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Federal Republic of Yugoslavia (Serbia and Montenegro)

Continuing police torture and ill-treatment

Summary

AI Index: EUR 70/001/2003

Amnesty International continues to be seriously concerned about numerous allegations of police torture and ill-treatment throughout the Federal Republic of Yugoslavia (FRY)¹, continuing impunity for such violations, and the apparent lack of will by the authorities to adequately address this issue.

Amnesty International believes that widespread lack of disciplinary proceedings, combined with the nominal sentences imposed in rare instances on the few police officers found guilty of severely ill-treating detainees, help prolong a climate of impunity for torture and ill-treatment. The police force remains almost totally unreconstructed from the era of former President Slobodan Milošević, and in many parts of the country reportedly continues to use ill-treatment as a routine part of police work. Amnesty International is calling on the Serbian and Montenegrin authorities to undertake prompt, thorough, independent and impartial investigations into all allegations of police torture and ill-treatment, to bring to justice the perpetrators, and to award adequate compensation to the victims as required by international standards.

This report summarizes a nine-page document (3,586 words), *Federal Republic of Yugoslavia (Serbia and Montenegro): Continuing police torture and ill-treatment*, (AI Index: EUR 70/001/2003) issued by Amnesty International in January 2003. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email:

<http://web.amnesty.org/ai.nsf/news>

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

¹ In November 2002, an agreement was reached on a new Constitution which would change the name 'The Federal Republic of Yugoslavia (FRY)' to 'Serbia and Montenegro'. At the time of writing, the agreement was awaiting final acceptance by the respective parliaments.

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Federal Republic of Yugoslavia (Serbia and Montenegro)¹ Continuing police torture and ill- treatment



Milan Jezdović's family at his funeral

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Federal Republic of Yugoslavia (Serbia and Montenegro)¹

Continuing police torture and ill-treatment

Amnesty International continues to be seriously concerned about numerous allegations of police torture and ill-treatment throughout the Federal Republic of Yugoslavia (FRY), continuing impunity for such violations, and the apparent lack of will by the authorities to adequately address this issue.

In May 2001 the UN Committee against Torture (CAT) found the FRY in violation of its obligations under the Convention against Torture over the case of Milan Ristić who was alleged to have been killed by police on 13 February 1995. The CAT ordered the FRY authorities to ensure the right of Ristić's parents to legal remedy, conduct a full impartial investigation, and report back to the Committee on the steps taken within 90 days. However, no such action was taken by the FRY authorities. In November 2001, the Belgrade-based Humanitarian Law Centre (HLC) submitted a report to the CAT detailing continuing allegations of ill-treatment, and identifying the FRY's failure to comply with its obligations under the Convention by failing to reform the police forces. Subsequent reform of the police and judiciary, despite a wide reaching program led by the Organization for Security and Cooperation in Europe (OSCE), has been disappointingly slow.

In March 2002 a new criminal procedure code was adopted.² Article 13 of this code allows people detained on suspicion of crimes covered by the criminal code immediate access to defense counsel.³ While torture as a crime is not specifically defined as a criminal offence, Article 12 of the new code forbids and makes punishable the use of any kind of violence on a detainee. However, as detailed below, numerous allegations of ill-treatment by police continue to be made with little apparent redress.

Amnesty International also notes that under the list of commitments to be fulfilled by the FRY after its accession to the Council of Europe, there is a commitment "to revise, in co-operation with Council of Europe experts, the legislation and regulations concerning the prison system and concerning war crimes and torture, so as to ensure prosecution before the

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² The new code is not being applied in Montenegro which, until new constitutional arrangements on the make-up of the state are agreed, does not recognize new federal laws.

³ Police can still detain people under the petty crimes law for up to 24 hours without access to counsel. In addition Article 226 of the new criminal procedure code allows police to summon people for questioning as witnesses for up to four hours. The right to access to defense counsel only applies if the police decide in the course of the questioning that the person is a suspect and likely to be charged.

courts of crimes which are not prosecuted by the ICTY [the International Criminal Tribunal for former Yugoslavia whose remit covers war crimes], and also to prevent ill-treatment of citizens by the police".⁴

In the very few reported cases in 2002 in which police officials were tried for ill-treatment and found guilty, those found guilty were sentenced to less than six months' imprisonment, with the exception of the apparently unique case where the Serbian Supreme Court on 25 January raised to 18 months a policeman's previous sentence of 10 months' imprisonment for torturing Radivoje Janković on 7 April 1997.⁵ On 13 June 2002, two officers were sentenced to two months' imprisonment suspended for one year after torturing Georg Tani on 23 November 2000, while on 8 July 2002 two other officers received three-month sentences after torturing a Rom in May 1998. The maximum sentence under current legislation is three years' imprisonment for officials using violence (or five years if violence is used to extract a confession); sentences of six months or above would necessitate dismissal from the police force. On 9 October 2002 two police officers were sentenced to eight months' imprisonment, suspended for one year, for beating Dragan Šijački so badly that his jaw was broken.

Such cases only appear to come to court after action to initiate proceedings against police officers is undertaken by individuals or more usually by a non-governmental organization (NGO) acting on their behalf. Typically, a NGO such as the Belgrade-based the Humanitarian Law Center (HLC) would raise a case of alleged ill-treatment and torture directly with the police who almost invariably reply (if they reply at all) that the police did not use unnecessary force, and often file a counter-complaint against the victim claiming that he or she was resisting arrest. The NGO can then file a criminal complaint with the public prosecutor, who if, as is usually the case, declines to take it up, should inform the NGO within eight days, although again often the public prosecutor rarely replies. The NGO can then initiate proceedings themselves. The Leskovac Committee for Human Rights has taken up a number of cases of ill-treatment but, with the sole exception of the sentencing of a police officer to one and a half years' imprisonment on 25 January (see above), there have been no successful prosecutions and the Ministry of the Interior failed to reply to its letters. Similarly the Sandžak Committee for the Protection of Human Rights and Freedoms has reported cases of alleged police brutality in which the offending officers had been involved in similar incidents in the past, detailing 34 cases in which named officers over an extended period had

⁴ Parliamentary Assembly of the Council of Europe, Opinion No. 239 (2002), The Federal Republic of Yugoslavia's application for membership of the Council of Europe, para. 12 iii, (f), adopted 24 September 2002.

⁵ The original sentence of 10 months' imprisonment was passed on 9 November 2001 by the Vranje District Court. However, in this case the other officer (both officers' names are known to Amnesty International) accused of torture including *falaka* - beatings on the sole of the feet - was exonerated and subsequently promoted. The victim, Radivoje Janković, was himself accused by both this second officer and the Surdulica public prosecutor - who was alleged to have been present at intervals during the torture session - of falsely accusing them, and on 13 May 2002 he was found guilty by the Vranje Municipal Court and sentenced to three months' imprisonment.

repeatedly subjected people to ill-treatment and torture with impunity. Again the committee received no reply from the public prosecutor after submitting the documentation to the authorities. In early July 2002 the Committee was unofficially informed through sources in the district court that all the statements alleging torture and ill-treatment had been rejected.

Those cases taken up by Belgrade organizations such as the HLC appeared to have a greater chance of success, albeit limited, than those taken up by local organizations. The most successful cases have been those involving members of the student group *Otpor* (Resistance) alleging ill-treatment and harassment by the police in the Milošević era. *Otpor* played a leading part in the protests which saw the overthrow of former President Slobodan Milošević and the election of the new authorities. Compensation, mostly of around 50,000 dinars (approx \$750), was awarded in a number of cases brought by the HLC on behalf of members of *Otpor*.

However, in these cases also, the police officers found guilty of ill-treatment received nominal sentences. For example, three police officers from Vladičin Han were found guilty of torturing Miloš Kitanović and five other *Otpor* activists on 8 September 2000. The six men had been called to the police station for informal questioning. They were prevented from leaving by three apparently drunk police officers who reportedly tortured them by beating them on the head, body and soles of the feet, strangling them with a rope and forcing them to remain in a squatting position and beating them if they moved. The six were finally released the next day. Amnesty International is informed that the three officers (whose names are known to Amnesty International) received suspended sentences of between two and four months' imprisonment and were transferred to other police stations in the vicinity where they remained on active duty.

Amnesty International believes that widespread lack of disciplinary proceedings, combined with the nominal sentences imposed in rare instances on the few police officers found guilty of severely ill-treating detainees, help prolong a climate of impunity for torture and ill-treatment. The police force remains almost totally unreconstructed from the Milošević era and in many parts of the country reportedly continue to use ill-treatment as a routine part of police work. Amnesty International calls for any law enforcement official found to be responsible for ill-treatment to face disciplinary action, and criminal charges where appropriate. Law enforcement officials convicted of torture or serious ill-treatment should be subjected to appropriate criminal sanctions, as well as immediate dismissal from the police force.

The following six cases illustrate Amnesty International's concerns at the continuing allegations of police torture and ill-treatment, continuing impunity for such violations, and the apparent lack of will by the authorities to seriously address this issue.

1. Court awards damages for police torture, but perpetrators remain unpunished

In other cases, even where courts have substantiated claims of torture and ill-treatment, no disciplinary or criminal proceedings have been taken against the perpetrators. In November 2002, the Novi Sad Municipal Court, in the context of a civil proceeding taken by the HLC, awarded damages of 240,000 dinars from the Serbian authorities to Stevan Dimić, a Rom, for his unlawful arrest and torture by police. On 23 July 1998 police officers had arrested Stevan Dimić on suspicion of raping a 15-year-old girl, and tortured him to force a confession. He was, so the court established, made to lie on the floor while a police officer sat on a chair placed on his back and beat him with a truncheon and metal bar while another officer kept him pinned to the floor by placing his boot over Stevan Dimić's head. He was then kicked in the genitals and racially abused and told that he would be unable to have children after the police were through with him. During his 12-day detention he was, so the court established, further subjected to degrading treatment and racial abuse by police officers. He was subsequently acquitted of the charge of rape on 8 April 2000 by the Novi Sad Municipal Court and this decision was upheld by the District Court in December 2000. Amnesty International is informed that no disciplinary or criminal proceedings have been taken against the officers allegedly involved.

Amnesty International is calling for a thorough investigation into these allegations of torture which have been corroborated in a civil court.

2. Belgrade students beaten after quoting official human rights document

The HLC reported that on 16 March 2002 six policemen broke up a student birthday party in Belgrade after complaints had been made about loud music. Initially two uniformed police officers came to the apartment at about 2.00 am, turned off the music and ordered the guest to leave the apartment. When the students refused to leave, invoking the inviolability of the home from a brochure 'The Police and Human Rights' published by the Federal Ministry of Internal Affairs, the police reportedly swore at them saying the Federal Ministry no longer existed and called for back-up. Two more uniformed officers and two inspectors arrived. One of the students, 22-year-old Kosta Stanković, stated; "[o]ne of the inspectors, a man of medium height with a prominent jaw, twisted my arm and frog-marched me into the courtyard where he punched me in the ribs and threw me to the ground". Kosta Stanković then alleged that one of the initial police officers kicked him in the head saying; "[i]f it's rights you want, there you go!" The same officer then allegedly hit Nemanja Jović on the ear. He was later diagnosed as having suffered a burst eardrum. When Milan Milovanović noted the officers' numbers and said he would sue, he was reportedly bundled into a police car and driven off. He told the HLC: "[i]n the car, I said I wanted to be taken to the police station, to which they replied they were taking me to the Zvezdara woods. 'We're going first to the Blue Bridge to get a fag so he can fuck you in the woods', one of the officers said". Milan Milovanović alleged that he was repeatedly beaten in the car, and when they reached the woods he was kned in the head several times. As he related in his statement to the HLC published on 29

March: "[t]hey started slapping me again when I repeated that I was going to sue them, and they threatened to tie me to a tree and leave me in the woods. They pulled my hair so hard my scalp still hurts."

3. *Falaka* with baseball bat to music

The Leskovac-based Committee for Human Rights reported that on 24 June 2002, 20-year-old Nenad Miljković was reportedly tortured by *falaka* (beatings on the soles of his feet) with a baseball bat by three policemen at Vučje police station near Leskovac to try and make him confess to stealing a wallet which he denied. He stated that at about 10.30am three police officers took him to the police station, arriving there at about 11.00am. There he was questioned about the missing wallet. After he denied any knowledge of the alleged theft, he alleged that the police officers switched on a cassette player with music, and ordered him to put his leg up on another chair to the one he was sitting on and then allegedly tortured him while the music played.

"They asked me which music I liked. I replied that I did not like any music... and then one of them hit me on the soles of my feet with a baseball bat. He hit me so much that he damaged my 'šprinterka' [a make of trainer shoe]. He hit me many times saying 'confess' while he hit me".

Nenad Miljković

©Leskovac Human Rights
Committee

Nenad Miljković reported that he continued to deny the charges. Then another police officer ordered him to remove his trainers and proceeded to hit him a further three or four times on the bare soles of his feet. Nenad Miljković was also reportedly slapped a couple of times by one of the police officers who also made obscene comments to him. However, the 'missing' wallet was subsequently found whilst he was being allegedly tortured and he was then released without charge at about 2.30pm.

The case aroused a measure of publicity and criminal charges were

reportedly brought against the officers involved who, so the Minister of the Interior reportedly announced on a television station, had been suspended from duty.

4. Beaten into a coma

The Leskovac Committee informed Amnesty International of the case of 23-year-old Nenad Tasić from Vranje. On the night of 17/18 August 2002 he and three associates had reportedly burgled a number of houses in Vranje and were attempting to burgle another house when the police arrived on the scene. The other three men (whose names are known to Amnesty International) were arrested whilst Nenad Tasić managed to flee, but was arrested later at about 6am at his parents' home and taken to the police station in Vranje. There he was allegedly savagely beaten by two officers (whose names are known to Amnesty International) with truncheons to try and get him to disclose the whereabouts of 40 Euros he was accused of stealing. He lost consciousness after being hit repeatedly on the head and attempts to revive him with cold water in the police station failed. He was taken unconscious to Vranje hospital who diagnosed him as being in a deep coma with serious complications, and he was rushed to the neuro-surgical department at Niš hospital for an emergency brain operation. Despite the operation he was diagnosed as suffering from severe brain damage and loss of control over the right side of his body, and there were fears that he might die. He remained in a deep coma until 2 September when he opened one eye and although he still could not speak, he reportedly recognized his father. On 20 August 2002 the district prosecutor in Vranje opened a criminal investigation against the two police officers under Article 65 of the Serbian Criminal Code which prohibits the forcible extraction of statements.

Nenad Tasić © Leskovac Human Rights Committee

5. Allegedly tortured to death in police custody

Amnesty International is gravely concerned at allegations that 24-year-old Milan Jezdović was tortured to death on 5 December 2002 by police in Belgrade police station. The organization has received reports that eight other people arrested with him were also subjected to torture. Amnesty International is informed that an official autopsy found that Milan Jezdović had died of a heart attack which, so official sources state, occurred during interrogation. However, Amnesty International has received allegations that Milan Jezdović and the eight others arrested with him were all severely ill-treated following their arrest on suspicion of dealing in drugs. From the available information, Amnesty International believes that there are substantial grounds to believe that his death may have been caused by torture.

On 4 December 2002 at about 8pm some seven or eight plainclothes police officers, reportedly without the necessary search warrant, raided Milan Jezdović's Belgrade apartment.

Reportedly, the police found some illegal drugs and a handgun, and arrested all the seven men, one whom was Milan Jezdović, and two women present. They were all reportedly handcuffed, made to lie on the floor, and allegedly beaten. One of the women, 18-year-old Milica Babin, was allegedly kicked and called a prostitute and a junkie. All nine were then taken to the main Belgrade police station and individually interrogated. All Milan Jezdović's co-arrestees reportedly have stated that, after arrest, they had plastic bags placed over their heads with self-adhesive strips stuck around their necks, and that self-adhesive strips were also stuck around their legs to prevent them from struggling, and that some of them were beaten, kicked and tortured with electric shocks. Some reported hearing Milan Jezdović screaming that he was unable to breathe due to the bag over his head.

The two women and four of the men were reportedly released on 5 December at 1.30pm due to lack of evidence, while 25-year-old Radoje Tomović who, Amnesty International is informed, at the time of the search had admitted to possessing a small amount of heroin for his own personal use, and 19-year-old Aleksandar Drašković who admitted possessing the handgun, were released the following night.

Milan Jezdović's family was allowed to remove his body on 6 December, and informed that the full autopsy report would not be available for four to six weeks. Reportedly a second doctor engaged by the family to inspect Milan Jezdović's body found three burn marks, consistent with those made by electric shocks, on his head, and scars on his nose and forehead.

Amnesty International also notes that, according to the deceased's father, Milan Jezdović did not suffer from a weak heart, and that his health was so robust that he been drafted into the parachute regiment in 1999 when performing his compulsory military service. Amnesty International also notes that he was a student of physical education at Belgrade University. Both these facts would mitigate against the likelihood of an unprovoked heart attack.

Amnesty International is also concerned at reports that none of the nine people arrested was allowed access to a lawyer despite their requests, in contravention of Article 13 of the new code of criminal procedure.

Amnesty International notes that this was the second death during interrogation of a detainee, officially from a heart attack, at this police station within a short time period. On 29 October 2002 Dragan Malešević Tapi died in disputed circumstances, and again there were allegations of police ill-treatment and torture made by detainees arrested with him on suspicion of being involved in the murder of former police chief Boško Buha. On 12 November 2002 Amnesty International wrote to the Serbian authorities expressing its concerns about this case and urging an independent investigation into the death of Dragan Malešević Tapi and the allegations of torture and ill-treatment but at the time of writing had not received a reply.

Amnesty International is urging the Serbian authorities to undertake a prompt, thorough and impartial investigation into the allegations of ill-treatment of Milan Jezdović and the eight others arrested with him, and that a full investigation into his death be undertaken as required by the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. The organization is also calling for an investigation into why the detainees were denied access to defence counsel in contravention of the code of criminal procedure which allows immediate access for all detainees.

Milan Jezdović

© Private

Milan Jezdović

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6. Roma children, aged 13 and 11, tortured in Montenegro

The HLC reported that on 8 November 2002, Montenegrin police allegedly tortured two Roma children whose family had come to Montenegro fleeing the war in Kosovo in 1999. The two brothers, M.Š. aged 13 and Š.Š. aged 11, were taken into custody to the Nikšić police station on the morning of 8 November on suspicion of theft. Under Article 72 of the Federal Criminal Code which states: "Criminal sanctions cannot be applied to a juvenile who at the time of a criminal act was aged under 14 (a child)", the boys were below the age of legal responsibility. However, their father gave permission for the police to take them to the police station for questioning. According to a statement by S. Š. "They [two police officers whose names are known to Amnesty International] took off my trainers and started hitting me and my brother with truncheons, striking us all over our bodies and the soles of our feet. We cried. After separating us, a skinny, tall inspector with a small beard pulled a knife and put it under my throat demanding that I admit to stealing the bag." M.Š. stated that the police officers had beaten him with a truncheon on the body and soles of his feet, thrown him to the floor and stamped on his head. "They said they were going to take off our underpants and cut off our balls. Whenever we said we hadn't stolen anything, they beat us even harder. They made us jump up and down on one leg." The two boys were released at 6pm the same day, and the police officers reportedly warned their mother not to raise a fuss about being tortured or the family would be sent back to Kosovo.

Amnesty International's recommendations

Amnesty International calls for an end to the apparent impunity for police torture and ill-treatment. Specifically the organization calls on the FRY authorities to:

- make torture, as defined in the UN Convention against Torture, a specific crime in accordance with the November 1988 recommendations of the (UN) Committee against

Torture;

- undertake prompt, thorough, independent and impartial investigations into all allegations of police torture and ill-treatment;
- bring to justice the perpetrators of torture or ill-treatment, and to award adequate compensation to the victims as required by international standards.

