

# **Human Rights in South-East Europe (The Western Balkans)**

**HUMSEC Summer Academy, 24 July 2008**

**Wolfgang Benedek, University of Graz,  
ETC Graz, WUS Austria**

# Chronology of the Yugoslav Conflict

- 1389: Battle of Kosovo Polje**
- 1455-1912: Ottoman empire rules Kosovo**
- 1878: Occupation of B-H by Austrian-Hungarian Empire**
- 1908: Annexation of B-H**
- 28.6.1914: Killing of Austrian Arch Duke Ferdinand in Sarajevo**

# Chronology of the Yugoslav Conflict

- 1974:** Amendment of Constitution of Yugoslavia provides autonomous provinces of Vojvodina and Kosovo
- 1980:** Tito dies
- 1986:** Serbian Academy of Arts and Sciences publishes so called Memorandum
- 1987:** Milosevic's rise to power
- 1989:** The six hundred anniversary of the „Battle of Kosovo“  
Milosevic uses the anniversary to spark the nationalism of its own people

# Chronology of the Yugoslav Conflict

- 1990/1991: Withdrawal of autonomy of Kosovo**
- 1990/1991: Rise of national forces in Slovenia, Croatia and Bosnia and Herzegovina**
- June 1991: Slovenia and Croatia declare independence:  
10 days war in Slovenia**
- 1991-1992: War in Croatia: Fall of Vukovar, Attack on Dubrovnik**
- February 1992: Bosnia and Herzegovina: referendum for independence**
- April 1992: War in Bosnia and Herzegovina started**

# Chronology of the Yugoslav Conflict

**Summer/fall 1992: Concentration camps discovered by western journalists**

**1992-1995: Siege of Sarajevo**

**1993: Washington agreement ends war in Mostar: EUAM**

**1987-2000: Milosevic rules Serbia**

**1994: Sarajevo massacre triggers western intervention**

**1995: Fall of UN “safe area” and genocide in Srebrenica**

# Chronology of the Yugoslav Conflict

- 1995:** Croatian forces liberate occupied part of Croatia
- 1998/1999:** Kosovo liberation army attacks result in increased Serb repression
- 1999:** Rambouillet-conference
- 24.3.-10.6.1999:** NATO intervention in Serbia and Montenegro
- 2000:** Milosevic resigns
- 2001:** Ohrid agreement resolves Macedonian conflict

# Chronology of the Yugoslav Conflict

- 2001:** Milosevic transferred to Hague
- 2004:** Milosevic dies
- 2005:** Montenegro separates from Serbia after referendum
- 17 Feb. 2008:** Declaration of Independence by Republic of Kosovo
- 22 July 2008:** Karadzic arrested in Belgrade

**Too much history in the Balkans?**

# Human Rights Violations in the Balkans

- **War crimes in Croatia, Bosnia-Herzegovina and Kosovo**
  - **Vukovar**
  - **Dubrovnik**
  - **Sarajevo**
- **Bosnia-Herzegovina: 100.000 dead, 1.5 Mio displaced**
- **Kosovo: 10.000 dead, 1.3 Mio displaced, 800.000 had to flee country temporarily**
- **Srebrenica, July 2005: 8.000 men killed**



# Reactions by International Community

- **Yugoslavia Conference 1991**
- **Copenhagen criteria for recognition of new states 1992**
- **Badinter Commission 1992**
- **ICTY 1993**
- **Sanctions, no fly zones, safe areas, UNPROFOR – too little, too late?**
- **Venice Commission advises on constitutional/legal issues**
- **ICJ-judgment finds genocide in Srebrenica 2007**

# Peace vs Human Rights and Justice

- **Peace negotiators vs human rights defenders**
- **Impunity vs ICTY**
- **Peace keeping forces where there was no peace to keep**
- **Ethnic rights vs human rights**
- **Principle of nationality vs European integration**
- **Immunity vs accountability of International Community**

# Main Debates

- 1. Intervention or burn out of war in B-H?**
- 2. Mandate creep and exit strategies**
- 3. Peace vs Justice?**
- 4. Resolution on the basis of ethnicity?**
- 5. International vs national justice**
- 6. Role of international administration**
- 7. Relevance of European integration: sticks and carrots**
- 8. Peace vs truth?**
- 9. Role of civil society**

# Human Rights Problems

- **Ethnic cleansing, displacement, refugees**
- **Violations of international humanitarian law- crimes against humanity**
- **Genocide**
- **Murder, torture, sexual slavery, starvation**
- **Occupation of property**
- **Right to education, work, health**
- **Rights of the child**
- **Discrimination of women**

# Human Rights Problems

- **Minority rights, Roma**
- **Ethnic discrimination for public bodies and on the work place**
- **Fair trial**
- **Prison conditions**
- **Freedom of expression – media regulation – hate speech**
- **Right to return**
- **Applicable law standards and remedies**

# Institutional Responses

- **Judgments of ICTY – transitional justice**
- **Question of witness protection and victim's rights**
- **B-H State Court: war crimes chamber**
- **Judicial reform**
- **Administrative reform**
- **Police reform**
- **Educational reform**
- **State-building and society-building**

# **Role of International Community in ending the war**

- **Peace Implementation Council – Contact Group**
- **Dayton Peace agreement – OHR – High Representative – Bonn Powers**
- **Military Presence EUFOR**
- **Rambouillet Conference**
- **Res 1244 UNMIK**
- **Special Representative**
- **International Steering Committee for Kosovo**

# **Role of International Community in post-conflict reconstruction**

- **Providing security: UNPROFOR/SFOR/EUFOR; KFOR**
- **International administration**
- **Transitional justice and reconciliation**
- **Strengthening the Rule of Law**
- **State- and society-building through reforms**
- **Strengthening civil society**
- **Protection of human and minority rights**



# Transformation of Conflict

- **From violent to political**
- **Reconciliation**
- **Justice and human rights**
- **Truth Commission**
- **Peace-Building**
- **Regional Cooperation**
- **Searching for a common history**
- **Education**

# International Community as Protector and Violator of Human Rights

- **ICTY – individual accountability**
- **ICJ: state accountability**
- **Setting up of Ombudsinstitutions with help of OSCE**
- **OHR, UNMIK: question of accountability and liability**
- **OHR: Bonn powers**
- **UNMIK: Special Representative: full powers**
- **KFOR: special powers**
- **ICR: far-reaching powers – monitoring Ahtisaari plan**

# Protecting Human Rights in Bosnia-Herzegovina

- **Dayton Constitution and Human Rights provisions**
- **ECHR as highest law**
- **Human Rights Chamber and Ombudsperson**
- **Property Commission**
- **Independent Media Commission → Communication Regulation Agency**
- **Constitutional Court**
- **Special Human Rights Court not implemented**
- **Problems in practice**

# Human Rights Institutions in B-H

- **Human Rights Court: not established**
- **Property Commission**
- **Human Rights Commission: HRs Chamber and Ombudsman, replaced by:**
- **3 Ombudspersons on national and entity level and Constitutional Court**
- **Human Rights Chamber of Constitutional Court**
- **War Crimes Chamber of State Court**

# International Human Rights Protection: Bosnia and Hercegovina

- **ECHR in Strasbourg**
- **UN treaty bodies**
- **Special procedures, Special Rapp. On the former Yugoslavia ended**
- **Review process of OHR decisions**
- **Problem of decertification decisions**

# Kosovo - Human Rights Issues

- **Ombudsman Office for Kosovo**
- **Lack of access to European Court of Human Rights**
- **OSCE**
- **NGOs**
- **Advisory Panel for UNMIK-related violations**
- **Hybrid Court System**
- **Independent Media Commission for electronic media and Press Council**

# Role of European Union

- **ECMM**
- **EUAM**
- **EUFOR**
- **EUAM**
- **EULEX**
- **SAA**
  
- **Conditionality**
- **EU-perspective**

# Human Security in the Western Balkans

- **Problems of organized crime**
- **Corruption**
- **Terrorism**
- **Peace-building process**
- **Role of civil society**
- **Civil and political as well as economic, social and cultural rights**
- **Focus on vulnerable groups**



# European Union Perspectives for the Western Balkans

- **Future of Western Balkan States in EU**
  - **From Stability Pact in Brussels to Regional Cooperation Council (RCC) in Sarajevo**
  - **South East European Cooperation Process**
  - **Improvements of Visa regime**
  - **Scholarships for students**
  - **Participation in Community programs and agencies**

# EU Activities to Promote Western Balkans Integration

- **New Facility to Support Civil Society**
- **Cooperation in Law, Freedom, Security – Europol, border protection, SECI-Regional Centre to combat organized crime (Bukarest)**
- **Cooperation on Combatting Terrorism, human and drug trafficking, FRONTEX**
- **Cooperation on asylum, migration, visa**
- **Regional School of Public Administration**

# Status of Individual WB States

- **Croatia: accession negotiations**
- **FYR Macedonia: Candidate Status (2005) – accession partnership**
- **Albania: SAA (2006)**
- **Montenegro: SAA (2007)**
- **Serbia: SAA (2008)**
- **B-H: SAA (2008)**

# Conditions for Stabilisation- and Association Agreements (SAA)

- **Cooperation with ICTY**
- **Police Reform**
- **Judicial and administrative reforms**
- **Reform agenda to bring laws and institutions in conformity with European standards**