcomed Vinko Pandurevic, also indicted for genocide and persuaded him to surrender to Hague.⁹ All the other surrenders of indicted were followed by similar press releases from Serbian Government with observation on their morality, responsibility and patriotism.

- **Violation of Law by Serbian administration**

Government of Republic of Serbia stands firm on position that the only correct way to cooperate with Hague Tribunal is for indicted to voluntarily surrender. This standpoint does not have grounds in any of domestic or international legal documents. On the contrary, domestic law clearly defines the obligation of certain and unconditional cooperation with Hague Tribunal, no matter if the arrest and extradition to Hague is in question or some form of international criminal assistance (hearing of witnesses, undertaking of investigation, providing the necessary documentation and similar). As proof, those representatives of domestic institutions use the Law only as warning for the ones indicted in Hague, serves statement given by Minister for human and minority rights and presiding of National Council for

⁵ Helsinki Committee for Human Rights in Serbia, Human Rights and Collective Identity, Belgrade 2005.

⁶ Blic, March 11, 2005

⁷ Danas, March 14, 2005

⁸ Srpski nacional, March 18, 2005

⁹ Večernje novosti, March 21, 2005

cooperation with Hague Tribunal Rasim Ljajic:”It is better for indicted to surrender. Otherwise the state is going to be forced to strictly use the Law on cooperation with Tribunal”¹⁰ This relation of a minister towards the Law is unacceptable and means that government chooses when to use a certain Law. Arbitrary in application of the Law always leads to undermining of rule of law. One of the basic postulates of rule of law, therefore, says that there must not be any selectiveness in law application, it has to be respected without conditions and must not depend on will of executive power. That Minister Ljajic is not alone in his opinion show statements given by other ministers, including Prime Minister Vojislav Kostunica himself. In the interview given to Vecernje Novosti daily, under the title “No arrests”, Prime Minister Kostunica says :”We are going to continue with model of volunteer surrender which gives good, or to put it differently – excellent results”¹¹ Serbian Prime Minister defines this more precisely on press conference held on April 14, 2005. Asked by a journalist why the police do not act according to the Law and arrest Hague indicted, Prime minister responded: “Above national legal system there is international legal system, and above national court there is Hague Tribunal. We have respect towards this international legal system, and Tribunal statute does not prescribe the way of extradition of the indicted. Between arrest and volunteered surrender we chose for obviously better model for the indicted, their families and for the entire state.”¹² Prime Minister openly informs that he is consciously going to disobey the Law. Citing the international legal system in this case speaks either about complete ignorance in international law or clumsy attempt to deceive the public related to prime minister’s dedication to rule of law. Hague Tribunal statute in article 29, paragraph 2. states clearly on the fact that “States have to, without any unnecessary delay, gratify all requests for help or orders raised by trial chamber, among all, the following:

- (a) establishment of identity and location of persons;
- (b) Taking of statement and its delivery;
- (c) Delivering of documentation;
- (d) Arrest or imprisonment of persons;
- (e) Surrender or bringing the indicted before International Court.”

This article determines the extradition of indicted very precisely, so the arrest and extradition on Tribunal request has to be done without delay. Authorization of state institutions to act in accordance with Statute regulations is confirmed with Law on cooperation with Hague Tribunal. Act 2, paragraph 2. states: “Hague Tribunal statute regulations are general rules of international legal system.” However, president of Serbian Government obviously consciously chooses to disobey not only the national Laws, but also general rules of international legal system.

¹⁰ Srpski nacional, March 16, 2005

¹¹ Večernje novosti, April 16, 2005

¹² Večernje novosti, April 15, 2005

Conclusions on implementation of Law on Cooperation with the Hague Tribunal

1. Cooperation with Hague Tribunal is operated through volunteered surrender of war crimes indicted. Government of Republic of Serbia openly states it is not going to arrest the indicted and it goes without saying disobey the Law on Cooperation with Hague Tribunal.
2. Police does not act in accordance with orders given by Belgrade District Court to arrest war crimes indicted. Police does not apply the regulation of Law on Cooperation with Hague Tribunal to momentarily arrest all persons which are on Hague's wanted circular.
3. Serbian Government officials are releasing statements that support the opinion of a part of population that state cooperates with Hague Tribunal for economic reasons and for European integration, completely ignoring the facts and cites from indictments.

Recommendations for implementation of Law on Cooperation with the Hague Tribunal

1. Government of Republic of Serbia is obligated to cooperate entirely with Hague Tribunal based on national and international regulations in order to serve justice and work in the interest of the victims.
2. Ministry of Police has to, unconditionally and consistently, act in accordance with orders given by national courts, and directly, with Hague Tribunal wanted circulars according to the act 23. Law on Cooperation with Hague Tribunal.
3. Government of Republic of Serbia is obligated to inform the public on facts connected to Hague Tribunal indictments. This way, public is going to be informed on details from past and on severe violations of international humanitarian law during the military operations.
4. Promotion of volunteered surrender policy, as the only way of cooperation with Hague, has to be stopped, because it opposes the rules of international law and national regulations. Discrimination of indicted before national courts, which lack the possibility to negotiate with the Government about their surrender, would be avoided.

Implementation of Law on protection of rights and freedom of national minorities

Law on protection of rights and freedom of national minorities (further in text: Law on national minorities) was adopted in 2002, in Parliament of Federal Republic of Yugoslavia¹³. Law was adopted with active participation of experts from OSCE and Council of Europe and has been marked as positive move in these organizations. Law on minorities regulates basic rights and freedom of members of national minorities in Serbia and Montenegro. Despite this, application of the Law has been summoned to territory of Republic of Serbia, because Montenegro, at the time of adoption, stated it is not going to be applying it. On the other hand, fact that the Law was brought on the state level creates problems in its application in Serbia. This is how, for example, the possibility of addressing the Court by members of national minorities, guaranteed by act 23. of the Law, has been denied. Court in charge for violations of constitutional rights of members of national minorities is Federal Constitutional Court, which none exists since the day Constitutional Charter was adopted and the State Union was established. Also, Law anticipates the establishment of State Fund for stimulation of social, economic, cultural and general development of national minorities.¹⁴ Fund should, according to the legislators, finance projects aimed at improvement of position of national minorities from state budget, which also stopped existing with the State Union establishment. In the State Union budget there are no planned sources for this. Due to all these problems, and due to insecure future of State Union Serbia and Montenegro, representatives of national minorities Council requested several times from Serbian Government to propose the adoption of Republic Law on protection of rights and freedom of national minorities.¹⁵ This Law should regulate national minority issue more specifically, not only with rights they are entitled to, but also with financial and other forms of aid that Republic of Serbia is obligated of providing. All regulations of Republic of Serbia related to national minority support and meeting their needs, are for now, only the act of good will, with no specified legal obligation. Situation like this does not represent an assurance for national minorities that their rights are going to be respected in the future.

- **National Councils**

Law on national minorities introduced a new institution when organizing of members of national minorities is in question. These are National Councils.¹⁶ Areas in the jurisdiction of these bodies are language usage, education, information and culture. According to the act 19. Law on minorities, national councils members are voted for by citizens on elections. National minorities do not have obligation to create those bodies themselves. Despite this, all larger minority communities, except the Albanian, have established their own Councils. There are 12 national Councils on

¹³ “Official Gazette ”, number 11/2002 from February 27, 2002

¹⁴ Article 22, paragraph 1. Law on national minorities

¹⁵ Interviews of YIHR researchers with representatives of National Minority Councils from 2005.

¹⁶ Article 19. Law on minorities

the territory of Republic of Serbia.¹⁷ Significant regulations are to be found in article 19. Paragraphs 10 and 11. In paragraph 10. it is specified that republic, regional and local authorities can entrust a part of their jurisdiction to the Councils, while the State is entitled to supply the financial resources necessary for execution of these powers. In paragraph 11. it is specified that during the decision of entrusting the Councils with jurisdiction, it is necessary to make sure that the national council's requests are satisfied. These regulations allow the possibility of entrusting the Councils with the decisions related to language, information, education and culture. This possibility was so far granted only by the Parliament of Autonomous Province of Vojvodina. Decision brought by this parliament transfers all the founding rights over printed media published on languages of national minorities, as well as the authority of deciding on traditional names for towns in Vojvodina.¹⁸ Traditional names are written on boards at the entrance to all of multiethnic environments in the Province, together with usage of Serbian language. Department for management, regulations and national minorities in the Province has established that there is a great resistance towards these boards in the environments where Serbs create a majority.¹⁹ Other state and local institutions, so far, did not use their right to cooperate one more close level with national councils.

- **Protection of obtained rights**

When the rights of national minorities, guaranteed by the Law are in question, YIHR has recognized large number of violation of legal regulations, as well as weak or complete lack of reaction of authorized institutions. Act 8. of the Law protects obtained rights of national minorities and is in accordance with Framework convention for protection of national minorities of Council of Europe regulations²⁰, which also forbids the reduction of rights national minorities already obtained. Even with this said, local administration in Sid brought the decision to terminate the official usage of Slovakian and russionian language on the territory of the commune. This decision represents the severe violation of regulations and international conventions, which was also determined by Department for regulations, management and national minorities of the Province on March 14, 2005. Department has announced it is going to file criminal complaint against the responsible in Local administration in Sid, but it has not been done until today.²¹

- **Official usage of language**

¹⁷ Formation of National Council of Vlah minority is in progress. This would be 13th National Council

¹⁸ Decision on closer definition of several questions in the area of official usage of language of national minorities on the territory of Vojvodina, Vojvodina Official Gazette, number 8/03 from May 22, 2003

¹⁹ YIHR, Application of Framework Convention for protection of national minorities in eight multiethnic communities in Serbia, Belgrade, 2005

²⁰ "Official Gazette" 6/98

²¹ RTV B92, April 15, 2005

Members of national minorities in several communities in Serbia are not acknowledged their right to use their language from article 11. of the Law. In Priboj community, paragraph 2. from this article, stating that the language which is used by minimum of 15 percent of population has to be introduced, is not respected. Even with the fact that more then 17 percent of Priboj community population use Bosnian language, Local administration denied three requests to make this language official, coming from NGOs and political parties.²² None of the rights introduced in this article are respected in Priboj community, for that matter. Legal and administrative procedures are not led on Bosnian language, parliamentary documentation is not printed bilingual and the citizens are denied of receiving their documents on their own language. This right has been denied to rest of the Bosnian population in communities in Sandzak. All the road signs are marked on Serbian language, in Cyrillic, as well as boards with names of institutions with public jurisdiction, which is against article 11, paragraph 5. of the Law.²³ In Presevo and Bujanovac where the Albanian population creates the majority, there are no legal procedures on Albanian language, and the boards with the names of institutions are mainly not bilingual, except on local government buildings. Official bodies, mainly in charge for issuing of personal documents are not doing it on Albanian language, justifying this by non existence of Albanian alphabet in computer programs.²⁴ The level of respect of the article is larger in Vojvodina then in other parts of Serbia. Law has been broken in institutions which are centralized in Belgrade, like Army of Serbia and Montenegro, Tax administration, Geodetic Institute and similar. Department for regulations, a management and national minority of Vojvodina has announced it is going to introduce measures sanctioning the violation of Law by republic institutions. This has, so far, not shown any results.²⁵

- **Education in native language**

Articles 13, 14 and 15. of the Law on national minorities guarantees the right to education in native language to the members of national minorities. However, this has not been obtained entirely. Especially endangered is Bosnian ethnic community. Suggestion made by this community, to introduce Bosnian language in schools, has been a subject of public discussions for a long time. Former Minister for education Ljiljana Colic has categorically denied the request. First improvement was made in agreement between Bosnian national Council and new Minister for education at the end of 2004. The agreement was to introduce Bosnian language with elements of national culture and tradition as optional subject with two courses a week. The lectures began at the beginning of second trimester of school year 2004/2005.

²² YIHR, Implementation of Framework Convention for protection of national minorities in eight multiethnic communities in Serbia, Belgrade, 2005

²³ I Interviews of YIHR researchers with representatives of National Minority Councils from 2005.

²⁴ YIHR, Implementation of Framework Convention for protection of national minorities in eight multiethnic communities in Serbia, Belgrade, 2005

²⁵ Ibidem

Representatives of Bosnian community are insisting of entire application of the Law and of complete lectures on Bosnian language. Textbooks are written by an expert team from Bosnian national council, in this way applying article 13, paragraph 6. of the Law.²⁶ Albanian community has obtained the primer and secondary education in Albanian language, but has not obtained the faculty education on native language yet. Representatives of Albanian political parties have requested in accordance with article 14, paragraph 1. of the Law, to be allowed the opening of Teacher's College Department in Albanian language in Presevo, but have been denied by the Ministry of Education and Sports. In Vojvodina, minorities have traditionally higher level of rights in all areas, also in education. Since 2003, first lectures on Croatian language started in primary and secondary schools. The only problem occurring is lack of qualified staff members, which would be resolved by opening of Departments of Teacher's Colleges on Croatian language. This solution has been successfully introduced on Hungarian, Slovakian and Romanian language. Schools on Roma and Vlah language do not exist, justified by authorities with lack of standardize spelling on these two language.²⁷

Republic of Serbia drastically violates the article 13, paragraph 7. of the Law stating: „Plan and the program of work in educational centers and schools with lectures on Serbian language, should contain, in order to enable development of tolerance towards the national minorities, curriculum with information on history culture and status of national minorities, as well as other information developing the tolerance and cohabitation.“ Despite the legal obligation, textbooks used in schools are overbooked with prejudice, lacking the information on national minorities; several of them even contain tendentious and unrealistic presentation of history and culture of minority communities in Serbia, like history and Serbian language and literature. The attempt to overcome this problem with introduction of multiethnic textbook is in progress, helped by Ministry of education and Sports of Republic of Serbia and Bosnian National Council.²⁸

- **Information in native language**

The right of national minorities to be informed in their own language has been guaranteed by article 17. Law on national minorities. This right, however, has not been secured to all of members of national minorities in Serbia. Thus, for example, there are no printed media in Bosnian, Albanian, Roma and Vlah language. There are also no electronic media on Vlah language, while only radio broadcasting exists on Croatian language.²⁹ Parliament of Autonomous Province of Vojvodina has transferred its founding rights over printed media on languages of minorities to national councils. Representatives of Hungarian and Croatian national minority

²⁶ Interviews of YIHR researchers with representatives of National Minority Councils from 2005.

²⁷ YIHR researcher's interview with Rasid Kurtic, presiding of the National Roma Council, May 2005

²⁸ See: press conference by Esad Dzudzevic, May 12, 2005, Belgrade

²⁹ All data are provided from the interview by YIHR with National Minority Councils, 2005

made a suggestion of similar solutions for electronic media, or at least for TV Novi Sad broadcastings in national minority languages. This move would remove all the problems accruing due the obligation of privatization of all local media until 2006. Due to a lack of investing interests, it is easy to conclude that several of the media, which are broadcasting on languages of national minorities, are going to be cancelled. Real problem that national minorities in Vojvodina are dealing with is administration in TV Novi Sad. Broadcasting on Croatian language „Tragom hrvatskim“ was canceled without notification or explanation, and afterwards the hours of broadcasting of radio program on Hungarian language was reduced. In addition, officials in TV Novi Sad has come to a conflict with Slovakian National Council after attempting the reduction of broadcasting dedicated to Slovakian culture in Vojvodina.³⁰ These moves provoked reactions in national councils as well as in Executive Council of Vojvodina, but there were no reactions from home office of Serbian National Broadcasting.

- **Participation in public life and equal rights in public service employment**

Members of national minorities are not equally represented in public administration in Serbia. In Serbian Parliament, national minorities are represented by only two parliament representatives from Sandzak, who entered the parliament from Democratic Party list. This situation occurred due to weak election solutions in former Law on election of parliament representatives, which determined the census of 5 percent for all the political parties, no matter who they represent. In the new Law on election of representatives of the parliament this regulation was changed and there is no census for the national minorities' political parties.³¹ Only representative of the parliament who performs a public function was presiding of the Board for inter ethnic relations, Esad Dzudzevic, replaced on April 5, 2005. All the representatives of the parliament voted for replacement except for the Democratic Party members.³² In Serbian Government not a single minister represents some of the national minorities' political parties, nor has a member of national minority on managing position in public firms and institutions in Serbia. This underrating of members of national minorities is visible in police and legislative bodies. In Bujanovac, for example, where Albanian population represents the majority, none of the judges speaks Albanian language. In Tutin community, where Bosnian people make more then 90 percent of population, more then 80 percent of police officers are

³⁰ RTV B92, February 1, 2005

³¹ „Official Gazette“, 35/00, 57/03, 18/04

³² Proposing the replacement, representative of Serbian Radical Party, Milan Veselinović, stated that Dzudzevic „threw filth on Serbia“ by resolving the crime in Sandzak

of Serbian nationality.³³ In Priboj community, where quarter of population is of Bosnian nationality, none of the local administration members is Bosnian.³⁴

- **Roma population**

Roma population is one of the most endangered national minorities in Serbia. Their position was recognized by Law on national minorities, so the article 4, paragraph 2. of the Law it is specified that the state has to take measures and adopt legislative regulations „in order to improve the position of people belonging to Roma national minority.“ Testimony that this position is not without grounds comes from supplied facts by a researcher from YIHR at the end of 2004 and in the beginning of 2005.³⁵ According to the population register from 2002, only 21,9 percent of Roma population finishes primary school, 7,8 percent secondary education, and only 0,3 percent has a high or higher education. Almost 80 percent of children in need of special education are of Roma population. Roma population is facing discrimination on public places, discrimination during employment and racial segregation in education. In primary school „Vuk Karadzic“ in Nis, more then 80 percent of schoolchildren are of Roma population. According to the statement given by Roma representatives in Nis, this occurred due to a fact that parents of non Roma nationality are refusing to send their kids to this school, and their primary schools in Nis are refusing to accept children belonging to Roma national minority. Large number of Roma population lives in communes in unhygienic conditions with no clean water, electricity and canalization system. Local governments in Serbia are demolishing these communes with no schedule related to dislocation of the inhabitants. Roma's are denied the right to education on native language, official usage of their language as well as participation in public administration. Republic of Serbia has joined the project led by World Bank and Soros Foundation called „Roma decade“. This project is based on planned investment by states of Central and Eastern Europe into support of integration of Roma population into their societies. Special funds are going to be created for education, residing and employment. However, Government of Republic of Serbia has informed the representatives of Roma National Council that they are unable to set aside a certain sum of money for this year, because it is not anticipated by the Law on budget for year 2005.³⁶

Conclusions on implementation of the Law on national minorities

³³ Interview by YIHR with National Minority Councils, 2005

³⁴ YIHR, Implementation of Framework Convention for protection of national minorities in eight multiethnic communities in Serbia, Belgrade, 2005

³⁵ See: YIHR, Implementation of Framework Convention for protection of national minorities in eight multiethnic communities in Serbia, Belgrade, 2005

³⁶ YIHR researcher's interview with Rasid Kurtic, presiding of the National Roma Council, May 2005

1. Law on national minorities has been brought on level of state Union Serbia and Montenegro which caused the inability of some of its solutions. In particular ones relation to creation of the Fund for national minorities that lack resources on State Union level, as well as legal protection of national minorities which should be undertaken before abolished Federal Constitutional Court.
2. National Councils are working based on inadequate regulations of the Law on national minorities. There is not a single republic institution responsible for the contacts with these Councils and their requests.
3. Jurisdiction of the council's differs depending on the territory of their location. So, the national councils located on the territory of Province of Vojvodina have founding rights over printed media published on languages of national minorities. This comes from the Law regulation which allows government to decide if their jurisdiction is going to be entrusted to national councils.
4. Rights of the members of national minorities are endangered in several communities in Serbia. Sid community has abolished the official usage of Slovakian and russionian language even though this is strictly forbidden by the Law on national minorities and by official international conventions. Law regulations are violated in Priboj, Bujanovac, Novi Pazar and others.
5. Roma population problems are disregarded. Even with the fact that Serbia joined the project „Roma decade“the money from the federal budget has still not been set aside for financing the improvement of Roma national minority position.

Recommendations for implementation of the Law on national minorities

1. Republic of Serbia should immediately adopt the Law on national minorities on republic level in order to specify the obligations of republic administration and enable legal protection of minority rights before courts.
2. It is necessary to adopt a special Law on National Councils, which would regulate the status, position, jurisdiction and election of these bodies. National councils should be legally allowed to take care of the culture, language preservation, education and informing, so it won't be a subject of state administration good will.
3. Law regulations which guarantee rights and freedom to members of national minorities have to be unconditionally respected. This in particular goes to accomplished level of rights which should not be reduced by any means.
4. Violation of the Law has to be sanctioned in a proper way. It is unacceptable to allow severe violation of these regulations, as in Priboj community, without the reaction of authorized ministries.

5. Federal bodies are obligated to resolve the problems of Roma population. Roma population is the most endangered one in Serbia and therefore the Law prescribes the necessity of special care of their rights and freedom.

Implementation of Law on Lustration

Almost all the countries, which have been under authoritative regimes, have tried in many ways to deal with the balance of the past and establish firmly into democratic system. Lustration proved itself to be one of the mechanisms for implementation of

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transitional justice in Europe. This measure means a ban from performing public function, in limited period of time, for people who, in the past, participated in violation of human rights. Lustration measure has been, so far, employed in Eastern Germany, former Czechoslovakia, Hungary, Latvia, and Lithuania and, in a certain level, in Bulgaria. Lustration measures are differing from one country to another and are spreading from the, so called firm lustration in Czech Republic, to soft lustration performed in Hungary.

Discussions about necessity of lustration have become more frequent in Serbia, after the democratic changes in 2000. However, certain differences have come out of the democratic blocks, which have not been exceeded until today, and which have in large scale affected the necessity of transitional justice implementation, especially lustration. In year 2003, tight majority of representatives in General Assembly was created, and managed to vote for introduction of this measure into Serbian legal system (Law on responsibility for violation of human rights, also known as Law on lustration, passed in General Assembly of Republic of Serbia). Even then, it was clear that it is going to be a demanding task to establish this law under a widespread resistance coming from oppositional parties as well as a part of public experts. Due to the change of Government in 2003, implementation of law on lustration comes to a complete halt. Even when the law was passed, new government clearly stated that they are against these measures.

- **Lustration as new legislative institute**

Law on lustration was passed in General Assembly of Republic of Serbia in 2003, as one of transitional laws which were supposed to help in confrontation with the past. This law was from the very beginning, followed by strong resistance, especially coming from oppositional parties. All the measures précised in the Law, are applying to the people who committed violation of human rights since ratification of Pact on Civil and Political Rights in 1976 until present day, and are candidates for important public functions. Those functions are specified in the Law. Among others, those are functions of Republic president, Serbian Prime Minister, ministers in Government, members of parliament, judges of general jurisdiction courts and Serbian Constitutional Court, University dean, chief of Security Intelligence Agency and chief of Headquarters of SCG Army, as well as directors and board members of public institutions.³⁷ Lustration is to be undertaken in two procedures, previous and subsequent. Previous procedure³⁸ is performed *ex officio* or under the suggestion and it involves identification of the candidates for named latter public functions. Commission brings decisions as councils on closed sessions, based on Security Intelligence Agency documentation and documentation provided from other services. Candidate and eventual counselor are being informed on decision. In the case it has been determined that the candidate has been violation human rights in the past, he is allowed the seven days deadline to retrieve from candidacy or to file a complaint. Commission decides about the

³⁷ Article 10. Law on lustration

³⁸ Article 14-17. Law on lustration

complaint. On this decision it is possible to file a complaint to Supreme Court, but can only contain the fact candidate could not have known about, or evidence that seem to have been supplied after the decision on filed complaint. Subsequent procedure³⁹ is undertaken in the case the person already is performing a public function, and is also performed *ex officio*. Rules are the same as for previous procedure, except that in this case, there is a possibility for oral discussion, which can be public, on the request of the mentioned public function figure.

If the person determined to have violated human rights in the past, does retrieve from the candidacy or does not resign inside seven days since the day of decision, measure of public statement on violation of human rights is being pronounced (obligatory in Official Gazette of Republic of Serbia, and in the rest of the media according to Commission's decision). If in 30 days after the application of the measures, the candidate does not retrieve, a ban is being placed on taking of public positions and the decision is brought by Serbian Supreme Court.⁴⁰ This is a five year prohibition.

- **Commission for Lustration**

Lustration procedure itself should be performed by Commission for Investigation of Responsibility for Violation of Human Rights (further in text Lustration Commission) that would pass on solutions for individual cases. Due to stipulations of the Law, saying this Commission should contain two members of Parliament, elected from different election lists, Commission was never fully established. Commission for lustration is operation with eight out of nine planned members, because none of the opposition parties wanted to participate in the work of this body.

Even when members of the Commission requested to be provided with conditions for work, it did not happen. Commission was not provided business premises, they have never received incomes for their work nor formed expert services in order to help with the work. On its last session before parliamentary elections, on December 2003, two of Commission members requested a checkup of Members of Parliament in accordance with the Law. Rest of Commission members overruled this possibility.⁴¹ Commission did not meet again after this. After parliamentary elections, according to the Law, a new commission member should have been elected, because Sima Radulovic, who performed a function of a member and Commission president, has ended his mandate in General Assembly. This change should have been initiated by oldest member of the Commission. This, however, has not been done until today, and the work of Commission has been obstructed in this way.

Of particular problem is actual impossibility of Commission to perform its work. Namely, even if it has succeeded to constitute and function in a way it was supposed to, many experts questioned if this work would be possible without the passing on the Law on Opening Files of Security Agencies. Commission should work on the basis of

³⁹ Article 18-21. Law on lustration

⁴⁰ It is not clear why only article 33 of the Law contains Constitutional Court as authorized, while all the other articles have changed this to Serbian Supreme Court

⁴¹ YIHR researcher's interview with Sima Radulovic, May 2005

information supplied from intelligence services, especially Security Intelligence Agency. Considering the fact that there are no mechanisms for inspection of authenticity of these files, nor democratic-civil control over Agency work, efficiency of Commission work based on cooperation with such intelligence services, would be questioned. Except for mentioned circumstances, problem lays also in unfounded institutions in the country, amongst all, judiciary. There's also justified fear that without strong and independent judiciary system there is possibility to come to misuse of lustration measures or their marginalization in public. Both of dangers already proved to be realistic in other countries of Eastern Europe who carried out lustration.

Serbia is a country heavily burdened by past filled with wars, crimes, oppression of political opponents and massive violation of human rights. Establishing of transitional justice does not mean justice only for the victims, but also for the whole society. Lustration is one of the mechanisms leading to the realization of this goal. On the other hand, lustration is effective way for protection of newly established democratic structure. It is important to protect such structure from people who violated human rights and democratic principles in the past, with reasonable doubt they would do it again if in position. Therefore, it is necessary to apply pressure on government in Serbia in order to end the obstruction of transitional laws implementation as well as to establish rule of law.

Conclusions on implementation of the Law on Lustration

1. Law on lustration has not been applied even if has been adopted two years ago.
2. State administration is to be responsible for this, in particular Serbian General Assembly and Government of Republic of Serbia
3. Commission for lustration did not bring a single decision since it was formed. Serbian People's Assembly did not provide basic conditions for the work of Commission. Its work was paralyzed by mandate end of the presiding, as well as with the resignation of one of its members.
4. There is no willingness amongst members of political elite to apply regulations of the Law. Majority of parliament members are against the Law and it is expected that it is going to be abolished.

Recommendation for implementation of the Law on Lustration

1. Serbian People's Assembly has to immediately elect three members of Commission so the normal work can be established.
2. Government of Republic of Serbia has to state publicly on violation of the Law on lustration. As far as this Law is official its regulations have to be respected by state administration.

3. Commission should make an initiative in order to regulate its work, as well as to provide all the necessary conditions for the performance of its duties defined in the Law on lustration.
4. It is necessary that members of high state institutions show definite support of Law on lustration as well as of lustration itself as one of the mechanisms in establishing of transitional justice. This is the only way to provide the social conscious on this issue.

Implementation of the Law on public information

Law on public information has been adopted in April 2003. Law regulates the right to public information as well as rights and obligations of journalists and media editors. "Right to public information embodies the freedom of thought, freedom of supplying, investigation, publishing and spreading of ideas, information and opinion, freedom of printing and distribution of newspapers and other printed media, freedom of production and broadcasting of radio and TV program, freedom of reception of ideas, information and opinion as well as freedom of foundation of bodies performing the public information", states the article 1, paragraph 2. Law on public information.

- **Hate speech**

This Law regulates the prohibition of hate speech in media and possibility of complaint by victims and NGOs dealing with human rights issue. Article 38. of the Law states: "It is prohibited to publish the ideas, information and opinion that agitates discrimination, hate or violence against individuals or groups for their involvement or non involvement to race, religion, ethnical group, gender or sexual preferences, no matter if the criminal act was performed by publishing." This regulation sanctions widely any kind of hate speech towards the individuals or groups, even wider than criminal law anticipates it.⁴² Particularly important regulation enables NGOs dealing with human rights issue to raise private charges in the name of endangered groups or individuals. Unfortunately, examples of application of this regulation are very rare; nobody was still sentenced for hate speech in accordance with the Law.

As an example of harsh treats to public informatory and example of hate speech stands the case of campaign against TV B92. Posters on the streets claimed: "Boycott of anti Serbian actions, devastating influence on Serbian youth, support of Kosovo independency, support of spreading the drug habit, homosexuals and other illness coming from the West, support to multiracial New World Order."⁴³ Sign of the station was set inside Star of David. Even though this continued for several days in other Serbian cities like Negotin and Vrsac, police took only three men into custody charged for placing the posters on illegal spots and they have been sentenced to ten days in prison. At the same time, threatening messages were sent to headquarters of

⁴² See article 134. Criminal Law of Republic of Serbia

⁴³ B92, March 22, 2005

NGOs in Belgrade (Humanitarian Right Foundation, Helsinki Committee for Human Rights). The way police and prosecution behaved show only the ignorance or conscience violation of the Law as well as inexistence of rule of Law in Serbia.

Monitoring team of the Media Center's Press Council informs in its report in March 2005 that hate speech exists in Serbia.⁴⁴ This conclusion has been extracted from the analysis of media report related to handball game between "Zagreb" and "Partizan". On this occasion, Croatian fans have attacked guests from Serbia, while several reporters from Belgrade are lightly injured. Serbian media spoke about the event as beginning of a new war operations between two nations, spreading the hatred towards Croatian people. Articles in "Kurir" daily and "Srpski nacional" daily can serve as an illustration for this. Kurir reporter published an article under the title: "Hatred!" saying: "After what we saw in Zagreb, the question is asked if the war is over? Is there a meaning in matches with Croatian teams and representation? What else should happen so we can finally understand that majority of Croatians hate Serbs and everything that's ours?"⁴⁵ Srpski Nacional daily joins the hate speech, publishing the article under the title "Croatsians, Europe is far away" saying: "Animosity, on the edge of sick complex, bothers Croatians for 'centuries' and it is not our fault. But for how long we have to take the transfer from hotel to sports arena escorted by police protection? River Sava is still going to run trough Zagreb; however the have to understand it is never going to be as big as in Belgrade river mouth."⁴⁶ Public prosecutor did not react to this.

- **Preconditions for implementation of the Law**

Law on public information represents the important instrument for media professionalism and disabling of misuseage. Always real problem was disrespect for the Law which should regulate relations in media such as broadcasting and telecommunications. Electronic media in Serbia work without permission. Republic Broadcasting Agency justifies its passivity with lack of Agency for telecommunication in charge of number and type of frequencies that should be distributed in public invitation. Serbian General Assembly elected members of this Agency on May 24, 2005, so the beginning of its work is yet to be expected. Republic Broadcasting Agency, on the other hand, did not manage to impose as a body with reputation which could influence the media. Even though the measures of warning have been pronounced for some public informatory, it did not influence the editorial policy nor contributed to the change of behavior of broadcaster.⁴⁷ Framework Agency should work in is supervision of media work in order to protect minors and prevent the hate

⁴⁴ Web address: www.mediacentre.org.yu

⁴⁵ Kurir, March 15, 2005

⁴⁶ Srpski nacional, March 15, 2005

⁴⁷ TV BK got a warning issued for one-sided reports during the presidential elections in 2004, but this media company continued working as usual

speech. This occurrence is frequent in Serbian media, but Agency never undertook a single measure defined by the Law (warning and depriving of broadcasting license).⁴⁸

Conclusions on implementation of Law on public information

1. Hate speech exist in Serbian media. This makes a violation of Law regulations easier as well as violation of other legislative regulations (Constitution of Republic of Serbia, Criminal Law, and European Convention on Human Rights Protection).
2. Violators of hate speech regulations do not bare legal consequences or bare consequences not responding to performed act (violation instead of criminal sentence).
3. Serbian General Assembly did not provide conditions for application of the Law on public information, being that it did not provide conditions for the work of Agency for Telecommunication and Serbian Broadcasting Agency.
4. Serbian Broadcasting Agency has supervision in the area of media control, especially when prohibitions defined by the Law are in question, above all protection of the minors and prohibition of hate speech. Despite that, not a single procedure was taken against number of media violating the rights of minors and hate speech.

Recommendations for implementation of the Law on Public Information

1. Hate speech in Serbian media has to be sanctioned. Except for private charges by individuals and NGOs, hate speech has to be sanctioned trough criminal legislature and procedures raised by public prosecution ex officio.
2. Ones spreading racial, religious and national hate have to be prosecuted. It is unacceptable to trial for violation to people who placed anti-Semite posters.
3. Serbian General Assembly is obligated to create conditions for the work of Serbian Broadcasting Agency. It is necessary to create Agency for Telecommunications as soon as possible.
4. Serbian Broadcasting Agency is obligated to sanction ever violation of the Law, especially in the area of minors' protection and hate speech. Disrespect of regulations is responsibility of members of the Agency, entrusted with the work.

⁴⁸ Article 17. Law on Broadcasting

Implementation of the Law on Transfer of Competences of Military Courts

Law on the Transfer of Competences of Military Courts, Military Prosecutor's Offices and Military Public Defense Attorney's Offices (further in text: Law on Transfer of Competences) was adopted at the end of 2004, and became official on January 1, 2005.

Constitutional Charter of State Union Serbia and Montenegro acknowledged the abolishing of military legislative bodies and transfer of their competences to regular courts of Union members. Even though the Law obligation was to adopt these laws in the period of six months⁴⁹, Serbia waited for almost two years. According to the Law on transfer of Competences that were in jurisdiction of military legislative bodies, special departments of District Courts in Belgrade, Novi Sad and Nis are taking over. In the meantime, unsolved murders in Military Barracks happened which increased the interest for these bodies. Military departments started working on spring of 2005. Election of judges trialing the cases provoked the great attention in

⁴⁹ Article 24. Law on application of Constitutional Charter of State Union

the public, because there was a reasonable doubt that people trialing in the past political processes or war crimes cases, could come in this way to position in civic courts.⁵⁰

- **Topcider case**

Dragan Jakovljevic and Drazen Milovanovic, young men on military service, have been killed in Belgrade military barrack Topcider, on October 5, 2004, while performing their regular guard duties. Military investigators, led by Captain Vuk Tufegdzcic, stated after the investigation that solders were shooting at each other. Serbian public was not satisfied with the option and media and public pressure began on investigation by an independent commission. Federal Defense formed Federal commission for investigation of murder on October 13. Head of this body was advocate Bozo Prelevic, while the ones participating in the work were Minister of Police Dragan Jovic, chief of Security Intelligence Agency Rade Bulatovic, legal counselors of the victims' families and experts in ballistics, forensics and other areas. Commission brought a conclusion in mid December that explicitly states that there was a third person or persons involved, and the solders did not shoot at each other⁵¹. Federal Defense, confronted with these contradictions, decided not to take any further measures, but to entrust the civil courts with the case. Case is currently in Military Department of Belgrade District Court and is in the phase of investigation. Case is interesting because it opened for numerous discussions related to cooperation between State Union Army and indicted for war crimes before ICTY. In the course of affair, pictures of General Ratko Mladic in front Topcider military barrack taken in 2002, as well as data's about military employee Branislav Puhalo former body guard of General Mladic, were published.⁵² Several political party representatives claimed that people standing behind this murder are the ones protecting former commander of Army of Republic of Srpska, Ratko Mladic.⁵³ Noncommissioned officer of Army of Serbia and Montenegro Miroslav Petrovic made the same accusation in testimony given to Belgrade daily „Danas“ on April 11, 2005. For all this, Topcider case is going to be the first big test for Military Department of Belgrade District Court.

Conclusions on implementation of Law on Transfer of Competences

1. Law was adopted on December 27, 2004 even though the deadline defined in the Law on application of Constitution Charter was end of August 2003.

⁵⁰ Military judge Vuk Tufegdzcic was investigation judge in several sensitive cases, as the one of the murder of solders on Topcider, affair Perisic ot confiscation of the book "Military Secret". Despite that, he was elected to be Militar Department judge of Belgrade District Court, in the beginning of March

⁵¹ „Danas“, December 15, 2004

⁵² „Insajder“, B92, January 31, 2005

⁵³ Danica Drašković, B92, November 13, 2004

2. During the implementation of the Law the biographies of the judges transferring to civil legislature were not taken into consideration. Judges that trialed cases, violating human rights and with political manipulation automatically transferred to district courts and continued with work.
3. Prolonging the beginning of trial before military departments of district courts increases the doubt in the public that there are not going to be any solutions for most sensitive cases, like Topcider or Perisic affair. This additionally contributes the underrating of trust in institutions in Serbia.

Recommendations for implementation of the Law on Transfer of Competences

1. Military departments of District Courts in Serbia are obligated to immediately begin with resolving of cases transferred to them.
2. It is necessary to consider biographies of all people transferred from military to civil justice institutions. In this way, possible manipulation in the future would be ended and some of the public trust into institution would be retrieved.
3. Military departments of district Courts have to immediately begin with trial for the cases inside public attention, before all for the murder of two solders on Topcider. To retrieve the trust into legal system and rule of law, these procedures should not be covered with shadow of doubt that something has been hidden or manipulated with.

Evaluation of rule of law in Serbia

Government in Serbia does not respect the law regulations, they themselves adopted, which should contribute the establishment of rule of law. Youth Initiative for

Human Rights came to a conclusion, by monitoring five transitional laws and after complete research, that Serbian Government violates the law and arbitrary estimates and brings decisions on which laws should be respected.

Law degree of respect for transitional laws testifies of unwillingness of the government to work seriously on establishment and development of legal system in Serbia. Serbian Government is obligated to immediately take measures to end the violation of the law and sanction the responsible for the violation. With no radical change, we cannot expect the development of democratic, responsible and legally bided society in Serbia.

Law on Cooperation with Hague Tribunal has been violated by institutions in charge for its application: Serbian Government and Ministry of Police. Ministers are negotiating with indicted for war crimes on their surrender. Every time the indicted voluntarily surrenders it is qualified by public statement as patriotic and moral act, and people accused for murder, ethnic cleansing or genocide as honorable patriots and heroes. Ministry of police openly denies a Law regulation which obliges them to arrest all persons on Hague Tribunal wanted circulars. Police in Serbia went a step further and denied to act in accordance with orders given by Belgrade District Court to arrest four military and police generals indicted for war crimes on Kosovo in 1999.

Law on national minorities regulations are violated by republic as well as local administration. Members of national minorities in Serbia are deprived from the right guaranteed to them by the Law. Amongst others, right to official use of language, right to education in their native language, right to participate in local administration. Sid community administration abolished the official usage of national minority languages on its territory, violating the Law protecting the degree of rights minorities have obtained.

Law o lustration is not respected in Serbia. Commission for lustration ended its work at the end of 2003. Serbian General Assembly did not fulfill its legal obligations to elect new members of Commission. Republic government did not provide the conditions for the work of commission, starting with business premises ending with expert services, whose formation was also legal obligation. Lustration procedure was not applied in any of the cases, even though there is a reasonable doubt for violation of human rights for number of people.

Law on Public Information regulations which prohibit hate speech are not respected in Serbia. Hate speech still exist in the media and there are no examples of sanctions. Republic Broadcasting Agency did not sentence and measure for spreading of hate speech in the media, even though it is legally obligated.

Law on transfer of competences was adopted with delay and thus violated the Constitutional Charter of State Union. Military departments of District Courts were formed in March-April 2005, and are going to begin with work in June. Election of the judges was performed with no transparency and was mainly based on transfer of staff from Army of Serbia and Montenegro. This provoked doubts on the very beginning. Degree of respect of the Law can be estimated only when the trials begin, before all for Topcider case.

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