

tions in Serbia, the situations in Kosovo, Sandzak and Montenegro, missing persons, and the challenges that lie ahead.

The report restates many of the concerns, observations, and facts contained in the separate report on the FRY. Additional comments focussed on, *inter alia*: the concern that the present unacceptable level of police abuse will persist unless allegations of ill-treatment and torture are promptly investigated and perpetrators brought to justice; the fact that cases of police abuse are not a problem exclusively associated with the situation in Kosovo and serious cases of ill-treatment by the police were recorded, for example, during the street protests in Belgrade in September and October 1997; the failure to enact the new law which would at least formally strengthen the position of the country's judges; the fact that Serbia's new National Assembly, elected in September 1997, had not been constituted as of early 1998; the fact that in Serbia's presidential elections, the OSCE reported continuing irregularities in the process and international media monitors reported a clear bias on state television; the fact that continuing occurrence of serious abuses by the police and security forces is one of the most alarming aspects of the human rights situation in Kosovo; continuing reports related to discrimination against Muslims in Sandzak, especially in employment and education, and the fact that laws are unevenly and selectively applied depending on a person's ethnicity; and, with regard to missing persons, the fact that the exchange of information between the Commission for Humanitarian Affairs and Missing Persons of the Federal Republic of Yugoslavia and the Croatian Commission for Detained and Missing Persons had stalled, leaving unresolved the fate of thousands of missing and disappeared persons.

The challenges which lie ahead that are identified in the report essentially mirror the points made in the recommendations contained in the separate report, as above, as well as recommendations contained in previous reports.

#### **Report on the two trials of Kosovo Albanians**

(E/CN.4/1998/9)

The report on the two trials of Kosovo Albanians charged with offences against the state in the FRY recalls that the first trial concerned 20 individuals and was held in Pristina in May 1997 and the second concerned 15 individuals and was also held in Pristina in June/July 1997. The report is based on information gathered by staff from the Belgrade office of the High Commissioner for Human Rights who attended major parts of the two trials and met with individuals involved in the proceedings. The assessment of the trials is based on international standards for fair trial as set out in UN human rights instruments and, in particular, Article 14 of the ICCPR and Articles 12 and 15 of the Convention against Torture. The report notes that the FRY is a party to both the Covenant and the Convention.

With regard to the trial of 20 persons in Pristina in May 1997, the report notes, *inter alia*, that: between 19 and 30 May, 1997, 20 Kosovo Albanian men and women were

tried and sentenced by the Pristina District Court; two individuals were tried *in absentia*; all were charged with preparing to conspire to participate in activities endangering the territorial integrity of the Republic; six of the defendants were also charged with using dangerous or violent means in attempts to threaten the constitutional order or security of Yugoslavia; the indictment stated that the accused formed or belonged to a secret association called the National Movement for the Liberation of Kosovo (NMLK) aiming to attempt, by use of force, to sever Kosovo and Metohija from the Republic and unite with Albania; according to the indictment, the organization's main aims are increasing its membership, preparing armed rebellion by collecting various weapons, obtaining maps and blueprints of official buildings and distributing the movement's magazine Qllirimi (Liberation); the charges were limited to attempts and planning and none of the defendants was charged with actually having carried out acts of violence threatening the security of the state; the trial lasted six days and all of the accused were found guilty; prisons terms ranged from a maximum of 10 years — for the leader of the NMLK and editor of its magazine — to terms between two and nine years; 10 defendants claimed they had done no more than distribute the organization's magazine or write articles for it; and five defendants denied ever having been members of NMLK.

In commentary on the conduct of the trial, the report makes a number of points, among them that: the presiding judge was firm but courteous to all parties, including the defendants and their lawyers; the presiding judge invariably informed the defendants of their right to remain silent, and scrupulously summarized statements from the defendants for the record, including details given by 11 defendants alleging that they had been tortured, ill-treated or threatened into making "confessions" before the investigative judge and, sometimes, afterwards; in contrast to the conduct of the presiding judge, reports indicated a lack of accurate record keeping by judicial officials during the period of pre-trial detention; it is customary for trials involving state security in one district in Kosovo to be brought by one public prosecutor and to be heard by one bench; the appearance of impartiality and independence of judicial and prosecution officials involved in trying political prisoners would be strengthened if these cases, like others, were heard by rotating benches and prosecutors; the Pristina trial chamber consisted of a presiding judge sitting with two lay judges; the Code of Criminal Procedure does not specify the latter's qualifications; in this case, the two lay judges were retired policemen, one of them reportedly a former head of the Criminal Investigation Department; consultations between the prosecution and judges before and during trials involving political prisoners were not uncommon, and this was the case in this trial; and the trial fully complied with the provision in the ICCPR relating to the right to public hearing. With regard to the right to adequate time and facilities to prepare a defence and communicate with counsel of choice, the report notes a denial of the right to adequate defence because: