

former Yugoslavia. However, in 1995, in accordance with the recommendation of the expert contained in his first report (E/CN.4/1995/37), the Commission transformed the special process into an independent mandate entrusted to the expert. The expert was Mr. Manfred Nowak.

The report of the special process on missing persons in the former Yugoslavia focussed primarily on the situation in Bosnia and Herzegovina (E/CN.4/1997/55, Section IV). The expert noted that the number of missing persons remained in dispute. The State Commission on Missing Persons of B&H maintained a list of 26,887; the Office for the Exchange of Prisoners and Missing Persons of the Croatian side of the Federation of B&H maintained a list of 869 missing persons; and the State Commission of the Republika Srpska for the Exchange of Prisoners of War and Missing Persons claimed that more than 2,000 Bosnian Serbs were still missing. The report states that the actual number of missing persons is significantly lower than these official figures because the lists include persons, in particular soldiers, who are known to have died in the armed conflict and whose families do not consider them as missing. As well, the cases that have been clarified as the result of exhumations, or that have been erroneously included in the files of missing persons, have only partly been deleted. The statistics provided by the International Committee of the Red Cross (ICRC), based on official tracing requests submitted by family members, suggests that the real number of missing persons is approximately 15,000 or half that alleged by the parties. The report notes, however, that the ICRC programme to trace missing persons had not been completed at the time the report was prepared, and that new family tracing requests were still being received. On the basis of various statistics, the report concludes that not less than 20,000 persons are still missing in B&H. Of these, more than 90 percent are men, 80 to 90 percent are Bosnians of Muslim origin, and the overall majority are civilians; this latter fact indicates that most of the missing Bosnian Muslims were not victims of armed combat but of "ethnic cleansing" operations carried out by Bosnian Serb forces against the Muslim civilian population. The report states that the Bosnian Serb forces are allegedly responsible for the disappearance of the majority (between 80 and 90 percent) of the cases.

The expert welcomed the establishment of the International Commission on Missing Persons in the Former Yugoslavia (ICMP) and emphasized the need to link a solution to the missing persons issue to the overall peace process, both to the military components of the process and to economic assistance for reconstruction and development.

#### **Resolution of the Commission on Human Rights**

At its 1997 session, the Commission on Human Rights adopted by consensus an omnibus resolution on the situation in the former Yugoslavia (1997/57, Sections III and V). In the text referring to general obligations concerning Bosnia and Herzegovina (B&H), the Commission underlined that without compliance, and unless all the authorities in B&H actively participated in rebuilding a civil society and made progress towards political reconciliation, they cannot expect the international community and major donors to continue shouldering the political, military and economic burden of the implementation and reconstruction efforts.

In the text on general obligations, the Commission called on the authorities of the Federation of Bosnia and Herzegovina and the Republika Srpska to: implement fully the commitments made in the Peace Agreement to protect human rights; act to promote and protect democratic institutions of government at all levels; ensure freedom of expression and of the media; allow and encourage freedom of association, including with respect to political parties; ensure freedom of movement; cooperate fully with the international mechanisms which have mandates involving human rights; cooperate effectively with the International Tribunal; ensure full and free access to their territories and to relevant facilities for all institutions and organizations concerned with the implementation of the resolution, including non-governmental organizations; facilitate, with the assistance of the international community, the early, safe and orderly return of refugees and displaced persons to their homes of origin or, in exceptional cases, to other places of their choice; take immediate and effective steps to build confidence among people in order to foster civil society and to prevent new mass exoduses of populations; and, implement the commitments made in the Joint Statement of the B&H Ministerial Council, the B&H Federal Government and the Republika Srpska Government issued in Geneva on 21 March 1997 on the repatriation of refugees and the return of and the solution to the problem of displaced persons within B&H, in both its entities.

In the text on B&H the Commission: noted the successful holding of elections in B&H in September 1996; called on authorities to comply with human rights provisions in the Constitution, prevent violations and, in particular, address violations such as arbitrary detention and restrictions on media freedom; called on authorities to ensure freedom of movement, allow the return of refugees and displaced persons to their places of origins, cease immediately actions that undermine the right to return and end illegal evictions of persons from their homes; called on authorities to implement the laws providing for amnesty for crimes related to the conflict except for serious violations of international humanitarian law; called on authorities in Republika Srpska to amend the law to provide amnesty for persons who avoided conscription or deserted during the conflict; called for easy availability of publications and broadcasts from both sides of each entity; called on the international community to support the authority of the International Police Task Force to investigate human rights abuses committed by law enforcement personnel; and, called on the international community to continue efforts to ensure that persons who have left their territory can safely return, including those accorded temporary protection in third countries.

The Commission renewed the mandate of the Special Rapporteur for a further year but decided to discontinue the special process for missing persons.

### **THEMATIC REPORTS**

#### *Mechanisms of the Commission on Human Rights*

##### **Mercenaries, Special Rapporteur on the use of:**

(E/CN.4/1997/24, paras. 11-12)

The report states that the Special Rapporteur (SR) for some time has received allegations about the presence of