

Committee against Torture

Yugoslavia's initial report (CAT/C/16/Add.7, January 1998) was considered by the Committee at its November 1998 session. The report prepared by the government includes information on, *inter alia*: relevant constitutional provisions; articles in the criminal codes of Yugoslavia, Serbia and Montenegro; the Law on Criminal Procedure — detention and treatment of detainees; the functions and role of the courts and administrative authorities; court and police procedures; legal provisions and measures related to extradition; training for police and personnel of correctional institutions on, *inter alia*, the use of force; practices related to interrogation; the right of appeal; and compensation for wrongful conviction.

The Committee's concluding observations and comments (CAT/C/YUGO) welcomed: the fact that the Constitution of the Federal Republic of Yugoslavia forbids all violence against a person deprived of liberty, prohibit any extortion of a confession or a statement, and proclaim that no one may be subjected to torture, degrading treatment or punishment; provision, in police regulations, of disciplinary and other measures, including termination of employment and criminal charges, in cases where the acts of police officers violate the provisions of the Convention; and continuing legislative reform in the area of criminal law, especially criminal procedure, to include specific provisions which can aid in preventing torture. In terms of factors and difficulties impeding implementation of the Convention, the Committee took into account the situation in which Yugoslavia currently finds itself and the unrest and ethnic friction in Kosovo. The Committee stated, however, that no exceptional circumstances can ever provide a justification for failure to comply with the terms of the Convention.

The subjects of concern identified by the Committee included, *inter alia*: the absence in the criminal law of a provision defining torture as a specific crime in accordance with article 1 of the Convention; the absence of detailed procedural norms pertaining to the exclusion of tainted evidence, such as evidence obtained under torture; a provision in the Law on Criminal Procedure permitting police to keep a person, in specific instances, in detention for a 72-hour period, without access either to counsel or an investigating judge; the numerous accounts of the use of torture by the police forces which the Committee has received from non-governmental organizations, particularly in the districts of Kosovo and Sandzack, including beatings by fists, beatings by wooden or metallic clubs mainly on the head, in the kidney area and on the soles of the feet, and the use of electroshock; reports indicating that confessions obtained by torture were admitted as evidence by the courts even in cases where the use of torture had been confirmed by pre-trial medical examinations; the lack of sufficient investigation, prosecution and punishment by the competent authorities of suspected torturers; the insufficient reaction to the complaints of such abused persons, resulting in the *de facto* impunity of the perpetrators of acts of torture; *de jure* impunity of the perpe-

trators of torture and other ill treatment as a result of, *inter alia*, suspended sentences and reinstatement of discharged officers; and the failure of the government to provide information on the rehabilitation of the torture victims, the amount of compensation they receive, and the actual extent of redress afforded them. The Committee expressed the hope that in the future it will be possible to bridge the disconcerting discrepancy between the Yugoslav report and the apparent reality of abuse, and noted the apparent lack of political will on the part of the government to comply with its obligations under the Convention.

The Committee called upon the government to fulfill the legal, political and moral obligations it undertook when it ratified the Convention and to ensure that its second periodic report addresses allegations of torture under Yugoslav jurisdiction and responds directly to them. The Committee recommended that the government, *inter alia*:

- ♦ in the next report, provide information concerning all specific allegations of torture handed over to its representatives during the dialogue with the Committee, and on all the educational efforts that the government intends to undertake with a view to preventing torture and breaches of article 16 of the Convention;
- ♦ provide in the next report information on legislative and practical measures the government intends to undertake in order to provide victims of torture with appropriate redress, compensation and rehabilitation;
- ♦ incorporate verbatim the crime of torture into the criminal codes;
- ♦ legally and practically ensure the independence of the judiciary, the unrestricted access to counsel immediately after arrest, a shortening of the length of police custody to a maximum period of 48 hours, a shortening of the period of pre-trial post-indictment detention, strict exclusion of all evidence directly or indirectly derived from torture, effective civil redress and a vigorous criminal prosecution in all cases of torture and breaches of article 16 of the Convention; and
- ♦ submit its second periodic report by 30 November 1999.

COMMISSION ON HUMAN RIGHTS

Special Rapporteur on the former Yugoslavia

The mandate of the Special Rapporteur (SR) on the situation of human rights in the territory of the former Yugoslavia was established by the Commission at its August 1992 special session. Since then, the situation has been addressed in one general report with separate sections on each of the four countries that emerged from the territory of the former Yugoslavia. At the 1998 session of the Commission, the situations in the four countries were