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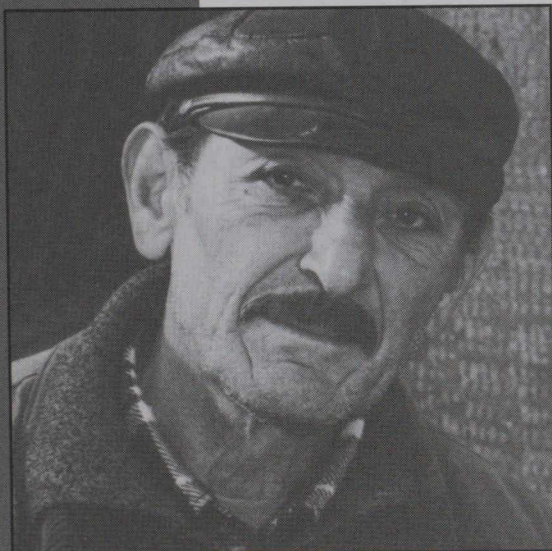
Volume 5:

**CENTRAL &
EASTERN EUROPE**

FOR THE RECORD 1998:

*The
United Nations
Human Rights
System*

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**CENTRAL &
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Volumes 1-6 ISBN 1-894253-16-7
Volume 5 ISBN 1-894253-21-3

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GLOSSARY OF ACRONYMS

CAT	Committee Against Torture
CCPR	Committee on Civil and Political Rights, also known as the Human Rights Committee (HRC)
CEDAW	Committee on the Elimination of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CHR	Commission on Human Rights
CRC	Committee on the Rights of the Child
DAW	Division for the Advancement of Women
CSW	Commission on the Status of Women
ECOSOC	Economic and Social Council
GA	General Assembly
HRC	Human Rights Committee, also known as the Committee on Civil and Political Rights (CCPR)
ICC	International Criminal Court
ICJ	International Court of Justice
OHCHR	Office of the High Commissioner for Human Rights
SC	Security Council
S-G	Secretary-General
SR	Special Rapporteur
SRep	Special Representative
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
WG	Working Group

ALBANIA

Date of admission to UN: 14 December 1955.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Albania has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 4 October 1991.

Albania's initial report was due 30 June 1994.

Civil and Political Rights

Acceded: 4 October 1991.

Albania's initial and second periodic reports were due 3 January 1993 and 1998 respectively.

Racial Discrimination

Acceded: 11 May 1994.

Albania's initial and second periodic reports were due 10 June 1995 and 1997 respectively.

Discrimination against Women

Acceded: 11 May 1994.

Albania's initial report was due 10 June 1995.

Torture

Acceded: 11 May 1994.

Albania's initial report was due 9 June 1995.

Rights of the Child

Signed: 26 January 1990; ratified: 27 February 1992.

Albania's initial report was due 27 March 1994.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 37; E/CN.4/1998/68/Add.1, para. 4)

The Special Rapporteur sent an urgent appeal to the government following the declaration of a state of emergency in March 1997. The appeal noted that fears had been expressed that the emergency provisions might lead to violations of the right to life since they reportedly authorized security forces to open fire to disperse crowds, and to shoot without warning people who had failed to surrender their arms.

Freedom of opinion and expression, Special Rapporteur on:

(E/CN.4/1998/40, paras. 8)

The Special Rapporteur has requested an invitation to visit Albania but, as of the date of the report, the government had not responded.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 48, 61, 94)

The report refers to freedom of thought, conscience and religion or belief and conscientious objection. The Special Rapporteur (SR) noted that there appears to be no legislative provision for alternative service or unarmed military service for conscientious objectors, who may be subject to judicial proceedings, fines and imprisonment. The SR stated that exemption from military service, granted against monetary payment, may be regarded as discriminatory.

Torture, Special Rapporteur on:

(E/CN.4/1998/38, para. 11; E/CN.4/1998/38/Add.1, para. 3)

The report notes that an urgent appeal was sent to the government on behalf of a large number of demonstrators who had allegedly been arrested in connection with protests said to have taken place in several towns. According to the information received, some of these detainees, particularly at Vlora, Berat and Korça, were severely beaten in police stations. The government replied that, since no complaint had been lodged with the Government Procurator's Office or the courts against the armed forces, it was impossible to confirm the allegations.

Toxic wastes and products, Special Rapporteur on:

(E/CN.4/1998/10, para. 73)

The report refers to export practices of the OECD countries and states that Albania is among the destination countries for the illicit movement and dumping of toxic wastes and dangerous products.

Violence against women, Special Rapporteur on:

(E/CN.4/1998/54, Section II.D)

In the section providing examples of custodial violence against women, the report refers to an incident in May 1994 when police forcibly entered a factory in Tirana to enforce an order of the Mayor of Tirana calling for part of the property to be handed over to the Women's Democratic Front. Six women were among those at the factory and, despite their requests to have the police wait for the director of the factory to arrive, the police subjected them to ill-treatment, including punching. The vice-president of the opposition party, a woman, was taken into custody, punched, kicked, insulted, sworn at, and when she refused to enter the cell, was beaten repeatedly and called a whore.



ARMENIA

Date of admission to UN: 2 March 1992.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Armenia has submitted a core document (HRI/CORE/1/Add.57) for use by the treaty bodies. The report prepared by the government includes detailed demographic and statistical data as well as descriptions of the social, economic and cultural characteristics of Armenia. The report notes that since independence in 1991 Armenia has been working to establish a democratic multiparty republic with a presidential system of government. At the time the Core document was prepared, Armenia had not yet adopted a Constitution and was operating under terms set out in the August 1990 Declaration of Independence.

In the absence of a Constitution, this Declaration and the International Covenant on Civil and Political Rights were considered the highest law and provide the framework for the protection of human rights. International legal instruments have supremacy over all provisions of Armenia's legislation. Specific laws touching on human rights have been adopted by the Parliament, including in the areas of freedom of speech and the press, religious organizations, the rights of minorities, the rights of persons with disabilities, employment, trade unions and social and political organizations. The Department for Human Rights within the Ministry of Foreign Affairs has requested assistance from the Office of the High Commissioner for Human Rights in drafting human rights legislation, holding seminars on human rights, translating human rights documents into Armenian, and establishing a human rights centre in Armenia.

Economic, Social and Cultural Rights

Acceded: 13 September 1993.

Armenia's initial report (E/1990/5/Add.36) has been submitted and is pending for consideration at the Committee's November 1999 session; the second periodic report is due 30 June 2000.

Civil and Political Rights

Acceded: 23 June 1993.

Armenia's initial report (CCPR/C/92/Add.2) was considered at the Committee's November 1998 session; the second periodic report is due 22 September 1999.

Optional Protocol: Acceded: 23 June 1993.

Racial Discrimination

Acceded: 23 June 1993.

Armenia's initial and second reports were submitted as one document (CERD/C/289/Add.2) which was considered at the Committee's March 1998 session; the third periodic report is due 23 July 1998.

Discrimination against Women

Acceded: 13 September 1993.

Armenia's second periodic report was due 13 October 1998.

Torture

Acceded: 13 September 1993.

Armenia's second periodic report was due 12 October 1998.

Rights of the Child

Acceded: 23 June 1993.

Armenia's initial report (CRC/C/28/Add.9) has been submitted and is scheduled for consideration by the Committee at its September/October 1999 session; the second periodic report is due 21 July 2000.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

Armenia's initial and second periodic reports were submitted as one document (CERD/C/289/Add.2, July 1997) which was considered by the Committee at its March 1998 session. The report prepared by the government contains information on the role of the Union of Nationalities, established in 1994, with a membership representing the Assyrian, Greek, Georgian, Jewish, German, and Polish communities, the League of Kurdish Intelligentsia, the Russia Society, the Russian Cultural Association ODA, the Harmonia International Centre for Russian Culture, the Aid Foundation for Russian Compatriots, and the charity Ukraina. The report also covers such areas and measures as: constitutional provisions related to equality and non-discrimination and similar provisions in the Penal Code; the prohibition on propaganda and incitement; the Law on the press and the Law on freedom of conscience; safeguards for the protection of the rights of the accused; the process of elections and referenda; freedom of movement and resident status; the Code on marriage and the family; legal provisions related to land and property; the separation of church and state, freedom of conscience and religious organizations, and the status of religions in Armenia; the Law on socio-political organizations and the Law on social organizations; the right to form and join trade unions; the right to housing, medical care, social security and pensions; education and school systems; cultural policies and programmes, and the Ministry of Culture.

The Committee's concluding observations and comments (CERD/C/304/Add.51) noted the difficult period of political, economic and social reforms following the dissolution of the former Soviet Union and the fact that these elements, together with recent demographic movements, hinder full implementation of the Convention. The Committee welcomed: the government's stated commitment to ensure equality before the law; the signing of the Commonwealth of Independent States (CIS) Agreement on questions relating to the restoration of the rights

of deported persons, national minorities and peoples; the CIS Convention on the safeguarding of the rights of members of national minorities; the process of drafting new legislation, including a new Penal Code, expected to be adopted by the end of 1998, as well as legislation regarding employment and the family; the publication and dissemination of the texts and principles of the Convention and other human rights documents; and the programme undertaken with the Office of the High Commissioner of Human Rights to organize seminars, train specialists and disseminate human rights literature.

The principal subjects of concern identified by the Committee included, *inter alia*: the fact that article 69 of the Penal Code currently in force does not prohibit all dissemination of ideas based on racial superiority and incitement to racial discrimination; the lack of information in the government's report on the incidence of racially motivated crime; the reported cases of torture and other cruel or degrading treatment on the part of police and investigating officers; and the provision in law that teaching must be conducted in the official language (Armenian), and that, in practice, some minority groups are therefore denied access to education.

The Committee recommended that the government, *inter alia*:

- ♦ comply fully with article 4 of the Convention and register statistics on racially motivated crimes; include information on such crimes in the next periodic report, together with detailed information on complaints received and judgements issued by courts concerning racial discrimination;
- ♦ consider adopting measures to ensure that ethnic and national minorities have access to education in their own language whenever possible;
- ♦ include information in the next report about the results and effectiveness of the ongoing human rights projects carried out with the Office of the High Commissioner for Human Rights;
- ♦ provide the Committee with the texts of new laws concerning racial discrimination once they are adopted and, subsequently, with information on the effectiveness of the reforms of the judicial system in practice;
- ♦ include further information in the next report on, *inter alia*, the restoration of the rights of deportees who have returned to the country, the results of the national reform on education, and the access to health care, housing and employment of ethnic and national minorities; and
- ♦ consider establishing a human rights commission to take action on the recommendations brought forward by the Committee.

HUMAN RIGHTS COMMITTEE

Armenia's initial report (CCPR/C/92/Add.2, July 1997) was considered by the Committee at its October 1998 session. The report, prepared by the government, contains information on, *inter alia*: legal developments following adoption of the August 1990 declaration of independence; provisions in the March 1995 Constitution; the government's position on the status of Nagorny-Karabakh and the conflict with Azerbaijan; constitutional and legal provisions related to equality and non-discrimination; provisions in the Criminal Code related to liability for discrimination against women; modifications to the Marriage and Family Code; women in public and political life; citizenship provisions and social assistance for single women and mothers with many children; stipulations and legal provisions related to states of emergency; the status and use of the death penalty, provisions in the Criminal Code related deprivation of life (e.g., murder); the prohibition of torture and ill treatment; labour and industry within prisons; the right to life and security of person, pre-trial detention and related matters; criminal liability of citizens for crimes committed in other countries; detention and incarceration establishments, including corrective labour colonies; freedom of movement, expulsion of aliens; equality before the courts and the right to a fair hearing, recognition as a person before the law; freedom from arbitrary interference; freedom of thought, conscience and religion, opinion, expression, association and assembly; the Act on the press and other mass media; the prohibition of propaganda for war; legal provisions related to trade unions and political parties; the Public Organizations Act 1996; protection of the family, marriage, divorce, parental rights and duties; provisions in the Rights of the Child Act; the right to vote and be elected; equality before the law and the right to be protected; and the rights of persons belonging to minorities.

The Committee's concluding observations and comments (CCPR/79/Add.100) welcomed, *inter alia*: the establishment of the Constitutional Commission; the adoption of the law on the independence of the judiciary and a number of other laws and codes; the establishment of the Commission on Human Rights as an advisory body to the President; the creation of a Human Rights Department within the Ministry of Foreign Affairs; the proposal to establish the office of Ombudsmen with power to handle individual complaints; the intention to abolish the death penalty by 1 January 1999; and the release of political prisoners following the last presidential elections.

The principal subjects of concern identified by the Committee were, *inter alia*: the incompatibility of several constitutional provisions with the Covenant, noting those on citizenship, freedom of movement and stipulations related to derogation; failure to guarantee fully the independence of the judiciary; limits on recourse to the Constitutional Court; failure to list in the present law all grounds for pre-trial detention; the fact that very few detainees benefit from bail; allegations of torture and ill treatment by law enforcement officials; the poor condi-

tions prevailing in prisons; that *de facto* discrimination against women persists as a matter of custom, noting such areas as employment and representation in the conduct of public affairs; the disproportionate level of unemployment among women and the government's explanation that this is due to economic hardship; the existence of the phenomenon of street children; the lack of legal provision for alternatives to military service in the case of conscientious objectors; the conscription of conscientious objectors by force and their punishment by military courts, as well as reprisals against family members; the requirement that religions be registered and the provision increasing the number of followers required for registration; discrimination against non-recognized religions in their entitlement to own private property and to receive foreign funds; provisions in the 1991 Press Law, particularly related to the notions of "State secrets" and "untrue and unverified information"; the extent of the government's monopoly with regard to printing and distribution of newspapers; the strict governmental control over electronic media; and the statement of the government that it is not possible to ensure that small national minorities have access to educational facilities in their language of origin.

The Committee recommended, *inter alia*, that the government:

- ♦ amend the Constitution to enable individuals to bring questions related to human rights to the Constitutional Court;
- ♦ commute immediately the death sentences of all persons currently on death row; consider ratification of the Second Optional Protocol;
- ♦ establish an independent body to investigate complaints of torture and ill treatment by law enforcement personnel;
- ♦ take specific protection and punitive measures with respect to all forms of violence against women, including rape, noting that the lack of data on cases of domestic violence should not be interpreted to mean that no such incidents occur; compile relevant data for submission in the next periodic report; and
- ♦ provide human rights training to the legal profession and the judiciary.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1998/44, para. 19)

The report notes that an urgent appeal was sent to the government. No details of the case were provided.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, para. 16; E/CN.4/1998/68/Add.1, para. 22)

The report notes that a follow-up communication was sent to the government requesting further clarification of an allegation previously transmitted. The case related to a death in police custody as a result of injuries inflicted during a severe beating. The Special Rapporteur requested that the government provide information on the outcome of the proceedings against the two accused police officers, as well as on the results of the investigations carried out concerning a third police officer.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 17, 19, 48, 50, 63, 69, 70)

Concerning legislation related to freedom of religion and non-discrimination on religious grounds, the report notes that the government provided a copy of the Constitution. The report also notes that communications were sent to the government with regard to violations of religious freedom related to Christianity, Jehovah's Witnesses and Hare Krishna. The report notes permission for a teacher to give religious instruction is reportedly dependent on the approval of the national Orthodox Church. The government responded to the information transmitted, stressing that legislation and government policy were in conformity with the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and that the state in no way impeded the activities of religious organizations. The government noted that the "State Council for Religious Affairs" had registered all the 44 religious organizations, representing 14 denominations, that had made an application and submitted their statutes. The Jehovah's Witnesses were not registered on account of the incompatibility of their activities with the legal provisions on military service. According to the authorities, apart from an incident in April 1995 involving a Hare Krishna, in respect of which appropriate measures had been taken, there is no intolerance or discrimination vis-à-vis religious organizations. The government stated that for the time being no overall effort was being made to promote religious tolerance in educational institutions more effectively.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 20-21; E/CN.4/1998/38/Add.1, paras. 10-13)

The report notes that six newly reported cases, some of them collective, concerning 11 individuals and a number of unnamed persons, were sent to the government. The report states that the observations made in the 1997 report (E/CN.4/1997/7, para. 23) remain pertinent. A number of detentions were related to the trial of a senior member of the Armenian Revolutionary Federation Party (ARF), and 30 other persons accused of participation in attempting to stage an armed coup, and reports that they had been ill-treated or tortured following arrest.

Another case involved an individual who had been drafted into the army in May 1995 and was said to have been ill-treated by his sergeant who verbally abused him, inflicted a knife wound near his ribs, and hit him in the head with a spade. Information indicated that the conscript was denied medical care and threatened that he would be "blown up on a mine" if he complained. It was further alleged that he was beaten by fellow soldiers at the instigation of the sergeant, as a result of which he lost consciousness. Information further stated that after the soldier was transferred to hospital, he was beaten by a medical attendant when he was too weak to perform cleaning tasks, and subjected to further beatings when he refused to give another soldier his clothes. The report notes that the soldier was diagnosed with lymphosarcoma, and eventually discharged from the army. Information indicated that the military authorities did not respond to an official complaint concerning his ill treatment.

The Special Rapporteur also transmitted cases related to allegations of ill treatment by the police during demonstrations following the national elections of September 1996. The incidents involved, *inter alia*: a member of parliament from the suspended ARF, who was reportedly detained at the National Assembly building and kicked and beaten unconscious with gun butts; a number of persons who were severely beaten with rifle butts and kicked when uniformed troops were said to have entered the premises of the opposition National Self-Determination Union (NSDU) — among them the NSDU President and staff members and a member of parliament who was subsequently detained and again subjected to beatings in police custody; and, a reporter from the opposition Russian-language newspaper *Golos Armenii* (Voice of Armenia) and as well as a member of the opposition National Democratic Union who were reportedly detained in September 1996 and taken to the 6th Department of the Ministry of Internal Affairs, where they were allegedly severely beaten.



AZERBAIJAN

Date of admission to UN: 9 March 1992.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Azerbaijan has submitted a core document (HRI/CORE/1/Add.41/Rev.2) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information on the general political structure, the juridical framework within which human rights are protected and legal remedies for violations.

The legal framework for the protection of human rights is established by the Constitution which states that Azer-

baijan subscribes to the Universal Declaration of Human Rights, the Helsinki Final Act and other generally recognized international instruments. All rights and freedoms set out in these instruments are respected and may be exercised without discrimination based on sex, race, nationality, religion, social origin, political convictions or any other ground. The protection of rights is provided through a number of legal measures, including the Criminal and Civil Codes and codes related to labour, marriage and family, housing and land. Remedies for violations may be sought through the judicial system which includes the Supreme Courts of the Azerbaijani and Nakhichevan Republics, the Baku City Court, district people's courts, military tribunals, and the High Court of Arbitration. The creation of a Constitutional Court is under way.

Economic, Social and Cultural Rights

Acceded: 13 August 1992.

Azerbaijan's second periodic report is due 30 June 1999.

Civil and Political Rights

Acceded: 13 August 1992.

Azerbaijan's second periodic report is due 12 November 1998.

Racial Discrimination

Acceded: 16 August 1996.

Azerbaijan's initial report was due 15 September 1997.

Discrimination against Women

Acceded: 10 July 1995.

Azerbaijan's initial report (CEDAW/C/AZE/1) was considered at the Committee's May 1998 session; the second periodic report is due 9 August 2000.

Torture

Acceded: 16 August 1996.

Azerbaijan's initial report was due 14 September 1997.

Rights of the Child

Acceded: 13 August 1992.

Azerbaijan's second periodic report is due 11 September 1999.

REPORTS TO TREATY BODIES

Committee on the Elimination of Discrimination against Women

Azerbaijan's initial report (CEDAW/C/AZE/1, September 1996) was considered by the Committee at its January 1998 session. The report prepared by the government contains general information on the land and people, the effects of the conflict with Armenia, the general political framework, and the general legislative framework related to human rights. Information is also provided on, *inter alia*: legal provisions related to equality between women and men; the Marriage and Family Code, spousal and parental rights, relations between family members, measures for the social protec-

tion of the family; criminal liability for violations of women's rights; participation in government and electoral rights; nationality; the right to education; employment and free choice of profession, the Labour Code, the Criminal Code and other laws on employment and workers' rights; social security and pensions; health care and reproductive health; access to credit and loans; and provisions in the Civil Code related to the status and situation of women.

The Committee's concluding observations and comments (A/53/38, paras. 37–79) referred to points in the government's oral presentation of the report, including that: 85 per cent of the population lives below the poverty line; there is a large population of refugees and displaced persons of which women and children constitute the majority; a special state committee on women's issues has been established; the government is actively pursuing the policy of equal rights and equal opportunities and that approach forms the basis for interaction with NGOs; by law, women enjoy full guarantees of human rights and freedom from discrimination but the difficult socio-economic situation has resulted in a severe decline in the standard of living and an increase in the unemployment rate, leading to widespread poverty among women and men; the high rates of infant and maternal mortality are issues of great concern; more women than men are unemployed and there are fewer women than men at all levels of decision-making; women in the labour market are usually concentrated in the fields of health care, social welfare, education and culture.

In terms of factors hindering implementation of the Convention, the Committee noted economic, social and political challenges, the high number of refugees, and the transition to democracy and a market-oriented economy. The Committee welcomed: translation of the Convention into Azeri and its wide dissemination; the willingness expressed by the government to strengthen the national machinery for the advancement of women and to engage NGOs in the realization of the goals of the Beijing Platform for Action; the high number of women involved in the professional and cultural life and the relatively high percentage of women in the decision-making process; the establishment, with the help of UNICEF, of six regional family-planning centres to provide a larger number of women and men with assistance in matters of reproductive health; and the proposed establishment of a women's bank to provide loans and credits for small enterprises organized by women.

Subjects of concern identified by the Committee included, *inter alia*: the absence of a definition of discrimination in the Constitution or in the laws, and the lack of mechanisms to strengthen the prosecution of discriminatory practices against women; the failure of the government to put in place a plan for implementation of the Beijing Platform for Action; noting Azerbaijan is a secular state, that there are nonetheless inadequacies in the government's commitment to eliminate deeply rooted patriarchal attitudes and avoid the danger of the insurgence of fundamentalist tendencies; the lack of a

consistent and comprehensive strategy for the full involvement of women in the development process; and continued existence of discrepancies between *de jure* and *de facto* equality.

The Committee also expressed concern over: the great number of highly educated women who are living below the poverty line; a growing percentage of unemployment among women and the lack of measures to address that situation; the failure to adopt temporary special measures aimed at accelerating *de facto* equality between women and men, particularly in the context of the integration of women into politics and employment and with regard to assistance for displaced and refugee women; the high level of maternal, as well as infant, mortality rates and the fact that there are insufficient resources for international emergency aid in that field; insufficient efforts to assess and combat violence against women; the situation of women victims of prostitution and trafficking and the fact that legislation to address those problems may be discriminatory and might not always respect the rights of victims or produce positive results; forced medical control of prostitutes and the fact that such measures are not implemented with respect to clients; the widespread use of abortion as a basic means of family planning; and the general health situation of women, particularly in view of the spread of tuberculosis and other contagious diseases. Concern was also raised over: the situation of women in rural areas, in particular with regard to basic health protection and education, as well as social protection; the precarious material and psychological conditions of women refugees and the fact that insufficient attention has been paid to refugee women, including through failure to seek the support of relevant international agencies.

The Committee recommended that the government, *inter alia*:

- ♦ incorporate a definition of discrimination in the Constitution or relevant laws; ensure that the provisions of the Convention are reflected in legislation, in particular legislation concerning health, education and labour;
- ♦ identify the role of the national machinery for the advancement of women and provide it with the necessary human and budgetary resources;
- ♦ elaborate a national plan of action for the implementation of the Beijing Platform for Action; establish close cooperation with NGOs working in the field of human rights and other representatives of civil society to enhance gender awareness and to promote the campaign to combat traditional stereotypes regarding the roles of women and men;
- ♦ ensure that appropriate institutions consider the utility and necessity of affirmative action, in particular to encourage greater participation of women in decision-making bodies;

- ♦ develop adequate family-planning programmes, with the help of the UN Population Fund, so as to avoid the use of abortion as a means of family planning and diminish the risks of maternal mortality resulting from unsafe abortions;
- ♦ review the legislation relating to the exploitation and trafficking of women so as to eliminate the discriminatory content of such legislation;
- ♦ provide refugee and migrant women with adequate information to protect them from traffickers and others who seek to exploit women for the purposes of prostitution;
- ♦ make efforts, and support those initiated by NGOs, to assess the extent and prevalence of all forms of violence against women and introduce programmes and measures to combat this problem; and
- ♦ take steps to ensure that the provisions of the Convention are publicized among the general public and, in particular, among teachers, social workers, law enforcement officials, prison staff, medical personnel, judges, lawyers and members of other professions; introduce human rights education, including the Convention, into schools and universities.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 59, 60, 63, 64, 66)

The report notes that communications were sent to the government related to violations of freedom of religion and belief against Christianity and Islam. Violations in some cases related to refusal by the authorities to grant official recognition to certain religious groups and communities, and a climate of intolerance with regard to Christian communities, including efforts by the authorities to impose controls on, or interfere with, religious activities. Information also indicated that: there is a law forbidding any proselytizing activity by non-nationals; Christians were reportedly expelled from the premises where they were engaging in their religious activities; Armenian Orthodox churches were said to have been closed; religious minorities encounter difficulty renting rooms for use as places of worship; and threats and harassment have occurred.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 23; E/CN.4/1998/38/Add.1, paras. 18–20)

Two newly reported cases were transmitted to the government, one individual case and one collective on behalf of two individuals and a group of unnamed persons.

The individual case related to a journalist with the news agency Turan, who was reportedly beaten severely in November 1996 by a group of men in civilian clothes, shortly after he had interviewed an opposition politician. Information indicated that when the incident was

reported to the district police department, one of the attackers turned out to be the head of the district's 39th police department.

The "collective" case involved two individuals who were reported to have been among 37 defendants in a case against the special police unit OPON, who were being tried on charges in connection with a coup attempt in March 1995. The two men and some 22 other defendants had allegedly been subjected to physical or mental ill treatment during their detention in the first half of 1996, including through the use of electric shocks and being hung upside down and beaten.



BELARUS

Date of admission to UN: 24 October 1945 .

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Belarus has submitted a core document (HRI/CORE/1/Add. 70) for use by the treaty bodies. The report prepared by the government is entirely based on demographic data which include population figures and information on education, characteristics of urban and rural populations, birth and mortality rates, health statistics, personal finances, housing and employment. The report does not provide information on the structure of government and the legal framework for the protection of human rights.

Economic, Social and Cultural Rights

Signed: 19 March 1968; ratified: 12 November 1973.
Belarus's fourth periodic report is due 30 June 1999.

Civil and Political Rights

Signed: 19 March 1968; ratified: 12 November 1973.
Belarus's fifth periodic report is due 7 November 2001.
Reservations and Declarations: Declaration under article 41.

Optional Protocol: Acceded: 30 September 1992.

Racial Discrimination

Signed: 7 March 1966; ratified: 8 April 1969.
Belarus's 15th periodic report was due 5 May 1998.
Reservations and Declarations: Paragraph 1 of article 17.

Discrimination against Women

Signed: 17 July 1980; ratified: 4 February 1981.
Belarus's fourth and fifth periodic reports were due 3 September 1994 and 1998 respectively.

Torture

Signed: 19 December 1985; ratified: 13 March 1987.
Belarus's third periodic report was due 25 June 1996.
Reservations and Declarations: Article 20.

Rights of the Child

Signed: 26 January 1990; ratified: 1 October 1990.

Belarus's second periodic report was due 30 October 1997.

Sub-Commission on Prevention of Discrimination and Protection of Minorities

At its 1998 session the Sub-Commission adopted by secret ballot a resolution (1998/1) on the situation of human rights in Belarus. The vote was 17 in favour, 4 opposed, 3 abstentions. The Sub-Commission, *inter alia*: recalled that Belarus is a party to the major human rights Covenants and Conventions as well as the four Geneva Conventions of 1949; noted Commission resolution 1998/42 appealing to all states to ensure respect and support for the rights of all persons who exercise the rights to freedom of opinion, expression, to seek, receive and impart information, thought, conscience, religion, peaceful assembly and association and the right to take part in the conduct of public affairs, or who seek to promote and defend these rights and freedoms; recalled Commission resolution 1998/21 in which the Commission recognized that tolerance and pluralism strengthen democracy, facilitate the enjoyment of all human rights and constitute a sound foundation for civil society, social harmony and peace; and recalled Commission resolution 1998/35 in which the Commission stated that an independent and impartial judiciary and an independent legal profession are essential prerequisites for the protection of human rights and for ensuring that there is no discrimination in the administration of justice. The Sub-Commission: expressed deep concern at reports that Belarusian authorities unlawfully imprison, detain or otherwise harass political leaders, journalists and human rights defenders when they attempt to exercise their right to free expression, resulting in a climate of fear and intolerance; expressed concern at the concentration of legislative power in the executive branch of government and a weak judiciary whose independence has been continuously undermined, to the extent that the rule of law has not been preserved; called upon the government to lift restrictions on freedom of expression which limit a citizen's right to criticize the government — without incitement to violence — or those who occupy a position of power and authority; called on the government to comply with international human rights law by protecting the integrity and rights of journalists and human rights workers by allowing them to investigate, publish, and report on abuses of power and violations of human rights; called on the government to take effective steps to ensure the independence of the judiciary; and took note of the activities of the UNDP and the OSCE for the protection of human rights in Belarus, and encouraged the government to continue its cooperation with these activities. The Sub-Commission decided to recommend that the Commission on Human Rights consider the situation of human rights in Belarus at its 1999 session and invite international organizations, such as the Council of Europe and the OSCE, to help promote the protection of human rights in Belarus. The Sub-Commission decided that if the Commission is unable to take action on the sit-

uation of human rights in Belarus, to continue consideration of the matter at the Sub-Commission's 1999 session under the same agenda item.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 17, 29, 57, 65; E/CN.4/1998/68/Add.1, para. 29)

The report notes communications sent to the government involving death threats, the death of one woman, and a death which occurred while the victim was carrying out peaceful activities in defence of human rights and fundamental freedoms. The urgent appeal in response to death threats related to the case of a human rights defender, a woman, who was working for the Belorussian Helsinki Committee. The threats were uttered by two men who introduced themselves as "young Belorussian patriots" and information indicated that the two were believed to be members of the "Belarus Patriotic Youth Union", an organization which, despite the fact that it claims to be independent, was allegedly established and financed by the President. Reports also indicated that one of the men who had threatened her had stepped out of a car bearing a police license plate.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, paras. 3, 7, 8, 23, 26, 69–75)

The main report refers to the mission undertaken by the Special Rapporteur (SR) to Belarus and the concerns that had been expressed over biased coverage of the elections in 1995 and the November 1996 referendum. The SR also transmitted concerns to the government with regard to proposed amendments to the Act on the Press and other Mass Media which were approved by the lower chamber of the Parliament in late June 1997 and appear to have a serious impact on the freedom of the media. Individual cases referred to the government related to the detention of several persons, allegedly in connection with an incident associated with the filming of the Belorussian border with Lithuania in July 1997. Reports indicated that the individuals were held on charges of violating article 80 of the Criminal Code for illegal border crossing. The offices of Russian Public Television (ORT) and the home of one of those detained were searched by police and various documents were confiscated. Reports further indicated that several journalists protesting were also arrested. The SR also transmitted to the government cases related to the withdrawal of accreditation from individuals associated with ORT and the Russian independent television channel NTV. The credentials were withdrawn on the basis that the reports filed by the journalists were considered to present biased information about events in Belarus and the dissemination of such tendentious material had resulted in the misinformation of the public, both in Belarus and Russia.

In its replies to these cases, the government defended the action against the journalists, noting that the decisions to withdraw licences were taken on the basis of article 42 of the Act on the Press and other Mass Media. With regard to the detention of the film crew, the government noted that Public Relations Centre of the Committee for State Security (KGB) had issued a clarification regarding the illegal border crossing of the ORT film crew, stating that on 25 July 1997 criminal proceedings were instituted on the grounds that the film crew of ORT's Belorussian office had illegally crossed the border. The crew was taken into custody as a precautionary measure with the approval of the Public Prosecutor of the Grodno region.

The SR stated that media professionals working for foreign media should not have their licences withdrawn, be expelled or threatened in any other way because of the content of their reporting. The rights of journalists to report and comment on all aspects of society, which includes the expression of views opposed to those of the authorities, and the right of the Belorussian public to receive such information must be guaranteed and should in no way be subject to restrictions other than those provided for by international law.

The SR visited Belarus from 28 May to 1 June 1997. The report of the mission (E/CN.4/1998/40/Add.1) provided background and context for the mission, as well as commentary on the legal framework, the media, and other concerns relevant to freedom of opinion and expression. During the visit, the SR met with representatives of government, human rights NGOs, politicians, witnesses, victims of alleged human rights violations, and others in civil society whose work was relevant to the mandate.

In setting the background and providing context, the report notes that a Constitution was adopted in March 1994 and refers to the 1994 and 1995 presidential and parliamentary elections. Conditions following the elections are characterized in the report as including a decline in parliamentary power in tandem with a steady strengthening of the executive branch. The report notes that, with regard to the question of reintegration with Russia, the Charter of Union of Belarus and Russia: specifies as one of the Union's tasks the development of democracy within the Union and the observance and protection of the rights of the human being and citizen and basic freedoms as established in the generally recognized principles and norms of international law; stipulates that the powers of the Union and its bodies shall be directed towards ensuring the equality of citizens' political and socio-economic rights; and establishes the main obligation of Union member states to, *inter alia*, ensure freedom of speech and freedom of the media, as well as to promote the observance of other rights and freedoms set out in international legal documents and national legislation.

In terms of the information sector, the report states that, following independence, the previous state-owned media were simply transferred to ministries in the new government rather than going through a process of privatization. The SR recalled that during the presidential cam-

paign, President Lukashenko had pledged, *inter alia*, to end the state monopoly on mass media, end political censorship and the persecution of journalists for political reasons, and allow independent distribution of information.

Concerning the legal framework, the report recalls that Belarus has accepted a wide range of international human rights obligations through, for example, ratification of the International Covenant on Civil and Political Rights (ICCPR) and the Optional Protocol, the 1975 Helsinki Final Act, the 1990 Charter of Paris and the 1990 and 1994 OSCE Copenhagen and Budapest Documents.

Commentary on national law refers to the Constitution which contains human rights guarantees that largely correspond to the rights set out in the international human rights conventions to which Belarus is a party. Changes to the Constitution, in November 1996, however, are noted as having included addition of an article related to the protection, by law, of the President's honour and dignity and an addition to article 34 stipulating that the use of information may be restricted with the purpose of safeguarding the honour, dignity, personal and family life of citizens, and the full implementation of their rights.

The narrative on the Law on the Press and Other Mass Media notes that the law, *inter alia*: expressly prohibits censorship under article 4 and, under article 5, the use of the media in such areas as usurpation of power, change by force of the constitutional order, breach of the territorial integrity of the Republic, incitement to intolerance or dissension, propaganda for war and aggression, diffusion of pornography, encroachment on the morality, honour and dignity of citizens, or publication of materials related to inquiries that have not been completed. The report notes that the law: specifies the responsibility of journalists, *inter alia*, to present for publication objective information, without establishing the criteria by which objectivity is to be measured; sets out the procedures and conditions for the closure of press bodies and entities; specifies that media can be stopped by a court decision on the grounds of multiple breaches of article 5, within a certain time period, by the editorial staff; requires all media to register with the authorities and sets out the criteria for the refusal of registration as well as restrictions on the legal distribution of media; protects the right of editors not to disclose sources while at the same time providing for disclosure by order of the court; guarantees the right of citizens to receive reports and materials from foreign media; and, under amendments enacted in June 1996, requires the National State Television and Radio Company to produce and broadcast programmes providing comprehensive coverage of, *inter alia*, addresses and declarations by the President, the Supreme Soviet, the Chairman of the Supreme Soviet, the Constitutional Court and the Cabinet of Ministers, at a time suitable for the viewers and listeners, but within 24 hours.

The report reviews other legislation and measures that have an impact on freedom of opinion and expression, including provisions in the civil and criminal codes

related to defamation, insult and slander, customs regulations, and a presidential decree related to meetings, rallies, demonstrations and other public manifestations.

The principal observations and concerns set out in the report are placed within the context of the SR's statement that media freedom is an essential component of freedom of expression and information and an indispensable element in the development of democracy, a stated goal of Belarus. The SR noted that information was received related to a number of instances where doubt had been raised as to the readiness of the government to provide for an environment where a free media can operate, develop and flourish.

Problems encountered by the media were generally noted as including harassment of independent and opposition press and broadcasting media, incidents of censorship, the denial of fair and objective coverage of opponents and critics in the state-controlled media, abuse of state control of publishing enterprises, printing presses, distribution services, broadcasting companies, and monopolies. Specific concerns related to various forms of media were then outlined.

With regard to the print media in general, and independent print media specifically, the report recalls that the operation of these media is, in part, affected by registration, printing and national distribution, all of which remain under state control. The SR noted reports received indicating that punitive administrative and financial measures have been taken against non-state media to prevent or impede their free operation, and further, that the issue of registration and re-registration, as well as the perceived risk of suspension and termination of publication, has taken on increased importance over the past two years. The report notes, *inter alia*: the State Committee on the Press is entrusted with registering the print media and is equally entitled to issue written warnings; suspension or termination of mass media activity requires the decision of the founder or a decision of the court upon application from the registering authority or the Prosecutor; the practice of issuing warnings to the print media leading to a suspension of its activities after an unspecified number of warnings, on the basis of a violation of wide-ranging provisions; and no information received indicating that newspapers were prevented from registering or were closed down permanently, but the existence of a general climate of uncertainty arising from ambiguities in the law, as well as the lack of independence on the part of the body entrusted with the registration of the press, which is also entitled to issue warnings. The report notes that this uncertainty is reported to have deterred journalists and editors from being critical, particularly in view of the fact that one or more warnings have been received by some newspapers; the threat of legal sanction and closure based on unclear procedural and substantive criteria undoubtedly inhibits freedom of expression and can only result in a still further lessening of the ability of the press to act as a watchdog of government and impart information of public interest; the legal obligation on the part of journalists to provide "objective"

information allows room for abuse because the term is inherently subjective in definition; and, the *de facto* state monopoly over printing facilities and the system of distribution have facilitated the imposition by the government of impediments to the operations of an independent press.

The report notes that a presidential decree issued in August 1994 transferred directly to the presidential administration authority over the administration of the State Printing House Belorusski Dom Petchati, which dominates the market and controls access by the independent press to newspaper production. The SR also referred to the fact that, in October 1995, printing facilities in other areas of the country were notified that the agreement of the head of the Management of Social and Political Information Section of the presidential administration and of the State Committee for the Press was required in order to conduct business with non-state press. The commentary concluded with the statement that the measures with regard to printing and distribution place an undue additional strain on the independent print media industry. The SR emphasized that the right to freedom of expression may not be restricted by indirect methods or means such as the abuse of government control over printing facilities or distribution networks, or other means impeding the free communication and circulation of ideas and opinions regardless of frontiers.

Referring to the government press, the report highlights several issues, including that: serious questions about editorial independence have been raised in light of the fact that the main newspapers are government-owned and all the editors of these newspapers are appointed by government officials; information has been received related to direct interference in, and censorship of, the content of printed material and dismissals of editors following publication of information considered unacceptable by the government or on the grounds that editors failed to carry out their duties.

In commentary on the broadcast media, the report reviews such issues as monopolization, biased coverage, denial of access to opposition views and the closing down of an independent radio station. The SR referred to the following points: independent broadcasters do operate but have no national coverage and do not include programming on political issues; the National State Television and Radio Company operates under the supervision of the President; the government retains tight control of national state radio and television; there is an overwhelming bias in favour of the government; broadcast information is used to propagate the policies of the government, censor criticism, and limit and intentionally distort information on dissenting and opposition views; members of the opposition or individuals with differing views have had access to state television refused; on the whole, state television fails to provide complete and reliable information on matters of public interest; through the Ministry of Communication, the government exercises direct control over the granting of broadcast frequencies; and government control over transmission

facilities used by Russian television channels in Belarus provides the practical means for the government to prevent the broadcasting of any material by media that are not formally subject to the government's direct control, thereby providing for the possibility of prior censorship.

On media practices and content related to election and referendum coverage, the SR referred to information received that raised serious doubts as to whether the coverage of important political events such as elections or referenda is sufficiently balanced. The report states that: privileged coverage characterized both the presidential and parliamentary elections, partly as a result of a presidential decree in April 1995 which banned the national media from covering the campaign and specified that candidates would only be allowed to use the local media in their constituencies; and similar, if not more serious constraints, were experienced by the media during the period leading up to the 1996 referendum on amendments to the Constitution, with television coverage clearly biased in favour of the President's proposal and access denied to the opposition. The report notes the government's response to concerns arising from these points in which it asserted that coverage should reflect the proportional support among the population and, on that basis, justified the 90 per cent coverage in favour of the President.

The situation of individual journalists is described as including incidents of direct harassment and violence, including personal attacks, intimidation, and mistreatment during demonstrations despite having press credentials. Reports were also received concerning confiscation of video and film material. Concern was expressed at the growing polarization of the community of journalists along political lines and the report refers to the fact that this polarization is considered to be partially a result of the violence used against journalists who are said to become supporters of the opposition only after having been harassed and attacked, usually in connection with their coverage of demonstrations.

Summary comments are provided on concerns related to freedom of opinion and expression beyond the situation of the media and individual journalists. Issues addressed included, *inter alia*: indirect actions against writers through, for example, control by the government of the list of forthcoming publications; restrictions imposed by Decree No. 5 on the conduct of meetings, rallies, street processions, demonstrations and picketing, preventing full enjoyment of the rights of opinion, expression and assembly; the disproportionate use of force by police during demonstrations and reports of their provocation of violence; and, with regard to civil associations and non-governmental organizations, administrative harassment such as re-registration procedures and tax audits with the imposition of substantial fines threatening the financial viability of such organizations.

The concluding observations in the report, *inter alia*, welcomed the expressed commitment of the government to democracy, rule of law and human rights, and emphasized the crucial role of freedom of opinion and expres-

sion and information in giving substance to democratic development and respect for human rights. Following on this, the SR recommended that the government, *inter alia*:

- ♦ make every effort to bring to a resolution the divergence of views related to the constitutional referendum of November 1996, including through an open and frank dialogue with the opposition;
- ♦ take all necessary steps to remove any restrictions on the right to freedom of opinion and expression that are incompatible with article 19 of the ICCPR to which Belarus is a state party, and ensure that any registration requirements regarding newspapers serve an administrative purpose only and are not used to impose restrictions on the media that exceed those set out under article 19;
- ♦ ensure that future legislation, as well as its implementation, are in compliance with article 19 and other relevant international standards and consider ways to ensure that the process, which should include media professionals, of introducing future legislation that may affect freedom of expression and media freedom is transparent;
- ♦ bring laws, regulations and practice governing border controls into line with the country's international obligations;
- ♦ take all necessary measures to alter any situation placing restrictions on the use by the independent media of state-owned printing and distribution services, ensure that access to these facilities is granted on a non-discriminatory basis, and consider taking steps to liberalize state control over these facilities;
- ♦ adopt positive measures related to the electronic media in order to ensure that the public's right to receive complete and reliable information and a plurality of opinions is guaranteed;
- ♦ consider taking appropriate steps to develop a legal and institutional framework for public broadcasting to ensure that the state-financed broadcasting media can operate effectively as a public service broadcaster, with full guarantees of editorial and operational independence from government and all other political influence on programming content;
- ♦ ensure that the public service broadcaster gives consideration to such issues as the principles of democracy and universal human rights, and in particular the right to freedom of opinion and expression, in its programming;
- ♦ refrain from taking measures which prevent or obstruct the establishment of independent radio and television and provide positive incentives to encourage the establishment of such enterprises;
- ♦ take steps to ensure that the licensing system and the procedure for allocating frequencies is governed by an independent body operating in accordance with

international standards and practice and provides for an effective process of appeal against refusal or withdrawal of licenses;

- ♦ ensure that individual journalists are protected from harassment and are able to carry out their professional activities freely, including in all matters of public interest, irrespective of whether or not they support the government;
- ♦ disseminate to the widest possible audience basic human rights instruments and information, initiate and organize training in international human rights standards and practice for various groups of professionals — including government officials, members of Parliament and the judiciary, particularly with regard to the right to freedom of opinion and expression — and ensure that international standards are applied in the respective areas of competence;
- ♦ provide a facilitating environment for the establishment and operation of professional associations and non-governmental organizations;
- ♦ encourage professional associations in the media field to organize training programmes for professionals in the information sector — representing both state-financed and independent media and with the participation of international media professionals — which addresses ethical and professional standards of reporting as well as the rights and responsibilities of the media and the government;
- ♦ ensure that the law and practice governing public demonstrations are in compliance with international standards and repeal provisions failing this test; and
- ♦ further efforts to provide appropriate training to all law enforcement officials involved in operations related to demonstrations, and ensure that all such officials are competent to carry out their work in accordance with international standards.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 19, 38–39)

The report notes a reply received from the government in January 1997 related to previously expressed concerns over the process of suspending the Constitutional Court following the Court's decision concerning the referendum on two draft constitutions. The government provided the Special Rapporteur (SR) with information on the provisions in the Constitution concerning the administration of justice and the appointment and independence of judges. Detailed information was also provided regarding the organization of the judicial system and the status of judges as contained in the Republic of Belarus Act of 13 January 1995. The SR was informed of the appointment proceedings, the activities and the competence of the Constitutional Court judges. The government referred to the adoption of a new Constitution by referendum which amended the procedure for the appointment of judges. The new procedure stipulates that the

President of the Constitutional Court, the President of the Supreme Court and the President of the Supreme Economic Court are to be appointed by the President with the consent of the Council of the Republic. Under the previous Constitution these persons were all elected by the Supreme Council. The government also noted that the new Constitution had increased the membership and age limit of the Constitutional Court.

The SR noted that the information provided did not correspond to the specific allegation transmitted and expressed continuing concern that the judiciary may not be independent from the executive branch.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, para. 42)

The report notes that an anti-Jewish propaganda programme was reported to have been broadcast on state television in July 1997. The programme was reported to have contained a scene of a ritual Jewish murder which occurred in 1690.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 61, 69, 71)

The section of the report concerning conscientious objection refers to information provided by the government in which it is stated that the law provided for alternative service in lieu of national military service, but that there were no regulations defining the conditions and terms under which military service could be replaced by alternative service, or the nature of such service. According to the authorities, a practical solution had been found to the problem for citizens who refused to perform military service and stated that they were unable to bear arms, use military equipment or take an oath. These individuals were assigned to auxiliary units where their beliefs were respected. The government noted that a bill governing matters relating to alternative service was to be submitted to the National Assembly.



BOSNIA AND HERZEGOVINA

Date of admission to UN: 22 May 1992.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Bosnia and Herzegovina submitted a core document (HRI/CORE/1/Add.89) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the general political structure, the judicial system, and the general legal framework for the protection of human rights. Chapter III of the Constitution defines human and civil rights and freedoms in such a way that they cannot be removed or limited. The Constitutional Court, as the implementing agent of constitu-

tionality, provides for the rule of law in accordance with the Constitution. Among the rights set out in the constitution are: the right to life; equality before the law; protection against any discrimination; fair criminal proceedings; protection against torture; freedom of movement; asylum; protection of the family and children; property; freedom of speech and the press; the freedom of thought, conscience and belief; freedom of trade union organization, including by the police; the freedom of association; free choice of labour; free education, social care and health care; food and shelter; and minority protection and the protection of potentially vulnerable groups. All citizens have the right to establish and belong to political parties, participate in public affairs, have equal access to public services, and vote and be elected. All of these rights are also foreseen by the laws of the Republic of Bosnia and Herzegovina. The national human rights machinery includes the Parliamentary Commission on Human Rights, the Commission on the Protection of Human Rights (within the Presidency), the Constitutional Court, the Court for Human Rights, and the office of ombudsmen.

Economic, Social and Cultural Rights

Succeeded: 1 September 1993.

The initial report for Bosnia and Herzegovina was due 30 June 1995.

Civil and Political Rights

Succeeded: 1 September 1993.

The initial report for Bosnia and Herzegovina was due 5 March 1995.

Reservations and Declarations: Bosnia and Herzegovina made a declaration under article 41.

Optional Protocol: Signed: 1 March 1995; ratified: 1 March 1995.

Racial Discrimination

Succeeded: 16 July 1993.

The initial report for Bosnia and Herzegovina was due 16 July 1994; the second and third periodic reports were due 16 July 1996 and 1998 respectively.

Discrimination against Women

Succeeded: 1 September 1993.

The initial report for Bosnia and Herzegovina was due 1 October 1994; the second periodic report was due 1 October 1998.

Torture

Succeeded: 1 September 1993.

The initial report for Bosnia and Herzegovina was due 5 March 1993; the second periodic report was due 5 March 1997.

Rights of the Child

Succeeded: 1 September 1993.

The initial report for Bosnia and Herzegovina was due 5 March 1994.

Reservations and Declarations: Paragraph 1 of article 9.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

At its March 1998 session, the Committee considered the situation in Bosnia and Herzegovina under its urgent procedures (CERD/C/52/Misc.33/Rev.1). The Committee decided to: keep Bosnia and Herzegovina on its list of countries meriting attention on an urgent basis; inform the authorities of its intention to consider the situation again at the August 1998 session, with the hope that representatives of the government would participate in discussions; and requested information on the actual situation in the country.

At its August 1998 session, the Committee discussed the situation in Bosnia and Herzegovina in the context of the principles and objectives of the Convention. The Committee's concluding observations (CERD/C/53/Misc.39/Rev.1, Decision 6 [53]) reaffirmed Decisions taken between 1995 and 1997 inclusive, as well as the Committee's readiness and offer to contribute to the implementation of the Dayton Agreement of December 1995. The situation in Bosnia and Herzegovina was re-examined under the early warning and urgent procedure and government representatives attended the session.

The Committee expressed concern over: the many violations of human rights in Bosnia and Herzegovina; the depth of the persisting divisions reflecting clear patterns of discrimination and separation based on national and ethnic origin; and the continuing violence and the danger to which refugees were exposed. Stating that tensions associated with ethnic differences are central to many of the existing problems within the country, the Committee stressed the importance of supporting and strengthening the Office of the Federation Ombudsman in its work for human rights and the rule of law. Support was given to the idea of reviewing school books and other educational materials in order to rid them of falsifications of history or incitement of ill will or contempt towards other peoples and ethnic groups. The Committee stated that the fate and the situation of the Roma population required urgent attention and special measures by the authorities and international organizations.

The Committee recommended, *inter alia*, that the state and its constituent components:

- ♦ amend any relevant existing laws in order to provide amnesty to persons who, solely on grounds of their ethnic identification, avoided conscription or deserted during the hostilities in the former Yugoslavia; cease immediately all attempts to track down and punish such persons;
- ♦ encourage by all means the safe and voluntary repatriation of refugees and the return of displaced persons to their places of origin with a view to counteracting the effects of the war and "ethnic cleansing"; and

- ♦ 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.

The national human rights institutions and mechanisms for redress are reviewed, with commentary on both the Human Rights Ombudsperson and the Human Rights Chamber — together forming the Commission on Human Rights — that considers alleged or apparent violations of human rights by the authorities that occurred after 14 December 1995 and the Commission for Real Property Claims, which adjudicates claims for real property where the property has not voluntarily been sold or otherwise transferred since 1 April 1992, and where the claimant does not presently enjoy possession of that property. Most cases taken up by the Human Rights Ombudsperson concerned property issues, with others related to independence of the judiciary, freedom of movement, effective domestic remedies, access to court, the rights of detainees, and the rights to liberty and security. The Ombudsperson issued ten special reports dealing with such issues as freedom of expression, the death penalty, the right to return and the right to a fair hearing. The Human Rights Chamber, an independent judicial body whose decisions are final and binding, and the Commission for Real Property Claims (CRPC) are responsible for determining who is the lawful owner and value of the property on receipt of a claim. It was noted that most claimants were refugees or displaced persons, and victims of “ethnic cleansing” who lost homes and property during the war. The Office of the Federation Ombudsmen has offices in Sarajevo, Tuzla, Bihac, Zenica, Livno and Mostar and additional offices are planned for Travnik and Capljina.

The obstacles to the effective functioning of these institutions are identified as the low level of cooperation accorded by authorities, the absence of an effective mechanism to force authorities to comply with decisions and recommendations, the fact that discriminatory legislation remains in place, the failure of the authorities to adopt new laws that conform with the Dayton Agreement, the lack of implementing legislation to ensure judicial enforcement of decisions, insufficient financial resources — partly as a result of a lack of stable and substantial international financial support, and the fact that the authorities in Bosnia and Herzegovina have made little effort to incorporate these institutions into their legal systems. The report notes that the Constitution also provides for a Federation Human Rights Court, comprised of three judges from Bosnia and Herzegovina and four appointed by the Council of Europe. At the time the report was prepared, this Court had not begun to function because the four international judges had not yet been appointed.

On civil society and non-governmental organizations, the report draws attention to the exceptional work carried out by local NGOs in the fields of humanitarian relief, reconstruction, development, human rights and education. The SR stated that this “grass-roots” power has enormous potential for the reconstruction of the country and for reconciliation. Many NGOs insist on promoting and preserving Bosnia and Herzegovina’s multi-ethnic identity. The SR asserted that the synthesis of these NGO efforts is a vital part of the peace process. The problems

encountered by NGOs, and the factors contributing to a crisis among them, are outlined and include, *inter alia*; the difficulties inherent in the transition from emergency assistance to other activities, the delicate process of conversion of international projects into national organizations, acute questions related to the need for financial sustainability and the absence of a comprehensive legal framework for NGOs, which endangers their viability and makes them vulnerable to arbitrary treatment. There is also often a distrustful attitude by authorities towards NGOs and particularly those involved in human rights which often monitor the authorities’ behaviour.

Concerning other fundamental rights, the SR notes that violations of the freedom of movement throughout the territory through such practices as illegal checkpoints, the imposition of illegal visa fees and road taxes, demand for documents not legally required, confiscation of documents and goods, and arrests of individuals are common. The absence of a uniform car registration system further increases the likelihood of violations of freedom of movement on ethnic grounds. Other points that were raised include: creation of obstacles to freedom of movement, particularly between the entities, that impair the work of certain professionals such as journalists and lawyers; the fear that prevents nationals from visiting areas controlled by the authorities of other national groups, combined with the atmosphere of intolerance dominating many areas exacerbating this problem; continuing serious problems related to voluntary return, arising from illegal requests for visas, customs duties and road taxes; discrimination in the handling of civil registration applications at the municipal level and excessive retroactive taxation of people, “war taxes”, who left their municipalities during the war; the failure of both entities in Bosnia and Herzegovina to amend legislation to bring property laws into compliance with the Dayton Agreement; the continuing application, in a discriminatory manner, of wartime legislation on abandoned property, blocking the return of refugees and displaced persons; media coverage on proposed legislation related to the question of property that is likely to inflame public opinion; continuing destruction of housing that, in many cases, clearly targeted houses with the intent to deter the return of refugees and displaced persons belonging to local minorities. Other issues concerned the fact that landmines laid during the war continue to kill and maim people throughout the country and the prospect of an increase in the number of incidents with the process of return is likely. The report also noted that administrative and financial constraints have led to a very slow demining process and the fact that some people with information on the placement of landmines are unwilling to provide maps without financial compensation. Criminal provisions permitting courts to pronounce and apply the death sentence continue to exist, and rulings in both entities have imposed capital punishment. There is also continuing concern over police involvement in human rights violations, as well as during detention. Confessions are alleged to be extorted from suspects by detaining them for the permissible three days before bringing them before an investigating judge. The

report states that there is a lack of respect for the "rules of the road" (the Rome Agreement).

Under the heading of administration of justice, the report states that the situation of the judiciary in both entities is characterized by problems inherent in an ethnically-divided country and a justice system in transition. In this regard, the report notes that in the Federation a draft Code of Criminal Procedure and a Criminal Code consistent with the European Convention on Human Rights has been prepared while, in the Republika Srpska pre-war criminal and criminal procedure codes are still applicable and that there appears to be little effort to amend these laws. The report summarizes differences in the systems of administration of justice between the two entities and states that lack of qualified legal staff and financial resources remains one of the most serious problems facing both judiciaries.

Commentary on the independence of the judiciary states that neither the Republika Srpska nor the Federation has satisfactorily upheld this principle and reviews practices and decisions in the two entities that remain obstacles to guarantees of judicial independence, including problems arising from the manner in which judges are appointed. The report cites violations of the right to fair trial, again in both entities, through such practices as expedited trials, presentation of dubious evidence, absence of effective legal counsel, and violations of the right to legal counsel. The report also notes that the virtual absence of inter-entity judicial cooperation remains one of the most urgent problems of the judiciary, since it results in violations of international human rights standards guaranteed by the Constitution of Bosnia and Herzegovina. Various matters such as serving of subpoenas and obtaining evidence across inter-entity boundary lines, as well as the admissibility of members of the bar from one entity to practise in the other, are identified as further obstacles to due process and fair trial principles, particularly in the context of domestic war-crimes trials and trials with defendants from an ethnic minority. The report further notes that many trials have been repeatedly postponed or adjourned to facilitate the examination of witnesses living in the other entity, whose presence had been requested by the defendant, and some trials have even been completed without proper interrogation of witnesses.

The narrative on law enforcement and police reform states that the role of the police should be to support democratic institutions and protect human rights and fundamental freedoms for all individuals. Further to this, the SR states that the police forces have failed to act in accordance with these fundamental principles and are responsible for serious human rights violations committed during and after the conflict. The SR further states that the authorities of the Republika Srpska and the Federation are legally bound to take all possible measures to improve the standard of the police force. The report notes a number of points, including that: the International Police Task Force (IPTF) is conducting a programme of restructuring of the police by to improve standards and reduce the size of police forces to approximately one

police officer per 250 to 300 citizens; in April 1996, the Bonn-Petersberg Declaration on the reform of the police was agreed between Croat and Bosniak representatives of the Federation, under this agreement those persons who were not selected to serve as police in the restructured Federation police force will not be allowed to perform law enforcement duties or permitted to carry arms; the authorities must redress the serious lack of women officers in the Federation police forces; the IPTF has undertaken a Certification Process made up of three phases — which includes a two-day training session about democratic policing, a four-week training course for persons on the final eligibility list, leading to issuance of provisional police certificates, and an issuance of a permanent certificate within one year, for candidates with appropriate educational background, no criminal record, no record with the ICTY, valid citizenship of Bosnia and Herzegovina, no record of non-compliance — e.g., maintaining illegal checkpoints, refusal of access to police stations — and who are not responsible for any human rights violations; the main obstacle to restructuring has been disputes concerning the ethnic composition of each cantonal police force; as of the end of August 1997, any remaining police forces in the Federation not certified by IPTF were to be considered illegal and subject to dismantling by the International Stabilization Force (SFOR); in the Republika Srpska, difficulties were encountered in distinguishing between the army and police forces and no final agreement between authorities in Republika Srpska and the IPTF had been reached on the restructuring of the police forces; and, the Special Police forces in the Republika Srpska were classified as military forces under Annex 1-A to the Dayton Agreement because of their arsenal and training.

On the question of freedom of expression, the report states that violations of freedom of expression remain common, as reflected in the high number of cases brought before the OSCE Media Experts Commission. Reported incidents ranged from intimidation by authorities to less frequent instances of physical violence against journalists. Specific problems and violations are noted including, *inter alia*: there remained obstructions to freedom of movement for journalists, limiting the scope of reporting and impairing objectivity, exacerbated by lack of telecommunications links between the two entities; only publications presenting the political views of those holding local power were available; violations against journalists included threats of suspension, actual suspensions, confiscations of material and beatings by police; and violations of international standards also occurred in the unprofessional conduct of some journalists who broadcast or published hate speech.

On the situation of media in the Republika Srpska the report notes that broadcasting was mostly controlled by SDS supporters with the few stations that tried to remain independent often subjected to pressure. Municipal authorities could block access to transmission facilities at any time and there was more pluralism in the print media than broadcasting, with several independent magazines available. These independent magazines depended

largely on aid from the international community and were in a vulnerable position. International initiatives were under way to set up a printing house to help ensure financial sustainability and establish distribution networks, especially in the eastern Republika Srpska, one of the most difficult areas. The political crisis had highlighted the use of propaganda by the SDS-controlled media, and some editors and journalists had produced independent reports to express their disapproval of official media manipulation.

Addressing the situation of media in Croat-controlled areas of the Federation, the report notes that the media, both print and broadcast, did not enjoy much independence because they were closely connected to HDZ; diversity only came from publications imported from Croatia; and the media in other areas of the Federation, including Sarajevo, were characterized by the widest diversity but this pluralism depended largely on assistance from the international community.

On economic, social and cultural rights, the report refers to the convergence of the conflict and the transition to a market economy to create a bleak economic situation throughout the country. The report notes factors compounding difficulties related to economic, social and cultural rights, including many cases of employment discrimination and numerous cases of minority workers being fired on the grounds of national background, especially in the Republika Srpska and in Croat-dominated areas of the Federation. The situation of the elderly remained tenuous, in part because pensions are extremely low and insufficient to meet basic survival expenses and there were numerous instances of working people supporting older relatives while their wages barely enable them to cover their own expenses. Charges have been introduced for health care except for certain people, such as children and the elderly. Many medical professionals have left the country and some were killed during the war. Concern remains about education as it relates to cultural rights, with decentralization of the education system leading to different curricula being used. Some textbooks are marked by ethnic bias and propaganda and there have been some incidents in which minority children were prevented from attending certain schools.

On the question of missing persons, the report notes that the exact number of missing persons, as a result of the conflict, remains unknown but estimates from various sources range between 19,000 and 30,000 persons. The process of determining the fate and whereabouts of the missing is based either on information provided by local authorities or exhumations and associated identification procedures. The report notes that local authorities have often failed to respond satisfactorily to tracing requests from the International Committee of the Red Cross (ICRC) and often provide imprecise information. There are approximately 400 mass graves in Bosnia and Herzegovina and the main obstacle to exhumations has been the lack of access by authorities of one entity to remains located in territories controlled by the other. In June

1996 an agreement on a procedure for joint exhumations was reached, providing for expert representation by both parties, methods to notify of the intent to exhume, participation by representatives of the international community, on-site security and other measures; exhumation and identification activities, especially concerning mass graves in the Srebrenica area, have not led to positive identifications of all the bodies. Factors affecting the process of exhumations include the size of the mass grave, the circumstances surrounding the disappearances and the time elapsed since the deaths. Allegations of "secret" or "hidden" detention remain a preoccupation for organizations dealing with missing persons although, in the majority of cases, the allegations are not well founded and no evidence has been produced to substantiate claims of large numbers of missing persons being held in secret detention centres. The report notes that the main responsibility for resolving the fate of missing persons lies with local authorities, mainly the three established commissions — the State Commission of Bosnia and Herzegovina, the Office of the Croatian side of the Federation and the State Commission of the Republika Srpska. These commissions have a legal obligation to cooperate with other entity authorities and international organizations.

A review of efforts by various organizations and entities to resolve the fate of missing persons is included in the report, including those related to the Expert Group on Exhumations and Missing Persons, the United Nations, the International Commission on Missing Persons and non-governmental organizations — including the Working Group chaired by the ICRC.

The recommendations in the report include that:

- ♦ the demining process be accelerated and become a part of the planning process for projects for returnees; mine information campaigns, specifically designed for different target groups, such as children and returnees, receive additional support;
- ♦ relevant authorities in the Republika Srpska and in the Federation undertake, without delay, legislative measures to eliminate the provisions of the criminal codes providing for the death penalty to be pronounced and applied; all death sentences in the Republika Srpska and the Federation be revoked;
- ♦ relevant authorities comply with recommendations made by IPTF, and in particular that, following investigations, police officials responsible for abuses be prosecuted; such proceedings be monitored by representatives of the international community; the authorities comply with the "rules of the road"; all persons detained without legal grounds be released immediately; and the Security Council consider further strengthening the IPTF mandate to expand its authority to impose sanctions for non-compliance with its recommendations;
- ♦ authorities comply with recommendations concerning trials where international observers have

concluded that the rights of the defendant(s) were violated, and that retrials be ordered where appropriate;

- ♦ procedures for the appointment of judges be changed, where necessary, to comply with international standards and ensure judicial independence;
- ♦ relevant authorities in both entities ensure that those indicted for war crimes by the International Criminal Tribunal, in particular those belonging to their own ethnic group, are arrested and extradited to The Hague; SFOR, acting in accordance with its mandate, intensify its efforts to apprehend those indicted;
- ♦ relevant authorities in both entities cease all practices which limit freedom of movement, such as the imposition of illegal fees or taxes, illegal requests for visas and other documents, and arbitrary arrests; a uniform car-registration system be adopted for use throughout the country; and law enforcement officials responsible for violating freedom of movement be punished;
- ♦ authorities fulfil obligations under the Dayton Agreement to facilitate returns on as large a scale as possible; international donors make financial aid conditional on minority returns and countries hosting refugees from Bosnia and Herzegovina not pursue forced repatriation; authorities in both entities amend their property laws to enable pre-war occupants to reclaim their properties;
- ♦ authorities in both entities put an end to various forms of pressure exerted on the media and take steps to promote pluralism and independent voices in public communication; telecommunications links between the entities be broadened and other measures be taken to increase inter-entity exchange of information;
- ♦ the international community provide more support, both financial and in the form of expertise and equipment, to conduct exhumations and identifications and place additional pressure on the parties to undertake joint exhumations;
- ♦ international agencies establish an efficient and transparent mechanism to respond systematically to allegations of "secret" detention and authorities in both entities establish strict control of the prisons, including inspections by qualified and experienced inspectors and systematic registration of detainees;
- ♦ authorities in the Republika Srpska enter into a restructuring agreement with IPTF in the area of reform of the police without further delay;
- ♦ authorities in both entities offer their full and unequivocal support to the human rights institutions and comply fully with their findings and recommendations and the authorities in the Republika Srpska consider establishing an ombudsman's office for that entity;

- ♦ authorities in both entities endeavour to adopt a comprehensive law covering NGOs and remove provisions burdening their activities and restricting their independence, such as confusing registration procedures and excessive taxation; and
- ♦ donors adopt a coherent and long-term approach towards national NGOs to ensure their successful development.

The review of previous recommendations covers the period from 3 November 1995 to 29 January 1997, related to:

- ♦ recommitment to the promotion and protection of human rights still requiring implementation in many areas;
- ♦ respect for human rights institutions, noting the low level of cooperation, severely limited financial support to these institutions and failure of authorities in Republika Srpska to establish the office of the Ombudsperson;
- ♦ conduct of law enforcement officials, noting the failure of these officials often to protect the targets of intimidation and abuse, and sometimes actively participate in the commission of such acts; and the fact that local authorities have rarely taken action to put an end to such practices, generally affecting minority populations and returnees;
- ♦ freedom of movement, referring to continuing problems arising from arbitrary and illegal restrictions, failure to implement a system of uniform licence plates, several instances of violations of the "rules of the road" — involving the arrest and detention of individuals who were not indicted by the International Criminal Tribunal and without prior submission of incriminating evidence to the Tribunal;
- ♦ cooperation with the International Criminal Tribunal, stating that cooperation has remained limited, with all parties refusing to surrender war crime suspects to the ICTY in violation of the Dayton Agreement which, with regard to Republika Srpska, supersedes provisions in the Constitution;
- ♦ domestic war crimes trials, noting irregularities in most trials;
- ♦ voluntary return, noting practical and administrative obstacles, outright political hostility directed against returnees and virtual impunity for those engaging in such acts as harassment, destruction of property and physical attack;
- ♦ property rights, noting failure to protect the property of displaced persons and refugees and repeal laws on property that are inconsistent with the Dayton Agreement and international law;
- ♦ freedom of expression, noting that inter-entity distribution of publications remains extremely limited; difficulties continue to be encountered for journalists

seeking to travel to/from and communicate with one entity or the other; the absence of telephone links between the two entities; continuing instances of inflammatory statements and biased comments on all side;

- ♦ protection of children, referring to continuing failure to address the needs and situation of children as a priority;
- ♦ human rights education, noting failure to include in current curricula human rights education programmes and revise curricula or textbooks to reflect human rights principles; and
- ♦ missing persons, stating that authorities, especially on the Republika Srpska side, have shown resistance to cooperating with organizations involved in this issue and that urgent action still needs to be taken to redress this grave situation.

General report on the former Yugoslavia

Section I of the general report prepared (E/CN.4/1998/63) deals with Bosnia and Herzegovina and includes information on the situation in 1995/1996, progress made, and the challenges ahead.

The remaining challenges are identified as: the return of refugees and displaced persons to their places of origin to reverse the effects of the war; housing and property laws which serve to block returns and lack of resources for reconstruction projects; democratic local police forces serving all the citizens of Bosnia and Herzegovina and restructuring and training of local police forces — including specialized training, monitoring of local police forces to verify their compliance with international standards and human rights violations by law enforcement officials, a functional system of internal police investigations for police forces in both entities; and the need for a justice system that ensure an impartial and independent judiciary. A number of elements must be addressed, including: the process of judicial appointments; monitoring of sensitive trials and inter-entity cooperation; legislative reform, especially in the criminal justice area, bearing in mind ongoing violations and discrimination in all areas of life — including access to housing, employment and education; systematic human rights monitoring and reporting; and greater promotion of economic, social and cultural rights to ensure respect for the fundamental principle of equal rights for all people. Efforts must continue to support the developing NGO community through, *inter alia*, facilitating contacts with NGOs from outside the region and offering advice in creating programmes of action. The report states that the authorities must improve their cooperation with the international community to resolve the fate of the nearly 20,000 persons estimated to be missing and, further, that those guilty of war crimes must be brought to justice and 1998 must be the year when all those indicted are brought to The Hague.

Resolution of the Commission on Human Rights

At the 1998 session the Commission adopted by roll call vote an omnibus resolution on the situation of human rights in the territory of the former Yugoslavia (1998/79). Text relevant to Bosnia and Herzegovina included the following:

In Section I of a general nature, the Commission stressed the need to focus international human rights efforts on the lack of full respect for the human rights of all individuals without distinction. It also discussed the return of refugees and displaced persons; capacity-building in the areas of rule of law and the administration of justice; the freedom and independence of the media; inadequate cooperation with the International Criminal Tribunal; and missing persons.

Section II on Bosnia and Herzegovina: welcomed progress in the implementation of the Dayton Accord and the work of the Commission on Human Rights — Office of the Ombudsman and the Human Rights Chamber; noted that municipal elections were successfully held in September 1997 and that elections for the Assembly in the Republika Srpska were held in December 1997; reiterated its call to the government to bring legislation into full compliance with the human rights provisions of the Constitution, and to amend immediately the law to provide amnesty to those who avoided conscription or deserted; reiterated its call for full cooperation with the Bosnian Commission on Human Rights, for an end to beatings, unlawful evictions and other forms of harassment, and for the prosecution of those responsible for such acts; called for the immediate establishment of institutions to protect human rights in the Republika Srpska; called on the authorities to complete the reform and restructuring of the local police force, to reverse the effects of “ethnic cleansing”, to allow freedom of movement and return, to repeal legislation that infringes on the right to return and, without delay, to bring legislation on property and housing into line with recommendations of the High Representative; called on the authorities to repeal laws related to “abandoned property”, to end illegal evictions and to reinstate persons evicted from their homes in violation of their rights; called on the authorities to ensure the necessary conditions for free and fair elections to be held in 1998 under the supervision of the OSCE; called on the authorities to work towards reform of criminal law in both entities; and, reiterated its call to the international community to support all aspects of the work of the International Police Task Force, the return in safety of persons who have left the territory, and the Constitutional Court.

Section V on the International Criminal Tribunal: called on all states to cooperate fully with the Tribunal; welcomed the decision of the Prime Minister of the Republika Srpska to allow the Tribunal to open an office in Banja Luka; welcomed the decision of the four persons in the Republika Srpska to surrender voluntarily to the Tribunal and called on other indicted persons to do likewise; noted that authorities in Bosnia and Herzegovina had

generally respected the "rules of the road" by arresting or detaining only those war crime suspects sought by the Tribunal and submitting all cases involving suspected war crimes to the Tribunal for review prior to prosecution by the national courts; called on the authorities, and particularly the authorities in Republika Srpska, to apprehend and surrender for prosecution all persons indicted by the Tribunal.

Section VI on missing persons: called on all parties to treat the subject of missing persons as an urgent humanitarian problem, to make full disclosure of available information to the Working Group on Missing Persons (chaired by the ICRC) and to abandon the principle of reciprocity in dealing with the question; requested the International Commission on Missing Persons to provide essential supplies for the Bosnian exhumation process; called on all parties to release any individuals held as a result of or in relation to the conflict, the so-called "hidden detainees"; called on all parties to resume and expand the joint exhumation process in Bosnia and Herzegovina and to comply with their obligations to investigate enforced disappearances; and called on the Bosnian Serb authorities to support the reconciliation process by reaching out to family associations from all ethnic groups and to allow the burial of remains in the Srebrenica area.

The resolution also renewed the mandate of the Special Rapporteur for a further year, maintained Bosnia and Herzegovina as one of the three countries of focus, and requested the Special Rapporteur to carry out missions to Bosnia and Herzegovina.

The resolution was adopted by a vote of 41 in favour, none opposed, 12 abstentions.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 21–22)

The report refers to the decision of the Commission on Human Rights in 1997 to discontinue the special process on missing persons which had been assigned to a member of the Working Group (WG). The WG decided that cases of disappearance which occurred in Bosnia and Herzegovina prior to the date of entry into force of the Dayton Peace Agreement (14 December 1995) would not be dealt with by the WG. The report notes that cases of disappearance after December 1995 will be examined. However, none were referred during the period covered by the report.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, para. 25)

The report refers to observations by the Special Rapporteur on the situation in the territory of the former Yugoslavia related to the September 1997 elections (E/CN.4/1998/13, para. 16) and the fact that "participa-

tion in political life was hindered by various obstacles, notably to freedom of the press". The problems encountered were reported to have prevented genuine inter-ethnicity (as well as intra-Federation) campaigning, and negatively affected the right of citizens to information.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 64)

The report refers to violations of freedom of religion and belief against Christianity and Islam, including attacks against and the destruction of places of worship. No details of cases or incidents were provided.

Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section I.A)

The report provides testimony by a woman who was raped during the war. The Special Rapporteur states that, despite the widespread nature of rape and sexual abuse and the many indictments that have been filed, no one had yet been convicted of sexual assault by the International Tribunal on the Former Yugoslavia.

Mechanisms and Reports of the Sub-Commission

Systematic rape, sexual slavery and slavery-like practices during armed conflict, Special Rapporteur on: (E/CN.4/Sub.2/1998/13, paras. 12, 13, 22, 25, 30, 38, 42, 44, 45, 50, 51, 58, 62, 66, 69, 75, 76, 78, 81, 110)

The report notes that, with regard to breaking the cycle of impunity, the International Criminal Tribunal for the Former Yugoslavia (ICTY) has issued numerous indictments charging crimes based on sexual violence. Various approaches and definitions used by the ICTY to deal with cases of systematic rape and sexual slavery and violence that occurred during the war are cited. Areas covered include: consent, lack of consent or the lack of capacity to consent; "rape camps"; crimes against humanity – arising from a widespread or systematic attack against a civilian population, including widespread or systematic persecution based on racial, ethnic, religious, political or other grounds; rape and enslavement as separate qualifying offences under the definition of crimes against humanity; rape as constituent acts of genocide and war crimes; the applicability of common article 3 of the Geneva Conventions; and the law of command responsibility.

The Special Rapporteur (SR) stated that sexual violence includes situations in which two victims are forced to perform sexual acts on one another or to harm one another in a sexual manner. The report cites charges brought by the Office of the Prosecutor to the ICTY for violations of the laws of war and crimes against humanity. The case involved one prisoner in a Bosnian Serb prison camp who was forced by a guard to bite off the testicle of another prisoner in the presence of a group of prisoners. In another case in a different detention facility, a Serb police chief was indicted for forcing two detainees to "perform sexual acts upon each other in the presence of several other prisoners and guards".

The report refers to an ICTY indictment for slavery as a crime against humanity, charging a member of an elite Serb paramilitary unit and a paramilitary leader in the town of Foca with crimes against humanity for acts of rape and slavery. The defendants were charged with detaining nine women in a private apartment where the women were sexually assaulted on a regular basis and forced to work both inside and outside of the home. According to the indictment, four of the women were eventually sold to other soldiers. The indictment noted that the women were free to leave the private home in which they were being detained — they even had a key to the home — but that the women were not able, in any meaningful sense, to flee since they “had nowhere to go as they were surrounded by Serbs, both soldiers and civilians”.

The report also refers to the indictment against the highest-ranking civilian officer in a municipality in Bosnia and Herzegovina who “knew or had reason to know” that the Chief of Police in the area was about to force others to commit acts of sexual assault or had done so and failed to take “necessary and reasonable measures” to prevent such acts or to punish the Chief of Police after the acts came to his attention. The civilian administrator was charged with responsibility for the acts or the omissions of the Chief of Police, including crimes against humanity for acts of rape and other forms of sexual assault, including male sexual assault.

GENERAL ASSEMBLY

Special Rapporteur of the Commission on Human Rights

Between the 54th (1998) session of the Commission on Human Rights and 1998 General Assembly, Mr. Jiri Dienstbier (Czech Republic) was appointed to replace the previous Special Rapporteur (SR) for the territory of the former Yugoslavia. The SR's consolidated interim reports to the 1998 General Assembly, Situation of human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia, were prepared by Mr. Dienstbier. The sections on Bosnia and Herzegovina (A/53/322, Section V; A/53/322/Add.1, Section III) contain information on, *inter alia*: the return of refugees and displaced persons; property rights and legislation; other forms of discrimination; police reform; the Commission on Human Rights; the Federation Ombudsmen; inter-entity judicial cooperation; restructuring of the judiciary; education; missing persons; the national elections of 12-13 September; and Kosovo refugees.

The SR stated that almost three years after the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement), citizens remain subjected to serious human rights violations. Victims were said to usually belong to ethnic groups which are, or have become, a minority in a given area although, occasionally, ethnic factors are replaced by political ones. The SR further stated that numerous cases indicate the direct responsibility of state institutions for human rights viola-

tions in some instances, while in others there is a serious failure by the authorities to investigate or redress abuses reported to them.

Concerning the return of refugees and displaced persons, reference is made to the main obstacles of return — poor security, lack of adequate housing, few employment opportunities and, for families with children, problems with education. Incidents of violence against returnees — including killing and burning down of many homes — are noted, as is the disregard by municipal housing authorities for returnees' property rights. On property rights and legislation, reference is made to the problem of the regulation of property, including socially owned apartments, and the fact that it is a source of continuing concern and has direct consequences for the return process. The reports also note that the Republika Srpska (RS) Law on Abandoned Property, adopted during the war, continues to be used to deny property rights to Bosniaks and Croats forcibly evicted from their homes in 1995. The situation of those who never left the town, known as “floaters”, is seen as particularly critical because the courts have been slow to process their claims and, in most instances, evictions of the illegal occupants are not carried out due to lack of cooperation from local police and other law enforcement officials. The SR noted the opening of an office of the Commission for Real Property Claims (CRPC) at Banja Luka, in March 1998, as a positive development but also noted that no enforcement mechanism exists and draft implementing legislation had not been finalized for presentation to the authorities. The reports also note that pockets of entrenched political opposition to the right to return continue to block larger-scale returns.

Other forms of discrimination are described including, *inter alia*: requests by authorities in the RS for additional documentation from minorities seeking identification documents; the charging of illegal fees; discrimination in employment and in the granting of medical or other social services; in the RS, serious difficulties for minority populations to exercise their freedom of religion, such as refusal by the authorities to issue building permits for the rebuilding of mosques; and discrimination against Croat Catholics, such as actions by Bosnian Serbs to prevent the holding of a mass to mark St. George's Day in a destroyed Catholic church.

Concerning police reform, the SR stated that the establishment of a multi-ethnic police force continues to be resisted in both entities and little progress had been made in the restructuring of the RS and Federation police. With regard to the Commission on Human Rights for Bosnia and Herzegovina, the reports note that as of 31 July 1998, the Human Rights Chamber (a judicial body) had issued 17 final and binding decisions in 33 cases related to such human rights issues as the death penalty, right to property, standards of arrest and detention, and enforcement of judicial decisions. As of 31 July 1998 the Office of the Human Rights Ombudsperson, a mediation-oriented institution that has the power to conduct investigations and issue recommendations, had published

35 final reports dealing with 154 individual cases and issued 13 special reports on more general human rights issues. The SR recalled that no explicit enforcement mechanisms exist and stated that there had been a serious lack of cooperation by authorities frustrating the implementation of most decisions and recommendations. Authorities in the RS have made the most effort to cooperate, implementing three of the 17 final decisions of the Chamber and responding to almost half of the requests from the Ombudsperson for information in cases in which the RS was a respondent party. The rate of compliance with decisions of the Federation Ombudsmen is also still low, with the authorities having implemented recommendations in approximately 30 per cent of the cases.

The reports refer to inter-entity judicial cooperation and the May 1998 memorandum of understanding on the regulation of legal assistance between institutions of the Federation of Bosnia and Herzegovina and the Republika Srpska. The agreement addresses some of the most urgent problems concerning the functioning of the judiciaries in both entities, such as the service of subpoenas across inter-entity boundary lines, immunity for witnesses testifying in courts of the other entity, and the admissibility of members of each bar to practise before courts throughout Bosnia and Herzegovina without restriction. The reports note that, in July 1998, the High Representative imposed a Law on Courts on Herzegovina-Neretva Canton in response to the failure by Cantonal authorities to agree on a law to replace the previously controlling legal regimes of the so-called "Croat Republic of Herceg-Bosna" and the Republic of Bosnia and Herzegovina. According to the new law, there will be one common court for the canton at Mostar, and the ethnic composition of judges in the Canton shall reflect the results of the 1991 census.

The SR stressed the importance of the interrelation of civil and political rights with economic, social and cultural rights. The SR stated that non-discriminatory education, for example, will be crucial to support the sustainable return of refugees and displaced persons, as well as for tolerance and reconciliation generally. The reports note that education now operates almost exclusively along ethnic lines and a uniform curriculum that satisfies all national groups has not yet been created.

The SR stated that the extent of the problem of missing persons in Bosnia and Herzegovina is huge and the ongoing lack of information on the fate of the thousands who had disappeared in the course of the conflict continues to cause great suffering to their relatives. The reports note that it is generally acknowledged that an overwhelming majority of the missing have died and allegations of hidden detentions, in nearly all cases, have been proven to be unfounded. The SR stated that the process of exhumation and identification will be the only way of resolving cases of missing persons.

In the conclusion of the main report, the SR stated that the representatives of the dominant political parties among the three ethnic groups in Bosnia and Herze-

govina are more interested in strengthening a sense of collective identity among those who share their ethnic background than in establishing a genuine system of civic society. The SR recommended, *inter alia*, that:

- ♦ the qualifications of International Police Task Force (IPTF) monitors be examined more closely to ensure the best possible use of the IPTF mandate; more careful attention be given to gender issues in all IPTF activities, in particular in the restructuring and training of the national police; the human rights training for IPTF monitors be expanded to reach all personnel of the United Nations Mission in Bosnia and Herzegovina and of the IPTF;
- ♦ appropriate steps be taken in the apprehension, prosecution and punishment of war criminals since this remains a precondition for improvement of the human rights situation, the return of refugees and displaced persons to their pre-war homes, and reconciliation;
- ♦ the authorities implement in full the decisions and recommendations of the human rights institutions that have been established; a comprehensive process of reform of the judicial and legal systems be undertaken;
- ♦ local authorities and the international community fully support the work of the Federation Ombudsmen; the RS authorities adopt a law on the establishment of an ombudsman institution in the RS;
- ♦ in order to create conditions for free and democratic elections, steps be taken to ensure full freedom of movement and ensure that the main media are not controlled by nationalist parties; the international community continue support for local NGOs;
- ♦ appropriate responses be devised aimed at developing a concerted effort to address gender issues, including organized prostitution, trafficking and domestic violence;
- ♦ stronger support be given to families of missing persons and their social, economic and psychological needs be addressed; and
- ♦ steps be taken to ensure that the return of refugees from abroad occurs only when conditions exist for them to return in safety to their homes of origin.

Resolution of the General Assembly

The 1998 session of the General Assembly adopted by recorded vote a consolidated resolution on the situation of human rights in the territory of the former Yugoslavia (A/C.3/53/L.60). The resolution was adopted with 132 in favour, none opposed, 20 abstentions.

In the section on general considerations and concerns, the GA, *inter alia*: fully supported the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto (collectively the "Peace Agreement"); expressed disappointment at the continuing evi-

dence of violations of human rights and fundamental freedoms taking place; called for the full and consistent implementation of the Peace Agreement and the Basic Agreement by all parties to them; stressed the crucial role of human rights in the successful implementation of the Peace Agreement; underlined the obligations of the parties under the Agreement to secure for all persons within their jurisdiction the highest level of international norms and standards of human rights and fundamental freedoms; stressed the need to focus international human rights efforts in the region on the core issues of the lack of full respect for the human rights and fundamental freedoms of all individuals without distinction, the rule of law and effective administration of justice at all levels of government, the freedom and independence of the media, and freedom of expression, association, religion and movement; stressed the need for enhanced international human rights efforts to foster and effect the prompt and voluntary return of displaced persons and refugees in safety and dignity; called upon all parties and states in the region to ensure that the promotion and protection of human rights and effective functioning democratic institutions will be central elements in the new civilian structures; and called upon all states and all parties to the Peace Agreement that have not done so to meet their obligations to cooperate fully with the International Criminal Tribunal for the Former Yugoslavia.

With regard to Bosnia and Herzegovina specifically (Section I), the GA, *inter alia*: welcomed the September 1998 elections and the progress made in some areas in implementation of the Peace Agreement and improvement in respect for human rights; expressed serious concern about continuing human rights violations and delays in the full implementation of the human rights provisions of the Peace Agreement, notably in bringing legislation into compliance with the human rights provisions of the national Constitution, and in implementing that legislation; called upon the Commission on Human Rights for Bosnia and Herzegovina (the "Commission") to intensify its activities concerning alleged or apparent discrimination or violations of human rights of any kind; called on all authorities to cooperate fully with the Commission, and specifically called upon the Republika Srpska to increase its cooperation with the Commission; strongly condemned the complicity by local governments in the perpetration of violence against minority refugees and internally displaced persons returning to their homes and called for the immediate arrest and bringing to justice of those responsible for such actions; urged all parties immediately to create conditions conducive to the voluntary return, in safety and dignity, of refugees and internally displaced persons to their homes, with equal emphasis on minorities; called for the establishment, without delay in the Republika Srpska, of institutions for the protection of human rights, in particular a human rights ombudsman; and reiterated its call to bring to justice the perpetrators of rape, notably where it was used as a weapon of war, and for adequate assistance and protection for victims and witnesses of rape.

FIELD OPERATIONS

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The OHCHR in Bosnia and Herzegovina (B&H) was established in 1993, with headquarters in Sarajevo, to support the mandate of the Special Rapporteur (SR) on the former Yugoslavia. The legal authority for the OHCHR presence is based on annual resolutions of the Commission on Human Rights which have extended the mandate of the SR and called on the Secretary-General to support the SR by maintaining a field presence.

The office carries out activities in support of the mandates of both the SR and the High Commissioner for Human Rights. After the signing of the Dayton Agreement in 1995, the High Commissioner announced that the office, in addition to supporting the SR, would conduct human rights training programmes for international police monitors, and would provide human rights expertise to the Office of the High Representative in B&H. The human rights training programme for police, which was renewed in 1998, is conducted as a project under the Voluntary Fund for Technical Cooperation.

The main activities carried out by the Office as of August 1998 included: preparing weekly and monthly reports on human rights developments for the OHCHR; providing regular information and briefings to the SR and assisting with the drafting of reports to the Commission on Human Rights; liaison work with the government, the OHCHR, and the UN human rights mechanisms; providing information to the government and to elements of civil society, notably NGOs, on aspects of the UN's human rights programme; and organizing workshops and training sessions with NGOs, academic institutions and others.

Reports of the Human Rights Field Operation

Public distribution of the periodic reports prepared by the Field Operation was discontinued in June 1998 on the basis that the reports contained confidential information. In 1998, five reports were made publicly available prior to that decision (30 January 1998, February 1998, April 1998, 30 April 1998 and 29 May 1998).

The reports address such human rights issues as: additional arrests of alleged war criminals indicted by the International Criminal Tribunal for the Former Yugoslavia; conviction and sentencing by a national court of a person accused of crimes against the civilian population, noting that proceedings apparently contravened international standards and that the defendant has the right to appeal to the Supreme Court; continuing difficulties in implementing the results of the September 1997 municipal elections in the eastern part of the Republika Srpska (RS); refusal of the authorities in the Banja Luka

area (RS) to issue documents to returning minorities; in the Bihac area and in Bosnian Croat-controlled Drvar, the destruction of Serb-owned property; in Stolac, where Bosniaks attempted to return, harassment and physical attacks and the destruction of Bosniak-owned houses; murders following ongoing harassment of Serb returnees and cases of arson; violations of freedom of religion affecting both Muslims and Catholics; and attacks on the personal security of both Serbs and Bosniaks, including beatings and assaults.

General developments in Bosnia and Herzegovina are noted as having included: agreement on a system of common licence plates, noting that the three armies in Bosnia and Herzegovina will have to abide by the agreement or risk having their vehicles seized by the international Stabilization Force (SFOR); the fact that, on the occasion of Bajram festivities, the overall situation was peaceful and traditional visits to cemeteries occurred without trouble; ongoing investigations into places of "hidden detention"; efforts to re-establish Sarajevo as a multi-ethnic, open and tolerant city, related to facilitation of returns by refugees and internally displaced persons and the establishment of the Commission on Returns to Sarajevo; adoption of a series of property laws by the Federation of Bosnia and Herzegovina (B&H) aimed at supporting the return of refugees; establishment of a new bus line between Banja Luka (RS) and Bihac (Fed.); adopting procedures to ensure a unified railway service throughout B&H and an air-link between the Federal Republic of Yugoslavia (FRY) and the RS; resumption of exhumations across the Inter-Entity Boundary Line (IEBL); and creation of multi-ethnic police forces, noting that serious problems continue in this area.

The activities of the Field Operation are noted as having included: coordinating the work of international organizations on criminal justice reform; continuing efforts to establish a mechanism for inter-entity judicial cooperation and courts in the Herzegovina and Neretva Canton; monitoring of sensitive trials, in particular war-crimes trials in national courts; drafting a report on the procedures for appointment of judges; drafting implementing legislation at both the Entity and State level to ensure enforcement of decisions by the Dayton-created Commission on Human Rights and the Property Commission; efforts to address the question of funding for national human rights institutions, noting that sufficient funding is an absolute prerequisite for the effective functioning of the institutions and there is currently no mechanism to ensure that such funding takes place; interventions in cases before the human rights institutions where there has been no compliance with their decisions and recommendations; preparing a report on non-governmental organizations in the country; and, judicial reform in Republika Srpska.

The work of the Field Operation also concentrated on, *inter alia*: development of gender-specific training for local police forces, especially for cases of violence against women and systematic collection and analysis of information on gender-based violence; initiation of a new pro-

ject aimed at compiling all available information about locations of mass graves and surface remains, and creating a data base to streamline the process of exhumations; preparation of a report on the procedures for the election and appointment of judges; preparation of a formal agreement on Inter-Entity Judicial Cooperation that addresses the most urgent inter-entity issues and, among other provisions, seeks to establish substantive improvement regarding witness protection; participation in two working groups to deal with the problem of discrimination in education and promotion of democratic values in the education system; ongoing efforts to resolve the problem of missing persons; continuing efforts to amend the property laws in the RS and to start implementation of the new property laws in the Federation; participation in an initiative to create a consolidated framework for Returnee Monitoring; preparations for incorporating a gender dimension into the training of both the International Police Task Force and local police; participation in preliminary discussions related to the establishment of a Human Rights Centre in Banja Luka; continuing efforts to address substantively the issue of, and problems arising from, domestic violence against women; participation in discussions on legal strategies to combat corruption; and chairing the expert team to draft a new Criminal Code and Criminal Procedure Code for the RS.



BULGARIA

Date of admission to UN: 14 December 1955.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Bulgaria has submitted a core document (HRI/CORE/1/Add.81) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as a brief historical overview, and information on the general political structure and the general legal framework for the protection of human rights. There is no separate law or charter of human rights in Bulgaria. Chapter II of the 1991 Constitution follows the logic and methodology of the International Covenants on Human Rights and in many cases quotes their texts verbatim. The human rights provisions of the Constitution are irrevocable, directly enforceable, and may be applied even without the adoption of any particular legislation.

Bulgarian legislation does not provide either for any specialized institution or authority (including a judicial one) to monitor human rights observance, nor for any judicial or administrative procedure for the protection of the rights of citizens. Violations and complaints are handled through general civil, penal and administrative procedures and protection of rights is the constitutional duty of the judicial and other national and local state authori-

ties and institutions. National machinery related to human rights includes the National Assembly's Commission on Human Rights to which individuals and NGOs may address claims for human rights violations. A National Council on Demographic and Social Issues has been established to monitor the rights of persons belonging to various ethnic groups and coordinate the activities of NGOs on issues relating to women's rights. The government envisages creating a governmental inter-ministerial commission on human rights. Any individual, NGO or group of individuals claiming a violation of rights provided for in the European Convention, may – after all domestic remedies have been exhausted – apply to the European Commission on Human Rights and file a complaint.

Economic, Social and Cultural Rights

Signed: 8 October 1968; ratified: 21 September 1970. Bulgaria's third periodic report (E/1994/104/Add.16) is scheduled for consideration at the Committee's April/May 1999 session; the fourth periodic report is due 30 June 1999.
Reservations and Declarations: Paragraphs 1 and 3 of article 26.

Civil and Political Rights

Signed: 8 October 1968; ratified: 21 September 1970. Bulgaria's third periodic report was due 31 December 1994.
Reservations and Declarations: Paragraphs 1 and 3 of article 48; declaration under article 41.

Optional Protocol: Acceded: 26 March 1992.

Racial Discrimination

Signed: 1 June 1966; ratified: 8 August 1966. Bulgaria's 15th periodic report was due 4 January 1998.
Reservations and Declarations: Paragraph 1 of article 17 and paragraph 1 of article 18; declaration under article 14.

Discrimination against Women

Signed: 17 July 1980; ratified: 8 February 1982. Bulgaria's second and third periodic reports were submitted as one document (CEDAW/C/BGR/2-3) which was considered at the Committee's January 1998 session; the fourth periodic report was due 10 March 1995.

Torture

Signed: 10 June 1986; ratified: 16 December 1986. Bulgaria's second periodic report (CAT/C/17/Add.19) has been submitted and is pending for consideration at the Committee's May 1999 session; the third periodic report was 25 June 1996.
Reservations and Declarations: Article 20.

Rights of the Child

Signed: 31 May 1990; ratified: 3 June 1991. Bulgaria's second periodic report is due 2 July 1998.

REPORTS TO TREATY BODIES

Committee on the Elimination of Discrimination against Women

Bulgaria's 2nd and 3rd periodic reports were submitted as one document (CEDAW/C/BGR/2-3, November 1994) which was considered by the Committee at its January 1998 session. The report prepared by the government contains information on demographics, the economic and political situation, and the situation of women prior to reforms. In relation to the period from 1990 to November 1994, the report refers to, *inter alia*: constitutional provisions establishing the equality of women and men before the law; legal measures related to the protection of women in the labour force; domestic violence, sexual abuse and rape; exploitation of prostitution and traffic in women; participation in political and public life; nationality and citizenship; access to education; the right to work and labour conditions, the Labour Code, the unemployment rate and compensation; special protection of maternity and children; abortion, maternal mortality rates, family planning, sexually transmitted diseases and HIV/AIDS; access to credit and loans; the situation of rural women; marriage and family law, the Family Code, spousal obligations and parental rights. The report states that the *de jure* equality of women with men does not automatically lead to their *de facto* equality in all spheres of political, economic and public life, despite the official policy aimed at the strict implementation of the principle of equality of the sexes. Reference is also made to concerns expressed by NGOs on the "feminization" of unemployment and poverty.

The Committee's concluding observations and comments (A/53/38, paras. 208–261) referred to points raised during the government's oral presentation of its report pertaining to: the situation of the Roma minority and measures adopted to improve the situation of Roma children, in particular with regard to education; measures taken to implement the Beijing Platform for Action, including adoption by the Council of Ministers in July 1996 of a national action plan and the establishment of a permanent intergovernmental council to monitor application of the national plan; the government's proposal to appoint an ombudsperson who could be entrusted with the role of monitoring women's human rights and gender equality; the fact that domestic violence in Bulgaria was still not seen as a human rights abuse and that more awareness-raising campaigns were needed; and draft legislation that would criminalize domestic violence against children, including girls.

The Committee welcomed: the constitutional provisions on equality between women and men; the willingness of the government to improve the *de facto* and *de jure* situation of women who carry a disproportionate share of the burden associated with the radical political and economic changes in the country; recognition by the government that democracy will not be achieved without the full and equal participation of women in decision-making and all other areas of life; the proposed establishment of an ombudsperson for human rights who will also monitor

women's rights and equality issues; and the adoption of a national action plan to implement the Beijing Platform for Action, and efforts made to implement the plan.

Factors identified by the Committee as hindering the implementation of the Convention included: the difficult economic and political process of the transition to democracy and a market-oriented society; structural and indirect discrimination, which further compounds the situation of the *de facto* inequality of women; and the persistent emphasis placed on women's role as mothers, together with the extensive protection provided to women as mothers, and the tendency to perpetuate sex role stereotypes and reduce the father's role and responsibility in the upbringing of the children.

Subjects of concern identified by the Committee included, *inter alia*: the apparent lack of understanding by the government of the meaning and intent of temporary special measures favouring women, noting that an earlier retirement age for women than for men is not regarded as a measure of affirmative action; with regard to the establishment of the commission to monitor implementation of the national plan of action, the failure to house the commission within an appropriate framework in the governmental structure, possibly impairing the implementation of the Convention; the lack of a constitutional definition of discrimination consistent with article 1 of the Convention; the failure to take any steps to translate the provisions of the Convention into national legislation; the lack of special laws aimed at bringing about women's *de facto* as well as *de jure* equality (affirmative action); the lack of a strategy regarding a national machinery to address women's issues and to implement the Convention; the overwhelming number of people living below the poverty line and the fact that women, and particularly elderly women, are most likely to be adversely affected by poverty; exclusion of large numbers of highly educated women from decision-making processes and the associated failure to use fully their skills for the development of the country.

Violence against women, in both the public and private spheres, was identified as one of the Committee's dominant concerns, as well as the stipulation that legal proceedings for domestic violence may only be initiated upon the complaint of the victim. Other areas of concern included: that measures to combat trafficking in women are inadequate; the very high rate of non-participation of Roma children in schools; there is a need to provide incentives for children to stay in school and to educate their parents as to the importance of continued schooling; there is an extremely high rate of induced abortion among women, in particular young women, and that abortion appears to be used as a method of family planning; that measures taken to ensure that women have proper access to contraceptives are inadequate; the government does not have data disaggregated by sex on drug dependency and venereal disease, including HIV/AIDS; the information provided on the situation of rural women was inadequate, as was information on the extent to which they have benefited from agrarian and

other types of reform in the rural sector. The Committee also expressed concern over the lack of information on the social, economic and political status of women of different ethnic and religious minorities.

The Committee recommended that the government, *inter alia*:

- ♦ provide in its next report detailed descriptions of measures to change the prevailing attitudes and policies with regard to women's role in the home, to remove stereotypes from school books and from other facets of the education system so as to overcome the legal, economic and social problems of female heads of households with children, to combat all forms of discrimination against women in employment, and to improve women's access to free legal aid and the standard of living of rural women;
- ♦ introduce a definition of discrimination modelled on article 1 of the Convention into its constitution and other relevant laws;
- ♦ give priority to the establishment of a strong and effective national machinery with adequate financial and human resources for advancing the position of women; pay special attention to where this machinery should be placed within the government structure to make it as effective as possible;
- ♦ appoint an ombudsperson, in accordance with the current proposal before Parliament, and ensure that sufficient resources be allocated to enable the office to function effectively and provide the office with a clear mandate to address gender issues;
- ♦ adopt temporary special measures, in all necessary areas, particularly in the areas of employment and political decision-making, to accelerate the *de facto* situation of equality for women;
- ♦ strengthen legislative measures protecting women against all forms of violence, both public and private; make provision for the prosecution of offenders even in the absence of a complaint by the victim; develop a range of medical, psychological and other measures to assist women victims of violence and to change prevailing attitudes to domestic violence and to encourage women to seek redress; include in the next report information on the steps taken to address domestic violence;
- ♦ implement its intention to cooperate at the regional and international levels with regard to the problem of trafficking in women and their exploitation through prostitution; address women's economic vulnerability, which is the root cause of the problem; review and amend national legislation as needed; create effective administrative and police structures to address the problem; conduct media sensitization and training campaigns; promote the work of women's NGOs in this area; include in its next report yearly data on the number of women trafficked into Bulgaria and the number of those women who have

been returned to their countries of origin, as well as the number of women trafficked out of Bulgaria to other countries and the number of people engaged in trafficking who have been arrested, prosecuted and sentenced;

- ♦ develop appropriate measures to address poverty among women, particularly the most vulnerable women, including elderly women, women with children, and women with disabilities;
- ♦ undertake efforts to collect statistical information on the social, economic and political status of women of different ethnic minorities and ensure that such data is available to the Committee in the next periodic report;
- ♦ take special measures to encourage women to become entrepreneurs; provide training and take measures to facilitate access to credit and loans for women, in particular rural women; and
- ♦ facilitate consultations between Bulgarian women's NGOs and other European women's NGOs, in order to discuss Bulgarian women's issues and receive any necessary assistance.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 16, 17; E/CN.4/1998/68/Add.1, paras. 50–56)

The report refers to information received indicating that: police brutality continued to be a serious problem; during 1997 several individuals had died in custody under suspicious circumstances; and, while investigations had been initiated into several of these cases, little or no progress was made to punish the perpetrators.

Cases previously transmitted, to which the government replied, included one involving an arrest followed by death five days later from a brain haemorrhage. The government had informed the Special Rapporteur (SR) that the Regional Military Prosecutor's Office (RMPO) had initiated an inquest. The SR queried the government as to why the RMPO was responsible for conducting the inquest and whether results of the inquest had been made public.

The SR expressed continuing concern that little or no progress was reportedly made in bringing to justice those alleged to be responsible for violations of the right to life, in particular members of the police, and that as a result they continued to enjoy impunity. The SR called on the government to investigate all alleged violations of the right to life, to bring perpetrators to justice and to provide compensation to the victims' families.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 46)

The report recalls previous concerns related to cases of racial discrimination against Roma, particularly by skin-heads. It notes newspaper accounts of 2 and 3 February 1997 reporting the death from starvation of three Roma children in the town of Stara Zagora. The Special Rapporteur reports that on 4 February, following an increase in the price of bread, 2,000 Roma demonstrated in the centre of the town of Pazardzhik in protest against the discriminatory policies of the central government and the local authorities.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 60, 63, 64, 66, 72)

The report refers to violations of freedom of religion and belief against Jehovah's Witnesses reportedly experiencing a climate of intolerance. Reference is made to allegations that the authorities have imposed controls on, and/or interfered illegally with their religious activities, and to reports that Jehovah's Witnesses have been arrested, detained, mistreated, harassed, threatened, convicted or expelled because of their proselytizing activities. In one city in Bulgaria, they are apparently forbidden to rent buildings.

The government stated that the reason for the refusal to register the Jehovah's Witnesses community was linked to fundamental tenets of the community's doctrine, such as the refusal to accept blood transfusions and to perform military service, which Bulgaria considered as contrary not only to its own legislation but also to numerous international instruments to which Bulgaria was a party. The government noted that, in 1996, the leaders of the Jehovah's Witnesses had used expired registration documents, dating from 1991, to hire rooms, and that lack of valid registration documents had been one of the grounds on which the authorities had intervened during public meetings held by the community. The failure of the community to re-register, and the consequent lack of an authorization for public activities, in no way limited the right of each individual member of the Jehovah's Witnesses to worship and hold religious beliefs. However, according to the authorities, proselytizing in public places or from door-to-door exceeds the individual right of followers to profess their religious beliefs. The authorities also stated that the claims that the Jehovah's Witnesses had been denigrated in the local press in the town of Assenovgrad were untrue. It explained that the police had intervened in numerous cases brought to their attention by citizens complaining that they had been disturbed at home by Jehovah's Witnesses, whose activities went beyond freedom of thought, conscience and religion. The government further stated that the Alternative Military Service Act, which was due to come into force, would deal in detail with the grounds for refusal to perform normal military service and with forms of alternative military service.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 34–36; E/CN.4/1998/38/Add.1, paras. 35–39)

In July 1997 the Special Rapporteur (SR) advised the government that information had been received on what was alleged to be a substantial incidence of torture or other ill-treatment inflicted by members of the police against street children, especially those of Roma ethnicity. The ill-treatment, which was said to take place both at the time of arrest and during detention at police stations, was allegedly carried out to intimidate or to extract a "confession". The children were reportedly sometimes picked up on suspicion of such crimes as theft, but were also arrested as part of generalized "street sweeps". The abuse reported included beatings with fists, boots, electric shock batons, clubs, chains, rubber hosing, boxing gloves or a metal rod with a ball attached to its end (*beech*) and beatings on the soles of the feet, sometimes with electric batons (*falaka*). Detained children who were held at police stations were said frequently to be held without beds, blankets and sometimes without food or use of toilets. The parents of such children were reportedly rarely informed of their detention and, sometimes, these children were held together in lock-ups with adult detainees.

The individual cases transmitted to the government involved detentions and ill treatment at the Shumen police station and the Regional Directorate for Internal Affairs in Stara Zagora and by police officers of the Sofia Department of Internal Affairs.



CROATIA

Date of admission to UN: 22 May 1992.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Croatia has submitted a revised core document (HRI/CORE/1/Add.32/Rev.1) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data as well as information on the organization of government and the general legal framework for the protection of human rights.

Articles 14 to 20 of the Constitution regulate fundamental freedoms and the rights of individual and citizens and relate to civil, cultural, economic, political and social rights. Croats have a right to file a constitutional complaint after all legal remedies available by judicial and administrative bodies have been exhausted. Protection of human rights is implemented on the basis of the Law on the Ombudsman, which provides that the Ombudsman takes action in order to examine individual violations of constitutional and legal rights of citizens, shortcomings or other irregularities in the operation of administrative bodies and bodies vested with public authority, either on

an independent initiative, or subject to application of citizens to that effect. The Coordination on Internal Policies and Human Rights is the central body of the government regarding issues of human rights, with the principal task of systematically monitoring the state of human rights in Croatia and coordinating the activities of relevant bodies in charge of the promotion and protection of human rights. International human rights instruments ratified by Croatia are self-executing as an integral part of the internal legal order and take precedence over domestic law. The provisions of these instruments may be invoked and must be enforced by the judicial authorities or other agencies.

Economic, Social and Cultural Rights

Succeeded: 12 October 1992.

Croatia's initial and second periodic reports were due 30 June 1993 and 1998 respectively.

Civil and Political Rights

Succeeded: 12 October 1992.

Croatia's initial report was due 7 October 1992 [sic]; the second periodic report was due 7 October 1997.

Reservations and Declarations: Declaration under article 41.

Optional Protocol: Acceded: 12 October 1995.

Reservations and Declarations: Paragraph 2 (a) of article 5.

Second Optional Protocol: Acceded: 12 October 1995.

Racial Discrimination

Succeeded: 12 October 1992.

Croatia's initial, second and third periodic reports were submitted as one document (CERD/C/290/Add.1) which was considered at the Committee's August 1998 session; the fourth periodic report was due 8 October 1998.

Discrimination against Women

Succeeded: 9 September 1992.

Croatia's initial report (CEDAW/C/CRO/1) was considered at the Committee's January 1998 session; the second periodic report was due 9 October 1997.

Torture

Succeeded: 12 October 1992.

Croatia's second periodic report (CAT/C/34/Add.4) was considered at the Committee's November 1998 session; the third periodic report is due 7 October 2000.

Rights of the Child

Succeeded: 12 October 1992.

Croatia's second periodic report was due 7 October 1998.

REPORTS TO TREATY BODIES

Committee against Torture

Croatia's second periodic report (CAT/C/33/Add.4, March 1998) was considered by the Committee at its

November 1998 session. The report prepared by the government reviews measures taken since the end of the conflict to establish rule of law and appropriate institutions as well as information on, *inter alia*: constitutional provisions related to human rights; incrimination and prohibition of torture and provisions in the Criminal Code; the Law on the Execution of Sentences; the bodies responsible for managing breaches of provisions of the Convention; the Law on Criminal Procedure and the Law on Courts; remedies and compensation; the Constitutional Law on Human Rights and the Rights of National and Ethnic Communities or Minorities; the legality of police behaviour; the Law on Internal Affairs; the use of coercion, use of force, the Office for Internal Control and police matters, and cases related to police methods and behaviour; refugees, the status of foreigners, the Law on Movement and Residence of Aliens, removal and accommodation; the Basic Criminal Act; extradition and mutual assistance; training for police; and grounds for, and conditions of, detention.

The Committee's concluding observations and comments (CAT/C/CROA) welcomed, *inter alia*: incorporation into domestic legislation of torture and ill treatment as a crime and new provisions related to judicial review of detention. The principal subjects of concern identified by the Committee included, *inter alia*: provisions in the 1996 Amnesty Law related to acts of torture or ill treatment; allegations of torture and ill treatment attributed to public security and police forces; and shortcomings in the investigation of allegations or cases of torture and ill treatment.

The Committee recommended, *inter alia*, that the government:

- take steps to ensure that allegations received from credible NGOs are immediately and impartially investigated by the competent authorities;
- take full account of allegations of human rights violations, torture and/or ill treatment received from the International Criminal Tribunal on the former Yugoslavia; and
- take steps to allow for direct referral to the Constitutional Court of all cases of allegations of torture and other cruel, inhuman or degrading treatment or punishment.

Committee on the Elimination of Racial Discrimination

Croatia's 3rd periodic report (CERD/C/290/Add.1, February 1997) incorporates the initial and 2nd periodic reports, and was considered by the Committee at its August 1998 session. The report addresses issues related to the implementation of articles 2 through 7 of the Convention. The government summarized provisions in the Constitutional Law on Human Rights and Freedoms and on Rights of Ethnic and National Communities or Minorities (1992). The government stated that, within the context of confidence-building measures, one of the first priorities of Croatian policy is the normalization of

inter-ethnic relations, particularly relations between Croats and a part of the Serbian ethnic and national community or minority in Croatia. The report includes information on financial resources allocated for the implementation of the rights of ethnic and national communities or minorities and refers to government bodies for the protection of minority rights, including the National Committee on the Normalization of Croat-Serb relations, the Office for Ethnic and National Communities or Minorities, the Council of Representatives of Ethnic and National Communities or Minorities, and the Parliamentary Committee on Human Rights and Rights of Ethnic and National Communities or Minorities. Information is provided on constitutional provisions as well as articles in various laws and codes that are intended to promote and protect the rights of minorities and prohibit incitement to, or acts of, national, racial or religious discrimination.

The Committee's concluding observations and comments (CERD/C/304/Add.55) welcomed the information provided on economic, social and cultural rights of minorities but regretted that the report did not give sufficient information on the implementation of legislation or on the extent to which minority communities realize the protection afforded by the Convention. The Committee acknowledged that the political, economic and social change — as a consequence of the various conflicts in the former Yugoslavia — as well as major population movements, resulted in significant obstacles to the full implementation of the Convention. The Committee welcomed the on-going process of gradual normalization of inter-ethnic relations in the country and the government's declared commitment to undertake confidence-building measures in this field.

The principal subjects of concern identified by the Committee included, *inter alia*: the lack of clarity as to the various definitions used in the report and in domestic legislation to describe ethnic and national minorities; the reduction of the proportionate representation of the Serbian ethnic community in Parliament following the proclamation of a constitutional law on temporary suspension of certain provisions for freedoms and the rights of national and ethnic communities and minorities; the absence of legislative measures declaring illegal and prohibiting organizations which promote and incite racial discrimination; incidents of hate-speech directed at the Serb minority in Croat media and the failure of the government to take adequate measures to investigate and prosecute those responsible for promoting hatred and ethnic tension through the print and audiovisual media.

Concerns were also noted with regard to: the serious difficulties and violence encountered by displaced persons and others, in particular ethnic Serbs, when claiming their right to have property restored to them or to receive compensation upon their return to their place of origin; the difficulties of the return of Serbs and others displaced in East Slavonia, Baranja and West Srijem; articles 8 and 16 of the Croatian Law on Citizenship which seem to establish different criteria for ethnic Croats compared to other minorities in granting citizenship; the excessive

delays in the processing of applications for citizenship, in particular those of ethnic Serbs, which have resulted in applicants losing social and educational benefits; the lack of sufficient information on the steps taken to ensure the practical implementation of the right to equal treatment before the courts and effective remedies so that victims of racial discrimination can secure the punishment of discriminatory acts and reparation for injury; continuing reports about the failure of the criminal justice system to deal with all crimes of an ethnic nature adequately and the subsequent tendency to fail to prosecute alleged perpetrators of crimes directed at ethnic Serbs; reports indicating that Croatian Serbs have been unfairly prosecuted or excessively punished when allegations of illegal activity directed at non-Serbs have been brought; continuing reports indicating that strong control is exercised by the government of certain mass media, particularly television, and that some graphic media are allowed to use discriminatory speech; reports from UN bodies pointing to a lack of information and awareness among the Croat population of international human rights standards in general and of the Convention in particular.

The Committee recommended that the government, *inter alia*:

- ♦ reinstate the provisions for the fair and proportionate representation of the Serbian ethnic community in the Parliament;
- ♦ take the necessary legislative measures in order to give full effect to the obligations in the Convention to declare illegal and prohibit organizations which promote and incite racial discrimination; take measures against the use of mass media for the incitement to ethnic hatred; prohibit and prosecute all acts of incitement to ethnic hatred;
- ♦ introduce adequate measures to ensure and monitor the implementation in practice of the newly introduced National Programme for Return, in particular with regard to the Serbs displaced in East Slavonia, Baranja, and West Sajem; as a matter of urgency, take steps to ensure the right to security of person and protection against violence or bodily harm of returnees;
- ♦ with respect to the acquisition of citizenship, take steps to ensure that all provisions of the Croatian Law on Citizenship are in conformity with article 5 of the Convention and that the law is implemented in a non-discriminatory manner;
- ♦ take measures to ensure the prosecution of persons allegedly responsible for committing racially motivated crimes, regardless of the racial, ethnic or religious origin of the perpetrator or the victim; include detailed information on such measures in the next periodic report, as well as information on racially motivated crimes including, for example, the number of complaints and judicial decisions with regard to compensation awarded to victims or criminal sanctions;

- ♦ use all effective measures to familiarize the public with the Convention as a means to change traditional prejudices against certain minorities and to convey messages of tolerance; continue to provide instruction on international human rights standards in schools and organize training programmes for persons engaged in the administration of justice, including judges, lawyers and law enforcement officials;
- ♦ take concrete measures in order to guarantee freedom of association without distinction as to ethnic origin; ensure that mass media – in all their forms, including electronic – are open to all ethnic groups without distinction; take effective measures in order to stop racist and discriminatory speech in some graphic media; and
- ♦ include detailed information in the next report on the independence of the judiciary, the reintegration of East Slavonia, the steps taken to cooperate with the International Criminal Tribunal for the former Yugoslavia; provide in the next report a clarification of the legal definitions used for describing different minorities and up-dated information on the demographic composition of the Croatian population.

Committee on the Elimination of Discrimination against Women

Croatia's initial report (CEDAW/C/CRO/1, February 1995) was considered by the Committee at its January 1998 session. The report prepared by the government covers the period up to 1994, and contains information on, *inter alia*: provisions in the Criminal Acts against Human Dignity and Morality law related to rape, sexual coercion, sexual misconduct; sex roles and stereotyping, the media and education; equality before the law; participation in public and political life; citizenship and nationality; education and access to education; employment, the Labour Relations Fundamental Rights Act and the Labour Relations Act; health and health care, reproductive health; social security and the Law on Social Welfare; equality before the courts in civil matters; and the Law on Marriage and Family Relations, property rights, inheritance.

The Committee's concluding observations and comments (A/53/38, paras. 80–119) noted developments since preparation of the report, including the establishment in 1996 of the Commission for Equality in Croatia and adoption, in 1997, of a national policy for the promotion of equality based on the Beijing Platform for Action. The report outlines measures to achieve particular goals in the areas of political decision-making, the economy and the economic position of women, health care, education, human rights of women and violence against women in war and peace. The Committee welcomed: incorporation of the Convention into domestic law and the fact that it may be invoked before the courts; the establishment of the Commission for Equality in Croatia; the national policy for the promotion of equality; and the cooperation between government and women's NGOs.

The Committee also noted the government's oral commitment to consider suggestions related to: the need for measures to eliminate stereotypes that restrict women's role to that of mothers and caregivers and improve the participation of women in political life; the appointment of a deputy ombudsperson to deal specifically with women's rights; the need to improve public awareness about the Convention so that it may be used more frequently throughout the judicial system; the possibility of instituting a system of restraining orders, in particular to protect women subjected to domestic violence; the need to commence a dialogue and to coordinate efforts with trade unions on measures to protect women in the area of employment, in particular with respect to illegal pressuring of women by employers in relation to pregnancy within a certain period after the commencement of employment; the need for increased assistance to family members, in particular women, taking care of the elderly; and the need to collect more detailed information on the situation of rural women. The Committee viewed positively: the existence of programmes to assist women with special needs; the measures implemented to eradicate gender stereotypes within the education system; the introduction of measures to introduce human rights education into schools; and the state of the health-care system and the government's clear commitment to universal coverage.

Factors hindering the implementation of the Convention were acknowledged, related to: significant economic and social difficulties as a consequence of the armed conflict, including the presence of large numbers of refugees and displaced persons; the transition to a market economy and a democratic political structure; and the absence of gender-sensitive policies and measures to counteract the negative effects of the transition.

The principal subjects of concern identified by the Committee included, *inter alia*: the view expressed in the government's report that women themselves bear full responsibility for their low level of participation in public life, suggesting a lack of understanding of indirect and structural discrimination and its impact on women; the consistent emphasis placed on women's roles as mothers and caregivers in Croatian legislation pertaining to a number of areas, noting that giving priority to that aspect of women's lives tends to limit women's full participation in society; the need for gender-sensitive analysis of the emphasis on motherhood vis-à-vis women's roles in the public sphere to assure *de facto* gender equality in the society of the future; the lack of data in some areas, in particular the minimal attention paid to the issue of women living in poverty and the absence of sex-disaggregated data on that topic; the lack of sex-disaggregated data on HIV/AIDS; the lack of reliable data on teenage pregnancy; the lack of statistical information on the social, economic and political standing of minority women; and the government's view that there is no need to specify gender inequality every time the issue of equality is raised, noting that, in order to increase the vis-

ibility of gender issues and to promote a gender-sensitive national agenda, it is crucial to incorporate gender in all discussions of equality.

The Committee expressed concern over: inadequacies in measures to encourage women victims of domestic violence to come forward with complaints; failure to incorporate into the law on domestic violence prosecution by public attorneys *ex officio* or upon the complaint of third parties; evidence indicating that church-related organizations adversely influence policies concerning women and thereby impede full implementation of the Convention; the fact that services pertaining to women's reproductive health are the first to be affected as a result of the government's financial constraints; and information indicating that some hospitals have refused to provide abortions on the basis of conscientious objection of doctors.

The Committee recommended that the government, *inter alia*:

- ♦ continue to implement and strengthen measures to empower women and to mainstream gender issues;
- ♦ establish specific affirmative actions targeted to numerical goals and quotas, in particular in such areas as political and decision-making positions in public life;
- ♦ take further measures to promote recognition of the variety of roles that women play in society, noting that it is crucial to educate the public with regard to the importance of an equitable distribution between women and men of family roles and "caring responsibilities";
- ♦ include, in the next report, additional data on the status of women involved in prostitution and detailed information on the problem of trafficking in women, in particular migrant women, and the measures taken to implement legislation in this area;
- ♦ collect and make available statistical information pertaining to the social, economic and political status of minority women with a view to developing specific policies to respond to the needs of different groups;
- ♦ provide, in future reports, more information about the situation of women with disabilities;
- ♦ take steps to secure the realization by women of their reproductive rights by, *inter alia*, guaranteeing them access to abortion services in public hospitals; examine fully the implications for women, in particular, of funding cuts for contraceptives and implement strategies to address any detrimental impact on women; and
- ♦ take the necessary steps to incorporate the participation of NGOs in the preparation of the next report to the Committee.

COMMISSION ON HUMAN RIGHTS

Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia

The mandate of the Special Rapporteur (SR) on the former Yugoslavia was established at the August 1992 special session of the Commission on Human Rights. Unlike previous years, the situations in the four countries comprising the territory of the former Yugoslavia — Bosnia and Herzegovina, the Federal Republic of Yugoslavia (FRY), the Former Yugoslav Republic of Macedonia (FYR), and Croatia — were mainly considered in separate reports rather than a consolidated one. As well, with the decision at the Commission's 1997 session to discontinue the special process to deal with the question of missing persons, the SR was requested to provide information on this issue. Ms. Elisabeth Rehn was the SR for 1998.

Separate report on the situation in Croatia

(E/CN.4/1998/14)

The report prepared on the situation of human rights in Croatia contained commentary on, *inter alia*: legal protections related to human rights — provisions in the Constitution, human rights treaty obligations and national institutions; economic, social and cultural considerations — the state of the economy, education and religion; the rights to security of person and property and humanitarian concerns; the right to return; the administration of justice — the courts, detention, the amnesty law, cooperation with the International Criminal Tribunal (ICTY); missing persons; and the right to a nationality, freedom of expression, and freedom of association and assembly. Commentary was also provided on major human rights concerns related to the region of Eastern Slavonia, Baranja and Western Sirmium, which were still under UN administration (UNTAES) at the time the report was written. Subjects considered in this section of the report were: elections, personal security, return of displaced persons, discrimination, amnesty and cooperation with the ICTY, the right to a nationality, violations of due process and the process of reintegration. The report covers the period from January to September 1997 and is based on four fact-finding missions to Croatia undertaken by the SR.

The report recalls that the Constitution guarantees the principle of the separation of the legislative, executive and judicial powers, freedoms of movement, expression, and the media, and the rights to property, peaceful assembly and asylum. The Constitution further guarantees that members of all nations and minorities shall have equal rights and be guaranteed the freedoms to express their nationality, use their language and script, and enjoy cultural autonomy. The report notes that the Constitutional Law of Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities, adopted in December 1991 and amended in March 1992, provides for the proportional representation of minorities in government and a special status for districts with a Serb majority.

Among the national institutions related to the promotion and protection of human rights, the report notes: the Ombudsman — established in 1992, elected by Parliament's Chamber of Representatives for a term of eight years and authorized to act upon individual complaints of human rights violations as well as on personal initiative; and the Constitutional Court — established in December 1991, consisting of 11 judges elected by the House of Representatives for terms of eight years and authorized to take decisions on the conformity of laws with the Constitution and the protection of constitutional freedoms and the rights of people and citizens. The SR recalled that the Constitutional Court has ruled in a number of areas related to human rights, including acquisition of Croatian citizenship, evictions, and freedom of the press, and had overturned decisions related to the appointment of judges by the Supreme Court and the Media Law of 1992, for example.

The narrative on economic, social and cultural considerations reviewed a number of points including, *inter alia*: increases in revenue from construction and tourism; privatization of the economy, with the exception of the banking, energy, utilities and defence industries; emergence of a small and wealthy elite closely linked with the Croatian Democratic Union (HDZ) as a result of rapid privatization; a continuing rise in unemployment; continuing discrimination by employers against Serbs despite a high demand for workers in some areas; continuing imbalances in reconstruction assistance, with the majority of it channelled mainly to newly settled ethnic Croats; and delay or postponement of loans and credit by the World Bank and IMF, reportedly partly in response to Croatia's policies in the areas of human rights, return of refugees and displaced persons, and cooperation with the ICTY. Concerning education, the report cites: the need to remain sensitive to students' social and cultural backgrounds; an increase in the influence of Catholicism in the classroom; the agreement signed in August 1997 between the government and the UN Transitional Authority on the reintegration of the region of Eastern Slavonia into the Croatian educational system; and, an initiative by UNICEF and the Parliamentary subcommittee for children's rights to, *inter alia*, organize psycho-social assistance programmes for traumatized children in Slunj and Hrvatska Kostajnica. The SR noted: constitutional guarantees of freedom of conscience and religion and the free public profession of religious convictions; ongoing acts of vandalism against religious sites of the Catholic, Orthodox and Jewish communities; discriminatory treatment of members of the Islamic community who apply for Croatian citizenship, and disregard for their religious convictions and practices during service in the Croatian army.

Concerning the security of person and property, the report addresses several specific areas, namely: the right to life — commenting on continuing reports of the use of explosive devices and other acts causing death and serious injury and inconsistencies in police measures to resolve these kinds of incidents and prevent such acts; landmines — noting that unmarked landmines placed during the conflict between 1991 and 1995 continue to

inflict suffering on innocent civilians, particularly in rural areas, the decision by the government to make mine clearance a top priority and the establishment of the Commission on Mine Clearance and the Croatian Mine Centre; the right to personal security — noting that despite deployment of larger police patrols, the security situation in the former Sectors remains unsatisfactory, reports that in Kistanje, former Sector South, widespread looting was carried out by resettled ethnic Croats from Kosovo, reports of, in Benkovac and Gracac, escalating harassment and violent assaults committed against local Croatian Serbs, in the former Sector West some abuses against Croatian Serbs, and, in the former Sector North, because of an influx of returnees from the region of Eastern Slavonia, the potential for a deterioration in the security situation; and, humanitarian concerns — noting that the international humanitarian efforts, working with the government's "Let's Save Lives" programme, generally succeeded in the winter of 1996/1997 and the fact that, because of lack of funds, suspension of humanitarian programmes during the winter of 1997/1998 would place many lives in the former sectors in serious jeopardy.

On the right to property the report refers to: the issue of Croatian Serbs' property and the effect of the Law on the Temporary Takeover and Administration of Specified Property; obstacles to the return to Croatia of Croatian Serbs to reclaim confiscated properties, leading to the situation in which many Croatian Serb refugees were unable to reclaim properties in the time allowed under the law; the effectiveness of property claims commissions established by municipalities; provisions in the Law which could prevent eviction of temporary residents until alternative accommodation is found; the placement of abandoned properties under state administration; the widespread practice of the sale of Croatian Serb property to ethnic Croat refugees; the establishment of the Agency for Mediation in Transactions with Specified Real Estate with responsibility for facilitating the sale and exchange of abandoned property in the former Sectors; and reports that the Agency has obliged Serb owners to sell their properties at excessively low prices.

On the right to return, the SR noted that the question of returns remains a contentious issue in Croatia. Reference is made to reports of violent incidents affecting returnees, including bomb attacks, anti-Serb graffiti, attacks and beatings against returnees, destruction of the homes of returnees and ransacking and looting of the personal possessions of returnees. The report also notes: restrictive conditions imposed on return by Croatian Serb refugees with valid Croatian citizenship certificates (*domovnica*), including the requirement that such returnees obtain additional travel documents from a Croatian embassy abroad; the lack of an established procedure for Croatian citizens to obtain valid passports or travel documents from Croatian embassies in neighbouring countries; and the fact that Croatian embassies do not accept applications for a *domovnica*.

With regard to the administration of justice, the report addresses issues related to, *inter alia*: the courts —

noting that articles in the Constitution establish the autonomy and independence of judicial power, yet there is a lack of effective guarantees for an independent judiciary, and many judges have been relieved of their posts by the High Judicial Council despite provision in law under which judges are appointed for life; and detention and the amnesty law — noting that the adoption of a general Amnesty Law in September 1996 was a positive, confidence-building step both for the return of Croatian Serb refugees, and for the peaceful reintegration of the Eastern Slavonia region into the rest of Croatia; the fact that the law does not cover alleged perpetrators of war crimes; reports indicating that there have been cases of re-arrest after the implementation of the amnesty law; the fact that war crimes trials that have led to conviction of the accused despite the lack of credible evidence; and calls by international observers to the ICTY have requested that it exercise some control over the prosecution of war crimes by the Croatian government.

On the question of cooperation with the International Criminal Tribunal, the SR stated that the government's cooperation with ICTY had produced little substance, based on a number of facts and observations, including: delays in the involvement between the Office of the Prosecutor and authorities, despite the appointment of the head of the Government Office for Cooperation with the ICTY; criticisms by the government of the ICTY, for supposedly blaming all sides equally; and the statement by the government that the ICTY subpoena *duces tecum*, intended to obtain documents from the government on relevant cases, amounted to a violation of state sovereignty.

The issue of missing persons is noted as one of the most pressing human rights concerns in Croatia. The report notes that the search process, which had been blocked for four years, was finally under way and the exchange of medical records and/or autopsy reports had been facilitated in such areas as Vukovar, Lovas and Ovcara in Eastern Slavonia and Banovina and areas of Western Slavonia.

Under the general heading of "other human rights concerns" the report covers a number of issues, including: continued reports of discriminatory measures applied in the acquisition of Croatian citizenship; provisions in the Law on Citizenship requiring, *inter alia*, proof of continuous residence in Croatia for at least five years and proficiency in the Croatian and Latin script; provision to the Ministry of Interior of broad discretion in denying an application on grounds of the interest of the state, even in cases where prerequisites have been met; provisions in the Constitution, the Radio and Television Act, the Law on Public Information and the Law on Telecommunications and Post that oblige the authorities to act in accordance with international norms; the fact that the state-owned Hrvatska Radio Television (HRT) is the only radio and television enterprise broadcasting nationally and is tightly controlled by the ruling Croatian Democratic Union (HDZ); the fact that the print media is varied with many periodicals privately owned; reports indicating that the government has attempted to silence its critics by

levying exceedingly high taxes, in some cases, on print media; the fact that during the June 1997 presidential election state media, particularly television, showed favouritism towards the HDZ; continuing publication of materials advocating nationality-based hatred, such as those appearing in the weekly *Hrvatsko Slovo* (Croatian Letter) and aimed at Serbs; the Law on Association (July 1997) containing regulations that appear to give arbitrary decision-making powers to registration bodies to decide on the future of NGOs and in some cases to disband them; and, the draft Law on Public Gatherings which would impose restrictive conditions on public gatherings and protests and stipulate that gatherings could be prohibited if they were considered a danger to the legal order or to violate decency.

The assessment of the situation in the region of Eastern Slavonia, Baranja and Western Sirmium was based on three visits to the region in 1997. The report states that while the situation in the Region was no longer highly volatile and the authorities had made some concessions, allowing for the return of displaced Serbs and their reintegration into society, serious problems continued to arise. Following on this, the report provides summary comments on, *inter alia*: personal security, noting continuing reports of harassment of displaced Serbs and collusion and participation by members of the Transitional Police Force (TPF) in these incidents, leading in some cases to corrective actions, including dismissals; returns of displaced persons, citing continuing tensions between the Region's original inhabitants and Serb displaced persons from other areas now living in the Region, attacks against groups of returnees, destruction and ransacking of returnees' homes and inter-ethnic violence and discrimination; discrimination against ethnic Serbs by Croatian authorities in, for example, employment, education, pensions and health care; failure to include representation of members of families of mixed origin in negotiations for reintegration of the public sector; the fact that amnestied persons had not yet been cleared from police records and, following on this, problems for such persons in such areas as travel and access to bank accounts; uncertainty among people as to the exact content and real meaning of the government's "final" list of 150 suspected war criminals and a later statement by a government representative that no such list existed; continuing problems for people in the Region to obtain the documents needed to remain there; and rejections of passport applications and, in some cases, the practice of verbal denials and others given without explanation. The report comments as well on violations of due process arising, in part, from: difficulties encountered in the reintegration of the Region's judiciary; concerns related to the need to appoint judges from the Region in proportion to their ethnic group's representation in the population; the high fees required for all lawyers to rejoin the Bar, the lapse in their membership having been caused by the war; and concerns related to the "Law on Validation" of documents and decisions issued by the former Republika Srpska Krajina courts and the Parliamentary proposal to render all those decisions and documents null and void.

The report also comments on progress in reintegration generally, including in the construction of housing units, rebuilding of damaged communal buildings such as schools and health centres, introduction of the Croatian currency (kuna), reintegration of public companies with Croatian counterparts, and integration of the electricity, post and telecommunications systems.

Based on these observations and comments, the report recommends, *inter alia*, that:

- ♦ the Croatian police further increase activities in the former Sectors, since the measures taken to date have not yet succeeded in restoring an environment of law and order;
- ♦ the government take affirmative steps to ensure that reconstruction and employment opportunities benefit Croats and Serbs equally;
- ♦ international donors continue to insist on good-faith efforts by the government to improve the situation of all residents of the former Sectors, including Croatian Serbs, as a condition for continuing international loans and credits;
- ♦ the Law on the Temporary Takeover and Administration of Specified Property be suspended immediately and the government and local housing commissions take effective steps to accelerate the return of Croatian Serbs to their homes, or ensure just compensation where such return is not possible;
- ♦ the government improve channels for dialogue with national and international human rights organizations as well as the Croatian Ombudsman;
- ♦ the problem of missing persons be dealt with as a top priority in order to avoid an impediment to the future coexistence of ethnic communities and for the peaceful reintegration of Eastern Slavonia;
- ♦ the overall welfare, health, education and social protection of children be addressed on an urgent basis;
- ♦ steps be taken to ensure that competent judges are never dismissed on the basis of their political opinion or ethnicity;
- ♦ effective measures — including legal action by the competent authorities — be taken to combat incitement of hatred, in regard to freedom of the media;
- ♦ steps be taken to ensure that persons coming to Eastern Slavonia, Baranja and Western Sirmium (the Region) from elsewhere in Croatia, including members of the Transitional Police Force, respect at all times the rights of local residents;
- ♦ in the Region, steps be taken to overcome such obstacles to reintegration as discrimination against ethnic Serbs by Croatian officials, reconstruction efforts be continued and legislation regarding the reintegration of the local judiciary finally be implemented;

- ♦ bearing in mind the possible end to the UNTAES mandate in January 1998, full consideration be given to the deployment of an international presence, including possible participation of the Office of the High Commissioner for Human Rights (OHCHR), the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe and other international organizations; and
- ♦ the technical cooperation project planned by the OHCHR – emphasizing training in human rights for professionals involved in law enforcement and the rule of law, as well as universal human rights education for the population – be initiated at the earliest possible opportunity.

Consolidated report on the former Yugoslavia (E/CN.4/1998/63, Section II)

In addition to the separate report, information on Croatia is included in a consolidated report on the former Yugoslavia addressing subjects such as: the security of person and property in the former sectors; returns and property rights; humanitarian and social issues; missing persons and other human rights concerns; and the challenges ahead.

On the question of security of person and property the report notes that while more needed to be accomplished there were good reasons for optimism, citing the fact that although some forms of abuse continued to be reported – such as ethnically based harassment and intimidation – the security situation in the former sectors had substantially improved. Remaining problems were reported to be related, in part, to misconduct by officers of the Transitional Police Force (TPF) and a failure by the TPF to vigorously investigate alleged abuses, especially those committed against Serbs.

With regard to returns and property rights, the report notes that the question remained a contentious issue and that less than 10 per cent of Croatian Serbs who had fled had returned. Factors inhibiting returns are noted as including: bureaucratic, legal and financial obstacles to the recovery of property; the occupation of homes by newly arrived Croat immigrants; unrealistic government deadlines for Croatian Serbs to apply for reconstruction assistance; delays in funding for reconstruction; the dire economic situation in some sectors; and, the lack of significant progress in either the restitution of or compensation for Croatian Serb property that was given over to displaced and immigrant Croats.

The report notes that with assistance from international relief agencies and the Croatian Red Cross such basic services as electricity and water have been restored in the former sectors but that imbalances in provision of reconstruction assistance for destroyed homes has been reported, with priority apparently still being given to ethnic Croats. The report notes information received indicating that discriminatory measures also remain in terms of the granting of Croatian citizenship papers, with numerous cases of arbitrary interpretation of certain pro-

visions of the Croatian Law on Citizenship having been recorded. Concern also remains over the continuing practice by employers of discrimination against Croatian Serbs in the workplace, even for well-educated people, including partners in mixed marriages.

Concerning the issue of missing persons, the report states that identifying the fate of more than 2,000 missing persons is one of the most urgent humanitarian problems facing Croatia in the future and should be dealt with as a matter of the highest priority. Commentary on other human rights concerns notes a number of positive steps that have been taken by the authorities to strengthen protection of human rights, including: accession to the Council of Europe and signing of the European Convention on Human Rights; the signing of the Framework Convention for the Protection of National Minorities and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; the establishment of a working group in September 1996, composed of government representatives and independent experts, to examine the compatibility of Croatian law with the European Convention on Human Rights and its Protocols; the establishment of a long-term mission of the OSCE; the strengthening of the office of the Croatian Ombudsman; the adoption of a general amnesty law in September 1996 which has helped to build confidence and alleviate uncertainties among Croatian Serbs with respect to the peaceful reintegration of Eastern Slavonia noting, however, serious doubts about the fair implementation of this law and uncertainty as to who is covered by it as well as doubts about the fairness of the trials conducted against persons, either in person or in absentia, who have been determined not to fall within the amnesty's protection; steps taken late in 1997 towards full cooperation with the ICTY by facilitating the surrender of 10 war-crime suspects who had been indicted for alleged involvement in atrocities committed in central Bosnia and Herzegovina in 1993; and while noting that electronic media – especially television – remains under the effective monopoly control of the ruling HDZ party, the potential for free expression in the print media, including the publication of several independent newspapers and the launch of an independent television platform called Forum 21.

Referring to the challenges ahead, the report states that the future of human rights will significantly depend on the degree to which there are effective legal guarantees given to minority populations. The report notes and recommends, *inter alia*, that:

- ♦ emphasis be given to confidence-building among different national and ethnic groups, building on the decision to establish, at the end of 1997, the Committee for the Realization of the Programme on the Establishment of Confidence, Acceleration of Return and Normalization of Life in the War-Affected Areas (PoC), which is focussed on facilitating the two-way return of displaced persons;

- ♦ the role of the media in promoting tolerance be strengthened, and there be active involvement of all religious communities to ensure harmonious inter-ethnic relations;
- ♦ representatives of civil society, NGOs, and youth movements be included in the work of the PoC;
- ♦ developmental, socio-economic, and humanitarian projects aimed at breaking down barriers between groups be implemented;
- ♦ emphasis be placed on mine-awareness training programmes that disseminate information more effectively and target, primarily the most vulnerable part of the population, including children and returning refugees;
- ♦ the health, educational and social situation of children continue to be addressed to create a sound basis for the future; and
- ♦ the programme of technical cooperation devised by the OHCHR late in 1996 be implemented at the earliest possible opportunity, focussing on human rights education programmes, training of government officials in reporting obligations, expertise to develop human rights curricula in the schools, and creation of a human rights documentation centre.

Resolution of the Commission on Human Rights

The Commission adopted by roll call vote an omnibus resolution on the human rights situation in the territory of the former Yugoslavia (1998/79). The sections related to Croatia included the following:

In Section I of a general nature, the Commission stressed the need to focus international human rights efforts on the lack of full respect for the human rights of all individuals without distinction, the return of refugees and displaced persons, capacity-building in the areas of the rule of law and the administration of justice, the freedom and independence of the media, inadequate cooperation with the International Criminal Tribunal and missing persons.

In Section III on Croatia, the CHR: welcomed the successful completion of the mandate of the UN Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium and measures taken by the government in terms of joining the European human rights regime; called on the High Commissioner for Human Rights to begin at the earliest possible opportunity projects emphasizing human rights training for professionals involved in law enforcement and rule of law, as well as human rights education; called on the government to accelerate the implementation of its Programme for Confidence-Building and the normalization of life in the war-affected regions; called on the government to respect human rights, including property rights for all and, in particular, ethnic Serbs, and enable the restoration of the multi-ethnic character of Eastern Slavonia, Baranja and Western Sirmium; called on the government

to end harassment of displaced Serbs and looting and physical attacks against them, and to put an end to the involvement of Croatian military and police officials in such incidents; called on the government to guarantee freedom of association and the press and respect the right of non-governmental organizations to operate without restrictions; called on the government to implement the Amnesty Law fully and fairly; and, called on the international community to support the UN Civilian Police remaining in the field in 1998 and the involvement of the OHCHR in human rights monitoring in the region of Eastern Slavonia.

Section V on the International Criminal Tribunal called on all states to cooperate fully with the Tribunal and called on the government to apprehend and surrender for prosecution all persons indicted by the Tribunal.

Section VI on missing persons: called on all parties to treat the subject of missing persons as an urgent humanitarian problem, make full disclosure of available information to the Working Group on Missing Persons (chaired by the ICRC) and abandon the principle of reciprocity in dealing with the question; and called on the government to turn over all relevant material on missing persons and specifically to transfer relevant documentation on its actions relating to its 1995 "Flash" and "Storm" operations to the ICRC and the International Commission on Missing Persons.

The resolution also renewed the mandate of the SR for a further year, maintained Croatia as one of the three countries of focus and requested the SR to carry out missions to Croatia, including Eastern Slavonia, Baranja and Western Sirmium.

The resolution was adopted by a vote of 41 in favour, none opposed, 12 abstentions.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 21–22)

The report recalls that the special process on missing persons in the territory of the former Yugoslavia was discontinued at the 1997 session of the Commission on Human Rights. As a consequence, the Working Group (WG) referred all cases in its records which occurred in Croatia prior to 14 December 1997 — the date of entry into force of the Dayton Peace Agreement — to the CHR Special Rapporteur on the former Yugoslavia for inclusion in a joint process. This initiative involves the Expert Group on Exhumations and Missing Persons of the Office of the High Representative, the Working Group on Missing Persons chaired by the International Committee of the Red Cross and the International Commission on Missing Persons. Cases which occurred after 14 December 1995 will be examined by the WG in accordance with its methods of work.

Freedom of opinion and expression, Special**Rapporteur on:** (E/CN.4/1998/40, para. 25)

In the section dealing with media in countries in transition, the report refers to conclusions by the election observer mission of the Organization for Security and Cooperation in Europe (OSCE) that the 15 June 1997 elections may have been free, but were not fair and did not meet minimum democratic standards because the state media — particularly television — showed favouritism towards the ruling Croatian Democratic Union (HDZ).

Independence of judges and lawyers, Special**Rapporteur on the:** (E/CN.4/1998/39, paras. 17, 19, 56–57)

In November 1997, the Special Rapporteur (SR) sent a communication to the government containing general allegations concerning the judiciary in Croatia. According to the information received, several judges were reportedly relieved from their posts following decisions by the State Judicial Council, which were reported to have been motivated more by the national origin or political views of the judges than by their professional competence. The report also notes some dysfunctions of the judiciary related to: the pre-selection of judicial candidates by the Minister of Justice; the lack of guarantees with regard to security of tenure; difficulties by the courts in implementing their decisions — particularly with respect to cases against members of the Croatian army and the police, or where rulings were in favour of non-Croats; and failure to respect the accused's right to have an attorney present during the investigative phase and during an appeal against investigative detention.

The response from the government provided the constitutional provisions governing the judiciary in Croatia in a general manner, and stated that the removal of the former President of the Supreme Court was not motivated by political considerations. The SR stated that the issues raised in the letter to the government were not addressed.

GENERAL ASSEMBLY**Special Rapporteur of the Commission on Human Rights**

The Special Rapporteur (SR) on the situation in the former Yugoslavia submitted consolidated interim reports to the 1998 General Assembly (A/53/322, Section IV; A/53/322, Section II). The sections concerning Croatia contain information on, *inter alia*: the rights to return, life and personal security, and property; the administration of justice; the freedoms of expression and assembly; missing persons; religion and reconciliation; gender issues; and the Danube region. The reports are based, in part, on a mission to Croatia from 9 to 15 July 1998. The SR stated that membership in the Council of Europe and the goal of joining the European Union had had a positive influence on the government and on the attitudes of many opinion leaders in the country. Real understanding of the nature of democratic society, how-

ever, still appears to be quite low. The SR further stated that the progress achieved to date has largely been the result of support for democratic forces within Croatia by the international community and its institutions. The establishment of a true democracy and entry into the European mainstream will depend on the presence of international institutions for monitoring and for technical, economic and educational assistance for the foreseeable future.

Concerning the right to return, the reports refer to adoption, in June 1998, of a programme for the return and accommodation of displaced persons, refugees and resettled persons. The programme recognizes the inalienable right to return of all Croatian citizens and all categories of persons who can be regarded as refugees under, *inter alia*, the 1951 Convention Relating to the Status of Refugees. Bureaucratic and other obstacles inhibit return, however, including: difficulties encountered by Croatian Serbs who apply for documents at the Croatian Embassy at Belgrade; uncleared mines and the lack of infrastructure, in particular water and electricity; unemployment in areas of return; allocation of homes by the government to Bosnian Croat refugees for whom the government is committed to finding accommodation; and problems related to the government's former practice of encouraging domiciled Croats to move into houses from which Serbs had fled during the conflict.

Violations of the right to life and personal security were noted as including: the murder of a Hungarian woman and her Serb husband following a hand-grenade attack, intimidation and criminal damage to their homes and fields; the continued possession and use of explosive devices, hand grenades or other military weaponry, noting that some incidents may constitute attempted murder while others are probably intended only to intimidate; verbal and physical assault by Bosnian Croats against Serbs; harassment of Serbs, people in mixed families and others who stayed in the region during the war, noting that the severity of violent ethnic incidents has increased; and deaths caused by unmarked landmines and unexploded ordnance.

The reports note that the Law on Temporary Takeover and Administration of Specified Property and the Law on Lease of Apartments in Liberated Areas were repealed in July 1998 as a first step towards resolving the problems they had created. The need remained to find alternative accommodation for refugees and displaced persons living in houses and apartments belonging to people who have returned and wish to reclaim their property. The SR stated that people who lost tenancy rights to apartments will have even more difficulty in obtaining restitution.

With regard to the administration of justice, the reports state that a wholly independent judiciary is still a distant goal and, while the principle is strongly promoted by international and local civil rights organizations, courts are still too often influenced by politicians and government officials at the state and local levels. Uncertainty remained about the application of the 1996 Law on General Amnesty, with the law reported to have been applied

to 10,712 people who were sentenced for offences — such as armed rebellion — committed during the war. Other problems noted included unreasonable delays in war crimes trials throughout Croatia, and failure of the authorities to address adequately the violations reported during the 1995 Croatian military operation known as “Storm”.

The reports note that the Constitution guarantees freedom of thought and expression, including free media outlets, and states that the government holds a virtual monopoly on broadcast outlets and distribution networks for printed media. Croatian Radio and Television (HRT) is technically under the supervision of the Parliament but is, in fact, directly controlled by the ruling party, the Croatian Democratic Union (HDZ). The few private radio and television stations lack sufficient resources to produce their own news programmes and rebroadcast those from HRT. The reports note that certain independent newspapers have been overwhelmed with civil and criminal lawsuits by members of the government and those close to them. The reports cite *Globus*, *Feral Tribune* and *Nacional* — three independent weeklies — as having been especially heavily targeted. Cases have also been filed against *Novi List* at Rijeka and *Vecernji List*. All were sued under legal provisions related to the criminal prosecution of journalists or others who insult the President, Prime Minister or Supreme Court President, among others. Journalists, against whom slander charges could not be proved, were nevertheless sentenced for inflicting “emotional anguish” on those they were deemed to have criticized. The SR stated that litigation by those in power against newspapers appears to constitute one of the largest threats to freedom of expression in Croatia, with many journalists reported to impose self-censorship in their articles for fear of giving offence and bringing about lawsuits against their newspapers.

The reports recall that, with regard to freedom of assembly, a ban on public gatherings in the Danube region was instituted in March 1998, to remain in force until 1 August 1998. The ban was regarded as a response to the activities of the Croatian Party of Rights (HSP) but the SR stated that it was questionable whether such a restriction on peaceful gatherings conformed to article 21 of the International Covenant on Civil and Political Rights (ICCPR), even if intended to curb racist activities. A second reading of a draft bill that would ban gatherings in national parks, near hospitals, kindergartens, primary schools and certain cultural monuments, and on motorways and roads was expected in Parliament in September 1998.

The actual number of missing persons remains in dispute, with the State Commission for Detained and Missing Persons, the European Community Monitoring Mission, and the International Committee of the Red Cross citing different figures. The reports note that there have been accusations from the Serb community of ethnic bias in the search for missing persons in the Danube region. With regard to religion and reconciliation, the reports refer to several acts of vandalism against

religious buildings and objects belonging to the Catholic and Orthodox churches. The SR stated that the Catholic Church could play a positive role in the process of reconciliation, noting the appointment of Josip Bozanic, a firm supporter of reconciliation, as Archbishop of Zagreb.

Concerning gender issues, reference is made to the new Criminal Code, which came into force in 1998 and contains provisions that are not adequate to protect certain rights of women. Specifically, provisions referring to the prosecution of cases of domestic violence, the criminal act of inflicting physical injury and the criminal act of rape state that when perpetrated within the family (except against children) or among partners, these acts will be prosecuted only following a motion by the victim. Under the new law neither physicians nor the police are legally obliged to report severe physical injury to the state attorney. The SR stated that these changes in the Criminal Code are reason for serious concern, especially in the context of information received from women’s NGOs that domestic violence is on the rise in Croatia. The SR also noted: women face unequal representation in public, political and economic life; women’s participation in the national Parliament and in regional and municipal political structures has dropped significantly since 1990; and this trend was confirmed in the 1997 municipal, regional and parliamentary elections.

The reports recommend, *inter alia*, that:

- ♦ steps be taken to ensure close cooperation and coordination between the international institutions in Croatia;
- ♦ the international community concentrate its efforts on strengthening the legal system, in particular to ensure an independent judiciary; on training the police, to ensure a professional police force; and on supporting the development of free media;
- ♦ international assistance to restore the economy be coordinated and concentrate on infrastructure and other conditions for the development of private initiative (for example, demining);
- ♦ the government simplify the procedures to be followed by Croatian Serbs residing in the FRY and Bosnia and Herzegovina who wish to return to Croatia; ensure that people who have returned do not suffer discrimination in housing, social welfare, the supply of essential services or employment;
- ♦ with regard to the fate of missing persons, exhumations be conducted without regard to the nationality of the victims, and attempts to locate the whereabouts of all persons still missing in Croatia not be subject to ethnic bias; and
- ♦ the government take urgent steps to reduce the backlog of cases in the courts at all levels; ensure that the administration of justice is transparent; make available information about the results of prosecutions of those charged with human rights violations in connection with Croatian military operations in 1995;

and make freely available information about court proceedings generally, including to international organizations seeking to exercise legitimate monitoring functions.

Resolution of the General Assembly

The 1998 session of the General Assembly adopted by recorded vote a consolidated resolution on the situation of human rights in the territory of the former Yugoslavia (A/C.3/53/L.60). The resolution was adopted with 132 in favour, none opposed, 20 abstentions.

In the section on general considerations and concerns, the GA, *inter alia*: fully supported the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto (collectively the "Peace Agreement"); expressed disappointment at the continuing evidence of violations of human rights and fundamental freedoms taking place; called for the full and consistent implementation of the Peace Agreement and the Basic Agreement by all parties to them; stressed the crucial role of human rights in the successful implementation of the Peace Agreement; underlined the obligations of the parties under the Agreement to secure for all persons within their jurisdiction the highest level of international norms and standards of human rights and fundamental freedoms; stressed the need to focus international human rights efforts in the region on the core issues of the lack of full respect for the human rights and fundamental freedoms of all individuals without distinction, the rule of law and effective administration of justice at all levels of government, the freedom and independence of the media, and freedom of expression, association, religion and movement; stressed the need for enhanced international human rights efforts to foster and effect the prompt and voluntary return of displaced persons and refugees in safety and dignity; called upon all parties and states in the region to ensure that the promotion and protection of human rights and effective and functioning democratic institutions will be central elements in the new civilian structures; and called upon all states and all parties to the Peace Agreement that have not done so to meet their obligations to cooperate fully with the International Criminal Tribunal for the former Yugoslavia.

With regard to Croatia specifically (Section II), the GA, *inter alia*: welcomed the successful conclusion of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) and the Civilian Police Support Group and the smooth and seamless transfer of monitoring responsibilities from the UN to the OSCE in October 1998; welcomed the programme for the return and accommodation of displaced persons, refugees and resettled persons; urged the government to implement fully its programme on the re-establishment of confidence, acceleration of return and normalization of living conditions in war-affected areas, and its refugee return programme in cooperation with the UNHCR; demanded that the government take immediate steps to facilitate the early voluntary return, in safety and dignity, of all refugees and displaced persons, including minorities, to their homes in all regions; called

on the government to undertake additional efforts to adhere to democratic principles and to continue efforts to attain the highest level of compliance with international norms and standards of human rights and fundamental freedoms, especially in regard to strengthening the independence of the judiciary, to freedom of association and assembly, and to the promotion and protection of free and independent media, in particular by providing for full freedom of expression in and access to all forms of media, including by the complete range of political parties; urged the impartial application of the law and the swift and complete implementation of judicial decisions for all citizens, irrespective of ethnicity, religion or political affiliation; reminded the government of its primary responsibility to restore the multi-ethnic character of Croatia, including by guaranteeing the representation of national minorities, including Serbs, at various levels of local, regional and national government; noted the improvement in the performance of the police; called on the authorities to prevent harassment, looting and physical attacks against displaced Serbs and other minorities and others; and called upon the government to ensure the non-discriminatory application of the amnesty law and to strengthen measures to end all forms of discrimination by authorities in the areas of property rights, employment, education, pensions and health care, among others.

SECURITY COUNCIL

Reports of the Secretary-General

The report of the Secretary-General on the UN Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) covers the period from 4 December 1997 to the conclusion of the UNTAES mandate on 15 January 1998 (S/1998/59, January 1998).

On the question of national reconciliation, the report notes that the national media displayed a more constructive and conciliatory line in covering issues related to the Serb minority and that political and religious leaders had issued messages of tolerance and reconciliation. Progress at the national level, however, had not been matched at the local level, where reconciliation committees focussed mostly on technical issues related to returns, while ignoring the broader task of reconciliation.

Positive developments noted included, *inter alia*: an increase in the participation in Croatian political life by the region's ethnic Serb citizens; the convening of the first conference of the Independent Serb Democratic Party (SDSS), with the participation of senior representatives of the government and the ruling Croatian Democratic Union (HDZ); arrangements to ensure that there will be a continued media voice for the Serb community within the region; efforts of Serb members of Parliament to play a more active and visible role in national politics; the fact that almost all public services and enterprises had been reintegrated as, for example, with the agreement to finance full health facilities and equal access to health care for all residents of the region; the recall of text

books which breach the moratorium on teaching the history of the conflict; issuance of bilingual school signs; and increased availability of social welfare, with two social welfare centres and two unemployment centres operating.

The report states that the ability to enjoy educational and cultural autonomy, as guaranteed by Croatian law, will be a primary determinant of the willingness of Serb citizens to stay in the region and a measure of Croatia's commitments to international standards of minority rights.

On the issue of economic reintegration, reference is made to the concerns of residents in response to the government's programme for privatization of public and state-owned enterprises; the government gave assurances that priority would be given to social stability rather than to economic considerations in this process. With regard to the return of displaced persons to their homes, the process was increasingly limited by continued legal and financial obstacles to the return of occupied properties to their legal owners, by delays in providing government funding for the reconstruction of houses owned by Serb citizens, and by uncertain economic and social conditions in areas of potential return. No progress had been achieved in establishing concrete mechanisms for the return of occupied property to Serb citizens, or in resolving the issue of their lost tenancy rights.

In terms of human rights, the number of reported cases of harassment of ethnic Serbs continued to be a cause of concern. Problems included: that many Serb displaced persons were harassed by Croat house owners; hate mail, telephone harassment and personal intimidation of Serbs by Croats; obstruction in issuing citizenship, pension and birth registration documents, mainly at the local level; allegations of misbehaviour and unprofessional conduct by some police officers; police participation in assaults on residents of the region and other forms of intimidation, noting that senior officials took appropriate measures to investigate reported incidents and to discipline those found guilty in accordance with Croatian law. Concerns related to efforts to make the Transitional Police Force a truly professional force which enjoys the confidence of both Serbs and Croats included: overcoming the reluctance of some officers to investigate cases with ethnic overtones; responding to the apprehension of ethnic Serb officers in terms of their personal future and work prospects; and, the need to improve the level of training and professionalism of many officers, noting that nearly all ethnic Serb police officers require additional basic training and ethnic Croat officers show a need for greater inter-ethnic understanding and for human rights and community police training.

The Secretary-General's reports on the UN Police Support Group (S/1998/500, June 1998; S/1998/887, September 1998) provide an overview of the activities of the UN Police Support Group (UNPSG) and the scheduled termination of the mandate by 15 October 1998.

The report states that security in the Danube region continued to be relatively stable and that the level of crime

was lower than in most other areas of Croatia, in part because of the high ratio of police officers to residents and to international monitoring. The overall level of housing-related incidents was decreasing. The decline in the number of such incidents reflected the fact that fewer Serb displaced persons remained in the region, either as a result of resettlement in their original homes or in accommodation elsewhere in Croatia, or as a result of their departure to other countries. While the number of ethnically related incidents had also decreased, their severity had increased, with verbal intimidation being replaced by more violent incidents, including shootings, explosions, assaults and vandalism. These incidents were often directed against symbolically important objects such as community monuments.

The report notes that overall police response to criminal activity meets international standards for law enforcement agencies, but police response to ethnic incidents was inadequate: would-be-offenders were of the impression that the police would not act, while displaced persons believed that the homeowner and the police were in collusion. The performance of the police was also being undermined by an inefficient judicial system in which the courts failed to hear promptly charges against offenders.

Positive aspects in the government's Programme for the Return and Accommodation of Displaced Persons, Refugees and Exiled Persons are noted as are its shortcomings, including that it does not establish a satisfactory non-discriminatory mechanism to enable apartment dwellers to return to formerly socially owned apartments or to receive alternative accommodation or compensation. Key factors contributing to departures by Serbs are: continued security incidents and ethnically related intimidations; a dire economic situation; bureaucratic hurdles; discriminatory legislation; and a stalled two-way return programme. Problems impeding two-way returns are noted as including: the absence of economic revitalization, the lack of employment opportunities in many areas of return and a low level of confidence in the prospects for long-term return; and, the presence of "regional returns", for example, Bosnian Croat refugees who are occupying many Croatian Serb houses in the Krajina.

Almost no progress had been made in the implementation of the government's national reconciliation plan and, at the time the report was prepared, both television and print media, including those under state control, continued to give space to rhetoric that undermined reconciliation. Other problems included: inconsistency and confusion in the implementation of the amnesty law related to war crimes and national "war crimes" trials; the continuing deadlock of the Vukovar City Council — impeding Croat returns and the economic revitalization of the city — because of the inability of local leaders of both ethnicities to work together; and, the fact that the Joint Council of Municipalities lacked an appropriate legal status and was on the brink of collapse.

Statements by the President of the Security Council

The President of the Security Council made three statements (S/PRST/1998/3, February 1998; S/PRST/1998/6, March 1998; S/PRST/1998/19, July 1998) noting that the Council, *inter alia*: welcomed the successful completion of UN Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES); underlined the importance of continued efforts by the government to ensure full participation by the Serb minority in the political life of the country, including through urgent funding of the Joint Council of Municipalities; called on the government to intensify its efforts to promote full reintegration of the region, in particular to resolve property issues and other problems which are hindering the return of refugees and displaced persons, to protect human rights, to address in full uncertainties about the implementation of the Amnesty Law, and to take measures to improve public confidence in the Croatian police; expressed concern at the government's lack of compliance with obligations concerning the return of refugees and displaced persons; noted with concern the increasing incidence of harassment and intimidation of the local Serb community in the Danube region and the failure of the government to apply the process of national reconciliation in an effective way at the local level; and noted that measures should include the creation of conditions to allow local Serbs to remain in the region, to facilitate the return of refugees and displaced persons and to address underlying practical and economic issues which inhibit returns. The statements called on the government to: (a) establish clear procedures for the documentation of refugees from Croatia; (b) issue an equitable plan for nationwide two-way returns; (c) implement fully and fairly its legislation on amnesty; (d) act promptly to pass equitable property and tenancy rights legislation which would encourage returns and stimulate additional international reconstruction assistance; (e) ensure fair employment benefit practices and equal economic opportunity; and (f) ensure the non-discriminatory application of the rule of law. The statements also expressed concern that ethnically-related incidents, evictions and housing intimidation cases had increased; called for full and prompt implementation of the nationwide programme for the return and accommodation of displaced persons, refugees and resettled persons; and, called on the government to improve police response to ethnically-related incidents, evictions and housing intimidation cases.

FIELD OPERATIONS

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The OHCHR for Croatia was established in 1993, with headquarters in Zagreb, to support the mandate of the Special Rapporteur (SR) on the former Yugoslavia. The legal authority for the OHCHR presence is based on

annual resolutions of the Commission on Human Rights, extending the mandate of the SR and calling on the Secretary-General to support the SR by maintaining a field presence.

The office carries out activities both in support of the mandates of the SR and the High Commissioner for Human Rights. A human rights training programme for police, to be conducted under the Voluntary Fund for Technical Cooperation, is being developed in consultation with the government.

The main activities carried out as of August 1998 included: providing weekly and monthly reports to the OHCHR on human rights developments; providing regular information and briefings to the SR and assisting with the drafting of reports to the Commission on Human Rights; liaising with the government, the OHCHR, and the UN human rights mechanisms; providing information to the government and to elements of civil society — notably non-governmental organizations — on aspects of the UN human rights programme; and organizing workshops and training sessions with NGOs, academic institutions and others.

Reports of the Human Rights Field Operation

Public distribution of the periodic reports prepared by the Field Operation was discontinued in June 1998 on the basis that the reports contained confidential information. In 1998, five reports were made publicly available prior to that decision (30 January 1998; February 1998; April 1998; 30 April 1998; 29 May 1998).

The reports note that the Region of Eastern Slavonia, Baranja and Western Sirmium (the Region) was fully re-integrated into the Republic of Croatia on 15 January 1998 after being administered for two years by Eastern Slavonia, Baranja and Western Sirmium (UNTAES).

Human rights concerns addressed in the reports included: problems encountered by returnees in terms of recovery of homes; the deteriorating social situation in Croatia caused by the sharp rise in the cost of living, low and frequently delayed salaries and pensions, high unemployment, a new value-added tax (VAT), and the ever-widening gap between a small and increasingly prosperous group and a larger indigent population; continuing problems related to the return process — both official and spontaneous — affecting Croatian Serbs, and difficulties attaining access to their occupied property in the face of mounting legal and financial obstacles; an increase in the level of harassment of Serbs in the Eastern Slavonia region — noting that, during a village carnival in Baranjsko Petrovo Selo, about 100 Croats gave fascist salutes, set Serb symbols on fire, and disrupted traffic; police misbehavior, including failure to protect residents from looting, and participation in the destruction of personal property and possession; the fact that there were some 400 civil and 130 criminal cases for defamation pending against journalists and publishers; continuing discrimination on the basis of ethnicity; evidence of

ethnic bias in, and failure of, the courts to meet international fair-trial standards; and ongoing attempts to limit press freedoms.

General developments noted in the reports included: commencement by the International Criminal Tribunal for the Former Yugoslavia (ICTY) of cases against individuals accused of planning, inciting, and executing the massacres of Croatian civilians in Ovcara, near Vukovar, in November 1991; the fact that members of the Croatian Party of Rights (HSP) reportedly encountered few obstacles to freedom of expression when they gathered at a public forum in Eastern Slavonia and sang fascist songs and unfurled the black flags of the HSP's paramilitary force; resumption of exhumations; publications of the names of persons affected by the Law on General Amnesty (13,575 persons) for offences, such as armed rebellion, committed during the aggression against Croatia — noting that charges were dropped against 2,862 people; preliminary consideration of issues related to the state-controlled Croatian Radio and Television (HRT) and the membership and status of an eventual oversight council; consideration by Parliament of new procedures governing returns; government support for repeal of the Laws on the Temporary Takeover and Administration of Certain Specified Property and on Leasing of Flats in the Liberated Territory; adoption of the controversial Procedures for the Return of Persons Who Have Left the Republic of Croatia which may discriminate against those legitimate Croatian citizens who are not in possession of documents which prove their citizenship or who are not in the Croatian register of citizens; and continuation of war crimes proceedings in Croatian courts.

The activities of the Field Operation included, *inter alia*: interventions related to denial of pension benefits and other entitlements; discussions of the possibility of funding specific NGO-run projects that will promote human rights, civil society and independent media; compilation of a comprehensive list of human rights NGOs in Croatia; an investigative mission to Krnjak in response to alleged human rights violations; trial monitoring and monitoring of implementation of the 1996 Law on General Amnesty; and support for the work of national human rights NGOs, including through coordinated action on Croatian legislation on associations.



CZECH REPUBLIC

Date of admission to UN: 19 January 1993.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: The Czech Republic has submitted a core document (HRI/CORE/1/Add.71) for use by the treaty bodies. The report prepared by the government

notes that upon admission to the UN the Czech Republic succeeded to all human rights instruments binding on the former Czechoslovakia.

The Constitution which was adopted in December 1992 includes a Charter of Fundamental Rights and Freedoms and international treaties ratified by the Republic are immediately binding and superior to law. In addition, the Czech Republic has incorporated into domestic law most of the civil and political rights set out in the ICCPR.

Economic, Social and Cultural Rights

Succeeded: 22 February 1993.

The Czech Republic's initial report was due 30 June 1995.
Reservations and Declarations: Article 26.

Civil and Political Rights

Succeeded: 22 February 1993.

The Czech Republic's initial report was due 31 December 1993.

Reservations and Declarations: Article 48; declaration under article 41.

Optional Protocol: Succeeded: 22 February 1993.

Racial Discrimination

Succeeded: 22 February 1993.

The Czech Republic's initial and second periodic reports were submitted as one document (CERD/C/289/Add.1) which was considered at the Committee's March 1998 session; the third periodic report was due 1 January 1998.

Reservations and Declarations: Articles 17 and 22.

Discrimination against Women

Succeeded: 22 February 1993.

The Czech Republic's initial report (CEDAW/C/CZE/1) was considered at the Committee's May 1998 session; the second periodic report was due 24 March 1998.

Torture

Succeeded: 22 February 1993.

The Czech Republic's second periodic report is due 31 December 1997.

Reservations and Declarations: Declarations under articles 21 and 22.

Rights of the Child

Succeeded: 22 February 1993.

The Czech Republic's second periodic report is due 31 December 2000.

Reservations and Declarations: Paragraph 1 of article 7.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

The Czech Republic's initial and second periodic reports were submitted as one document (CERD/C/289/Add.1, June 1997) which was considered by the Committee at its

March 1998 session. The report prepared by the government contains information on, *inter alia*: the Charter of Fundamental Rights and Freedoms, as well as provisions in laws related to non-discrimination; protection of the rights of national minorities; legal provisions related to violence against a group or individual, defamation of a race, nation or conviction, incitement to national or racial hatred; criminal liability for racially-motivated crime; measures taken by the Ministry of the Interior and the Ministry of Justice to manage a rising trend towards racial violence, and a description of specific cases addressed through these measures; prohibited associations, parties and movements; equality before the law; freedom of movement and the right to citizenship; laws related to marriage, ownership and inheritance; the right to work, trade unions and workers' rights; social security and health services; education and training; equal participation in cultural activities; compensation through criminal and civil procedures; prevention of inter-ethnic conflict; education for national minorities; and the mandate and functions of the Council for Nationalities.

The Committee's concluding observations and comments (CERD/C/304/Add.47) acknowledged that the economic, political and social changes that are still taking place in the Czech Republic may affect the full enjoyment of economic, social and cultural rights of some segments of the population, especially those belonging to minority groups.

The Committee welcomed, *inter alia*: the policy of tolerance and openness towards minorities and its progressive implementation; the fact that international instruments on human rights and fundamental freedoms ratified by the state are directly applicable and take precedence over national legislation; the positive measures taken with regard to law reform to combat various forms of racial discrimination, including the introduction of a definition of racially motivated crime and the prohibition in the Criminal Code of racist organizations and publications, as well as the ratification of the Framework Convention for the Protection of National Minorities; the initiatives taken to prevent inter-ethnic conflicts, including the teaching of children and adolescents and public-awareness campaigns promoting tolerance and openness towards ethnic minorities; the establishment of the Council of Nationalities in 1994 as a governmental advisory body; the steps taken towards an affirmative action policy for the Roma community, including the establishment of an Inter-Ministerial Commission, and measures taken within the fields of education and employment; and the continuing growth in the number of NGOs, including associations of minorities.

The principal subjects of concern identified by the Committee included, *inter alia*: the persistence of racial hatred and acts of violence, particularly by "skinheads", towards persons belonging to minority groups, especially Roma and people of African or Asian origin; reports of anti-Semitic incidents; the recorded six-fold increase in racially motivated crimes between 1994 and 1996; the presence of a number of organizations and publications

which promote racist and xenophobic ideas, and information indicating that the government has not been sufficiently active in effectively countering racial violence against members of minority groups; information indicating that the number of charges and convictions, including those of "skinheads", is low relative to the number of abuses reported; the fact that perpetrators of racial crime are often lightly punished and that, in a number of cases, prosecutors have been reluctant to identify a racial motive; and the unnecessarily long proceedings and slow investigations of acts of racial crime, raising questions about judicial effectiveness.

The Committee also expressed concern over: reports of cases of harassment and of excessive use of force by the police against minorities, especially against members of the Roma community, indicating that there may be insufficient training provided to law enforcement officials regarding the provisions of the Convention; the fact that a political party represented in Parliament promotes racial discrimination and disseminates a magazine which promotes racist propaganda and ideas of racial superiority aimed at the ethnic minorities resident in the country; reports indicating discrimination against Roma in such areas as housing, transport and employment, and the absence of civil or administrative law provisions expressly outlawing discrimination in employment, education, housing and health care; the absence of an administrative regulation explicitly prohibiting racial discrimination by public institutions and agencies; the denial of access to public places such as restaurants, pubs, discotheques and similar establishments by persons belonging to some ethnic minorities, especially Roma; and the marginalization of the Roma community in the field of education. Other issues of concern to the Committee included: the discriminatory effects of the 1993 law on the acquisition of Czech citizenship (Law No. 40/1990), especially vis-à-vis Roma; and the fact that there remain groups of the population for whom the question of citizenship has not yet been addressed in a satisfactory manner, including prisoners and minors and orphans in children's homes, many of whom are of Roma origin.

The Committee recommended that the government, *inter alia*:

- ♦ continue efforts to prevent and counter effectively attitudes and acts of racial violence against persons belonging to minority groups, mainly Roma, and persons of African or Asian origin;
- ♦ take additional measures to ensure an effective and timely handling of court cases of racially motivated crime and punishment of the perpetrators;
- ♦ give more attention to the activities of political parties and other organizations, as well as to media promoting racist propaganda and ideas of racial superiority;
- ♦ provide, in its next report, more specific statistical data on minority representation in local, regional and

state administrations, as well as information on their situation in the fields of education, employment and health;

- ♦ provide more data on minorities' political, economic and cultural rights, and the proportions of ethnic minority groups and aliens residing in the country;
- ♦ give increased attention to introducing legal provisions aimed at safeguarding the enjoyment, on a non-discriminatory basis, by all segments of the population, of economic, social and cultural rights, notably, the rights to work, housing, education and access to services and places open to the general public;
- ♦ provide information on the effectiveness of teaching and public awareness campaigns intended to prevent racial discrimination and increase tolerance;
- ♦ provide, in its next report, comprehensive information on the results of the affirmative action measures that have been taken for the Roma community, in particular in the fields of education, employment and housing;
- ♦ resolve the remaining problems relating to the acquisition of Czech citizenship by all residents, including prisoners and children and adolescents in institutions, in particular members of the Roma minority; and
- ♦ consider providing increased education and training on racial tolerance and human rights issues to professional groups such as judges, lawyers, and civil servants, so as to eliminate any cases of harassment or improper conduct in relation to persons belonging to minorities.

Committee on the Elimination of Discrimination against Women

The Czech Republic's initial report (CEDAW/C/CZE/1) was considered by the Committee at its January 1998 session. The report prepared by the government includes statistical and demographic data as well as information on, *inter alia*: constitutional provisions related to equality between women and men; safeguards set out in the Charter of Fundamental Rights and Freedoms; the role and function of the Commission of the Parliament of the Czech Republic for the Family; sex roles and stereotypes and measures taken to modify social and cultural patterns; exploitation of women and protection under criminal law; equality and participation in public and political life; nationality and citizenship; education and equal access to education; equality in employment and economic rights; social security, pensions, insurance, occupational health and safety; the Labour Code and provisions related to the working conditions of women; health and equal access to health care, family planning and abortion; the situation of rural women; equality before the courts in civil matters; and equality in marriage and family matters.

The Committee's concluding observations and comments (A/53/38, paras. 167–207) noted developments that occurred after the government's report was prepared, including amendments to laws on employment, wages, salaries and pension insurance. The Committee welcomed, *inter alia*: the creation of an inter-ministerial coordinating body within the Ministry of Labour and Social Affairs; the effort under way to draft a National Plan on the basis of the Beijing Platform for Action; significant gains in the status of women, particularly with regard to education and participation in economic life, as well as social support services, such as child care; and the high standards of health coverage in general, and for maternal health in particular.

Factors hindering the implementation of the Convention were noted as including an overarching tendency on the part of the government to perceive women as mothers and within the context of the family, rather than as individuals and independent actors in the public sphere. Reference was also made to the failure of the government to appreciate fully the structural and cultural causes of gender inequality, and the absence of special measures to elevate women's status other than those pertaining to the protection of pregnancy and motherhood.

The principal subjects of concern identified by the Committee included, *inter alia*: the failure to provide in law a clear definition of discrimination and/or address *de facto* inequalities between women and men; women's inadequate and declining representation in decision-making positions in the political and economic spheres and at the government's apparent lack of attention to this phenomenon; the lack of any special temporary measures to remedy women's under-representation and the lack of government willingness to consider any such measures; the decline in the number of women's NGOs since the early days of the Republic's establishment; the absence of special legislation on violence against women and the government's perception that there is no need for such legislation; the absence of data on the extent and prevalence of violence against women; and the lack of information on any preventive measures and/or programmes to support victims of violence, raise public awareness of the issue, and sensitize health professionals and law-enforcement personnel on the topic.

The Committee expressed concern over: the lack of measures and programmes to promote a positive image of women as actors in all areas at all levels of public life and to encourage equal sharing of family responsibilities by men; the approach to prostitution and trafficking in women exclusively in the context of combatting organized crime, noting that these crimes are closely related to economic transition and socio-political changes; the policy of creating "household management" schools, which, although not formally sex segregated, cater mostly to female students and train them for traditional stereotypical roles; the practice of some schools admitting only boys because of their "different physical abilities"; the government's apparent reluctance to direct girls to scientific and technological fields of study; and the prevailing

wage disparities between women and men and the segregation of women in low-paying and low skilled work, noting that this has been one of the results of privatization and economic rationalization.

Concern was also raised over: the increase in over-protective measures for pregnancy and motherhood, as well as early retirement policies for women; the high rate of induced abortions, bearing in mind the wide availability of contraceptives; the lack of information and training of health professionals with regard to contraceptives; and the lack of information related to the very high divorce rate, its causes, and the legal status of protection, if any, accorded to women in *de facto* unions.

The Committee recommended that the government, *inter alia*:

- ♦ incorporate into the Constitution and other relevant laws a definition of discrimination modelled on article 1 of the Convention;
- ♦ give impetus to the establishment of an adequately resourced national machinery with a clear mandate to implement, coordinate and monitor the provisions of the Convention; review legislation and policies in the area of discrimination against women;
- ♦ review its perspective on special temporary measures in the area of women's political and economic participation in leadership positions; institute numerical goals and targets, as well as a plan of action with timetables to increase women's participation in these areas;
- ♦ enact a special law and introduce policies to combat all forms of violence against women, together with promotion of education and media programmes sensitizing the public on this issue; introduce training for the judiciary, law enforcement officers, lawyers, health professionals and others whose work is relevant in the context of violence against women; initiate comprehensive research to assess the extent and nature of violence against women in the country;
- ♦ undertake a comprehensive study and analysis of the effects of the economic and socio-political transition of the country on women; ensure that such a study is carried out from a gender perspective to determine the differential impact of the transition on women and men and to determine the differential policies that are required;
- ♦ formulate and implement effective policies to combat prostitution and trafficking of women, including not only services to victims and sanctions for perpetrators, but the design and implementation of comprehensive national social and economic policies to create new opportunities for women; take effective action to combat feminization of poverty and to improve the economic situation of women in order to prevent trafficking and prostitution;

- ♦ launch specific training programmes to educate health professionals, as well as mass campaigns to inform the public on the use of contraceptives and misuse of induced abortions as a means of family planning; and
- ♦ promote the image of women as individuals and independent actors in the public sphere.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on:
(E/CN.4/1998/6, paras. 48, 61, 69)

In commentary on conscientious objection, the report states that in the Czech Republic there is apparently a legal time limit within which conscientious objectors must declare their refusal to perform military service, or apply to perform alternative service.



ESTONIA

Date of admission to UN: 17 September 1991.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Estonia has submitted a core document (HRI/CORE/1/Add.50) for use by the treaty bodies. The report provides demographic and statistical data, information on the government, the separation and balance of powers, and the judicial system.

The universally recognized principles and norms of international law are an inseparable part of the Estonian legal system. If cases where domestic law or other acts contradict the provisions of treaties ratified by the Parliament — including international human rights treaties — the provisions of the international treaty are applied. Every person has the right to bring a case before the courts if any rights or liberties have been violated. On 10 December 1992, the Estonian Institute for Human Rights was established as a public body to monitor the protection of human rights.

Economic, Social and Cultural Rights

Acceded: 21 October 1991.

Estonia's initial report was due 30 June 1994.

Civil and Political Rights

Acceded: 21 October 1991.

Estonia's second periodic report was due 20 January 1998.

Optional Protocol: Acceded: 21 October 1991.

Racial Discrimination

Acceded: 21 October 1991.

Estonia's initial, second and third periodic reports were due 20 November 1992, 1994 and 1996 respectively.

Discrimination against Women

Acceded: 21 October 1991.

Estonia's initial report was due 20 November 1992; the second periodic report was due 20 November 1996.

Torture

Acceded: 21 October 1991.

Estonia's initial report was due 19 November 1992; the second periodic report was due 19 November 1996.

Rights of the Child

Acceded: 21 October 1991.

Estonia's initial report was due 19 November 1993.



GEORGIA

Date of admission to UN: 31 July 1992.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Georgia has submitted a core document (HRI/CORE/1/Add.90) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the country's history, the economy and economic development, the general political structure and the general legal framework for the protection of human rights. The chief guarantee of the functioning and development of the system to protect human rights and fundamental freedoms is the Constitution, particularly Chapter II, "Georgian citizenship; Fundamental human rights and freedoms". International treaties or agreements that are not contrary to the Constitution prevail over internal normative instruments. The functions of the Committee for the Protection of Human Rights and for Ethnic Relations, established in April 1992 within the executive, include to serve as a source of information for the country's leadership on the human rights situation, to study and monitor the situation as regards law, judicial decisions and administrative orders in the sphere of human rights, to examine complaints and submissions from citizens concerning breaches of rights and to make recommendations for the restoration of those rights. The Committee may also consult on any issues pertaining to human rights and assist in public education and the dissemination of knowledge on rights and methods for their protection. The Constitution also established the institution of People's Advocate with responsibility for exposing violations of human rights and personal freedoms and reporting on them to the competent bodies or persons. The People's Advocate is elected by Parliament for a five-

year term, thus guaranteeing independence. Other institutions for the protection of rights include the Parliamentary Committee on Human Rights and Questions of Ethnic Minorities, the Constitutional Court, and the post of Deputy Secretary of the Security Council for the Protection of Human Rights (established in 1997).

Economic, Social and Cultural Rights

Acceded: 3 May 1994.

Georgia's initial report (E/1990/5/Add.37) has been submitted and is scheduled for consideration by the Committee at its November/December 1999 session; the second periodic report is due 30 June 2001.

Civil and Political Rights

Acceded: 3 May 1994.

Georgia's second periodic report is due 2 August 2000.

Optional Protocol: Acceded: 3 May 1994.

Discrimination against Women

Acceded: 26 October 1994.

Georgia's initial report (CEDAW/C/GEO/1) has been submitted and is scheduled for consideration at the Committee's June 1999 session.

Torture

Acceded: 26 October 1994.

Georgia's second periodic report is due 24 November 1999.

Rights of the Child

Acceded: 2 June 1994.

Georgia's initial report (CRC/C/41/Add.4/Rev.1) has been submitted and is pending for consideration at the Committee's May/June 2000 session; the second periodic report is due 1 July 2001.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 15, 32, 86; E/CN.4/1998/68/Add.1, paras. 182-185)

The report refers to several cases in which death sentences were passed by the Supreme Court of Georgia acting as a court of first instance, and the official verdict recording that the sentence was final and not subject to appeal. The Special Rapporteur (SR) also received information indicating an alarming number of deaths in detention. According to the reports, during 1995 alone, 122 prisoners had died, with tuberculosis reportedly being one of the main causes of death aggravated by inadequate food, unsanitary conditions, and lack of medicines to prevent the spread of parasitic infections and disease. The SR also transmitted a case to the government related to death which occurred when police stopping two individuals and required them to be tested for drug abuse. The victim died from a beating administered

by the police; three members of the police were arrested in connection with the incident.

The SR expressed concern at the number of allegations of deaths in custody and called upon the government to safeguard the right to life of detainees and to bring conditions of detention into conformity with the Standard Minimum Rules for the Treatment of Prisoners.

Independence of judges and lawyers, Special

Rapporteur on the: (E/CN.4/1998/39, paras. 17, 19, 70–73)

In September 1997, the Special Rapporteur (SR) sent a communication to the government expressing concern about allegations of interference of the executive in political and criminal trials and politically sensitive trials. It was also reported that judges practise self-restraint in order to retain their jobs, and that sentences in politically sensitive cases are handed down by the Supreme Court acting as a court of first instance. According to information received, the sentences of this Court are considered final and the right of appeal to a higher court is denied. The SR was also informed that the April 1995 amendments to the Criminal Code substantially restricted the rights of lawyers in defending their clients through, for example, limiting a defence lawyer's access to important documents.

In its reply, the government referred to the Constitution adopted in August 1995 and the July 1997 adoption of the Basic Law on courts of general jurisdiction. The government stated that the Basic Law completely transformed the status of the courts in the country regarding their relations with other bodies of authority, and noted that the UN High Commissioner for Human Rights had been invited to comment on the Basic Law.

The SR noted that Georgia is going through a period of transformation from the previous Soviet system to democracy, and that the government had admitted that under the previous system there were many ways to influence the courts.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 48, 50, 59, 60, 63, 64, 94)

The report refers to violations of freedom of religion and belief against Christianity and Jehovah's Witnesses and the refusal to grant official recognition to certain religious groups and communities. The report refers to information indicating that the national Orthodox Church is trying to restrict the activities of other Christian organizations as well as those of other religious groups and communities. The Special Rapporteur also noted: the problem of restitution of goods and religious properties confiscated under the former regime has been raised; information indicated that Armenian Orthodox churches were closed; and that there have been incidents in which Jehovah's Witnesses literature has been confiscated.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 98–101; E/CN.4/1998/38/Add.1, paras. 134–136)

The Special Rapporteur (SR) transmitted to the government concerns related to reports indicating that most persons detained for political reasons, and some persons detained in ordinary criminal cases, were subjected to torture or other ill treatment during detention and interrogation. Information indicated that torture and ill treatment were used to obtain "confessions" or extract other information from detainees, and included such methods as: hanging upside down; scalding with hot water; extraction of fingernails or toenails; application of electric shocks; systematic beating, sometimes resulting in fractured bones or broken teeth; and threats that members of the detainee's family would be killed or tortured. Courts were said generally to refuse to exclude evidence, including "confessions", repudiated by defendants as having been obtained through torture, and to fail to investigate such claims of torture.

The report also refers to abusive conditions in prisons and detention centres, including severe overcrowding, lack of sanitation, widespread presence of contagious diseases such as tuberculosis and dysentery, and lack of adequate food and medical treatment.

The cases of seven persons were transmitted to the government. One case concerned six individuals, all members of the National Guard loyal to the Parliament ousted in 1992, who were reportedly convicted in June 1996 on charges of murder, banditry, and high treason, following lengthy pre-trial detention during which they were allegedly tortured until they confessed to the charges.

A separate case involved the arrest of one person who was charged with attempting to blow up the Vakhusti bridge, who was severely beaten at the police station. Information indicated that the individual attempted suicide during interrogation and received treatment in hospital; he was then transferred to an isolation cell in Tbilisi police department — apparently against the advice of doctors — where further beatings occurred; he was forced to sign a confession and was moved to a temporary detention cell at the Ministry of Internal Affairs, where he began a hunger strike; whereupon he was transferred to a Tbilisi investigation detention cell, where he again attempted suicide; and he made a third suicide attempt by cutting his own throat.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, para. 73)

The report notes that Georgia is among the countries that have become targets for the illicit movement and dumping of toxic wastes and products.

FIELD OPERATIONS

The Office was established on 10 December 1996 following Security Council resolution 1077 (1996) of 22 October 1996. The Office is jointly staffed by the OHCHR and the Organization on Security and Cooperation in

Europe (OSCE), each providing international staff on terms agreed to in the Memorandum of Understanding signed between the two organizations in April 1997. The headquarters is located in Tbilisi. Mr. Ryszard Komenda, Head of Human Rights Office, UN Human Rights Office in Abkhazia, Georgia; c/o UNOMIG, Vedzisi Zuemo St. 8, Tbilisi, Georgia; Phone: (1-212) 963-9562/63; Fax: (1-212) 963-9560/61.

The Human Rights Office forms part of, and is funded by the Department of Peace-keeping Operations (DPKO), UN Observer Mission in Georgia (UNOMIG), under the authority of the Head of Mission of UNOMIG. The Human Rights Office reports to the High Commissioner for Human Rights through the UNOMIG Head of Mission.

The mandate of the Human Rights Office is to promote respect for human rights, protect the human rights of the population of Abkhazia, contribute to a safe and dignified return of refugees and internally displaced persons, and to report on human rights developments. The programme of the Office includes human rights monitoring and technical cooperation. The Office also aims to strengthen capacities and infrastructures to promote human rights and democracy under the rule of law in the framework of a project of technical cooperation for the entire state of Georgia. This project, funded by the UN Voluntary Fund for Technical Cooperation, was scheduled to begin in 1998.

The objectives of the project are: to provide access to UN human rights information and capacity development in human rights for authorities and institutions of higher learning; to develop the legal community's capacity to teach human rights in the administration of justice; and to develop the human rights capacity of NGOs and the mass media in order to strengthen civil society. These objectives were to be accomplished primarily through "training trainers". Elements in the programme included: development, testing locally and publishing sufficient quantities of training materials for future long-term local use; distribution of UN human rights reference materials to establish permanent human rights depository libraries; translation of the International Bill of Human Rights into the Abkhaz language; training courses on UN human rights teaching in higher education; establishment of two human rights depository libraries; training courses on teaching in the area of administration of justice; training courses on human rights and capacity development for NGOs and mass media; scholarships for officials, educators, and representatives of NGOs and mass media to facilitate further study of human rights.

The Human Rights Office also carries out monitoring of human rights in order to help create a situation of rule of law to promote and protect human rights in Abkhazia. Monitoring includes analysis of the development of the legal system, and key institutions for the protection and promotion of human rights.

The main activities carried out as of August 1998 included: meetings with officials, educators, and NGO

representatives in order to acquaint the local community with the programme of the Office; establishment of cooperation with local NGOs; and, a meeting with government officials related to the situation of internally displaced persons in Abkhazia. The Office receives visitors and distributes UN publications on human rights.



HUNGARY

Date of admission to UN: 14 December 1955.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Hungary has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Signed: 25 March 1969; ratified: 17 January 1974.

Hungary's third periodic report was due 30 June 1994.

Reservations and Declarations: Paragraphs 1 and 3 of article 26.

Civil and Political Rights

Signed: 25 March 1969; ratified: 17 January 1974.

Hungary's fourth periodic report was due 2 August 1995.

Reservations and Declarations: Paragraphs 1 and 3 of article 48; declaration under article 41.

Optional Protocol: Acceded: 7 September 1988.

Second Optional Protocol: Acceded: 24 February 1994.

Racial Discrimination

Signed: 15 September 1966; ratified: 4 May 1967.

Hungary's 14th and 15th periodic reports were due 4 January 1996 and 1998 respectively.

Reservations and Declarations: Paragraph 1 of articles 17 and 18.

Discrimination against Women

Signed: 6 June 1980; ratified: 22 December 1980.

Hungary's fourth and fifth periodic reports were due 3 September 1994 and 1998 respectively.

Torture

Signed: 28 November 1986; ratified: 15 April 1987.

Hungary's third periodic report (CAT/C/34/Add.10) was considered at the Committee's November 1998 session; the fourth periodic report is due 25 June, 2000.

Rights of the Child

Signed: 14 March 1990; ratified: 7 October 1991.

Hungary's initial report (CRC/C/8/Add.34) was considered at the Committee's May 1998 session; the second periodic report is due 5 November 1998.

REPORTS TO TREATY BODIES

Committee on the Rights of the Child

Hungary's initial report (CRC/C/8/Add.34, September 1996; CRC/C/Q/HUN/1) was considered by the Committee at its May 1998 session. The report prepared by the government contains information on, *inter alia*: constitutional provisions related to the rights of the child and non-discrimination; the work of the Coordination Council for Children and Youth Affairs, established in 1994; the Child and Youth Council for Reconciliation of Interests, established in 1995; the definition of the child, autonomy and legal responsibility; family law, the best interests of the child; provisions in criminal law related to special protection for children; name, nationality and preservation of identity; the family environment and alternative care; children without families, adoption, illicit transfer and non-return; health and health services; children with disabilities; public education and the aims of education; the system of juvenile justice, deprivation of liberty; provisions in law related to sexual exploitation and sexual abuse; and the rights of children belonging to minority or indigenous groups.

The Committee's concluding observations and comments (CRC/C/15/Add.87) welcomed the establishment of the Coordination Council for Children and Youth Affairs, the Child and Youth Council for Reconciliation of Interests, Hungary's ratification of ILO Convention No. 138 regarding minimum age for access to work, and the Council of Europe's Framework Convention for the Protection of Minorities. The transition to a market economy was acknowledged as a hindrance to implementation of the Convention, in part because the transition has led to increased rates of unemployment, poverty and other social problems. The transition has had a serious impact on the welfare of the population, in particular on all vulnerable groups, including children.

The Committee remained concerned that, despite law reform initiatives, inconsistencies still exist between the provisions and principles of the Convention and domestic law, and there was an absence of a comprehensive and integrated national policy on the promotion and protection of children's rights. Concern was expressed over gaps in monitoring progress in all areas covered by the Convention — especially in terms of the impact of the economic transition — and the lack of disaggregated statistical data covering all children under the age of 18.

Additional concerns identified by the Committee included: questions related to the sustainability of the funding for health, education and social services for children; the absence of a regulating and monitoring mechanism to ensure appropriate distribution of resources to children by local authorities; the insufficiency of measures taken to disseminate information and educate all parts of society, adults and children alike, on the principles and provisions of the Convention; the fact that the Convention has not been made available in all the minority languages spoken in Hungary, including Roma; and the fact that insufficient training on the Convention has been provided to professional groups such as judges,

lawyers, law enforcement personnel, teachers, social workers, and civil servants. While cooperation between NGOs working with, and for, children and the authorities was welcomed, concern was expressed that the potential of the non-governmental sector in contributing to the development of children's rights policies and programmes is not fully realized.

The Committee noted the measures to improve the living standards of the Roma population but remained concerned about the persistence of discriminatory practices against them. The Committee also expressed concern over: the insufficient measures undertaken to promote children's right to participation within the family, at school, and in society in general; the restriction of the right of freedom of association, since there is no registry of associations managed by children; cases of ill treatment of children in the family and in institutions, as well as the lack of adequate measures for the psycho-social recovery of child victims of such abuses; cases of ill treatment by law enforcement personnel in or outside detention centres; provision in law granting the parent the option of placing a child up for adoption before birth; unequal access to health services and opportunities in the education system, especially in rural areas, among minority groups and families living in poverty; and, the insufficient awareness-raising campaign in health facilities on the benefits of breastfeeding.

Concern was expressed over: inadequacies in legal and other measures being taken to address the problems of child abuse, including sexual abuse within the family; the lack of research on the issue of sexual abuse within the family; the high rate of youth suicide; the insufficiency of measures taken to address adolescent health issues, such as reproductive health and the incidence of early pregnancies; the increase in drug abuse and alcohol consumption among children, and the insufficient preventive measures taken by the government; the insufficiency of legal and other measures to address the issue of sexual exploitation of children, including child prostitution and trafficking of children; the ill-treatment of children in detention centres, the fact that deprivation of liberty is not used as a measure of last resort; and the stigmatization of the most vulnerable categories of children, including those belonging to the Roma minority.

The Committee recommended that the government, *inter alia*:

- ♦ take all appropriate measures to facilitate the process of full harmonization of domestic legislation with the principles and provisions of the Convention in the form of a children's code;
- ♦ strengthen and expand the scope of existing mechanisms for coordinating and monitoring children's rights in order to reach local governments; establish structures dealing with children's issues in the various local governments; and define the relationship between the Coordination Council for Children and Youth Affairs and the various relevant structures in local governments;

- ♦ adopt a comprehensive and integrated policy for children, such as a national plan of action to assess progress achieved and difficulties encountered in the realization of the rights recognized by the Convention at the central and local levels, and in particular, to monitor regularly the effects of economic change on children;
- ♦ allocate resources to the maximum extent possible to ensure the implementation of economic, social and cultural rights, with particular emphasis on health and education and on the enjoyment of these rights by the most disadvantaged groups of children;
- ♦ take steps immediately to address the problem of child poverty and make every feasible effort to ensure that all families, particularly single-parent and Roma families, have adequate resources and facilities;
- ♦ encourage local governments to generate local income for funding social services, in particular for the protection and promotion of children's rights;
- ♦ strengthen efforts to disseminate the principles and provisions of the Convention and make it available in minority languages, especially Roma;
- ♦ conduct training on the Convention for professional groups working with and/or for children;
- ♦ continue and strengthen its efforts to develop a closer partnership with NGOs;
- ♦ continue and reinforce its efforts aimed at reducing discriminatory practices against the Roma population and improving the general status of Roma children;
- ♦ take all appropriate measures to prevent and combat ill treatment of children, including physical and sexual abuse within the family, at school and in child-care institutions; undertake prevention campaigns, including through education, to protect children against abuse and maltreatment;
- ♦ consider reviewing legislation and practice relating to the possibility of placing a child up for adoption before birth, and consider acceding to the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption;
- ♦ envisage undertaking further measures to prevent and redress unequal access to health services and to the education system between the rural and urban population, and in particular, to facilitate the access of Roma children to health and education;
- ♦ promote breastfeeding in health facilities; launch campaigns to reduce the number of teenage pregnancies, strengthen reproductive health education programmes, and launch information campaigns on family planning and prevention of HIV/AIDS;
- ♦ continue efforts in undertaking comprehensive studies on suicide among youth to enable authorities

to improve their understanding of this phenomenon, and take appropriate measures to reduce the suicide rate;

- ♦ undertake further preventive and curative measures, including rehabilitation and reintegration programmes, to address the issue of drug abuse and alcohol consumption among adolescents;
- ♦ continue efforts to prevent and combat the commercial sexual exploitation of children, especially the use of children in pornography and prostitution and the trafficking of children; develop rehabilitation and reintegration programmes for victims of sexual abuse and exploitation;
- ♦ address such issues as the ill treatment of children in detention centres, the use of deprivation of liberty other than as a measure of last resort, and the stigmatization of the most vulnerable categories of children, including those belonging to the Roma minority; and
- ♦ conduct training programmes on the relevant international standards for all professionals involved with the juvenile justice system.

Committee against Torture

Hungary's 3rd periodic report (CAT/C/34/Add.10, April 1997) was considered by the Committee at its November 1998 session. The report prepared by the government is intended to show, on the one hand, what kind of further new legal institutions have been established for strengthening democratic achievements and, on the other, to give an objective survey of the everyday working practices, methods and concrete results of all relevant authorities who are responsible for preventing torture and ill treatment. Information is provided on, *inter alia*: the functions and responsibilities of the office of the Ombudsman system (as of October 1995); international instruments to which Hungary has acceded since its last report to the Committee; the November 1994 visit to Hungary by the European Committee for the Prevention of Torture (CPT) and subsequent observations and recommendations; amendments to laws related to the Criminal Code and the code of criminal procedure, the structural system of the courts, the prison administration, the police, redress and compensation, and the armed forces; legal guarantees related to expulsion; custody measures related to aliens; provisions and agreements related to extradition and mutual assistance in criminal matters; activities of the Hungarian Centre on Human Rights; and professional training programmes for law enforcement personnel.

The Committee's concluding observations and comments (CAT/C/HUN) welcomed: Hungary's withdrawal of its reservation to the 1951 Geneva Convention relating to the Status of Refugees, on geographical limitation; the new legislation on asylum; Act LIX 1997 on Criminal Punishment System; and the Ombudsman mechanism.

Subjects of concern identified by the Committee included, *inter alia*: that provisions of article 123 of the Criminal Code make torture punishable only if the sol-

dier or policeman committing the act was aware that it is a criminal offence; the persistent reports that an inordinately high proportion of detainees is roughly handled or treated cruelly before, during and after interrogation by the police; that a disproportionate number of detainees and/or prisoners serving their sentences are Roma; information indicating that a number of complaints of torture or ill treatment do not result in the initiation of investigations by prosecutors; and reports that conditions in prisons, detention centres and holding centres for refugees include overcrowding and lack of exercise, education and hygiene.

The Committee recommended that the government, *inter alia*:

- ♦ take all necessary measures to ensure, in particular, prompt access to defence counsel assistance soon after arrest, and improved training to prevent and eradicate torture and all acts of ill treatment;
- ♦ include in its next periodic report all relevant statistics, data and information on: (a) the number of complaints about ill treatment, the proportion they represent in relation to the total number of cases investigated and, in particular, the proportion of Roma complaints, detainees and prisoners; (b) the number and proportion of cases discontinued by prosecutors, the reasons, if any, for such discontinuance and the measures taken to ensure the complete impartiality and effectiveness of the investigation of the complaints or accusations; and (c) complaints against military personnel for alleged torture of civilians and the justification for military prosecutors handling such cases;
- ♦ take all appropriate action necessary to bring the Hungarian translation of article 3 (1) of the Convention in line with the authentic text of this article; and
- ♦ re-examine article 123 of the Criminal Code and effect the necessary amendments in order to ensure its consonance with the terms and purposes of the Convention.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 110; E/CN.4/1998/38/Add.1, para. 159)

The Special Rapporteur referred one case to the government related to ill treatment of a detainee while in police custody at the Eighth District Police Station in Budapest. Information indicated that the person concerned was beaten and kicked all over his body by six or seven officers, and was subsequently treated for chest and spleen injuries and a ruptured eardrum. The victim reportedly filed a complaint about his treatment.



LATVIA

Date of admission to UN: 17 September 1991.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Latvia has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 14 April 1992.

Latvia's initial report was due 30 June 1994.

Civil and Political Rights

Acceded: 14 April 1992.

Latvia's second periodic report was due 14 July 1998.

Optional Protocol: 22 June 1994.

Racial Discrimination

Acceded: 14 April 1992.

Latvia's initial, second and third periodic reports were due 14 May 1993, 1995 and 1997 respectively.

Discrimination against Women

Acceded: 14 April 1992.

Latvia's initial and second periodic reports were due 14 May 1993 and 1997 respectively.

Torture

Acceded: 14 April 1992.

Latvia's initial and second periodic reports were due 13 May 1993 and 1997 respectively.

Rights of the Child

Acceded: 14 April 1992.

Latvia's initial report (CRC/C/11/Add.22) has been submitted and is pending for consideration at the Committee's September/October 2001 session; the second periodic report is due 13 May 1999.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 59)

The report refers to violations of freedom of religion or belief against Jehovah's Witnesses, including refusal to grant them official recognition.



LITHUANIA

Date of admission to UN: 17 September 1991.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Lithuania has submitted a core document (HRI/CORE/1/Add.97) for use by the treaty bodies. The report prepared by the government contains economic, statistical and demographic data as well as an historical overview and information on the general political structure. The general legal framework for the protection of human rights establishes that all of the citizens of Lithuania, as well as citizens of other states and persons without citizenship (unless otherwise provided), have the right to legal defence against attacks on their life, health, personal freedom, property, honour and dignity and other rights and freedoms guaranteed to them by the Constitution and laws. All the basic human rights are defined in the Constitution and all persons have the right of legal defence against the actions or inaction of the state and government institutions and officials. The Seimas (parliamentary) Ombudsmen's Office investigates complaints of abuse of official position and bureaucracy by state and local officials. Recently, a post of State Consultant on Human Rights was established within the government. International treaties to which Lithuania is a state party are a constituent part of the domestic legal system and the act of ratification grants a particular international legal document a status superior to that of domestic laws. As a consequence, there are no obstacles to the direct application of the provisions of international treaties in the courts and other legal institutions. In Lithuania there is no special institution entrusted with the supervision of the process of human rights enforcement. This supervision is pursued by government institutions, the Ministry of Justice in particular, and certain special institutions such as the Department of Regional Problems and Nationalities Affairs, the Children's Rights Protection Service and others.

Economic, Social and Cultural Rights

Acceded: 20 November 1991.

Lithuania's initial report was due 30 June 1994.

Civil and Political Rights

Acceded: 20 November 1991.

Lithuania's second periodic report is due 7 November 2001.

Optional Protocol: Acceded: 20 November 1991.

Racial Discrimination

Signed: 8 June 1998.

Discrimination against Women

Acceded: 18 January 1994.

Lithuania's initial report (CEDAW/C/LTU/1) has been submitted but is not yet scheduled for consideration by the Committee.

Torture

Acceded: 1 February 1996.

Lithuania's initial report was due 1 March 1997.

Rights of the Child

Acceded: 31 January 1992.

Lithuania's initial report (CRC/C/11/Add.21) has been submitted and is pending for consideration at the Committee's May/June 2001 session.



MACEDONIA, FORMER YUGOSLAV REPUBLIC OF

Date of admission to UN: 8 April 1993.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Macedonia has prepared a core document (HRI/CORE/1/Add.83) for use by the treaty bodies. The report prepared by the government contains demographic and statistic data as well as information on: the political and administrative systems, the structure of government, and the constitutional and legal framework related to human rights and freedoms. Constitutional provisions relate to, *inter alia*, the right to life, due process, the right to remedy, freedom of religion, the right to privacy, association, assembly and expression, the right to vote and be elected, citizenship and nationality. The Constitutional Court protects freedom of belief, conscience, thought and public expression of thought, political association and activities and the prohibition of discrimination against citizens on grounds of sex, race, or religious, national, social and political affiliation. In addition, there is a guaranteed court protection of the legality of individual acts of the state administration and of other public institutions. The citizen has the right to be informed on human rights and fundamental freedoms and to contribute actively, individually or in cooperation with others, to their promotion and protection. National machinery related to rights includes the Permanent Survey Commission on the Protection of Citizen Freedoms and Rights and the Council for Inter-Ethnic Relations.

Economic, Social and Cultural Rights

Succeeded: 18 January 1994.

The initial and second periodic reports of the FYR Macedonia were due 30 June 1993 and 1998 respectively.

Civil and Political Rights

Succeeded: 18 January 1994.

The initial report of the FYR Macedonia (CCPR/C/74/Add.4) was considered at the Committee's July 1998 session; the second periodic report was due 16 September 1997.

Optional Protocol: Succeeded: 12 December 1994 .

Second Optional Protocol: Acceded: 26 January 1995.

Racial Discrimination

Succeeded: 18 January 1994.

The fourth report of the FYR Macedonia was due 17 September 1998.

Discrimination against Women

Succeeded: 18 January 1994.

The initial report of the FYR Macedonia was due 17 February 1995.

Torture

Succeeded: 12 December 1994.

The initial report of the FYR Macedonia (CAT/C/28/Add.4) has been submitted and is scheduled for consideration at the Committee's May 1999 session; the second periodic report is due 11 December 1999.

Rights of the Child

Succeeded: 2 December 1993.

The initial report of the FYR Macedonia (CRC/C/8/Add.36) has been submitted and is pending for consideration at the Committee's January 2000 session; the second periodic report was due 16 September 1998.

REPORTS TO TREATY BODIES

Human Rights Committee

Macedonia's initial report (CCPR/C/74/Add.4, March 1998) was considered by the Committee at its July 1998 session. The report prepared by the government contains information on, *inter alia*: constitutional provisions related to rights and freedoms; laws adopted aimed at implementation of the Covenant, the European Convention on Human Rights, and other international human rights instruments; the office of the Ombudsman; the Parliamentary Permanent Survey Commission for the protection of rights and freedoms; the Department for the Promotion of Equality Between the Sexes, established in 1997; permissible restrictions on rights and freedoms; the right to life, controls on the use of firearms by state agents, the prohibition of capital punishment; the prohibition of torture and ill treatment, exclusion of evidence obtained illegally, interrogation and the Law on Criminal Procedures, legal restraints on the use of force; treatment of detainees and prisoners and disciplinary punishment; remedy and compensation for violations of rights; freedom of movement and choice of residence, expulsion and deportation procedures; equality before the law, the right to a fair and public hearing, the rights of the accused; the independence of the judiciary; protection of privacy, search of home and person, correspondence and personal data, honour and reputation; freedom of thought, conscience and religion, conscientious objection; freedom of expression, the Law on Broadcasting, the Law on Public Information, permissible restrictions;

prohibition of propaganda for war and incitement to hatred; peaceful assembly and the right to association, trade unions, political parties, citizen associations; protection of the family, marriage, equality of spouses; protection of the child and parental responsibilities; the right to vote and be elected, equal access to public service; the prohibition of discrimination on any grounds; and the rights of minorities, free expression of national affiliation, the use of and education in languages of nationalities, cultural institutions and diversity in/of the media.

The Committee's concluding observations and comments (CCPR/C/79/Add.96) noted the government statement that the principal difficulty in ensuring effective implementation of the Covenant lies in the complex and difficult process of transition from a political and social environment shaped by the concept of collective rights to a respect for the rights of individuals. Continuing ethnic tensions, particularly concerning the Albanian minority, were also noted as a matter of major concern.

The Committee welcomed: the fact that, by virtue of article 118 of the Constitution, the Covenant is a part of the internal legal order which cannot be changed by domestic legislation, and that its provisions may be directly invoked before the courts; the commitment of the government to proceed with the reform of the judicial system and of the system of penitentiary institutions; the passage of the Law on the Ombudsman in February 1997 and the subsequent appointment by the Parliament of the Ombudsman; the enactment of legislation designed to comply with the anti-discrimination provisions of the Covenant — including the Act on Public Information, the Act on Telecommunications and the Law on Broadcasting, which prohibit the use of mass media to incite national, racial or religious hatred or intolerance; the Act on Political Parties, which prohibits the establishment of parties whose aim is the incitement to national, racial or religious hatred and intolerance; the Act on Social Organizations and Citizens' Associations, which also prohibits activities that violate human rights or encourage national, racial or religious hatred or intolerance; and the Assembly Declaration of 1997 on the promotion of inter-ethnic relations. The Committee commended the government for its cooperation with NGOs and foundations, including the Macedonia Center for International Cooperation, the Open Society Institute, and women's organizations, as well as the dissemination of the Covenant and the Optional Protocol in the Macedonian language and in the languages of the ethnic minorities.

The principal subjects of concern identified by the Committee included, *inter alia*: ethnic violence involving the police in Gostivar in July 1997 and indications that all fair-trial guarantees were not met in dealing with local officials; reported cases of abuse of police authority, including unlawful arrest and detention, excessive use of force — especially against members of minority groups — and physical ill treatment of detainees; the continued application of restrictive legislation inherited from the previous regime in various fields, including concerning

the importation of foreign printed materials, noting that such laws may violate the Covenant's provisions and, in more general terms, make the degree of its incorporation into the domestic legal system uncertain; the fact that the principle of equality between women and men is far from being implemented in practice, particularly in the spheres of employment and education, in spite of progress in some areas such as the judiciary; and, bearing in mind that marital rape has been considered a crime since 1996, reports indicating that domestic violence against women is widespread. Concerns were also raised in relation to the continuation of the practice of forcing citizens to attend "informative talks" at police stations, the continuing low level of minority participation in political, administrative, cultural and other institutions, and the situation of the Roma population.

The Committee recommended that the government, *inter alia*:

- ♦ provide for an independent investigation of events in Gostivar in July 1997, subject those found responsible to appropriate penal or disciplinary sanctions, and take all necessary measures to prevent similar occurrences anywhere within the country;
- ♦ ensure appropriate disciplinary or penal sanctions against persons responsible for cases of abuse of police authority; strengthen training programmes on human rights for the police and establish permanent mechanisms for ongoing instruction with the participation of international agencies and experts in the field;
- ♦ ensure that persons under its jurisdiction enjoy the right to seek and impart information and repeal any legislation which runs counter to those rights;
- ♦ take further measures without delay to ensure genuine equality between women and men, noting the activities of the Department for the Promotion of Gender Equality and other governmental initiatives to overcome deeply rooted stereotypes and traditions;
- ♦ ensure that concerted action is taken by all public authorities to reduce the incidence of domestic violence and to strengthen the remedies which are open to women who are subjected to it; and
- ♦ strengthen its programmes to increase the representation of the Albanian and other ethnic minorities in public life, including the civil service, army and police; continue to encourage minority participation in the design, organization and functioning of the educational system, in particular at the secondary and higher educational levels, and provide for the training of teachers of minority languages in public establishments.

COMMISSION ON HUMAN RIGHTS

Report of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia

The mandate of the Special Rapporteur on the former Yugoslavia was established at the Commission's 1992 special session. Since that time, the situation in the FYR Macedonia has been addressed in the general report on the situation in the territory of the former Yugoslavia. The resolution adopted at the 1997 session of the Commission anticipated conclusion of consideration of the situation in FYR Macedonia based on a final and separate report from the Special Rapporteur unless there was information indicating that continued monitoring was advised. Ms. Elisabeth Rehn was the Special Rapporteur (SR) who prepared the report for the 1998 Commission.

The SR's report to the 1998 session (E/CN.4/1998/12), includes information on: legal protections, the Office of the Ombudsman, security of person and the incident in Gostivar, the right to freedom from arbitrary arrest and detention, minority rights, freedom of religion, the situation of the media, the right to an adequate standard of living and the situation of refugees.

In general observations, the SR comments that the government had made considerable progress in the maintenance of peace and the protection of human rights and had succeeded in staying at peace with neighbours in a volatile region. Note was also made of the increasing contacts between FYR Macedonia and its neighbours as well as the establishment of diplomatic relations with Greece and Yugoslavia. The SR cautioned against complacency, however, and stated that close monitoring of developments in the region is necessary. The instability in Albania and the increase in weapons smuggling and other illegal activities were identified by the SR as causes of concern.

The review of legal protections notes, *inter alia*, that the process of legislative reform has been slow and the Constitutional Court has to intervene from time to time to bring laws into conformity with the Constitution and most basic laws are now in place so that the legal structure of the state has been established; the reform of the judiciary gained momentum with the implementation of the new Law on Courts in July 1996 but many courts still face technical and financial difficulties and lengthy delays in court proceedings have been reported as well as challenges to the competence and independence of some judges; and FYR Macedonia is a state party to virtually all major international human rights instruments, became a member of the Council of Europe in November 1995, and ratified the European Convention on Human Rights and several of its Protocols, as well as the Framework Convention for the Protection of National Minorities.

Commentary on the Office of the Ombudsman notes that at the time the report was prepared: the Office had not yet become operational, but was expected to be func-

tioning by December 1997. The report notes that the Office would: be composed of the Ombudsman, four Deputy Ombudsmen and some 15 legal professionals, not take a regional approach to its work, but instead cover the entire country from Skopje; be accessible to all members of society to assist in the resolution of grievances, and respond to complaints filed by citizens within a reasonable time; independently institute proceedings when required, and use both formal decisions and public statements to advance the public interest; remain faithful to its independent character; and proceed from the understanding that its primary role is to defend citizens against unlawful or improper government action and that its position with respect to the government is essentially adversarial.

Regarding the right to security of person, the report summarizes events in Gostivar and Tetovo arising from police action to enforce an order of the Constitutional Court compelling the removal of Albanian and Turkish flags installed by local authorities in front of municipal buildings. The SR noted police methods in Gostivar during a confrontation with ethnic Albanian demonstrators which resulted in the deaths of three people and injuries to approximately 200 others. The methods used by the police included excessive force, beatings against those offering no resistance, assaults on children, use of lethal force and firearms, ransacking of the property of ethnic Albanians, and detentions and beatings against demonstrators. The SR acknowledged that police in Gostivar had also been injured.

The report notes that the government responded to the concerns raised by stating that: members of the local Albanian populations in Gostivar and Tetovo were planning armed resistance against any attempt to remove the flags; police who had entered the town halls during the early morning hours to remove the flags found a number of unregistered weapons, as well as documentation related to "crisis committees" which "it was envisaged would take action if authorities attempted forcible removal of the flags"; and, some individuals among the demonstrators possessed and used weapons themselves, ranging from stones to Molotov cocktails and firearms, placing police in danger. The SR noted that as at the end of the August 1997 the government was conducting an inquiry to determine whether police exceeded their authority and that, in September 1997, the Parliament decided to establish a "survey commission", operating independently of government and mandated to report its findings within 30 days after its creation.

The SR referred to the fact that, up to the time the report was prepared, no police officer implicated in the use of excessive force during events in Gostivar had been the subject of legal inquiry or suspended from duty pending the results of such an inquiry while, at the same time, legal proceedings had advanced rapidly against persons who participated in the demonstrations as well as against leaders of the municipalities involved.

In commentary on the right to freedom from arbitrary arrest and detention, the report recalls a previously

expressed concern on the prevalence of arrests carried out in violation of legal safeguards, often without presentation of supporting court orders. Concern was also repeated over the arbitrary and unlawful practice of forcing citizens to attend so-called "informative talks". The report welcomes the decision of the Constitutional Court, in February 1997, and the enactment of the new Law on Criminal Procedures, in March 1997, prohibiting the police from compelling persons to attend "informative talks" without a written court order; however, it noted that the provisions of the new law often go unimplemented.

On the issue of minority rights, the SR recalled the basic principle of the government's minority policy, namely "to support the fostering of the identities of minority groups while at the same time seeking to integrate them into Macedonian society." It was acknowledged, however, that the government's ability to achieve the full implementation of its policies is impeded by objective circumstances but the report also stated that in other circumstances the extent of its commitment to progress may reasonably be questioned. The description of the situation of minorities notes, *inter alia*, that: minorities enjoy the benefits of several state-financed minority culture and art associations and several radio and television programmes and newspapers in minority languages; minority populations take part in political life of the country but their participation still needs to be strengthened as do educational opportunities related to minority representation in the judiciary; all primary and secondary education is available in minority languages, according to students' needs and interest; and there has been an upward trend in the participation of minority students in secondary education in their mother tongue. In the fall of 1996, the Skopje Faculty of Philosophy and the Ministry of Education initiated the Ethnic Conflict Resolution Project consisting of "conflict resolution games" for children, and "conflict awareness seminars" designed for older groups. The report notes that the question of a minority curriculum for ethnic Turkish children from Debarska Zupa however, remained open; the authorities have refused to respond favourably to the demand of minority students in higher education that full instruction in their mother tongues be provided at public universities — on the basis that there is a need to integrate all Macedonian citizens into the society; and the Law on Languages of Instruction at the Skopje Pedagogical Faculty provides for instruction in Albanian and Turkish for future teachers.

To the extent that language and education go directly to the question of self-expression and the capacity of individuals to advance and participate in society, the continuing difficulties in these areas are noted as a cause of concern and the report refers to the fact that: controversy over higher education will persist until enactment of a new Law on Higher Education; deliberations on such a law were initiated nearly two years ago, in November 1995, and a second reading and debate on a draft law would take place at the Parliament by the end of September 1997; while the Constitution does not prohibit the

use of minority languages in higher education or set limitations on their use in private institutions, the current draft law provides for instruction in minority languages only in the pedagogical faculties, as well as in some subjects in other faculties related to the promotion of the cultural and national identities of minorities; and, the draft law does not expressly prohibit use of minority languages at private institutions, but it is argued that the government could use its regulatory powers under the law to deny official registration to private institutions which use minority languages.

In commentary on "Tetovo University", in which instruction is in Albanian, the SR noted that the institution has continued to function without major influence from the government. In May 1997 the institution received renewed support from the Albanian community and its political leaders, with the mayors of 22 municipalities governed by political parties of ethnic Albanians declaring themselves formally co-founders of the institution, taking responsibility for its future and stating that, if the government continued to fail to give financial support they would be compelled to take concrete measures for its financing. The SR noted that: the moment was approaching when the first students would graduate from "Tetovo University", after spending four years of their lives in acquiring what would appear to be invalid university diplomas; as a result, the situation will become more complicated and there will be an increased need for dialogue among the parties to reach a satisfactory solution to the problem; and, the government continues to take the position that it is under no obligation to support minority-language institutions of higher education, despite the need to take into account the futures of the graduates of "Tetovo University".

The report addresses the right to foster cultural identity and the sensitive issue of flags, recalling that the events in Gostivar were the culmination of a controversy over the issue of the use of flags as cultural symbols. Recalling the establishment of the new system of local self-government in late 1996, the report notes that local authorities in some communities in the western part of the country, ruled by the Democratic Party of the Albanians, have taken the position that the right of minorities under the law to use cultural symbols extended to the display of Albanian and Turkish flags in front of municipal buildings and, further, that the flags which have been used are identical to the state flags of Albania and Turkey. Elements in the controversy include: decisions of the Constitutional Court in May which held that the flags impermissibly represented the sovereign attributes of Albania and Turkey; the insistence of local authorities that the flags have only cultural and ethnic significance; the Law on the Usage of Flags by Which Persons Belonging to National Minorities in the Republic of Macedonia Express Their Identity and National Attributes, approved by Parliament (8 July 1997) and the Law on the Usage of the Coat of Arms, the Flag and the Anthem of the Republic of Macedonia (3 July 1997), which give legal shape to the right of minorities to use flags which they consider to express their identities and national attrib-

utes. These laws impose no conditions on the design of the minority flags or their use at private occasions but do stipulate that minority flags must be smaller in size than the state flag of FYR Macedonia and may only be displayed on national holidays at local self-governed municipalities where a national minority makes up a majority of the municipal population.

With regard to freedom of religion, the report refers to the new Law on Religious Communities and Religious Groups (July 1997) and notes that the law is based on the view that there are two different types of religious associations — one consisting of the three largest religions in the country (the Macedonian Orthodox Church, the Islamic Community and the Roman Catholic Church) which are classified as "religious groups" and the other encompassing all remaining religions, which are classified as "religious communities". The Law has been strongly criticized by many religious groups on the basis that it favours "traditional" religions over so-called "new" religions, and because provisions stipulate that religious services may be performed only by communities or groups registered by the government. Further criticism of the law was made indicating that the Law restricts the use of printed materials and employment of foreign lecturers, and hinders religious instruction of children.

The SR noted that the long-standing issue of the inability of persons belonging to the Serb minority to exercise freely their religion and register religious communities of the Serb Orthodox Church remains unresolved and the Serb Orthodox Church clergy continue to be prohibited from entering the country or holding services for the Serb population. The SR referred to the view expressed by some that passage of the new Law on Religious Communities and Religious Groups makes resolution of this issue even less likely.

Concerning the media, commentary is included on the Law on Broadcasting (April 1997), noting that the law provides for nationwide public and private electronic media outlets, approved for operation by government concession, based on the recommendation of the Radio-Diffusion Council (RDC) an independent body of citizens which, among other roles, supervises the granting of concessions and government funds for broadcasting. Private outlets may broadcast nationwide on the condition that they reach at least 70 per cent of the population but concerns over the law have been expressed on the basis that it allows "programming quality" to be used as a criterion for the granting of concessions.

The report notes that: the economic situation continued to have a negative impact on the right to an adequate standard of living in such areas as unemployment, delays in payment of salaries, and a steady increase in the cost of living; the embargo imposed by Greece has had a lingering impact; a slight increase in industrial production held out the prospect for new jobs; most refugees who came to FYR Macedonia, mainly from Bosnia and Herzegovina, have left for third countries or been repatriated; those refugees who remain, mainly women and children, are housed in collective centres in generally satisfactory

conditions; refugee children have full access to education; and the government has cooperated in addressing the overall needs of refugees and shown a readiness to discuss problems on a case-by-case basis.

The report recommends that:

- ♦ the government continue to take all possible measures to prevent ongoing abuse of police authority, related to, *inter alia*, unlawful arrests and detentions, excessive use of force and physical ill-treatment of detainees;
- ♦ the Ombudsman maintain strict independence from the government, and at the same time, close contact with citizens, communicate regularly with non-governmental human rights organizations and other citizens' groups to learn of their concerns and be able to respond appropriately and enter into contact with ombuds-offices in other countries, to have the benefit of their experience;
- ♦ the government take all possible measures to ensure that police respect their new obligation to seek and produce written court orders before calling citizens in for "informative talks";
- ♦ the government make urgent arrangements for a strengthened training programme for police, including establishment within the programme of a permanent mechanism for ongoing instruction by experienced international police;
- ♦ based on the work of the inquiry into the Gostivar incident, the police officers implicated in the use of excessive force be immediately suspended from duty, pending the inquiry's final results;
- ♦ the government and leaders of the Albanian community work together to address the problems raised by the existence of the so-called "Tetovo University", with the interests of young people who have conducted their studies there as the main concern;
- ♦ the government maintain its close communication and cooperation with international offices concerned with minority issues, notably the office of the OSCE High Commissioner for National Minorities;
- ♦ in the interest of maintaining peace and protection of human rights, the government maintain a constructive dialogue in its bilateral relations with its neighbours, in particular with Albania;
- ♦ the Commission on Human Rights remove FYR Macedonia from the mandate; and
- ♦ the OHCHR maintain its presence in Skopje to work on implementation of its technical cooperation project with the government.

The Commission on Human Rights accepted the recommendation to remove FYR Macedonia from the mandate of the Special Rapporteur.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 69, 81–83)

The report refers to violations of freedom of religion or belief against communities and individuals who practice Christianity and Islam. The government provided detailed information on legislative and institutional provisions guaranteeing freedom of religion, which are designed to prevent and eliminate hatred, intolerance, and violence. In particular the information noted: the ban on the use of religion by religious groups and communities for political ends or to encourage intolerance; the obligation for political parties and other associations to pursue programmes and activities that respect the constitutional order and do not encourage hatred and intolerance, particularly religious intolerance, under pain of dissolution; and, the principle of non discrimination, particularly on religious grounds in secondary education. The importance to be attached to human rights, non discrimination, and tolerance in primary and secondary school curricula was also underscored.

In reply to allegations about the shortage of mosques — or even the destruction of premises serving as mosques — and the failure by the authorities to issue the necessary building permits for mosques, the authorities stated that no religious community had so far claimed that it was unable to conduct its religious activities or that it lacked sufficient places of worship. The government further stated that out of a total of 2,030 religious establishments 1,550 belong to the Macedonian Orthodox Church, 450 to the Muslim community, 15 to the Catholic Church and 15 to the Protestant Church. Concerning the Serbian Orthodox Church, the authorities explained that applications from members of the clergy to enter the country had been refused on the grounds that their Church did not recognize the independence of the Orthodox Church, within which it appointed its own administrators. Nevertheless, it was emphasized that members of the Serbian Orthodox Church were able to practise their religion and to have their own church, which had to have the status of a church of the diaspora. The authorities further stated that the adoption of a new law on religious groups and communities had been preceded by joint meetings with all the religious denominations, some of whose proposals had been adopted.

SECURITY COUNCIL

Report of the Secretary-General

The June 1998 report of the Secretary-General (S/1998/454) relates to the completion of the mandate of the UN Preventive Deployment Force (UNPREDEP) on 31 August 1998 and recommendations on the type of international presence that would be most appropriate in Macedonia after that date.

The report notes that the civilian component of UNPREDEP continued to play an important role in the implementation of the mandate of good offices of the Secretary-General's Special Representative, especially by conducting an active dialogue with the authorities and all other major political forces in the country. Activities included: monitoring possible areas of conflict and the status of application of international human rights standards; assistance in strengthening cross-party dialogue; and encouraging political and inter-ethnic communication with a view to easing potential tensions and promoting understanding among the various segments of the population. Assistance was also provided in training law enforcement officials.

Developments in areas with implications for human rights are noted as having included: an inter-party dialogue devoted to inter-ethnic relations; the adoption of the electoral law; preparations for the national elections scheduled for late 1998; objections raised by opposition parties and independent media with regard to the existing procedures for the distribution of radio and television frequencies and to the allocation of funds to support the printed media; the imprisonment of the ethnic Albanian Mayor of Gostivar, followed by a series of protest marches launched by the unregistered Democratic Party of Albanians (DPA), as well as the withdrawal or suspension of DPA mayors, municipal councillors and members of Parliament from the relevant state structures, noting these developments had added to the complexity of inter-ethnic relations.

The report of the Parliamentary Commission investigating the 9 July 1997 police action in Gostivar was submitted in March 1998 and concluded, *inter alia*, that some individuals and groups had exceeded their authority, and that excesses by certain police representatives who detained citizens during and after their action was indisputable. On the basis of the report, the National Assembly obligated the government to report, by 31 May 1998, on action taken to improve the ethnic structure of the police force, to enhance human rights training of the police, and to effect disciplinary measures against police officers who had overstepped their authority in connection with the Gostivar events.

The report states that peace and stability in Macedonia continued to depend largely on developments in other parts of the region and notes that developments in Kosovo had highlighted the danger of renewed violence in the area and the serious repercussions such violence can have upon external and internal security. Reference is also made to the slow progress in implementing some civilian aspects of the Dayton Peace Accords in Bosnia and Herzegovina and in initiating a comprehensive regional programme for the return of refugees and displaced persons. In addition to regional uncertainties, the report refers to the absence, internally, of a truly consistent trend towards an improvement in inter-ethnic tensions in a spirit of mutual understanding.

With these and other points in mind, the report concludes that it would be premature to proceed with a decision to withdraw UNPREDEP after 31 August 1998.

Annex I of the report sets out the findings and conclusions of a consultative meeting of the UN entities working in Macedonia. The challenges confronting the country in the short run were seen to include, *inter alia* a substantial reduction of productive capacity and growth in unemployment and its attendant social ills and drug trafficking, corruption and criminality — symptoms of deeper underlying social and economic problems. The consultative meeting agreed that the main components of a strategy, contributing to the preservation and further consolidation of peace, stability and sustainable development, should include: regional and international cooperation based on expanded trade, economic, political and cultural relations; confidence-building measures, including macroeconomic stability to attract investment and promote employment; measures to establish an enabling legislative framework for private sector development; structural reforms and modernization to prepare the ground for a competitive export-oriented economy; administrative reforms to strengthen public administration, corporate governance and transparency and professionalism in public sector management, including the promotion of human resources development and training; consolidation of an *état de droit* based on the rule of law, good governance, social dialogue, an active civil society and respect for human rights; upgrading of the physical infrastructure required for the development of industry, including that of civil aviation, roads and railroads and communication networks, tourism and trade; protection of the environment and health as well as the country's diversified cultural heritage; and promotion and facilitation of social service reform, notably education, social protection and security and health.

Resolution of the Security Council

In July 1998 the Security Council adopted a resolution (S/RES/1186) addressing concerns in Macedonia. The Council, *inter alia*: referred to previous resolutions 795/1992 and 1142/1997 on possible developments which could undermine confidence and stability in FYR Macedonia or threaten its territory; recalled resolutions 1101/1997 and 1114/1997 expressing concern over the situation in Albania and resolution 1160/1998 deciding that all states should prevent the sale or supply to FRY, including Kosovo, of arms and related matériel of all types and prevent arming and training for terrorist activities there; reiterated its appreciation for the important role played by the UN Preventive Deployment Force (UNPREDEP) in contributing to the maintenance of peace and stability, and paid tribute to its personnel in the performance of their mandate, and to the Force's work in deterring threats and preventing clashes, including monitoring and reporting on illicit arms flows within its area of responsibility; noted the request of the FYR government related to the extension of the mandate of UNPREDEP and endorsing the option of an increase in its troop strength; reaffirmed its commitment to the independence, sovereignty and territorial integrity of the FYR Macedonia; authorized an increase in the troop strength of UNPREDEP and extended the mandate to 28 February 1999.

FIELD OPERATIONS

The OHCHR office in Macedonia was established in 1993 and was originally intended to support the mandate of the Special Rapporteur of the Commission on Human Rights. The legal authority for the OHCHR presence is based on annual resolutions of the Commission on Human Rights, extending the mandate of the Special Rapporteur and calling on the Secretary-General to support the Special Rapporteur by maintaining a field presence. The headquarters is located in Skopje. Ms. Silva Pestic, Head of Office, Ilindenska bb, UNPREDEP HQ, 91000 Skopje, Former Yugoslav Republic of Macedonia; Phone: (389-91) 361168; Fax: (389-91) 363293; e-mail: silva_pestic_@_dpko-unpredep.

A human rights training programme for police, to be conducted under the Voluntary Fund for Technical Cooperation, is in development, in consultation with the government. The main activities carried out as of August 1998 included weekly and monthly reports to the OHCHR on human rights developments; liaison work with the government, the OHCHR, and the UN human rights mechanisms; provision of information to the government, as well as to elements of civil society, notably non-governmental organizations, on aspects of the UN human rights programme; and regular workshops and training sessions with NGOs, academic institutions and others.



MOLDOVA, REPUBLIC OF

Date of admission to UN: 2 March 1992.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Moldova has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Acceded: 26 January 1993.

Moldova's initial report was due 30 June 1995.

Civil and Political Rights

Acceded: 26 January 1993.

Moldova's initial report was due 25 April 1994.

Racial Discrimination

Acceded: 26 January 1993.

Moldova's initial, second and third periodic reports were due 25 February 1994, 1996 and 1998 respectively.

Discrimination against Women

Acceded: 1 July 1994.

Moldova's initial report was due 31 July 1995.

Torture

Acceded: 28 November 1995.

Moldova's initial report was due 27 December 1996.

Rights of the Child

Acceded: 26 January 1993.

Moldova's initial report was due 24 February 1995.



POLAND

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Poland has submitted a core document (HRI/CORE/1/Add.25) for use by the treaty bodies. Much of the report prepared by the government is dedicated to demographic data and statistical information on areas related to the national economy (e.g., consumer prices, goods and services, employment and earnings). Information is also provided about the political system and the judicial system.

Human rights are protected through the functions of the Ombudsman and the Prosecutor's Office. Codes of criminal, administrative and correctional procedures provide the legal guarantees of rights set out in the Constitution, including non-discrimination, equality between women and men in all areas of public, political, economic, social and cultural life, freedom of conscience and worship, freedom of speech, freedom of the press, freedom to assemble and demonstrate, the right of association and integrity of person.

Economic, Social and Cultural Rights

Signed: 2 March 1967; ratified: 18 March 1977.

Poland's third periodic report (E/1994/104/Add.13) was considered at the Committee's May 1998 session; the fourth periodic report is due 30 June 1999.

Civil and Political Rights

Signed: 2 March 1967; ratified: 18 March 1977.

Poland's fourth periodic report (CCPR/C/95/Add.8) has been submitted and is scheduled for consideration at the Committee's July 1999 session; the fifth periodic report is due 27 October 1999.

Reservations and Declarations: Declaration under article 41.

Optional Protocol: Acceded: 7 November 1991.

Reservations and Declarations: Paragraph 2 (a) of article 5.

Racial Discrimination

Signed: 7 March 1966; ratified: 5 December 1968.

Poland's 15th periodic report was due 4 January 1998.

Reservations and Declarations: Article 22; paragraph 1 of articles 17 and 18.

Discrimination against Women

Signed: 29 May 1980; ratified: 30 July 1980.

Poland's fourth and fifth periodic reports were due 3 September 1994 and 1998 respectively.

Torture

Signed: 13 January 1986; ratified: 26 July 1989.

Poland's third periodic report (CAT/C/44/Add.6) has been submitted and is pending for consideration at the Committee's November 1999 session; the fourth periodic report is due 24 August 2002.

Reservations and Declarations: Reservations to article 20 and article 30, paragraph 1.

Rights of the Child

Signed: 26 January 1990; ratified: 7 June 1991.

Poland's second periodic report was due 7 July 1998.

Reservations and Declarations: Reservations under articles 7 and 38; Declarations on articles 12 to 16; article 24, paragraph 2 (f)

REPORTS TO TREATY BODIES**Committee on Economic, Social and Cultural Rights**

Poland's third periodic report (E/1994/104/Add.13, June 1996) was considered by the Committee at its May 1998 session. The report prepared by the government contains a number of tables with demographic and statistical data related to the rights set out in the Covenant. Commentary on the protection of rights covers such areas and concerns as: the labour market situation, including unemployment and protections for the unemployed; measures taken to create new jobs and difficulties encountered in attaining full employment; non-discrimination in employment; occupational health and safety; trade unions and workers' rights; social security and social insurance; health services and provisions affecting persons with disabilities; family benefits and child care; the meaning given to the term "family" and the Polish Family and Guardianship Code; family and maternity protection; the education system; youth employment; characteristics of the economic situation of households; housing stock and resources; relevant health problems and the National Health Programme; the education system, national minorities education; the national cultural policy; and intellectual property and copyright protection.

The Committee's concluding observations and comments (E/C.12/1/Add.26) welcomed, *inter alia*: the prominence accorded to economic, social and cultural rights in the 1997 Constitution; the establishment and functioning of the office of the Commissioner for Citizens' Rights; and that the new Constitution foresees the establishment of a Commissioner for Children's Rights. The success of efforts to control inflation and raise production and the doubling of the level of per capita income were noted, as were efforts to secure international assistance in implementing many social programmes and modernizing government facilities. The Committee viewed positively the

Action Programme for Women, which includes among its objectives the elimination of violence against women, and noted with interest the assurances offered that domestic violence will be fully addressed in the next periodic report. The government's efforts to upgrade its labour market services to improve access to employment opportunities, to retrain workers for jobs in demand, and to provide assistance to people wishing to move from overpopulated to underpopulated rural areas were commended.

In terms of factors hindering implementation of the Covenant the Committee recognized the difficulties arising from the process of political transition to a democratic form of government, as well as problems arising from the transition to a market-oriented economy.

The principal subjects of concern identified by the Committee included: the failure to conclude treaties similar to the one signed with Germany on the subject of the German ethnic minority with respect to other minority groups, and that such a situation may lead to perceived or actual inequalities between minorities; and that policies and decisions of a social nature seem to be excessively influenced by particular religious considerations and do not take adequate account of the existence of minority religious groups.

Referring to the situation of women, the Committee expressed concern over: the imposition of restrictions on abortions that exclude economic and social grounds for performing legal abortions and that, because of this restriction, women are resorting to unscrupulous abortionists and risking their health in doing so; the fact that family planning services are not provided in the public health-care system so that women have no access to affordable contraception; the rising incidence of domestic violence and of trafficking of young women; the absence of specific regulations on sexual harassment of women, the lack of shelters for the women and children who are victims of family violence, and the apparent lack of counselling facilities for such victims; the fact that the right to work is not fully realized by women; the failure to respect the principle of equal pay for equal work; the fact that women earn on average only 70 per cent of the wages earned by men, despite their generally higher levels of education; and the existence of discriminatory practices, such as job advertisements specifying the preferred gender of the employees sought, and women candidates for jobs being asked to take pregnancy tests, despite the existence of legislation prohibiting such practices.

The Committee also expressed concern over: the high unemployment rate and the large numbers of unemployed and underemployed persons, particularly youth in rural areas; the existence of "grey" and "black" markets, where people work with no formal contract and pay little or no taxes and which is encouraged by the high employment taxes, noting that new measures were introduced to address this concern with the results yet unknown; existing legal provisions under which forced evictions may be carried out without provision for alternative lodging; the problem of homeless people caused by the

acute shortage of housing, the relatively high number of families living below the poverty line; the deterioration in health indicators as seen in declining levels of nutrition, rising alcoholism, and increasing cardiovascular disease and cancers; and the inadequate enforcement of occupational safety laws resulting in a relatively high number of accidents in the workplace, both in the private and the public sectors.

The Committee recommended that the government, *inter alia*:

- ♦ take special care to ensure full respect for the rights of all religious groups, particularly concerning issues of national policy such as education, gender equality and health care;
- ♦ fully respect the rights of all minority groups with regard to their right to participate in national political and economic life and the right to practise and teach their culture;
- ♦ make every effort to ensure women's right to health, in particular reproductive health, make available family planning services to all persons, including counselling on safe alternatives to contraception and reliable and informative sex education for school-age children;
- ♦ prohibit by law sexual harassment against women, provide in all voivodships (provinces) shelters for women and children who are victims of family violence, with all necessary support facilities, including counselling and other assistance;
- ♦ include, in its next periodic report, detailed information on the problem of domestic violence and the results of the recently adopted Action Programme for Women;
- ♦ abolish the 1962 citizenship law, which discriminates against women by not granting them the same right as men to transmit citizenship to their foreign-born spouses;
- ♦ fully protect the right to work for women as well as for men on the basis of equal pay for equal work; undertake a study on the subject and include information on measures taken in this regard in the next periodic report;
- ♦ take appropriate measures, especially increasing the number of state labour inspectors and strengthening their powers, in order to ensure that occupational safety legislation is properly implemented;
- ♦ specify in law the conditions for permissible forced evictions, with provisions that address the need for alternative lodging for those evicted;
- ♦ take all appropriate measures in addressing the problems of the acute housing shortage and homelessness; determine the basis for setting rental rates in a way that protects the rights of both property owners and tenants, especially those among the most vulnerable groups of society;

- ♦ provide to all consumers, in particular tenants, information on rights and responsibilities and the public and private avenues of assistance available in a market economy; ensure that respect for the right to housing includes, when appropriate, measures to assist those whose homes are put in jeopardy or who are rendered homeless by dramatic rent increases due to the elimination of rental subsidies; and
- ♦ engage in a large-scale public information campaign to promote healthy lifestyles in order to improve the quality of nutrition, combat alcoholism and smoking, and reduce the risks of cardiovascular diseases and cancers; and extend the campaign to schools and incorporate such information into the regular curricula.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, Section V; E/CN.4/1998/68/Add.1, para. 339)

The reports note that on 3 July 1997 the President signed into law a new Penal Code, which came into effect on 1 January 1998, abolishing the death penalty for all crimes.

Freedom of opinion and expression, Special Rapporteur on: (E/CN.4/1998/40, Sections II, III and IV)

The Special Rapporteur (SR) visited Poland from 24 to 28 May 1997. The report of the visit (E/CN.4/1998/40/Add.2) contains information on the transition in Poland to a parliamentary democracy and social market economy, the legal framework related to human rights generally, and expression and information specifically, and principal considerations and concerns. The report also includes concluding observations and recommendations.

The report sets the context by noting that an important element in the transformation of the political order in Poland has been the removal of restrictions on freedom of expression and the media, particularly as regards the lifting of censorship and the abolition of the one-party monopoly over the mass media. The SR observed that, following events in 1989, the government established a liquidation commission charged with the redistribution of property in the media sector and, in 1992, adopted the Broadcasting Act which introduced a legal framework for regulating the broadcasting landscape. The report notes that today the media market is flourishing with a large number of national and foreign newspapers and magazines, as well as private television and radio services.

The report notes that the Constitution that was approved in a national referendum in May 1997, *inter alia*: guarantees the right of citizens to freely express their opinions; prohibits preventive censorship and the licensing of the

press; stipulates that laws may require a permit for the operation of a radio or television station; guarantees freedom of the press and other means of social communication; stipulates that a citizen has the right to obtain information on the activities of organs of public authority as well as persons discharging public functions; specifies that the right to obtain information provides access to documents and entry to sittings of collegial organs of public authority established through universal elections; and permits limitations on the rights to information solely for the purpose of protecting the rights and freedoms of other persons, public order, security, or important economic interests of the state. Constitutional provisions also relate to the National Council of Radio Broadcasting and Television — which has the role of safeguarding freedom of speech and the right to information, as well as the public interest regarding radio broadcasting and public television — as well as the Commissioner for Citizen's Rights, specifying the Commissioner's role in safeguarding the freedoms and rights of persons and citizens as set out in the Constitution and other laws.

The report refers to provisions in the Penal Code of 1969 — which was still in force pending adoption of a new Code — relevant to freedom of opinion and expression, as well as articles in other laws. These provisions relate to such areas as: insulting government institutions or officials, which the authorities stated was a legacy of communism and abused for political purposes; defamation, involving offences against honour and personal inviolability, with the 1996 Civil Code establishing the right to seek financial compensation for a violation of personal interests; and, repeal of the provision in the Press Act which had established that, in order for financial compensation to apply in cases of a claim of defamation, the fact that the journalist consciously violated an individual's personal interest had to be proven. The report notes that repeal of the provision in the Press Act had given rise to the concern that the action will have a chilling effect on press freedom since journalists are now held responsible not only for deliberate, but also unintentional, infringements on personal interests. Concern was further expressed that this risk may cause journalists to avoid dealing with difficult subjects and discourage investigative reporting.

Other aspects of the legal framework addressed in the report include, *inter alia*: the penalty of six months' to five years' imprisonment for disclosing information classified as a state secret and research in the area of national defence or security, industries of key importance for the national economy, banking, and preparations for, and negotiation of, international agreements; protection of sources, noting that a 1995 ruling by the Supreme Court held that provisions of the Penal Code override those of the Press Act and, as a consequence, journalists may not refuse to divulge a source if they have been released from that obligation by a court or the prosecutor; access to information, noting that journalists have encountered difficulties obtaining information, particularly in areas related to the state and activities of public institutions, especially with regard to local government officials who

are reluctant to release documents allegedly in the absence of clear guidelines; broadcasting, noting the 1992 Broadcasting Act which established the independence of public broadcasting and the principle of regulation of the market through the National Broadcasting Council; the National Broadcasting Council, which grants television and radio broadcasting licences and frequencies, appoints the members of the supervisory boards and programme councils in public radio and television, may order the suspension of programmes violating the law, and may fine broadcasters who breach the law or refuse to carry out a decision of the National Council; and, political interference in public broadcasting, related to concerns over the failure to appoint individuals to the National Broadcasting Council on the basis of expertise, and political bias in television coverage.

The report notes that the Broadcasting Act defines the tasks of public radio and television as including: encouragement of artistic, literary, scientific and educational activity; production of programmes for Polish communities abroad; provision of reliable information about the diverse developments and processes taking place in Poland and abroad; promotion of the free formation of citizens' views and of public opinion; enabling citizens and their organizations to take part in public life by expressing diversified views serving the development of culture, science and education, with special emphasis on Polish intellectual and artistic achievement; respecting the Christian system of values, serving the strengthening of the family and promoting health protection; serving the combatting of social pathologies; and taking into account the needs of national and ethnic minorities.

The report comments on various stipulations in law related to respect for Christian values and religious feelings and notes that these provisions were disputed prior to adoption of the Broadcast Act and were challenged before the Constitutional Court on the bases that: they are incompatible with the Constitution because they violate the principle of equality; and they establish preventive censorship. In June 1994 the Court ruled the provisions constitutional on the basis that they create a duty of respect for values which are of universal and not only religious character. The report also notes that fears that the provisions would be used as a means of preventive censorship had, to date, proved unfounded.

Reference is also made to a provision in the Penal Code related to offending religious sentiment, making such an offence punishable by a fine or two years' imprisonment. Following on this, the report notes that there have been several instances in which there were calls from certain Roman Catholic groups for the banning or censorship of films or publication of materials with a religious connotation. The SR cited the example of complaints arising in August 1994 in response to an issue of *Wprost*, a weekly publication, which featured on the cover a black Madonna and Child wearing gas masks to protect themselves from environmental pollution.

Concerning the protection of public morals, the report comments that the issue has taken on increased impor-

tance in the light of a rise in the influx of the “yellow press” as well as films from Western countries. The SR was informed of an increasing concern regarding the depiction of violence in the media and its possible influence on the young. Greater public concern was also expressed with regard to pornography from abroad and its circulation under market conditions while, at the same time, acknowledging that pornographic films are increasingly being produced in Poland and exported to Western Europe.

The report refers to a provision in the Penal Code on sanctions for the dissemination of material “having a pornographic character” and cites information provided by the Minister of Justice, indicating that to date the prosecution of pornography has been rudimentary, in part because pornography remains undefined, with the courts having to consult experts to distinguish between permitted and prohibited acts. Provisions in the new Penal Code have also shifted the burden of proof from content to the form of presentation, meaning that responsibility arises when material is presented or distributed in such a way that persons unwilling to be exposed to pornographic images cannot avoid exposure, for example in the case of pornographic magazines in kiosks.

Additional concerns noted by the SR include, *inter alia*: the difficulties arising from the transition from a state monopoly over the media to a system governed by a free market, and the prevailing economic constraints; a need for the development of diverse media and the pre-eminent role played by foreign capital in the media industry as a result of the liberalization of the media market; infringements on the freedom of expression of journalists as a result of the interference of owners in editorials, particularly in such areas as attempts to reveal wrongdoing on the part of public officials, especially at the local level, because of fears of the negative impact of such coverage on future business relations.

The narrative on the Commissioner for Civil Rights Protections notes that the institution was established in July 1987 and mandated to: investigate breaches of the law and/or principles of community life and social justice arising from any action of omission by agencies, organizations or institutions responsible for compliance with, and implementation of, rights and liberties; act on the motion of citizens or their organizations, local governments and its own initiative; and to undertake a broad range of actions. The institution is powerful and not comparable to other institutions and has acted effectively in its basic function of educating the public; it has also proved effective in promoting the concept of the “constitutionalization” of thinking about law and generalizing use by the courts of international law; cooperation with the press is seen as extremely important; and its functioning had been marked by political and ideological neutrality and the promotion of the rule of law and human rights.

Points emphasized in the concluding observations, included: the perceived negative impact of liberalization

and free market forces on freedom of expression; internationalization of the media; the need for genuine editorial independence vis-à-vis political power and pressure exerted by private interest groups or public authorities; alleged restrictions on journalists’ freedom of access to information; the primary importance of the principle of the protection of sources for journalists; allegations of political influence in television, arising in part from the lack of independence of the National Broadcasting Council; the provision regarding Christian values in broadcasting; the increased level of violence on television and such matters as pornography, which have led to calls for restrictions; the fact that some liberties, in particular freedoms relating to communication, are often no longer perceived as opening possibilities but rather as dangers to the social fabric; and, with regard to the issue of insult and defamation, the absence of a proper legislative framework to guide journalists and protect individuals from undue attacks on their honour and dignity.

The report recommends that, *inter alia*:

- ♦ the government take all necessary steps to ensure the independence of the National Broadcasting Council (NBC), including through measures to ensure that appointments to the NBC are made in such a way as to guarantee its independence, with its members refraining from any interest — financial or political — that could impair their ability to discharge their duties in a fair and impartial manner;
- ♦ the government consider whether it is advisable to prohibit members of the NBC, on completion of their six-year term of office, from accepting a remunerated office in government;
- ♦ members of the NBC see themselves as independent trustees of the public interest in broadcasting, not as representatives of any special interest group;
- ♦ safeguards against any interference by political or financial interests in the work of the NBC be put in place;
- ♦ care be taken not to overemphasize the protection needed for public persons and institutions in the context of revising current legislation and adopting new rules, and due attention be given to the importance for a democratic society of allowing free political debate;
- ♦ due attention be given to the fact that public figures must expect to tolerate a greater degree of criticism than private individuals; laws or other provisions providing special protection against insult or criticism of government institutions, their members, officials, or the head of state be avoided;
- ♦ initiatives on the part of media professionals to establish independent and voluntary professional associations be encouraged, in particular with regard to developing methods and systems of voluntary self-regulation such as codes of conduct for the profession;

- ♦ steps be taken to ensure that owners of media are not able to interfere in editorial content, save in exceptional circumstances;
- ♦ steps be taken to translate into practice the constitutional right to obtain information on the activities of organs of public authority as well as persons discharging public functions; and
- ♦ journalists not be compelled to reveal their sources except in the most limited and clearly defined circumstances.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, para. 19)

The report notes that the government provided the Special Rapporteur (SR) with the text of its Constitution, legislation in the field of religious freedom and freedom of worship, and a list of the other regulations addressing the same issues.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, para. 73)

The report states that a range of interrelated factors of a legal, economic, social, and political nature contribute to the emergence and development of the movement of toxic wastes and dangerous products between the industrialized and the developing countries. In the past, exporters focussed on the poorest countries, especially in Africa. More recently, a trend has been identified in which OECD countries are "legally" exporting wastes under recycling programmes to countries in Eastern and Central Europe. Poland is identified as one of the countries of destination for this practice.



ROMANIA

Date of admission to UN: 14 December 1955.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Romania has submitted a core document (HRI/CORE/1/Add.13) for use by the treaty bodies. The report prepared by the government contains demographic data and information on the general political structure, the organization of judicial power, the structure and jurisdiction of various judicial bodies, respect for human rights in the administration of justice and the legal framework for the protection of human rights.

The Constitution establishes a number of principles, including: equality of rights; supremacy of law; free access to justice; the right to life and physical and mental well being; individual freedoms and security of person; the presumption of innocence; the right to defence counsel; the public nature of court sessions; the right to

contest a court decision; and the right to compensation for damage suffered at the hands of a public authority. Rights are protected through the Constitutional Court, the Ombudsman and the Prosecutor's Department and promoted through the activities of a number of non-governmental organizations, including the League of Human Rights, the Association for the Defence of Human Rights, the Romanian Helsinki Committee and the Romanian Amnesty International Committee. The Constitution stipulates that its provisions will be interpreted and applied in accordance with the Universal Declaration and, further, that should there be a lack of conformity between human rights covenants and treaties to which Romania is a party and domestic law, the international legislation shall have priority. The provisions of relevant international treaties can be invoked directly before the courts and administrative authorities.

Economic, Social and Cultural Rights

Signed: 27 June 1968; ratified: 9 December 1974.

Romania's third periodic report was due 30 June 1994.

Reservations and Declarations: Paragraph 1 of article 26; paragraph 3 of article 1 and article 14.

Civil and Political Rights

Signed: 27 June 1968; ratified: 9 December 1974.

Romania's fourth periodic report (CCPR/C/95/Add.7) is scheduled for consideration at the Committee's July 1999 session; the fifth periodic report is due 31 December 1999.

Reservations and Declarations: Paragraph 1 of article 48 and paragraph 3 of article 1.

Optional Protocol: Acceded: 30 July 1993.

Reservations and Declarations: Paragraph 2 (a) of article 5.

Second Optional Protocol: Signed: 15 March 1990; ratified: 27 February 1991.

Racial Discrimination

Acceded: 15 September 1970.

Romania's 12th and 13th periodic reports were due 15 October 1995 and 1997 respectively.

Reservations and Declarations: Articles 17 and 18.

Discrimination against Women

Signed: 4 September 1980; ratified: 7 January 1982.

Romania's fourth periodic report was due 6 February 1995.

Torture

Acceded: 18 December 1990.

Romania's second periodic report was due 16 January 1996.

Rights of the Child

Signed: 26 January 1990; ratified: 28 September 1990.

Romania's second periodic report was due 27 October 1997.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 14, 18, 36, 72 ; E/CN.4/1998/68/Add.1, paras. 340–342)

The Special Rapporteur (SR) expressed concern about cases of the misuse of firearms by law enforcement officials and noted information indicating that several persons were killed at the time of their arrest. The SR deplored the fact that some provisions of the Romanian Police Organization and Operation Act are not in keeping with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and referred to article 19 (d) of Act No. 26/1994 which authorizes a police officer to use force or a firearm "to arrest an offender caught in the act of committing a crime, trying to escape and not obeying orders to stop".

Allegations transmitted to the government related to three separate cases, involving: one person who was shot in the back by police officers, a member of the Rom community who was reportedly killed by an officer who was trying to arrest him, and the killing of one person by police when he was caught trying to steal a car. The government did not reply to the allegations.

The SR requested authorities to make impartial and in-depth inquiries into the use of force by police and ensure that any police officer suspected of having used firearms abusively is brought to justice. The SR also recommended that article 19 (d) of Act No. 26/1994 be amended to bring it into conformity with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 46)

The report refers to cases of discrimination against Roma, particularly by skinheads. No examples or details of cases were provided.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 60, 63, 64, 66, 69, 85–86)

The Special Rapporteur (SR) referred to violations of freedom of religion and belief against Christianity, and Jehovah's Witnesses. The report outlines information indicating that the national Orthodox Church is hostile to members of the Greek Orthodox Church and Jehovah's Witnesses, and is trying to restrict the activities of other religious groups and communities. The SR also referred to the fact that the problem of restitution of goods and religious properties confiscated under the former regime has been raised, and noted information related to violations of physical integrity and health, including harassment, threats and mistreatment.

The government stated that measures have been taken at both the administrative and legislative levels to overcome

past injustices and to guarantee the freedom of religion. Referring to the situation of the Greek Catholic Church, the authorities stated that the process of restitution of properties confiscated under the former regime had been accelerated, and new legislation was passed in June 1997. The new law provides that the Greek Catholic Church is to be given back one church building in each locality in which the Orthodox Church has several church buildings, and in which there are local residents of Greek Catholic denomination. The authorities also stated that they were taking the necessary measures in relation to all manifestations of intolerance. With regard to the Jehovah's Witnesses, the authorities recalled that the faith was recognized by law, and their activities protected against any act violating human rights. In April 1997, the Department of Religious Affairs adopted an order addressed to all local public authorities in which full entitlement to have or build their own administrative buildings or places of worship was recognized for Jehovah's Witnesses.

Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 161–162; E/CN.4/1998/38/Add.1, paras. 333–346)

Allegations were transmitted to the government in a number of individual cases related to arrest followed by ill treatment including: severe beating by three police officers in order to extract a confession, noting a complaint was filed with the General Prosecutor's Office of the Supreme Court of Justice and the General Public Prosecutor; death in custody reportedly following severe beatings by another prisoner acting on instructions of police officers, noting an investigation was initiated by the Iasi Military Prosecutor's Office; beatings with fists and rubber sticks in order to extract a confession and incommunicado detention for more than one month, noting a complaint was filed with the General Prosecutor's Office; beatings by three sergeants at a local police station during a detention period of about 24 hours, noting the three police officers were prosecuted and given suspended sentences of two years' imprisonment, no disciplinary measures were reportedly taken against them, and they continued in the same jobs they had occupied prior to the incident; kicking and beating with fists and rubber sticks, noting a medical examination revealed extensive bruising consistent with the use of a blunt object, a complaint filed with the Bihor District Police Inspectorate was unsuccessful and a complaint was also filed with the Military Prosecutor's Office; and a beating by four police officers, noting a medical certificate indicating injuries caused by a blunt object, reporting of the case to the head of the Bihor District Police Inspectorate without success and the filing of complaints as well with the Bihor and Oradea Military Prosecutors' Offices.

The report notes further allegations concerning: the arrest of three minors, followed by slapping and beating, noting a complaint about police ill treatment was filed with the Military Prosecutor; hitting with the handle of an axe on the chest and a rubber stick on the head, as well as use of electric shocks, causing hospitalization, noting the case was reported to the Military Prosecutor's Office; a beating by police resulting in damage to the spleen

requiring surgery; beating by police officers and encouragement to their dogs to attack two men, noting that a medical examination established the presence of bite marks on the legs as well as many bruises on the face and body; use of a spray containing a paralysing substance in combination with beating with a rubber baton; use of the same spray in combination with kicking and beating, noting that the victim fell into a coma and subsequently died in hospital, a complaint was filed with the Military Prosecutor's and the authorities decided not to initiate criminal investigations; and beating while in police custody resulting in hospitalization.

The government did not respond to any of the allegations transmitted.

Toxic wastes and products, Special Rapporteur

on: (E/CN.4/1998/10, para. 56, 73)

The report refers to information indicating that between 1986 and 1988 the OECD countries exported more than 6 million tons of toxic wastes to developing countries and countries in Eastern Europe, with Romania being one of the principal countries of destination.

Violence against women, Special Rapporteur

on: (E/CN.4/1998/54, Section III.C)

In the section dealing with refugee and internally displaced women, the report refers to the case of a woman who was physically abused by her husband in Romania for 16 years. The claimant testified that she was told repeatedly by policemen that they could not get involved because she and her husband were legally married, and that they would only get involved if the beating was connected to a crime. At the refugee hearing the documentary evidence confirmed the unavailability of protection for abused women in Romania. The woman was granted status under the 1951 Convention on the status of refugees by reason of a well-founded fear of gender-related persecution. The Special Rapporteur stated that while domestic violence is estimated to be widespread, many authorities and doctors, invoking Romania's strong family tradition, refuse to consider it a serious issue.



RUSSIAN FEDERATION

Date of admission to UN: 24 October 1945. [The Union of Soviet Socialist Republics was admitted in 1945. The Russian Federation assumed the USSR's membership in UN bodies on 24 December, 1991.]

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Russia has submitted a core document (HRI/CORE/1/Add.52/Rev.1) for use by the treaty bodies. The report prepared by the government contains demographic data in areas such as education and economy and information on the structures of govern-

ment and the legal framework for the protection of human rights.

The legal framework for the protection of human rights is based on constitutional provisions establishing: equality of rights, the inalienability and direct effect of human rights, defence of life and personal dignity, legal protection, presumption of innocence, access to the courts and compensation for loss and damage. The Supreme Court is the highest legal body for civil, criminal, administrative and other cases and for trial courts of general jurisdiction. Protection for human rights is provided through courts of general jurisdiction, military courts (military offences, disciplinary proceedings, civilian cases referred to them), the Constitutional Court, the High Court of Arbitration, the Procurator's Office and the Court of Appeal of the President. There is also a Presidential Human Rights Committee and a Citizenship Board. Primacy of international law is guaranteed in the Constitution and legislation of Russia and may be invoked in courts and administrative bodies, mainly in the areas of civil, family and criminal cases and largely addressing procedural issues.

Economic, Social and Cultural Rights

Signed: 18 March 1968; ratified: 16 October 1973.

Russia's fourth periodic report is due 30 June 1999.

Reservations and Declarations: Paragraph 1 of article 26.

Civil and Political Rights

Signed: 18 March 1968; ratified: 16 October 1973.

Russia's fifth periodic report is due 4 November 1998.

Reservations and Declarations: Paragraph 1 of article 48 of the ICCPR; declaration under article 41.

Optional Protocol: Acceded: 1 October 1991

Reservations and Declarations: Article 1.

Racial Discrimination

Signed: 7 March 1966; ratified: 4 February 1969.

Russia's 14th periodic report (CERD/C/299/Add.15) was considered at the Committee's March 1998 session; the 15th periodic report was due 6 March 1998.

Reservations and Declarations: Paragraph 1 of article 17.

Discrimination against Women

Signed: 17 July 1980; ratified: 23 January 1981.

Russia's fifth periodic report was due 3 September 1998.

Torture

Signed: 10 December 1985; ratified: 3 March 1987.

Russia's third periodic report was due 25 June 1996.

Reservations and Declarations: Declarations under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; ratified: 16 August 1990.

Russia's second periodic report (CRC/C/65/Add.5) has been submitted and is pending for consideration at the Committee's September/October 1999 session; the third periodic report is due 14 September 2002.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

Russia's 14th periodic report (CERD/C/299/Add.15, April 1997) was considered by the Committee at its March 1998 session. The report prepared by the government covers the period from February 1996 to January 1997 inclusive, and contains information on, *inter alia*: constitutional protections and prohibitions; provisions in the new Penal Code which came into effect on 1 January 1997; the Family and Labour Codes; the work of the State Duma Committee on Nationalities; the National Cultural Autonomy Act and the advisory council on national cultural autonomy, a deliberative governmental body; a proposed bill to ban the propagation of fascism; the mandate and functions of the Government Prosecutor's Office; the Judicial System Act 1996; the Outline of Russian State Policy on Nationalities and the draft plan of action to put the Outline into effect; the situation of minorities and indigenous populations living in the North; and statistical data on the populations in the constituent entities of the Federation, as well as the ethnic/linguistic situation among the peoples of the Federation.

Annex III of the report contains information on the situation in the Chechen Republic and mainly focusses on the incidents and manifestations of discrimination and intolerance against Russian and Russian-speaking inhabitants. Criminal elements have been accused of violence, hostage-taking, confiscation of property, extortion, eviction and other acts of persecution on national grounds.

The Committee's concluding observations and comments (CERD/C/304/Add.43) noted factors and difficulties hindering implementation of the Convention, including that: Russia is a large multi-ethnic, multi-religious and multicultural state composed of more than 176 nationalities and ethnic groups; the political changes that occurred in the last few years continue to affect the economic and social situation of the population; historically there has been discrimination against individuals on ethnic grounds; in recent years inter-ethnic tensions have risen in various parts of the Federation; and Russia is a country in transition, with problems of coordination at the legislative and administrative levels.

The Committee welcomed: the adoption of new legislation to complete the provisions of the Constitution guaranteeing equality of rights and freedoms and prohibiting discrimination; the fact that the new Penal Code (January 1997) prohibits discrimination on any grounds, makes it a criminal offence to engage in deliberate acts intended, *inter alia*, to instigate national, racial or religious hatred or discord, describes punishments for such acts and establishes the general rule that having "motives of national, racial or religious hatred or enmity" for committing a crime is an aggravating circumstance; entry into force of the National Cultural Autonomy Act, guaranteeing to all ethnic communities national cultural autonomy; the establishment of a number of autonomous regional, local and federal cultural entities;

the adoption of the Outline of Russian State Policy on Nationalities and establishment of a governmental commission to implement it; adoption in a number of republics of laws which guarantee the rights of national minorities, indigenous peoples and small ethnic groups; the work of the State Duma on a number of important federal laws, *inter alia*, the National Minorities Act, the Small Indigenous Groups of the North, Siberia and the Russian Far East Act, and the Refugees and Displaced Persons Act; and efforts to strengthen the court system and the independence of the judiciary, and to train judges in matters relating to the exercise of citizens' rights and freedoms.

The principal subjects of concern identified by the Committee included, *inter alia*: the increasing incidence of acts of racial discrimination and inter-ethnic conflicts; the limited information provided on the activities of the Prosecutor's Office and the judiciary to investigate and punish acts of racial discrimination, as well as reparation for damages suffered as a result of such discrimination; despite efforts made, shortcomings in the legal framework for protecting all persons against racial discrimination, including the lack of a definition in national legislation of racial discrimination; lack of provisions in the Constitution and the Penal Code related to a prohibition on racist organizations, incitement, propaganda and similar acts; and the situation in Chechnya where serious human rights violations still occur.

The Committee recommended that the government, *inter alia*:

- ♦ take further measures to harmonize domestic legislation with the provisions of the Convention, in particular with regard to outlawing and combatting all organizations and political groups and their activities that promote racist ideas or objectives;
- ♦ provide, in the next report, further information on the investigation of racial discrimination by prosecutors and its punishment by the courts;
- ♦ fully implement domestic legislation to guarantee in practice the realization by everyone of the rights listed in article 5 of the Convention (generally civil, cultural, economic, political and social rights) and, in particular, the rights to freedom of movement and residence and the right to a nationality;
- ♦ provide, in its next report, further information on: (a) complaints and court cases related to racial discrimination, including the respective decisions and judgements; (b) reparation for damages suffered as a result of discrimination in cases brought before courts; (c) measures taken to combat racial prejudice, to promote understanding among different groups; (d) development regarding the bills under discussion in the State Duma Committee on Nationalities, as well as the bill banning the propagation of fascism; (e) measures to ensure the adequate development and protection of less developed groups within the Federation; (f) the situation of Gypsies or Roma;

(g) measures taken against organizations involved in racial propaganda; and (h) the situation of the indigenous peoples of the North, Siberia and the Russian Far East;

- ♦ give greater attention to programmes intended to improve relations between ethnic groups as well as to ensure the adequate development and protection of less developed groups;
- ♦ continue and develop further the training of judges and law enforcement officials in matters relating to the exercise of individuals' rights and freedoms and, in particular, on the right not to be discriminated against on racial grounds;
- ♦ continue efforts aimed at strengthening the court system and the independence of the judiciary;
- ♦ consider ratifying ILO Convention No. 169 with regard to indigenous peoples;
- ♦ take further measures in order to provide minorities and indigenous groups with elementary education in their own languages; and
- ♦ reinforce measures to protect human rights in Chechnya, Ingushetia and North Ossetia, in particular to ensure that serious breaches of international humanitarian law do not remain unpunished, that the victims are afforded just and adequate reparation, and to ensure normal conditions of life and return for displaced persons.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1988/44/Add.1, Opinion No. 14/1997)

Opinion No. 14/1997 related to the case of a retired naval officer who was arrested in February 1996 by the Federal Security Services (FSB) in St. Petersburg, and charged with treason under article 64 of the Russian Criminal Code. Information indicated that the FSB had limited the officer's access to an attorney of his choice on the grounds that his affair involved "state secrets". The Working Group (WG) noted that the Constitutional Court declared this limitation imposed by the FSB as unconstitutional, resulting in the officer finally being represented by an attorney of his choice. Information indicated: the arrest and charges were linked with the officer's work, which involved the preparation of a report on the dangers of nuclear waste in the Northern Fleet for the Norwegian non-governmental environmental group Bellona Foundation; the only information provided to the Foundation had already been published in the Russian media; the arrest occurred in the context of an emerging pattern of persecution of environmental activists who are connected with the Bellona Foundation in Russia; and the officer was being detained solely on the grounds of his research and his legitimate activities on behalf of the Bellona Foundation.

The government affirmed that the charges against the officer included the transmission of secret and top secret information that had not been published by the press and had no connection with the environment, and denied any persecution of the Bellona Foundation. The government provided the WG with details concerning the legal proceedings, the charges, and the criminal investigation under way.

Information subsequently provided by the source indicated that the officer had been released pending trial but was not allowed to travel outside St. Petersburg while awaiting the court date. The WG decided to keep the case open, pending further information once the trial is completed.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 323-328)

During the period under review, the Working Group (WG) transmitted 33 newly reported cases of disappearance to the government. Of the 160 cases transmitted in the past, two allegedly occurred in 1996 and concerned ethnic Chechens who are said to have been arrested by OMON, the Special Forces of the Russian Interior Ministry. Some 150 cases concerned persons of ethnic Ingush origin who reportedly disappeared in 1992 during the fighting between the ethnic Ossetians and the Ingush. Eight other cases concerned persons who reportedly disappeared in 1994 in the Ingush Republic. The Northern Ossetian forces are said to have acted with the acquiescence of the OMON. All of the newly reported cases occurred in Chechnya, the majority in late 1994 and early 1995. The Russian military forces were allegedly responsible.

The government stated that, with regard to the cases transmitted in 1996, an investigation was being carried out by the General Procurator's office of the Ministry of Internal Affairs and the Federal Security Service. With regard to the cases reported to have occurred in Chechnya, the government informed the WG that investigations were being carried out throughout the Northern Caucasus region by officials of the Russian Federation Ministry of the Interior in the Chechen Republic, in order to determine the whereabouts of the persons reported as missing. The government stated that there was no record of the missing persons in the data banks of the Central Information Centre or the Central Department for the Execution of Punishment of the Ministry of the Interior, and suggested that representatives of the Chechen Republic Ministry of the Interior meet the persons who reported the disappearance in order to obtain information which would help it to determine the fate of the disappeared person.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, para. 17; E/CN.4/1998/68/Add.1, paras. 343-351)

The government provided information in response to several communications sent during 1996. The information outlined several cases including: a journalist killed near Budennovsk, where the responsible member of the

armed forces was prosecuted for contravention of the rules on the use of weapons and sentenced to two years' imprisonment, subject to probation for a term of one year; another case closed by the Military Procurator's office because of the absence of a *corpus delicti*, and it was decided that the members of the armed forces, which were carrying out a military exercise under conditions of armed conflict in Chechnya, had made lawful use of their weapons; the case of seven unidentified individuals reportedly killed by Russian armed forces during a house search, where no evidence was found of intentional killing; and the deaths of 28 persons in Roshni Chu, the 267 unidentified persons in Gudermes, and the approximately 200 unidentified persons in Samashki, resulting from indiscriminate and disproportionate attacks by Russian armed forces, noting the government statement that the deaths were a tragic consequence of military operations. The government also provided statistics on the use of the death penalty, noting that in 1996, 86 persons were executed, all sentenced to death between 1989 and 1994 and stated that the Duma of the Federal Assembly was examining a bill for a moratorium on the death penalty.

The Special Rapporteur (SR) characterized the deliberate killing of humanitarian workers in the Chechen Republic in December 1996 as appalling, and noted with distress allegations of public executions which allegedly took place in the Chechen Republic following the adoption of a new Criminal Code reintroducing Shari'a law into judicial practice. The SR noted that these executions are in contradiction to Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which Russia signed, thereby committing itself to the abolition of the death penalty.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 53, 74, 82)

The report notes that cases of racism and racial discrimination were transmitted, and the government replied by stating that the Constitution contains provisions prohibiting incitement to national, racial or religious hatred and propaganda in favour of discrimination, hostility or violence. The government also noted that the new Penal Code provides for administrative and penal sanctions in cases of violation of the principle of the equality of citizens on grounds of race, nationality or other considerations and, further, that there are a number of NGOs and associative movements in Russia that combat the propagation of racism, racial discrimination, xenophobia, and anti-Semitism.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 50, 58, 63, 64, 69, 77)

The report refers to violations of freedom of religion and belief against all religions, and all religious groups and communities, and notes information indicating that provincial legislation and regulations impose restrictions on the activities of religious minorities. The Law on Freedom of Conscience and Religious Associations allegedly contains provisions liable to undermine the official recognition and activities of religious groups and

communities not belonging to the Russian Orthodox Church. Information further indicated that the authorities have imposed controls on, and/or interfered illegally with, the religious activities of all or certain religious groups and communities; religious minorities have difficulty renting rooms for use as places of worship.

The report notes that the "Freedom of Conscience and Religious Associations Act" was finally adopted, and that the government had signalled its intent to provide the Special Rapporteur with information on the compatibility of the Act with international human rights standards.

Sale of children, child prostitution, child pornography, Special Rapporteur on the:

(E/CN.4/1998/101, para. 24)

The report states that in Russia there is an "epidemic" of street children, known as the *besprizorniki*, or "neglected ones". According to UN estimates, 4 in 10 Russian children live in poverty, and there are perhaps as many as 6,000 vagrant children in Moscow. Social and familial instability have contributed to the growing number of runaway, homeless, orphaned, or abused children, including migrants from former Soviet republics. The Special Rapporteur noted that for some of these children the only escape from the drudgery of life on the streets is through sniffing glue or drinking vodka, with the cost of such addictions almost inevitably leading to a life of crime or prostitution.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 163–170; E/CN.4/1998/38/Add.1, paras. 347–379)

The Special Rapporteur (SR) continued to receive allegations concerning the use of torture and other forms of ill-treatment in the context of, for example: the conflict in the Chechen Republic; pre-trial detention; interrogation to intimidate detainees or to extract confessions; and, post-trial and conviction, sometimes by fellow prisoners in collusion with the prison authorities. The methods most commonly reported included beatings, electric shocks, asphyxiation (*slonik*), and particularly painful methods of physical restraint (*konvert* and *lastochka*). The report also notes that conditions of detention were reportedly still characterized by overcrowding and unsatisfactory sanitation and medical care, amounting to ill treatment. Reports of torture and ill treatment on a wide scale within the armed forces were also cited.

The government replied to a number of cases transmitted in 1996 and provided the SR with information related to measures that had been taken to follow up on the recommendations made by the SR after the 1994 mission to Russia. The government noted, *inter alia*: decree No. 593, providing for the repeal of a previous presidential decree under which law enforcement agencies were authorized to apprehend and hold citizens under arrest for a period of up to 30 days without bringing charges, without any preventive measures having been decreed, and in the absence of a judicial warrant; and decision No. 833 related to the establishment of minimum standards

of nutrition and living conditions for persons sentenced to deprivation of liberty, with the purpose of improving the conditions of detention in conformity with the Standard Minimum Rules for the Treatment of Prisoners.

The SR welcomed the establishment of minimum standards of nutrition and living conditions for persons sentenced to deprivation of liberty, but noted that in the past existing standards in the same fields had remained unimplemented because of the lack of resources allocated to the administration of places of deprivation of liberty. The SR expressed particular concern about the more acute problem of torturous conditions of detention in pre-trial detention centres (SIZOs), which appear to persist on a widespread scale. With regard to investigations, the SR stated that national and international misgivings about the effectiveness of such investigations will continue as long as the procuracy remains responsible for both prosecution of ordinary criminal suspects, and investigation of abuses committed by law enforcement officials.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, para. 73)

The report refers to fraudulent practices by exporters of toxic wastes and products, compounded by bribery of officials at the various stages of the movement of toxic products across borders. The Special Rapporteur stated that consignment documentation, laboratory analyses and permits are frequently falsified by carriers and shippers, and that the lack of any monitoring or control mechanism, in conjunction with the loopholes in the international conventions, allow arrangements to be made at the very fringes of the law. Russia is identified as one of the countries in Eastern Europe targeted as a destination for wastes and products moved through such practices.



SLOVAKIA

Date of admission to UN: 19 January 1993.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Slovakia has not submitted a core document for use by the treaty bodies.

Economic, Social and Cultural Rights

Succeeded: 28 May 1993.

Slovakia's initial report was due 30 June 1995.

Reservations and Declarations: Article 26.

Civil and Political Rights

Succeeded: 28 May 1993.

Slovakia's second periodic report is due 31 December 2001.

Reservations and Declarations: Article 48.

Optional Protocol: Succeeded: 28 May 1993.

Second Optional Protocol: Signed: 22 September 1998.

Racial Discrimination

Succeeded: 28 May 1993.

Slovakia's initial report was due 28 May 1994; the second and third periodic reports were due 28 May 1996 and 1998 respectively.

Reservations and Declarations: Articles 17 and 22.

Discrimination against Women

Succeeded: 28 May 1993.

Slovakia's initial report (CEDAW/C/SVK/1, CEDAW/C/SVK/1/Add.1) was considered at the Committee's June 1998 session; the second periodic report was due 27 June 1998.

Torture

Succeeded: 28 May 1993.

Slovakia's initial, second and third periodic reports were due 27 May 1990, 1994 and 1998 respectively.

Reservations and Declarations: Declarations under articles 21 and 22.

Rights of the Child

Succeeded: 28 May 1993.

Slovakia's initial report (CRC/C/11/Add.17) has been submitted and is pending for consideration at the Committee's January 2001 session; the second periodic report is due 31 December 1999.

Reservations and Declarations: Paragraph 1 of article 7.

REPORTS TO TREATY BODIES

Committee on the Elimination of Discrimination against Women

Slovakia's initial report (CEDAW/C/SVK/1, July 1996) was considered by the Committee at its June 1998 session. The report prepared by the government contains statistical and demographic data, as well as information on, *inter alia*: constitutional and legal protections and guarantees; the right to work, equality in employment, the Labour Code; family and marriage, spousal and parental rights and responsibilities; provisions in the Penal Code related to violence against women and trafficking in women; participation in public and political life; education and access to education; pensions, benefits, social security; health and access to health care; and equality before the law.

The Committee's concluding observations and comments (CEDAW/C/1998/II/L.1/Add.2) noted developments since the government's report was prepared, including the establishment of the Coordination Committee for Women's Issues (1996), the elaboration of the National Action Plan for Women in Slovakia (1997), and proposals to include pay equity in the proposed Civil Act and the State Service Act.

The Committee welcomed, *inter alia*: that the Convention takes precedence over domestic legislation; the establishment of the Co-ordinating Committee for the Problems of Women and the Gender Centre; preparation of a national action plan to implement the Beijing Platform for Action; and the general standard of women's health and education. Factors hindering the implementation of the Convention were noted as including: a difficult transition to a democracy; the absence of gender-sensitive policies and measures to counteract negative effects of this transition; and the overemphasis on legislative protection and cultural promotion of motherhood and family roles for women, rather than focussing on women as individuals in their own right.

The principal subjects of concern identified by the Committee included, *inter alia*: the misinterpretation of affirmative action and temporary special measures as protective rather than pro-active measures; the high rate of domestic violence against women, including murder in the home; absence of a provision allowing charges to be brought by the police against an abuser, independent of the victim; that securing a conviction often requires the corroboration of independent witnesses; the lack of emergency or protective shelters available to victims of domestic violence; and the lack of information on the actual situation regarding trafficking in women.

The Committee expressed concern over: the establishment of, and increase in, "household management schools" which cater to female students and train them for traditional roles, thus promoting gender stereotyping; the highly segregated labour market, which is accompanied by low pay for women; the fact that job descriptions that link "physically demanding" elements of work to male physical strength and to higher pay for men may be based on a one-sided understanding of those elements and underestimate other physically demanding elements found in women's work; the fact that women are faced with the dilemma of choosing between work and raising a family, in part because there are no social services available for women with children under the age of two years; and the detrimental effect of the decrease in pre-school childcare on women's employment opportunities and, over the longer term, employment status, pay and promotion. Concern was also raised in relation to the high rate of abortions and the use of abortion as a form of family planning, and the absence of development programmes for rural women to assist them in obtaining the skills and resources necessary to become competitive in the labour market.

The Committee recommended that the government, *inter alia*:

- ♦ reconsider its position on temporary special measures, provide such measures and establish timetables to ensure women's increased presence in political parties, as well as in all sectors, segments and at all levels of employment;
- ♦ provide in the next report detailed information on the status and function of the Co-ordinating Committee

for the Problems of Women, its programmes and their impact; secure sufficient funds for the Co-ordinating Committee; reconsider the name of the Co-ordinating Committee in order to reflect the view that "women's problems", as they are currently understood in Slovakia, are in fact challenges faced by society and require a change to the current theoretical framework of dealing with them;

- ♦ implement procedures to permit prosecution of violence against women independent of victim testimony and omitting the requirement that the complainant's evidence be corroborated; establish crisis centre hotlines and victim support centres equipped with medical, psychological and emotional support; and, in order to raise public awareness, disseminate information through the media on this issue;
- ♦ take all necessary measures to monitor and eradicate trafficking in women in Slovakia, including the sensitization of police, border officials and NGOs working in this area; continue cooperative efforts with border states to eliminate trafficking across national borders; provide detailed information on the number of women who have been trafficked into Slovakia and those returned to their country of origin, as well as statistics on the number of individuals arrested, prosecuted and sentenced as a result of their involvement in trafficking;
- ♦ encourage the participation of women's NGOs in the drafting of national policy and in following up its implementation; take note of the importance of NGOs in increasing public awareness and countering traditional stereotypes of women;
- ♦ provide information in the next report on the purpose and composition of "household management schools" as well as how the curricula differ from those in other schools;
- ♦ avail itself of the existing body of research and practice on equal pay for work of equal and comparable value in order to overcome pay inequity; use temporary special measures to break through the sex segregation of the labour market;
- ♦ provide options to women who have children and choose to work, including establishment of, and access to, adequate public day-care facilities; fund and support pre-school child-care centres at both the local and national levels to ensure women the opportunity to work;
- ♦ increase family planning education and access to affordable and safe contraception in order to reduce the number of abortions; and
- ♦ provide information on the measures undertaken to empower rural women and to encourage economic self-sufficiency; collate and make available statistical information pertaining to the social, economic and political status of minority women with a view to developing specific policies to respond to the needs of

different groups; address the high rate of unemployment among Roma women and provide further information on assistance programmes in the next report.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 43, 46)

The report refers to discrimination against the Roma, particularly by "skinheads". The Special Rapporteur also noted information indicating that the Ministry of Education distributed copies of a book on the history of Slovakia and the Slovaks, to primary school teachers. The work was said to contain information according to which the Jews did not suffer during the Holocaust, and reportedly glorified the Fascist Government which ruled Slovakia during the Second World War.

Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 61, 69, 88)

On the question of conscientious objection, the report notes that there is apparently a legal time limit within which conscientious objectors must declare their refusal to perform military service or apply to perform alternative service and further, that the duration of alternative service is such as to be punitive in nature. Information also indicated there were cases in which conscientious objectors were sent to prison.

The government provided a detailed explanation of its legal and procedural machinery for handling cases of conscientious objection to military service, stating: the duration of civilian service is twice that of military service but was not punitive in character; terms of civilian service were decided within the context of a complex procedure for creating job opportunities for persons performing civilian service in which there was a need to ensure a degree of stability within the public and private entities employing conscientious objectors; with regard to the time limit of 30 days following the decision of the conscription office declaring them fit for military service, within which the law requires conscientious objectors to apply for civilian service, the Constitutional Court found that "the constitutional right not to be forced to perform military service or military games is guaranteed to all who have executed it within the legal framework enabling its execution."



SLOVENIA

Date of admission to UN: 22 May 1992.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Slovenia has submitted a core document (HRI/CORE/Add.35) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data, information on the political structure and an overview of the legal framework for the protection of human rights.

The Constitution determines not only individual human rights and freedoms but also the instruments which are available to individuals for the protection of their rights. The primary instruments are judicial protection, right to appeal, the right to payment of damages and the right to constitutional complaint at the Constitutional Court. At the time the report was prepared, the Constitution provided for the establishment of an office of the ombudsman assigned the task of safeguarding human rights and basic freedoms in relation to state bodies, the bodies of local self-government and those holding public authority. The Law on the Human Rights Ombudsman had not yet been adopted by the Parliament and, in the interim, the implementation of human rights was entrusted to the Council of Human Rights and Fundamental Freedoms which was elected prior to the adoption of the new Constitution.

Economic, Social and Cultural Rights

Succeeded: 6 July 1992.

Slovenia's initial report was due 30 June 1994.

Civil and Political Rights

Succeeded: 6 July 1992.

Slovenia's second periodic report was due 24 June 1997.

Optional Protocol: Acceded: 16 July 1993.

Reservations and Declarations: Article 1 and paragraph 2 (a) of article 5.

Second Optional Protocol: Signed: 14 September 1993; ratified: 10 March 1994.

Racial Discrimination

Succeeded: 6 July 1992.

Slovenia's initial, second and third periodic reports were due 6 July 1993, 1995 and 1997 respectively.

Discrimination against Women

Succeeded: 6 July 1992.

Slovenia's second periodic report was due 5 August 1997.

Torture

Acceded: 16 July 1993.

Slovenia's initial and second periodic reports were due 14 August 1994 and 1998 respectively.

Reservations and Declarations: Declarations under articles 21 and 22.

Rights of the Child

Succeeded: 6 July 1992.

Slovenia's second periodic report was due 24 June 1998.
Reservations and Declarations: Paragraph 1 of article 9.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, para. 73)

The report notes that Slovenia is among the countries in Eastern Europe that have become the targets of illicit movement and dumping of toxic wastes and dangerous products.



UKRAINE

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Ukraine has submitted a revised core document (HRI/CORE/1/Add.63/Rev.1) for use by the treaty bodies. The report prepared by the government contains demographic and statistical data and information on the general political structure and the general legal framework for the protection of human rights. Under the Constitution, justice is administered by professional judges and, in cases specified by law, by people's assessors and jurors. The independence and immunity of judges is guaranteed by the Constitution and laws.

Constitutional rights and freedoms are guaranteed and cannot be removed. When new laws are adopted or existing ones amended, the content and scope of existing rights and freedoms may not be limited. Constitutional human and citizens' rights may not be restricted except in the cases specified in the Constitution (e.g., war, state of emergency). Everyone is entitled to appeal to the Human Rights Commissioner of the Supreme Council of Ukraine for the protection of rights. The Commissioner exercises parliamentary supervision over the observance of constitutional human and citizens' rights and freedoms. At the request of the Human Rights Commissioner, the Constitutional Court considers questions relating to the conformity with the Constitution (constitutionality) of legislative and regulatory instruments which violate human rights. Everyone is entitled, after exhausting all national remedies for legal protection, to appeal for the protection of rights and freedoms to the

international judicial institutions or to the appropriate organs of international organizations of which Ukraine is a member or in which it participates (e.g., mechanisms under the European Convention). International treaties in force are part of domestic law. In cases where an international treaty embodies rules different from those contained in Ukrainian legislation, the rules of the international treaty apply.

Economic, Social and Cultural Rights

Signed: 20 March 1968; ratified: 12 November 1973.

Ukraine's fourth periodic report is due 30 June 1999.

Reservations and Declarations: Paragraph 1 of article 26.

Civil and Political Rights

Signed: 20 March 1968; ratified: 12 November 1973.

Ukraine's fifth periodic report is due 18 August 1999.

Reservations and Declarations: Paragraph 1 of article 48; a declaration under article 41.

Optional Protocol: Acceded: 25 July 1991.

Racial Discrimination

Signed: 7 March 1966; ratified: 7 March 1969.

Ukraine's 13th and 14th periodic reports were submitted as one document (CERD/C/299/Add.14) which was considered at the Committee's March 1998 session; the 15th periodic report was due 6 January 1998.

Reservations and Declarations: Paragraph 1 of article 17.

Discrimination against Women

Signed: 17 July 1980; ratified: 12 March 1981.

Ukraine's fourth and fifth periodic reports were due 3 September 1994 and 1998 respectively.

Torture

Signed: 27 February 1986; ratified: 24 February 1987.

Ukraine's fourth periodic report is due 25 June 2000.

Reservations and Declarations: Article 20.

Rights of the Child

Signed: 21 February 1990; ratified: 28 August 1991.

Ukraine's second periodic report is due 26 September 1998.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

Ukraine's 14th and 15th periodic reports were submitted as one document (CERD/C/299/Add.14, March 1997) which was considered by the Committee at its March 1998 session. The report prepared by the government contains information on, *inter alia*: constitutional guarantees and protections; the evolving legal landscape and proposals for Ukrainian states conventions on human rights and the rights of indigenous peoples; the Declaration of the Rights of National Minorities, the Act on National Minorities, the Act on Minority Languages, the Education Act, the Act on Ukrainian Citizenship and

other laws; the new relationship between church and state; the right to citizenship, spousal rights, the right to own property and inheritance rights; freedom of thought, conscience, religion, peaceful assembly, association; the right to free choice of labour, trade unions and workers' rights; health protection; and the work of the State Committee on Nationalities and Minorities.

The Committee's concluding observations and comments (CERD/C/304/Add.48) noted factors and difficulties hindering implementation of the Convention, including the deep political, economic and social reforms under way, and the large number of formerly deported people who are returning to their places of origin and seeking employment and shelter.

The Committee welcomed, *inter alia*: adoption of the Declaration of the Rights of National Minorities and the enactment of the Act on Ukrainian Citizenship, the Act on National Minorities in Ukraine, the Education Act and the Act on Freedom of Conscience and Religious Organizations; Ukraine's accession to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the ILO Discrimination (Employment and Occupation) Convention 1958 (No. 111), and the intention to ratify the European Framework Convention for the Protection of National Minorities as well as the European Charter on Regional and Minority Languages; creation of the post of Ombudsman as the independent human rights representative of the Supreme Council, and the establishment of an interdepartmental commission responsible for monitoring and taking preventive action in matters of racism and racial discrimination; and the government's aim to return, resettle and rehabilitate more than 250,000 Crimean Tatars, as well as persons of other nationalities, who were forcibly deported to different parts of the former Soviet Union.

The principal subjects of concern identified by the Committee included, *inter alia*: the lack of information on legislation enacted to implement the punitive provisions of article 4 of the Convention; lack of information on complaints and convictions for acts of racial discrimination, and the inadequacy of demographic data on the different ethnic groups living in Ukraine; reports of mistreatment by the police of members of the Roma population, especially those living in the Transcarpathian region; the difficulties experienced by members of minority groups in acquiring citizenship, including the Crimean Tatars, who were deported decades earlier and are now returning to resettle in Ukraine; the situation of certain other minority groups who do not realize all of their economic, social and cultural rights, notably the right to education; and, the insufficiency of information provided on the number of complaints of racial discrimination and available remedies, as well as the practice of the tribunals.

The Committee recommended that the government, *inter alia*:

- ♦ monitor all tensions which may give rise to racial segregation and work for the eradication of any negative consequences that ensue;
- ♦ take more comprehensive legislative measures to give effect to article 4 of the Convention;
- ♦ continue to take all necessary steps to restore fully the rights of repatriated members of minorities, including the Crimean Tatars, and afford them just and adequate reparation where appropriate;
- ♦ solve, as soon as possible and in a just manner, the issues relating to the citizenship of the repatriated members of minorities, including the Crimean Tatars, and consider the possibility of acceding to the international instruments on statelessness;
- ♦ review and improve the training of law enforcement officials to ensure that, in the performance of their duties they respect and protect human dignity and maintain and uphold the human rights of all without distinction as to race, colour, or national or ethnic origin;
- ♦ take steps to publicize widely the text of the Convention so that the judiciary, the legal profession, the relevant governmental agencies, and the general public, are made fully aware of its provisions and potential;
- ♦ provide, in the next report, detailed information on cases of complaints of racial discrimination brought before the courts and on remedies made available to victims of racism and xenophobia;
- ♦ provide, in the next report, information on cases filed by the Human Rights Ombudsman insofar as they relate to the scope of the Convention;
- ♦ undertake awareness-raising campaigns on the use of judicial remedies against racism, including the complaints procedure established under article 14 of the Convention; and
- ♦ take all appropriate measures to ensure education and teaching in the mother tongue of minorities wherever possible.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 13, 382–383)

For the first time three cases of alleged disappearance were sent to the government. The disappearances reportedly occurred in 1995 and concern two brothers and a friend who were said to have been arrested in Simpherolol, Crimea, by members of the security forces. The government informed the Working Group that the Procurator's Office of the Autonomous Republic of Crimea had undertaken an investigation into the subjects' whereabouts. Witnesses, close relatives, neigh-

hours, and acquaintances, had all been questioned and further investigations were conducted, to no avail.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1998/68, paras. 12, 17, 27, 85; E/CN.4/1998/68/Add.1, paras. 399–402)

The report refers to information stating that in August 1997 the Ministry of Justice confirmed that 13 executions had taken place in Ukraine during the first eight months of 1997, and that one execution took place after 5 May 1997 when Ukraine signed Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Special Rapporteur (SR) was also informed that during the same period, 73 persons had been sentenced to death. The SR reminded the government that upon joining the Council of Europe and signing Protocol No. 6 to the European Convention, it committed itself to impose an immediate moratorium on executions, and to abolish the death penalty.

Two urgent appeals were sent to the government relating to the imposition of the death penalty on persons who had allegedly been tortured or ill treated in order to obtain a confession of guilt. The government replied: the guilt of the two persons named had been proven and corroborated by witnesses' statements, experts' conclusions, material evidence, and other material in the case file; references to infringements on the right to defence for one of the accused and to him having given erroneous testimony during the preliminary examination were groundless as they were disapproved (sic) by the evidence studied by the court; and the exceptional penalty of death was imposed on them in accordance with the requirements of the law.

The SR noted that the government's reply did not address the main issue of concern, that is, any steps it had taken to impose a moratorium on executions and to abolish the death penalty.

Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, para. 46)

The report refers to discrimination against Roma, and notes information indicating that following a resurgence of police brutality against Roma, a Rom was arrested in December 1996 while collecting dead batteries. He was beaten at the police station in Uzhhorod and on his release said that he had been deprived of food for two days. In the same region, in January 1997, police officers invaded the homes of two Roma families on the pretext that they were looking for a thief. Reliable reports indicated that the police officers struck the adult members of the two families, and forced two children aged 16 and 10 to stand and recite "Gypsies are bastards, the best place for them is in the graveyard."

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 194–195; E/CN.4/1998/38/Add.1, para. 446)

The Special Rapporteur noted the concern of the Committee against Torture over the large number of reports by NGOs of cases of torture and violence committed by

officials during preliminary investigations, causing suffering, bodily injury and, in a number of cases, death (A/52/44, para. 131).

In May 1997 an urgent appeal was sent to the government concerning one person who was reportedly arrested by police officers in March 1997 in Makeivka city (Donetsk region). He was allegedly subjected to torture, including beatings to his face, body, arms and feet, and having a gas mask and plastic bag filled with poisonous gas placed over his head. Information indicated that he suffered broken ribs as a result of the beatings and was reportedly transferred to a location unknown to his family. The government replied in October 1997, stating that a medical examination made in response to the detainee's claims of having suffered physical injury revealed only abrasions to the hand which may have been caused by handcuffs. With respect to complaints of unlawful actions by militia personnel, it was decided not to open criminal proceedings, a decision which was confirmed by the Office of the Procurator-General.

Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, paras. 12, 32, 73)

The report refers to information provided by the government, stating, *inter alia*: in order to safeguard human rights, a frontier environmental control service was set up in 1995, as part of the State Ecological Inspectorate, to ensure state monitoring of compliance with the requirements of environmental legislation and ecological safety rules in connection with the movement of dangerous substances and wastes across the national frontier; environmental control has now been introduced at 58 national frontier crossing points; Ordinance No. 704 of June 1997 brings the list of national frontier crossing points at which environmental control will be enforced into line with the requirements of international treaties and deals with a number of other important questions; and instructions on the application of environmental control at national frontier crossing points in Ukraine were being drafted and agreed with the central state executive agencies concerned.

The report notes that the Ukraine has become one of the target countries for the dumping of toxic wastes and products by OECD countries.



YUGOSLAVIA, FEDERAL REPUBLIC OF

Date of admission to UN: 24 October 1945.

TREATIES: RATIFICATIONS AND RESERVATIONS

Land and People: Yugoslavia has submitted a core document (HRI/CORE/1/Add.40) for use by the treaty

bodies. The report prepared by the government (22 July 1994) provides basic demographic, economic and social data and information on the general political structure as well as the general legal framework for the protection of human rights.

The federal Constitution and the Constitutions of Serbia and Montenegro establish the framework of rights and guarantee a wide range of individual, political, social, economic and cultural freedoms and rights, as well as the rights of national minorities derived from those guaranteed by international law. In addition to regular judicial protection, the legal system enables every person to begin legal proceedings before the Federal Constitutional Court against any document or act which violates the rights and freedoms guaranteed in the federal Constitution. All three constitutions stipulate that abuses of the rights and freedoms set out are unconstitutional and punishable and that all rights and freedoms enjoy the protection of the courts. The Federal Ministry for Human and Minority Rights was established in July 1992 and is generally responsible for monitoring human rights. The federal legislative assembly has a Commission for the Freedoms, Rights and Duties of Man and the Citizen which has the authority to consider issues concerning the exercise of human rights and adopt positions and reach conclusions. Similar commissions exist in the assemblies of Serbia and Montenegro and, in Montenegro, the Republic Council for the Protection of National and Minority Rights has been established. International human rights treaties ratified by Yugoslavia become a component part of the legal system and, as such, are directly implemented.

Economic, Social and Cultural Rights

Signed: 8 August 1967; ratified: 2 June 1971.
Yugoslavia's second periodic report was due 30 June 1995.

Civil and Political Rights

Signed: 8 August 1967; ratified: 2 June 1971.
Yugoslavia's fourth and fifth periodic reports were due 3 August 1993 and 1998 respectively.

Optional Protocol: Signed: 14 March 1990.

Racial Discrimination

Signed: 15 April 1966; ratified: 2 October 1967.
Yugoslavia's 11th through 14th periodic reports were submitted as one document (CERD/C/299/Add.17), which was considered at the Committee's March 1998 session; the 15th periodic report was due 4 January 1998.

Discrimination against Women

Signed: 17 July 1980; ratified: 26 February 1982.
Yugoslavia's third periodic report was due 29 March 1991; the fourth periodic report was due 28 March 1995.

Torture

Signed: 18 April 1989; ratified: 10 September 1991.
Yugoslavia's initial report (CAT/C/16/Add.7) was considered at the Committee's November 1998 session; the second periodic report was due 9 October 1996.

Reservations and Declarations: Declarations under articles 21 and 22.

Rights of the Child

Signed: 26 January 1990; ratified: 3 January 1991.
Yugoslavia's second periodic report was due 1 February 1998.

REPORTS TO TREATY BODIES

Committee on the Elimination of Racial Discrimination

At its August 1998 session, the Committee adopted a decision in response to conditions in Kosovo and Metohija (CERD/C/53/Misc.30/Rev.3, Decision 3 [53]).

The Committee, *inter alia*: called on the government and the leadership of the Albanian community in Kosovo and Metohija to stop immediately all military and para-military activities or hostilities and to enter into negotiations on a just and lasting solution for Kosovo and Metohija, including a status of the highest level of autonomy which will make it possible for all persons to realize human rights and, in particular, to eliminate all forms of racial discrimination; reaffirmed that questions relating to Kosovo and Metohija can be resolved only by peaceful political situations and must be based on respect for the territorial integrity of the FRY; also reaffirmed that all people who have been displaced or who have become refugees have the right to return safely to their homes and properties, receive assistance to do so, and to be compensated appropriately for any such property that cannot be restored to them; and reiterated its call that the Memorandum of Understanding on the normalization of education in Kosovo and Metohija, signed by the FRY government and representatives of the Albanian population in September 1996, be fully implemented.

The Committee expressed deep concern over, *inter alia*: persisting grave violations in Kosovo and Metohija of basic human rights, including articles 5 (a) and (b) of the Convention; the disproportionate use of force by government law enforcement agencies and the military against the Albanian population, resulting in numerous violations of the right to life, destruction of property, and in a great number of people being displaced or made refugees; and acts of violence against civilians in Kosovo and Metohija based on ethnic origin committed by whatever groups or individuals.

Bearing in mind article 9, para. 1 of the Convention (reporting obligations of the state party), the FRY government was requested to provide the Committee with information about the attempts that have been undertaken to achieve, through a meaningful dialogue with the Kosovo-Albanian leadership, a political solution for the status of Kosovo and Metohija — including the observance of international human rights, in particular as enshrined in the Convention. The Committee requested that this information be submitted by 15 January 1999 so that the Committee can consider it at its March session in 1999.

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

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

throughout the country and is, consequently, the most influential media outlet; RTS allots 50 per cent of its air time to political reporting but remains under tight government control, although it has begun to provide limited coverage of some opposition activities; in one week in June 1997, RTS news coverage mainly addressed activities of state agencies and officials, all were presented in positive terms and no officials were questioned or criticized; 75 per cent of the coverage of party activities was devoted to the ruling coalition of the Socialist Party and the Yugoslav Left, and opposition parties were presented in negative terms or else shown when criticizing other opposition parties; in the case of Studio B, however, owned by the Belgrade municipality and seen only in Belgrade, criticism of the government was a dominant theme and protests against the government — which were ignored by the state electronic media — were given twice as much time as governmental activities; programmes produced by independent Radio B-92 could now be heard throughout most parts of Serbia, except Kosovo and Sandzak and broadcasting facilities to Radio Boom 93 were restored in Pozarevac; in March 1997 the transmission strength of privately owned BK TV was limited at a time when its owner was considering running as a presidential candidate and, despite an order by the Belgrade Economics Court that transmission be restored, as of early May 1997 BK TV was still unable to broadcast south of Belgrade; the government of Montenegro granted permission in July 1997 to independent Radio Antenna to extend its broadcasts outside the capital, Podgorica, but TV Montenegro remained under the firm control of the government; with regard to access to information, the new Public Information Law, when adopted, will require state bodies to provide free access to information in their charge, unless it is officially secret; the draft media law contains several articles, however, which can be used to restrict the right of editors and journalists to express themselves freely through such provisions as those prohibiting media from publishing or reproducing information “offending the honour or respectability of a person, or containing offensive formulations or indecent expressions” and broadly phrased formulations such as those placing on the media the obligation to provide “true information” and not to publish or transmit “false information” on “a person’s life, knowledge and capabilities”; and the draft media law also requires each copy of a newspaper to carry details of sources of capital and financial structure and stipulates that information on financial assistance from abroad be officially declared and published at least once a year.

The section addressing the situation of minorities in Kosovo notes, *inter alia*: ill-treatment and torture against persons in police custody in Kosovo, mainly in connection with police raids and arrests undertaken as a response to violent attacks against the Serbian police and private individuals; so-called “hostage” arrests, in which the police have detained relatives or family members of persons being sought by the police; violent attacks against Serbian police and persons employed by the local authorities in Kosovo; emergence of the previously unknown “Liberation Army of Kosovo”; verbal abuse of

returned asylum seekers and summonses to them for “informative talks” by the police; temporary detention of returned asylum seekers upon arrival and isolated cases of alleged police abuse; failure to take concrete steps to implement the memorandum of understanding, signed in September 1996, on the normalization of education in Kosovo; the 1989 Act on Special Conditions for Real Property Transactions, which applies to the whole of Serbia except for the province of Vojvodina and places severe restrictions on the purchase, sale, exchange and renting of real property between members of different ethnic groups; under the law, approval of real-property transactions only if the transaction is deemed to have no impact on the ethnic structure of the population; and, under the law, ethnic Albanians and other members of minorities with permanent residence in Belgrade wishing to buy apartments in that city reportedly having their applications rejected, and members of the Turkish minority in Prizren prevented from purchasing property in that municipality.

The situation of minorities in Sandzak is described, with the report noting, *inter alia*: in July 1997 the Serbian government dissolved the town administration and assembly and introduced a mandatory rule bringing the functions of local administration under the control of a new municipal council composed of the local branches of the Socialist Party (SPS) and the Yugoslav Left (JUL), the ruling government coalition in Serbia; these measures were reportedly taken because the municipal organs had been ethnically and politically biased when filling key public offices, and because it had failed to meet its obligations to cover the expenses of the local primary and secondary schools; while no systematic abuses were reported, information was received related to violent attacks against Muslims in the first months of 1997; the police had taken no action to investigate the crimes; the situation of internally displaced persons in Pljevlja and Priboj remained a concern because of security questions and the fact that many houses were destroyed or uninhabitable.

On the situation in Vojvodina, the report states that the main issues of concern to minorities are related to representation in public offices and companies, the use of minority languages in official matters, and education and refugee settlement in the region. In terms of Montenegro, the report notes that information continued to be received on discrimination against the Roma community.

Concerning humanitarian issues, the report notes that large parts of the population in the FRY were struggling for survival in the depleted post-war economy, partly as a result of delayed payments of salaries and wages to workers in the educational, health and other public sectors, delays in the payment of pensions and social benefits, and a deterioration in health care services that has resulted in delays in treatment and difficulties securing essential medicines.

With regard to refugees and citizenship, the report notes a number of points, including that: the Refugee Law stipulates that refugees have the right to employment and

education and the same access to health care as the rest of the population; the situation of refugees remains difficult, partly as a result of drastic cuts in food aid from foreign sources during 1997; there has been no substantive progress to ensure conditions for the free and safe return of refugees, and the return of their property or a just compensation; and, a key concern of refugees appears to be their fear that, by applying for FRY citizenship — thereby having to renounce their current citizenship (e.g., of Croatia or Bosnia and Herzegovina) — they would lose their property rights and the right to return to their country of origin.

Referring to the government's cooperation with the SR, the report states that it remained strictly limited and that the government had neither responded to issues raised — such as police misconduct and breaches of due process standards — nor implemented the majority of the SR's recommendations. The report also notes that the government had failed to comply with virtually all of its treaty obligations to submit periodic reports to the UN human rights treaty bodies. In this regard, the report cites a statement by the Ministry of Foreign Affairs indicating that as long as the FRY's status within the UN remains unresolved, the government has no intention of meeting its reporting obligations. The report notes that this position is inconsistent with the government's claim in a letter to the Secretary-General in April 1992, as a successor state, to fulfil all rights and obligations assumed by the former Yugoslavia. The report does note, however, that the government informed the High Commissioner for Human Rights of its intention to submit a report "soon" to the Committee on the Elimination of Racial Discrimination.

The report also refers to a statement by the Ministry for Foreign Affairs to the OHCHR that the government did not see any reason to implement the measures for human rights protection set out in the 1997 resolution adopted by the Commission on Human Rights, which included the measure of establishing an OHCHR presence in Pristina.

In conclusion, the report recommends that the government, *inter alia*:

- ♦ review and implement the recommendations made by the SR in previous reports, notably the recommendation that measures be taken to strengthen legal and other guarantees for the protection of human rights, and the government ratify the Optional Protocol to the ICCPR;
- ♦ create an accessible, independent and impartial supervisory institution, such as an ombudsman and, if not possible immediately at the federal level, that such an institution be first established by one of the republics;
- ♦ permit all major political parties proper access to state-run television and provide conditions for balanced reporting on their activities;

- ♦ remove from the draft media law broadly phrased formulations which can be used to inhibit legitimate criticism or scrutiny of the conduct of public officials, as well as other provisions which could limit enjoyment of the right to freedom of expression;
- ♦ establish a programme of human rights education in schools, academic and legal institutions, as well as in police training institutions, encourage wider and deeper knowledge of the human rights treaties to which the FRY is a party, and undertake to translate into Serbian and Albanian, and widely distribute, these human rights treaties as well as other relevant UN standards;
- ♦ take prompt steps to eliminate the discrepancies between the human rights standards provided in the ICCPR and those of the FRY and republican constitutions, as well as the Criminal Code and the Code of Criminal Procedure, with particular attention paid to judicial supervision of police detention, prompt access of arrested persons to lawyers, protection of human rights in emergency situations, and the right to life;
- ♦ create an effective mechanism to ensure that procedural requirements in criminal and administrative law are enforced and that breaches of the rules by responsible officers are met with appropriate sanctions;
- ♦ ensure that those responsible for the torture or ill-treatment of persons in custody and those who ordered or participated in using force against peaceful demonstrators in early 1997 are brought to justice, take immediate steps to end continuing police abuse and ill-treatment in Kosovo and order an impartial investigation into the deaths of the two men who died in police custody in Kosovo in 1997;
- ♦ take immediate steps to investigate acts of violence or vandalism directed against the Muslim community in Sandzak;
- ♦ take measures to ensure the full independence of the judiciary and ensure that court orders are invariably executed by the police; and
- ♦ take all necessary measures to create conditions for the free and safe return of refugees and the return of their property or just compensation — in accordance with the bilateral agreement concluded with Croatia — and find a durable solution enabling refugees effectively to exercise their right to property in the countries they have left.

General report on the former Yugoslavia (E/CN.4/1998/63, Section III)

The information on the FRY included in the general report addresses such areas as: legal guarantees and institutional mechanisms related to police abuse of human rights, ill-treatment and impunity, administration of justice, freedom of expression and the media, elec-

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:

several lawyers met their clients for the first time after the investigative judge had already concluded the crucial stage of investigation; some defendants had lawyers assigned to them only after they entered the courtroom and thus did not have an effective opportunity to prepare a defence; and access to nearly all relevant trial documents was denied to defence lawyers until shortly before the start of the trial.

On the last point, the SR referred to a ruling by the investigative judge of the District Court in Pristina. The ruling applied to all indicted persons and their lawyers and stipulated that, for reasons of state security, all documents and records, objects gathered as evidence, presence during the examination of the indicted, and confrontation and examination of witnesses, would be denied to the defence. The report notes that the practical effect of this ruling was to prohibit defence lawyers from having access to any trial documents other than the statement made by their own clients to the investigative judge and also prevented their being present during the investigation of other accused persons. As a consequence, access to any statements by the co-accused or essential documentary evidence for the preparation of a defence was only granted to the defence about one or, at most, two weeks before the start of the trial.

Points covered in the report on the right to communicate with counsel included that: current legal standards prohibit a lawyer access to a client until the person is brought before an investigative judge, not later than 72 hours after arrest; the Constitution, in article 23, sets a higher degree of protection as it requires that arrested persons should have prompt access to counsel; in practice, the Constitution's higher standards are not enforced since the Constitution also permits, in article 67, ordinary legal standards to prevail; in practice, lawyers are often not granted access to their clients until three days after their arrest, at the time they are brought before the investigative judge; most allegations of torture and ill-treatment concern the three-day period preceding the defendants' appearance before the investigative judge, when they are interrogated and denied access to a lawyer; lawyers were not allowed to meet their clients in private and discuss defence confidentially; the law permits wide restrictions on free communication between legal counsel and clients, viz. article 74 (2) of the Code of Criminal Procedure permits the investigative judge to order "that the accused may converse with defence counsel only in his (the investigative judge's) presence or in the presence of some particular official"; article 74 (3) of the Code permits, and makes obligatory, free communication without surveillance between lawyer and clients after examination by the investigative judge or an indictment has been served; and information indicated that, notwithstanding the provision in article 74 (3), guards had received strict instructions from the State Security service to remain present throughout the interview between lawyer and client.

On other points related to the right to fair trial, the report notes that: the trials were held within a reasonable period

of time; assistance of interpreters was provided vis-à-vis questions from the judge or prosecutor and the defendants' answers, but discussions between the parties in court that were not addressed directly to the defendants were not translated; a number of defendants retracted previous statements made before the investigative judge, on the grounds that the statements were given under torture, ill-treatment or other forms of duress but the investigative judge declined to read these claims into the record, even though such statements are an essential component of testimony and inclusion of them is required under the Code of Criminal Procedure; available information indicated that no prompt and impartial investigations were carried out into any of the allegations that statements had been extracted by various forms of torture, ill-treatment or duress; procedural requirements to protect the authenticity of legal records and the quality of evidence were not met; and, no witness testimony was presented, the only material evidence produced was a machine gun and serious charges against the defendants were supported by little credible material evidence.

On the issue of the trials of two defendants in absentia, the report recalled that a strict interpretation of article 14.3 (d) of the ICCPR appears to prohibit trials in absentia, although the Human Rights Committee has held that such trials are permissible, in strictly limited circumstances.

The commentary on the second trial, held in Pristina in June/July 1997, notes that 12 of the 15 accused were tried in absentia and the defendants were indicted for having received military training in Albania and forming a terrorist organization in Kosovo with the aim of endangering the constitutional order and security of the state and forming a separate state to be joined to Albania. The accused were not only charged with preparing acts of violence, but also with responsibility for carrying out several attacks, as members of the "Liberation Army of Kosovo", including the killing four persons and attempting to kill 16 others. The report notes that the "Liberation Army of Kosovo" had claimed responsibility for these acts. Twelve of the 15 persons charged, including the chief defendant, received the maximum sentence of 20 years' imprisonment. The report stated that nearly all of the issues and concerns raised related to the first trial applied equally to the second trial.

Areas in which additional specific concerns arose, included that: the presiding judge did not promptly read into the record the claims by defendants that they had been subjected to torture although a summary of the defendants' claims was later included; two defendants claimed they were held for 16 days in unacknowledged detention and in breach of international human rights law and Yugoslav law; one defendant claimed he was held for six months without access to legal counsel; the report of medical experts on the mental fitness of one defendant to stand trial was not open to challenge by defence experts in court; and, none of the witnesses called by the prosecution produced credible material evidence linking the accused with the charges against them.

On the basis of these and other considerations, the SR concluded that: the trials had been conducted in public, without delay, as international standards require; international and local observers had full access to the trial; the courts generally respected, with few exceptions, Yugoslav procedural rules for trial conduct; major breaches, however, occurred during the period of pre-trial detention; both trials failed to meet important minimum guarantees for fair trial provided in UN standards, notably the ICCPR and the Convention against Torture; and, by the international standards provided in human rights instruments to which the FRY is a party, the accused were definitely denied a fair trial.

The SR recommended that the government:

- ♦ promptly order an impartial investigation into the claims of defendants and their lawyers that statements upon which the prosecution relied were extracted under torture or duress and, if confirmed, retry the accused solely on the basis of evidence obtained by legal means; ensure that any statements obtained by such methods are not admitted in evidence and are removed from the record;
- ♦ hold trials of political prisoners for offences involving state security in courts consisting of judges, including lay judges, whose background and qualifications fully meet established criteria of impartiality and independence, and before rotating benches and prosecutors;
- ♦ ensure that constitutional standards which provide arrested persons with prompt access to a lawyer be immediately enforced and promptly brought into line with constitutional standards and legal provisions related to access to legal counsel;
- ♦ review legal provisions which permit broad restrictions on free communication between lawyers and their clients and ensure that they comply with international human rights standards;
- ♦ introduce clear rules for the duration of interrogation of arrested persons, for the intervals between interrogations and for the recording of the identity of the persons conducting the interrogation, make late evening or night interrogations the exception, and provide sanctions for authorities failing to abide by such rules;
- ♦ undertake an investigation into allegations that the authorities refused to acknowledge that two defendants in the second trial were held for 16 days in secret detention and tortured and, if the allegations are confirmed, bring those responsible to justice;
- ♦ if the impartial investigation into the allegations of torture, ill-treatment or duress confirms that these methods were used, ensure that those responsible are brought to justice;
- ♦ instruct investigative judges that torture allegations are essential elements of the testimony which should invariably be read into the record at all stages of the

criminal proceedings and introduce a mechanism to ensure that statements obtained from an accused person in violation of the law are immediately and invariably removed from the record and not admitted in evidence;

- ♦ ensure restrictive interpretation of broadly phrased legal provisions permitting wide restrictions to be imposed on lawyers' access to relevant trial documents and interrogations so that these restrictions are not applied in such a way as to unduly favour the prosecution and result in violations of the important fair trial principle of "equality of arms" between defence and prosecution;
- ♦ ensure that lawyers have unhindered access to medical records of the examination of their clients in custody;
- ♦ introduce a mechanism to ensure that sanctions are invariably imposed when procedural requirements regarding the taking and recording of evidence are not met, and ensure that failure to meet such requirements automatically result in the statements or documents concerned being excluded as evidence, unless supported by corroborative evidence;
- ♦ in all cases where the accused does not speak the language of the court, ensure that arrangements are made to provide that the court interpreter translates the entire proceedings for defendants and not only the questions addressed to them by the judge and the prosecutor and their answers; and
- ♦ ensure that, if trials must take place in absentia, the defendants so tried are guaranteed the strictest possible observance of their rights.

Resolution of the Commission on Human Rights (1998/79)

At the 1998 session the Commission adopted by roll call vote an omnibus resolution on the situation of human rights in the territory of the former Yugoslavia. Text relevant to the FRY included the following:

In Section I of a general nature, the CHR: stressed the need to focus international human rights efforts on the lack of full respect for the human rights of all individuals without distinction, the return of refugees and displaced persons, capacity-building in the areas of rule of law and administration of justice, the freedom and independence of the media, inadequate cooperation with the International Criminal Tribunal (ICTY), and missing persons.

In Section IV on the FRY, the Commission: welcomed the deployment of additional human rights officers in Kosovo; regretted the refusal of the government to allow a visit by the SR on summary/arbitrary executions; called on the authorities to comply with the recommendations contained in the reports of the SR on the former Yugoslavia, comply with its obligations to cooperate with the International Tribunal and undertake substantially

greater efforts to strengthen and implement fully democratic norms, particularly with respect to the principle of free and fair elections, the rule of law, respect for human rights and administration of justice; called on the government to protect and expand opportunities for free and independent media, end torture and ill-treatment, repeal the 1989 Law on Special Conditions for Real Property Transactions, apply all other legislation without discrimination, and respect the rights of persons belonging to minority groups; condemned the violent repression of non-violent expression of political views in Kosovo; insisted that the government put an end to the continuing repression of, and prevent violence against, the ethnic Albanian and other communities in Kosovo, and ensure the complete withdrawal of its special police from Kosovo; insisted that the government release all political detainees, allow the return in safety and dignity of ethnic Albanian refugees to Kosovo and improve the situation of ethnic Albanian women and children; insisted that the government allow for the establishment of democratic institutions in Kosovo and agree to the establishment of an office of the OHCHR in Pristina; insisted that the government implement the September 1996 memorandum of understanding on education in Kosovo immediately and without conditions; emphasized the importance of a substantive, unconditional dialogue between authorities in Belgrade and the Kosovo Albanian leadership; welcomed the positive developments in Montenegro, including in the areas of freedom of the media and the treatment of ethnic minorities as well as the formation of a multi-ethnic coalition government; and called on the international community to safeguard and ensure the security and fair treatment, upon return, of persons who sought temporary protection and asylum and to support existing national democratic forces and NGOs.

In Section V on the International Criminal Tribunal, the CHR: called on all states and especially the FRY government to cooperate with the International Tribunal; recommended that the Office of the Prosecutor of the Tribunal begin gathering information relating to the violence in Kosovo that may fall within the Tribunal's jurisdiction; called on the government to apprehend and surrender for prosecution all persons indicted by the Tribunal.

In Section VI on missing persons, the Commission: called on all parties to treat the subject of missing persons as an urgent humanitarian problem, make full disclosure of available information to the Working Group on Missing Persons (chaired by the ICRC) and abandon the principle of reciprocity in dealing with the question; and called on all parties to release any individuals held as a result of or in relation to the conflict, the "hidden detainees".

The resolution also renewed the mandate of the SR for a further year, maintained the FRY as one of the three countries of focus and requested the SR to carry out missions to the Federal Republic of Yugoslavia (Serbia and Montenegro).

The resolution was adopted by a vote of 41 in favour, none opposed, 12 abstentions.

Chairman's statement on the situation in Kosovo

In addition to the resolution on the situation in the FRY, the Commission adopted a Chairman's statement on the situation in Kosovo. The statement was not directed at the points raised in the SR's report on the two trials but rather was in response to events that were occurring in the region as the Commission was in session and the need to exert pressure on the authorities to avoid continuing or greater conflict.

In the statement, the Commission, *inter alia*: expressed deep concern at the recent outbreak of violence in Kosovo; deplored the death of a large number of civilians, including women, children and the elderly; condemned the excessive and brutal use of force by the Serbian police; called on the authorities in Belgrade to cease violations of human rights and to take urgent steps to protect and promote internationally accepted standards of human rights in Kosovo; stated that government authorities have a clear duty to protect the rights of all citizens and to ensure that public security forces act with restraint and in full respect of internationally agreed norms and standards; stressed its condemnation of terrorism in all its forms and from any quarter and denounced all acts of violence, including by Kosovo Albanian groups; called on the leaders of the Kosovo Albanian community to make clear their total rejection of terrorism; urged the FRY government and the leadership of the Kosovo Albanian community to start a genuine dialogue with the aim of finding a peaceful solution consistent with respect for the territorial integrity of the FRY, taking into account the rights of the Kosovo Albanian community as well as all others who live in Kosovo; called on the Belgrade authorities to cooperate fully with the High Commissioner for Human Rights and, in particular, facilitate the deployment of additional human rights officers in Kosovo, and to agree to the establishment of an office of the High Commissioner in Pristina; requested the newly appointed Special Rapporteur on the former Yugoslavia to make an early visit to the region and to report back to the Commission; called on the authorities in Belgrade to cooperate with the new SR; welcomed the initiative of the Special Rapporteur on arbitrary, extrajudicial or summary executions in seeking to visit Kosovo and to report to its current session and called on the authorities in Belgrade to cooperate fully with this special rapporteur; called on the Belgrade authorities to permit independent investigation — including by relevant international bodies — into allegations of extra-judicial killings and, if these allegations are borne out, to prosecute and punish those responsible; and, stated that there must be no impunity for such acts.

Follow-up to the Chairman's statement

As requested in the Chairman's statement, Mr. Jiri Dienstbier, the new Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, Croatia and the FRY, visited Belgrade and Pristina from 5 to 8 April 1998. The report of the visit (E/CN.4/1998/164) provides information on, *inter alia*: background to the actions of

February and March 1998; concerns related to the right to life; missing and detained persons; and torture.

The report states that the events in Kosovo should be viewed in the context of more than two years of escalating political radicalization and violence that included human rights violations. The report notes that since early 1996 there had been an increasing number of armed attacks aimed largely at Serbian police targets. Reference is also made to a growing number of attacks against Kosovo Albanian citizens by the "Kosovo Liberation Army" (UCK) on the basis that they were, or are, collaborators with Serbian authorities. The report recalls that it was not until the separate but simultaneous street protests held in mid-March 1998 by Albanians and Serbs in Pristina and elsewhere in Kosovo that any actual clashes among civilians were recorded.

The recommendations in the report include that:

- ♦ the authorities permit a forensic investigation, by independent experts including relevant UN authorities, of the deaths resulting from the February and March operations in Likosani, Cirez and Prekaz, with the objective of determining whether arbitrary, summary or extra-judicial executions occurred in the course of armed police operations;
- ♦ the Serbian Ministry of Internal Affairs conduct an internal investigation of the events in those three locations, publicly announce its finding and, if warranted, initiate proceedings involving not only internal disciplinary measures against relevant officers but also investigatory procedures applicable to all citizens, bring criminal charges against those responsible and ensure that a trial is held swiftly in a regular open session;
- ♦ the authorities respect international human rights standards related to detention, including in such areas as contact with family and access to legal assistance and personal physicians;
- ♦ the authorities rigorously investigate allegations of torture and punish those found responsible;
- ♦ the Kosovo Albanian leadership make a public commitment to ensure that all members of the Kosovo Albanian community pursue their goals peacefully and respect and protect the human rights of all inhabitants of the region;
- ♦ all parties allow free access for international and humanitarian organizations to persons and areas of Kosovo affected by violence;
- ♦ the government authorize the opening of an OHCHR office in Kosovo; and
- ♦ the government authorize the establishment of a temporary, expanded OHCHR human rights monitoring mission in the region.

The report concludes with several observations, including that: the crisis in Kosovo had been building

over time and was based, in large measure, on unresolved political questions; the emergence of certain radical elements had fuelled a cycle of violence and retaliation; a growing pattern of intimidation is being aimed at those considered to be willing to negotiate the political status of Kosovo; terms such as "traitorous" and "collaborationist" appear with increasing frequency in political discourse, fuelling the polarization of communities; and both parties must be convinced to commence a genuine political dialogue immediately, because only the open exchange of views can serve to lessen the ongoing tension.

In light of the violence, the SR further commented that: in the atmosphere prevailing in March/April 1998, emphasis had rightly been placed on the quick elaboration of a political solution to defuse the crisis; but a solution to the grave human rights situation may require a reliance on the "long view", with perspectives both on history and on the future; and there should be a framework for securing and protecting, in a sustained way, the human rights of all persons affected by the situation in Kosovo.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1998/44, para. 4)

The report notes that cases involving 20 persons were transmitted to the government but no details were provided.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1998/43, paras. 21–22)

The report notes that the special process on missing persons was discontinued by the Commission on Human Rights at its 1997 session. The Commission requested the Special Rapporteur (SR) on the situation of human rights in the territory of the former Yugoslavia to act on behalf of the UN in dealing with the issue of missing persons. The SR was also asked to participate in the Expert Group on Exhumations and Missing Persons of the Office of the High Representative, the Working Group on Missing Persons Chaired by the International Committee of the Red Cross, and attend meetings of the International Commission on Missing Persons. As a consequence, the Working Group decided that cases of disappearance or missing persons that occurred prior to 14 December 1995 – the date of entry into force of the Dayton Peace Agreement – would be referred to the SR. Cases reported to have occurred after 14 December 1995 will be examined by the Working Group.

Independence of judges and lawyers, Special Rapporteur on the: (E/CN.4/1998/39, paras. 15, 177–178)

In August 1997, an urgent appeal was sent to the government expressing concern about a lawyer and human rights advocate who, during a live television debate, was

reportedly assaulted and seriously injured by a bodyguard of the leader and presidential candidate for the Radical Party and Mayor of the Belgrade municipality of Zemun. Information received indicated that the lawyer defends many politically unpopular clients in the former Yugoslavia, including both ethnic Croats and Serbs as well as Albanians. Information also indicated that the lawyer had spoken out publicly against the authorities' policy of ethnically motivated evictions. At the time the report was prepared the government had not responded.

Religious intolerance, Special Rapporteur on:

(E/CN.4/1998/6, paras. 48, 50, 64, 95)

The report refers to violations of freedom of religion and belief against Judaism, and notes that in Zemun (district of Belgrade) a Jewish cemetery was reportedly desecrated and a publicly owned synagogue rented out and rebuilt even though it was a protected historic building.

Torture, Special Rapporteur on: (E/CN.4/1998/38, paras. 214–217; E/CN.4/1998/38/Add.1, paras. 482–493)

The Special Rapporteur (SR) referred to information indicating that police personnel in many areas frequently resorted to the use of force for the purpose of obtaining information or "confessions" or as a means of informal punishment. The methods of included beatings with fists, police clubs, or other wooden or metal clubs; striking the victim's head against the wall, floor or automobile; and electric shocks. Beatings were said to be applied typically to the head and sensitive parts of the body, such as the soles of the feet and kidney areas. Police inflicting beatings were said often to place bullet-proof vests upon victims, so as to reduce the visible evidence of physical injury.

Information also indicated that law enforcement officers often threatened victims of abuse to dissuade them from filing complaints about their treatment or to prompt them to drop charges once they were filed. In some instances, police had reportedly initiated proceedings against victims in reprisal for charges filed against police personnel. In addition, the public prosecutors' offices were said frequently to fail to take action on criminal complaints against police officers, and to fail to give notice of dismissal of complaints or to meet time limits for initiating action on the complaints. When proceedings did take place involving charged police officers, the presence of the accused officers in court was said to be often impossible to secure, as the court may only request that the accused officer's superiors secure their presence. Judicial officials allegedly often failed to act independently, by accepting police officers' accounts at face value, while questioning extensively the alleged victim. Guilty verdicts against police officers were said almost always to result in suspended sentences.

Cases transmitted to the government concerned, *inter alia*: death resulting from torture, noting the government's response that a complaint had been lodged against three officers of the Ministry of Interior and one police officer and an investigation begun; a case in which

a complaint was filed with the Novi Pazar district public prosecutor's office against state security officers, noting the government's response that an investigation had been initiated but the criminal charges against the security officers dropped since they were brought eight months after the alleged offence, the doctor's certificate appeared not to be officially registered and the plaintiff had not contested this decision; and a case in which the government stated that the victim had confessed to the crime of theft and had not referred to the use of force or intimidation. Other cases transmitted concerned: an instance in which the government stated that since no traces of violence or any other proof had been discovered on the alleged victim's body, and as the police officers had denied the charge, no proceedings had been initiated; abuse of an army reservist by six military police officers so as to get him to confess to stealing and selling a missing rifle, noting the government's response that the military prosecutor of Ni had filed a complaint against a military officer for the offence of extortion of testimony; and, a deputy to the federal parliament who was allegedly beaten unconscious and suffered a severe concussion during a protest action in Kragujevac, noting the government's response that complaints had been filed against a number of police officers on charges of abuse of duty, and the charges had been dropped since recourse to physical force had not been found illegal in the circumstances.

The SR also sent two urgent appeals to the government. The first concerned a number of demonstrators said to have been ill treated by police officials. The second concerned a group of 350 ethnic Albanians, including participants, journalists and bystanders, at peaceful demonstrations in October 1997 in several towns in Kosovo.

OTHER THEMATIC REPORTS

Children affected by armed conflict, Special Representative: (A/53/482, paras. 43, 84–101)

The Special Representative (SRep) made a three-day visit to the FRY from 10 to 12 September 1998; of which two days were spent in Kosovo. The visit had three objectives: first, to witness first-hand the humanitarian situation in Kosovo and, in particular, to assess the impact of the ongoing violence on children; second, to witness the situation of Serbian refugee children in the FRY, most of whose families had earlier fled from Bosnia and Herzegovina and from Croatia; and third, to assess the impact of the ongoing sanctions regime on children in the FRY.

On the basis of the visit the SRep called on the international community and the FRY government to take immediate political action, involving a three-pronged response: provision of increased humanitarian relief to displaced populations, especially the 50,000 children, women, and elderly who were stranded in the mountains and the woods, and to local host families who took large numbers of displaced persons into their homes; return of displaced populations, involving an increased international humanitarian presence on the ground in Kosovo to serve as a confidence-building measure, reassure returnees and serve as a deterrent against future abuse

by security forces; and ceasefire and political negotiations.

In the context of the conditions on the ground in Kosovo and the extensive discussions with all concerned parties in Belgrade and Pristina, the SRep referred to: the impact on neighbouring regions; several reports of kidnappings and killing of Serbian civilians by the Kosovo Liberation Army (KLA) — calling on the international community to condemn strongly all atrocities and violence against civilians, regardless of their provenance; education for Kosovo Albanians — calling for immediate implementation of the Education Agreement signed in 1996 between President Slobodan Milosevic and Professor Ibrahim Rugova; recruitment and use of children — noting a lack of evidence of the systematic use of children as combatants in the fighting in Kosovo but allowing for the possibility that children may have been used in support roles, such as reconnaissance, or serving as messengers and porters, and calling for preventive advocacy and vigilance to ensure that fighting forces do not begin to engage children in hostilities; and use of landmines — noting only isolated reports of the use of anti-personnel landmines and the need for the government and KLA to refrain from the use of landmines in Kosovo.

Reference is also made to: assistance for Serbian refugees in the FRY — stating the importance of the international community not forgetting the needs of these refugees, both for humanitarian assistance and for permanent resettlement; monitoring the impact of sanctions on children — calling on the Security Council to review the effect of the ongoing sanctions regime on children in the FRY, particularly with regard to the provision of educational and medical services; and observing the Convention on the Rights of the Child — calling for the international community to insist that all concerned parties, including non-state actors such as the KLA, fully respect the principles and provisions of the Convention.

GENERAL ASSEMBLY

Special Rapporteur of the Commission on Human Rights

Between the 54th (1998) session of the Commission on Human Rights and 1998 General Assembly, Mr. Jiri Dienstbier (Czech Republic) was appointed to replace the previous Special Rapporteur (SR) for the territory of the former Yugoslavia. The SR's consolidated interim reports to the 1998 General Assembly Situation of human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia were prepared by Mr. Dienstbier. The sections concerning Yugoslavia (FRY) (A/53/322, Section V; A/53/322/Add.1, Section III) contain information on, *inter alia*: arrest and detention standards; freedom of assembly; refugees and displaced persons; Kosovo, Sandzak and Montenegro; restrictions on Serbian media; and the Serbian law on universities. The SR conducted three missions to the FRY: 5 to 8 April, 10 to 21 September, and 21 to 29 October 1998.

In the introduction to his report, the SR stressed that because of the pace of developments in the FRY, particularly the crisis in Kosovo, he intended to submit a letter to the Commission on Human Rights after his September 1998 mission to act as an early warning of issues that may threaten the protection of human rights of persons in the FRY.

Commentary on the situation in Kosovo noted, *inter alia*: that violence had accelerated into a crisis with international consequences; information about the crisis has been characterized by high-tech campaigns, political colouring of facts, and sensational headlines; the numbers of persons killed, wounded, abducted, arrested or alleged missing could not be definitively confirmed; security considerations often prevented access to areas of concern; the failure to include in the work of diplomatic monitors a human rights component; the change in the nature of the conflict from isolated attacks and retaliations to a sustained armed confrontation along fluid front lines; use of excessive force by government forces, including deliberate destruction of property, leading to extensive civilian casualties; arbitrary killings by the police in the villages of Ljubenic and Poklek; abductions of both Serbs and Albanians by armed Kosovo Albanians believed to be part of the Kosovo Liberation Army (KLA); enforced disappearances attributed to state security forces; and torture during pre-trial detention in Kosovo.

Concerning arrest and detention standards, the SR expressed alarm at consistent disregard by Serbian state security forces throughout the Republic of international standards, as well as domestic law and procedures governing police conduct and the treatment of pre-trial detainees. Violations noted included: pre-trial detention longer than the period mandated by law; serious difficulties for lawyers in gaining access to their clients; the fact that lawyers are not allowed, as a general rule, to consult their clients in private; denial of access to detainees' own physicians and access only to official physicians provided by the police or court; routine beatings and ill treatment in pre-trial detention; failure of official physicians to report injuries sustained by detainees during police interrogations and failure to provide adequate medical treatment; and abuse of the investigative procedure of "informative talks".

The reports note that, between April and August 1998, there were over 100 separate protests by Albanians and Serbs in towns in Kosovo; most of these proceeded peacefully, in the presence of police. During the same period, in parts of Serbia outside Kosovo, armaments factory workers, students, university professors, pensioners and parents of army conscripts took to the streets in several protests. The reports note that police violently dispersed several thousand students and professors who gathered in front of the Serbian Parliament in May 1998 to protest the new law on universities; in June, in downtown Belgrade, police beat a group of students who tried to demonstrate outside the Serbian government building. The SR stated that police were more likely to react violently to small student demonstrations in Belgrade than to mass demonstrations in Pristina.

The description of the situation of refugees and displaced persons notes, *inter alia*: it is conservatively estimated that at least 500,000 refugees from Croatia and Bosnia and Herzegovina are already in the FRY; most have found shelter in larger towns with relatives or friends; others are sheltered in collective centres throughout the country, including in Kosovo; many have not been registered with authorities or have registered only those individual family members — usually children or the elderly — whom they deem to be in the most extreme need; many have not applied to domestic or international humanitarian organizations for assistance; these organizations have admitted that their stores are exhausted and their donors fatigued; and an estimated additional 200,000 persons have been internally displaced by the crisis in Kosovo. The SR warned that the task of supporting over 700,000 persons in need, a significant portion of whom cannot return to their homes destroyed in fighting, cannot be sustained by the already overtaxed aid structure in the FRY, and that this is a far-reaching regional catastrophe in the making.

The challenges facing the FRY are noted as including to: build a system based on rule of law instead of on a ruling party; foster an independent judiciary; implement in daily practice international standards and constitutional protections; create functional units of self-government and local administration; promote democracy and pluralism; support freedom of broadcast and print media; transform economic and social systems so as concurrently to create opportunity and protect the vulnerable; and heal the wounds of war.

The SR noted that the situation in Sandzak was affected by the crisis in Kosovo, including through: social and economic consequences for the local communities which received large numbers of displaced persons; a rise in ethnic tensions and concerns about a revival of anti-Islamic sentiments both locally and in the national Serbian media; and imposition of mandatory rule in Novi Pazar in July 1997, further contributing to an atmosphere of mistrust and fear and causing a growing number of Sandzak Muslims to leave the region for Bosnia and Herzegovina and western Europe. The SR underscored the need for the Serbian and Yugoslav authorities to investigate the atrocities that took place in the region during the war years 1992–1994 and also stated that the abductions of mainly Muslim civilians in Strpci, Mioce, Bukovica, Sjeverin and other places in 1992 and 1993 have not been properly investigated and the families of the victims have received no compensation for the suffering and losses they endured.

With regard to Montenegro, the SR noted the impact of the crisis in Kosovo, particularly in terms of an influx of internally displaced persons and associated economic and social consequences. In September, the Montenegrin government decided that it was no longer in a position to admit internally displaced persons from Kosovo because its resources had been exhausted and a continued influx could pose a threat to internal security. The SR urged the authorities to devise a solution to meet the educational needs of internally displaced school-age children who, in

some communities, outnumbered the resident children and, having attended “parallel” schools in Kosovo, could not be integrated into the state educational system. The SR also noted that court proceedings on behalf of the Roma community in Danilovgrad — whose homes were destroyed in riots in April 1995 — had not resumed, despite pledges from the authorities that the proceedings would recommence during the summer of 1998.

Report of the Secretary-General

The report of the Secretary-General (A/53/563, 30 October 1998) on the human rights situation in Kosovo notes that from April 1998 the scope and intensity of the conflict in Kosovo grew dramatically while the human rights situation deteriorated. Violations noted included: approximately 700 deaths directly attributable to hostilities; the internal displacement of more than 240,000 people; burning and looting of houses and villages by government forces in areas under their control; use of torture by the Kosovo Liberation Army (KLA) against and the execution of abducted persons; massacres and reports and discoveries of mass graves in a number of areas of Kosovo, with some bodies showing signs of mutilation and/or the persons having been shot in the head at close range; arbitrary arrests and long periods of pre-trial detention in the context of police actions in the field; arbitrary arrests and harassment of Kosovo Albanian lawyers, political activists and humanitarian workers; deaths in custody following torture and/or ill treatment; and concerns related to the independence of the courts and defendants’ access to legal counsel in politically sensitive trials which began in October 1998.

The report notes that the agreement of 13 October 1998 provides for up to 2,000 OSCE monitors in Kosovo who will comprise the Kosovo Verification Mission. The need for an expanded international human rights presence, linked to the establishment of an OHCHR office in Kosovo, was seen as urgent given that the human rights situation in the region continues to be a serious cause for concern.

Resolutions of the General Assembly

Situation of human rights in the FRY

The 1998 session of the General Assembly adopted by recorded vote a consolidated resolution related to the territory of the former Yugoslavia (A/C.3/53/L.60). The resolution was adopted with 132 in favour, none opposed, 20 abstentions.

In the section on general considerations and concerns, the GA, *inter alia*: fully supported the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto (collectively the “Peace Agreement”); expressed disappointment at the continuing evidence of violations of human rights and fundamental freedoms taking place; called for the full and consistent implementation of the Peace Agreement and the Basic Agreement by all parties to them; stressed the crucial role of human rights in the successful implementation of the

Peace Agreement; underlined the obligations of the parties under the Agreement to secure for all persons within their jurisdiction the highest level of international norms and standards of human rights and fundamental freedoms; stressed the need to focus international human rights efforts in the region on the core issues of the lack of full respect for the human rights and fundamental freedoms of all individuals without distinction, the rule of law and effective administration of justice at all levels of government, the freedom and independence of the media, and freedom of expression, association, religion and movement; called for an immediate end to illegal and/or hidden detention; stressed the need for enhanced international human rights efforts to foster and effect the prompt and voluntary return of displaced persons and refugees in safety and dignity; called upon all parties and states in the region to ensure that the promotion and protection of human rights and effective and functioning democratic institutions will be central elements in the new civilian structures; called upon all states and all parties to the Peace Agreement that have not done so to meet their obligations to cooperate fully with the International Criminal Tribunal for the former Yugoslavia; and strongly condemned the continuing refusal of the authorities in the FRY to comply with their obligation to arrest and transfer to the custody of the Tribunal those indicted and known to be present in the territory under the government's control.

With regard to FRY specifically (Section III), the GA, *inter alia*: called on the authorities to end any torture and other ill treatment of persons in detention and to bring those responsible to justice; strongly urged the government to institutionalize democratic norms, especially in regard to respect for the principle of free and fair elections, the rule of law, the administration of justice, and the promotion and protection of free and independent media; called for the repeal of repressive laws on universities and the media; urged all parties, groups and individuals to act with full respect for human rights, to refrain from all acts of violence, and to act with respect for the rights and dignity of all persons belonging to minority groups; strongly urged the government to immediately bring to justice any persons, in particular those of its personnel, who have engaged in or authorized human rights abuses against the civilian population; and reminded the government of its obligations to cooperate fully with the International Criminal Tribunal and the High Commissioner for Human Rights.

The GA called on the government, *inter alia*, to: revoke all discriminatory legislation and apply all other legislation without discrimination; ensure the speedy and consistent investigation of acts of discrimination and violence against refugees and internally displaced persons; ensure the arrest and punishment of those responsible for acts of discrimination and violence; respect the rights of all persons belonging to minority groups and of persons belonging to the Bulgarian minority; respect the democratic process and act immediately to make possible the establishment of genuine democratic self-governance in Kosovo; cease all restrictions on freedom of expression

or assembly in Kosovo and ensure that all the residents of the region are guaranteed equal treatment and protection regardless of ethnic affiliation; and cooperate fully with the UNHCR and other humanitarian organizations to alleviate the suffering of refugees and internally displaced persons and assist in their unimpeded return to their homes.

The General Assembly also noted the government's agreement to allow international verifiers into Kosovo and the establishment of a sub-office of the OHCHR in Pristina in the context of the UN Field Operation in the Former Yugoslavia.

Situation of human rights in Kosovo

The General Assembly adopted by recorded vote a resolution on the situation in Kosovo (A/C.3/53/L.61). The resolution was adopted with 115 in favour, 3 opposed, 34 abstentions. The GA, *inter alia*: acknowledged the regional dimensions of the crisis in Kosovo, particularly with regard to the human rights and the humanitarian situation; expressed concern about the systematic terrorization of ethnic Albanians and reports of violence committed by armed ethnic Albanian groups against non-combatants and illegal detention of individuals, primarily ethnic Serbs, by those groups; referred to the lack of due process in the trials of those ethnic Albanians who have been detained, charged or brought to trial in relation to the crisis in Kosovo; expressed concern over the grave infringements upon freedom of expression in the FRY; welcomed the commitment of the government to address the conflict and the ongoing human rights violations in Kosovo as well as the withdrawal and return to garrison of a number of military and police units; called on all parties to cooperate fully with the OSCE Kosovo Verification Mission and ensure the protection, freedom of movement and unrestricted access within Kosovo of its personnel; welcomed the agreement with the High Commissioner for Human Rights related to the establishment of an office in Pristina and the deployment of additional human rights officers in Kosovo; called on the government to respect fully all human rights and fundamental freedoms and to abide by democratic norms; called on the FRY authorities and the ethnic Albanian leadership in Kosovo to condemn acts of terrorism, denounce and refrain from all acts of violence, encourage the pursuit of goals through peaceful means, and respect international humanitarian law and international human rights standards; urged the FRY authorities and the Kosovo Albanian leadership to enter immediately into a meaningful dialogue to end the crisis and arrive at a negotiated political settlement on the issue of Kosovo; strongly condemned the overwhelming number of human rights violations committed by the FRY authorities and the police and military authorities in Kosovo; also condemned the violence by armed ethnic Albanian groups, in particular against non-combatants; strongly condemned the denial of appropriate access to Kosovo of NGOs, the manipulation and denial of relief and basic foodstuffs, and the denial of medical care to wounded civilians; called on the government to eliminate immediately these unacceptable practices; deplored the killing of humanitarian aid

workers; and called upon all parties to clear the area immediately of all landmines and booby-traps and to work with the relevant international bodies to this end.

The GA also called upon the government, *inter alia*, to: establish a local police force in Kosovo under local or communal direction, which will be representative of the local population; abide by the principle that no person will be prosecuted in state courts for crimes related to the conflict in Kosovo, except for crimes against humanity, war crimes and other crimes covered by international law; allow complete, unimpeded access for the International Tribunal and its forensic experts to Kosovo to examine the alleged atrocities against civilians; mitigate the punishments of, and where appropriate to amnesty, the ethnic Albanians in Kosovo sentenced for criminal offences motivated by political aims; respect fully all the rights of individuals in Kosovo, whatever their ethnic, cultural or religious backgrounds; open to public observation all trials or criminal prosecutions against all those charged in relation to the conflict in Kosovo; make possible the establishment of genuine democratic self-governance in Kosovo, through a negotiated political settlement with representatives of the ethnic Albanian community; grant access to and free and unaccompanied movement within Kosovo for all humanitarian aid workers and international monitors; promote and respect fully the freedom of expression and the freedom of the press, without discrimination; repeal legal measures used to discriminate against ethnic Albanians, including repressive laws on universities; investigate and prosecute in all cases where so warranted, notably those cases concerning its personnel, anyone suspected of torture and ill treatment of persons held in detention; release all political prisoners, allow unimpeded access by NGOs and international observers to those prisoners who remain in detention, and cease the persecution of political leaders and members of local human rights organizations; and fulfil the commitment to provide financial and material assistance to those residents of Kosovo whose homes have been damaged.

The GA also, *inter alia*: called upon the FRY authorities and armed Albanian groups to refrain from any harassment and intimidation of journalists; called upon the FRY authorities and ethnic Albanian leaders to allow for, and facilitate, the free and unhindered return to their homes of all internally displaced persons and refugees; called on the government and all others to guarantee the unrestricted access of humanitarian organizations and OHCHR to Kosovo and ensure the safety and security of humanitarian, diplomatic and other affected personnel; supported an enhanced status for Kosovo, which would include a substantially greater degree of autonomy; encouraged the Office of the Prosecutor of the International Tribunal to continue investigations at all levels on serious violations of international humanitarian law committed in Kosovo and reaffirmed that such crimes fall within its jurisdiction; and demanded that the FRY authorities, the Kosovo Albanian leadership, and all others concerned cooperate fully with the Tribunal, *inter alia*, by providing full and free access to Kosovo for the Tribunal's investigators.

SECURITY COUNCIL

Reports of the Secretary-General

The reports of the Secretary-General on the situation in Kosovo (S/1998/361, April 1998; S/1998/470, June 1998; S/1998/608, July 1998; S/1998/712, August 1998; S/1998/834, September 1998; S/1998/912, October 1998) recall the decision of the Security Council, in resolution 1160/1998 of 31 March 1998, to impose sanctions and prohibit the sale or supply to FRY, including Kosovo, of arms and related materiel, as well as to prohibit arming and training for terrorist activities. The Council established a Committee to monitor implementation of, and compliance with, the sanctions imposed. Given that the UN had no political presence in Kosovo, assessments of the situation by the European Union and the Organization for Security and Cooperation in Europe (OSCE) are included as annexes to some reports, as well as information provided by Russia, the Danube Commission and the North Atlantic Treaty Organizations (NATO).

Bearing in mind the evolving situation in Kosovo, the reports reflect conditions at the time of their preparation and note, *inter alia*: almost daily violent clashes along the borders with Albania and in other parts of Kosovo, the associated increase in civilian casualties, and the use of heavy weapons against non-combatants; attacks and threats against police, military and civilians by the Kosovo Liberation Army (KLA); a rise in the number of incidents involving civilians attacking other civilians for ethnically motivated reasons; a steady increase in the number of internally displaced persons and an influx of refugees to Albania because of the escalation of violence on both sides; the burning and destruction of houses; illegal border crossings and violations of airspace; restrictions on access to Kosovo for foreign diplomats and journalists; the blockade of some humanitarian relief assistance, including food; the excessive use of force by the Serbian police; the use of violence to suppress political dissent or in pursuit of political goals; a slowdown in local food production and the possibility of food shortages; reports that some returnees, mostly young men, were taken by police for "informative talks"; actions by police to prevent returnees from harvesting crops; a shortage of essential drugs and the collapse of basic health services.

The reports cite information provided by the OHCHR related to, *inter alia*: arbitrary arrest for questioning; pre-trial detention for periods well beyond the legal time limit; indications that some persons were being held in unacknowledged detention; a growing number of cases in which Kosovo Albanian political activists, lawyers, humanitarian workers and medical personnel were being arrested and interrogated by the police; torture and ill treatment during pre-trial detention and at least four alleged cases of death in custody; in politically sensitive trials, serious concerns regarding the independence of the courts and defendants' access to legal counsel; abductions by Kosovo Albanians — believed to be KLA members — of Serb, Kosovo Albanian and Roma civilians, as well as Serbian police officers; the murder of some of

those abducted and the burning of the bodies in a makeshift crematorium; and, the mass killing of civilians, with some bodies showing signs of mutilation.

Statement by the President

In August 1998 the President made a statement on behalf of the Security Council (S/PRST/1998/25) in which the Council, *inter alia*: expressed grave concern about the intense fighting in Kosovo, the devastating impact on the civilian population, and the greatly increased number of refugees and displaced persons; expressed concern that the increasing numbers of displaced persons, coupled with the approaching winter, could develop into an even greater humanitarian disaster; affirmed the right of all refugees and displaced persons to return to their homes; emphasized the importance of unhindered and continuous access of humanitarian organizations to the affected population; expressed concern over reports of increasing violations of international humanitarian law; called for an immediate ceasefire; reaffirmed the commitment of all states to the sovereignty and territorial integrity of the FRY; and, welcomed the announcement by the leader of the Kosovo Albanian community of the formation of a negotiating team to represent the interests of the Kosovo Albanian community.

Resolutions of the Security Council

In the September 1998 resolution on the situation in Kosovo (S/RES/1199) the Council, *inter alia*: noted the opinion of the Prosecutor of the International Tribunal for the Former Yugoslavia (ICTY) (7 July 1998) that the situation in Kosovo represented an armed conflict within the terms of the mandate of the Tribunal; expressed grave concern at the intense fighting in Kosovo and in particular the excessive and indiscriminate use of force by Serbian security forces and the Yugoslav Army which resulted in numerous civilian casualties and displacement; expressed deep concern over the flow of refugees into northern Albania, Bosnia and Herzegovina and other European countries as a result of the use of force in Kosovo, as well as the increasing numbers of displaced persons within Kosovo, and other parts of FRY; reaffirmed the right of all refugees and displaced persons to return to their homes in safety; condemned all acts of violence by any party, as well as terrorism in pursuit of political goals by any group or individual, and all external support for such activities in Kosovo; expressed deep concern at the rapid deterioration in the humanitarian situation and alarm at the impending humanitarian catastrophe, as well as at reports of increasing violations of human rights and of international humanitarian law; demanded that all parties, groups and individuals immediately cease hostilities, maintain a ceasefire in Kosovo, and take immediate steps to improve the humanitarian situation and to avert the impending humanitarian catastrophe; demanded that the FRY (a) cease all action by the security forces affecting the civilian population and order the withdrawal of security units used for civilian repression, (b) enable effective and continuous international monitoring in Kosovo, (c) facilitate, in agreement with the UNHCR and the International Committee of the

Red Cross (ICRC), the safe return of refugees and displaced persons to their homes and allow free and unimpeded access for humanitarian organizations and supplies to Kosovo, (d) make rapid progress to a clear timetable aimed at agreeing to confidence-building measures and finding a political solution to the problems of Kosovo; noted and called for implementation of the commitments of the President of the FRY (a) to resolve existing problems by political means on the basis of equality for all citizens and ethnic communities in Kosovo, (b) not to carry out any repressive actions against the peaceful population, (c) to provide full freedom of movement for, and ensure that there will be no restrictions on, representatives of foreign states and international institutions accredited to the FRY monitoring the situation in Kosovo, (d) to ensure full and unimpeded access for humanitarian organizations and delivery of humanitarian supplies, and (e) to facilitate the unimpeded return of refugees and displaced persons; insisted that the Kosovo Albanian leadership condemn all terrorist action and emphasized that all elements in the Kosovo Albanian community should pursue their goals by peaceful means only; called upon the FRY authorities, the leaders of the Kosovo Albanian community and all others concerned to cooperate fully with the Prosecutor of the ICTY in the investigation of possible violations within the jurisdiction of the Tribunal; underlined the need for the FRY authorities to bring to justice those members of the security forces who were involved in the mistreatment of civilians and the deliberate destruction of property.

The October 1998 resolution (S/RES/1203) reiterated a number of points from the September resolution and, *inter alia*: welcomed and endorsed agreements related to ending the conflict and the establishment of a political process to determine the status of Kosovo within the FRY; expressed deep concern at the closure by the authorities of the FRY of independent media outlets in the country and emphasized the need for these outlets to be allowed freely to resume their operations, called for prompt and complete investigation, including international supervision and participation, of all atrocities committed against civilians and full cooperation with the International Tribunal for the former Yugoslavia, including compliance with its orders, requests for information and investigations.

FIELD OPERATIONS

The OHCHR was established in 1993 and was originally intended to support the mandate of the Special Rapporteur of the Commission on Human Rights. The legal authority for the OHCHR presence is based on annual resolutions of the Commission on Human Rights extending the mandate of the Special Rapporteur and calling on the Secretary-General to support the Special Rapporteur by maintaining a field presence. The OHCHR is negotiating a formal Memorandum of Understanding with the government which will regularize the office's presence in the FRY. The headquarters is located in New Belgrade. Barbara Davis, Head of Office, UN Office of the

High Commissioner for Human Rights, Omladinskij Brigada 1, Siv III, 4th Floor, 11070, New Belgrade, Federal Republic of Yugoslavia; Phone: (381-11) 199386; Fax: (381-11) 197753; e-mail: davisb@un.org.

The office carries out activities both in support of the mandates of the Special Rapporteur and the High Commissioner for Human Rights. The field office in Belgrade is actively monitoring human rights developments in Kosovo, as well as in other parts of the country. The OHCHR has urged the government to permit the opening of an office in Kosovo.

The main activities carried out as of August 1998 included: weekly and monthly reports to the OHCHR on human rights developments; provision of regular information and briefings to the Special Rapporteur, and assistance in the drafting of reports to the Commission on Human Rights; liaison work with the government, the OHCHR, and the UN human rights mechanisms; provision of information to the government as well as to elements of civil society, notably non-governmental organizations, on aspects of the UN human rights programme; and regular workshops and training sessions with NGOs, academic institutions and others.

Reports of the Human Rights Field Operation

Public distribution of the periodic reports prepared by the Field Operation was discontinued in June 1998 on the basis that the reports contained confidential information. Five reports were made publicly available prior to that decision (30 January 1998; February 1998; April 1998; 30 April 1998; 29 May 1998).

The reports address such human rights issues as: continuing deterioration in the social and economic situation; the repatriation of rejected asylum seekers to Kosovo and Sandzak; the need for assistance for internally displaced persons in Sandzak; and the situation of the Roma community.

References to the situation in Kosovo included the following: attacks against Serbian police and private individuals, in some cases causing wounding and/or death; the fact that several villages around Srbica-Drenica were reportedly under the *de facto* control of armed and uniformed groups presenting themselves as members of the Liberation Army of Kosovo (UCK/KLA); deaths and injuries caused by the Serbian police in response to attacks on or against them; arrests followed by torture and sometimes killing, noting that some bodies recovered at the morgue showed signs of mutilation; deaths of civilians during police operations, noting that authorities claimed they had been caught in the cross fire while witnesses claimed the bodies showed evidence of shooting at close range.

General developments noted included the following: the political crisis, which caused a number of pending legal reforms and new legislation to be put on hold, including

the draft law on the media; the easing of tensions in Montenegro and changes to the Law on Elections, which made it easier for smaller parties to reach the four per cent threshold — the required minimum for a candidate to be elected, and which reserved five seats in Parliament for deputies from regions with a predominantly Albanian population; the signing of a Memorandum of Understanding on education in Kosovo, which allowed Albanian professors and students to return to ten faculties of Pristina University and permitted the reopening of the Institute for Albanian Studies; the signing of a protocol related to the normalization agreement between Croatia and the FRY on procedures for an organized return of refugees and displaced persons; protests by media associations in response to temporary measures by the Ministry of Telecommunications for the licensing and registration of the independent media; the proposed new Law on Universities, reviewed during the 26 May session of the Serbian Parliament, which stipulates that the rector, deans, and governing boards of universities would be directly appointed by the Serbian government, without any guarantee of representation for the faculties or the students.

The activities of the Field Operation included, *inter alia*: visits to Pristina and Novi Pazar to follow up on developments in Kosovo, including alleged human rights violations in connection with police operations, and to Sandzak; field trips to Montenegro and Vojvodina; work to link efforts of independent human rights advocates, legal professionals, the international community, NGOs, and government commissions formed to commemorate the 50th anniversary of the Universal Declaration; assistance to the Special Rapporteur of the Commission on Human Rights during his visit to Kosovo in April; work related to citizenship and documentation issues affecting refugees from Croatia living in FRY; a visit to Montenegro to devise a plan to cope with pressing demands, in particular the growing number of missing persons, and to explore what additional material and staff resources are needed urgently in the short and long term; monitoring a war crimes trial in Bijelo Polje; a meeting with the defence attorney representing over 70 members of the Roma community in Danilovgrad, in cases related to restitution for being violently ousted from their homes during riots in 1995; monitoring of the trial of an artist who was arrested during a street performance and accused of verbally insulting police; meetings in Kragujevac with representatives of the Association for Human Rights of Roma in the FRY, visits to a social centre and a kindergarten run by the local Roma community; a meeting with representatives of the trade union of the "Zastava" weapons factory regarding the deteriorating social situation among its workers; and, a meeting with the head of the Helsinki Committee of Sandzak to discuss issues raised in the Committee's 1997 annual report on the situation of the Muslim (Bosniak) community in the region.

APPENDIX: HUMAN RIGHTS TREATY BODIES

DRAFT SCHEDULES FOR CONSIDERATION OF STATE REPORTS

The following schedules of the treaty bodies was prepared after the country profiles were completed. This accounts for any discrepancies that may appear between information in the profiles, related to consideration of state reports, and the information contained below. Please note: the following schedule was compiled at the beginning of February 1998 and is subject to change at short notice.

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR)

The provisional schedule of reports and/or situations to be considered by the Committee is:

20th Session: 26 April-14 May 1999

Bulgaria 3rd periodic report E/1994/104/Add.16

21st Session: 15 November-3 December 1999

Armenia Initial report E/1990/5/Add.36

Georgia Initial report E/1990/5/Add.37

HUMAN RIGHTS COMMITTEE (HRC OR CCPR)

The provisional schedule of reports and/or situations to be considered by the Committee is:

65th Session: 12-30 July 1999

Poland 4th periodic report CCPR/C/95/Add.8

Romania 4th periodic report CCPR/C/95/Add.7

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD)

The provisional schedule of reports and/or situations to be considered by the Committee is:

54th Session: 1-19 March 1999

Czech Republic 13th and 14th periodic reports

Slovenia

Yugoslavia

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

The provisional schedule of reports and/or situations to be considered by the Committee is:

21st Session: June 1999

Georgia Initial report CEDAW/C/GEO/1

COMMITTEE AGAINST TORTURE (CAT)

The provisional schedule of reports and/or situations to be considered by the Committee is:

Bulgaria 2nd periodic report CAT/C/17/Add.19

FYR Macedonia Initial report CAT/C/28/Add.4

COMMITTEE ON THE RIGHTS OF THE CHILD (CRC)

The provisional schedule of reports and/or situations to be considered by the Committee is:

22nd Session: September 1999

Armenia	Initial report	CRC/C/28/Add.9
Russia	2nd periodic report	CRC/C/65/Add.5

23rd Session: January 2000

The FYR Macedonia	Initial report	CRC/C/8/Add.36
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24th Session: May 2000

Georgia	Initial report	CRC/C/41/Add.4/Rev.1
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26th Session: January 2001

Slovakia	Initial report	CRC/C/11/Add.17
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27th Session: May 2001

Lithuania	Initial report	CRC/C/11/Add.21
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28th Session: September 2001

Latvia	Initial report	CRC/C/11/Add.22
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