



**Fond za humanitarno pravo**  
dokumentovanje i pamćenje

**Humanitarian Law Center**  
Documentation and Memory

# **Humanitarian Law Center Annual Report 2006**

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## Introduction

The Humanitarian Law Center (HLC) is actively helping countries formed on the territory of the former Yugoslavia establish the rule of law and accept the legacy of their past marked by mass human rights abuses committed during armed conflicts on their territories, in order to prevent the recurrence of such crimes, establish the criminal responsibility of perpetrators, and serve justice.

In order to do this, in 2006 not only did HLC continue implementing transitional justice projects initiated several years ago, but it also started new projects such as reparations for victims of human rights abuses committed during armed conflicts on the territory of the former Yugoslavia. All projects support the programmatic structure of the organisation, which comprises three pillars: *Documentation and Memory*, *Justice and Institutional Reform*, and *Public Information and Outreach*.

### 1. Documentation and Memory

Projects and activities in this programme unit are research-based involving the collection of data on war crimes, in order to identify victims and perpetrators, prevent the manipulation of victims, support domestic war crimes trials, and build a reliable data base which will help establish historical memory. In order to be more efficient in pursuing these goals in 2006, HLC intensified its activities in compiling, archiving, and entering data and documentation collected during armed conflicts into the War Crimes Data Base.

In 2006 HLC continued collecting data on the victims from the conflict in Kosovo by hiring additional researchers for field work, both in Kosovo and in Serbia, as well as by hiring analysts tasked with analyzing and entering data contained in witness statements and other relevant documents such as the trial transcript of the trial of the late Slobodan Milošević.

#### ***1.1. The Record of the Killed and Missing in Kosovo: January 1998 – December 2000***

According to independent sources, the number of Albanians killed in Kosovo is between 8,000 and 10,000 while 1,700 Albanians are still missing.<sup>1</sup> It is estimated that 2,500 Serbs, Montenegrins, Roma, Ashkali, Egyptians, Bosniaks, and Turks were killed during the armed conflict and from June 1999 until the end of 2000, while 500 non-Albanians are missing.<sup>2</sup>

A record of all victims, containing individual names as well as specific circumstances of their demise, prevents political abuse and manipulation of the number of victims, helps the society deal with the facts concerning the plight of others, and builds a culture of remembrance.

The project encompasses the period of armed conflicts in Kosovo from the beginning of 1998 until June 1999 and the post-conflict period from June 1999 until end of

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<sup>1</sup> HLC, November 15, 2005

<sup>2</sup> HLC, November 15, 2005

2000, characterised by a large number of killings and disappearances of Serbs and Albanians considered by the Kosovo Liberation Army (KLA) to be collaborators with the Serb authorities.

The project is implemented in Serbia and in Kosovo. The HLC-Kosovo research team is conducting investigations in Kosovo concerning the murder and disappearance of Albanians, Bosniaks, Turks, Roma, Ashkali, and Egyptians, as well as Serbs whose information can be obtained from witnesses living in Kosovo. In Serbia, information is gathered about the killed and missing Serbs, Roma, Albanians, and members of other ethnic communities who left Kosovo after the withdrawal of the Republic of Serbia security forces from Kosovo in June 1999. Also, HLC-Serbia is engaged in collecting information on the killed members of the Ministry of the Interior (MUP) of the Republic of Serbia, members of the Yugoslav Army (VJ), and volunteers.

#### ***1.1.1. Data gathering methodology***

The basic method of gathering data consists of taking statements from witnesses, victims' family members or other persons who have direct or indirect knowledge of killing or disappearance of civilians, members of regular armed formations of the parties to the conflict, as well as volunteers and members of paramilitary formations. Also, information on the killed and missing is collected from other relevant sources such as trial transcripts from the trial of Slobodan Milošević, the trial of Fatmir Limaj, as well as the trial of Ramush Haradinaj held before the ICTY, reports of Serbian and Albanian media, books, magazines, reports by domestic and foreign human rights non-governmental organisations, tomb inscriptions, obituaries, information received from victims' associations, as well as reports by state-sponsored commissions on the killed and missing. It is a self-imposed HLC standard to double check all data obtained from other sources in at least two independent sources.

Researchers and project associates use the existing HLC documentation on war crimes committed in Kosovo which had been collected by HLC researchers during or shortly after the armed conflict in Kosovo.

Data on the killed and missing is entered into the War Crimes Data Base which can be searched by the name of the victim, witness, or perpetrator, their nationality, by place where the crime took place, by place where the missing person was last seen, or according to the type of the violation of the international humanitarian law (murder, kidnapping, disappearance).

From January 1, 2005 until December 31, 2006, when the project first started, HLC registered a total of 9,702 victims, killed and missing in the armed conflicts in the period from 1998 until June 9, 1999 when the Kumanovo Agreement was signed, and those killed and missing in revenge motivated attacks from June 9, 1999 until the end of 2000.

#### ***1.1.2. Research in Kosovo and in Serbia in the period January 1, 2005 - December 31, 2006***

In the reporting period HLC researchers registered a total of 8,934 victims. Out of that number 3,686 are civilians (2,545 Albanians, 1,012 Serbs, 64 Roma, six (6)

Montenegrins, 11 Ashkali, 13 Goranci, 20 Bosniaks, seven (7) Turks, one (1) Macedonian, one (1) Czech, one (1) Slovenian, and five (5) civilians of unknown ethnicity; 26 armed civilians (12 Albanians, four (4) Roma, and 10 Serbs); 684 soldiers (367 members of VJ – 354 Serbs, one (1) Roma, one (1) Bosniak, five (5) Hungarians, one (1) Russian, one (1) Bulgarian, and four (4) VJ members of unknown ethnicity, and 317 KLA members – all Albanians); 246 Serbian MUP members (21 Albanians, 215 Serbs, one (1) Montenegrin, one (1) Bosniak, one (1) Roma, three (3) Hungarians, and four (4) policemen of unknown ethnicity); 4,292 victims of unknown status (1,538 Albanians, 519 Serbs, seven (7) Roma, five (5) Bosniaks, one (1) Turk, two (2) Macedonians, and 2,220 victims of unknown ethnicity, too). 4,433 victims are ethnic Albanians, 2,210 are Serbs, 77 are Roma, seven (7) are Montenegrins, 11 Ashkali, three (3) Macedonians, eight (8) Hungarians, eight (8) Turks, 27 Bosniaks, 13 Goranci, one (1) Russian, one (1) Bulgarian, one (1) Czech, one (1) Slovenian, and 2,233 victims of unknown ethnicity.

8,934 victims were registered based on the contents of 2,448 documents: 1,736 witness statements (680 of these statements were collected during the reporting period, while 1,056 statements were collected during and after armed conflicts in Kosovo; 588 documents from other sources; three court exhibits (written documents) presented by the Office of the Prosecutor of the ICTY during trial of Slobodan Milošević; 38 statements of witnesses who testified in the trial of Slobodan Milošević according to Rule 92bis, as well as two indictments raised by the Office of the War Crimes Prosecutor of the Republic of Serbia for war crimes committed against Albanian civilians in Podujevo and Suva Reka.

The real number of victims will be established in 2007 when the War Crimes Data Base obtains a module necessary for data filtering. As estimated by researchers/analysts, out of a total of 9,702 victims, at least 2,000 names are entered twice from the contents generated by different sources.

A total of 803 victims' photographs have been collected.

### **Review of registered victims according to their status and ethnicity**

Status	Albanians	Serbs	Roma	Montenegrins	Czech	Goranci	Turks	Hungarians	Ashkali	Bosniaks	Macedonians	Russians	Bulgarians	Slovenians	Unknown	Total
civilians	2545	1012	64	6	1	13	7		11	20	1			1	5	3686
soldiers		354	1				5			1		1	1		4	367
KLA	317															317
policemen	21	215	1	1			3			1					4	246
armed civilians	12	10	4													26
unknown	1538	519	7				1			5	2				2220	4292
Total	4433	2110	77	7	1	13	8	8	11	27	3	1	1	1	2233	8934

#### ***1.2. A collection of oral history records of the past in the form of video interviews***

In view of the fact that the ICTY and national courts will hold trials for only a small number of war crimes perpetrators, it is necessary for the NGOs to continue documenting war crimes in order to help create a complete record of war crimes.

In 2006 HLC started taking oral history statements about past events which are the subject of current war crimes trials held in Serbia: the trial of members of the

*Scorpions* unit and the *Zvornik* case. Also, an interview was made with a former prisoner of the *Lora* detention camp in Split.

#### ***1.2.1. Oral history records of the victims of the Scorpions unit***

The trial of the five *Scorpion* members was held throughout 2006 before the War Crimes Trial Chamber of the Belgrade District Court for the execution of six Bosniaks from Srebrenica in July 1995 near Godinjske Bare on Mount Treskavica. HLC took advantage of the fact that victims' family members monitored the trial and offered them an opportunity to speak in front of a camera about their last contact with the victims (son, brother, father, or husband), about their efforts to find out the truth, and their emotions during the trial. Based on this material, HLC plans to create a video recording dedicated to the six victims executed by the members of the *Scorpions* unit. Victims' family members welcomed the idea and the first interview was made with Nura Alispahić, mother of Admir, a minor, executed by the *Scorpions*. After that, another three family members who monitored the trial were interviewed: son of Smajlo Alispahić, son of Sidik Salkić, and sister of underage boy Saib Salkić, and seven interviews were made with members of the Women of Srebrenica Association. Once the two remaining victims are identified, HLC will interview their family members.

#### ***1.2.2. Oral history records of the Bijeli Potok victims***

In 2006 HLC began creating oral history records about the *Zvornik* events. HLC interviewed members of the Association of the families of killed and missing, all residents of *Zvornik*, who are monitoring the trial of five persons accused of war crimes committed in the *Zvornik* municipality, held before the War Crimes Trial Chamber of the Belgrade District Court. HLC oral history researcher conducted five interviews with members of this Association and another ten interviews are scheduled for 2007 with families of men separated from their families in *Bijeli Potok* and imprisoned in the Technical High School Center in *Karakaj*, *Zvornik*, where they were executed in groups. Based on these interviews HLC intends to make a 30 minute long video recording about the fate of 700 Bosniak men separated from their families in *Bijeli Potok* on June 1, 1992.

#### ***1.2.3. Oral history records of victims imprisoned in the military prison Lora***

In 2006 HLC conducted the first interview about the military prison *Lora* (Croatia), where Serbs were held and tortured in 1991 and 1992. HLC discontinued interviewing about *Lora* because Nenad Puhovski, a Croatian film director, has already made a documentary about the *Lora* prison.

### ***1.3. Monitoring the respect for human rights of ethnic minorities in Kosovo***

Since UNMIK was established following the signing of the Kumanovo Agreement on June 9, 1999, until the end of 2000, a large number of ethnically motivated incidents was recorded. HLC regularly monitors respect for human rights of ethnic minorities in Kosovo, producing reports, and providing recommendations aiming at improving the protection of human and minority rights to the Kosovo and UNMIK institutions.

In the course of 2006, HLC – Kosovo research team interviewed 262 members of ethnic communities and representatives of local government and discussed issues of the respect for the right to freedom of movement and security, right to access administrative institutions and the right to use one's own language while communicating with local and central government institutions, social issues, employment opportunities, education in the languages of local minorities, the right to use one's private property, the right to take part in political life, and the return process. They were also asked about the future Kosovo status negotiations and the issue of decentralisation.

Based on field reports, analysis of the Constitutional Framework for Provisional Self-government (the Law on the use of language, the Law on the right to access to official documents, Decree on the establishment of the Housing and Property Directorate, Housing and Property Claims Commission, the Act on the change of the right to ownership of publicly owned real estate property, the Law on electronic media, the Law on the Radio Television of Kosovo), and the OSCE report on the use of minority groups' languages in Kosovo in 2006 from December 2006 (December 2006), HLC – Kosovo research team compiled a draft "Ethnic Communities in Kosovo in 2006" report which was later edited by the HLC Programme Manager. The report consists of 14 chapters: introduction, resume, the respect for the right to freedom of movement and security, ethnically motivated incidents, access to administration and courts – official use of ethnic minority languages, access to health and social services, employment, education, access to one's property, public information, participation in political life, the right to return, decentralisation, future Kosovo status negotiations, and recommendations. The report is to be discussed at a round table organised by the HLC – Kosovo at the beginning of 2007.

HLC – Kosovo research team members inform the media about their findings by giving statements to Serbian, Kosovo, and foreign media (Radio Television Kosovo – Serbian language programme, Radio Television "Yeni Donem", Radio Kosovo, Radio Blue Sky, Radio Deutsche Welle – Serbian language programme, Koha Ditore, Alem – magazine in Bosnian language, BETA news agency, daily Danas, daily "Yeni Donem", and Radio Free Europe).

#### ***1.4. Collecting materials for the creation of historical memory***

##### ***1.4.1. War Crimes Data Base***

The backbone of the ***Documentation and Memory*** programme unit is the War Crimes Data Base, where all documents generated by the HLC (witness statements) and all other war crimes related documentation collected by HLC is entered. The goal of the HLC is to create a powerful, reliable War Crimes Data Base which will be used as a basis for the creation of historical memory, and which will be open for the survivors, victims' family members, researchers, and experts. The Data Base is the starting point for researchers because it offers opportunities to obtain detailed reports which link perpetrators, victims, locations of the crime, and categories of international humanitarian law violations. Also, it offers statistical analyses and reports on incidents, victims, perpetrators, and types of international humanitarian law violations.

From October 2004, when the Data Base project began, until the end of December 2006, a total of 11,077 documents had been entered, 5,735 of which are hard-copy documents and 5,342 are electronic documents. HLC is the primary source of 4,198 documents (3,388 witness statements, 555 reports, and 255 letters, press releases, and other documents); 362 are transcripts from the trials held before the ICTY (transcript from 298 days of trial of Slobodan Milošević and transcript from 64 days of the trial of Mitar Vasiljević), 275 witness statements given according to Rule 92bis, 312 exhibits presented in the Milošević case and 75 exhibits presented in the Limaj case, and 14 ICTY documents (judgments, indictments, decisions made by the Trial Chamber, submittals, etc.); 3,191 are documents generated by national courts (indictments, judgments, transcripts, minutes from the hearing, submittals, court resolutions, etc.), and 2,638 documents from other sources (reports by domestic and international human rights NGOs, reports by state commissions on the killed and missing).

#### ***1.4.1.1. War Crimes Data Base expansion in 2006***

In the period January – December 2006, researchers and analysts of the HLC Data Entry and Analysis Team (DEAT) entered a total of 2,773 documents into the Data Base. In 2006 the Data Base was primarily developed through ***The Record of the Killed and Missing in Kosovo: January 1998 – December 2000*** project, and the researchers and analysts entered primary documentation collected by HLC – Kosovo and HLC – Serbia researchers. In 2006 a total of 746 witness statements were analysed and entered into the Data Base, 803 photographs of victims, perpetrators, witnesses, monuments honouring killed soldiers, civilians, destroyed and damaged buildings, as well as 588 other documents (reports by Serbian and Albanian media, books, magazines, reports of domestic and foreign human rights NGOs, tomb inscriptions, obituaries, information obtained from various victims associations, and the reports issued by state commissions of the killed and missing).

HLC also entered into the database the following: 46 witness statement collected within the “Reparations” project and five transcripts of interviews collected by applying the oral history method, transcripts of 136 trial days in B/C/S in the Milošević case held before the ICTY, 31 witness statement in the Milošević case; 312 exhibits in cases Milošević and Limaj; transcripts of 87 trial days in the Milošević case and 14 judgements and indictments of the ICTY, as well as three indictments of the Office of the War Crimes Prosecutor of the Republic of Serbia, and two judgments handed down by the War Crimes Trial Chamber of the Belgrade District Court.

#### ***1.4.2. ICTY documentation transfer***

Based on the agreement between the HLC and the ICTY Secretariat, signed in November 2004, and with the financial support of USAID, by the end of 2006 HLC had recorded and made copies of a total of 2,717 trial days held before the ICTY and to copy 30,104 exhibits. The two technicians of the Hague Archive Transfer Team (HATT) are responsible for copying of the ICTY archive and recording new trials, and one person in HLC – Belgrade office receives documentation and makes copies.

The goal of the ***ICTY documentation transfer*** project is to transfer public ICTY archives to HLC offices and organise it to be easily accessible for domestic



prosecutors, survivors, and victims' families, experts, and all interested parties, including future generations. From the beginning of 2005, when the project officially began, until the end of 2006 a total of 2,092 trial days in 49 different cases have been copied. In 2006 alone 1,819 trial days in 48 different cases have been copied.

In the reporting period HATT recorded 24,573 documents in English, B/C/S, and Albanian languages (witness statements, exhibits, expert reports, and supporting court documentation).

#### ***1.4.3. Written documentation archiving***

Two archivists-associates continued archiving HLC generated written documentation in 2006. Documentation is archived in compliance with adopted archiving standards in specially designated storage spaces, while only basic information about each of these documents are entered into the War Crimes Data Base: name, source, date and place where document is generated, as well as an archiving address (alphanumeric markings for easy search within specific storage spaces).

Until the end of 2006 5,735 hard copy documents have been stored, the majority of which are documents concerning war crimes and human rights abuses trials conducted before national courts in the region – a total of 3,191 document: 234 indictments, 271 judgment, 348 trial transcripts, 491 main hearing minutes, 449 witness testimony minutes, 226 defendant testimony minutes, 463 court resolutions, and 709 supporting court documentation (court decisions to initiate investigations, motions to conduct investigations, certificates, etc.). The office of the Ombudsperson in Kosovo is the primary source of 1,133 archived documents, HLC is the primary source of 494 documents (244 witness statements, 177 reports, and 73 trial reports), 482 news articles, and 435 other documents (medical expert reports, requests, criminal complaints, correspondence, agency reports, etc.).

A total of 3,326 hard copy documents were archived in the course of 2006: 56 national indictments, 55 judgments, 189 transcripts of trials held before the War Crimes Trial Chamber of the Belgrade District Court, 748 court minutes (witness testimony minutes, defendant testimony minutes, 57 court decisions (decisions to initiate investigations etc), 1,433 property infringement complaints (property restitution requests), 353 news articles, and 435 supporting documents (authorisations, appeals, requests, certificates, press releases, etc.).

## **2. Justice and Institutional Reform**

HLC supports war crimes trials in Serbia through the following activities: legal representation of victims of war crimes, preparation of documents for the use of prosecutors and judges involved in war crimes trials, encouraging witnesses to take part in legal proceedings, offering psychological support to victims/witnesses, arranging the arrival of victims' family members to attend trials, preparation of transcripts of trials held before the ICTY in B/C/S languages, writing reports from war crimes trials in which HLC is representing victims, and reporting on trials that HLC monitors.

## **2.1. War crimes trials in Serbia**

In 2006 HLC monitored only one war crime trial in Serbia in the case of Anton Lekaj, held before the War Crimes Trial Chamber of the Belgrade District Court. HLC did not represent victims/witnesses in this trial. Anton Lekaj is charged with illegal detention, murder, torture, violation of bodily integrity, rape, and inhuman treatment constituting war crimes against civilian populations, which he committed together with other members of KLA (OVK, UCK).

In December 2006 HLC published a report on war crimes trials in Serbia, which, in addition to basic information about each trial, contained a critical analysis concerning the indictment and the Prosecutor's Case-in-Chief.

### **2.1.1. *Scorpions* Case**

The trial of the commander and four members of the *Scorpions* unit started on December 20, 2005 and 33 main hearings had been held by the end of 2006.

What is unusual about this case is that the Prosecutor, contrary to court practices, amended the indictment in the middle of his Case-in-Chief, before the Court showed the VHS recording of the execution as evidence and before expert analysis of the tape. The video recording and expert report which contains the transcript of the conversation of the accused during the execution of six Muslim men prove beyond reasonable doubt that all of the accused acted as accomplices and that not one of them showed any hesitation with respect to the execution. On the contrary, they cursed the prisoners, insulted them, kicked them, refused to give them water, kept telling them openly that they were going to be executed, and demonstrated pride and euphoria over a job well done. It is clear from the transcript that they were waiting for the accused Vukov, deputy commander of the unit, to come from his position in order to discuss the execution, which is contrary to Vukov's testimony that he was on his way to provide food for his unit. The video recording also shows that after the arrival of Vukov at the execution site, he and the defendant Petrašević talked confidentially in a low voice, away from the rest of the group. That is an indication that they did not discuss food packages but other matters, especially because no food was brought from the command post to that place. Apart from that, the accused Vukov, who goes back to his position, leaves two of his attendants to attend the execution until the end.

In the initial indictment the Prosecutor defined the *Scorpions* unit as a paramilitary unit formed by the Oil Industry of Republika Srpska Krajina (NIRSK), which acted within the Army of Republika Srpska Krajina, and in the Trnovo war zone it was under the command of the Army of Republika Srpska officers, and again repeated this categorisation in the amended indictment. This is both a logical and a legal misrepresentation since a paramilitary unit cannot act within a regular military unit and receive orders from another, also, regular military unit.

Contrary to the indictment, written exhibits of the Office of the Prosecutor of the ICTY demonstrate the fact that in the Trnovo war zone *Scorpions* acted as a MUP Serbia unit. Various correspondence, telegrams, and orders signed by the former Republika Srpska Interior Minister, Tomislav Kovač, and other high officials of the Republika Srpska MUP, explicitly mention *Scorpions* as a MUP of the Republic of

Serbia unit. Some telegrams even contain personal information of the MUP Serbia members who were wounded in the Trnovo war zone and transferred either to a hospital in Foča or to the Military Medical Academy (VMA) in Belgrade. It is necessary to conduct a hearing of these persons in order to determine the truth about the status of the *Scorpions* unit. The Trial Chamber, however, refused such a motion submitted by the victims' legal representatives.

### **2.1.2. Zvornik Case**

The Zvornik case was transferred from the ICTY to the Office of the War Crimes Prosecutor of the Republic of Serbia while it was still in the investigative stage. There had been 46 main hearings by December 2006. The indictment raised by the domestic Office of the Prosecutor in August 2005 specifies the conflict on the territory of Bosnia and Herzegovina (BiH) as a civil war between members of Serbian, Muslim, and Croatian ethnic communities, and not as an "armed conflict" as the ICTY does. The other flaw of the indictment is that it does not include the largest crime committed on the Zvornik territory – the murder of approximately 700 Bosniak men who had been previously forced out of their homes together with their families, taken to the collection point in Bijeli Potok, and subsequently separated from women, children, and the elderly and taken to the detention camp in the Technical High School Center in Karakaj only to be executed there. The victims' legal representatives managed to address this flaw by convincing the Office of the War Crimes Prosecutor of the Republic of Serbia to ask the Office of the Prosecutor of the ICTY for additional documentation concerning the execution of the prisoners in the Technical High School Center in Zvornik. Once they received the required documentation, the Serbian War Crimes Prosecutor started an investigation in October 2006.

During this case, HLC facilitated the establishing of cooperation between the Serbian War Crimes Prosecutor and the Cantonal Office of the Prosecutor in Tuzla (BiH). This resulted in the identification of, and contact with, new witnesses.

### **2.1.3. Bytyqi Case**

An indictment against two members of Special Police Units (PJP) of the Serbian MUP for murder of the three Bytyqi brothers, who were citizens of the United States of America of Albanian origin, was raised in August 2006, seven years after the event. Although it is clearly a criminal act ordered by the Chief of Staff of Public Security of the Serbian MUP, general Vlastimir Đorđević, still at large, and with the participation of Goran Radosavljević, Guri, deputy commander of the PJP of MUP Serbia and the commander of the MUP Serbia Training Center in Petrovo Selo, also still at large, they were not included in the indictment.

Procrastination in conducting the trial, solidarity of the police with members of the MUP Serbia involved in this crime, and attempts of the Office of the War Crimes Prosecutor to avoid starting an investigation allowed those who ordered the crime to flee the country.

#### **2.1.4. Suva Reka Case**

The trial began in October 2006 and by the end of 2006 there had been 12 main hearings and four witnesses were heard.

The indictment for war crimes against civilian population committed during the NATO bombardment, in Suva Reka, Kosovo, is the first indictment raised before a domestic court charging regular police unit members of the Serbian MUP, including a commander of the 37<sup>th</sup> squad of the PJP of MUP Serbia. What is positive about this indictment is the fact that the events, regulated by Geneva Conventions, are for the first time qualified as an armed conflict, which is a step forward in adopting and applying international humanitarian law standards and ICTY practices. It is also important that key witnesses for the Prosecution are members of the police unit who are able to give accurate accounts of the murder of Albanian civilians and the removal of bodies from Suva Reka.

#### **2.1.5. Emini Case**

Two MUP Serbia reserve members are being tried before the District Court of Niš for murder of Albanian man Isa Emini on May 5, 1999 in Priština. The defendants are out on pre-trial release. Although the murder took place in the course of the armed conflict, the Prosecutor failed to qualify the criminal act as a war crime committed against civilians. There have been 12 main hearings so far and the Prosecutor's Case-in-Chief is over. From the very beginning the trial has been conducted in a cursory manner. The investigation was incomplete: the crime scene investigation was conducted a day after the murder and it was not fingerprinted; it was not established whether some objects were moved from the crime scene; the victim/witness was not offered medical care; the neighbourhood was not canvassed for possible eye-witnesses who would be able to clarify questionable facts.

#### **2.1.6. Lekaj Case**

The Office of the War Crimes Prosecutor of the Republic of Serbia charged Anton Lekaj, a former KLA member with the illegal detention, murder, torture, wounding, inhuman treatment, and rape of women of non-Albanian ethnic communities in the basement of the "Paštrik" hotel in Đakovica. With respect to those accusations, the Trial Chamber established that the accused Lekaj raped S.T., an underage Roma girl in the "Paštrik" hotel, and forced her to burn the skin of Tafa Hasan with a lit cigarette. Also, the Trial Chamber believes that the accused Lekaj and other persons seriously injured late Rade Gagović, by holding Gagović while another person cut his ear off. Lekaj and other persons forced Rexh Shala to eat that ear. Further on, the Trial Chamber established that Lekaj and Arben Shkupi sodomised Bedri Shala, and that he also took part in the murder of Rexh Shala. Due to a lack of evidence the Trial Chamber acquitted Lekaj of two counts of the indictment accusing him of participation in the murder of the following civilians: Lushaj Zvezdan, Krasniqi Bajram, and Gagović Rade, and of cutting off three fingers from the hand of Bala Shali.

War Crimes Trial Chamber of the Belgrade District Court presided by Justice Olivera Anđelković, on September 18, 2006 pronounced Anton Lekaj guilty of war crimes against civilian population and sentenced him to 13 years in prison.

HLC believes that Lekaj should have been tried in Kosovo before the Internationalised Trial Chamber with jurisdiction over Kosovo residents who have committed war crimes and other criminal acts. In HLC's view, the War Crimes Trial Chamber of the Belgrade District Court refused to transfer this case to UNMIK in order to demonstrate to citizens of Serbia that it has jurisdiction to try Kosovo Albanians as Serbian citizens. By trying Lekaj before a court in Serbia, Kosovo Albanians were denied an opportunity to deal with the crimes members of their ethnic community committed against others on their behalf.

#### **2.1.7. Common characteristics of war crimes trials**

What all war crimes trials have in common are attempts of the Office of the War Crimes Prosecutor to hide evidence pointing to the fact that state institutions of the Republic of Serbia and SR Yugoslavia as well as their higher-ranking officials were involved in war crimes. Apart from this, Office of the War Crimes Prosecutor is delaying investigations against certain individuals, e.g. the Bytyqi brothers case, when the indictment was raised seven years after the murder, and in the Suva Reka case, three years after the discovery of mass graves in Serbia. Also, it was only upon the insistence of the HLC and the Association of victims' families in Zvornik that an indictment was raised for the largest crime in the Zvornik municipality a year after the commencement of the trial for other crimes in Zvornik.

That the Office of the War Crimes Prosecutor raised an indictment against members of the police for crimes committed in Suva Reka demonstrates a positive change of attitude. However, although a police lieutenant-colonel, deputy commander of PJP, commander of the police station, his assistant, and a number of members of the Internal Affairs Department (OUP) Suva Reka have been charged, the indictment failed to apply the command responsibility principle. General Obrad Stevanović, commander of PJP and General Sreten Lukić, Chief of Staff of the Serbian MUP for Kosovo (who is tried before the ICTY) were therefore not included.

What is clear is that the Office of the War Crimes Prosecutor is functioning as a unit of the government rather than a unit of the judiciary.

In contrast, the War Crimes Trial Chamber of the Belgrade District Court is conducting trials in a professional, objective, and unbiased manner in all war crimes trials.

Judges participating in war crimes trials apply the law strictly and respect standards of fair and just trials. However, judges are not allowed to amend or correct flaws contained in indictments, and it is possible that some judgements, as in the *Scorpions* case, will be presented to the public with a judicial version of the truth significantly different from the truth established in cases tried before the ICTY.

### **2.1.8. Overturning the first instance decision in Ovčara case<sup>3</sup>**

On December 14, 2006 the Supreme Court of Serbia overturned the first instance decision in the Ovčara case and returned the case for retrial. HLC responded immediately by making an analysis of the decision of the Supreme Court which was made published by the daily *Danas* and TV B92. Numerous international human rights organisations cited parts of HLC's analysis in their reports, especially the part about the practice of the Supreme Court of Serbia to overturn each first instance decision in war crimes trials.

The overturning of the judgment in the Ovčara case had an adverse effect on many victims/witnesses and dispelled their hopes that their participation in those trials would be meaningful when there is a constant threat that the Supreme Court might overturn the ruling.

## **2.2. Legal-psychological support to victims/witnesses**

HLC is the only human rights organisation in the region on the territory of the former Yugoslavia offering legal representation to victims of war crimes in court in Serbia. In 2006 HLC represented victims in three different war crimes cases tried before courts in Serbia. In the *Scorpions* case HLC identified and secured six victims/witnesses, in the *Zvornik* case five victims/witnesses were identified and secured, as well as the participation of three witnesses proposed by the court.

Thanks to HLC, victims' family members monitored trials held before the War Crimes Trial Chamber of the Belgrade District Court in the following cases: *Scorpions*, *Zvornik*, *Bytyqi*, *Emini*, and *Suva Reka*.

### **2.2.1. Zvornik case**

The trial of Branko Grujić, Branko Popović and others indicted of war crimes committed in the Zvornik municipality started on November 28, 2006. By the end of 2006 there had been 48 main hearings and 38 witnesses were heard. HLC secured the arrival of ten witnesses, five of whom were proposed by the HLC.

#### **2.2.1.1. Encouraging witnesses to participate in legal proceedings**

In order to identify new witnesses and secure the arrival of those proposed by the court, HLC representatives, together with Emir Ibrahimović, Cantonal Prosecutor in Tuzla, visited the Divič village in Republika Srpska on two occasions (April 24 and May 17) where the majority of the Čelopek Cultural Center survivors live. Thanks to the confidence they have in HLC, seven former prisoners agreed to come to Belgrade and testify in court. Five of them testified in June 2006 under assumed names and another two will be heard in the course of 2007.

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<sup>3</sup> War Crimes Trial Chamber of the Belgrade District Court handed a decision in the Ovčara case on December 12, 2006, pronouncing 14 members of the Serbian Territorial Defense unit and a volunteers unit Leva Supoderica guilty of a war crime committed against prisoners of war, on which occasion they executed over 200 members of Croatian armed forces and civilians on November 20, 1991, on the Ovčara farm near Vukovar, Croatia.

In order to encourage victims/witnesses of the deportation of Bosniaks from Kozluk (first count of the indictment), HLC representatives and Victims' Families Associations from Zvornik visited Kozluk three times where they spoke to three victims/witnesses about their participation in the trial. HLC also secured the participation of another two witnesses who testified about the beginning of the war in Zvornik. Both of them are Bosniaks who were policemen at the time war broke out.

#### ***2.2.1.2. Offering protection to victims/witnesses***

Five former prisoners who testified in the trial were under the supervision of the MUP Witness Protection Unit. However, on June 11, on the eve of their trip to Belgrade, the witnesses expressed their concern at travelling under the escort of the Serbian police and asked HLC Executive Director to travel with them, which she did. But, during their stay in Belgrade, the Witness Protection Unit gained confidence, and, as arranged with the HLC Victim/Witness Protection Team (VWPT), they transported them from the hotel to the court and back, and also accompanied them when they went out for a walk.

HLC informed the Trial Chamber that five witnesses, former prisoners required identity protection, and the Chamber allowed them to testify under assumed names.

The arrival of five witnesses was organised by the HLC, independently from the Witness Protection Unit of the Serbian MUP. Those were three witnesses from Kozluk and two witnesses who testified about the beginning of the war. The testimony of Fadil Banjanović, the leader of Bosniaks returning to Kozluk, which took place on January 30, 2006, was monitored by 50 Bosniaks from Kozluk whose arrival in Belgrade was organised by the HLC.

#### ***2.2.1.3. Legal representation of victims***

The victim's legal representatives, Nataša Kandić and lawyer Dragoljub Todorović, managed to convince the Trial Chamber that, although the separation of 700 Bosniaks in Bijeli Potok in June 1992, their execution and the burial of their bodily remains in a secret location are not contained in the indictment, questions about these events might help specify criminal responsibility of the accused Grujić and Popović with respect to their command responsibility. After that, the Trial Chamber allowed such questions, and they also asked the defendants whether that event and other murders and detention camps in the municipality were discussed at the Provisional Government meetings at the time which the indictment refers to, i.e. from April until July 1992.

#### ***2.2.1.4. Trial monitoring***

Based on an agreement reached with representatives of the Victims' Families Association from Zvornik, the trial was monitored from the beginning by four representatives of this Association, and from September 2006 the trial has been monitored by seven members of the Victims' Families Association from Zvornik. Their trip as well as their stay in Belgrade is arranged by the HLC VWST.

Victims' family members monitoring the trial sometimes have unpleasant experiences with court guards who address them in an impolite manner, caution them for no

apparent reason, and express open empathy and support for families of the accused. On several occasions the accused Ivan Korać a.k.a. Zoks turned around and facing the victims' family members cursing their "balija mothers".<sup>4</sup>

### **2.2.2. *Scorpions Case***

The indictment against Slobodan Medić, commander of the *Scorpions* unit, his deputy Aleksandar Vukov, and three members of the unit was raised on October 7, 2005, four months after the HLC released to the public the video cassette featuring the execution of six Muslim men from Srebrenica in July 1995 near Godinjske Bare on Mount Treskavica. The trial began on December 30, 2005 and by the end of 2006 there had been 31 main hearings and 25 witnesses, six of which are victims/witnesses, were heard.

#### **2.2.2.1. *Victim identification and securing the participation of victims/witnesses in legal proceedings***

The original indictment raised by the Office of the War Crimes Prosecutor states that three victims were identified: Safet Fejzić, Azmir Alispahić, and Sadik Salkić. After the indictment was published, Nataša Kandić was contacted by victims' family members who identified Smail Ibrahimović, Saib Salkić, and Sidik Salkić. It turned out that there is no victim by the name of Sadik Salkić, but that the Office of the War Crimes Prosecutor misspelled the name of Sidik Salkić.

Before the trial began, Nataša Kandić and lawyer Dragoljub Todorović visited victims' families, invited them to take part in the proceedings and give their detailed accounts of the last time they had seen their loved ones whom they later recognised in the video recording. Victims' families gave Nataša Kandić and Dragoljub Todorović authorisation to represent them in court.

Victim's legal representatives suggested the Trial Chamber to include another three victims/witnesses identified by the HLC in addition to three victims/witnesses proposed by the War Crimes Prosecutor, which the Trial Chamber accepted. HLC VWST made travel and accommodation arrangements for the six victims/witnesses who came to Belgrade to take part in the proceedings. They testified on January 25 and 26, 2006.

#### **2.2.2.2. *Legal representation of victims***

The victims' legal representatives asked a number of questions that helped clarify the status of the *Scorpions* unit, which the Trial Chamber did as well, but in the final stage of the Prosecutor's-Case-in-Chief, the Trial Chamber suddenly stopped determining whether the unit was a paramilitary unit, as asserted by the Prosecutor, or a unit of the Serbian MUP, as described in the documentation submitted to the Court by the Office of the Prosecutor of the ICTY. The questions asked by the victim's legal representatives prompted the witnesses to state that the busses belonging to the unit were used for transportation of prisoners from Srebrenica.

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<sup>4</sup> Derogatory term for a Muslim.



### ***2.2.2.3. Trial monitoring***

HLC enabled a dozen family members of the Srebrenica victims regularly monitor the trial of the Scorpions unit members who executed their sons, brothers, or fathers: Nura Alispahić, mother of underage Azmir, Hana Fejzić, mother of underage Safet, his sister Safeta Muhić, Smaila and Samir Ibrahimović, children of the Smail, and Hana Salkić, Saib's mother. The arrival of Srebrenica women to Belgrade was organised by the HLC VWST, which, in addition to Nataša Kandić, HLC Executive Director and lawyer Dragoljub Todorović includes a psychologist, an oral history researcher, and a logistics officer. The psychologist is by their side for the duration of the trial.

### ***2.2.3. Suva Reka Case***

Office of the War Crimes Prosecutor raised an indictment against Radoslav Mitrović, assistant commander of the Gendarmerie and others on April 25, 2006. The trial before the War Crimes Trial Chamber of the Belgrade District Court began on October 12, 2006. There have been 12 main hearings until the end of 2006.

#### ***2.2.3.1. Supporting the work of the Office of the War Crimes Prosecutor by providing relevant information***

When the Office of the War Crimes Prosecutor in April 2005 initiated an investigation for war crimes committed in Suva Reka, HLC gave its entire Suva Reka documentation to the Office of the War Crimes Prosecutor. It contained statements given by victims/witnesses to HLC researchers and parts of the transcript from the trial of Milošević referring to the Suva Reka events in B/C/S languages. After the investigation was over, the Prosecutor submitted the HLC documentation to the Trial Chamber and it was officially added to the case file.

#### ***2.2.3.2. Witness identification***

In order to identify and encourage victims/witnesses to take part in the proceedings, Nataša Kandić travelled to Suva Reka/Suhareke twice in August 2006. On August 8 she met with representatives of the Association of the families of the missing who accepted her invitation to choose a group of ten victims' family members to monitor the trial. She also spoke to Bardyl Hoti, a man proposed by the ICTY, about the significance of his testimony before the War Crimes Trial Chamber of the Belgrade District Court. The witness agreed to testify but only if guaranteed by the HLC that the trial would be objective and unbiased, and that Albanian witnesses would be safe during their stay in Belgrade.

However, until the end of 2006 Nataša Kandić did not manage to confirm the participation of victims/witnesses in the proceedings before the court in Belgrade. This is because they believe that they should not testify before a Serbian court - thereby bestowing legitimacy on it.

#### ***2.2.3.3. Victim's legal representation***

Thanks to the questions asked by victim's legal representatives, it was clarified that the on-duty team of the Suva Reka Internal Affairs Department (OUP) made a note of

every murder or wounding of Serbs, but not Albanians. Also, during the hearing of the accused Milorad Nišavić who worked in the Suva Reka State Security, with the help of the questions asked by victim's legal representatives, it became clear that his brother was employed with the security team of the OSCE mission in Kosovo, with headquarters in the Berisha settlement, and before that, in 1998, in the hotel owned by the Nišavić family.

#### ***2.2.3.4. Trial monitoring***

In the organisation of HLC the trial is being monitored by eight victims' family members, two journalists from Priština, one solicitor-in-training, and an HLC-Kosovo observer. Their trip and their stay in Belgrade are organised by the HLC.

Victims' family members and observers from Kosovo travel to Serbia in compliance with the procedure called "an announced visit" that MUP Serbia applies to Kosovo Albanians who have UNMIK documentation – not identification cards issued by the Republic of Serbia. In compliance with the procedure, on the eve of their trip, HLC files a request with the MUP Serbia to allow a group of Kosovo Albanians in possession of UNMIK documentation to enter Serbia on the Merdare border crossing in order to monitor the trial in the Suva Reka case.

Because of the fear of victims' family members to travel to Serbia, HLC contacted MUP Serbia with a request to provide escort for the vehicle transporting the families, round-the-clock security in the hotel, an escort from the hotel to the court and back, and as otherwise needed. In October 2006, the escort and the protection of victims' family members were organised by the MUP Serbia Witness Protection Unit and in November and December 2006 they were escorted and protected by the MUP Serbia Public Security Unit. Both of these units were very considerate with respect to the families and cooperated well with the HLC WVST.

#### ***2.2.4. Emini Case***

The trial of two members of the MUP Serbia, Dragiša Marković and Miloš Simonović for murder of Isa Emini, a Kosovo Albanian, in May 1999 in Kosovo, is being held before the District Court of Niš. There have been 13 main hearings until the end of 2006 and 15 witnesses were heard. The accused are out on pre-trial release. The trial is monitored by Isa Emini's wife who lives in Priština. Her trip to Niš is organised by HLC and HLC-Kosovo. The family of the victim is legally represented by an HLC lawyer. The main problem in this case is that there is not enough physical evidence and that the Prosecutor and the Court failed to provide witnesses who have direct knowledge of the event and who are ready to testify against the accused.

#### ***2.2.5. Bytyqi Case***

The Office of the War Crimes Prosecutor raised an indictment on August 23, 2006 against Sreten Popović and Miloš Stojanović for the murder of three Bytyqi brothers, all US citizens. The trial began on November 13, and there has been only one hearing until the end of the year.

The accused were members of Special Police Units (PJP) of MUP Serbia. The principal defendant was a squad commander of the Operative Pursuit Group (OPG) and the second defendant was commander of an OPG troop.

### ***2.3. Offering support for war crimes trials being held before the BiH Court***

When asked by the Office of the War Crimes Prosecutor of BiH to deliver documentation on war crimes committed in Bijeljina in 1992, HLC submitted 22 interviews with victims/witnesses and secured a witness, a former officer of the Army of Republika Srpska, in the investigation against Vojkan Đurković, former president of the Republika Srpska commission for the exchange of officers of the Serbian Volunteer Guard.

### ***2.4. Monitoring trials for ethnically motivated crimes and war crimes committed in Kosovo***

HLC regularly monitors trials for war crimes and ethnically motivated crimes in Kosovo, while in BiH and in Croatia HLC only monitors selected trials, some of them independently and some within the Regional War Crimes Monitoring Team. HLC is the only organisation monitoring trials for war crimes and ethnically motivated crimes in Kosovo.

#### ***2.4.1. Monitoring trials in Kosovo***

Two HLC-Kosovo researchers monitored six trials held before District Courts (a total of 121 main hearings), as well as some sessions of the Kosovo Supreme Court with respect to four appeals processes.

##### ***2.4.1.1. Prosecutor vs. Jeton Kiqina***

The main hearing in the Prosecutor vs. Jeton Kiqina case started on June 29, 2006 before the District Court of Priština/Prishtine. Jeton Kiqina is charged together with Skender Halilaj, Burim Ramadani, Arsim Ramadani, Arben Kiqina, Zeqir Kiqina, Florim Kiqina, and Blerim Kiqina with planning, co-conspiracy, and aiding and abetting each other in committing the murder of five members of the Hajra family from Glogovac/ Gllogoc, Hamza Hajra, Miradi Hajra, Xhevdet Hajra, Mimoza Hajra, and Adelin Hajra, from an ambush, on the road between the village of Banjica/Baice/) and Trstenik, near Glogovac/ Gllogoc, for revenge motives, or for personal gain, or for other heinous motives. The daughter of Hamza Hajra, Pranvera Hajra, seventeen-years-old at the time, survived the attack. It is believed that the motive of the attack is purely political since Hamza Hajra worked with the Serbian police before the war. After the armed conflict in Kosovo, Albanian extremists committed a series of revenge murders of Albanians suspected to have worked with Serbian authorities before and during the war.

There have been 34 main hearings in this reporting period. HLC observers regularly compiled reports on each main hearing and obtained trial-related court documentation. The complete trial report will be posted on HLC web site at the beginning of 2007.

#### ***2.4.1.2. Prosecutor vs. Sali Veseli et al.***

The trial of Sali Veseli, who is accused of engaging in a criminal enterprise with intent to murder of Ekrem Rexha, began on September 26, 2005. The accused is also charged with the criminal act of planning murder.

His co-defendant Abit Haziraj is charged with the premeditated murder of Ekrem Rexha which was committed in a brutal manner with the intention of obtaining personal profit, after receiving DEM 15,000 from Sali Veseli. The murder took place in Prizren. Abit Haziraj is charged with aggravated murder.

There were 68 main hearings before the verdict was handed down on August 4, 2006, sentencing Sali Veseli to 15 years in prison while Abih Haziraj was acquitted of all charges due to lack of evidence. HLC-Kosovo has produced a draft trial report.

#### ***2.4.1.3. Prosecutor vs. Gezim Ferati***

The trial of Gezim Ferati began on May 5, 2006 and was finished on March 17 after only three hearings due to lack of evidence. The accused was acquitted of charges for the murder of a Serbian couple Dobrije and Borka Stolić from Drajkovac/Drajcok, Štrpce/Shterpce municipality, and four attempted murders of Kosovo Police Service policemen (Dragan Ivanović, Srđan Mladenović, Živorad Samardžić, and Srđan Đurinac) while on duty.

#### ***2.4.1.4. Prosecutor vs. Selim Krasniqi et al.***

The trial of Selim Krasniqi, Bedri Zybaraj, Islam Gashi, and Agron Krasniqi began on September 29, 2005 before the Gnjilane/Gjilan District Court. The defendants are charged with committing a war crime by issuing orders, aiding and abetting, failing to act in order to prevent a crime, taking part in a joint criminal enterprise with intent to commit a war crime, presuming that co-conspirators are personally responsible for illegal detention, beatings, and torture of a number of Albanian civilians suspected of collaborating with Serbs.

There were 47 main hearings in this case before the decision was handed down on August 10, 2006. Selim Krasniqi, Bedraj Zyberaj, and Agron Krasniqi were found guilty. Each defendant was sentenced to seven years in prison, while Islam Gashi was acquitted of all charges. HLC-Kosovo has drafted a trial report.

#### ***2.4.1.5. Prosecutor vs. Lirim Jakupi***

The trial of Lirim Jakupi is being held before the District Court of Gnjilane/Gjilan. HLC-Kosovo observers monitored two main hearings in 2006. The accused is charged with kidnapping, illegal imprisonment, and blackmail. To date, only protected witnesses have been heard. HLC-Kosovo has monitored all but one day of trial which was held in the District Court of Vranje, Serbia.

#### ***2.4.1.6. Prosecutor vs. Esmin Hamza and Admir Kurtollari***

The accused are being tried before the District Court of Prizren for inciting national, racial, and religious hatred and intolerance, instigation of general danger, as well as participating in a joint enterprise to commit criminal acts during the March 2004 violence.

The main hearing was closed to the public because Admir Kurtollari was a minor at the time the criminal act was committed. The hearing was only attended by the parents of the accused, OSCE observers, and an HLC-Kosovo researcher.

#### ***2.4.1.7. Prosecutor vs. Sylja Jashari***

In its decision handed down on November 11, 2005, the Trial Chamber of the District Court of Peć/Peje found Sylja Jashari guilty of the murder of Kozar Harja sentencing him to 15 years in prison. The Supreme Court of Kosovo returned the case for retrial.

#### ***2.4.1.8. Prosecutor vs. an underage defendant***

On June 3, 2005 “the underage defendant” was found guilty of the aggravated murder of D.P., a minor on July 5, 2004 in Gračanica/Gracanice, endangering the lives of persons present at the scene at the time of murder, as well as of the illegal possession and carrying of firearms for which the underage defendant was sentenced to six years in prison.

The Supreme Court of Kosovo overturned the decision of the District Court in Priština/Prishtine and sentenced the “underage defendant” to nine years in prison.<sup>5</sup>

#### ***2.4.1.9. Prosecutor vs. Agron Zeqiri***

Agron Zeqiri was accused of going into the house of Enver Xhaki, an Albanian from Priština/Prishtine together with another two or three unidentified Kosovo Albanians on June 16 or 17, 1999, on which occasion he forced Enver Xhaki to go with them and took him in an unknown direction. Enver Xhaki was suspected of collaborating with the Serbs. The family found his body on June 24, 1999 in a wooded area of Sićevo/Siceve and Kolić/Koliq villages near Priština/Prishtine.

The Supreme Court of Kosovo has yet not reached a decision in the appeals process.

#### ***2.4.1.10. Prosecutor vs. Dejan Mihailović***

Dejan Mihailović was tried for a triple murder and the attempted murder of two members of the Rashica family from the village of Donje Sudimlje/Studime e Poshtem, Vučitrn/Vushtrri municipality.

Plaintiff Sadik Rashica appealed the decision acquitting Dejan Mihailović of all charges. The Supreme Court of Kosovo has yet to reach a decision in the appeals process. The prosecutor did not appeal the first instance decision.

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<sup>5</sup> In accordance with the Law on underage defendants, persons who are underage at the time crime is committed, can be sentenced to a maximum prison sentence of 10 years.

## ***2.5. Background check of public service employees [vetting]***

Although a Law on Lustration was adopted in 2005, it is not implemented. Believing that the removal from office of individuals involved in the commitment of a crime or covering up a crime in the course of armed conflicts on the territory of the Former Yugoslavia is critically important, HLC submitted to the government of the Republic of Serbia and Ministry of Interior (MUP) of the Republic of Serbia three initiatives for the removal from office of: Slobodan Borisavljević, Chief-of-Staff office of the War Crimes Detection Department of MUP Serbia, inspector Danilo Bulatović, of the same Department, and Mile Novaković, commander of the Gendarmerie of MUP Serbia, on the grounds of substantial evidence that by holding high ranking positions at the time crimes were committed, they were able to prevent certain war crimes and grave human rights abuses. The result of the HLC initiative was that Slobodan Borisavljević was removed from his position, but not from the service, and he was reassigned to another position within MUP Serbia. Inspector Bulatović was retired, and commander Novaković was not removed from office.

## ***2.6. Reparations***

From 1992 when it was founded until the end of 2006, HLC represented over 2000 victims of illegal detention, ethnic discrimination, war crimes, forced mobilisation, and torture, requesting that state institutions take responsibility for the violation of basic human rights by awarding financial compensation to victims.

### ***2.6.1. Legal representation of victims of human rights abuses***

In the course of 2006, HLC represented 153 victims of torture, forced mobilisation, illegal detention, discrimination, violation of the right to work, and with respect to the violation of one's reputation, honour, and freedom before courts in Serbia, Montenegro, and in Kosovo. Criminal complaints for these cases were filed in the period from 2000 to 2005. In 2006 courts in Serbia handed down two decisions in compensation lawsuit cases for victims of torture.

#### ***2.6.1.1. Legal representation of victims of torture, discrimination, sexual abuse, and victims of violation of the right to work***

HLC continued representing 61 victims of human rights abuses in the past, and filed 20 criminal complaints on their behalf against the Republic of Serbia and Republic of Montenegro for torture, discrimination, violation of the right to work, violation of the right to private property, and one criminal complaint for the sexual abuse of an underage girl.

Four victims of torture represented by HLC in the course of 2006 received financial compensation from the Republic of Serbia. The court established the responsibility of the state for the death of Božidar Čubrilov which occurred as a result of the torture he was exposed to in the Belgrade District Prison in June 1996, and ordered the state to pay compensation to his family. The second decision established the responsibility of the state for the attack of police officers on Masimo Marinković, a Roma man, in November 1998, and ordered the state to pay financial compensation to Marinković.

#### ***2.6.1.2 Legal representation of victims of forced mobilisation***

After the Croatian offensive “Oluja” on August 4, 1995, when MUP Serbia illegally arrested Serbian refugees who fled Croatia and returned them to the territory where the armed conflict was underway, HLC filed 15 compensation lawsuits on behalf of 715 forcefully mobilised refugees. In the course of 2006 HLC continued representing 75 victims of forced mobilisation and on their behalf filed 12 compensation lawsuits before courts in Serbia in the period from 1998 to 2001. Eight main hearings in these cases were held in 2006. Five decisions were handed down in the reporting period, each of which determined the responsibility of the Republic of Serbia for the illegal deprivation of freedom and mobilisation of refugees and ordered it to pay financial compensation for non-pecuniary damages to 22 refugees.

#### ***2.6.1.3. Legal representation of members of the People’s Movement “Otpor”***

In 2006 HLC represented 16 “Otpor” members for illegal deprivation of freedom during the Milošević regime and filed nine compensation lawsuits on their behalf in the second half of 2000. In 2006 three decisions were handed down determining the responsibility of the state for the illegal deprivation of freedom of six “Otpor” members.

#### ***2.6.1.4. Legal representation of human rights defenders***

In 2006 HLC represented Natalija Lazić, a nurse from Veliko Gradište who publicly advocated for a sexually abused Roma boy. The decision reached in the civil suit case brought up by Miodrag Radović a.k.a. Deimbacher, for speaking on a TV show about his involvement in the sexual abuse based on what she had heard from the victim, pronouncing Natalija Lazić guilty of slander, became legally binding in 2006.

#### ***2.6.2. Promotion of minority rights by ordering financial reparations***

In the absence of state-sponsored reparations programmes, HLC continues filing compensation lawsuits on behalf of victims of ethnically motivated crimes.

In 2006 HLC researched 13 characteristic cases of armed-conflict-related human rights abuses of members of minority ethnic communities in Serbia, Montenegro, and in Kosovo. In order to collect relevant data, HLC interviewed 165 victims and identified 473 victims and victims’ family members, who are entitled to financial compensation if the responsibility of the state is established. HLC filed nine compensation lawsuits against Serbia, Montenegro, and Kosovo, and one case against private persons on behalf of 28 victims of ethnically motivated crimes committed in the past.

In 2006 HLC filed three separate lawsuits on behalf of Alija Halilović, Šefcet Mehmedović, and Munir Šabotić, victims of ethnically motivated torture in Sandžak in the period from 1992 to 1995. The fourth lawsuit was filed on behalf of Saša Grković, a Kosovo Serb, who was illegally detained in Kosovo on charges that he had committed a war crime against the civilian population, and who was acquitted of all charges by a legally binding court decision. In November 2006 HLC filed a compensation lawsuit on behalf of 19 women and underage persons from Vukovar,

citizens of the Republic of Croatia, imprisoned by the Yugoslav National Army (JNA) in detention camps in Begejci and Sremska Mitrovica in Vojvodina. A lawsuit is also filed against the Republic of Serbia for the murder of three members of a Croatian family in Srem, in July of 1993, committed by members of a unit of volunteers under the command of the Yugoslav Army (JA). On behalf of three victims of ethnically motivated torture in Bukovica, in 1993, HLC initiated two compensation lawsuits against the Republic of Montenegro.

In March 2006 HLC filed a compensation lawsuit against two Skinheads group members, who attacked Dragiša Ajdarević, an underage Roma boy, in Niš in 2000, only because of his skin colour.

In February 2006, the First Municipal Court reached a decision establishing the responsibility of the Republic of Serbia for the illegal detention of Dukaj Hasim, Dervishaj Fidan, Lekaj Kujtim, and Ahmet Sylja, Kosovo Albanians, and ordered the state to pay financial compensation to the plaintiffs.

### ***2.7. Building a collection of transcripts of trials held before the ICTY in B/C/S languages***

In 2003 HLC started producing transcripts of trials held before the ICTY in B/C/S languages and transcribing audio recordings of trials. The main goal was to publish the transcript of the trial of Slobodan Milošević in B/C/S languages primarily to enable domestic war crimes prosecutors and all interested parties to have an insight into the course of the trial. By the end of 2006, HLC has transcribed audio recordings of 600 days of trial on 30,000 A4 size pages, containing transcript from 476 days of trial in the Milošević case, 60 trial days in the Naser Orić case, and 64 trial days in the Mitar Vasiljević case.

By the end of 2006 transcripts from 305 trial days on 13 199 pages had been edited: 288 trial days on 12,520 pages in the Slobodan Milošević case, and 17 trial days on 679 pages in the Naser Orić case.

### ***2.8. Impunity Watch***

HLC and its partner organizations (the Lawyers' Committee for Human Rights (YUCOM), the Youth Initiative for Human Rights, and the Helsinki Committee for Human Rights) commenced the Impunity Watch project in October 2006. It comprises investigating the causes of impunity in Serbia, and implementing advocacy efforts which will address these causes. The goals of this project are: 1) to develop and implement research methodology which would help discover the causes of impunity for serious crimes and serious violations of human rights in the past; 2) to compile a report on the causes of impunity in Serbia (RS); 3) to research and analyze the causes of impunity in Serbia and define recommendations for addressing them; 4) to elaborate lobbying strategies; 5) to enable more active participation of civil society and a wide spectrum of all those interested in fighting impunity.

The project is divided in two stages: 1. research and 2. advocacy and lobbying for the adoption of the proposed political strategies. In this reporting period, HLC compiled:



- Bilateral agreements on extradition and cooperation in criminal matters (genocide, crimes against humanity, violations of international humanitarian law, torture, extrajudicial executions, forced disappearance, deportations, or acts constituting *actus reus* of such crimes) which Serbia, as a successor of Kingdom of Serbs, Croats, and Slovenes, Federal National Republic of Yugoslavia, Socialist Federal Republic of Yugoslavia (SFRJ), Federal Republic of Yugoslavia (SRJ), and the State Union of Serbia and Montenegro (SCG) entered into to date.
- Regulations governing the relation of Serbia and international courts which have jurisdiction over Serbia (ICC, ICTY, ECHR, ICJ).
- Domestic regulations relevant for the scope of the project: the Constitution of RS adopted in 2006 is the only act governing the status of international conventions and bilateral agreements; Criminal Code of RS, Basic Criminal Code, and the Criminal Code (which came into effect on January 1, 2006, and annulled the two previous criminal codes), as well as the Criminal Procedure Act
- Statistics of war crimes and cases resolved in 2003, 2004, and 2005 obtained from the Statistical Office of the RS HLC.
- Court decisions concerning the period of armed conflicts were classified in four categories: 1) decisions made by courts in Serbia, 2) decisions made by courts in Montenegro, BiH, Croatia, and Kosovo, 3) decisions made by courts in countries outside the territory of the former Yugoslavia in compliance with general jurisdiction rules (which exist in cases of crimes against humanity and humanitarian law), 4) decisions made by the ICTY.

### **3. Public Information and Outreach**

HLC addresses the public by means of press releases, reports, conferences, newsletters and a transitional justice magazine, press conferences, internet presentations and publications. In 2006 HLC issued 60 press releases, five newsletters on transitional justice, and two books: *International Criminal Practice* and *Podujevo: Beyond Reasonable Doubt*. In its press releases HLC makes public its opinion in respect of the right of victims to truth and justice; the degree to which the state fulfils its obligations to research war crimes allegations and punish perpetrators; and informs the public about the results of compensation lawsuit cases filed on behalf of the victims. In its press releases HLC also analyses war crimes trials and initiates vetting procedures for public service employees, etc.

#### **3.1. Publications**

In 2006 HLC started printing transcripts from the trial of Slobodan Milošević in B/C/S which would be published in 45 volumes. Eleven volumes were printed in 2006, comprising the Prosecutor's Case-in-Chief with respect to the Kosovo indictment. These volumes were distributed in December in Serbia and in Kosovo, to government institutions, courts, prosecutors offices, bar associations, public institutions, school and university libraries, political parties, NGOs, professional associations, and individuals who publicly advocate dealing with the past. The remaining 15 volumes comprising the defence of the accused Milošević with respect to the Kosovo indictment, as well as 20 volumes containing the Prosecutors Case-in-Chief with respect to the BiH and Croatia indictments will be printed in 2007.

In September 2006 HLC published the book *Podujevo: Beyond Reasonable Doubt*, dedicated to the victims and survivors of the massacre committed by members of the *Scorpions* unit, a reserve unit of the MUP Serbia, during the NATO bombardment. Saša Cvjetan, the accused member of the *Scorpions* unit was tried before the War Crimes Trial Chamber of the Belgrade District Court. HLC represented the victims in the proceedings. Both first and second instance decisions are published in the book, as well as the statements that accused *Scorpions* members Saša Cvjetan and Dejan Demirović gave in the presence of the investigating judge, the statement of Saranda Bogujevci, one of the survivors, as well as the statement of the witness/insider Goran Stoparić given at the main hearing. HLC reports “*On behalf of the victims*”, trial analysis, and other documents relevant for the complete understanding of the entire trial.

In 2006, HLC researched, drafted, published and distributed the first Report on Transitional Justice in Serbia, Montenegro and Kosovo 1999-2005. The report focuses on state and civil society initiatives in terms of truth-finding and truth-telling, national and international war crimes trials, reparations and other attempts by society in Serbia and Montenegro in response to the massive crimes committed in the recent past. Concerning Kosovo, the report discusses only trials for war crimes and ethnically motivated crimes because this mechanism of transitional justice is above all the most easily recognizable in the entity.

### **3.2. Internet presentation**

HLC regularly updates its website with press releases, reports, transcripts of trials held before the ICTY and domestic courts, trial reports, information and reports from conferences, publications, transitional justice newsletters, and other materials relevant for the activities of the organisation. HLC began upgrading the website at the end of 2006.

### **3.3. HLC library**

HLC has a library with books and magazines from the area of transitional justice. The library, located on the HLC premises, is open to the public and all interested persons can use it. At the moment, there are 2,435 books and 245 magazines. In the course of 2006 HLC librarians assigned library codes/addresses to 1,746 books, 214 magazines, and 4 (four) articles.

### **3.4. Outreach**

HLC organises conferences in order to promote court-established truth and the voice of victims. For the last several years HLC has organised a summer school on transitional justice for human rights activists and students in order to increase the circle of organisations and individuals dealing with issues of transitional justice who can help institutions and the society to deal with its past.

In cooperation with its regional partners, the Research and Documentation Center from Sarajevo and Documenta from Zagreb, in 2006 HLC organised the first regional forum on truth establishing mechanisms for past events, which was held in Sarajevo

on May 8 and 9. In December 2006 HLC held regional consultations with artists on their views of ways to establish the truth and fight against crime denial and the relativisation of crimes. The goal of regional consultations and forums is to engage victims and veterans' associations, young people, professional associations, women's groups, human rights NGOs, historians, lawyers, and other individuals and groups in taking part in debates on ways to establish truth and create historical memory.

### **3.4.1. Truth telling**

In the absence of official past events truth seeking and truth telling initiatives, HLC organises forums where members of the ICTY, on one hand, present the investigation, the course of the trial, as well as evidence ICTY judgments are based on, and, on the other hand, the victims of those events give their personal accounts of the suffering and injustices they were exposed to.

In 2006 HLC organised two such forums: *Foča '92* (January 28, 2006) and *Prijedor: Beyond Reasonable Doubt*, June 24 2006. Both forums were organised in cooperation with the Outreach Office of the ICTY and they were attended by a total of 379 invited individuals.

#### **3.4.1.1. Foča '92**

Foča '92 forum was attended by 200 representatives of victims' associations from Serbia, Kosovo, and BiH, NGOs, youth organisations, women's groups, members of Parliament, representatives of ministries and political parties from Serbia, international organisations and embassies, judges, prosecutors, university and high school students. Representatives of the Office of the Prosecutor of the ICTY spoke about the crimes committed in the Foča municipality after it was taken by Serbian forces in April 1992. Hildegard Uertz-Retzlaff, ICTY Prosecutor, spoke about the *Kunarac Case*, primarily in the context of rape, which was for the first time in the history of the judiciary qualified as a war crime and a crime against humanity. The Legal representative/advisor of the Office of the Prosecutor of the ICTY, Christina Moeller, presented in detail the trial proceedings and pronouncement of the judgment in the Kunarac Case, sentencing members of the Army of Republika Srpska Dragoljub Kunarac, Radomir Kovač, and Zoran Vuković to prison sentences of 28, 20, and 12 years for rape and illegal deprivation of freedom of Bosniak women and girls from Foča and neighbouring villages.

Wendy Lobwein, coordinator of the ICTY Victim/Witness Protection Unit, spoke about the role of the Unit, describing in detail the psychological support offered to witnesses/victims who decided to give their testimonies before the ICTY.

A CBS documentary, "In Plain Sight", about the search by a women-journalist for perpetrators of war crimes in Foča was also presented at the conference.

In the course of the "Voice of the victims" session five Bosniaks from Foča testified: Ibrahim Karović, Irham Čecho, Fadil Budnjo, Hasan Balić, and Alma Rikalo-Turulja.

### **3.4.1.2. Prijedor 1992 – Beyond Reasonable Doubt**

Conference *Prijedor 1992 – Beyond Reasonable Doubt* was attended by 179 representatives of the Serbian judiciary, lawyers, NGO activists, 30 Bosniaks from Prijedor, and 50 university and high school students from Niš and Zrenjanin.

Ivana Dulić-Marković, former vice president of the government of Serbia and at the time Minister of Agriculture, took part in the conference. In the course of the first session deputy Chief Investigator of the ICTY, Bob Reid, presented facts about the Omarska, Keraterm, and Trnopolje detention camps, and about the ethnic cleansing of Bosniaks from the villages around Prijedor. In the second and third sessions Nicholas Koumijan, former ICTY Prosecutor, presented the entire Prijedor case, and in the fourth session, advisor to the Appeals Chamber of the ICTY, Micah Meyers explained decision making procedures in appeals processes.

In the “Voice of the victim” session five Bosniak victims from Prijedor, Nusreta Sivac, Mirsad Duratovic, Teufik Kulašić, Zijad Bačić, and Hidajet Horozović, testified about in their experiences in 1992.

Hidajet Horozović:

*“I have to be brief because I cannot talk about this as tears have already started rolling down my cheeks ... I can’t even listen to this, let alone talk about it.*

*Was it ten years ago, or more, ... I was young then, I can’t remember the date or the exact time, but I know what happened. Before the ethnic cleansing of Gradina a group of soldiers came to my house. There were ten to fifteen of them. Two of these soldiers in uniforms - they were Serbian military - came in and talked to my mother. One of them took Mother to another room, apparently in search of weapons. (...) They stayed in that room for a while. When they came out of that room I could tell by the way Mother looked that something was wrong, but she didn’t want to say anything to us children. Later, my sister told me that Mother had been raped that day (...).*

*(...) Night was falling and all of us were at home: myself, my brother and sister, Mother, two of our great aunts, our aunt and our two cousins. We heard a shot and one of our great aunts went out to bring the horse into the stable. Then there was another shot and my aunt went out to look for her. There was another shot followed by a short barrage. The two cousins looked through the window and were shot on the spot. (...) Mother said: “Don’t shoot! There are just women and children here.” But that soldier kept silent. He just aimed and shot a barrage at us. I felt a sharp pain in my right leg and left arm. But I kept quiet. The other soldier came in and said: “Stop shooting. Torch the place.” That soldier tried to set the house on fire, but it wouldn’t burn. They went out. I kept silent for a while and then I called Mother but no one responded. I called again, but my sister nodded to me and told me to shut up. After another while of silence my sister said to me: “They killed everyone. Keep quiet. We need to make sure they are gone.” We were lying there for a couple of hours with our family who were all dead. Sister, too, was wounded. She got a bullet in her stomach. She sat on a chair and we tried to put a bandage on her wound. We stayed the night like that, and, in the morning I saw my dead brother with half of his head blown off. I saw my great aunts dead - everyone was dead.”*

### ***3.4.2. Scorpions – A Home Movie, an HLC documentary***

In July 2006, HLC started preparations for a documentary about the *Scorpions* unit which committed crimes in BiH and in Kosovo. The documentary will premier after the verdict in the case of the accused *Scorpions* unit members for the execution of six Muslim men from Srebrenica in July 1995 becomes public. The verdict is expected in March 2007.

### ***3.4.3. Conferences***

In 2006 HLC participated in the organisation of the “Domestic War Crimes Trials – Taking the Lead” conference (October 17-20, 2006, in Miločer, Montenegro), and independently organised the seminar on the creation of a historical memory (May 20, 2006).

#### ***3.4.3.1. Domestic War Crimes Trials –Taking the Lead***

The “Domestic War Crimes Trials – Taking the Lead” conference was jointly organised by the Department of Justice of the United States, Office of International Assistance - Education and Professional Training of Judges, Prosecutors and Police, the US Embassy in Serbia, Office of the United States War Crimes Ambassador, and the HLC. In the course of three conference days there were eight sessions: Case studies – experiences and recommendations based on domestic investigations, criminal prosecution, and war crimes trials (Serbia, Croatia, Montenegro); Case studies – experiences and recommendations based on domestic investigations, criminal prosecution, and war crimes trials (BiH, internationalised courts in Kosovo, Macedonia); Sentencing in war crimes trials: judiciary and court practices; Encouraging witnesses to take part in legal proceedings; Ways to prevent inability to criminally prosecute: transfer of evidence and/or cases between the countries in the region; ICTY archives legacy; Transitional justice: importance of war crimes trials for future generations and in the dealing with the past process; Final discussion and conclusions: domestic war crimes trials – taking the lead.

The conference was attended by judges and war crimes prosecutors from Serbia, BiH, Croatia, Kosovo, Macedonia, and Montenegro, as well as representatives of the Ministry of Justice of the United States, ICTY, Clint Williamson, United States War Crimes Ambassador, and members of the OSCE mission and UNDP.

#### ***3.4.3.2. Seminar on historical memory***

The “Historical Memory” seminar was attended by 67 participants, mainly NGO activists and students of history, political science, and law. Three topics were tackled at this seminar: New Past – manipulation of historical facts in Serbian history textbooks, Germany Today about Its Past – Constant Questioning, and Public Space and Historical Memory – creation and invalidation of history in Serbia. The goal of the seminar was to point to similarities and differences in dealing with the past in Serbia and Germany and in their attempts to define a collective identity within these societies.

Historians from Serbia Olga Manojlović-Pintar and Dubravka Stojanović, and a German history professor Karola Brede were the panellists at the conference. Olga Manojlović-Pintar used the example of street name changes in Belgrade and initiatives to put up monuments after the 2000 events in an attempt to explain how a society remembers its past and how a historical memory influences the creation of the identity of a society as a whole, while University of Belgrade, Faculty of History professor Dubravka Stojanović, used the example of history textbooks to demonstrate that history is being presented in a highly politicised manner, with an utmost disregard for the facts.

Professor Karola Brede from the Goethe Institute in Frankfurt spoke how Germany developed its attitude towards the past and underlined the main stages of the process in dealing with the crimes committed by Nazis over Jews after the Second World War.

#### **3.4.3.3. *Friends of HLC***

On October 21, 2006, HLC hosted a donors' conference titled "Friends of HLC." The conference was attended by numerous current as well as several potential donors. Key note speeches were made by Ivan Vejvoda, Balkan Trust for Democracy, Jadranka Jelencic, Fund for an Open Society, Serbia, and HLC Executive Director Natasa Kandic. The subsequent discussion was moderated by Walter Veirs, C.S. Mott Foundation. Those that participated in the discussion included: Sandra Breka (Robert Bosch Foundation), H.E. Mr. Haakon Blankenborg, ambassador of Norway to Serbia, Roland Salvisberg (Swiss Ministry of Foreign Affairs), William Moody (Rockefeller Brothers Fund), Silvija Panovic-Djuric, (COE Serbia), Ivan Jovanovic (OSCE Mission to Serbia), and Goran Miletic (Swedish Helsinki Committee). It was at the Friends of HLC conference that HLC premiered its biopic presenting the organisation's history, the context in which it works, and its significant achievements in transitional justice.

*"[T]he history of the HLC is the history of civil society in Serbia. The very first non-governmental organizations were established at the beginning of the nineties, the HLC being one of them. The fact that we should all have in mind is that the HLC at the very beginning realized what was going on in Serbia and in the region and immediately faced the events and realized that there are victims, that there are reasons to meet them and collect their experience, and from the very beginning, the Center did believe that the justice would be delivered and actually we see today that all that the Center has collected, did facilitate the work of the judiciary, international and domestic, but it also served to open the dialogue within the Serbian society and between the societies in the region which led us to start confronting the past."*

Jadranka Jelencic, Fund for an Open Society, Serbia

## **4. Regional cooperation**

In 2006, HLC and its regional partners, Documenta and IDC, were focused on planning and organising a regional consultation process within civil society on ways to establish and tell the truth, on regional war crimes trials monitoring, organisation of the transitional justice school, the professional development of staff, and the creation of a unified information system.

#### ***4.1. Regional consultations on establishing and telling the truth***

Titled: *Establishing the truth in the post-conflict period: Initiatives and perspectives in the Western Balkans*, the first regional forum on ways of establishing the truth was held in Sarajevo on May 5 and 6, 2006. Over 120 individuals from post-Yugoslav states took part in the debate: representatives of victims', veterans, and refugee associations, women's groups, human rights organisations, youth groups, BiH Parliament, political parties, judges and prosecutors, representatives of international organisations for human rights, inter-state organisations, the Chief Prosecutor of the ICTY, and an ICTY judge, justice Wolfgang Schomburg.

The debate was organised in five sessions: The importance of truth in overcoming the consequences of the conflict; How to find the truth: models and mechanisms; The role of the judiciary in establishing the truth; The perspective of the victims: consultations, access, and participation of the victims in the process of establishing the truth; and Regional approach to establishing the truth.

IDC produced a transcript of the audio recording of the forum which was distributed to participants of regional artists' consultations held in December 2006, and it is also going to be distributed to participants of the second regional forum scheduled for the beginning of 2007 in Zagreb.

##### ***4.1.2. Regional artists' consultations***

On December 16, 2006 HLC organised regional artists' consultations with 27 artists from all post-Yugoslav states: three from Kosovo, one from Slovenia, 10 from Bosnia and Herzegovina, five from Croatia, and seven from Serbia. There were three sessions: The Responsibility of Artists, Artistic Freedoms, and New Cultural Space, which allowed the participants to present their views on ways to establish the truth and shape the past.

By the end of 2006 HLC produced the transcript of the audio recording of the debate which will be distributed to the participants of the regional forum in Zagreb.

#### ***4.2. Regional projects***

##### ***4.2.1. War crimes trials monitoring***

The Regional War Crimes Trials Monitoring Team for trials held in Serbia, Croatia, and BiH was formed in January 2005 and it consists of trial observers from HLC, IDC, Documenta, and the Center for Peace, Tolerance, and Human Rights from Osijek (one of the founders of Documenta).

In 2006 the Regional Team monitored 10 war crimes trials (five in Croatia, two in Serbia, and three in BiH). The observers compiled reports from 122 main hearings. All reports are posted on the Internet presentations of the organisations participating in the project. At the end of 2006 the Center for Peace, Tolerance, and Human Rights published a report on national and regional level war crimes monitoring.

#### **4.2.1.1. *Lora Case***

The repeated trial in the case of military police officers of the Republic of Croatia for war crimes committed against prisoners of war in the *Lora* military prison in Split was held before the District Court in Split. In January and February the Regional Team monitored 10 main hearings. On February 2, 2006 the Trial Chamber handed down its decision which found all of the accused guilty and sentenced them to prison sentences ranging from six to eight years. The Trial Chamber established that the accused were members of the 72<sup>nd</sup> combat military police unit and that they acted together with unidentified persons in the commitment of the criminal act and that they are responsible for the abuse of imprisoned civilians. Nenad Knežević and Gojko Bulović died as a result of the torture they were exposed to. When the decision was publicised, former prisoners who testified before the District Court in Split spoke at a press conference organised by HLC in Belgrade. It was the very first time that the Serbian witnesses said that Croatian judges were unbiased and professional and that they showed consideration for the dignity of Serbian victims during their testimony.

#### **4.2.1.2. *Mikluševci Case***

The trial of 25 persons (18 of which were tried in absentia) accused of war crimes committed against Ruthenian civilians from the Mikluševci village in 1991 is being held before the District Court in Vukovar. There were seven main hearings in 2006. During this period one of the accused, Milan Stanković, who was out on pre-trial release, fled Croatia, and the Court also decided to try him in absentia. The accused Živan Ćirić died in 2006, and the case against him is officially closed.

#### **4.2.1.3. *Lovas Case***

Another trial held before the District Court in Vukovar is the trial of Ljuban Devetak and another 17 Serbs, accused of war crimes committed against Croatian civilians in Lovas in the period of August 1 to September 13, 1991. The accused are charged with forcing Croatian civilians to walk through a mine field, on which occasion ten or so persons were killed. The majority of the accused are tried in absentia. There were five main hearings in 2006.

#### **4.2.1.4. *Baranja / Alaica Case***

The indictment raised by the Office of the District Prosecutor of Osijek, charges the accused Nikola Alaica, Mile Bekić, Drago Karagača, Petar Mamula, Milan Prusac and Sreto Jovandić that in the period from August 1991 to September 1995 in Baranja “as participants of the armed rebellion of the local population ... organised guerrilla and paramilitary forces”, and that, with no reason at all, they arrested and questioned non-Serbian residents, that they abused civilians both physically and psychologically, illegally searched their houses, confiscated their property, intimidated them and in other ways treated them inhumanly, thus committing a war crime against the civilian population. After the Trial Chamber of the District Court in Osijek found all the defendants guilty as charged, the Supreme Court of Croatia overturned the first instance decision on May 7, 2003 and returned the case for a retrial. Since February 2006 there have been 10 main hearings. In a decision handed down on May 8, 2006, Nikola Alaica, Mile Bekić, Drago Karagača, Milan Prusac, and Sreto Jovandić were



acquitted of all charges and the accused Petar Mamula was found guilty and sentenced to 4 years and 10 months in prison.

#### **4.2.1.5. *Koranski Most Case***

The third repeated trial of Mihail Hrastov, member of the PJP, Police Command Center Karlovac, for the murder of JNA reservists Jovan Stipić, Božo Kozlina, Nebojša Popović, Milić Savić, Milenk Lukač, Nikola Babić, Slobodan Milovanović, Svetozar Gojković, Miloš Srdić, Zoran Komadina, Mile Babić, Vaso Bižić, and Mile Peurača, and for the wounding of Duško Brkić, was held before the District Court of Karlovac. There have been seven main hearings in 2006. The accused is out on pre-trial release.

#### **4.2.1.6. *Ovčara – Radak Case***

The accused Saša Radak is tried before the War Crimes Trial Chamber of the Belgrade District Court together with other members of the Vukovar Territorial Defence (TO) unit and members of the *Leva Supoderica* volunteers unit for committing a war crime against Croatian prisoners on *Ovčara* farm near Vukovar.

There have been six main hearings since January 2006. On September 6, 2006 the War Crimes Trial Chamber of the Belgrade District Court found Saša Radak guilty and sentenced him to 20 years in prison.

#### **4.2.1.7. *Boban Šimšić Case***

Regional Team observers monitored five trials held before the War Crimes Department of the State Court of BiH. One of the trials they monitored was the trial of Bosnian Serb Boban Šimšić for a war crime committed against Bosniak civilians in Višegrad in the period from April to July 1992. There were 10 main hearings and the Team monitored all of them until July 11, when the decision was handed down. Trial reports are posted on the websites of the organisations taking part in the project.

#### **4.2.1.8. *Dragoje Paunović***

The Regional Team monitored the trial of Bosnian Serb Dragoje Paunović held before the War Crimes Department of the State Court of BiH. On May 26, 2006 the Court handed down a decision sentencing Dragoje Paunović to 20 years in prison. The judgement found Paunović guilty because at the time of “systematic attacks of the army and police of the so-called Serbian Republic of Bosnia and Herzegovina and paramilitary units under the command of the Serbian Democratic Party (SDS), directed against Bosniak population in the Rogatica area and Eastern Bosnia, in the period from May to September 1992, ordered and executed the persecution of civilians on a political, national, ethnic, cultural, and religious basis.” It is also stated in the decision that on August 15, 1992 Paunović personally ordered and participated in the execution of 27 civilians in the Duljevac village in the Rogatica municipality.

#### ***4.2.1.9. Kravice Case***

On May 9, 2006, the Trial Chamber of the War Crimes Department of the State Court of BiH started the trial of 11 members of the II Special Police Squad Šeković (Skelani), and Army of the Republika Srpska, for the execution of over 1,000 Muslim prisoners on the “Kravice” agricultural cooperative. This is the first genocide case tried before the State Court of BiH. There were 59 main hearings in 2006. All were monitored by the Regional Team observers.

#### ***4.3. Training for the creation of a record of victims***

Regional partner organisations agree that only a precise record of all victims, containing each victim’s name can prevent the political abuse and manipulation of the number of victims. In view of that, and starting from the fact that IDC is in the final stage of the creation of a record of the victims of armed conflict in BiH, it is agreed that IDC conducts training for its regional partners’ researchers in order to make them capable of making records of victims in Serbia, Montenegro, Kosovo and Croatia.

IDC organised a training in Sarajevo from 1 – 5 December, 2006, and it was attended by 40 researchers from IDC (22), HLC (nine researchers and War Crimes Data Base analysts, and researchers on the ***Record of the killed and missing in Kosovo: January 1998 – December 2000*** project), and Documenta (nine representatives).

#### ***4.4. Oral history records training***

In the period October 22-26, 2006, IDC organised training for the oral history researchers of HLC, IDC, and Documenta, and made a presentation of different crime documenting methods used in post-conflict societies. Special attention was given to the oral history methodology and psychological and traumatic effects armed conflicts have on surviving victims, which is possible to document by oral history methods.

Among the lecturers were leading world experts who teach oral history and who have practiced oral history methods personally: Selma Leydesdoff, from the University of Amsterdam, Alexandro Portelli from the University of Rome, Alesandro von Plato, from the Fernuniversitate Hagen University, and Mary Chamberlain from Oxford Brookes University.

#### ***4.5. The creation of a unified information system***

The goal of the project is to create a compatible data base and to create a unified information system in all three centres, which will enable fast and easy information exchange as well as a unified way to access and manage the data and information contained in it for all three partner organisations.

The expert team tasked with the creation of the information system was formed in September 2006 and the Team members had four regional meetings by the end of December 2006 held in Belgrade (September 22-24, 2006), in Osijek (November 11, 2006), and in Sarajevo (December 1-5, 2006). These consultations as well as numerous phone and e-mail contacts resulted in a jointly accepted idea of the information system project.

#### ***4.6. Education in the area of transitional justice***

In 2006 HLC organised the second transitional justice summer school on Lake Palić, Serbia, from July 24 to 28. It was attended by a total of 35 students, 10 from Serbia, 10 from Croatia, 10 from BiH, three from Kosovo, and two from the UK, all of whom attended lectures given by international and regional experts for transitional justice and took part in the discussion on experiences of post-Yugoslav societies in the dealing with the past process. Fifteen lecturers<sup>6</sup> gave lectures on the following topics: mechanisms and the history of transitional justice, international justice and international criminal law, ICTY, war crimes trials in Serbia and other parts of former Yugoslavia, historical justice, youth initiatives in the region and reparations, restorative and symbolic justice in the Western Balkans.

### **5. Donor support**

HLC had institutional support from the Open Society Institute and the Mott Foundation. In October 2006 the Oak Foundation approved an institutional grant. Individual projects were supported by: European Commission, Fehmi Agani Association, Balkan Trust for Democracy, Freedom House Foundation, CCFD Foundation, Open Society Foundation (Serbia), King Baudouin Foundation, KIOS Foundation, National Endowment for Democracy Foundation (NED), OSCE Mission in Serbia, United States Institute for Peace (USIP), and agencies for international development of Austria, Denmark, Germany, Switzerland, Great Britain, and United States.

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<sup>6</sup> Iavor Rangelov, a doctorate candidate at London School of Economics, Mark Freeman, International Center for Transitional Justice, Ruti Teitel, New York Law School, Gerry Simpson, London School of Economics, Nataša Kandić, HLC Executive Director, Vesna Terselič, President of Documenta, Dragoljub Todorović, HLC lawyer, Marijana Toma, Cape Town University, Tvrtko Jakovina, University of Zagreb, Alexandra Milenov, ICTY Office in Belgrade, Ivan Stojanović, Youth Initiative for Human Rights (an NGO from Belgrade), Goran Miletić from Documenta, Erin Mosely and Huma Haider, graduate students from London School of Economics, Carla Fertsman, REDRESS – London, and Robert Howse from the Law School of the University of Michigan.

***Annex I Donor support in 2006 by Donor, Project and Amount***

<b><u>Donor support in 2006 by Donor, Project and Amount</u></b>		
<b>Donor</b>	<b>Project</b>	<b>Amount in EUR</b>
1. Open Society Institute	Institutional Support	230.000,00
2. Charles Stewart Mott Foundation	Institutional Support	41.000,00
3. OAK Foundation	Institutional Support	32.000,00
4. European Commission	Promoting Minority Rights in the Future Through Reparation for Human Rights Abuses in the Past	63.000,00
5. USAID	Victim/Witness Counselling and Legal Support	133.000,00
	Building an Archive of Trial proceedings and Evidence of the ICTY in BCS languages	19.000,00
	Promoting Minority Rights in the Future Through Reparation for Human Rights Abuses in the Past	9.500,00
	Transcripts of the Slobodan Milošević trial before the ICTY	15.350,00
6. Austrian Development Agency	Conference »Foča 1992 – Beyond a reasonable doubt«	14.180,00
7. German Development Agency	Fighting Racism and Protecting Minorities through Human Rights Monitoring in Kosovo, Strategic Litigation and Advocacy for dealing with Violations of Human Rights in the Past in Serbia and Montenegro	12.545,00
	Kosovo Memory Book	21.770,00
8. Swiss Development Agency	Transitional Justice Summer School	56.570,00
9. Danish Development Agency	Conference »Prijeđor 1992 – Beyond a reasonable doubt«	16.000,00
10. British Development Agency	Conference »Prijeđor 1992 – Beyond a reasonable doubt«	7.150,00
	Kosovo Memory Book	3.645,00
11. Freedom House	Regional Truth-Telling Forum in Sarajevo	11.000,00
	Regional Roundtable Truth-Telling Consultation in Belgrade	14.500,00
	Kosovo Memory Book	2.500,00
<b>Donor</b>	<b>Project</b>	<b>Amount in EUR</b>
12. Fund for an Open Society Serbia	Combating the Culture of War Crimes Denial: The Truth About the 1990	9.000,00
	Transcripts of the Slobodan Milošević trial before the ICTY	33.000,00
13. Fund for an Open Society Bosnia and Herzegovina	Reprint of the book »International Criminal Practice«	9.000,00
14. Balkan Trust for Democracy	Monitoring War Crimes Trials in Serbia, Croatia and Bosnia and Herzegovina	32.150,00
15. Impunity Watch Foundation	Combating the Culture of War Crimes Denial	6.000,00
16. Stiftung »Erinnerung, Verantwortung und Zukunft«	Historical Memory Seminar	5.680,00
17. OSCE Mission to Serbia	Publication »The Hague Among Us«	4.185,00
18. King Baudouin Foundation	Promoting the Protection of Minority Rights in Kosovo	25.000,00
19. KIOS Foundation	Promoting the Protection of Minority Rights in Kosovo	10.535,00
20. National Endowment for Democracy	Kosovo Memory Book	16.500,00
	We, Scorpions – The anatomy of a unit of the Serbian Ministry of the Interior – a TV documentary	15.000,00
21. US Institute of Peace	Kosovo Memory Book	9.500,00
22. Fehmi Agani Association	Kosovo Memory Book	9.300,00
23. French Catholic Committee Against Hunger and for Development	Kosovo Memory Book	25.000,00
	Monitoring War Crimes Trials in Kosovo	25.000,00

Natasa Kandic  
Executive Director

11 June 2007