

- ♦ take effective measures to guarantee the full protection of all returnees and find a durable solution to problems related to property rights, noting the need to consider repatriation programmes for refugees from Bosnia and Herzegovina with caution until such protection can be guaranteed.

The Committee stated that an essential prerequisite for the success of peace and the promotion of human rights was the continued presence, for as long as necessary, of the Office of the High Representative for Implementation of the Bosnian Peace Agreement, stabilization forces, and other international organs. Reference was also made to the need for intensified cooperation between these bodies and the peace-building institutions within Bosnia and Herzegovina.

COMMISSION ON HUMAN RIGHTS

Special Rapporteur on the former Yugoslavia

The mandate to report 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 that time, issues have been addressed in one general report with separate sections on each of the four countries that emerged from the territory of the former Yugoslavia [Bosnia and Herzegovina, the Federal Republic of Yugoslavia (FRY), the Former Yugoslav Republic (FYR) of Macedonia, and Croatia]. At the 1998 session of the Commission, the situations in the four countries were considered in separate reports, with summary comments also provided in a general report on the situation of each country. Also, with the decision at the 1997 session to discontinue the special process to deal with the question of missing persons in the territory of the former Yugoslavia, the Special Rapporteur (SR) was requested to provide information in the reports on that specific issue. Ms. Elisabeth Rehn was Special Rapporteur and prepared the reports for the 1998 session of the Commission.

The separate report on Bosnia and Herzegovina (E/CN.4/1998/13) contains commentary on political developments, elections, legal guarantees related to human rights obligations, national human rights institutions and redress mechanisms and obstacles to the effective functioning of such institutions. It also includes reference to NGOs and civil society, freedom of movement and the right to voluntary return, property rights and destruction of housing, liberty and security of person, administration of justice, independence of the judiciary, right to fair trial, inter-entity judicial cooperation, law enforcement and police reform, freedom of expression, economic, social and cultural rights, and missing persons. Annex I to the report contains a review of the SR's previous recommendations and how effectively they have been implemented to date.

The report covers the period from January to September 1997 and the information is based on three missions undertaken by the SR in March, July and August/

September 1997. Three additional brief visits were conducted while on missions to other countries.

In setting the political situation as of early September 1997, the report states that, up to that time, the implementation of the human rights provisions of the Dayton Agreement, as well as other non-military aspects of the Agreement, was unsatisfactory. Following this, the report notes, *inter alia*, that the functioning of joint institutions of the two entities has largely been paralysed by the refusal of delegates from Republika Srpska to participate, and therefore essential laws (citizenship, currency and others) have not been adopted. The joint institutions remain largely symbolic resulting in delays in the creation of a coherent legal system, including reformed judicial institutions, law enforcement agencies and prisons. A continuing lack of trust between the Federation partners was clearly evident, principally as a result of divergent views of the main political parties — the Party for Democratic Action (SDA) and the Croatian Democratic Union (HDZ)] — on the precise type of systems that they wish to create. The Federation Parliament functions inefficiently and is often blocked because the two ruling parties have deeply conflicting political agendas, making compromises extremely difficult to achieve. When agreements are reached, usually under heavy international pressure, they are rarely or only partially respected. In the Republika Srpska there was a power struggle between the President and the National Assembly along with members of the government, including the Minister of Interior and the Republika Srpska's member of the Bosnia and Herzegovina tripartite Presidency. As a result of the crisis brought to light by this struggle, Parliament was dissolved and Parliamentary elections were scheduled for October 1997, immediately following the municipal elections that had been scheduled for September 1997. Participation in political life was hindered by various obstacles including the curtailment of the freedom of the press. These problems prevented genuine inter-entity as well as intra-Federation campaigning, and affected the right of citizens to information. During voter registration, irregularities were observed throughout the country, mainly in the Republika Srpska and Croat-dominated municipalities in the Federation; infractions consisted of manipulation of voter registration, fraudulent documentation, and unlawful pressure placed on displaced persons to vote in particular ways. Abuses targeting opposition candidates were also recorded, generally in the form of restrictions on freedom of movement, expression and association.

The report notes that guarantees for the protection and promotion of human rights consist of constitutional provisions, legislation, and institutions specifically for the defence of rights and freedoms. It is further noted that a profound restructuring of the legal system is taking place as a result of both the Dayton Agreement and the transition from the pre-war socialist system. The SR stated that there are three different legal systems in Bosnia and Herzegovina, one for each entity in addition to the overarching national system, resulting in different court and prison systems as well as different police authorities.