

105TH CONGRESS
1ST SESSION

H. R. 2121

To restrict foreign assistance for countries providing sanctuary to indicted war criminals who are sought for prosecution before the International Criminal Tribunal for the Former Yugoslavia.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 1997

Mr. CARDIN (for himself, Mr. HOYER, and Ms. PELOSI) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To restrict foreign assistance for countries providing sanctuary to indicted war criminals who are sought for prosecution before the International Criminal Tribunal for the Former Yugoslavia.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “War Crimes Prosecu-
5 tion Facilitation Act of 1997”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) In May 1993, the United Nations estab-
4 lished the International Criminal Tribunal for the
5 Former Yugoslavia.

6 (2) The mandate of the Tribunal is to prosecute
7 “genocide, crimes against humanity, grave breaches
8 of the Geneva Conventions, and violations of the
9 laws and customs of war” committed in the territory
10 of the former Yugoslavia from January 1, 1991,
11 until “a date to be determined after restoration of
12 peace”.

13 (3) Parties to the Dayton Agreement, as well as
14 subsequent agreements, agreed to cooperate fully
15 with the “investigation and prosecution of war
16 crimes and other violations of international humani-
17 tarian law”. All members of the international com-
18 munity are required by the Tribunal Statute to co-
19 operate in “the identification and location of per-
20 sons”, “the arrest or detention of persons”, and
21 “the surrender or the transfer of the accused” to the
22 Tribunal.

23 (4) Although 76 persons have been publicly in-
24 dicted by the Tribunal, 66 remain at large. Of those
25 publicly indicted, there are 51 Bosnian Serbs, 1 Cro-

1 atian Serb, 3 Serbian Yugoslav Army officers, 18
2 Bosnian Croats, and 3 Bosniacs.

3 (5) Credible reports indicate that some of the
4 indicted war criminals are living in areas of Bosnia
5 and Herzegovina that are under the effective control
6 of Croatia or Serbia-Montenegro. Many of the in-
7 dicted war criminals have been sighted living openly
8 and freely in Croatia, the Croat-controlled areas of
9 the Federation of Bosnia and Herzegovina,
10 Republika Srpska, and Serbia-Montenegro.

11 (6) An estimated 2,000,000 persons have been
12 forced from their homes by the war, many of whom
13 remain displaced and unable to return to their
14 homes, in violation of the Dayton Accords, because
15 their homes are in a jurisdiction controlled by a dif-
16 ferent ethnic group.

17 (7) The fighting in Bosnia has ceased for more
18 than a year, and international efforts are now fo-
19 cused on the economic reconstruction and implemen-
20 tation of the civilian aspects of the Dayton Accords.

21 (8) The International Bank for Reconstruction
22 and Development, the European Bank for Recon-
23 struction and Development, the International Mone-
24 tary Fund, and individual donor countries, including
25 the United States, have begun disbursing funds to-

1 ward meeting an identified goal of \$5,100,000,000
2 for reconstruction of Bosnia.

3 **SEC. 3. SENSE OF THE CONGRESS.**

4 (a) IN GENERAL.—It is the sense of the Congress
5 that—

6 (1) reconciliation in Bosnia and Herzegovina
7 cannot be achieved if indicted war criminals remain
8 at large and refugees and displaced persons are un-
9 able to return to their homes;

10 (2) reconstruction without reconciliation will
11 not be effective in ensuring stability in the long run
12 because, absent individual accountability, victimized
13 communities will assign collective responsibility, thus
14 perpetuating the cycle of hatred; and

15 (3) the Government of the United States should
16 ensure that multilateral and bilateral assistance is
17 provided to parties to the Dayton Agreement only if
18 doing so would promote reconciliation as well as re-
19 construction, including the transfer of war criminals
20 to the Tribunal, the return of refugees and displaced
21 persons, and freedom of movement.

22 (b) ADDITIONAL PROVISION.—It is further the sense
23 of the Congress that the Tribunal, consistent with its man-
24 date, should continue to investigate and bring indictments

1 against persons who have violated international humani-
2 tarian law.

3 **SEC. 4. RESTRICTIONS ON FUNDING.**

4 (a) BILATERAL ASSISTANCE.—

5 (1) IN GENERAL.—No assistance may be pro-
6 vided under the Foreign Assistance Act of 1961 or
7 the Arms Export Control Act for any country de-
8 scribed in subsection (d).

9 (2) APPLICATION TO PRIOR APPROPRIATIONS.—

10 The prohibition on assistance contained in para-
11 graph (1) includes the provision of assistance from
12 funds appropriated prior to the date of enactment of
13 this Act.

14 (b) MULTILATERAL ASSISTANCE.—The Secretary of
15 the Treasury shall instruct the United States executive di-
16 rectors of the international financial institutions to work
17 in opposition to, and vote against, any extension by such
18 institutions of any financial or technical assistance or
19 grants of any kind to any country described in subsection
20 (d).

21 (c) EXCEPTIONS.—

22 (1) IN GENERAL.—Subject to paragraph (2),
23 subsections (a) and (b) shall not apply to the provi-
24 sion of—

25 (A) humanitarian assistance;

1 (B) democratization assistance; or

2 (C) assistance for physical infrastructure
3 projects involving activities in both a sanctioned
4 country and nonsanctioned contiguous coun-
5 tries, if the nonsanctioned countries are the pri-
6 mary beneficiaries.

7 (2) FURTHER LIMITATIONS.—Notwithstanding
8 paragraph (1)—

9 (A) no assistance may be made available
10 under the Foreign Assistance Act of 1961 or
11 the Arms Export Control Act for a program,
12 project, or activity in any country described in
13 subsection (d) in which an indicted war criminal
14 has any financial or material interest or
15 through any organization with which the in-
16 dicted individual is affiliated; and

17 (B) no assistance (other than emergency
18 food or medical assistance or demining assist-
19 ance) may be made available under the Foreign
20 Assistance Act of 1961 or the Arms Export
21 Control Act to any program, project, or activity
22 in any area in any country described in sub-
23 section (d) in which local authorities are not
24 complying with the provisions of Article IX and
25 Annex 4, Article II of the Dayton Agreement

1 relating to war crimes and the Tribunal, or
2 with the provisions of Annex 7 of the Dayton
3 Agreement relating to the right of refugees and
4 displaced persons to return to their homes of
5 origin.

6 (d) SANCTIONED COUNTRIES.—A country described
7 in this section is a country the authorities of which fail
8 to apprehend and transfer to the Tribunal all persons who
9 have been indicted by the Tribunal and are in a territory
10 that is under the effective control of those authorities.

11 (e) WAIVER.—

12 (1) AUTHORITY.—The President may waive the
13 application of subsection (a) or subsection (b) with
14 respect to a country if the President determines and
15 certifies to the appropriate committees of Congress
16 within six months after the date of enactment of this
17 Act that a majority of the indicted persons who are
18 within a territory that is under the effective control
19 of the country have been arrested and transferred to
20 the Tribunal.

21 (2) PERIOD OF EFFECTIVENESS.—Any waiver
22 made pursuant to this subsection shall be effective
23 for a period of six months.

24 (f) TERMINATION OF SANCTIONS.—The sanctions
25 imposed pursuant to subsection (a) or subsection (b) with

1 respect to a country shall cease to apply only if the Presi-
2 dent determines and certifies to Congress that the authori-
3 ties of that country have apprehended and transferred to
4 the Tribunal all persons who have been indicted by the
5 Tribunal and are in a territory that is under the effective
6 control of those authorities.

7 **SEC. 5. DEFINITIONS.**

8 As used in this Act:

9 (1) COUNTRY.—The term “country” shall not
10 include the state of Bosnia and Herzegovina, and
11 the provisions of this Act shall be applied separately
12 to its constituent entities of Republika Srpska and
13 the Federation of Bosnia and Herzegovina.

14 (2) DAYTON AGREEMENT.—The term “Dayton
15 Agreement” means the General Framework Agree-
16 ment for Peace in Bosnia and Herzegovina, together
17 with annexes relating thereto, done at Dayton, No-
18 vember 10 through 16, 1995.

19 (3) DEMOCRATIZATION ASSISTANCE.—The term
20 “democratization assistance” includes electoral as-
21 sistance and assistance used in establishing the in-
22 stitutions of a democratic and civil society.

23 (4) HUMANITARIAN ASSISTANCE.—The term
24 “humanitarian assistance” includes disaster and
25 food assistance and assistance for demining, refu-

1 gees, housing, education, health care, and other so-
2 cial services.

3 (5) TRIBUNAL.—The term “Tribunal” means
4 the International Criminal Tribunal for the Former
5 Yugoslavia.

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