

considered in separate reports, with summary comments also provided in a general report on each country. With the decision at the 1997 session to discontinue the special process to deal with the issue of missing persons in the territory of the former Yugoslavia, the SR was also requested to provide information on this question. In terms of Yugoslavia (FRY), a report was also prepared on two trials involving Kosovo Albanians charged with offences against the state. Ms. Elisabeth Rehn was the SR who prepared the reports for the 1998 session.

Report on the situation in Yugoslavia

(E/CN.4/1998/15)

The separate report on the situation in the FRY includes information on, *inter alia*: legal guarantees for the protection of human rights; liberty and security of person; ill-treatment, torture and impunity; the right to life; the administration of justice; the right to a fair trial; freedom of expression and the media; the situation of minorities in Kosovo, Sandzak, Vojvodina and Montenegro; the humanitarian situation; and, refugees and citizenship. The report covers the period from January to September 1997 and is based on information gathered and discussions held during three missions to the FRY in 1997.

In general observations on the situation and conditions in the country, a number of points are noted, including that: there had been virtually no examination of the policies and practices of the political leadership and the state-run media of the past six years, which were a major factor exacerbating ethnic division and provoking the conflict; attempts by the International Criminal Tribunal for the Former Yugoslavia (ICTY) to attribute individual as opposed to collective responsibility, for violations of humanitarian law, including violators currently living in the FRY, had been generally dismissed by the pro-government press as biased; the opening of the Tribunal's liaison office in Belgrade was a positive development, but it was not followed by concrete government action to support the Tribunal either in its investigations of incidents in which Serbs are alleged to be responsible, or even of those in which Serbs were victims; the government has consistently refused to meet its international obligations to hand over those indicted for war crimes and crimes against humanity and, with but one exception, perpetrators of these crimes have not faced justice before domestic courts and no such charges were pending against anyone domestically at the time the report was prepared; non-governmental organizations have developed programmes of human rights education, an area neglected by the government; there were encouraging signs among judges and lawyers, as well as others, of a renewed interest in the rule of law and the protection of constitutionally guaranteed and other human rights; the government had declared that it had no intention of ratifying the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) at present, leaving FRY as the only country in the former Yugoslavia that had not accepted the competence of the Human Rights Committee to receive individual complaints under the Optional Protocol; the human rights provisions of the 1992 federal Constitution largely meet

the standards of the ICCPR but there are gaps and discrepancies relating to, for example, the period in which a person may be held in police custody before being brought before a judge, and the protection of human rights in states of emergency; there are three constitutions in force in the country, with discrepancies between domestic legal mechanisms for the protection of human rights, such as provisions related to the death penalty and detention without judicial supervision; there is no easily accessible, independent, and impartial supervisory body, such as an ombudsman, from which citizens can obtain redress for human rights violations; and there is no effective system to ensure that legal requirements in administrative and criminal procedures are enforced.

Concerning liberty and security of person, the report notes that legal provisions related to custody and judicial supervision, notification of family, and access to a lawyer, are often violated in cases of persons arrested for political activities. The report also notes that laws governing communication between lawyers and clients are inconsistently enforced, and that some detainees are prevented from communicating with their lawyers for long periods of time. On the issue of ill-treatment, torture and impunity, the report notes that, despite the fact that torture is specifically prohibited by the Constitution and Article 218 of the Code of Criminal Procedure, reports continue to be received of torture and ill-treatment with the most serious cases being reported in Kosovo. Victims of torture and ill-treatment were noted as having included, *inter alia*, participants in peaceful demonstrations, individuals from Kosovo, and journalists. The report states that prosecutions against police for such practices are extremely rare with, for example, only two policemen in Kosovo sentenced to imprisonment for such practices between 1993 and late 1996. In contrast, the report notes that in Montenegro there appears to be an active policy against perpetrators of police abuse and that such abuses reportedly have decreased.

On the issue of the administration of justice, the report notes that steps have been taken to ensure a professional and independent judiciary but also notes that judges have stated that they lack protection and security in court, their material position does not reflect their status, and salaries are not paid on time. The report notes further that insecurity created by these conditions makes judges vulnerable to pressure and that in several cases their lack of authority has led to court orders being flouted by the security forces whose task it is to enforce them. Note is made of the fact that pressures are particularly strong on judges sitting in political trials and also that fair trial standards are most at risk in cases connected with political activities.

The narrative on freedom of expression and the media states that hundreds of newspapers and radio and television stations operate in the FRY, a substantial number of newspapers are critical of the government and no complaints of censorship were received by the SR. The assessment of the media notes, *inter alia*, that: only state-run television, Radio Television Serbia (RTS) — part of the Serbian Broadcasting Corporation — broadcasts