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Human rights questions: human rights situations and
reports of special rapporteurs and representatives

Situation of human rights in Bosnia and Herzegovina
and the Federal Republic of Yugoslavia, Croatia

Note by the Secretary-General

Addendum

The present addendum updates, as of 25 October 1998, the report submitted by Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina and the Federal Republic of Yugoslavia (A/53/322), in accordance with General Assembly decision 1997/18 and Economic and Social Council decision 1997/18. Pursuant to the requests of the Commission on Human Rights and the Security Council, the report will also be made available to the members of the Security Council and the Commission on Human Rights.

contained in the report
Human Rights on the
Federal Republic of
Yugoslavia, A/53/322, Add. 1
of 12 December 1998. Pursuant to the
requests of the Commission on Human Rights and the Security Council, the report will also be made available to the members of the Security Council and the Commission on Human Rights.

Annex

Addendum to the report prepared by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina and the Federal Republic of Yugoslavia

Commission on Human Rights
the Republic of Croatia

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Agenda item 110 (c)

Human rights questions: human rights situations and
reports of special rapporteurs and representatives

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**Situation of human rights in Bosnia and Herzegovina, Croatia
and the Federal Republic of Yugoslavia**

Note by the Secretary-General

Addendum

The present addendum updates, as of 25 October 1998, the information contained in the report submitted by Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and

Herzegovina, Croatia and the Federal Republic of Yugoslavia (A/53/322), in accordance with General Assembly resolution 52/147 of 12 December 1997 and Economic and Social Council decision 1998/272 of 30 July 1998. Pursuant to the requests of the Commission on Human Rights and the Council, the report will also be made available to the members of the Security Council and the Organization for Security and Cooperation in Europe.

Annex

Addendum to the report prepared by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia

of Prime Minister has to be confirmed by a majority of the RS National Assembly, where no single party or coalition of parties obtained sufficient votes to form a majority. It is therefore to be expected that the Sloga coalition parties will have a key role in the designation of the new RS Prime Minister.

15. In the Federation House of Representatives, the main Bosniak party, the Party for Democratic Action (SDA) won 47.9 per cent of the seats and will no longer hold an absolute majority. Similarly, the HDZ lost 8 of its 36 seats and now holds 19.7 per cent, down from 25.3 per cent. In the cantons, the New Croat Initiative party (led by Kresimir Zubak) made some progress in a number of areas as did the Social Democratic opposition, which considerably increased its presence in some areas.

G. Kosovo refugees

16. Since early March, after the first police operation conducted by the Serb Special Police forces in Kosovo, refugees from Kosovo started arriving in Bosnia and Herzegovina. As of early October, the Office of the United Nations High Commissioner for Refugees (UNHCR) had registered 9,000 refugees (almost exclusively in the Federation). While most of the refugees are either staying with relatives or friends or occupying empty houses, a growing number are being accommodated by UNHCR in collective centres.

17. On 1 October, the Council of Ministers of Bosnia and Herzegovina signed instructions on the temporary admission of refugees from Kosovo, which provide for temporary protection. The instructions regulate, in accordance with international refugee and human rights law, *inter alia*, their admission in safety and protection against refoulement without discrimination, as long as the crisis in the Federal Republic of Yugoslavia continues.

II. Republic of Croatia

A. Right to life and personal security

18. On 3 September, an Italian tourist died as a result of police brutality that caused contusions and haemorrhaging in the brain. According to the Croatian information agency HINA, on 1 September, the police inflicted serious physical injury on the tourist while arresting him. HINA later reported that "on September 2, seven police officers beat up [the Italian tourist] who died from injuries the following day in Split hospital". It remains unclear when exactly the person was subjected to ill-treatment. It is also doubtful whether the victim was given prompt medical treatment, which might have saved his life. The case resulted in the dismissal of three senior police officials from the county where the incident occurred.

B. Right to return

19. Although progress in the implementation of the Government's programme for the return and accommodation of displaced persons, refugees and resettled persons has been generally uneven, there have been some positive recent developments. In regard to the existing discriminatory legal provisions that impede return and repossession of property, the Government, in a meeting on 21 October with international representatives, provided assurances that it would work with experts of the international community to amend current laws, such as the Law on Areas of Special State Concern, to ensure equal treatment of all those accorded returnee status. Secondly, the Government has begun issuing temporary green cards, valid for one month, to all those returning through the auspices of the Joint Working Group. This temporary returnee status will make it easier for assisted returnees to have access to rights and benefits while they wait for their identification and other documents. Meanwhile, the housing commissions in municipalities are still not implementing the return programme in a satisfactory manner, with the problem appearing to be a lack of clear instructions from national authorities.

20. Since the endorsement by the Croatian Parliament on 26 June 1998 of the return programme, a total of 2,238 persons have returned to Croatia. Of this number, 1,331 returned under the Joint Working Group, and the rest "spontaneously".

C. Administration of justice

21. On 1 October, at the conclusion of controversial disciplinary proceedings, the State Judicial Council (*Dravno Sudbeno Vijeće*) ruled in favour of the final dismissal of the former President of the Supreme Court of Croatia, Krunoslav Olujic, who can now lodge an appeal with the House of Counties. Questions were raised as to whether Mr. Olujic's right to defence had been curtailed.

22. Regarding war crimes, in the ongoing trial of Goran Vusurovic, another hearing, scheduled to take place from 1 to 3 September 1998, was postponed. In the related case of the so-called Sodobovci group, in line with an agreement with the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES), four defendants were granted a retrial without being subjected to detention - which would normally be mandatory for the charges they are facing. The remaining indictees are still at large. The trial, which began on 10 September, is continuing.

D. Freedom of expression

23. Government control of the electronic media, as well as indirect pressure on press freedom, of both an economic and a legal nature, remains a major concern. On 19 October, the European Union, OSCE and the United States Embassy in Croatia presented to the Government a "non-paper" on the media. Among the highlighted areas of concern were the following: the need for legal amendments to transform Croatian Radio Television (HRT) into a public service broadcaster; the removal of obstacles to the development of private-sector media, which would include the privatization of the third television channel; the termination of the monopoly on the distribution network for private print media, which has close ties to the ruling party; and the cessation of the use of defamation legislation to silence the media and their journalists.

24. The "non-paper", whose contents have the support of the Special Rapporteur, emphasizes that the transformation of HRT into a public service broadcaster requires a number of key legal amendments, in line with the recommendations proposed by the experts of the Council of Europe. These include provisions concerning representation on the HRT Council and the appointment procedures; the appointment by the HRT Council - as opposed to the Parliament - of the Managing Director and Supervisory Board; the determination of subscription fees by the HRT Council; the prohibition of personnel in positions of management or editorial responsibility from holding political party office or being candidates for the same; and a possible privatization of the transmission network of HRT.

E. Gender issues

25. Croatia has developed a praiseworthy national policy on the promotion of equality, to be implemented by the Commission for Issues of Equality, established in May 1996, in compliance with the Convention on the Elimination of All Forms of Discrimination against Women. Certain doubts still arise, however, in relation to gender issues.

26. The new Criminal Code, which came into force in 1998, contains provisions that seem inadequate to protect certain rights of women. Specifically, provisions referring to the prosecution of cases of domestic violence, as prescribed in article 102, paragraph 2, of the Code, for the criminal act of inflicting physical injury, and for the criminal act of rape (art. 188, para. 5), 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; the former Criminal Code provided for ex officio prosecution for the same crimes. Under the new law neither physicians nor the police are legally obliged to report severe physical injury to the State attorney. These changes in the Criminal Code are reason for serious concern, especially in the light of information received from women's non-governmental organizations that domestic violence is on the rise in Croatia.

27. 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, a trend that was

confirmed in the 1997 municipal, regional and parliamentary elections.

F. Danube region

28. On 15 October, the United Nations Police Support Group ended its mission. The police monitoring role was taken over by OSCE. Both missions have reported an improvement in the overall security situation, although sporadic episodes of ethnically motivated violence still occur.

29. A series of highly publicized incidents of ethnic intolerance have marred the life of schoolchildren in the Danube region. Serb students have been accused of several ethnically coloured abuses against their Croat fellows and of vilification of Croatian symbols. Serbs, on the other hand, complain that the media do not give comparable attention to similar incidents perpetrated by Croats. However, there seems to be unanimity on one point: these incidents reflect what the children are hearing at home, a sad indication that national reconciliation remains a distant goal.

III. Federal Republic of Yugoslavia

30. From August through October 1998 human rights concerns in the Federal Republic of Yugoslavia have focused on the crisis in Kosovo and its effects in other parts of the country. During this period, the Special Rapporteur visited the Federal Republic of Yugoslavia twice. From 10 to 21 September, the Special Rapporteur conducted a comprehensive field mission, during which he travelled through Montenegro, Sandzak and Kosovo. Shortly after the signing of the "Milosevic-Holbrooke" agreement and the agreement with OSCE creating the Kosovo Verification Mission, the Special Rapporteur returned to the country on 21 October and remained there until 29 October, focusing on the rapidly evolving developments in Kosovo and on the situation of the media in Serbia in the wake of government restrictions on independent newspapers and radio stations.

A. Kosovo

31. Of his last 19 days on mission in the Federal Republic, the Special Rapporteur spent over a week in Kosovo, where he met government officials and Kosovo Albanian representatives in Pristina, and travelled to Pec, Decani and Prilep and to the Drenica region. Except in urban Pec, he observed signs of use of heavy weapons against isolated houses and entire villages, as well as clear evidence of looting and post-military-operation destruction of property. Government representatives in Pristina admitted in discussions with the Special Rapporteur that in some places, such as Malisevo, government forces had indeed engaged in deliberate and retaliatory destruction and looting of property owned by ethnic Albanians. The Special Rapporteur accompanied a delivery of humanitarian assistance to internally displaced persons in the Drenica region, where he encountered persons encamped about 1 kilometre outside their village, who acknowledged that, although some had attempted to return, they could not return to destroyed properties and expressed fears for their security.

32. A high proportion of civilian casualties has marked the conflict in Kosovo, a region where 47 per cent of the population is under the age of 18. The population of internally displaced persons is overwhelmingly made up of women and children, and women and children number high among the killed and wounded. In the process of return, which has begun in some measure at this writing, women and children are treated differently. Returnees and government officials have described to the Special Rapporteur large-scale "screening" operations, in which police divide the men from the women and children as they attempt to return to their villages. The men are detained for periods ranging from several hours to several days, subjected to interrogation and paraffin glove tests, and those who are not arrested on site are permitted to return. Returnees and detainees have described indiscriminate beatings and ill-treatment during "screening".

33. Recent months have been marked by more discoveries of concentrations of corpses and evidence of massacres, including the massacre of Serb and Albanian civilians. Serbian authorities announced that, on 27 August, in the village of Klecka, they discovered in a makeshift crematorium what they believe to be the remains of civilians abducted and then killed by the Kosovo Liberation Army (KLA). The exact number, identity, age and sex of the persons who died at Klecka have yet to be determined. Shortly after the discovery of the Klecka site, the remains of