



Humanitarian Law Center
Documentation and Memory

Humanitarian Law Center

Annual Report
2008

Documents Series

Contents

Mission	5
Introduction	5
Summary	7
1. Documentation and Memory	10
1.1. Research	10
1.1.1. Record of the killed and missing in Kosovo	11
1.1.1.1. Identification of victims	12
1.1.1.1.1. Data double-checking	12
1.1.1.2. Kosovo Memory Book	12
1.1.2. Mapping of alleged war crimes perpetrators	13
1.1.3. Research of human rights violations in Serbia related to the armed conflict	13
1.2. Historical Memory: collection, classification, and preservation of historical material	14
1.2.1. War Crimes and Human Rights Violation Data Base	14
1.2.2. Protection of war crimes documentation	14
1.2.2.1. Archiving printed and DVD documentation ...	14
1.2.2.1.1. ICTY Archive Transfer	15
1.2.2.2. Digitization of printed and video archives	16
2. Justice and institutional reform	17
2.1. War crimes trials in Serbia	17
2.1.1. Victim/witness support in war crimes trials in Serbia	17
2.1.2. Filing criminal complaints against direct perpetrators and those responsible for war crimes	18
2.2. War Crime Trials in Croatia	18
2.3. Trials for ethnically motivated criminal acts and war crimes in Kosovo	18
2.4. War Crimes Trials in Montenegro	19
2.5. Monitoring trials held before the ICTY	19
2.6. Trial transcripts in BCS languages	19
2.7. Representation of victims of human rights abuses in the past	20
2.7.1. Reparations	20

2.7.1.1. Initiation of court proceedings	21
2.7.1.2. Victims' testimonies	22
2.7.1.2.1. Camps for Bosniaks on the territory of Serbia	22
2.7.1.2.2. Camps for Croats on the territory of Serbia	22
2.7.1.2.3. War crimes against Albanian women and children	23
2.7.1.3. Judgments and decisions related to lawsuits and requests filed by HLC	24
2.7.1.4. Representation of victims of forced mobilization	25
2.7.1.5. Representation of members of <i>Otpor</i>	25
2.7.2. Representation of other victims of human rights violations	26
2.7.3. Representation of victims of human rights violations in criminal proceedings	26
2.8. Researching causes of impunity	27
3. Public information and Outreach	28
3.1. Public information	28
3.1.1. Press Releases	28
3.1.2. Press conferences	28
3.1.3. <i>Transitional justice in post-Yugoslav states - 2006 Report</i>	29
3.1.4. <i>Transitional justice in post-Yugoslav states - 2007 Report</i>	30
3.1.5. 2007 HLC Activity Report	30
3.1.6. Transitional Justice Bulletin	30
3.1.7. HLC website	31
3.1.8. HLC library	31
3.1.9. Production of CDs containing ICTY trial transcripts	32
3.1.10. Production of video recordings from regional consultations on mechanisms for establishing the facts about war crimes	32
3.1.11. Broadcasting <i>The Scorpions - a Home Movie</i>	32
3.2. Outreach	32
3.2.1. Conferences	32
3.2.1.1. <i>Brčko' 92 Beyond Reasonable Doubt</i>	32

3.2.2. Meeting on the future of the ICTY archives	33
3.2.3. Visits to HLC	33
4. Regional cooperation	34
4.1. Civil society consultations on establishing and disclosing the facts about war crimes in the past ...	34
4.1.1. Third Regional Forum on Transitional Justice	34
4.1.2. Regional consultations with associations of victims and veterans	37
4.1.3. Creation of the Coordination Council	38
4.1.4. National consultations with civil society	38
4.1.5. National consultations with associations of the families of the missing and war veterans	39
4.1.6. National consultations with youth organizations and individuals	40
4.1.7. National consultations with journalists	40
4.1.8. National consultation with non-governmental organizations	40
4.1.9. Fourth Regional Forum on Transitional Justice ..	41
4.2. Coalition for RECOM	44
4.3. Strategic planning of the consultation process	44
4.4. Trainings and lectures on mechanisms for establishing and telling the truth	45
5. HLC Executive Board	46
6. Internships	46
7. Donor support	46

Mission

The mission of the Humanitarian Law Center (HLC) is to help post-Yugoslav societies establish the rule of law and deal with its past burdened with large scale human rights violations in order to prevent the recurrence, establish the criminal responsibility of perpetrators, and see justice done.

HLC was founded by Nataša Kandić in 1992 in response to the need to document human rights violations and war crimes going on at the time. There are 35 young professionals employed by HLC at the moment, well familiar with human rights and transitional justice issues. There are two HLC offices, one in Belgrade (Serbia) and one in Priština/Prishtinë (Kosovo).

Introduction

With respect to its political orientation and value system, Serbia in 2008 did not appear to differ from the Milošević-era Serbia, especially prior to and immediately after Kosovo's declaration of independence on February 17th 2008. After violent demonstrations in Belgrade, which took place on February 22nd 2008, Serbia was on the brink of chaos. Extremists, rallied by the Serbian Radical Party (SRS) and the Democratic Party of Serbia (DSS) asked for the arrest of Serbia's President Boris Tadić and all human rights defenders in Serbia, especially Nataša Kandić. A torch was thrown at the HLC office in Belgrade during the demonstrations, but it did not cause any significant damage thanks to the prompt intervention of the security team of a bank located in the adjoining building that quickly put out the fire.

Due to the fact that she attended the session of the Parliament of Kosovo on the occasion of the declaration of independence,

Nataša Kandić, HLC Executive Director, became targeted by some politicians and media in an unacceptable manner. One of the top selling daily papers in Serbia, *Večernje Novosti*, published an article titled *A Woman Who is No More*, in which the author calls for direct attacks on Nataša Kandić.¹ The Democratic Party of Serbia (led by Dr. Vojislav Koštunica) continued its negative politics with respect to Kosovo, offering support to all initiatives, positions, and activities of the Government of Serbia's Ministry for Kosovo, such as, for example, the take-over of a part of Kosovo railroads and customs outposts, while Serbian police openly called on Serbian police officers to leave the Kosovo Police Service.

The Democratic Party (DS) won at the parliamentary election had in Serbia in May 2008 and formed a coalition government with the Socialist Party of Serbia (SPS) formed by the late Slobodan Milošević and currently run by SPS former spokesperson Ivica Dačić. In October 2008 DS and SPS signed a Declaration of National Reconciliation, which was understood by the public in Serbia as an act of abandoning the political course (dealing with the past) set by the late Prime Minister Dr. Zoran Đinđić.

The Serbian authorities arrested Radovan Karadžić on July 21st 2008 and following an identity-establishing procedure handed him over to the International Criminal Tribunal for the former Yugoslavia (ICTY). After the arrest of Radovan Karadžić, the media in Serbia was full of stories about his appearance, the restaurants he frequented, and where he had given lectures on alternative medicine, etc. There was almost no coverage of his wartime role or the charges against him. However, the myth of the "greatest Serbian hero" was dispelled after his first appearance before the Trial Chamber of the ICTY on July 31st 2008 when he stated that he was tricked and that he should not have been arrested because he had reached an agreement with the US diplomat Richard Holbrook who, Karadžić claimed, had guaranteed his immunity if he disappeared from the political scene.

War crimes trials held before the War Crimes Trial Chamber of the Belgrade District Court are still the most significant and the only official response of the Republic of Serbia to crimes committed during the wars on the territory of the former Yugoslavia.

Summary

In 2008 HLC focused on engaging as large a number of non-governmental organizations as possible, victims' families associations, and other societal groups in a regional debate on investigating and disclosing the facts about war crimes and serious violations of human rights committed in the past. In doing that, HLC advocated the creation of a regional coalition and tried to inspire initiatives motivating and contributing to the process of establishing justice in Serbia and other post-Yugoslav societies.

I. Conducting a consultation process on mechanisms for establishing the facts about war crimes which, as of May 2008, included discussions about the initiative to create a Regional Coalition for Truth Seeking about War Crimes and other Serious Human Rights Violations Committed in the Recent Past on the Territory of the former Yugoslavia (RECOM). HLC, Documenta, and the Research and Documentation Center (RDC) who started this initiative, formed a Coordination Council as an operational body tasked with conducting the consultation process on May 19th 2008 in Podgorica, Montenegro. During the Fourth Regional Forum on Transitional Justice held in Priština/Prishtinë on October 29th 2008, the Coalition for RECOM was formally created and officially began its work. By the end of 2008, 150 associations and over a 100 individuals from Serbia, Bosnia and Herzegovina (BiH), Croatia, Kosovo, Montenegro, and Slovenia had joined the Coalition for RECOM. During the Priština/Prishtinë Forum, RECOM initiators declared that in the future the initiative to create RECOM would be advocated by the Coalition for RECOM, while the initiators would service the needs of the members of the Coalition to conduct the consultation process for establishing and telling the truth about the past, including the initiative to create RECOM.

II. HLC registered 6,250 persons, 2,158 of which were registered for the first time in 2008 in its list of killed and missing persons in Kosovo in the period from January 1998 until December 2000. HLC researchers wrote 3,183 reports on the fate of 5,386 victims during 2008. In order to collect missing information on the killed members of the Yugoslav Army (VJ) HLC began a new cooperation with the Ministry of Defence of the Republic of Serbia in September 2008, which is being realized by means of a joint data exchange team.

2. HLC gave the Office of the War Crimes Prosecutor 35 statements of witnesses and survivors regarding war crimes committed in the village of Trnje/Term in Kosovo on March 25th 1999

3. Both transcripts are available on the official HLC website. The transcript of the trial of the 'Vukovar Three' is available on CDs available at request.

4. In 2008 HLC filed two criminal complaints [Trnje/Term case and the case of Roma in BiH] and still being prepared are two criminal complaints [the case of the KPZ Dubrava penitentiary and the prison camps in Serbia case].

5. In June 2007 HLC sent a letter to the UN Security Council, to the Legal Office of the Secretary General, and to the ICTY Secretary asking support in becoming an official depository of the ICTY archives in electronic format.

III. HLC continued to support war crimes trials through various activities during 2008: by encouraging victims and witnesses to take part in these trials held before the War Crimes Trial Chamber of the Belgrade District Court, by providing legal representation for victims, by facilitating victims' family members to monitor trial hearings, by filing criminal complaints against perpetrators of war crimes, and by putting relevant HLC-owned documentation at the disposal of the Office of the War Crimes Prosecutor², etc.

IV. HLC continued to build its collections of transcripts of trials in Bosnian-Croatian-Serbian (BHS/BCS) held before the ICTY in 2008. Transcripts from the trial of Fatmir Limaj are still being transcribed, while the transcripts from the trial of the "Vukovar Three"³ were completed. Also underway is the mapping of all alleged perpetrators and war crimes, used by HLC, among other things, for the preparation of war crimes criminal complaints⁴, for filing compensation lawsuits for human rights abuses in the past, and for legal representation of victims before the courts in Serbia, Montenegro, and Kosovo.

V. The UN Security Council will in 2009 decide on the future of the archives of the ICTY which is expected to end its mandate in 2010. HLC is aggressively campaigning that all successor states to the former Yugoslavia should receive copies of the ICTY archive and for the original archive to remain the property of the UN. HLC asked for the support of the Legal Office of the Secretary General of the UN⁵ to become a depository for the electronic archive of the ICTY in June 2007, but to date, apart from the verbal support for its work, HLC has not received an answer. HLC organized a meeting tackling the issue of the future of the ICTY archive in March 2008, at which everyone present agreed that the most important issue is to make the archive available to the public. Based on the agreement with the ICTY signed in November 2005, HLC continued recording the ongoing trials and making copies of the existing video archives of the ICTY. By the end of 2008 HLC had made copies of 72,584 pieces of evidence and 6,253 trial days from 30 cases, while making copies of nine more trials is still underway.

VI. The digitization of printed and video documentation on war crimes which HLC has been collecting since it was founded in 1992 is ongoing. HLC digitized 483 VHS tapes and 5,750 documents on 34,666 A4 pages in 2008, most of which are witness

statements and statements of victims' family members whose loved ones were killed or disappeared during and after the armed conflict in Kosovo. Digitized documents are classified by their contents and sorted into archiving funds accordingly: *National War Crimes Trials in Croatia*, *National War Crimes Trials in Serbia*, *National War Crimes Trials in Bosnia and Herzegovina*, *The Kosovo Memory Book*, and *Miscellaneous*.⁶

VII. Victims of crimes committed by members of the Serbian military or police, regardless of whether they are citizens of the Republic of Serbia or not, are being exempted from the category of recipients of any kind of state assistance. They are being discriminated against by state institutions, and in order to exercise their right to financial compensation they must file compensation lawsuits against the Republic of Serbia on their own or with the help of non-governmental organizations. HLC has since 1998 filed over 200 compensation lawsuits before the courts in Serbia on behalf of approximately 1,000 victims of human rights violations and eight compensation lawsuits before the courts in Montenegro and in Kosovo. In 2008, HLC represented 143 victims in trials held in Serbia and in Kosovo and initiated eight new proceedings on behalf of 35 victims.⁷

VIII. HLC continued to cooperate with its regional partners Research and Documentation Center (RDC) from BiH and Documenta from Croatia in implementing the projects: *Regional Monitoring of War Crimes Trials before National Courts* and *Regional Civil Society Consultation on Mechanisms for Establishing and Disclosing the Truth about War Crimes*. In November 2008, HLC, RDC, and Documenta held a meeting in Belgrade on which occasion they discussed these projects and initiatives they managed jointly.⁸

IX. The new HLC Executive Board was formed in June 2008. The Board is composed of Dr. Zoran Pajić, professor of international law, Iavor Rangelov, PhD candidate at the Centre for the Study of Global Governance, London School of Economics, Nora Ahmetaj, Master of Philosophy, Tea Gorjanc-Prelević, Master of International Law, Ivanka Kostić, director of the non-governmental organization *Praxis*, Florence Hartmann, journalist, and Nataša Kandić, Executive Director of the Humanitarian Law Center. At its first session the Board elected Dr. Zoran Pajić the new President of the Board.⁹

6. HLC owns over 100,000 pages of documents classified in 27 archiving funds.

7. In March 2008 HLC received a recognition from the Association of Former Prisoners of BiH for filing compensation lawsuits against the Republic of Serbia on behalf of Bosniak prisoners who had been imprisoned in Serbia after the fall of Srebrenica and Žepa (July 1995).

8. On December 19th 2008, RDC informed HLC and Documenta unofficially that they would no longer take part in regional consultations on the creation of RECOM.

9. The Executive Board held its first meeting on June 17th 2008 and adopted the following documents: Executive Board Rules of Procedure, HLC Programme for the period 2008-2010, HLC Activity Report for 2007, and the 2007 Financial Report. The Executive Board held two meetings and two press conferences by the end of 2008.

X. Strongly believing that the presentation of court-established facts and public hearing of victims help the victims regain their dignity and acquire recognition for their suffering, on September 5th 2008 HLC organized its fifth conference dedicated to the judgments of the ICTY, titled *Brčko '92 – Beyond Reasonable Doubt*. Representatives of the ICTY Outreach Programme, who also helped organize the conference, presented the facts which are the corner stone of the judgment in the case of Goran Jelisić and Ranko Češić indicted for war crimes committed in Brčko (BiH) in 1992. During the session dedicated to the victims, four victims testified about their suffering in Brčko in 1992. The conference was attended by 216 representatives of victims' associations, victims, human rights activists, and young people from all over Serbia and from the region.

1. Documentation and Memory

The foundation of HLC's programme and all its activities is the documentation on war crimes and other forms of human rights violations that it has collected since it was founded. Over 200,000 digitized pages of printed documents and 19,000 hours of video and audio material is stored in the HLC archive. Most documents are testimonies of witnesses, victims, and victims' family members, reports compiled by HLC and other domestic and international human rights organization and the ICTY. In addition to this, various oral history accounts, newspaper clippings, TV and radio shows, and other relevant testimonies of war crimes and other serious human rights violations are being preserved. HLC continued to enter information on war crimes and other human rights violations into its War Crimes Data Base. The HLC Data Base team entered information from various sources documenting human rights abuses of 19,029 victims during the armed conflict on the territory of the former Yugoslavia in 2008.

1.1. Research

HLC intensively collected and analysed data on the killed and missing persons and on perpetrators of war crimes and other serious human rights violations in Kosovo, BiH, Croatia, Serbia, and Montenegro in 2008.

HLC researchers took statements of witnesses, victims, and their family members, and they also collected and analysed relevant material from other sources documenting war crimes, such as ICTY documentation and the documentation obtained from national courts conducting war Crimes trials.

1.1.1. Record of the killed and missing in Kosovo

HLC and HLC-Kosovo continued their efforts to create a unique individual registry of the persons who were killed, those who lost their lives in other ways, and persons who disappeared during and after the conflict in Kosovo.¹⁰

Documents on victims and circumstances surrounding their murder, any other type of violent death, or their disappearance are based on the testimonies of witnesses and victims' family members given to HLC and HLC-Kosovo researchers as well as on court documentation of the ICTY and national courts in Serbia and in Kosovo. Researchers also use a number of relevant sources: books, reports of various institutions, domestic and international human rights organizations, newspaper clippings, agency reports, obituaries, tomb stone inscriptions, victims' photographs, and other documentation containing information about those who were killed or disappeared in Kosovo during and after the armed conflict.

During 2008 HLC researchers conducted 1,897 interviews with witnesses and victims' family members, based on which they collected additional information on 3,229 persons who were killed or disappeared in Kosovo in the period from January 1998 until December 2000. They collected 1,737 relevant documentation and photographs of the victims.

In September 2008 HLC established cooperation with the Ministry of Defence (MoD) of the Republic of Serbia in an effort to obtain information on the killed members of the Yugoslav Army (VJ). They formed a joint group which is made up of an MoD representative and an HLC representative. By the end of 2008 HLC had obtained information on 38 soldiers who were killed on the territory of Kosovo about whom HLC had had no previous knowledge. Through cooperation with MoD Serbia, HLC researchers contacted a number of families of killed soldiers and conducted interviews with them about the circumstances surrounding the death of their family members.

10. Two periods are included in the research: the period of the armed conflict in Kosovo from January 1998 to the arrival of international forces to Kosovo on June 12th 1999, and the period from June 1999 to the end of 2000, when a large number of Serbs, Roma and other non-Albanians, as well as Albanians who were identified as too friendly with the Serbian authorities were killed or disappeared.

1.1.1.1. Identification of victims

By analysing statements given by witness and victims' family members, transcripts from the trial of Slobodan Milošević, Fatmir Limaj, and Ramush Haradinaj and other sources (a total of 2,894 documents), HLC registered 2,206 victims about whom it previously had no information. Among the newly registered victims were 2,106 Albanians, 57 Serbs, and 43 persons of other ethnic communities in Kosovo.

In the same period, HLC made amendments and corrections on 4,110 victims who had already been registered in the HLC Data Base.

From the moment the HLC team started entering data into the War Crimes Data Base (June 2005), HLC and HLC-Kosovo have with additional research completed 9,501 victim files, while for 4,253 victim files there is insufficient data for drafting accounts. (Research is ongoing.)

1.1.1.1.1. Data double-checking

In order to double-check existing and collect the missing data, HLC has posted a special web which is dedicated to the list of the killed, those who died another kind of unnatural death, and those who disappeared in Kosovo.¹¹ The page contains lists of names containing personal information of the victims and an invitation to families to check their personal information and contact HLC in case they detected an error. Fifty family members and other persons contacted HLC in 2008 in order to give personal information on the victims from Kosovo.

With the help of the German Ministry of Foreign Affairs, HLC began producing a TV commercial in November 2008, in order to promote the creation of an individual list of names and an appeal to friends and families of the victims to check if the names of their loved ones who were killed, died, or disappeared in Kosovo are on the list. The TV commercial will be aired by TV stations in Serbia and in Kosovo.

1.1.1.2. Kosovo Memory Book

Based on information collected, eight HLC researchers-analysts analyse and compile accounts about the victims, which, in addition to their personal information (date and place of birth, nationality, profession, marital status, etc) also contain information on their lives and the circumstances surrounding their death.

Since September 2007 when they first started writing accounts of the killed and missing, HLC researchers-analysts have written a total of 4,112 accounts describing the fate of 7,723 victims, which represents 56,15% of the total number of victims registered in the War Crimes Data Base.

By the end of the year the team drafted accounts that describe the fate of 6,866 Albanians, 677 Serbs, 71 Roma, 36 Bosniaks, 32 Montenegrins, 12 Ashkali, five Gorani Albanians, seven Egyptians, six Turks, one Hungarian, one Macedonian, one Bulgarian, one Slovenian, and seven victims of unidentified nationality.

A total of 824 accounts describe the fate of 3,113 victims who lost their lives in 200 large-scale crimes, some of them being 120 Albanian prisoners killed in the KPZ penitentiary Dubrava/Dubravë on March 22 and 23, 1999, and 68 Albanian civilians killed in the Korenica/Korenicë village on April 27, 1999, and the murdered Serbian civilians in Staro Gacko on July 23rd 1999, etc.

In 2008 based on the analyses of 4,942 documents HLC researchers-analysts compiled 3,183 accounts of murders, other forms of unnatural deaths, and disappearances of persons in Kosovo: 4,762 Albanian victims (4,095 civilians, 376 OVK members, and 291 persons of unknown status), 485 Serbian victims (330 civilians and 155 soldiers and police officers), 64 Roma victims (61 civilians and three victims of unknown status), 26 Bosniak victims (20 civilians, one soldier and five victims of unknown status), 23 Montenegrin victims (19 civilians and four soldiers and police officers), five Turks, one Hungarian, three Ashkali, six Egyptians, one Slovenian, and three victims of unknown nationality.

1.1.2. Mapping of alleged war crimes perpetrators

In 2008 HLC began mapping war crime perpetrators, who to date have not been prosecuted, based on the analyses of transcripts of trials held before the ICTY, statements of witnesses, and other relevant documentation generated by HLC or courts. HLC researchers-analysts formed 92 case files for persons seriously indicated to have committed war crimes.

1.1.3. Research of human rights violations in Serbia related to the armed conflict

HLC researchers interviewed 19 victims of human rights violations on the territory of Serbia, 16 are Bosniaks who were imprisoned in camps in Šljivovica and Mitrovo Polje, and two

are Albanians who were illegally detained. They also interviewed a person who had witnessed the murder of Mušan Husović by members of VJ (Kukurovići, February 19th 1993).

1.2. Historical Memory: collection, classification, and preservation of historical material

1.2.1. War Crimes and Human Rights Violation Data Base

The War Crimes Data Base supports the HLC's programme and all its activities. It contains documentation whose primary source is HLC (statements of victims and witnesses, reports, photographs, trial reports etc.) as well as a number of documents generated by other sources.¹²

HLC entered 3,587 documents into the Data Base in 2008.

They were obtained mainly through the record of victims (the Kosovo Memory Book), by means of monitoring war crimes trials before national courts, by transferring the ICTY archives, and by implementing the *Reparations* project.¹³ Most of these documents are statements of witnesses and family members (2,541), then documents obtained from national courts conducting war crimes trials (121), evidence presented in trials held before the ICTY (357)¹⁴, and witness statements. In addition to that, the HLC team entered 321 documents obtained from other sources – newspaper clippings, ICTY witness statements, expert reports, and other pieces of evidence. HLC copied 20,326 documents in 2008 in English and BCS languages relating to the following cases: Halilović, Hadžihasanović and Kubura, Struga, Mrkšić, Blaškić, Naletić, and Martinović.

1.2.2. Protection of war crimes documentation

A considerable amount of war crimes and human rights violation documentation collected by HLC is physically stored in the HLC archive. It is digitized and entered into the War Crimes Data Base in electronic format.

1.2.2.1. Archiving printed and DVD documentation

Each document set aside for preservation is processed, properly marked, and entered into the Data Base together with its archival

12. The War Crimes Data Base contains transcripts of trials conducted before the ICTY and national courts, witness statements (according to rule 92bis), evidence, forensic and medical reports, expert reports, reports by various human rights organizations, documents, government reports, books, maps, etc.

14

13. *Promotion of minority rights in the future by providing reparations for human rights violations in the past.*

14. Written documents, photographs, video footage, maps, etc.

address, while the document itself is stored in one of 27 archive funds.¹⁵ HLC began archiving its documentation in December 2005 and since then it has stored 69.9 meters of printed documentation, around 22,500 CDs, 690 VHS tapes, and 210 audio tapes in its archive.

Among the 12,998 archived documents there are 4,297 statements of victims, witnesses, and victims' family members, 376 indictments, 395 judgments, 582 trial transcripts, 783 notes from main hearings, 296 notes from defendant hearings, 517 notes from witness hearings, 3,278 court documents (court decisions, decisions on conducting investigations, powers of attorney, defence attorney appeals etc.), 18 HLC reports on human rights violations, 1,133 documents whose primary source is the Office of the Ombudsperson in Kosovo, and 1,109 newspaper articles. A total of 6,126 trial days of the ICTY in the DVD format is also archived, together with 70,904 ICTY documents (evidence, expert reports, witness statements) in the DVD format, 250 DVDs containing various video and photo material such as movies, photographs, conference, forum, and meeting footage, as well as 1,919 TV clips on a total of 510 DVDs.

HLC archived a total of 3,492 printed documents in 2008, 2,034 of which are statements of witnesses and victims' family members, 36 trial reports, 60 indictments, 281 live-notes from main hearing, 52 live-notes from defendant hearings, 57 live-notes from witness hearings, one HLC report, 118 newspaper articles, 138 trial transcripts, and 655 other documents.

In the same period, HLC archived 8,574 discs of audio-visual material. Out of that number, 5,313 discs contain 1,771 ICTY trial days, 812 days of closing arguments on 2774 discs, and 510 discs containing the digitized content of VHS tapes.

1.2.2.1.1. ICTY Archive Transfer

Following the agreement with the ICTY Secretariat, in November 2005 HLC began making copies of the ICTY video archive (completed trials) and recording the ongoing trials. Two people are employed to perform that duty and they work in a studio inside the ICTY court house in The Hague. Recorded materials are used for the production of transcripts of ICTY trials in Bosnian-Croatian-Serbian (BCS) languages, and it is also planned to produce an hour long educational video programme on the way trials

15. The 27 archiving funds of the HLC archives are: *Court documents from trials of Kosovo Albanians during the regime of Slobodan Milošević, Court documents from trials of Serbs charged with war crimes, Court documents from war crimes trials and ethnically motivated criminal acts conducted before national courts in the region, Witness statements about war crimes in Kosovo, Witness statements about war crimes in BiH, Thematic documentation on war crimes, Exhumations in Serbia and in Kosovo, Reports of non-governmental and international organizations, Ethnic discrimination - Roma, Police repression, Forced mobilization, Human Rights – miscellaneous, Documents about the position of minorities and human rights violations on the territory of Sandžak, Prešovo, Bujanovac, and Medveđa, The right to private property and real estate, Court documents from the trial for the murder of the Prime Minister Zoran Đinđić, Documents from the ICTY, Documents on transitional justice, Documents on oral history, HLC research on the war propaganda and the hate speech in the media during the armed conflict, General HLC archives (letters, correspondence, etc.), HLC Programme and initiatives, HLC Programme transformation, Press Conferences and seminars, Press, and Miscellaneous.*

16. Copies of the recordings in the following cases are made: Milošević, Krajišnik, Vukovarska trojka, Limaj et al., Haradinaj, Orić, Milošević D. Delić, Milutinović, Boškoški and Tarčulovski, Krstić, Vasiljević, Tadić, Mucić, Erdemović, Kunarac, Zelenović, Kovačević, M. Stakić, Krnojelac, Galić, Brdanin i Župljanin, Plavšić, Strugar, Blagojević i Jokić, Nikolić, Obrenović, Deronjić, and Babić.

17. The recording of the trials in the following cases is still underway: Popović, Prlić, Gotovina et al., Šešelj, Stanišić and Simatović, Milan Lukić and Sredoje Lukić, Hadžihasanović and Kubura, Perišić, Simić et al.

are conducted before the ICTY which is mainly intended for high school and college students, non-governmental organizations activists, and victims' family members.

Since November 2005, HLC associates have made copies of 6,253 trial days from VHS tapes to the DVD format and 72,584 evidence presented in the courtroom. Copies of the recordings of 30 trials¹⁶ have already been made, while copying the recordings of nine other trials is still underway.¹⁷

HLC associates made copies of 1,898 trial days in 37 cases and 20,326 evidence, 13,884 is in English and 6,442 in BCS languages in 2008.

1.2.2.2. Digitization of printed and video archives

From June 2007 until the end of 2008, HLC digitized 6,718 printed documents and 687 VHS tapes.

HLC digitized 5,750 hard copy documents with a total of 34,666 A4 size pages in 2008, most of which are statements of witnesses and victims' family numbers killed or disappeared during and after the armed conflict in Kosovo (3,870). Each scanned document is classified in one of the following five archive funds: National War Crimes Trials in Croatia, National War Crimes Trials in Serbia, National War Crimes Trials in Bosnia and Herzegovina, Kosovo Memory Book, and Miscellaneous.

HLC also digitized 1,375 video clippings from 483 VHS tapes lasting 499 hours, 39 minutes, and 35 seconds. They are all in the DVD format and classified in one of the following 15 funds: *Nataša Kandić, The Humanitarian Law Center, Non-governmental organizations, National War Crimes Trials, ICTY trials, Documentaries and video accounts (armed conflicts), Kosovo, Dealing with the past, Minorities in Serbia, Human Rights, Parliamentary elections on the territory of the former Yugoslavia, Imprisonment and trials of Albanians during the regime of Slobodan Milošević, Police torture, Art in time of transition, Apologies, Statements – admissions of guilt and reactions to such statements.*

HLC completed the digitization process of the existing video archives in June 2008. 1,919 clippings or 675 hours of video material were digitized and they were classified in one of the aforementioned 15 funds.

2. Justice and institutional reform

HLC directly participates in the war Crimes trials conducted before the War Crimes Trial Chamber and other national courts in Serbia by offering legal representation to the victims. It also monitors war crimes trials conducted in Serbia, as well as those in Croatia, BiH, Kosovo, and Montenegro.

In addition to this, HLC files criminal complaints against perpetrators of war crimes and, on behalf of victims, files compensation lawsuits against the state in an effort to help the victims exercise their right to reparation.

2.1. War crimes trials in Serbia

War crimes trials in Serbia¹⁸ were conducted before the War Crimes Trial Chambers of the Belgrade District Court and the Požarevac District Court, while the Niš and Novi Sad District Courts tried cases of ethnically motivated murders in the context of armed conflicts on the territory of the former Yugoslavia. In the cases: *Suva Reka*, *Bytyqi*, *Ovčara*, *Lovas*, *Podujevo II*, *Zvornik I and Zvornik II*, *Pakšec*, and *Emini*, HLC (HLC Executive Director and a lawyer) represented the victims in the proceedings. HLC monitored the following main hearings in the following cases: *Tuzla Column*, *Zvornik III*, *Banski Kovačevac*, *Grubišino Polje*, *Slunj*, *Scorpions II*, and *Orahovac*.

2.1.1. Victim/witness support in war crimes trials in Serbia

Thanks to the financial support of the USAID and the OAK Foundation, HLC enabled victims' family members to come from Kosovo, Croatia, and BiH to Belgrade and monitor the war crimes trials in the *Suva Reka*, *Bytyqi*, *Lovas*, *Zvornik I*, and *Zvornik II* cases.¹⁹

As in the earlier period, HLC continued encouraging the witnesses and victim/witnesses from other post-Yugoslav states to take part in war crimes trials in Serbia. HLC secured the participation of all six victim/witnesses in the *Podujevo II* case and three witnesses from Kosovo in the *Suva Reka* case. With respect to the testimonies of the victim/witnesses, HLC asked the Trial Chamber to provide physical security and round-the-clock escort for them, while in the case of the families from Kosovo, HLC contacted the MUP Serbia with a request to issue permits for

18. Detailed information on war crimes trials can be found in the *HLC Report – Trials for War Crimes and Ethnically Motivated Criminal Acts in post-Yugoslav states in 2008, Under the Spotlight*.

19. Twenty victims' family members arrived regularly, every month, to Belgrade and monitored one of the aforementioned war crimes trials. The families of victims from Kosovo stopped coming to Belgrade after February 17, 2008 fearing they might be exposed to unpleasant situations due to the Kosovo declaration of independence, but they continued monitoring the trial again in June 2008.

them to enter the territory of Serbia with the documents issued by UNMIK, and to provide physical security and round-the-clock escort for them, during their stay in Serbia.

2.1.2. Filing criminal complaints against direct perpetrators and those responsible for war crimes

HLC submitted two criminal complaints to the Office of the War Crimes Prosecutor in 2008; one for war crimes committed in BiH and one for war crimes committed in Kosovo. The Office of the War Crimes Prosecutor had not requested an investigation by the end of 2008.

HLC filed the first criminal complaint on May 8th 2008 against Božidar Delić, a retired Yugoslav Army Major-General of the, now Vice-President of the National Assembly of the Republic of Serbia and a high-ranking official of the Serbian Radical Party (SRS) and ten other members of the VJ for their responsibility for a war crime committed on March 25, 1999 in the village of Trnje/Term, Suva Reka municipality. On that day, members of the 549th motorized brigade commanded by Major-General Delić, killed 37 Albanian civilians, among whom women, children, and elderly.

At the beginning of August 2008 HLC filed a criminal complaint against volunteers from Serbia for a war crime committed in July 1992 against Roma people in the village of Skočići, in the municipality of Zvornik, BiH.

2.2. War Crime Trials in Croatia

Within the regional national war crimes trials monitoring project²⁰, HLC continued monitoring war crimes trials in Croatia and BiH in 2008. The Regional Team monitored four main hearings before the County Court in Zagreb, Osijek, and Vukovar in the following cases: *Cerna*, *Medački Džep*, *Glavaš*, and *Gudelj*. In BiH, the Regional Team monitored four war crimes trials before the State Court of BiH in 2008: *Kravica*, *Mitar Rašević et al.*, *Lašvanska Dolina*, and *Zijad Kurtović case*.²¹

2.3. Trials for ethnically motivated criminal acts and war crimes in Kosovo

HLC-Kosovo monitored 11 trials for war crimes and politically and/or ethnically motivated murders conducted before the inter-

20. In 2005 HLC and its regional partners *Documenta* and RDC formed a Regional Team for National War Crimes Monitoring

21. More on war crimes trials in Croatia and BiH in the *HLC Report – Trials for War Crimes and Ethnically and Politically Motivated Criminal Acts in post-Yugoslav states in 2008*, edition *Under the Spotlight*

nationalized Trial Chamber and the Supreme Court of Kosovo in 2008: Prosecutor vs. Sedat Fejza, Prosecutor vs. Miroslav Vučković, Prosecutor vs. Skender Islami, Prosecutor vs. Albin Kurti, Prosecutor vs. Florim Ejupi, Prosecutor vs. Gani Gjoshi, Prosecutor vs. Skender Halilaj, Prosecutor vs. Gani Hazeraj, Prosecutor vs. under-aged Gjelosha Krasniqi, Prosecutor vs. Osman Zyberaj and Shyqeri Shala, and Prosecutor vs. Marko Simović.²²

2.4. War Crimes Trials in Montenegro

Within the High Court of Bijelo Polje and the High Court of Podgorica two special trial chambers were formed²³ in 2008 in Montenegro for processing cases of organized crime, corruption, war crimes, and terrorism. Four war crimes investigations were conducted in the following cases: *The prison camp Morinj*, *Kaluđerski laz*, *Deportation or refugees*, and *Bukovica*. Indictments for war crimes were raised in the *Morinj* and *Kaluđerski laz* cases. HLC provided legal representation for the victims of the war crimes committed in Bukovica.²⁴

2.5. Monitoring trials held before the ICTY

HLC Executive Director Nataša Kandić, Deputy Executive Director Sandra Orlović, and HLC researchers-analysts Predrag Miletić monitored the trial of Vojislav Šešelj before the ICTY for several days in 2008.

2.6. Trial transcripts in BCS languages

At the beginning of 2004 HLC started building its collection of ICTY trial transcripts in BCS languages. This made facts established during ICTY trials²⁵ available for prosecutors, judges, victims, victims' families, and all those BCS languages speakers showing an interest in the topic.

At first, HLC created a transcript of the 476 main hearings in the trial of Slobodan Milošević in BCS languages and published it in 46 volumes. After that, transcripts from the trial of Naser Orić and Mitar Vasiljević were transcribed and in 2008 HLC transcribed the audio recording of the *Vukovar Three* case and started transcribing the transcript in the *Limaj* Case. By the end of 2008, HLC had transcribed a total of 819 trial days; that is approximately 36,000 A4 pages.

22. More on trials for war crimes and ethnically and politically motivated criminal acts committed in Kosovo can be found in the *HLC Report – Trials for War Crimes and Ethnically and Politically Motivated Criminal Acts in post-Yugoslav states in 2008*, edition *Under the Spotlight*.

23. The Law on the Changes and Amendments of the Law on Courts, "The Official Gazette of the Republic of Montenegro", No 22/2008 of April 2, 2008.

24. More details in the *HLC Report – Trials for War Crimes and Ethnically and Politically Motivated Criminal Acts in post-Yugoslav states in 2008*, edition *Under the Spotlight*

25. ICTY produces transcripts in English and in French.

2.7. Representation of victims of human rights abuses in the past

2.7.1. Reparations

Victims of crimes committed by members of the military or the police in Serbia, regardless of whether they are citizens of the Republic of Serbia or not, are denied the right to receive any kind of compensation from the state.²⁶ Laws regulating this area²⁷ do not even recognize these persons as victims because the Law defines the victim as a person who has “suffered from the enemy during the war, who has sustained injuries in conducting war operations, who has been hurt by ammunition leftovers or by enemy subversive or terrorist actions.”²⁸

Being obviously discriminated against, the only option of the victims of human rights abuses is to file compensation lawsuits against the Republic of Serbia either on their own or by non-governmental organizations acting on their behalf, and try to obtain reparation. These lengthy legal proceedings usually end up with the plaintiff receiving inadequate compensation, and have a tendency to hurt the dignity of the victims anew. However, they are for now the only way to gain financial satisfaction and obtain public recognition of the responsibility of the state.

In order to raise awareness in our society about the need to adopt a state reparation programme; HLC has filed over 200 such proceedings on behalf of 1,000 victims of human rights abuses committed by Serbian police and military. In addition to this, HLC has filed 11 lawsuits on behalf of victims in Montenegro and Kosovo.

HLC represented 143 victims of ethnically motivated human rights abuses before courts in Serbia in a total of 35 lawsuits in 2008. They have all been initiated in the period from 2005 within the HLC programme of offering support to victims of human rights abuses on the territory of Serbia, Montenegro, and Kosovo in exercising their right to reparation. There have been 100 main hearings at which HLC lawyers represented the victims. HLC initiated eight lawsuits in 2008 on behalf of 35 victims before courts in Serbia and in Kosovo.

26. Rape victims, who have no visible physical signs of trauma, and the civilians who are suffering from the Post Traumatic Stress Disorder, are also exempt from receiving any kind of state assistance.

27. These measures are stipulated by the Law on the basic rights of war veterans, handicapped war veterans, and the families of killed veterans (published in the “Official Gazette of the Federal Republic of Yugoslavia, No. 24 of June 15th 1998, 29/98, 25/2000), the Law on the rights of war veterans, handicapped war veterans, and the families of killed veterans (published in the “Official Gazette of the Republic of Serbia No. 54/89; 137/04), the Law on the rights of civilian war invalids (published in the “Official Gazette of the Republic of Serbia”, No. 52/96).

28. Article 2 of the Law on the Rights of civilian war invalids.

29. In December 1993 Elmaz Hukić from the village of Ugao was arrested by SUP Sjenica members under suspicion that he possessed illegal weapons. He was taken to a police station in the *Karajukića bunari* community building where he was beaten in order to confess he had the weapons. He was beaten for half an hour after which they took him outside where he spent several hours in a very cold weather. He was released that same day, and he was never criminally prosecuted. For more details see: HLC – Compensation lawsuit for torture: Case *Elmaz Hukić*, April 8th 2008.

2.7.1.1. Initiation of court proceedings

HLC filed a compensation lawsuit in January 2008 against the Republic of Serbia for illegal detention on behalf of a retired judge Mustafa Kolgec, an Albanian from Suva Reka/Suharekë who spent 16 months in prison in Kosovo and Serbia, during which time he was being criminally prosecuted and in the end acquitted of all charges.

HLC filed a compensation lawsuit in April 2008 against the Republic of Serbia before the First Municipal Court in Belgrade on behalf of Elmaz Hukić, a Bosniak from Sjenica, who had been victimized in December 1993.²⁹

HLC filed three administrative requests in April and May 2008 for out-of-court settlement before the Ministry of Justice of the Republic of Serbia on behalf of ten Bosniaks who had been held prisoners in camps Šljivovica and Mitrovo Polje (one request), and on behalf of 17 Albanians from Kosovo who had been illegally imprisoned from seven to 12 months (two request) during the armed conflict in Kosovo. Since the Office of the Public Defender (RJP) of the Republic of Serbia has failed to respond to HLC requests within a legally provided time limit of three months, HLC filed five compensation lawsuits against the Republic of Serbia.³⁰

HLC filed a compensation lawsuit on August 28th 2008 on behalf of Saranda, Jehona, and Lirie Bogujevci at the First Municipal Court in Belgrade against the Republic of Serbia for the crime committed by MUP Serbia members against them in March 1999 in Podujevo.³¹

HLC filed a lawsuit in August 2008 on behalf of Saša and Slavica Ristanović, son and wife of the late Momčilo Ristanović, against the Republic of Kosovo and against Mustafa Krasniqi for their responsibility in the disappearance and murder of Momčilo Ristanović in June 1999.³² The lawsuit was filed at the Municipal Court in Priština/Prishtinë.

HLC filed a settlement request³³ in October 2008 on behalf of a Roma man, Dragan Durmić, who is a victim of racial discrimination, and after receiving a negative answer, on November 6th 2008 HLC filed a lawsuit against the Republic of Serbia on Dragan Durmić's behalf in relation to the state's failure to fulfil its responsibility to investigate this case of racial discrimination, as recommended by the UN Committee on the Elimination of Racial Discrimination.

30. On June 30th 2008, HLC filed a compensation lawsuit against the RS before the First Municipal Court on behalf of Esed Avdagić, Omer Čavčić, Sabrija Česko, Zajko Imamović, Amir Mednolučanin, Munib Omanović, Šemso Ramić, Suljo Salić, and Galib Vatreš for the responsibility of the RS for illegal detention and torture they had suffered in Šljivovica and Mitrovo Polje, after the fall of Žepa in August 1995 (see HLC Press release *Camps for Bosniaks from: Compensation lawsuits against the RS*, July 25th 2008). On August 28th 2008, HLC filed four compensation lawsuits against the RS on behalf of: Ekrem Ejupi, Fahri Ejupi, Agron Ejupi, Refik Hasani, Sokol Jakupi, Agim Ibrahim, Zijadin Blakqori, Isuf Isufi, Zhitija Basri, Sokol Demaku, Xhemal Kastrati, Sadri Terdevci, Ahmet Kukaj, Sabri Bekolli, Qamil Kastrati, and Beqir Istogu. The compensation lawsuits requested the court to establish the responsibility of the state for illegal detention and provide financial compensation accordingly.

31. On March 28th 1999 in Podujevu/Podujeve members of the *Scorpions* unit shot and killed 14 Albanian women and children and heavily wounded five children: Saranda, Fatos, Jehona, Lirie, and Genc Bogujevci. Saranda, Jehona, and Lirie sustained permanent damage caused by injuries. Member of the *Scorpions* unit Saša Cvjetan was sentenced to 20 years in prison for this crime.

32. Momčilo Ristanović was alone in his apartment in Prizren, Oktobarske Revolucije 4/1-1, on June 9th 1999 because his wife and son went to Sevcé village. On June 20th 1999 Mustafa Krasniqi and an unknown man, both wearing KLA uniforms, broke into his apartment. They tied Momčilo and then they took him in an unspecified direction Momčilo Ristanović has not been seen ever since. Mustafa Krasniqi and the unknown man moved into Momčilo's apartment shortly after. In February 2001 bodily remains of Momčil Ristanović were found in a mass grave in Suva Reka/ Suhareke. Post-mortem examination established that he was shot in the head and killed.

33. At the beginning of 2000 HLC was notified that due to their ethnic background, Roma people were being denied access to night clubs and other public places in Belgrade. For that reason, in cooperation with the Democratic Union of Roma, HLC conducted several field tests in a number of Belgrade clubs, disco club *Trezor* being one of them. During the testing, security officer standing at the door of this disco club told the Roma persons, Dragan Durmić being one of the, that a private event was underway and that they could not go in without an invitation. Several minutes later, the same man allowed persons on non-Roma origin to enter the club without any questions asked.

...

2.7.1.2. Victims' testimonies

Twenty-four victims of illegal conduct of members of Serbian army and the police testified in 2008 before civil courts in Serbia and Montenegro in compensation lawsuits filed against the Republic of Serbia.³⁴

2.7.1.2.1. Camps for Bosniaks on the territory of Serbia

Ahmet Kamenica³⁵, former prisoner in the Šljivovica camp, testified on October 28th 2008 before the First Municipal Court in Belgrade about circumstances of his arrest and torture in the Šljivovica camp. While running from Žepa in front of the Army of Republika Srpska, Ahmet and several other men swam across the Drina river and when they reached the opposite river bank, they were arrested by members of the VJ. They took them to the Jagoštica village, Bajina Bašta municipality, Serbia, where the soldiers beat them and threatened to kill them. From there they were transferred to abandoned sheds in the Šljivovica village (Čajetina municipality) and left in isolation. Police officers who secured the camp beat Ahmet and other prisoners on their legs and arms frequently with sticks and electric cables. They received no water and insufficient rations of food – half a loaf of bread and a tin of fish between ten prisoners. Police officers set up a 'toilet crossroads' where they beat the prisoners: when a prisoner wanted to use the toilet and reached the 'toilet crossroads' he would have to signal that he was turning and even imitate the sound of a car's indicator and the same was to be done on the way back. If a prisoner did anything wrong he would be beaten. Ahmet left the camp in April 1996, following an agreement between the government of Serbian and UNHCR on the transfer of prisoners to a European country. Ahmet still suffers serious psychological and physical consequences.

2.7.1.2.2. Camps for Croats on the territory of Serbia

Ana Kurmajić³⁶, a Croatian from Jakobovac (Vukovar municipality), testified on December 1st 2008 before the First Municipal Court in Belgrade on her two-month long imprisonment in a prison (camp) in Sremska Mitrovica, Serbia. Members of the VJ forced her out of her house in 1991 and took her to a farm guarded by members of the Serbian Territorial Defence (TO) and VJ reservists, who, as she later found out, were from Šabac, Kikinda, and Požarevac. They asked many personal questions, whether she had a boyfriend, who she had voted for, etc. At the beginning of November they

transferred her to the TO Headquarters where she was questioned again and beaten with a police stick on her back and arms. On one afternoon a VJ soldier (name known to HLC) raped her. On the day when she arrived, some dirty and drunk civilians came to the Headquarters and one of them kept her at gun point, clicking the trigger all the time. On November 9th 1991 she was taken to the *Velepromet* Company building in Vukovar where the conditions were poor. She stayed there until November 17th 1991 when she was transferred to Sremska Mitrovica with a dozen other women. She shared a room with very poor sanitary conditions with about 90 women. They had a single tap in the room from which they took water to drink. During the entirety of her detention there she had only one towel and they were permitted to exercise only once. She was questioned twice about the fighting in Vukovar. The guards often swore at her while she was sweeping the hallway, telling her that they would let all of the prisoners go “but that nobody wanted them”. They made them watch TV programmes showing the destruction of Vukovar. She was exchanged on December 21st 1991 in an exchange arranged by the International Committee of the Red Cross (ICRC).

2.7.1.2.3. War crimes against Albanian women and children

Saranda, Jehona, and Lirije Bogujevci, who were children on March 28th 1999 when they survived the massacre in Podujevo, testified on December 19th 2008 before the Trial Chamber of the First Municipal Court in Belgrade in the compensation lawsuit filed against the Republic of Serbia. Saranda gave her account of the event of March 28th 1999 in Podujevo when Serbian policemen killed her mother, two brothers, her grandmother, and several close relatives. She was wounded in her right leg, shoulder, and left arm. Her most serious injuries were on her left arm where the nerves were cut. Because of her serious injuries members of the Special Anti-terrorist Unit (SAJ) took her to the Priština/Prishtinë hospital where she stayed until the arrival of the international forces to Kosovo in June 1999. She was treated at KFOR military hospitals in Kosovo Polje/ Fushë Kosovë and Lipljan/Lipjan. In September 1999, British physicians transferred her to the UK for treatment where she underwent six surgical interventions. She still suffers mental and physical consequences of her ordeal in 1999.

...
With respect to the fact that the authorities in Serbia did not conduct an investigation in this discrimination case, HLC and the European Roma Rights Centre (ERRC) have successfully conducted proceedings on behalf of Dragan Durmić before the UN Committee on the Elimination of Racial Discrimination (CERD). In March 2006 the Committee recommended the RS to conduct a comprehensive, efficient, and fast investigation in this discrimination case and to compensate victim Dragan Durmić, requiring also that the CERD be informed about these steps in six months. Until today Serbia has not failed to act upon any of these recommendations.

34. Reports from these trials can be seen at www.hlc-rdc.org/pravdaireforma/Reparacije

35. In November 2007, on behalf of Ahmet Kamenic and Selim Nuhanović, HLC filed a lawsuit against the RS for illegal detention in the Šljivovica and Mitrovo Polje camps and torture they had been exposed to by members of the V and the police. Saopštenje FHP-a *Tužbe Bošnjaka iz Zepe protiv Srbije zbog zatvaranja i mučenja u logorima Šljivovica i Mitrovo Polje*, January 15th 2008., web site: www.hlc-rdc.org

36. In November of 2007, on behalf of 12 former prisoners, women and underage persons, HLC filed a lawsuit against the RS for its responsibility in illegal detention and torture in the Sremska Mitrovica and Begejci [Vojvodina] camp. See HLC Press Release: *Lawsuit against the RS for imprisonment of Croatian civilians in prison camps on the territory of Vojvodina after the fall of Vukovar in 1991*, November 16th 2006.

Jehona Bogujevci described to the Trial Chamber how on March 28th 1999 she was wounded in her left arm, both shoulders, and her left leg. She was 10-years old. With her sister Saranda, she was taken to the Priština/Prishtinë hospital. She was in an agonizing pain and her entire left side was paralyzed. She was also later treated in the UK. She had six or seven surgical interventions, but in spite of that, she still feels the consequences of her injuries. She has difficulty using her fingers and her left wrist because a part of the bone is missing. She has flashbacks of the crime when she goes to Kosovo and she is still grieving the loss of her family. She has numerous scars all over her body as a result of the injuries and the surgery she has had, which make her self-conscious especially when her friends and her colleagues at college ask her what happened to her. They are especially visible in the summer time when she wears short-sleeved T-shirts. She cannot use her left arm. Serbian policemen killed her mother, her grandmother, her sister, and her two male first cousins.

Lirie Bogujevci was eight years old when her mother, grandmother, her sister, her aunt, her two male first cousins and their mother were killed on March 28th 1999. She was seriously wounded herself. Bullets went through her throat and she was also wounded in the back and both shoulders. Together with Saranda and Jehona she was transferred to the Priština/Prishtinë hospital and two weeks later she was transferred to the Children's hospital on Tiršova Street in Belgrade. Due to an extensive injury to her oesophagus she was not able to eat normally for a year and she was fed through a tube connected directly to her stomach. Nine months later she continued her treatment in the UK where she underwent four reconstructive oesophagus surgeries. Her mental condition is satisfactory at the moment but she will always suffer due to permanent visible scarring all over her body. She often notices that she is being treated differently because of her scars and that people stare at her. Her eating regime is still very strict since she still has problems swallowing food.

2.7.1.3. Judgments and decisions related to lawsuits and requests filed by HLC

In February 2008 the Niš District Court accepted the HLC complaint filed with respect to the judgment handed down by the Municipal Court of Niš in July 2007 awarding Roma man Dragiša Ajdarević the amount of RSD 130.000 (approximately EUR 1.400)

in compensation for the Skinheads attack on April 8th 2000. HLC protested the amount of compensation claiming that it was disproportionate to the criminal act committed against him. According to the decision of the Niš District Court, two attackers, members of the Skinhead group at the time, are ordered to pay Dragiša Ajdarević compensation in the amount of RSD 175.000. Following the request filed by the HLC on behalf of victim Danilo Dimitrijević, the Office of the Public Defender paid an amount of RSD 250,000 in a friendly settlement procedure to Dimitrijević because the state had failed to investigate allegations of torture committed against him by members of the SUP Novi Sad.³⁷

In February 2008 the First Municipal Court in Belgrade rejected the lawsuit filed against the Republic of Serbia by HLC on behalf of the children of victim Uzeir Bulutović killed by members of the VJ³⁸ on the grounds of the statute of limitation. HLC appealed this decision at the Belgrade District Court.

On December 18th 2008 HLC received the judgment of the First Municipal Court ordering the Republic of Serbia to pay compensation in the amount of RSD 185,000 to Albert Nebihu and Skender Isufi for its responsibility concerning their illegal detention in Serbia lasting six and 11 months.³⁹

In December 2008 HLC received the judgment of the First Municipal Court rejecting the lawsuit filed by HLC on behalf of Elmaz Hukić in April 2008 on the grounds of the statute of limitation.⁴⁰ HLC appealed this decision in a timely manner at the Belgrade District Court.

2.7.1.4. Representation of victims of forced mobilization

In 2008 HLC continued to represent 13 victims of forced mobilization in 1995, on whose behalf HLC filed four compensation lawsuits in the period 1998 - 2001. Four main hearings were held. The chamber had not reached a decision by the end of the year.

2.7.1.5. Representation of members of Otpor

In 2008 HLC represented one member of the OTPOR movement for illegal deprivation of freedom during the regime of Slobodan Milošević. There were two main hearings. The chamber had not reached a decision by the end of the year.

37. UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN Committee against Torture) in its decision of November 16th 2005, and following a communication submitted by HLC, ERRC, and the Minority Rights Center, established that the RS had failed to conduct an thorough and efficient investigation in the Danilo Dimitrijević torture case. More details in the HLC Press Release: *Republic of Serbia paid compensation for damages caused by an illegal conduct of institutions*, June 24th 2008, at www.hlc-rdc.org

38. FHP je u ime Zehre Omerović, Izeta i Hanefije Bulutovića, dece ubijenog Uzeira Bulutovića pokrenuo sudski postupak za materijalno obeštećenje protiv Republike Srbije zbog odgovornosti države za ubistvo koje su izvršili pripadnici VJ. Videti saopštenje FHP-a *Tužba protiv Srbije zbog ubistva Uzeira Bulutovića*, 26. mart 2007. godine.

39. HLC PR: *Compensation to Albert Nebih and Skender Isufi for illegal detention in 1999 and in 2000.*, December 22, 2008.

40. See section 2.4.1.1.

41. On behalf of Ljiljana Đuknić HLC filed a compensation lawsuit in November 2005.

42. On behalf R.M HLC filed a compensation lawsuit in against Radomir Radovanović in December 2002.

43. During demonstrations held against the regime of Slobodan Milošević in March 1991, police fired rubber bullets at protesters. One bullet hit degree-holding painter Borislav Topuzović in his left eye which resulted in the removal of that eye. HLC filed a lawsuit on behalf of B. Topuzović in September 1993.

44. Idriz Spahiu, Kadri Zymberi, and Tafil Muliqi [all from Glogovac/Glogoc] were illegally arrested by members of MUP Serbia in Glogovac/Glogoc after the beginning of the NATO intervention. They were first taken to the Glogovac/Glogoc police station, then they were taken to the prison in Lipljan/Lipjan, and finally to the prison in Požarevac. All three of them were held in illegal detention for 12 months.

45. Dejan Petrović was arrested on January 16th 2002 at 21:30 in his apartment and taken to OUP Vračar under suspicion that he had committed a robbery. The following day his parents were informed by police that Dejan had jumped out the window during the hearing and that he was in the Urgent Care Facility of the Clinical Center of Belgrade. Twenty days later Dejan died of the injuries he had sustained. The findings of the court-appointed expert and the minutes compiled by the investigative judge refuted the police version of the death of Dejan Petrović. HLC filed a criminal complaint to the Office of the District Prosecutor in Belgrade against four police officers of OUP Vračar in February 2005.

2.7.2. Representation of other victims of human rights violations

In 2008 HLC represented 16 victims of torture, illegal deprivation of freedom, violation of the right to private property, and victims of discrimination. Courts reached four decisions in compensation cases. Four lawsuits were still underway at the end of the year.

In June 2008, First Municipal Court in Belgrade, acting upon a lawsuit filed by HLC⁴¹ reached a decision ordering the Republic of Serbia to pay Ljiljana Đuknić compensation in the amount of RSD 450,000 for the responsibility of the state for torture committed against her by MUP members at the time of citizens' protests in Serbia in February 1996.

In March 2008 the Kragujevac District Court confirmed the decision of the Municipal Court of Arandelovac ordering Radomir Radovanović to pay RSD 290,000 to R.M. in compensation for sexual abuse.⁴²

In March 2008 the Supreme Court of Serbia accepted a request filed by HLC to reverse the decision handed down by the Belgrade District Court which had rejected the lawsuit brought by HLC on behalf of Borislav Topuzović against the Republic of Serbia⁴³ and returned the case for a re-trial.

In July 2008 the Belgrade District Court upheld the ruling of the first-instance court rejecting the lawsuit against the Republic of Serbia filed by HLC on behalf of Idriz Spahiju, Tafil Muliqi, and Kadri Zymberi on the grounds of the statute of limitation.⁴⁴

2.7.3. Representation of victims of human rights violations in criminal proceedings

In 2008 HLC continued to represent seven victims of torture in criminal proceedings filed in 2004. There were seven main hearings in four criminal trials in which HLC represented four victims of torture.

In February 2008 the Supreme Court of Serbia rejected as unfounded the Request for the Protection of the Legality filed by the Office of the Prosecutor as proposed by HLC, with respect to the decision of the Supreme Court of Serbia which upheld the decision of the Belgrade District Court to dismiss the HLC's request to order an investigation into six police officers suspected of being involved in the death of Dejan Petrović.⁴⁵ Having exhausted all legal remedies available at a national level, the parents of Dejan Petrović submitted a communication to the European Court of Human Rights.

In February 2008 the Belgrade District Court accepted the appeal filed by HLC in May 2007 and overturned the decision of the First Municipal Court in Belgrade which convicted Dijana Joanović to a suspended prison sentence for obstructing an official in providing security or public peace and order.⁴⁶ The case was returned for a retrial.

In June 2008 the Supreme Court of Serbia accepted the appeal of the District Public Prosecutor filed in November 2006 and overthrew the judgment of the Belgrade District Court acquitting police officers Milimir Teofilović and Predrag Nešić of charges that they used force to obtain a statement of Miroslav Manojlović. The case was returned for retrial.⁴⁷

In August 2008 HLC filed a criminal complaint against police officers Zoran Krstić, Bogdan Memedović and several unidentified police officers.

In December 2008, the Smederevo District Court upheld the appeal filed by HLC in November 2008 on behalf of mother of now-late Miloš Srećković with respect to the decision of the Municipal Court in Smederevo which established that there was insufficient evidence to order an investigation against Zoran Krstić and Bogdan Memedović, police officers from Smederevo, for inflicting serious bodily injuries to Miloš Srećković.⁴⁸

2.8. Researching the causes of impunity

In the period from 2006 until the end of 2008 HLC, together with the Youth Initiative for Human Rights (YIHR), Lawyers' Committee for Human Rights (YUCOM), and the Helsinki Committee for Human Rights in Serbia (the Helsinki Committee), participated in the implementation of the project titled: Impunity Watch: *Causes of Impunity in Post-Conflict Societies*. The project is an initiative of the *Solidaridad* non-governmental organization from the Netherlands whose goal is to research the causes of impunity and impediments in establishing full responsibility for crimes committed in the past.⁴⁹

The research stage of the project ended in April 2008. During that stage, researchers from HLC and other organizations monitored and analyzed the activity of institutions responsible for enabling victims to exercise their right to reparation, and to justice, institutions that should guarantee that the crimes committed in the past will not happen again. In 2008 an HLC researcher

46. On February 16th 2005, under-aged Dina Joanović was brought to OUP Stari Grad under suspicion that she had stolen a mobile phone. During her stay in the police station she was exposed to torture and against her mother Dijana, who tried to help her, police filed a criminal complaint for obstruction of an official in providing security or public peace and order. Another criminal complaint was filed against under-aged Dina for theft. A criminal complaint was filed against OUP Stari Grad police officers on March 1st 2005 by a privately retained lawyer of Dina and Dijana Joanović.

47. Police arrested Miroslav Manojlović on December 7th 2000 at 4.30 a.m. while robbing a kiosk in Belgrade together with a friend. He was taken to OUP Vračar and questioned for the next three days. Miroslav was beaten all over the body by inspectors Teofilović and Nešić. When he returned home Miroslav was in a lot of pain caused by the beating on the head, back and on the legs, while the left side of his face was swollen and the right side was heavily bruised. Physicians found life threatening head injuries and he was kept for treatment at the Belgrade Hospital for Neurosurgery.

48. Miloš Srećković was brutally beaten on June 23rd 2002 around 3:00 a.m. in front of the fortress in Smederevo by police officers Zoran Krstić, Bogdan Memedović and another for now unidentified member of SUP Smederevo. When Miloš fell on the ground, police officers continued beating him. After a while, they took Miloš, who was in a very bad shape, to the Health Care Center in their police vehicle where he received medical care. After that he was taken to SUP Smederevo where the three of them and some other policemen tried to convince him that he had been beaten by the disco club security and not by them and that they had filed criminal complaints against them already. During the beating Miloš sustained serious, life-threatening injuries.

49. In addition to Serbia, the project is implemented in Guatemala.

50. HLC interviewed: Dr. Branka Prpa, Director of the *Archives of the City of Belgrade*, Ljubodrag Stojadinović, military analyst, Vladan Batić, Justice Minister in the Government of Zorana Đinđić, Dr. Milan St. Protić, historian and a former ambassador of Serbia and Montenegro to the United States, Jovan Dulović, journalist, Rajko Danilović, lawyer, representative of the Đinđić family in the trial for the murder of Prime Minister Zoran Đinđić, Zoran Dragišić, civil defence professor, Velimir Čurguz Kazimir, *Ebart dokumentation* director.

51. All press releases issued by HLC can be found at: www.hlc-rdc.org

interviewed nine relevant individuals to learn how they understood the causes of impunity in Serbia.⁵⁰ An HLC researcher collected a number of regulations concerning the work of the committee for the development of a witness protection programme.

Impunity Watch released its report titled *Prevention of Impunity in Serbia – Options and Obstacles* on December 16th 2008 in which it presented a normative framework, resources, and the readiness of the relevant institutions to deal with the serious legacy of large-scale human rights abuses, identified obstacles in preventing impunity and made recommendations how to eliminate these obstacles and fully adhere to the principle of the rule of law.

3. Public information and Outreach

HLC continues to inform institutions of the Government of the Republic of Serbia the governments in the region, media, non-governmental organizations, international non-governmental organizations, and the public about its activities, initiatives, and its positions on topics concerning transitional justice by means of press releases, reports, conferences, bulletins, press conferences, web presentations, and publications.

3.1. Public information

3.1.1. Press Releases

HLC issued 45 press releases in Serbian,⁵¹ Albanian, and in English in 2008 in which it conveyed its analyses of war crimes trials, information on the threat to human rights defenders, the fate of the Serbs missing in Kosovo, the way authorities in Serbia treated witnesses who testified in the trials conducted before the ICTY, etc. In Serbia, HLC press releases are most often published by the daily *Danas*, *E-novine*, and on the *B92* website, and in the region by the *Koha ditore*, *Oslobođenje*, and *Novi List*.

3.1.2. Press conferences

HLC organized five press conferences in 2008. HLC representatives also took part in press conferences organized by other human rights organizations.

The HLC Executive Director spoke at a press conference organized by eight human rights organizations from Serbia on January 29th 2008 which was dedicated to the upcoming presidential elec-

tion in Serbia. On that occasion human rights organizations sent a joint message to presidential candidate Boris Tadić not to give up on democratic values and a European political orientation.

HLC organized a press conference in May 2008 with *Vukovar 1991 Association*, when this Association filed a criminal complaint against members of the former JNA for their role in the detention and torture of Croatian prisoners in camps in Vojvodina.⁵²

HLC Executive Board held its first press conference on June 17th 2008. Dr. Zoran Pajić spoke about the need to adopt measures which would improve the position of war crimes victims before national courts. Florence Hartmann talked about the need to solve the issue of the missing instead of focusing on organ trade. Nataša Kandić conveyed key conclusions reached at regional consultations on mechanisms for establishing the facts about war crimes in the former Yugoslavia, and Tea Gorjanc-Prelević stressed the position of human rights non-governmental organizations that the Stabilization and Association Agreement with the European Union should be contingent upon the resolution of each state candidate to initiate a process of dealing with the past.

On the occasion of marking the 13th anniversary of the genocide of Bosniaks in Srebrenica, HLC, the Helsinki Committee, the YIHR, YUCOM, Women in Black, Queeria Centre, and the Centre for Cultural Decontamination held a press conference calling on the institutions of the Republic of Serbia to implement the decision of the International Court of Justice, that is arrest Ratko Mladić, Radovan Karadžić⁵³ and Goran Hadžić thus demonstrating respect and responsibility for the victims and their families. The creation of the regional Coalition for RECOM during the Fourth Regional Forum on Transitional Justice, prompted another HLC press conference, on which occasion members of the HLC Executive Board Dr. Zoran Pajić, Florence Hartmann, and Nataša Kandić talked about the initiative to create RECOM with respect to the need to solve the issue of the missing, by disclosing the location of mass graves and by publicly speaking about the events that happened in the past.

3.1.3. Transitional justice in post-Yugoslav states – 2006 Report

HLC, Documenta, and RDC launched their *Report on Transitional Justice in post-Yugoslav States in 2006n* in January 2008. The Report is based on the research conducted by partner

52. HLC Press Release: *Vukovar 1991 Association and HLC on prisoner camps in Serbia*, May 23rd 2008.

53. Radovan Karadžić was arrested on July 22nd 2008.

organizations in the first six months of 2007 in Croatia, BiH, Serbia, Montenegro, and Kosovo. A number of state officials, NGO representatives, victims and veterans' associations, representatives of international government and non-governmental organizations were interviewed during the research and relevant legislation was analysed. The report offers a review of all mechanisms of transitional justice applied in the post-Yugoslav states: war crimes trials, establishing the facts about human rights abuses during the armed conflict, institutional reform and reparation. A total of 1000 copies of the report were printed in BCS and English.

3.1.4. Transitional justice in post-Yugoslav states - 2007 Report

HLC and Documenta launched their *Report on Transitional Justice in post-Yugoslav States in 2007* in October 2008. The focal point of the report is research conducted by HLC and Documenta on the extent to which all mechanisms of transitional justice have been applied in post-conflict societies on the territory of the former Yugoslavia. A total of 1000 copies of the report were printed in BCS, Albanian, and in English. By the end of November 2008 HLC, HLC-Kosovo, and Documenta shared the report with their respective state institutions, domestic and international human rights NGOs, international governmental organizations, journalists, libraries, universities, and individuals involved in human rights and transitional justice.

3.1.5. 2007 HLC Activity Report

HLC published its 2007 Activity Report in April 2008 detailing the programme and activities undertaken by HLC in the course of 2007 which helped establish transitional justice in Serbia and in the region. Three-hundred copies of the report in Serbian and English were printed and distributed among NGOs in Serbia and the region, to international governmental and non-governmental organizations, state institutions in Serbia, and individuals interested in human rights.

3.1.6. Transitional Justice Bulletin

HLC published three transitional justice bulletins in English and Serbian in 2008. In January the topic of the bulletin was the future of the archives of the ICTY and the visit of the Archive Advisory Committee of the ICTY to HLC. The March

issue of the Bulletin carried the most important information and conclusions from the meeting HLC organized about the future of the archives of the ICTY. May issue was dedicated to the reporting of the media about the criminal complaint filed by HLC on May 8th 2008 against General Božidar Delić accusing him of war crimes against Albanian civilians.

3.1.7. HLC website

The HLC website contains links to Press Releases, bulletins, analyses, trial transcripts, round table discussions, video recordings of regional consultations and forums held within the consultation process for the creation of RECOM, transcripts of public hearings of victims, and other content related to HLC's activities and transitional justice.

In 2008 HLC posted on its website 45 press releases, four publications, eight reports, and 28 video clips of regional conferences on establishing the truth about the past, three transitional justice bulletins, 59 texts (trial reports, indictments, judgments) and 44 texts (HLC archives listings, agendas, reports, transcripts). A total of 207 texts were posted in the HLC section *in the media*, as well as 39 video clips, which were also posted on YouTube.

HLC also posted on its website (in the *transcripts* section) transcripts from 476 days of the trial of Slobodan Milošević, transcripts from 64 days of trial of Mitar Vasiljević, 207 days of trial of the *Vukovar Three*, and 21 day of the trial of Limaj conducted before the ICTY.

The HLC website was visited by 34,421 people with 126,303 entries in 2008; the webpage dedicated to the Kosovo Memory Book was visited by 13,751 people.

3.1.8. HLC library

HLC library contains publications from the area of transitional justice and humanitarian law. There are 4,679 publications, 3,832 of which are monographs (books, CDs, DVDs), 736 serial publications (magazines, reports, periodicals), along with 111 copies of monographs and serial publications. In 2008 there were 528 new additions to the library: 409 monographs (books, CDs, DVDs) and 119 magazines and publications.

HLC uses the COBISS⁵⁴ library network in Serbia to get information on new editions, exchange information, and search for older editions.

54. Co-operative Online Bibliographic System & Services – Unique catalogue-bibliography system in Serbia and in the region, http://www.cobiss.net/platforma_COBISS-SR.htm

55. It is a documentary about the *Scorpions* unit whose members executed six prisoners from Srebrenica in July 1995 and 14 Albanian women and children in March 1999 in Kosovo.

3.1.9. Production of CDs containing ICTY trial transcripts

In 2008 HLC prepared three CDs with transcripts in *pdf format* of the trial of Slobodan Milošević, Mitar Vasiljević, and the *Vukovar Three* held before the ICTY, making them easier to browse according to a number of criteria: key words, trial days, witnesses, etc.

3.1.10. Production of video recordings from regional consultations on mechanisms for establishing the facts about war crimes

In 2008 HLC produced 10 video recordings from seven consultations and three regional forums on mechanisms for establishing facts about war crimes. In addition to this, testimonies of victims given at forums held in Belgrade (February 2008) and in Priština/Prištinë (October 2008) are produced as separate video recordings. HLC distributed 400 CDs in 2008 containing testimonies of victims to participants of regional consultations and other gatherings dedicated to the process of dealing with the past.

3.1.1.1. Broadcasting *The Scorpions - a Home Movie*

HLC presented its documentary *The Scorpions - a Home Movie*⁵⁵, directed by Lazar Stojanović, and produced by HLC, at several film festivals in 2008: Zagreb Dox International Documentary Film Festival 2008 (Croatia), One World IHRDF, (Prague, Czech Republic) and Document 6 International Human Rights Documentary Film Festival, (Glasgow, Scotland). The film was also screened at some European and US universities at transitional justice seminars.

3.2. Outreach

HLC organized in 2008 one meeting on the future of the archives, one conference dedicated to the court established truth, titled *Brčko '92 - Beyond Reasonable Doubt*, four consultative meetings, and two regional forums on mechanisms for establishing facts about war crimes and about the initiative to create RECOM.

3.2.1. Conferences

3.2.1.1. *Brčko '92 - Beyond Reasonable Doubt*

Conference titled *Brčko '92 - Beyond Reasonable Doubt* was held on September 5th 2008 in Belgrade and HLC presented the facts established before the ICTY in the trials for crimes committed on

the territory of Brčko, focusing on crimes committed by Goran Jelisić and Ranko Češić and personal testimonials of victims. There were over 200 participants, most of whom were young civil society activists, university and high school students. Apart from them, the conference was also attended by members of the associations of the missing, journalists, lawyers, jurists etc. In support of the victims who testified about their suffering, the conference was also attended by former prisoners and members of victims' associations from Brčko.

In the course of the *Public hearing of victims*, former prisoners of the *Luka* and *Batković* camps took the floor: Smajl Musić talked about his months-long imprisonment in the *Batković* camp; Abdulah Mujdanović also talked about his imprisonment in the camp where he was held together with his son who was later disappeared; Adila Suljević talked about being held prisoner in her own home and later in the *Luka* camp, while Džafer Deronjić talked about his imprisonment in both the *Luka* and *Batković* camps. All victims mentioned Serbs who had helped them during the time of imprisonment or when they were freed or exchanged.

Laurel Baig and Rebecca Cuthill from the Office of the Prosecutor of the ICTY spoke during the *Court Established Facts* session about investigations, the course of the proceedings, and about the judgments in the Jelisić and Češić cases.

3.2.2. Meeting on the future of the ICTY archives

HLC held a meeting on March 21st 2008 on the future of the ICTY archives which was attended by over 20 representatives of human rights organizations, journalists, historians, Rodoljub Šabić, Commissioner for Information of Public Importance, Goran Marković, MUP Serbia War Crimes Detection Unit, and Matias Hellman, chief of the ICTY Outreach office in Serbia. They all agreed that it is of utmost importance to ensure the availability of the ICTY archive to courts, prosecutors, journalists, victims' families, and researchers, but it was also stressed that the legal preconditions do not currently exist in Serbia.

3.2.3. Visits to HLC

In the first six months of 2008, HLC was visited by over 70 high school and university students, graduate students, and journalists who wanted information on the HLC's programme and activities. All visits were organized within exchange programmes of domestic and international non-governmental organizations.

56. In December 2008, RDC stopped taking part in the Consultations of the civil society on the creation of RECOM.

4. Regional cooperation

In 2008, HLC and its regional partners Documenta and RDC continued to monitor war crimes trials conducted before the national courts, and, within the programme of Regional Civil Society Consultation, they advocated the regional approach and the creation of a regional body to investigate and disclose the facts about war crimes. In November, HLC, RDC, and Documenta held a meeting in Belgrade on which occasion they discussed future joint projects and initiatives.⁵⁶

4.1. Civil society consultations on establishing and disclosing the facts about war crimes in the past

In the absence of official initiatives, HLC, Documenta, and RDC started civil society consultations on mechanisms for investigating and disclosing the facts about war crimes on the territory of the former Yugoslavia. The very first meeting was held on September 5th 2005 in Belgrade and was attended by representatives of leading human rights organizations from the region and experts from the International Centre for Transitional Justice (ICTJ). All participants expressed their unwavering support for the regional approach to establishing and telling the facts about war crimes. Soon after, HLC, Documenta, and RDC initiated regional consultations with civil society on mechanisms for investigating and disclosing the facts about war crimes on the territory of the former Yugoslavia. The consultation process itself was scheduled as a series of small-group debates (consultations) to be held at local, national, and regional levels and at regional transitional justice forums attended by larger numbers of participants.

In 2008 there were nine national consultations, one regional consultation, and two regional transitional justice forums.

4.1.1. Third Regional Forum on Transitional Justice Belgrade, February 11th and 12th 2008⁵⁷

The Third Regional Forum on Transitional Justice titled *Mechanisms for establishing facts about war crimes committed on the territory of the former Yugoslavia* was attended by over 300 representatives of victims' associations, victims not belonging to any associations, war veterans, judges, prosecutors, lawyers, jurists,

57. The transcript of the III Regional Forum debate is available at: www.korekom.org.

members of Parliament, historians, artists, high school and university students. The Forum was opened by the President of the National Assembly of the Republic of Serbia Oliver Dulić and Jelko Kacin, Special European Parliament Rapporteur for Serbia. Both very strongly supported the idea of the regional approach in dealing with the past. During the *Experience of others* session, the audience was addressed by Madeleine Fullard, a researcher at the South African Truth and Reconciliation Commission and Sofia Macher, a member of the Truth and Reconciliation Commission in Peru. They spoke about the foundation, the work, the structure, and the composition of the two Commissions, as well as about the effects achieved in the process of establishing the facts about the past.

In the *Needs and Expectations of the Victims* session participants (victims, representatives of victims' associations and war veterans' associations, and human rights activists) gave priority to establishing the truth (the facts), direct punishment of those responsible for war crimes and their commanders, search for the missing, disclosure of mass graves, and identification of bodily remains. They also stressed that there could be no justice without reparation.

Participants suggested that one of the conditions for European integration should be war crimes processing, recovering the missing, apology, and a social dialogue in all states formed on the territory of the former Yugoslavia. The participants from Croatia and BiH supported the interest of the veterans to get involved in the process of establishing the truth. The victims emphasised that it was important for them to hear and feel that they mattered to others, that they were being listened to, and observed as members of their own community.

In the *Regional approach to establishing the facts about war crimes*, participants, mostly judges, prosecutors, and human rights defenders shared the opinion that the war crimes trials are the most important legal instrument in establishing individual criminal responsibility for war crimes, but that they were seriously constrained by court capacity, time-consuming investigations and trials, the death of witnesses, intimidated witnesses refusing to testify, etc. All agreed that this could be compensated by other mechanisms such as a regional commission for investigating and disclosing the facts about the events from the past.

Among other things, participants stressed that the regional commission could not replace courts but that it could be

instrumental in efficiently establishing new facts which could be used by police, prosecutors, and courts. The regional body should focus on victims, it should respond to the needs and characteristics of local conditions in post-Yugoslav countries.

Forum participants also underscored the need to create a broad-based and strong coalition within civil society which ought to issue recommendations to national governments on the societal need to create a regional commission whose competency would be to establish the facts about war crimes.

In the course of the *Creation of a positive climate for establishing facts*, the participants also pointed out the following: **Media can help the most in creating and developing a social solidarity and empathy with victims from other societies which are still being perceived as hostile.**

36



Picture 1. Third Regional Forum: *Public hearing of victims* session, Belgrade, February 12th 2008

During the *Public hearing of victims*⁵⁸ session, victims and family members of victims from Croatia, BiH, Serbia, Montenegro, and Kosovo testified about the injustices and suffering they endured during the war, and two friends, Jusuf Trbić and Đorđe Krstić spoke about how they became friends for life during the time when Arkan was the lord of Bijeljina (April 1992).

4.1.2. Regional consultations with associations of victims and veterans⁵⁹

Consultations held on May 9th 2008 in Podgorica were organized by HLC, Documenta, and the RDC in cooperation with the Bukovica Association of Citizens and the *Red Peony* Association of the families of the kidnapped, missing, and killed in Kosovo in the period from 1998 to 1999. This event was marked by the launching of the initiative to create a regional commission for establishing and telling the facts about war crimes (RECOM), which the initiators (HLC, RDC, and Documenta) presented as concrete support, given by participants of the consultations to the regional approach as the most reliable method of establishing and telling the truth about war crimes committed in the past.

The consultation participants (44), representatives of victims associations, victims not belonging to any associations, and war veterans from Montenegro, Croatia, Serbia, Macedonia, Slovenia, and from Kosovo, supported the initiative to create RECOM, strongly believe that the initiative would have the unwavering support of associations of the families of the missing in all post-Yugoslav societies, but also expressed an awareness of the fact that the initiative could fail without the political will of national governments and without support from the international community.

The participants concluded that the top priority was to build a strong and broad-based network and secure the support of associations of victims' families and non-governmental organizations in the region whose job is to pressure the governments in the region to accept the initiative. RECOM is the only possible way for the victims to be heard publicly. For the participants RECOM is a mechanism that can help disclose the location of secret mass graves and clarify the fate of the missing.

Participants from Croatia and BiH suggested the inclusion of war veterans and war crimes perpetrators in the process of establishing and telling the facts about war crimes from the past.

58. Video recordings of public testimonies of victims: www.korekom.org

59. Transcript of the discussion from Regional consultations with victims and veterans: www.korekom.org

4.1.3. Creation of the Coordination Council

In an effort to include as many non-governmental organizations as possible in planning and organization the consultation process, HLC, Documenta, and RDC formed a Coordination Council in Podgorica on May 10th 2008, which in addition to the three partner organizations also included by invitation: Valdete Idrizi, Community Building Mitrovica, Kosovo; Andrej Nosov, Youth Initiative for Human Rights, Serbia; Amir Kulagić, Association *Women of Srebrenica*, victim and war veteran, BiH; Aleksandar Trifunović, journalist from Banja Luka, BiH; Dinko Gruhonjić, Independent Association of Journalists from Vojvodina, Serbia, and Tea Gorjanc-Prelević (Human Rights Action, Montenegro). At the meeting, the Coordination Council adopted its Rules of Procedure.

By the end of 2008 the Coordination Council had held nine meetings and participated in a strategic planning in relation to the consultation process.

4.1.4. National consultations with civil society⁶⁰

The following consultations with representatives of civil society were held in 2008: Kosovo – June 26th 2008 and Montenegro – October 25th 2008. The main topic was the initiative for the establishment of RECOM.

Victims who participated in the consultation held in Kosovo stressed their need to talk about what had happened to them and the need to name perpetrators. Representative of victims associations and the Human Rights Committee from Priština/Priştinë said that perpetrators of war crimes committed in Kosovo should be tried before courts in Kosovo. Youth organizations activists and representatives of the judiciary supported the regional approach in establishing and telling the facts about war crimes and war crimes trials regardless of the venue. The consultations were attended by 58 representatives of civil society in Kosovo (56 Albanians and two Serbs) and 16 human rights activists and representatives of regional victims associations.

Participants of the consultation held in Montenegro (35) unanimously supported the initiative to create RECOM and concluded that the initiative should become a state-sponsored project. They also recommended that national parliaments should accept the initiative as a societal measure for releasing our children and future generations from responsibility for the legacy of the past.

All participants agreed that the decision to create RECOM should be made by national parliaments and that it should be mandated to solve the issue of the missing.

4.1.5. National consultations with associations of the families of the missing and war veterans⁶¹

Consultations with associations of the families of the missing and killed in Kosovo and Croatia (active in Serbia) were held on July 15th 2008. Consultations with the Albanian associations of the families of the missing were held on October 4th 2008. And consultations with the associations of the families of the missing homeland defenders in Croatia were held on October 24th 2008. All three gatherings were dedicated to the initiative for the establishment of RECOM.

Serbian associations of the families of the killed and missing who attended the consultations, who all support the creation of RECOM, felt that the most pressing issue for RECOM should be to help disclose the locations of secret mass graves, to arrange exhumations, and identification of mortal remains. Some are against the idea of veterans being appointed commissioners of a regional commission, while others believe that they should also be given a chance to speak. A total of 24 representatives of two associations of Kosovo Serbs and one association of Serbs from Krajina, Croatia, took part in the consultation.

During the consultation held in Priština/Prishtinë, representatives of Albanian associations of families of the missing voiced their opinion that the most urgent priority for society in Kosovo is the strengthening of institutions. They said that the fact that some neighbouring countries do not recognize the independence of Kosovo impedes achieving a regional connection. Representatives of Kosovo institutions also supported the regional approach and initiative, while representatives of associations of the families of the missing believed that cooperation with Serbia can be realized providing Serbia apologizes for war crimes committed in Kosovo. A total of 34 representatives of associations of the families of the missing took part in the consultation.

At the gathering held in Vukovar, members of associations of the families of the missing homeland defenders supported the initiative to create RECOM primarily because they believe that

61. Transcript of the discussion from Regional consultations with associations of the families of the victims and war veterans: www.korekom.org

the regional approach can result in a better understanding of the fate of the missing, while the representatives of the associations of homeland defenders were sceptical about the possible benefits for Croatia. A total of 26 members of associations of the families of the missing homeland defenders and associations of homeland defenders participated in the consultation held in Vukovar.

62. Transcript of the discussion from Regional consultations with youth organizations and individuals: www.korekom.org

4.1.6. National consultations with youth organizations and individuals⁶²

Consultations were attended by 18 young activists from non-governmental organizations, high school and college students from Serbia. This consultation was also dedicated to the initiative for the establishment of RECOM. All participants supported the idea to create RECOM and they expressed unequivocal support for public hearing of victims which, in their opinion, can lead to a feeling of compassion and solidarity with victims from across the conflict divide. They suggested that members of religious communities be included in the consultation process.

4.1.7. National consultations with journalists⁶³

The consultation held on October 10th 2008 on Fruška Gora was attended by 27 journalists from Serbia. The main topic was the initiative to create RECOM. All of them supported the idea believing it to be the only mechanism which can provide a minimal amount of facts which can be established at a regional level. Some participants even thought that RECOM should also deal with what caused the conflict in the first place.

4.1.8. National consultation with non-governmental organizations⁶⁴

The consultation held on Fruška Gora on October 10th 2008 was also attended by 18 activists from various non-governmental organizations from Serbia. All participants strongly supported the creation of RECOM as the only mechanism able to draft as detailed a picture as possible about what happened in the past. Some participants expressed the fear that by focusing on victims, the activity of RECOM could result in the disappearance of ethnic background and boundaries between victims (the Helsinki Committee for Human Rights in Serbia).

63. Transcript of the discussion from Regional consultations with journalists: www.korekom.org

64. Transcript of the discussion from Regional consultations with non-governmental organizations: www.korekom.org

4.1.9. Fourth Regional Forum on Transitional Justice⁶⁵

Fourth Regional Forum on Transitional Justice was held in Priština/Prishtinë on October 28th and 29th 2008 and was by far the largest gathering dedicated to mechanisms for establishing the facts about war crimes ever organized on the territory of the former Yugoslavia. Among 400 participants from all over former Yugoslavia attended the Fourth Regional Forum, including over 200 victims, 100 young people (representatives of youth organizations and high school and college students who are not members of any organizations), as well as over 100 human rights activists and members of various non-governmental organizations from the region, and several judges and prosecutors from BiH and Kosovo. Twenty representatives of the Association of the families of the kidnapped, killed, and missing Kosovo civilians and policemen participated in the Forum, while other associations of Serbs from Serbia and Republika Srpska refused to participate, in protest over Kosovo's declaration of independence.

The Forum was opened by the President of Kosovo Fatmir Sejdiu and participants were welcomed by the chief of the OSCE Mission to Kosovo, his Excellency ambassador Werner Almhofer; deputy chief of the EULEX Mission Roy Reeve; Minister of Justice of the Republic of Kosovo Nekibe Kelmendi; and Valdete Idrizi, President of the *Community Building Mitrovica* – co-organizer of the Fourth Regional Forum on Transitional Justice.

Kosovo's history is a gruesome one and the citizens of Kosovo will never forget it. However, we are truly dedicated to closing that chapter so that we can move forward... (Fatmir Sejdiu, President of the Republic of Kosovo).

Forum participants had an opportunity to hear Graciela Fernandez Meijide, a member of the National Committee for the Missing in Argentina and Howard Varney a transitional justice expert with the ICTJ who spoke about the Commission for Reception, Truth and Reconciliation of East Timor which was specific because its mandate was to establish the facts about the responsibility of another state (Indonesia) for crimes committed in East Timor.

In the *Needs of the Victims and the Society of Kosovo* session the panellists and the participants unanimously accepted the position

65. Transcript of the discussion from the Fourth Regional Forum on Transitional Justice: www.korekom.org

that clarifying the fate of about 2,000 missing persons is an absolute priority, and the Albanian participants added that they believed that the key to solving that mystery is in the hands of the government of the Republic of Serbia, while representatives of the association of the families of missing Serbs said they expected the Albanian associations to help them find out what had happened to their loved ones.

In the *Public hearing of victims* session Forum participants heard disturbing testimonies of Saranda and Fatos Bogujevci about the execution of 14 members of their family on March 28th 1999 in Podujevo, Kosovo; the testimony of Agron Shabani about the murder of his father and brother on June 17th 1999 in Donja Jašanica/ Jashanicë e Poshtme, Kosovo; the testimony of Manda Patko about her imprisonment in camps in Serbia in 1991, the testimony of Marica Šeatović, a Serbian woman from Novska, Croatia, about the murder of her husband in December 1991; the testimony of Semir Ibrahimović about the last time he saw his father Smail on July 11th 1995 in Srebrenica and the time he watched the video of his father and other five Muslim men from Srebrenica being killed by the members of the *Scorpions* unit; the testimony of Milena Radević about the murder of her son in Peć on December 14th 1998 and the subsequent disappearance of her husband on June 24th 1999 in Peć; and Xhafer Veliu's testimony of the murder of 36 underage persons, his son being one of them, on April 29th 1999 in Ćirez/ Qirez, Kosovo.⁶⁶

Representatives of Kosovo institutions, family members of victims of war crimes and a number of non-governmental organizations supported the initiative to create RECOM and form the Coalition for RECOM.

... Regional approach in establishing responsibility is indispensable which confirms the necessity to empower regional cooperation in all areas, especially with respect to war crimes trials on the one hand and the most efficient rehabilitation of all victims on the other. Let's not forget the past, not in order to have a reason to retaliate, not in order to get even, and not to remain enemies forever, but in order to make sure it does not happen again and to be able to create a better world in peace, prosperity, and human advancement (Ramë Manaj, deputy Prime Minister of the Republic of Kosovo).

Members of the Coordinating Committee of the Association of Albanian Families of the Missing who participated in the Forum

66. Transcripts and video recordings of testimonies of the following victims are available at: www.korekom.org

conveyed the opinion of 19 associations of the families of the missing that it was too early for them to join the Regional coalition, explaining that they needed more time to deal with the needs and expectations of the victims at the national level and after that to review their standing in the broader context of the regional cooperation and initiative to create RECOM.

... It is too early for us to forgive the crime committed against us and it is too early to form a commission which will ultimately ask us to give a forgiving hand. These 19 associations met on Saturday and we agreed that it is too early for us to create a regional commission with those who had committed crimes against us (Bajram Qerkini, member of the Coordinating Committee of the Association of Albanian Families of the Missing in Kosovo).

The Coalition for RECOM was officially established during the Forum and even before that it had already been joined by 120 organizations and 80 individuals from the region.



Picture 2. Fourth Regional Forum, Priština/Prishtinë, October 28th and 29th 2008

4.2. Coalition for RECOM

The Coalition for RECOM, which was officially established during the Fourth Forum held in Priština/Prishtinë, is a network of organizations and individuals advocating the creation of an official, independent, and unbiased regional commission for establishing the facts about war crimes and other serious human rights violations committed on the territory of the former Yugoslavia (RECOM) mandated to investigate and publicly disclose the facts about war crimes, clarify the fate of the missing, and disclose the location of secret mass graves. Members of the Coalition are taking an active part in the consultation process, they initiate debates among representatives from civil society concerning the creation of RECOM, they affirmatively present the idea of RECOM, and take an active part in all events promoting the initiative. In 2008, 205 organizations and individuals from the region became members of the Coalition for RECOM.

Membership in the Coalition is voluntary. One can become a member of the Coalition by signing the Coalition for RECOM Admission Statement and by accepting the values promoting the need to establish and publicly pronounce the factual truth about war crimes and serious human rights violations committed in the past in an effort to help victims restore their dignity. The Coalition will deny membership to or expel any organization or individual proven to have spread national or religious hatred and intolerance or to have propagated any sort of discrimination.

The Coalition launched its website: www.korekom.org in 2008. The website contains information on the course and participation in the consultation process, essays and video recordings from consultations and forums, as well as all relevant texts and documents on the initiative and the experiences of other societies in an effort to establish the truth about past conflicts.

4.3. Strategic planning of the consultation process

HLC and Documenta organized a two-day consultation process planning seminar on December 18th and 19th 2008 which was attended by members of the Coordination Council and eight member of the Coalition for RECOM. The seminar was led by strategic planning expert Jeremy Condor. He helped the partici-

pants establish primary and secondary goals of the consultation process, methods to be used, and the activity road map for the period 2009 – 2010. It was established that the main goal of the consultation process is to compile and submit recommendations for the creation of RECOM and the proposed RECOM model to national parliaments in the region. In order to achieve the primary goal it is necessary to secure the support of the victims and victims' associations, political, financial, and to establish logistical support, a strong and credible Coalition, and build public need for RECOM as well as a compelling and credible RECOM model. The 2009 Activity Plan envisages a number of regional and national consultations and two forums to be held in post-Yugoslav societies.

4.4. Trainings and lectures on mechanisms for establishing and telling the truth

HLC, Documenta, and RDC together with the International Centre for Transitional Justice organized a two-day training on *establishing and telling the truth about war crimes committed in the past* in Belgrade on May 26th and 27th 2008. The training was attended by 36 human rights activists and members of youth organizations, representatives of victims' organizations, and journalist from Serbia, Croatia, BiH, Montenegro, and Kosovo. The training was conducted by transitional justice expert Mark Freeman.

During the training participants were able to watch the film: *Dealing with the Past: transitional societies and truth commissions*, about truth commissions in South Africa, Peru, East Timor, and Morocco.

On December 17th 2008 HLC and the Impunity Watch organized a lecture given by Marlies Stappers who had spent time as a researcher with the Guatemala Commission for Historical Clarification. She spoke about the creation, the mandate, the composition, the structure, and the modes of operation of the Commission, about the participation of victims and human rights organizations in the work of the Commission, about the impact of the Commission on dealing with the violent past in Guatemala, as well as about the application of recommendations made to the government of Guatemala. The lecture was attended by 53 human rights activists from Serbia, Croatia, BiH, Montenegro, and Kosovo.

67. Biographies of members of the HLC Executive Board can be found at: www.hlc-rdc.org

68. See 3.1.2.

69. *Ibid*

70. See 1.1.2.

71. See 3.1.1.

5. HLC Executive Board

The new HLC Executive Board composed of seven members was formed in June 2008 (Dr. Zoran Pajić, professor of international law, President of the Board and members: Iavor Rangelov, PhD candidate at the Centre for the Study of the Global Governance, London School of Economics, Nora Ahmetaj, Master of Philosophy, Tea Gorjanc-Prelević, Master of International Law, Ivanka Kostić, director of non-governmental organization *Praxis*, Florence Hartmann, journalist, and Nataša Kandić, Executive Director of the Humanitarian Law Center).⁶⁷

The HLC Executive Board is authorized to analyse and adopt the annual programmatic and financial reports and the HLC programme.

At its first meeting held on June 17th 2008, the HLC Executive Board adopted the Rules of Procedure, the HLC 2008 – 2010 Programme, the 2007 Activity Report, and the 2007 Financial Report. The following day the HLC Executive Board held its first press conference.⁶⁸

The Board held another meeting on October 30th 2008 and one more press conference. Nataša Kandić, Dr. Zoran Pajić, and Florence Hartmann spoke to the press.⁶⁹

6. Internships

Four students did internships with HLC in 2008: Emiliano Gjika [Albania], Ilaria Scaglia [Italy], Vesna Andrić [Serbia] and Harry Hayball [United Kingdom]. Emiliano Gjika, Open Society Institute scholarship recipient, Ilaria Scaglia and Vesna Andrić worked on the mapping war crime perpetrators project.⁷⁰ Harry Hayball helped prepare the *Brčko '92 – Beyond Reasonable Doubt*⁷¹ conference and conducted research on the mandate of truth commissions around the world.

7. Donor support

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In 2008, Konsultant Revizija audited HLC's 2007 accounts without raising any queries.

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