

Benchmarking: AI's recommendations

Benchmarks needed to be developed separately for each of the five countries as the human rights situation in each country is different. Such benchmarks should be created on the basis of the EU Guidelines on Human Rights. AI welcomed the fact that the draft strategy made reference to these guidelines as the basis for the human rights dialogues, but recommended that those specific guidelines relevant to the region were spelt out in the strategy. In AI's opinion the most relevant were the:

*EU Guidelines on Human Rights Defenders;

* EU Guidelines on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

* EU Guidelines on the Death Penalty.

AI urged the EU to call for the implementation of those international human rights conventions which have already been ratified by the Central Asian states, and to ratify and implement other core international human rights conventions and optional protocols. These included the 1951 Refugee Convention, which has not been signed and ratified by Uzbekistan, or the First Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP CAT), which none of the Central Asian states was party to.

Based on AI's assessment of the specific human rights situation in each country, the organization strongly recommended that the benchmarks which needed to be developed before the start of the human rights dialogues should include the following areas of concern where relevant:

*immediate and unconditional release of prisoners of conscience;

*protection of human rights defenders, civil society activists and independent journalists;

*guaranteeing freedom of expression;

*effectively combating torture and ill-treatment, including addressing impunity of law enforcement personnel;

*guaranteeing fair trial standards;

*providing unfettered access to the International Committee of the Red Cross to all detention facilities and allowing public monitoring of all detention facilities;

*abolition of the death penalty or immediate introduction of a moratorium on executions pending abolition;

Adoption of the strategy

At the end of June following its General Affairs and External Relations Council (GAERC) meeting the EU adopted a Central Asia strategy. The EU Council Conclusions stated that the strategy would serve as an overall framework for EU relations with Central Asia. Human rights, the rule of law, good governance and democracy were to form the basis of these relations. The strategy was said to define the EU's priorities for its cooperation with the region as a whole, but implementation would be tailored to specific requirements and performance of each Central Asian state. The strategy established Human Rights Dialogues with all five republics. The EU also stated its intention to develop relations with the regional countries in education, economic development, trade and investment, energy and transport, environmental policies, migration and inter-cultural dialogue.

The European Council asked the Council and the Commission to submit a first progress report on the Central Asian strategy's implementation in a year by the middle of 2008. [Please see note below]

Prior to the June meeting AI had written a letter to the German Foreign Minister in his capacity as President of the Council of Ministers of the EU to remind him of the organization's major recommendations for the Central Asia strategy and to strongly recommend that the benchmarks which needed to be developed before the start of each of the human rights dialogues should include AI's most pressing concerns where relevant, e.g. fair trial standards, release of prisoners of conscience, combating torture, addressing impunity and abolition of the death penalty.

CROATIA

General and political developments

Croatia continued to pursue the objective of full integration into the European Union (EU). At the end of the period under review, 10 negotiating chapters of the *acquis communautaire* (the body of EU common rights and obligations that candidate countries must accept) had been opened. The main purpose of the negotiations is to demonstrate Croatia's capacity to adopt EU law and to translate each of the 35 chapters of the *acquis communautaire* into national legislation.

The future of the Organization for Security and Co-operation in Europe (OSCE) Mission to Croatia continued to be discussed, after the Mission's activities in the areas of media and electoral legislation, police reform, civil society development and political and educational rights of minorities had ceased in December 2006. AI wrote in May to key OSCE member countries urging them to ensure that ongoing discussions on the future of the OSCE Mission to Croatia be conducted taking into account the significant gaps that remain in the areas of rule of law and war crimes investigations and prosecutions (see below). AI called for continued international human rights monitoring and assistance in these areas, including through an international presence on the ground with a significant human rights component. In her statement to the UN Security Council in June, the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (Tribunal) stated that "[s]ince the question whether the OSCE should continue to monitor trials in Croatia is being debated, I wish to re-affirm the importance of the monitoring process carried out by the OSCE and recommend that it pursue this activity in Zagreb".

War crimes and crimes against humanity (update to AI Index: EUR 01/001/2007)

International prosecutions

In February the Tribunal found Croatian freelance journalist Domagoj Margetić guilty of contempt of the Tribunal. He was sentenced to three months' imprisonment and to a fine of 10,000 Euros for having published on his internet site a complete confidential witness list containing the names of

witnesses who had testified in the case against Croatian Army General Tihomir Blaškić, which included a significant number of protected witnesses. The identity of protected witnesses had been also revealed in a number of accompanying articles by Domagoj Margetić.

In March the Tribunal's Appeals Chamber rejected an Appeal by Vladimir Kovačević against a decision in November 2006 of the Tribunal's Referral Bench ordering the transfer of his case to Serbia. The accused, a former commander of the Yugoslav People's Army, was suspected of having committed war crimes, including murder, cruel treatment and attacks on civilians, during an attack on the Croatian City of Dubrovnik. Vladimir Kovačević had been declared unfit to stand trial in 2006 on mental health grounds.

In June Milan Martić, who held various leadership positions in the self-proclaimed Serbian Autonomous District (Srpska autonomna oblast, SAO) and Republic of Serbian Krajina (Republika Srpska Krajina, RSK) was found guilty of various counts of crimes against humanity and war crimes, including persecutions, murder, torture, deportation, forcible transfer and attacks on civilians, and sentenced to 35 year's imprisonment, for his role in crimes committed against non-Serbs in areas under Croatian Serb control. He was acquitted of the charge of extermination as a crime against humanity. The Tribunal *inter alia* found that Milan Martić took part in a joint criminal enterprise whose purpose was "the establishment of an ethnically Serb territory through the displacement of the Croat and other non-Serb population".

Domestic investigations and prosecutions

A considerable number of trials for war crimes continued or started before Croatian courts and the Croatian judiciary continued to actively investigate and prosecute war-time human rights violations. However, in the vast majority of cases, criminal proceedings were related to cases where the victims were ethnic Croats. The practice of holding trials *in absentia* continued, usually against Croatian Serb accused. There continued to be widespread impunity for crimes allegedly committed by members of the Croatian Army and Croatian police forces, despite some steps taken

with a view to investigating and prosecuting cases of war crimes against Croatian Serbs.

Proceedings against Branimir Glavaš for his alleged involvement in war crimes, including murders, committed against Croatian Serb civilians continued. Following an earlier suspension of proceedings in December 2006, due to a reported deterioration in the suspect's health after a hunger strike, Branimir Glavaš was again declared fit to follow proceedings in February. In April an indictment was issued by the office of the Osijek County Prosecutor in the so-called "Sellotape" case, charging Branimir Glavaš and six other indictees with the unlawful arrest, torture and killing of Croatian Serb civilians in Osijek in 1991. In May he was also indicted in a second case, the so-called "Garage" case, which had been transferred to the Zagreb County Court in 2006. The indictment alleges that, in 1991, in his capacity as secretary of the Osijek Municipal Secretariat for National Defence and commander of the First Osijek Battalion, Branimir Glavaš failed to prevent his subordinates from detaining, ill-treating and killing civilians and directly participated in some of the crimes. Also in May, the Croatian Supreme Court decided the transfer of the "Sellotape" case as well to Zagreb, following a request by the Chief State Prosecutor, aimed *inter alia* at reducing pressure on witnesses. Branimir Glavaš had formerly been a local leader of the ruling Croatian Democratic Union (Hrvatska demokratska zajednica, HDZ) Party in the Osijek region.

In a separate case, after proceedings at the Osijek County Court which ended in March, two former members of Croatian forces were sentenced to 14 and three years' imprisonment for their roles in war crimes, including murders, committed against Croatian Serbs in the Osijek region in 1991.

Despite significant developments with regard to crimes committed against Croatian Serbs in Osijek, in other areas there was no progress in tackling impunity for crimes allegedly committed by members of the Croatian Army and police forces. Proceedings in Sisak, for example, remained still at the "pre-investigative" stage. According to local organizations, more than 100 people, mostly Croatian Serbs, were victims of murders or enforced disappearances allegedly committed in 1991-92 by Croatian forces.

In June the trial started at the Zagreb County Court against Rahim Ademi and Mirko Norac. The accused are former Croatian Army commanders and are suspected of having committed war crimes against Croatian Serbs during military operations in the so-called "Medak pocket" in 1993. Their case had been transferred by the Tribunal to Croatia in November 2005.

Missing persons and enforced disappearances (update to AI Index: EUR 01/001/2007)

Despite the recent creation in 2006 of a unified list of approximately 2,100 persons who went missing during the war, in various public statements, the Croatian authorities continued to claim that they were still searching for approximately 1,100 missing persons, mostly from the first phase of the 1991-95 war. This figure does not include people, mostly Croatian Serbs, who went missing during military operations "Storm" and "Flash" in 1995.

Many of those reported as missing are believed to be victims of enforced disappearances. Impunity for these crimes, especially with regard to those allegedly committed by the Croatian Army and Croatian police forces, remained widespread.

In June the remains of approximately 160 people, were reportedly exhumed from a mass grave in the town of Petrinja. The mortal remains were believed to be those of Croatian Serbs killed during military operation "Storm".

Right to return (update to AI Index: EUR 01/001/2007)

At least 300,000 Croatian Serbs left Croatia during the 1991-95 war, of whom only approximately 130,000 are officially registered as having returned. This figure is widely considered to be an overestimation of the real numbers of those who have returned and remained in Croatia. A survey commissioned by the United Nations High Commissioner for Refugees (UNHCR) and published in May estimated that less than half of registered returnees live in Croatia.

Croatian Serbs continued to be victims of discrimination in access to employment and in realising other economic and social rights. Many Croatian Serbs, especially those who formerly

lived in urban areas, could not return because they had lost their occupancy/tenancy rights to socially-owned apartments. Implementation of existing programmes to provide "housing care" to former occupancy/tenancy rights holder remained slow. According to the OSCE Mission to Croatia, approximately 8,500 applications for "housing care" were pending at the end of the period under review, despite pledges by the authorities to accelerate the processing of applications. Among those who had formerly lived in private properties, and who have formally reposessed their homes, some could not return because their homes had been rendered uninhabitable by looting and devastation.

In May the Croatian Government adopted a Civil Service Employment Plan setting targets for the employment of members of minority communities in the public administration. Despite provisions in the Constitutional Law on the Rights of National Minorities providing for proportional representation of minorities in the State administration, progress in this area has been slow.

Impunity for past serious ethnically motivated attacks continued, including the murder in 2005 of an elderly Croatian Serb man in Karin, near Zadar. To AI's knowledge, no progress was made in the investigation of this crime.

Discrimination against Roma

Members of Romani communities in Croatia lacked full access to primary education, especially in geographical areas not covered by existing governmental and other programmes to promote the inclusion of Roma in education.

Although "Roma only" classes were increasingly rare, Romani children still experienced discriminatory treatment because of teachers' negative stereotyping and low expectations. Romani children with little or no command of the Croatian language faced extreme difficulties when they started school. The languages spoken by Roma in Croatia were not used in schools, unlike other minority languages. The majority of Romani children remained excluded from pre-school programmes (see also AI Index: EUR 05/002/2006).

In June a report supported by the Open Society Institute, a non-governmental organization, and the World Bank, presented an assessment of progress in implementing the objectives to which countries taking part in the Decade of Roma Inclusion have committed. Croatia ranked sixth out of nine countries which have joined the Decade of Roma inclusion. The report highlighted that the authorities have introduced a range of measures, especially with regard to education, which however remain sporadic and need to be integrated into more systemic policies. The report further noted that "Croatia does not have a systematic policy to deal with the challenges of improving the health status among the Roma population". The Decade of Roma Inclusion is a regional intergovernmental initiative launched in 2005 "to reduce disparities in key economic and human development outcomes for Roma through implementing policy reforms and programs designed to break the vicious cycle of poverty and exclusion".

In May, in the case of *Šečić v. Croatia*, the European Court of Human Rights found Croatia in violation of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), prohibiting torture or inhuman or degrading treatment or punishment, as well as of Article 3 in conjunction with Article 14, the latter prohibiting discrimination in the enjoyment of the rights and freedoms set forth in the European Convention on Human Rights. Šemso Šečić, a Romani man, had been attacked in 1999 by two men who beat him all over his body with wooden planks shouting racial abuse and, as a result, had sustained multiple rib fractures. Following the attack, the Croatian authorities failed to promptly, thoroughly and impartially investigate this crime, whose perpetrators have remained unpunished.

Violence against women (update to AI Index: EUR 01/001/2007)

Croatia was reported as being increasingly a country of destination for women and girls victims of trafficking for the purpose of sexual exploitation. It remained a country of transit for trafficking victims. In April the Delegation of the EU Commission to Croatia and the Office of Human Rights of the Government of Croatia presented a

EU-funded project to combat trafficking in human beings. The project *inter alia* aims at improving coordination between the Croatian police forces and the office of the State Prosecutor in investigating and prosecuting the cases of trafficking in human beings as well as the cooperation among law enforcement agencies, social welfare institutions, non-governmental organizations and international organization, with the aim of improving protection for victims of trafficking.

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

In March the CPT published its report following a visit in 2003 to a number of detention facilities and social care and psychiatric establishments. The CPT found that allegations of ill-treatment of persons in police custody, although diminishing in number since the last CPT visit, continued to remain a problem. The CPT also received allegations of ill-treatment of detainees in prison establishments in Osijek, Split, and in the Lepoglava Prison. The CPT *inter alia* called on the Croatian authorities to ensure that senior police officers remind their subordinates that ill-treatment, including verbal abuse, is not acceptable and will be the subject of severe sanctions; a thorough and independent inquiry is carried out into the allegations of ill-treatment of inmates by prison staff at Split County Prison in April 2003; and a clear message is delivered to prison officers in establishments throughout the country that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions.

CZECH REPUBLIC

Ratifications

The Czech Republic remained the only European Union (EU) member state not to have ratified the Statute of the International Criminal Court.

Discrimination against Roma

The Romani minority continued to face discrimination at the hands of public officials and

private individuals. On 26 April, a poll from the STEM agency showed the prevalence of prejudice against Roma. Only one out of 10 respondents said that Romani neighbours would not become a problem for them. Some 40 per cent said that Romani neighbours would be unacceptable for them, 26 per cent considered such a situation difficult, and 24 per cent said they would not feel good about having Romani neighbours. The percentage of those who consider Romanies as neighbours unacceptable has risen from 32 to 40 per cent during the last two years, according to STEM. Another STEM released on 4 May showed that more than two-thirds of Czechs have a negative relationship to Roma and only one in 20 assesses Roma positively.

On 11 June, the government approved a new anti-discrimination bill, which should have been passed three years ago when the Czech Republic joined the EU. The law still has to be approved by parliament, where a previous anti-discrimination proposal fell when the Senate objected to its vagueness and pledges of affirmative action.

Review by CERD

On 10 April, the UN Committee on the Elimination of Racial Discrimination (CERD) made public its concluding observations on the Czech Republic's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination. The CERD raised concerns about allegations of ill-treatment by police officers of Roma, in particular children, their placement in detention and coercion into confessing minor crimes.

The CERD also noted the particularly high unemployment among Roma and the fact that Roma face persistent discrimination in recruitment. On housing, the CERD raised concerns about the particularly vulnerability of Roma to evictions and segregation in housing, and regretted that the Czech Republic had not taken sufficient action to tackle this issue. The CERD mentioned the autonomy of municipalities under domestic law as an obstacle to the fulfilment of its obligations to ensure the enjoyment of the right to housing by all without discrimination. It was further concerned that domestic regulations did not clearly prohibit racial