

PRESS RELEASE ON THE OCCASION OF THE FIRST INSTANCE VERDICT FOR THE ACCUSED
OF DEPORTATION OF REFUGEES

Podgorica, 29 March 2011

Human Rights Action is highly unsatisfied with the reasoning of the Podgorica Higher Court that the accused of War crime against civilians (i.e. deportation of refugees) had to be freed because Montenegro and its police “were not parties to the conflict in Bosnia and Herzegovina” and that, although the defendants acted illegally, they cannot therefore be regarded as perpetrators of a war crime.

HRA holds that the decision of the Montenegrin first instance court is not in accordance neither with international humanitarian law that was binding for the Federal Republic of Yugoslavia at the time of the crime of deportation of refugees at the end of May 1992, nor with the national Criminal Code, in force at the time, which prescribed the War crime against civilians.

We hold no doubt that in this case the war crime was definitely committed at least *in connection* with the armed conflict in Bosnia and Herzegovina, while the political position of the leadership of the Federal Republic of Yugoslavia, and Montenegro as its part, that they were not involved in the conflict should not affect a lawful ruling of any court.¹

Montenegrin public officials actually officially admitted their participation in the conflict by deporting refugees from Montenegro to one party of that conflict, as evidenced by the letter of the then minister of Interior, Nikola Pejakovic, of 12 August 1992, to Danijela Stupar, widow of deported Alenko Titoric, in which the minister wrote the following: **“your spouse Alenko Titorić, arrested 26 May 1992 in Herceg Novi, was delivered to the military police at the headquarters of the Territorial Defence in Bratunac at the request of the Republic of Srpska in Bosnia and Herzegovina, where he was supposed to become part of a group of Muslims for exchange for captured Serbian territorial fighters ...”**² (Please note the originally signed and stamped letter attached).

¹ In its final ruling in the Tadic case, the Hague Tribunal (ICTY) has found that the conflict in Bosnia and Herzegovina was of international character, where, after 19 May 1992, the armed forces of the Republic of Srpska operated under the overall control and for the Federal Republic of Yugoslavia. Also, the ICTY has found that an act can be considered a war crime, wherever committed, if committed **“in the context of armed conflict”** (Tadic Decision, para. 70), if the act in question was **“sufficiently related to the armed conflict”** (Seselj Decision, para. 14), or if it was **“closely related to the hostilities”** (Tadic, para. 70). Moreover, the Supreme Court of Montenegro found in 1995, that the murder of a Muslim family Klapuh on the territory of Montenegro in July 1992 had been a War crime against civilians, because acts against civilians provided in the Geneva Convention and related protocols “are and shall remain prohibited at any time and any place”.

² This letter was first published in the Belgrade weekly *Vreme* in 1993 and Montenegrin daily *Vijesti* published it again in August 2004. It was submitted as key evidence in the civil law suits filed for redress by the families of the victims of deportation that resulted in the settlement with the Montenegrin Government in December 2008.

If this verdict becomes final because the crime of deportation cannot be considered a war crime, despite such official recognition of state participation in the conflict, it will provide an irreparable blow against Montenegro as a state of law.

Tea Gorjanc Prelevic, executive director of the Human Rights Action

The letter was also proposed as evidence in the criminal proceeding by the State Prosecutor, as noted in the indictment. Since the first instance criminal court's judgment has not yet been executed in a written form, we do not know whether at all, or how was the letter assessed by the court.