

Research Report GA5

Issue: Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia (ICTY)

Introduction

The International Tribunal for the Prosecutions of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia, also referred to as the International Criminal Tribunal for the former Yugoslavia (ICTY), is a United Nations court of law dealing with perpetrators of war crimes during the conflicts in the Balkans.

The ICTY is seated in The Hague, Netherlands and has charged over 160 people. Among these people were heads of state, prime ministers, army chiefs-of-staff, interior ministers and many other high- and mid-level political, military and police leaders from various parties to the Yugoslav conflicts.

The UN Security Council established the ICTY in 1993 by its resolution 827 of 25th May 1993 in accordance to the UN Charter Chapter VII in response to mass atrocities taking place in Croatia, Bosnia and Herzegovina. The key objective of the ICTY is to contribute to a lasting peace in the former Yugoslavia.

Since the ICTY is a measure of the Security Council to maintain international peace and security, the Security Council allocates its budget. Ultimately the budget comes from the same nations who finance the Security Council.

The fifth committee needs to keep in mind that the ICTY plays a major role in maintaining the international peace and security, while debating, this role may be questioned.

The committee also needs to be careful about drifting away from the topic. The focus should be on the administration and financing of an UN body. Otherwise the debate may turn into a general debate on the war between Bosnia-Herzegovina, Croatia and Serbia.

Definition of Key Terms

Ethnic Identity/Ethnic Group – A group of people who identify each other through common heritage. This common heritage can be based upon putative common ancestry, history, kinship, religion, language, shared territory, nationality or physical appearance.

Ethnic Cleansing – A forcible removal of ethnic groups from specific areas by using violence, to gain an ethnic uniform area. Not to be confused with Genocide.

Ethnic Cleaning aims to relocate people by force whereas Genocide means to systematically destroy whole populations of an ethnic, racial, religious, or national group.

Federation – A union of regions or states with a central government. The union members are partially self-governing states and surrender most of their sovereignty to the central government.

Secession – Withdrawing from an organization, union, or especially a political entity

Autonomous Region – Areas within a government, which wants to retain self-governing rights.

Background Information

This passage will give a brief overview about the conflicts, which occurred during 1991 to 2001 in the former Yugoslavia.

What is the former Yugoslavia?

The term describes the territory of The Socialist Federal Republic of Yugoslavia until June 25 1991. The state was made up of Bosnia-Herzegovina, Croatia, Serbia, Montenegro, Macedonia and Slovenia.

The republic started to dissolve after the declaration of independence from Slovenia on June 25 1991. Several states followed, leaving only Serbia and Montenegro forming the Federal Republic of Yugoslavia. In 2003 the Federal Republic of Yugoslavia went under reconstruction and renamed themselves as a State Union Serbia and Montenegro. The Union ended after Montenegro's formal declaration of independence on 3 June 2006 and Serbia's on 5 June 2006.

1. Ten Day War (Slovenia 1991)

After Slovenia's declaration of independence, the federal government ordered the Yugoslav People's Army (YNA) to intervene. This escalates into a military conflict, ending with a victory for Slovenia.

2. Croatian Wars of Independence (1991-1995)

The declaration of independence of Croatia triggered the objection of the ethnic minority of Serbs within the country. They decided to secede from Croatia. Serbs mostly staffed the higher-ups of the JNA consequently sided with the rebelling Serbs. Croatia had to form their military forces from nothing and suffered attacks from their borders resulting in the shelling of UNESCO world heritage site Dubrovnik.

In 1995 Croatia manages to start 2 decisive offensives and regain their lost areas. Several Serbs escape to the neighboring Serbian areas.

3. Bosnia War (Bosnia and Herzegovina 1992-1995)

Bosnia and Herzegovina was a country with a high ethnic diversity. The population made up of about 43 per cent Bosnian Muslims, 33 per cent Bosnian Serbs, 17 per cent Bosnian Croats and seven percent of other nationalities.

In March 1991 Bosnian Serbs started a boycott and with the help of the JNA they asserted control of 60% of the country. Bosnian Croats soon followed and declared their own autonomous region with the backing of Croatia.

Siege of Sarajevo

Serb forces encircled Sarajevo and assaulted the city with weapons that included artillery, mortars, tanks, anti-aircraft guns, heavy machine-guns, multiple rocket launchers, rocket-launched aircraft bombs and sniper rifles.

It is estimated that nearly 10,000 people were killed or went missing in the city, including over 1,500 children. An additional 56,000 people were wounded, including nearly 15,000 children. By 1995, killings and forced migration had reduced the city's population to 334,663 - 64% of its prewar size.

Srebrenica massacre

An ethnic cleansing of 30,000 refugees occurred in the area of Srebrenica in Bosnia Herzegovina.

More than 8000 boys and men were killed.

Ethnic Cleansing in Banja Luka

Banja Luka is an important city and lies in a Serb region called Bosanska Krajina. Banja Luka's population was divided equally between both ethnicities, Bosnian Serb and Bosnian Muslim, of 143,000 people.

Soon the Bosnian Serb paramilitary forces began to remove Bosnian Muslims from the higher positions of industries.

The second phase was to guarantee that the Bosnian Muslims have no choice but to flee. To do so they sent non-Serbs an invitation for mandatory service in the Serb paramilitary forces. The military acquired them to fight amongst Bosnian Muslims. They had no choice: otherwise they'd lose their jobs and homes, if they had any left.

"Enforced disappearances" also occurred in quite a high number. Prominent Bosnian Muslims who couldn't comply with their thoughts often disappeared.

Kosovo Conflict (1998-1999)

The next conflict occurred between the ethnic Albanians and the Serbian rule. In 1998 a rebellion arose and carried out by the Kosovo Liberation Army (KLA). The Serbs heavily targeted civilians and forced the Albanians to flee. Soon the

NATO interfered and started a bombing campaign. As a result the persecution of Kosovo Albanians intensified. In the end President Slobodan Milošević agreed to withdraw his troops and police from the province. Kosovo agreed to an international administration in 1999.

The Organs of the ICTY and its costs

There are three organs: The Chambers, the Registry, and the Office of the Prosecutor (OTP). Each organ has to manage their part of the assigned Tribunal budget.

The OTP is responsible for investigating crimes, gathering evidence and prosecuting inductees. It is lead by a Prosecutor appointed by the Security Council. The OTP is independent from any government or international organization and acts on its own. All expenses are carried by the ICTY and since there is a huge amount of cases, it will require a high budget. The OTP finances the travel of investigators, who collect evidence throughout the whole world. Some nations also provided the Tribunal with extra budget.

Victims and Witnesses Section

It bears all expenses for individuals who testify in front of the Tribunal. These include travel expenses, accommodation and basic expenses such as meals and medical costs.

Conference and Languages Services Section

This is the translation section the Tribunal.

Legal Aid System

The Legal Aid System ensures a fair travel for everyone. There are many people accused who cannot afford to pay for a lawyer. The Tribunal covers these costs, which accounts for 11% of the Tribunal's yearly budget.

The Tribunal also has costs for buildings, facilities and salaries of their employees of about 1200 people.

Important Parties involved

This section will be kept short in interest of the readers. It is important to keep in mind that the ICTY is financed through the UN and therefore is dependent on the dues all member states pay. Following nations play an important role: United States of America, Japan, Germany, United Kingdom, France, Italy. To get a good overview it's best to get a general idea about the funding of the UN.

Relevant documents

The following documents are reports of the Advisory Committee on Administrative & Budgetary Questions (ACABQ) on the International Criminal Tribunal for the former Yugoslavia. They are important for the topic:

Financing of the International Tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991, 1993 **(A/48/765)**

Financing of the International Tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991, 1994 **(A/48/915)**

Financing of the International Tribunal for the former Yugoslavia (ICTY) Budget estimates for 1998 Conditions of service for the judges of International Tribunal for the former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR), 1997 **(A/52/696)**

Proposed Requirements of the International Tribunal for the Former Yugoslavia for 2000, 1999 **(A/54/645)**

Budget for the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the biennium 2002-2003, 2001 **(A/56/665)**

Financing of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia for the biennium 2008-2009, 2008 **(A/63/595)**

Comprehensive proposal on appropriate incentives to retain staff of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, 2008 **(A/62/734)**

Useful Sources and links:

"About ICTY", web 31 January 2010 <http://www.icty.org/sid/3>

"What is the former Yugoslavia?" web 31 January 2010

<http://www.icty.org/sid/321>

"The costs of the ICTY", web February 2010 <http://www.icty.org/sid/325>