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FREEDOMS IN ANY PART OF THE WORLDSituation of human rights in the former YugoslaviaReport of Mr. Jiri Dienstbier, 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

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The present report is submitted by Mr. Jiri Dienstbier, 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. The report covers developments in the area of the Special Rapporteur's mandate until the first week of December 1999 and is based on information gathered by field offices of the Office of the High Commissioner for Human Rights (OHCHR).

I. BOSNIA AND HERZEGOVINA

The Special Rapporteur concludes that, unfortunately, another year has passed with no significant progress to report on respect for human rights and the rule of law. The main reason for this situation continues to be deliberate obstruction by those who hold power in Bosnia and Herzegovina.

The Special Rapporteur's main areas of concern include the role of the police in ensuring protection of human rights. Despite the efforts of the United Nations Mission in Bosnia and Herzegovina (UNMIBH) to restructure local police, police forces remain mono-ethnic in most areas and their effectiveness in crime detection, investigation and response remains low. Police moreover are reluctant to implement court decisions not in accord with the politics of local majority groups.

The lack of a functioning and independent judiciary is another major concern of the Special Rapporteur. Interference of political power structures in the judicial system remains strong. This has been shown in the starkest terms by the almost total failure to implement property laws in either entity.

Overall, security concerns continue to be the main factor hindering returns to most parts of the country. Other major factors are lack of employment opportunities and discrimination. The Special Rapporteur welcomes the tough new approach taken by the High Representative, imposing legislation, removing from public office the main obstructionists, and sending a strong message to the leaders of the country as well as to all citizens. While it is too early to say whether this will bring results, he maintains that it is vital to keep up the pressure now that momentum has been generated.

II. REPUBLIC OF CROATIA

The Special Rapporteur's report focuses mainly on the issues of refugee returns and war-crimes trials. He expresses concern over the low number of returns, which he attributes in part to lingering post-war inter-ethnic tensions and the damaged economies and infrastructure in the areas of return. However, he also calls attention to obstacles for which the Government can be held directly responsible, including discriminatory and deficient legislation, lack of concern at both the

State and local levels, and the lack of accessibility, efficiency and enforcement of judicial remedies.

Concerning war-crimes trials, the Special Rapporteur states that unreasonable delays in war-crimes prosecutions and doubts as to their fairness, as well as a lack of transparency in new indictments, have reinforced the belief on the part of the Serb population that they are being targeted by the Government on account of their ethnicity. He urges that all war crimes be investigated and tried in accordance with international standards, and that perpetrators of war crimes be brought to justice regardless of their ethnic background.

The Special Rapporteur draws particular attention to the scant resources allocated to the judiciary and to the burden of unresolved cases. He states that delays and non-enforcement of court rulings should be of primary concern to the Government of Croatia. He emphasizes that an independent and effective judiciary is synonymous with the rule of law.

III. FEDERAL REPUBLIC OF YUGOSLAVIA (FRY)

Since most of the Special Rapporteur's recent report to the General Assembly was devoted to the situation in Kosovo, FRY, he is taking the opportunity of the present report to focus on issues not immediately related to the Kosovo crisis, but nonetheless crucial to his mandate. He notes that international efforts to avert the looming humanitarian crisis caused by the destruction of FRY's civilian infrastructure have been for the most part limited and politicized. He notes the arrival of the first fuel trucks in the European Union's "Energy for Democracy" programme, but observes that fuel shortages continue throughout FRY, disrupting food and water supplies and preventing the operation of essential equipment. Humanitarian agencies fear increased suffering of the most vulnerable, particularly refugees, internationally displaced persons, the disabled, children, the chronically ill, urban elderly and social cases.

The Special Rapporteur also calls attention to the FRY population's increasing economic hardship, generated in part by the country's long-term economic decline and lack of reform, and worsened as a result of sanctions and the extensive damage to infrastructure and industry caused by the air campaign of the North Atlantic Treaty Organization (NATO).

The Special Rapporteur expresses serious concern about increasing incidents of violations of freedom of expression throughout FRY, particularly in the Republic of Serbia. In Belgrade and in Pristina, selected media have embarked on crusades against independent journalists, while access to a range of information is severely restricted in several additional ways.

The Special Rapporteur makes particular reference to criminal proceedings under way throughout FRY with serious implications for human rights. He expresses grave reservations about the conduct of many proceedings. He recommends that the Government of FRY, including the republics of Serbia and Montenegro, should permit access by OHCHR and the International Committee of the Red Cross (ICRC) to places of detention, and should improve their performance in conforming judicial proceedings with international standards of due process. He further urges the authorities to take measures to end torture and ill-treatment of those in prisons.

The Special Rapporteur calls upon the international community to cease isolating the people of FRY. In particular he urges that bilateral civil society connections be multiplied and that non-governmental organizations in countries outside FRY establish links with counterparts inside the country.

Introduction

The present report of Mr. Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights, considers events occurring in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia until the first week of December 1999. The report is based on information gathered from a wide range of sources by field offices of the Office of the High

Commissioner for Human Rights (OHCHR). The Special Rapporteur would like to thank all those individuals and organizations which have supported his mandate since he assumed his position in March 1998. In particular, he would like to pay tribute to the OHCHR human rights field staff, both internationally and nationally recruited, who have demonstrated great dedication to the protection and promotion of human rights, and who conduct their work in often difficult circumstances. The Special Rapporteur also wishes to express his gratitude to the Governments which have provided financial support to OHCHR and enabled him to exercise his mandate effectively.

I. BOSNIA AND HERZEGOVINA

The Special Rapporteur briefly visited Bosnia and Herzegovina in April 1999, focusing on the impact of the Kosovo crisis in discussions with representatives of civil society and international organizations in Sarajevo. From 15 to 20 May 1999 he undertook a more extensive mission to the country, travelling mainly in the Republika Srpska (RS), with visits to Banja Luka, Brcko, and Bijeljina. He met with local authorities and civil society representatives, as well as representatives of human rights institutions and international organizations, in order to get a full picture of the human rights situation. In addition the Special Rapporteur receives information on the human rights situation on a regular basis from the OHCHR field operation in Bosnia and Herzegovina, based in Sarajevo.

A. General observations

In his last report to the Commission on Human Rights (E/CN.4/1999/42), the Special Rapporteur stated that Bosnia and Herzegovina remained divided along ethnic lines and that substantial rights violations were continuing, in particular violations of the rights to property and to return. Unfortunately, another year has passed with no significant progress to report on respect for human rights and the rule of law. The main reason for this unsatisfactory situation continues to be deliberate obstruction by those who hold the power in Bosnia and Herzegovina.

The Special Rapporteur would like to commend the approach taken by the High Representative, Wolfgang Petritsch, in an attempt to overcome this obstruction. In October 1999 the High Representative imposed new property legislation, which was intended to eliminate most obstacles to the implementation of property laws in both entities. As a sign of the new resolve of the international community, on 29 November the High Representative, in concert with the head of mission and the Organization for Security and Cooperation in Europe (OSCE), dismissed 22 officials, all of whom had made a practice of obstructing implementation of the Dayton Agreement in various ways. While it is too early to say whether these actions will lead to improved implementation of the Dayton Agreement and respect for the rule of law, the message sent to obstructionist officials was clear: the international community will no longer tolerate such behaviour. The response from the public was generally positive. Not surprisingly, some of the officials who were removed objected to the decision, but overall reactions from the leading parties were rather muted.

B. Human rights situation

The Special Rapporteur submitted a comprehensive report to the General Assembly (A/54/396-S/1999/1000) on 24 September 1999 as well as an addendum to that report (A/54/396/Add.1-S/1999/1000/Add.1) on 3 November 1999. As only one month has passed since then, the present report will build upon previous submissions rather than repeat them.

The Special Rapporteur has outlined his major areas of human rights concern in Bosnia and Herzegovina, emphasizing the role of the police, as agents of the State, in ensuring the effective protection of human rights. Despite the efforts of the United Nations Mission in Bosnia and Herzegovina (UNMIBH) to restructure the local police, police forces remain mono-ethnic in most areas and their effectiveness in crime detection, investigation and response remains low. The police moreover remain reluctant to implement court decisions not in accord with the politics of the local majority ethnic group. Police reform in both entities suffers from a lack of genuine

Trafficking of persons for the purpose of forced prostitution has emerged as a major human rights concern in Bosnia and Herzegovina. Of particular concern is the fact that local police until recently have focused more on offences allegedly committed by women than on offences committed against them. Deportations from the cantons or across the IEHL have been carried out in a manner that has put women at further risk of abuse. In response to these concerns, in August 1999 the IPTF Commissioner issued an interim directive providing guidance for police operations against premises where it is suspected that procurement of prostitutes is organized.

Following that, on 29 October the High Representative issued a Decision on Trafficking and Deportation, effectively extending the 30 August interim directive issued by IPTF. The Decision requires that any decisions regarding deportation of foreigners should be taken in consultation with IPTF, and is intended to ensure appropriate treatment of persons who are threatened with deportation, particularly those who are victims of trafficking. The Decision is in part a response to the failure of the House of Representatives to adopt a law on immigration and asylum, which would enable the country to address the issue of deportation in a manner consistent with international law.

Despite the failure to adopt adequate legislation including criminal law provisions addressing trafficking, there has been some progress made with regard to State responsibility. Authorities at the State level have indicated their willingness to address some aspects of victim protection, including by providing shelter. Local non-governmental organizations have also shown willingness to provide services for the protection of victims.

F. Freedom of expression

On 22 October Zeljko Kopanja, editor-in-chief of Nezavisne Novine, based in Banja Luka, sustained grave injuries resulting in the amputation of both his legs from a bomb explosion in a parking lot. Mr. Kopanja had been the subject of threats since at least August 1999, when Nezavisne Novine became the first newspaper in the Republika Srpska to publish accounts of wartime atrocities committed by Serb forces. On 3 November, journalist Mirko Srdic, a correspondent for TV Bosnia and Herzegovina and the BETA news agency, was physically assaulted and threatened, allegedly by the present mayor of Doboj. The assault followed two stories aired by TV Bosnia and Herzegovina, which cast the political party SDS Doboj and the mayor in an unfavourable light.

The assassination attempt against Mr. Kopanja and the assault on Mr. Srdic represent the continuation of an alarming trend of violence and threats aimed at undermining the development of a free and independent media throughout Bosnia and Herzegovina, particularly in the Republika Srpska.

G. Missing persons

The Special Rapporteur welcomed the release in November 1999 of the report of the Secretary-General on the fall of Srebrenica (A/54/549). Concerning missing persons, the total number for whom family members have opened a tracing request in Bosnia and Herzegovina is, according to ICRC, 20,286. The total number for whom family members opened a tracing request following the fall of Srebrenica alone is 7,423. It is presumed that most of these persons are dead. More than 4,300 bodies have been exhumed and identified in the country since April 1996.

Since its commencement in November 1997, the Joint Exhumation Process, led by the office of the High Representative (OHR), has encountered fewer and fewer problems in all areas, regardless of who exercises control. Exhumations have been conducted by the parties themselves. It may be noted that even in spring 1999, during the military operation by the North Atlantic Treaty Organization (NATO) against FRY, exhumations continued to be carried out even in RS. According to OHR, cooperation between the three sides has improved, with a joint commission on missing persons established in the Federation. The result is that, as of the end of November, the three sides had worked at over 500 locations during the year. As the exhumations were just

being ended for the winter at the time of writing statistics had not yet been compiled, but at least 2,000 bodies had been exhumed. According to the OHR coordinator, cooperation between the three sides and international organizations has been excellent. The exhumations have been monitored by OHR, Physicians for Human Rights and ICRC (the latter two are also providing expertise in identification and in clarification of the fate of the missing). Of particular concern to the Special Rapporteur is the precarious situation of the many families with missing relatives. Many of these families are themselves displaced and headed by women, in many cases without any surviving male members of the household.

H. Conclusions and recommendations

The Special Rapporteur is once again obliged to conclude that there has been little fundamental change in the situation of human rights in Bosnia and Herzegovina. Public officials and political leaders have perpetuated the results of past population displacements by obstructing returns and undermining the rule of law, particularly in the area of property rights. Discriminatory practices in all areas, including employment and education, continue to flourish.

The Special Rapporteur welcomes the tough new approach taken by the High Representative, imposing legislation, removing from public office the main obstructionists, and sending a strong message to the leaders of the country as well as to all citizens. While it is too early to say whether this will bring results, it is vital to keep up the pressure now that momentum has been generated. Many good initiatives of international representatives in the past have failed owing to lack of systematic and long-term follow-up.

The Special Rapporteur stresses that the transition of Bosnia and Herzegovina to a democratic State built on respect for the rule of law will be a long-term process. International assistance to the country will be needed for a long time to come.

The importance of reforming the police and the judiciary to improve respect for human rights cannot be overestimated. Such reform will not happen, however, without the political will and commitment of local authorities, which so far has not been forthcoming.

The Special Rapporteur notes that four years after the Dayton Agreement, the number of minority returns is still exceedingly low. However, large numbers of refugees and displaced persons still express their wish to return to their pre-war homes. There must be several approaches to assist them to do so. The regional approach must be advocated strongly, as many refugees are living within the region. Political opposition to returns must be overcome, which may require further removals from office of public officials. Respect for the rule of law, in particular in the area of property rights, is critical to making sustainable returns possible.

The Special Rapporteur urges that combating discriminatory practices, including in the areas of economic and social rights, be accorded the highest priority. Particular attention should be paid to gender aspects of discrimination, especially in the restructuring and training of law enforcement agencies and the judiciary.

II. REPUBLIC OF CROATIA

A. Introduction

The present report considers human rights developments in Croatia from mid-March to early December 1999. It focuses on the issues of refugee returns and war-crimes trials, drawing on information culled and analysed by OHCHR staff in Zagreb. In light of the changing political scene in Croatia, with the new interim President calling for parliamentary elections in January 2000, the Special Rapporteur intends to provide an update on the situation to the Commission on Human Rights when it meets in Geneva in March/April 2000.

The Special Rapporteur wishes to reiterate his appreciation to the authorities of the Republic of Croatia for their full cooperation with the OHCHR Office in Zagreb and for their continuing assistance in the implementation of his mandate.

B. Returns

The Programme for the Return and Accommodation of Displaced Persons, Refugees and Resettled Persons, endorsed by Parliament on 26 June 1998 (hereinafter "the Return Programme"), has regulated the return of refugees and internally displaced persons (IDPs) to and within the Republic of Croatia over the past year. According to the Government, 18,271 ethnic Croat IDPs had returned to the Danube region by the end of November 1999. However, only 8,773 - a surprisingly low number - of an estimated 300,000 ethnic Serb refugees had returned to Croatia from FRY, Bosnia and Herzegovina and other countries. The Special Rapporteur expresses his concern once again at the slow pace of return of Serb refugees to Croatia.

The process of return is not simple. The reasons for the low number of returns include lingering post-war inter-ethnic tensions, the damaged economies and infrastructure in the areas of return, the slow progress of reconstruction, and the unwillingness of the Government to provide alternative accommodation in which to resettle those who are using the property of ethnic Serbs. The obstacles to return, for which the Government can be held directly responsible, are to be found in the following areas: discriminatory and deficient legislation; apparent unconcern at both the State and local levels; and the lack of accessibility, efficiency and enforcement of judicial remedies.

An important deficiency in the Government's legislative protection of the right to property is its failure to recognize and compensate the involuntary loss of occupancy rights of those citizens who were forced to flee from their socially owned apartments because of the conflict. The Special Rapporteur firmly considers this widespread loss to be the result of the conflict, and not voluntary abandonment, as the Government contends. At the same time, the decisions on occupancy rights issued by the defunct, so-called Republika Srpska Krajina (RSK) have not been considered, and their effects on Serbs' rights to housing and due process are non-existent. Many ethnic Serbs living outside the formerly Serb-controlled regions of Croatia have lost their occupancy rights to socially owned apartments, often by force and regardless of the many court cases which have been brought over the years. Of these cases, the Special Rapporteur has heard of only a few in which illegal property seizures were remedied.

At the time of writing, the Croatian Parliament had been dissolved in preparation for new elections in early 2000. Despite promises and proposals, the Government has yet to honour its obligation to repeal or amend discriminatory legislation, particularly the three laws which bestow greater rights on ethnic Croats: the Law on the Status of Expelled Persons and Refugees, the Law on Reconstruction, and the Law on Areas of Special State Concern.

1 Potential beneficiaries of the Return Programme suffer from its unclear legal status, especially in regard to their access to legal remedies. For instance, most individuals are prohibited from lodging cases for property restitution and instead must have Housing Commissions do so as their agents. However, regardless of recent efforts to standardize court practices, some ethnic Croats returning to the Danube region bypass the Housing Commissions and successfully appeal to the courts, thus accessing a remedy which is unavailable to ethnic Serbs, for example in the Krajina region. There are only a few cases in which the courts have protected the property rights of Serbs whose houses are occupied by ethnic Croats.

For many Serbs, obtaining citizenship remains a difficult process. Besides slowing and deterring returns, the process has also reduced the number of Serb refugees in Bosnia and Herzegovina and FRY who will be able to vote in the January 2000 elections. Those who have appealed negative decisions on citizenship have waited years, and most are still waiting, for administrative courts to issue decisions. However, those citizens who have proper documentation have been able to quickly obtain a putni list, or travel document, allowing them to enter Croatia where they are then

able to obtain further documentation. The Government and UNHCR are conducting regular "go-and-see" visits to areas of return, and the Special Rapporteur hopes that these trips will continue.

Some municipal authorities dutifully implement the Return Programme. However, the work of many Housing Commissions (the local bodies established to administer the restitution of property taken over during the conflict) is hampered by administrative delays and intentional obstructions. The Government Commission on Return, the central authority for the Return Programme, has generally not responded to the many requests for alternative accommodation by local Housing Commissions. In a few communities, however, the Agency for Mediation in Real Estate Transactions (APN) has supported the return of ethnic Serbs by providing alternative accommodation. The Special Rapporteur hopes that these positive examples will become more frequent and stimulate much-needed enthusiasm and a financial commitment equal to that shown towards recent ethnic Croat refugees arriving from Kosovo. It must be emphasized that the contrast between the treatment of Croat refugees from Kosovo and Croatian citizens of Serb ethnicity currently taking refuge in FRY and Bosnia and Herzegovina is striking.

C. War crimes

Unreasonable delays in the proceedings of war-crimes prosecutions in national courts and doubts as to their fairness, as well as a lack of transparency in new indictments, have reinforced the belief on the part of the Serb population that they are being targeted by the Government on account of their ethnicity. This has, to a great extent, contributed to more departures from the Danube region. As has frequently been noted by the Special Rapporteur, the adoption of the 1996 Amnesty Law was a positive step towards reconciliation, but ambiguities and uncertainties regarding the Law's application continue to exist. In the meantime, a number of war crimes cases remain unresolved.

The so-called "Sodolovci Group" case - extensively reported on by the Special Rapporteur to both the Commission on Human Rights and the General Assembly - continues to receive the attention of the public and international representatives in Croatia. As indicated in his latest report to the General Assembly, the County Court of Osijek concluded on 27 May the retrial of five individuals from the village of Sodolovci on charges of war crimes against the civilian population. The Court confirmed the previous verdict (pronounced in absentia), with the exception of one case of a defendant whose sentence had earlier been reduced. The other four individuals had their sentences - ranging from 11 to 15 years - confirmed. OHCHR has followed the case closely and has regularly monitored the proceedings.

In his report to the General Assembly, the Special Rapporteur expressed concern that the trial did not meet international standards, particularly as regards the burden and standard of proof. At no time during the proceedings was sufficient credible evidence adduced by the prosecution to substantiate a charge of war crimes. Nor was it established beyond reasonable doubt that the defendants had committed the crime with which they were charged. Additional doubts were raised regarding the impact of statements by public officials regarding the case which, according to some observers, were meant to influence the Court's ruling. As reported by the media in Croatia, the Minister of Justice visited the Court a day before the verdict and, after meeting with all the judges, made a public statement suggesting the guilt of the accused persons. The Special Rapporteur notes that the outcome of the case, which was also followed closely by the Serb population in Croatia - particularly in the Danube region - was perceived as sending a clear message to the Serb population regarding their prospects for enjoying protection of the rule of law.

The Special Rapporteur was informed that two weeks prior to the Supreme Court's hearing of the appeal, the prefect of Osijek-Baranja County stated in an interview that the verdict in the Sodolovci case was politically motivated, attributing responsibility to the President of the County Court, who subsequently offered his resignation to the State Judiciary Council. The appeal to the Supreme Court was heard on 24 November and, in a brief procedure, the Court ordered a retrial at the first instance court because of serious procedural mistakes during the trial. The five members of the group were released from detention.

The trial of a group of Croatian former reserve policemen, known as the Pakracka Poljana group,

ended in Zagreb County Court on 31 May. The defendants were charged with the harassment of several Serbs and the murder of one of the members of their unit in 1991. In 1996, one of the accused confessed in an interview with the weekly *Feral Tribune* that, together with other reservists, he had killed 72 Serbs. Charges against four defendants in the case were dismissed, allegedly for lack of evidence and because of what the court considered to be contradictory testimony of witnesses. Another two were sentenced to one and two years in prison, respectively. The Special Rapporteur has expressed his concern over the conduct of these proceedings, partly in view of reports by OHCHR staff monitoring the trial that various witnesses, who had clearly been intimidated, claimed on the witness stand that they had forgotten everything relating to key facts of the case.

The level of cooperation of Croatian authorities with the International Criminal Tribunal for the Former Yugoslavia (ICTY) remains a major concern of the Special Rapporteur. Croatian authorities have been accused by the former Chief Prosecutor and the former President of ICTY of delaying action on some key matters, such as requests from the Tribunal for assistance with its investigations of crimes committed by the Croatian army during the 1995 army operations "Flash" and "Storm" and their aftermath. With regard to Croatia making good on its commitments to extradite those indicted by ICTY, the Special Rapporteur commends the transfer of Vinko Martinovic ("Stela") to The Hague and - in the case of Mladen Naletilic ("Tuta") - supports the 21 October ruling of the Constitutional Court upholding the extradition of the accused to ICTY, and expects that Mr. Naletilic will be transferred as soon as his health permits.

The Special Rapporteur considers that due process was respected in the trial of the Second World War concentration camp commander Dinko Sakic, charged with crimes against humanity in the Zagreb County Court. On 4 October Mr. Sakic was sentenced to the longest possible term of 20 years in prison.

The Special Rapporteur's attention has been drawn to the retrial of Mirko Graorac, an ethnic Serb, in the Split County Court. The trial, originally scheduled for 27 September, was postponed until 17 January 2000. At the first trial in April 1996, the Court found Mr. Graorac guilty of committing crimes against prisoners of war and the civilian population in Manjaca, a prison camp in Bosnia and Herzegovina. Both international and local observers, as well as defence lawyers, noted deficiencies in respect of international fair trial standards. For instance, statements allegedly obtained through torture were admitted as evidence in the trial. There was also a general paucity of evidence of the alleged crimes. The Supreme Court, in February 1998, returned the case to the Split County Court for retrial, but only with respect to the fact that some witnesses had testified that they had been soldiers in active service with the Croatian army when they were taken prisoner in Bosnia and Herzegovina in early 1992. The Supreme Court stated that the acceptance by the Court of those facts could have "far-reaching consequences for Croatia", presumably because it incriminated Croatia in the war in its neighbouring country. Mr. Graorac has been in detention since April 1995.

A hunger strike by 19 prisoners of Serb ethnicity in Osijek County prison began on 18 October, initiated by a group of prisoners indicted or convicted of war crimes. The prisoners' main concern, according to information obtained by OHCHR, is that their trials have not met basic standards of fairness. One of the inmates, Ivica Vuletic, has spent 7½ years in detention and is still awaiting the decision on his second appeal to the Supreme Court. Two indictees from the so-called Dalj Group, Vaso Gavrilovic and Dragoljub Savic, arrested in January 1999 and visited by the Special Rapporteur one month later, are still awaiting their first main hearing. The Special Rapporteur notes that among the initiators of the hunger strike were members of the so-called Sodelovci Group who have, meanwhile, been released from prison.

The Dubrovnik County Court will, on 8 December, start the trial of Dejan Subotic, a FRY citizen arrested on 1 September at Dubrovnik airport. He was originally charged with looting in the vicinity of Dubrovnik in 1991, as a volunteer with the Yugoslav National Army (JNA). After he was released on bail he was immediately rearrested on charges of war crimes against civilians - in accordance with article 158 of the Croatian Penal Code - for "large-scale looting and intimidation of civilians in the occupied territory by inhumane treatment in the form of physical torture and evacuation to concentration camps". The Special Rapporteur was informed that the lawyer of the accused has claimed that there were anomalies in the identification procedure, which might serve

as major evidence in the trial.

A Croatian Serb was arrested in Benkovac on 3 November on suspicion of having participated in the killing of a Croatian soldier on 23 January 1993 in the Maslenica operation of the Croatian army while serving in a Serb paramilitary unit. The suspect, Vladimir Marcic, reportedly shot at a Croatian army vehicle killing a soldier, Miljenko Zoric. Upon intervention by international police monitors, Mr. Marcic was released, with the explanation by an investigating judge that it could not be proved that Mr. Marcic was involved in the shooting and that the action - shooting at a military vehicle near the front line during a military operation - fell under the general amnesty for war-related activities. The case was closed for further investigation and prosecution. However, some local media have given sensational coverage to the case, publishing articles dominated by hate speech, pictures of the Croatian soldier's grave and interviews with his parents and neighbours saying that the deceased's father wished to obtain justice for his son himself. Mr. Marcic is reportedly now in hiding, awaiting his passport to leave Croatia. The Croatian Helsinki Committee for Human Rights (HHO) referred to Mr. Marcic's case as a deterrent to the return of Croatian Serbs.

D. Administration of justice

Court decisions that would result in the eviction of ethnic Croat occupants from the properties of ethnic Serbs are rarely enforced. Some of those who previously held occupancy rights to socially owned apartments in Split, for example, have waited for years and - at least in one case - through at least seven attempted evictions.

Progress in Croatian courts continues to be impeded by an enormous backlog of cases. The Special Rapporteur believes there has been little improvement since the last report of the former Minister of Justice, which noted over 1 million unsolved cases. The Government of Croatia has yet to introduce an effective solution to this difficult problem which, along with the court fees that place judicial remedies out of reach of returnees and many other Croatian citizens, jeopardizes the public's faith in the judicial system. The Special Rapporteur calls attention to continuing judicial vacancies, such as in Korenica, although he notes some progress, for example in nearby Donji Lapac, where a judge has finally been appointed.

E. Freedom of expression and information

Representatives of the "Opposition Six" - comprising the Croatian Social Liberal Party (HSLs), the Croatian Peasant Party (HSS), the Social Democratic Party (SDP), the Istrian Democratic Assembly (IDS), the Liberal Party (LS) and the Croatian People's Party (HNS) - claim that in several ways, the ruling Croatian Democratic Union (HDZ) party continues to receive an unfair advantage in news reporting on Croatian State Radio and Television (HRTV). They cite a 27 November 1999 news broadcast of a press conference organized by the ruling party, saying that it was presented differently - in both content and duration - from a similar conference held the same day by the Opposition Six.

F. Missing and detained persons

In what the Special Rapporteur sees as a positive step, the Government on 26 November confirmed two ethnic Serb candidates nominated by the Joint Council of Municipalities (JCM) to be members of the Danube Region Subcommittee on Missing and Detained Persons. Following this tangible development - after over a year of international pressure - the Special Rapporteur hopes that the Subcommittee will meet as soon as possible and begin the process of tracing, at the local level, those who disappeared in the 1991-1995 war and its aftermath.

Despite the Special Rapporteur's calls for strengthened cooperation among all parties concerned with progress in resolving cases of those gone missing from 1991 to 1995, the exchange of information between the Croatian Government Commission on Missing and Detained Persons and

its FRY counterpart has, again, reached an impasse. The next meeting of the bilateral commission was almost certain to be postponed until after the general election in Croatia in January 2000.

G. Labour rights

The Special Rapporteur welcomes the Constitutional Court's decision overturning the Zagreb city ordinance prohibiting demonstrations in the city's main square. It is hoped that workers' rights to freedom of association, assembly and expression will be further protected.

The Special Rapporteur expresses concern for the many Croatian workers who receive their salaries late, if at all. Trade unions estimate that over 100,000 workers are affected, some of whom work in State-owned companies. In some cases employees work without salaries or payments into their pension or health plans. Workers are without effective means for securing their wages as they are not legally protected when striking for non-payment, and legal remedies are ineffective because of judicial inefficiency and the ability of employers to declare bankruptcy during hearings, thus avoiding their obligation fully to remunerate employees regardless of the trial's outcome.

H. Technical cooperation

The Special Rapporteur again commends the signing of the Technical Cooperation Agreement between the Office of the High Commissioner for Human Rights and the Government of the Republic of Croatia in May 1999. The agreement provides for a variety of capacity-building activities, including dissemination of documentation and training on human rights standards for military, police and prison officials; training and advice for government officials in reporting obligations; training and advice for non-governmental organizations; advice on developing curricula for human rights education; advice and assistance to the Ombudsman's office; and establishment of a Human Rights Documentation Centre. In addition, after agreement with the Government, OHCHR in summer 1999 conducted a human rights summer school for law students of the four law faculties in Croatia (Osijek, Rijeka, Split and Zagreb). The seminar was evaluated as highly successful and received coverage both in the electronic and print media.

Thus far, the Office has also conducted seminars for the military on international human rights and humanitarian law standards, as well as for government representatives on reporting obligations. The Special Rapporteur urges the Government to meet all its reporting obligations that are still outstanding.

I. Conclusions and recommendations

The Government should finally devise a system of compensation to resolve the problem raised by the wartime law abolishing occupancy rights and the dubious application of this law. Furthermore, the Government should fulfil its promise to repeal or amend discriminatory property legislation.

The Special Rapporteur urges the Government to undertake a more earnest campaign to foster returns of ethnic Serb refugees and to undertake reconstruction and economic revitalization projects that benefit all ethnic communities. He further urges the Government to clarify, strengthen and expedite the legal remedies that are available to citizens who are deprived of the full benefits of either the return or reconstruction programmes.

The Special Rapporteur recommends that the Government continue to increase resources allocated to the judiciary in order to alleviate the burden of unresolved cases. He welcomes educational programmes for new Croatian judges. Furthermore, he recommends that all judges and prosecutors be trained in international human rights instruments that the Republic of Croatia has ratified. Delays in - and lack of enforcement of - court rulings should be of primary concern to the Government, and the Special Rapporteur recommends that steps be taken to guarantee the execution of court orders. The Special Rapporteur reminds the Government that an independent

and effective judiciary is synonymous with the rule of law.

While appreciating the difficult challenge that the Government faces in revitalizing companies, such as those in the tourist industry, the Special Rapporteur notes that employees must either be guaranteed their salaries or effective legal remedies through which salaries can be claimed.

With regard to missing persons, the Special Rapporteur emphasizes once again that identifying the fate of the 1,668 persons still officially registered as missing is an urgent humanitarian problem facing Croatia, and calls for it to be dealt with as a matter of the highest priority. He has received unconfirmed reports of mass graves in the former United Nations sectors South and North, with large numbers of ethnic Serbs reportedly buried there. The search for truth includes the urgent need to locate, guard and excavate these mass graves and to identify the mortal remains therein.

The Special Rapporteur again emphasizes that all war crimes must be investigated and tried in accordance with international standards, and that perpetrators of war crimes must be brought to justice. However, unreasonable delays in proceedings and doubts as to the fairness of trials, as well as a lack of transparency concerning new indictments, have resulted in a persistent sense among the Serb population that they are being targeted by the Government on account of their ethnicity. This has contributed neither to the goal of reconciliation nor to accountability for war crimes. It can also be considered as a significant deterrent to the return of Serb refugees to Croatia.

Finally, the Special Rapporteur would like to repeat his previous recommendation that future war crimes investigations and trials be undertaken with the participation of international representatives, thus ensuring transparency and a process that reassures the Serb population that war crimes prosecutions transcend victor's justice.

III. FEDERAL REPUBLIC OF YUGOSLAVIA

A. Introduction

Since submitting his last report to the Commission on Human Rights in early 1999, the Special Rapporteur has conducted four additional missions, together with OHCHR staff, to the Federal Republic of Yugoslavia: (a) 26-30 April 1999 to Montenegro; (b) 8-12 June 1999 to Vojvodina and central Serbia; (c) 7-12 July 1999 throughout Kosovo; and (d) 1-9 October 1999 to Belgrade, Nis, Kraljevo, Novi Pazar, Rozaje, Kosovska Mitrovica, Gnjilane, and Pristina. In April 1999, the Special Rapporteur conducted a special mission, drawing on the work of the OHCHR Kosovo Emergency Operation, to the former Yugoslav Republic of Macedonia to inquire into the situation of Kosovo refugees. The findings of all five missions were reported to the General Assembly in November 1999. The present report, prepared in early December, focuses on the situation of human rights in the last few months of 1999.

The tragedy of the Kosovo crisis has dominated news and human rights reporting from the region throughout 1999. Indicative of the gravity and massive number of human rights violations in that locale alone, OSCE in December 1999 released two reports, totalling 900 pages, on the situation of human rights in Kosovo since October 1998. Within the more limited constraints established by the General Assembly and the Commission on Human Rights, most of the pages allotted to the Special Rapporteur on developments throughout FRY have been necessarily devoted to Kosovo. At this writing, only a few weeks have elapsed since presentation to the General Assembly of the Special Rapporteur's report and addendum, which dealt almost exclusively with the Kosovo crisis. The Special Rapporteur therefore takes the opportunity of the present report to focus on issues not immediately or exclusively related to the Kosovo crisis, but nonetheless crucial to his mandate and the situation of human rights in the region. Given the pace of developments throughout FRY, particularly in relations between and among its republics, provinces and regions, it is possible that elements of this report will have been superseded by events before the document is published.