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Serbia and Montenegro: A wasted year. The continuing failure to fulfil key human rights commitments made to the Council of Europe

1. Introduction

Serbia and Montenegro (SCG) became a member state of the Council of Europe on 3 April 2003. On joining SCG undertook to implement a number of commitments aimed at enhancing the protection of the human rights of all people within SCG without discrimination.(1) In March 2004 Amnesty International issued a report(2) assessing SCG's record in the implementation of the commitments made when becoming a member of the Council of Europe. While welcoming steps towards fulfilling some of these commitments, Amnesty International remained concerned at the ongoing failure by the authorities of SCG to fulfil other key commitments, notably those relating to addressing the legacy of war crimes, and the continuing prevalence of torture and ill-treatment by police. The organization called on the authorities of SCG as a matter of urgency to fully address these issues and to fully implement these commitments.

One year after the publication of Amnesty International's previous report, these concerns remain largely unaddressed. Furthermore, in many areas (detailed below), such as cooperation with the International Criminal Tribunal for the former Yugoslavia (the Tribunal) in the Hague and ensuring the thorough, independent and impartial investigation of allegations of police torture or ill-treatment, the limited progress made has been stalled or even reversed: this is especially evident in Serbia.(3) The organization continues to call on the authorities of SCG to fully address the concerns raised by Amnesty International in this and in its previous report, and to fully implement the commitments made to the Council of Europe.

Amnesty International is also calling on the Council of Europe, especially the Committee of Ministers,(4) and the Parliamentary Assembly of the Council of Europe (PACE),(5) in the context of their respective monitoring mechanisms, as well as the Secretary General - to take cognizance of the lack of progress, and to use their influence to help SCG fulfil fully the commitments aimed at ensuring respect for and protection of human rights of all persons.

1.1 Amnesty International's concerns

Amnesty International has a number of ongoing concerns regarding the human rights situation in Serbia and Montenegro and the lack of implementation of the commitments made to the Council of Europe. Of particular concern is the continuing impunity of those responsible for grave human rights abuses and violations, including war crimes and crimes against humanity, which occurred throughout the 1990s in connection with the armed conflicts following the break-up of the former Socialist Federal Republic of Yugoslavia. The organization is concerned at the authorities lack of co-operation with the Tribunal, as well as the rarity of domestic war crimes prosecutions. Amnesty International believes that, in order to create the conditions for respect and protection of human rights in Serbia and Montenegro, it is imperative that those responsible for these crimes be brought to justice in the course of proceedings which meet international standards, and that all victims of these crimes receive adequate reparation. In particular, there is an overwhelming need to resolve the hundreds of cases of enforced "disappearances" and abductions,(6) most of which constitute crimes against humanity.

Amnesty International also considers that the suffering of relatives of the disappeared, because of the lack of knowledge of the fate and whereabouts of their family members, amounts to a violation of their right to freedom from torture and cruel or inhuman treatment,(7) and continues to urge the authorities of SCG to ensure justice including reparation for the relatives of the disappeared.

Amnesty International is also concerned about continuing numerous allegations of torture and ill-treatment by police throughout the country, and the apparent lack of will by the authorities to adequately address this issue. The failure to investigate and prosecute such cases perpetuates the existing climate of impunity surrounding other crimes, including war crimes and crimes against humanity.

Amnesty International is also concerned at amendments, introduced on 3 February 2005, to legislation allowing for conscientious objection to military service which are in breach of Council of Europe standards. The organization's concern is amplified by the fact that the amended legislation is more restrictive than previous amendments in 2003 which in themselves were not in line with Council of Europe standards concerning conscientious objection to military service.

Amnesty International is also concerned at the continuing discrimination against Roma, especially Kosovo Roma displaced following the 1999 conflict, despite the drafting and adoption of wide-reaching strategies to address the issue, strategies which have yet to be implemented on a meaningful scale.

2. War crimes

The list of commitments SCG undertook on joining the Council of Europe, among other things, calls on the SCG authorities, in section 12 iv. entitled "As regards human rights":

> *"to do its utmost to track down all sixteen indicted persons who are still at large and to hand them over to the ICTY* [the Tribunal]. *The authorities must not give in when confronted by an indicted person who threatens them by whatever means;....*
>
> *"to give clear instructions to the police and prosecutors to enable them to make immediate arrests as the law on extradition is deficient as regards time required for taking action;"*

2.1 Lack of co-operation with the Tribunal by the Serbian authorities

As detailed in Amnesty International's March 2004 document, Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe (AI Index: EUR 70/002/2004), what appeared to be limited progress in co-operation with the Tribunal had deteriorated by late June 2003. This deterioration, notably on the part of the Serbian authorities, continued in 2004 despite the reconstitution in July 2004, after months of paralysis, of the National Council for Co-operation with the Tribunal. The Secretary General of the Council of Europe, in his report of 14 September 2004 (which covered the period May – August 2004), noted: "[t]his late but encouraging development generates many expectations in terms of concrete results as no significant improvement [in co-operation with the Tribunal] could have been registered since the last report".(8) However, the overall lack of meaningful co-operation – with the exception of contacts and information exchange between the Tribunal prosecutor and the Serbian special war crimes prosecutor noted below – continued. In September 2004 the Rapporteurs on SCG for the PACE Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) stated:

> *"The compliance with the country's obligations under the Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY) is stagnating, and even deteriorating. A public campaign against the Tribunal, conducted virtually since 5 October 2000 by some leading Serbian politicians, resulted in overwhelming public hostility against the ICTY and a practical refusal to proceed with new extraditions. The Assembly considers that such attitudes not only help to deny justice for the hundreds of thousands of victims of crimes committed during the wars on the territory of the former Yugoslavia but also perpetuate self-deluding myths about Serbia being unfairly and unjustly treated by the outside world. Such ideas, popular with the previous regime, are an insurmountable obstacle on Serbia's path to democratic stability and its reconciliation with itself and its neighbours...*
>
> *The Assembly calls on the authorities at all levels to immediately and unconditionally comply with the country's obligations under the Statute of the ICTY, starting with the arrests and extraditions of all indicted persons who openly reside on the territory of Serbia and Montenegro and the intensified search for those who may be hiding in the country. In addition, the authorities should immediately comply with the commitment to inform the public of the crimes committed by the Milosevic regime through a public campaign but above all through a change of attitude of many of the political leaders which is negatively influencing the public opinion with regard to the Tribunal."(9)*

The Secretary General of the Council of Europe in his report of 16 December 2004 (covering the period from September to November 2004) noted:

> *"No substantial progress has been achieved since the reconstitution of the National Council for Co-operation with the ICTY as regards arrest and transfer of indicted persons, except for the surrender of Ljubisa Beara to the Hague. Some improvement was noted as regards granting of confidentiality waivers for witnesses; however, the execution of orders related to access to documents could still be improved."(10)*

Despite national and international obligations the Serbian authorities have continued to refuse to transfer former Serbian Assistant Interior Minister (dismissed in March 2004) and former Kosovo police chief Sreten Lukić and former Yugoslav Army chief Nebojša Pavković, who are both indicted by the Tribunal for crimes against humanity and violations of the laws or customs of war in Kosovo in 1999. Both are openly residing in Serbia.(11)

On 13 July 2004 Goran Hadžić, former head of the Krajina Serbs in Croatia, fled his house in Novi Sad a few hours after a sealed indictment for him had been forwarded from the Tribunal to the Foreign Affairs Ministry, and before a warrant for his arrest was issued, giving rise to suspicions that he had been warned of the impending arrest. In October 2004 another indictee, Ljubiša Beara, was transferred to the Hague - the sole transferral from SCG throughout 2004. The Serbian authorities claimed that in the case of Ljubiša Beara, the suspect had surrendered voluntarily; however, the Tribunal stated that he had been arrested, and this only after the authorities had been informed of his exact whereabouts by the Tribunal. Some 17 suspects indicted by the Tribunal were believed to remain at large in SCG.

In mid-November 2004 Tribunal President Theodor Meron reported to the UN General Assembly that apart from the case of Ljubiša Beara, SCG had virtually not cooperated at all with the Tribunal throughout 2004. Similarly on 23 November 2004 Tribunal Prosecutor Carla Del Ponte reported to the UN Security Council that Serbia was not willing to arrest indictees, and that networks supporting persons accused of war crimes were so powerful there that they could interfere with judicial proceedings, including by intimidating witnesses, exerting political pressure on judges and prosecutors, or even by threatening the stability of the country. She reported that in Serbia aggressive nationalist rhetoric was being used in smear campaigns against the Tribunal and herself.(12)

The Serbian authorities continued with a policy, which Amnesty International notes is in violation of Serbia's international obligations as a UN member state, of not arresting Tribunal indictees but rather waiting for those indicted to voluntarily surrender apparently fearing a public backlash and loss of electoral support. Those who surrendered voluntarily were afforded official support in bail applications and governmental guarantees to the Tribunal. This policy had some limited success. On 28 January 2005, after intense international pressure, former commander of Priština Corps Vladimir Lazarević, who was indicted along with Sreten Lukić and Nebojša Pavković (see above), surrendered to the Serbian authorities and was transferred to the Hague on 3 February 2005. On 21 February 2005 former Bosnian Serb General Milan Gvero surrendered to the Serbian authorities and was transferred to the Hague on 24 February, and on 25 February 2005 former Bosnian Serb general Radivoje Miletić surrendered and was transferred on 28 February 2005. Both had been indicted for murder, persecutions, inhumane acts (forcible transfer), and deportation, constituting crimes against humanity, and murder as a violation of the laws or customs of war in connection with the treatment of Bosnia's Muslim population (Bosniaks) in the enclaves of Srebrenica and Žepa in 1995. On 2 March 2005 former General and former Yugoslav Army Chief of General Staff Momčilo Perišić, indicted by the Tribunal, agreed to surrender to the Hague and was transferred on 7 March 2005. He was charged with crimes against humanity and violating the laws or customs of war in connection with the war in Bosnia and Herzegovina. On 10 March 2005 former Bosnian Serb Minister of Internal Affairs of the Republika Srpska in Bosnia and Herzegovina, Mico Stanišić, surrendered to the Serbian authorities and was transferred on 11 March. He was also indicted for crimes against humanity and for violating the laws or customs of war in connection with the war in Bosnia and Herzegovina. On 15 March 2005, Bosnian Serb Drago Nikolić surrendered to the Serb authorities and was transferred on 17 March 2005. He had been indicted by the Tribunal in September 2002 in connection with Srebrenica for genocide or complicity in genocide, murder, persecutions and inhuman acts as crimes against humanity and murder as a violation of the laws and customs of war. However, Amnesty International notes that these men, with the exception of Vladimir Lazarević and Drago Nikolić, were indicted by the Tribunal after their indictments were confirmed in January 2005 in the 'final round' of indictments submitted for confirmation before the 31 December 2004 deadline (see below). As of mid-March 2005 a number of suspects, believed to be in SCG, who have been indicted by the Tribunal remained at large.

2.2 Domestic war crimes trials

SCG also committed itself to the Council of Europe in 12 iii (f):

> *"to revise, in co-operation with Council of Europe Experts, the legislation and regulations concerning the prison system, war crimes and torture, so as to ensure prosecution before the courts of crimes which are not prosecuted by the ICTY [The international Criminal Tribunal for the former Yugoslavia (Tribunal)], and also to prevent ill-treatment of citizens by the police;*

The Tribunal does not have unlimited resources and is not seen as the natural body to try all persons suspected of war crimes and crimes against humanity which occurred in former Yugoslavia since 1991. Rather the Tribunal has concentrated on high profile cases, such as the trial of former President Slobodan Miloševi and the case of Bosnian Serb leader Radovan Karadi who remains at large. For less high profile cases in which the Tribunal has not issued indictments, domestic courts are seen as more appropriate for bringing suspected war criminals to justice. Furthermore, under the terms of the "completion strategy", laid down by the UN Security Council in Security Council resolutions 1503 and 1534, the Tribunal is bound to have completed, by end 2004, all investigations and to have issued all indictments for war crimes, crimes against humanity and genocide, committed in connection with the violent break-up of Yugoslavia. The Tribunal's completion strategy also envisages that all trials will have to be completed by 2008, and all appeals by 2010.

In October 2004 the Serbian government introduced amendments to legislation governing the prosecution of war crime suspects under urgent procedures to make it possible for cases to be tried in local courts based on evidence amassed by the Tribunal. The amendments changed the name of the Act from "the Law on the Organisation and Jurisdiction of Government Authorities in Prosecuting Perpetrators of War Crimes", to "the Law on the Organisation and Competence of Government Authorities in War Crime Proceedings". In addition to the change of the law's name,

a new Article 14a was added, providing for the local war crimes prosecutor to begin criminal proceedings on the same basis and facts as the Tribunal's indictments. The prosecutor was also empowered to undertake criminal prosecutions based on the data and evidence collected by the Tribunal in cases in which an indictment had not necessarily been issued. Article 14a also stipulated that witness protection measures instituted by the Tribunal would continue in force and that the Tribunal's representatives would have the right to be present at all phases of the criminal proceedings in local courts and to be informed of the course of proceedings. In October 2004 the Tribunal announced that it had transferred the first case to the Serbian special war crimes prosecutor (see below).

However, despite these signs of progress, to date there have been no trials in SCG of senior military or political officials for war crimes or crimes against humanity in connection with the Yugoslav conflicts. The trials which have taken place have exclusively been of low-level perpetrators: a policy and practice which has helped promote a culture of impunity for the military and political leadership. Amnesty International highlighted all domestic war crimes trials in SCG (or formerly the FRY) until February 2004 in its 2004 report *Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe,* AI Index: EUR 70/002/2004.

As noted in the report, there had been very few such trials, and those which had taken place invariably involved low-level perpetrators. To Amnesty International's knowledge, the only domestic war crimes arrests, prosecutions and judicial proceedings in SCG are the following cases which again only involve low-level alleged perpetrators.

In March 2004 the trial began before the special War Crimes Panel within the District Court of Belgrade of six people indicted by Serbia's special war crimes prosecutor in connection with the Ovčara massacre near Vukovar in Croatia in 1991. Another of those indicted for the crime died in March 2004 from injuries received when he jumped from a window at Novi Sad Hospital on 27 January 2004 in a suicide attempt. In May 2004 12 more suspects were added to the indictment. However, there were concerns about the apparent selective nature of the indictment in that there was no mention of the responsibility of former Yugoslav National Army (JNA) officers in the crime, in spite of the testimony of many witnesses to this effect. As part of its "completion strategy" in February 2005 the Tribunal announced that it would transfer the trial of the 'Vukovar three' - Mile Mrksić, Veselin Šljivančanin and Miroslav Radić, all former Yugoslav National Army (JNA) commanders - charged with playing leading roles in the Ovčara massacre - either to Croatia or to Serbia.(13)

On 17 March 2004 Saša Cvjetan, a member of Serbia's notorious "Scorpions" special "anti-terrorist" police unit, was sentenced by the Belgrade District Court to 20 years' imprisonment for the murder of 19 ethnic Albanians in Podujevo in 1999. However, on 12 January 2005 the Serbian Supreme Court annulled the verdict "due to serious violation of the proceedings as well as wrongly and insufficiently established facts" and sent the case for re-trial at the same court. Saša Cvjetan's defense lawyer had appealed his conviction on the grounds that his rights had been violated in the beginning of the investigation when he was questioned without the presence of a lawyer. Saša Cvjetan also alleged that he had confessed to the crime after being tortured by two investigative officers. The Supreme Court also called for more witnesses and ballistic evidence to be produced.

On 29 September 2003 Dragutin Dragićević (a Bosnian Serb) and Đorđe Šević were sentenced to 20 years' and 15 years' imprisonment respectively while Bosnian Serbs Milan Lukić(14) and Oliver Krsmanović received 20-year sentences *in absentia* for the abduction and murder in October 1992 of 17 Muslims, 16 of whom were taken from a bus at Mioče near Sjeverin in Bosnia and Herzegovina. On 27 September 2004 the Serbian Supreme Court annulled the conviction alleging that the trial proceedings had not made explicit the precise role played by each of the accused in the murders, and sent the case back for re-trial which commenced on 17 January 2005 at the Belgrade District Court. At the original trial the presiding judge had reported that he had been threatened. During the new proceedings a key prosecution witness, who had been under 24-hour police protection during the original proceedings, withdrew her testimony giving rise to fears that she also had been subjected to threats.

Amnesty International is calling for the arrest and trial of others allegedly responsible for the Štrpci and Sjeverin abductions and murders. Documents from the state railway company presented at the trial of Nebojša Ranisavljevi clearly demonstrated the knowledge of former political and military authorities about the planning of such abductions (see *Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe*, AI Index: EUR 70/002/2004). Amnesty International is also calling for a new investigation to be opened in order to bring to justice not only those who carried out the abductions, but also those involved in planning and sanctioning these war crimes against the civilian population.

On 18 January 2005 Anton Lekaj, a Kosovo Albanian who was arrested in Montenegro in 2004 for suspected automobile theft and transferred to Belgrade, was indicted by the Serbian special war crimes prosecutor for war crimes allegedly committed in Kosovo in 1999 when he was a member of a Kosovo Liberation Army (KLA) unit under the command of Ramush Haradinaj.(15) Anton Lekaj remained in detention pending trial.

In February 2005 the Serbian authorities announced details of a case which had been investigated by the Tribunal and transferred by the Tribunal to the Serbian judicial system in 2004. Nine former members of Serb paramilitary units operating in Bosnia and Herzegovina in May and June 1992 were indicted for the torture and murder of Muslims in Čelopek village near Zvornik. Some of those indicted were also accused of deporting 1,822 Muslims to Hungary. Six of the indictees were arrested and three remained at large.

Amnesty International urges as a matter of priority that the authorities of SCG and the Republika Srpska (RS) in Bosnia and Herzegovina establish genuine and effective cooperation to address these and other cases of war crimes and crimes against humanity. In this context the organization welcomed the agreement on 27 January 2005 between Serbia and Croatia to set up procedures such as video links for witnesses in war crimes cases who might be unwilling to travel from one country to another to testify.

2.3 The "disappeared" - cover-up and failure to bring perpetrators to justice

SCG's commitments to the Council of Europe include in 12 iv:

> *"b. to co-operate in establishing the facts concerning the fate of missing people and hand over all information concerning mass graves;*
>
> *c. to inform the people of Serbia about the crimes committed by the regime of Slobodan Milošević, not only against the other peoples of the region but also against the Serbs;"*

Amnesty International continues to call on the authorities of Serbia and Montenegro to bring those responsible for "disappearances" and other war crimes and crimes against humanity to justice as a matter of urgency.

2.3.1 Mačkatica, Batajnica, Petrovo Selo and Lake Perućac

By the end of 2004 the Serbian authorities had returned to the Kosovo authorities some 374 bodies of Kosovo Albanians found in mass graves on Ministry of the Interior property at Batajnica and Petrovo Selo, and from Bajina Bašta near Lake Perućac. In addition, some 500 bodies of Kosovo Albanians mostly found in the mass graves at Batajnica, remained in Serbia to be identified by DNA testing.

On 23 December 2004 the Humanitarian Law Center (HLC) - a Belgrade-based non-governmental organization - published detailed allegations about the burning of corpses of Kosovo Albanian civilians in the furnaces of the Mačkatica factory in Surdulica on 16 and 24 May 1999. The HLC reported that the alleged incinerations were part of the large-scale operation - which included the secret burial of hundreds of Kosovo Albanians in the mass graves at Batajnica, Petrovo Selo and Bajina Bašta - by the Serbian authorities to try and conceal massive human rights abuses committed by the security forces in Kosovo in 1998 and 1999.

The HLC report provided detailed information about those believed to be responsible for the alleged incinerations. The HLC report also detailed measures allegedly taken by members of the then local authorities – some of whom are still in official positions in Southern Serbia - to pressure eye-witnesses and others not to divulge any information about these alleged attempts to hide evidence of mass atrocities committed by the security forces in Kosovo in 1998 and 1999.

Furthermore, the HLC reported on 16 January 2005 that, following the publication of the HLC's allegations, members of the police and the Serbian State Security Agency (BIA) implicated in the HLC report have threatened a number of people in Surdulica, Vladičin Han and Vranje with the aim of intimidating them so they would not give evidence. For example, the HLC reported that customs officer Anita Nikolić from Vladičin Han has been repeatedly threatened by security officials who, due to her contact with the HLC on another unrelated matter, suspected her of being one of the HLC's informants. On 30 December 2004 Bratislav Milenković, the local head of the BIA, allegedly approached her in a café in Vladičin Han, and in the presence of witnesses, said: *"I'm now identifying the enemy; I have already identified some of them. And my enemies end up three metres under the ground."*

Amnesty International is extremely concerned at reports of this death threat, alleged to have been made openly by a member of the security forces apparently believing himself to be above the law.

The allegations by the HLC in connection with Mačkatica incinerations point to a deliberate and widespread policy by the Serbian security forces to deny and conceal mass human rights violations and afford impunity to the perpetrators. Amnesty International further notes that to date no-one has been indicted by the Serbian criminal justice system for the murder and subsequent burial of the hundreds of Kosovo Albanian civilians in the mass graves in Batajnica, Petrovo Selo, Bajina Bašta and other sites in Serbia.(16) Furthermore, by refusing to transfer to the Tribunal former Kosovo police chief Sreten Lukić and former Yugoslav army chief Nebojša Pavković (see above), both of whom have been indicted by the Tribunal for the murder of hundreds of Kosovo Albanian civilians, some of whose bodies have been found in the Batajnica mass graves - the Serbian authorities are obstructing the Tribunal in bringing to justice alleged perpetrators of crimes, which the Mačkatica incinerations were apparently part of a systematic policy to conceal.

On 16 January 2005 it was announced by Inspector-General Vladimir Božović of the Serbian Ministry for Internal Affairs that an investigation into the alleged incinerations was underway. However, on 3 February 2005 the HLC

claimed that Vladimir Božović, despite his public assurances, was not thoroughly investigating the allegations. The HLC pointed out that a named senior police officer implicated in the affair had been initially suspended but then re-assigned and promoted as an intelligence officer in the Gendarmarie. The HLC stated that there were strong indications that the leadership of the Serbian Ministry of Internal Affairs and the BIA were attempting to prevent the facts about the case from emerging. The HLC also published further information from some 10 new sources from Surdilica, Vranje and Bosilegrad which detailed the operations of Special Police Units allegedly used to transport the bodies to Mačkatica factory, implicating and naming former and still serving senior security officials. The HLC also claimed to know the identities of the drivers of the trucks allegedly used in the transportation. The HLC further announced that the Serbian special war crimes prosecutor Vladimir Vukčević had begun an investigation into the allegations.

The HLC and seven other non-governmental organizations also called on the Serbian Parliament to investigate the alleged incinerations. In late December 2004 the HLC addressed the Speaker of the Serbian Parliament, Predrag Marković with a request for establishing a parliamentary commission on the mass graves discovered in Serbia and the destruction of evidence of crimes committed in Kosovo. In his response, Marković said he would take all the measures in his power.(17) On 21 February 2005 the eight organizations announced that they had asked to meet with the Speaker Predrag Marković to discuss the forming of a commission of inquiry into the mass graves and destruction of evidence by the burning of bodies.

Amnesty International calls on the Serbian authorities as a matter of extreme urgency to thoroughly, independently and impartially investigate the allegations that members of the security forces took part in the destruction of evidence of mass atrocities in Kosovo by burning bodies at the Mačkatica factory in May 1999, and that alleged perpetrators at all levels be brought to justice.

Amnesty International urges that the announced investigation into the Mačkatica alleged incinerations also thoroughly, independently and impartially looks into the allegations that members of the security forces have been intimidating and threatening a number of people in Surdulica, Vladičin Han and Vranje so as to discourage them from giving evidence.

The organization also considers that the suffering of relatives of the "disappeared", because of lack of knowledge of the fate and whereabouts of their family members, amounts to a violation of their right to freedom from torture and cruel or inhuman treatment. Amnesty International urges the authorities of SCG to ensure adequate reparation - including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition - to the relatives of those disappeared.

3. Police torture and ill-treatment of detainees, possible extra-judicial executions and deaths in custody

As noted above SCG's commitments to the Council of Europe include at para 12 iii (f):

> *"to revise, in co-operation with Council of Europe Experts, the legislation and regulations concerning the prison system, war crimes and torture, so as to ensure prosecution before the courts of crimes which are not prosecuted by the ICTY [The international Criminal Tribunal for the former Yugoslavia (Tribunal)], **and also to prevent ill-treatment of citizens by the police*** [Amnesty International's emphasis];"

SCG (as the Federal Republic of Yugoslavia) has ratified the ICCPR and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which prohibits torture or cruel, inhuman or degrading treatment in all cases and circumstances, as does Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) which SCG signed on accession to the Council of Europe. On 26 December 2003 the SCG parliament ratified the ECHR and the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment.

However, Amnesty International remains concerned at continuing reports of alleged torture and ill-treatment by police as well as the failure by the authorities to adequately address past abuses and bring those responsible to justice.

3.1 Trials for and investigations into past political murders and attempted murders

In February 2004 the trial began of Radomir Marković, former head of the Serbian State Security Agency (BIA), and other serving or former security officials. They were accused of involvement in the murder of four people during an attempt in 1999 to kill current Foreign Affairs Minister Vuk Drašković, at the time a leading opposition politician. They were also accused of involvement in the murder of former Serbian President Ivan Stambolić in August 2000.

The trial of those accused of involvement in the murder in March 2003 of Prime Minister Zoran Đinđić continued. On 1

March 2004 an eye-witness to the assassination, Kujo Krieštorac, was shot dead in his car. On 2 May 2004 the prime suspect for the Đinđić assassination, Milorad "Legija" Ulemek-Luković, surrendered in Belgrade.

In April 2004 Serbian Minister of the Internal Affairs Dragan Jočić announced that a special task force had been set up to investigate unsolved murders including those of journalists Slavko Ćuruvija in April 1999 and Milan Pantić in June 2001, and former State Security Service agent Momir Gavrilović in March 2004. However, in March 2005 Dragan Jočić announced that although he had promised to resolve all unsolved murders, particularly those of Slavko Ćuruvija, Milan Pantić and Momir Gavrilović, this had proved too difficult because of deficiencies in the police force. He stated that:

> *"The Ćuruvija case is not just the murder of a journalist, it's grown into something bigger than that. It's a challenge to the state, the state can not put behind itself this secret, dark period through which we passed, both as people and as a nation. I don't know whether as minister I will resolve this case and these cases."(18)*

Thus it appears that while some cases of past political murders have begun to be addressed by the authorities, and those suspected of having been responsible charged, other cases remain unsolved.

Amnesty International is deeply concerned at the authorities continuing failure to resolve these murders which are widely believed to have been political assassinations carried out by state agents. The organization believes that this continuing failure indicates that the security forces remain incapable of fully addressing past abuses and bringing all those responsible to justice.

In April 2004 Dragan Jočić also called for a new inquiry into the assassination of Zoran Đinđić and expressed doubts surrounding the circumstances surrounding the deaths on 27 March 2003 of the main suspects, Dušan Spasojević and Mile Luković. The police had announced at the time that the two men had been shot dead in an exchange of fire with police officers while resisting arrest. On 30 April 2004 the Belgrade weekly newspaper NIN published findings from the official autopsy reports carried out on the deceased on 31 March 2003, which indicated that Dušan Spasojević had been shot in the back while kneeling or lying on the ground, and that Mile Luković had been beaten and shot in the head at close range. On 14 May 2004 Dragan Jočić announced that an investigation would be held into the deaths of the two men although no results of such an investigation were forthcoming by mid-March 2005.

3.2 Failure to promptly, thoroughly, independently and impartially investigate possible extra-judicial executions and deaths in custody

Amnesty International is concerned at the apparent failure of official forensic doctors to perform adequate forensic investigations in a timely manner in a number of cases of suspicious deaths where there were allegations of official involvement or complicity in the deaths. Accurate forensic evidence collected and presented within an appropriate time-scale is a crucial component in the investigation of suspicious deaths, and Amnesty International is seriously concerned at serious shortcomings in this regard as illustrated by the following five cases. (19)

The death of Milan Ristić

According to the police report, Milan Ristić committed suicide on 13 February 1995 by leaping off the top of an apartment building in Šabac, western Serbia. However, it is alleged that two police officers arrested Milan Ristić, that one of them struck him, causing instant death, and, in an effort to cover up the murder, carried his body to the roof of the apartment building and threw it off.

Believing that the autopsy carried out in Šabac in 1995 was not conducted properly, Milan Ristić's parents, Radivoje and Vesna Ristić, contacted two distinguished independent forensic experts, both of whom found the autopsy report superficial and contradictory, especially with regard to the cause of death. In their opinion too, the autopsy was not performed in accordance with the fundamental rules of forensic medicine. The experts also noted major inconsistencies between the report and the scene of death, which led them to conclude that the body must have been moved. They therefore proposed exhumation of Milan Ristić's remains and a new autopsy.

After exhausting all available remedies before domestic courts, Milan Ristić's parents submitted through the HLC an application to the UN Committee Against Torture (CAT) in which they alleged that the competent government agencies of the then Yugoslavia and the Republic of Serbia had failed to conduct a prompt and impartial investigation into the death of their son, thereby violating the UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Convention against Torture). On 11 May 2001, the CAT concluded that Yugoslavia had violated its obligations under the Convention against Torture. The CAT recommended that the Yugoslav authorities ensure the right of Ristić's parents to a legal remedy, conduct a full impartial investigation, and to report back to the CAT on the steps taken within 90 days.

Despite the 90-day report-back period and repeated calls from Milan Ristić's parents, the authorities took two and a

half years to make the first move toward responding to the recommendations of the CAT. In November 2003, the Šabac public prosecutor requested the exhumation of Milan Ristić's remains, and this was done on 20 April 2004. Experts of the Belgrade Institute of Forensic Medicine, who were present at the exhumation, presented their findings and opinions to the Šabac District Court on 24 September 2004. However, the HLC noted(20) a number of shortcomings in the experts' findings and pointed out that the forensic experts had reached their conclusions as to the alleged site of Milan Ristić's fall to the ground on the basis of photographs supplied by police to the court 15 months after the incident, which cast doubt on their authenticity. The photographs showed details which none of the witnesses at the scene, including the crime scene technician who photographed the location, recalled seeing. In addition, the forensic experts failed to determine precisely which injuries the deceased suffered on the date in question and how they were inflicted.

The HLC called for a reconstruction of the incident and questioning of the police present at the scene and the duty officer at the police station, as well as the Emergency Service doctor, criminal investigations inspector, and examination of the deceased's shoes, the records of the Emergency Service, and the list of mortuary vans called out that night. Following the HLC's objections to the experts' findings, on 11 November 2004 the Šabac District Court requested clarification from the forensic experts regarding the objections raised by the HLC but by mid-February 2005 the HLC reported that they had received no further information.(21)

The death of Petar Šutović

Petar Miloš Šutović, a UK citizen born 1 August 1979, was allegedly found dead on 27 January 2004 at his flat in Belgrade. The police report of 27 January 2004 stated that he had been found dead on a bed with a needle in his arm and that "the death was most probably caused by an overdose of narcotics". On 28 January 2004 a post-mortem examination of his body was carried out at the Institute of Forensic Medicine in Belgrade. The report concluded that "[B]ased on the post-mortem examination, microscopic examination of the organs, chemical toxicological and biochemical analyses, it is concluded that it was a violent death, caused by intake of drugs [morphine]."

Petar Šutović's body was returned to the UK on 30 January 2004 and a second post mortem examination was undertaken at the Brent and Harrow Joint Public Mortuary which noted that the heart was absent from the body, "no injuries were seen" and that "[d]eath was associated with a potentially fatal blood level of Morphine". A UK coroner concluded that Petar Šutović had died from a morphine overdose. However, his mother Susan Šutović was, on viewing the body, immediately suspicious of the official reasons for her son's death. His body displayed severe facial injuries and there were other facts, including large blood stains on some of his clothing which indicated that he might have been stabbed in the back, as well as inconsistencies concerning the clothing he was allegedly wearing when found dead, all of which cast doubt on the official verdict. (22)

Susan Šutović is a lawyer working in the UK and was renowned for acting on behalf of opponents of the government of former President Slobodan Milošević. She believes that she still has many enemies in Serbia who have connections, official or unofficial, with the state apparatus. She believes that her son was murdered as a reprisal for her past actions. She enlisted the services of a number of independent forensic experts to study the available evidence, all of whose findings confirmed that the official results of the investigation were at best highly suspect.

Manolis Gavalas, for 10 years a Consultant in Accident and Emergency Medicine at the University College of London Hospitals with extensive experience of sudden deaths in adults induced by illicit drugs, stated that from the photographs of the deceased ostensibly taken at the scene of his death:

> *"there is unequivocal evidence of a significant facial trauma involving the nasal bridge and nasal skeleton which is clearly deformed. There is also some contusion and bruising over the left sided of the face. It appears that as if blood and possibly some vomitious from the face has been wiped clean. There is a small bubble in the mouth...The remainder of the pictures focus on the alleged scene of Mr Sutovic's death. It is suffice to say that there is considerable blood spillage over clothing, bed covers and some spillage of what I assume is blood on the surrounding walls...It is striking in this case that facts do not add up at all. I fail to comprehend how these physical injuries were suffered by the deceased if one is to believe the theory that he died due to an acute overdose... I firmly believe that the injuries shown in the photographs made available to me were acute and preceded Mr Sutovic's death."*

Allan John Bayle, a forensic scientist with long experience of forensic scene examination in the London Metropolitan Police, as well as being a former lecturer for the Metropolitan Police on forensic matters and internationally renowned for forensic scene examinations, concurred and noted that:

> *"The scene appeared to have been crudely interfered with... The state and position of the body lead me to believe that the body had been dressed. The body also appeared to have been cleaned... Blood was found on a sock, but not inside the boot. This proves the victim was either not wearing the same footwear or had no shoes on his feet. The various droplets of blood were also suspicious, because of the [supposed] nature of the death (heroin overdose). The amount of blood on some of the garments suggested that the victim had been stabbed. There was also blood splatter on the wall, this did suggest the victim was hit ...*

> *This is a suspicious death. There is a good possibility that Mr Sutovic could have been moved from other premises. The Yugoslav [sic] and the British authorities should not take for granted that the victim administered any substances himself."*

Dr Allan Jamieson, Director of the Forensic Institute in the UK agreed and stated:

> *"Unfortunately, the evidence of the photographs is completely compromised because they do not represent the state of the person at the time of death. There is clear evidence that blood from the face has been wiped following, probably, bleeding from the nose on to the pillow and sheet. If the victim was obviously dead (as stated) then the actions of the scene attenders is questionable....I consider that the evidence supporting drug overdose as the case of death is insubstantial and in some instances questionable."*

Terence Merston, an independent forensic consultant with many years' experience as a scenes of crime officer in the UK police, concluded from the photographs that:

> *"Having looked at the limited photographs of the scene, none of which are entirety shots and due to the vast lack of blood in the photographs of the scene, which is in total opposition to the heavy blood staining on the items of clothing we have examined. It is my opinion that Petra was alive and unconscious at the time the photographs were taken and that in all probability he was in fact murdered. However the location where the photographs were taken is in my view not the murder scene."*

In December 2004 Terence Merston and his assistant Scott Walker travelled to Belgrade and forensically examined the alleged site of death. It appears that the scene was largely untouched from the time when his body was discovered with the blood stains on the wall as before. From his examination he concluded:

> *"It is my opinion that Petar Sutovic has been seriously assaulted and in all probability unlawfully killed. It is also my view that he was not wearing the Champion T shirt seen in the photographs of him on the bed at the time of the assault to his nose and face and that he was cleaned up and dressed prior to the photographs of him on the bed were taken."*

Thus all four independent experts' assessment flatly contradicted the official Serbian version which appears to have been taken at face value by the British authorities.

Amnesty International believes that, from the available evidence, Petar Šutović may have been murdered and that the Serbian police and forensic experts have attempted to cover this up by claiming that his death was caused by a self-administered drug overdose. This apparent cover-up gives rise to the concern that there was possible official complicity in his murder.

The Topčider killings

On 5 October 2004 conscript sentries Dražen Milovanović and Dragan Jakovljević died in a shooting at the Topčider Belgrade military complex. The military claimed that one had shot the other and then committed suicide but other reports alleged that both men had been murdered by a third party. In November 2004 a military commission of inquiry into the deaths re-affirmed that they had died after shooting at each other after a quarrel. However, a non-military State Commission of Inquiry set up by President Marović to investigate the deaths announced in December 2004 that a third party was definitely involved. Forensic scientists working for the State Commission of Inquiry had definitely ruled out the possibility that either soldier committed suicide, and ballistic analysis showed that both were shot with the same weapon which ruled out the possibility that they had shot each other. The contradictions between the forensic and ballistic findings of the military and civilian investigations remained unresolved and suspicions remained that the military had attempted a cover-up. In February 2005 the District Public Prosecutor's Office in Belgrade proposed that the investigative court begin a new investigation.(23)

Dejan Petrović – death in custody(24)

Dejan Petrović, aged 29, was arrested on 16 January 2002 on suspicion of theft. The following day police informed his parents that he had leapt from a second floor window and that he was in a coma at the Emergency Treatment Centre. He was suffering from a number of injuries to internal organs as well as broken ribs and a broken left femur and a large bruise to the head. He died without regaining consciousness on 15 February 2002. Amnesty International is informed that the window in question is a double window (to retain heat) of some 40cm by 45cm on the outside, one metre off the floor. Amnesty International is further informed that Dejan Petrović was a tall man of some 181 cm who was handcuffed at the time, and that on the broken glass there was no trace of blood, hair or skin and that a piece of glass had fallen inside the room. Moreover, there was no blood on the packed snow on the ground outside, and the organization is informed that police officers made contradictory statements. A criminal procedure was opened but has been the subject of repeated delays and was still ongoing in mid-March 2005.

The HLC, on behalf of Dejan Petrović's family, opened a civil suit for non-pecuniary damages against the Republic of Serbia. The last hearing of this case was in December 2003 when the presiding judge, ruled, in apparent contravention of the law, that the criminal case must be completed before the civil case. Despite appeals by the HLC, the judge has refused to continue with the civil proceedings on that basis.(25)

One reason for the delays in the criminal case was the long delay before the forensic report was forthcoming from the Institute of Forensic Medicine in Belgrade. The HLC lawyer acting for the family informed Amnesty International that he was finally allowed to read the Institute's conclusions in September 2004 but was not given a copy.(26)

Based on the information available to Amnesty International, the organization is concerned that there are grounds to believe that Dejan Petrović may have died as a result of torture or other ill-treatment by the police.

Dragan Malešević 'Tapi' - death during interrogation

In November 2002, Amnesty International sought further information from the Serbian authorities on the death of Dragan Malešević 'Tapi', a suspect in the June 2002 murder of police chief Boško Buha. Dragan Malešević 'Tapi' reportedly died on 29 October 2002 during interrogation at Belgrade police station following his arrest. Reportedly, the first results of an autopsy confirmed that he died of a heart attack. However, in the light of detailed allegations of serious police torture - allegations which included partial asphyxiation by the placing of bags over the head - made by others who had also been arrested on suspicion of involvement in the murder (see below), as well as the above-noted apparent failures in forensic investigation, there remained suspicions about the nature of his death. Amnesty International called on the Serbian authorities to undertake a full investigation into the death of Dragan Malešević 'Tapi' in a manner consistent with the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions and to be informed of the findings of such investigation. The Serbian authorities have not replied.

In November 2004 during the trial of those accused of being responsible for Boško Buha's murder, one of the defendants, Vladimir 'Karlos' Jakšić, stated that he was in an adjacent room to where Dragan Malešević 'Tapi' was being interrogated, and that from what he heard he believed that Dragan Malešević 'Tapi' was being tortured by police officers. Also during the trial on 30 September 2004 Milorad Ulemek 'Legija' Luković, who at the time of the arrests was head of the special police unit (JSO) and a suspect in the assassination in March 2003 of Prime Minister Zoran Đinđić, testified(27) that he was present when then Deputy Chief of the Serbian Security and Information Agency (BIA) Milorad Obradović was informed by telephone of Dragan Malešević 'Tapi''s death in custody and that:

> *"he* [Milorad Obradović] *got very pale and restless. Milić* [Nenad Milić, then Deputy Minister of Police who was also present] *asked him how he had died and he* [Milorad Obradović] *answered: 'It seems they went too far with the interrogation'. In that moment Čeda [then Deputy Serbian Prime Minister Minister Čedomir Jovanović] entered and when he was told about what happened with Tapi he answered 'Fuck him, he deserved it, after all the evil things he did.'."*

On 2 December 2004 the daily Večernje Novosti reported that a police investigation into the death had been initiated. Amnesty International has received no further information on the progress of such an investigation, or even if one had been undertaken.

Amnesty International calls on the Serbian authorities to ensure that thorough, independent and impartial investigations are carried out into the deaths of Milan Ristić, Petar Šutović, Dražen Milovanović, Dragan Jakovljević, Dejan Petrović and Dragan Malešević 'Tapi' which should include accurate forensic investigation to ascertain the casues of death and, in the cases of Milan Ristić, Dejan Petrović and Dragan Malešević 'Tapi', whether they had been subjected to torture or ill-treatment by police immediately prior to death.

3.3 Police torture and ill-treatment

There appeared to be a drop in the number of alleged instances of torture or ill-treatment by the police in 2004. Amnesty International is concerned, however, that allegations continued and investigations into previous allegations of police torture and ill-treatment remained seriously flawed.

3.3.1 SCG again found to be in violation of the UN Convention against Torture

On 20 November 2004 the UN Committee against Torture (CAT) concluded that SCG had violated the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Their conclusion was made in the case of Dragan Dimitrijević, a Romani man, who – the CAT concluded– had been subjected to police brutality amounting to torture after being arrested at his home in Kragujevac on 27 October 1999. The CAT also found SCG had violated the obligation to carry out a prompt and impartial investigation into the complaint made to the authorities in January 2000 by Dragan Dimitrijević. Having received no response to his complaint by the public prosecutor by

December 2001, the HLC and the European Roma Rights Centre filed a complaint with the CAT on his behalf. The CAT also found that in failing to investigate his complaint, the authorities had denied Dragan Dimitrijević the opportunity to file a civil case for compensation. The CAT called on SCG to open a proper investigation into Dragan Dimitrijević's complaint and inform the CAT of progress within 90 days. (28) To Amnesty International's knowledge, by mid-March 2005, there had been no further developments.

3.3.2 Investigations into "Operation Sabre", admissions, deliberate misinformation and the "missing" official report

On 6 April 2004 Serbian Minister of Internal Affairs Dragan Jočić stated that there had been human rights violations during "Operation Sabre" – the widespread clamp-down on organized crime following the assassination of Zoran Đinđić. On 14 May 2004 Inspector General and Assistant Minister at the Serbian Ministry of Internal Affairs, Vladimir Božović, referring to a September 2003 report by Amnesty International, *Serbia and Montenegro: Alleged Torture during "Operation Sabre"* (AI Index: EUR 70/19/200) stated that there had been six cases of torture during the operation. The Secretary General of the Council of Europe noted in his report of 14 September 2004 (which covered the period May – August 2004) that in "a recent decision [see below], the Constitutional Court has confirmed concerns expressed in previous reports as regards excessive extension of police powers, reports of police abuse and the poor quality of police investigation during the 2003 state of emergency".(29)

In July 2004, the (UN) Human Rights Committee examined SCG's initial report of its implementation of its obligations under the International Covenant on Civil and Political Rights (ICCPR). In its Concluding Observations, the Committee expressed concerns about continued allegations of torture and ill-treatment, (paragraphs 13-15), and in particular, about allegations made in the context of "Operation Sabre":

> *"13. The Committee is concerned at the measures taken under the state of emergency, which included substantial derogations from the State party's human rights obligations under the Covenant. The Committee notes the ruling of the Constitutional Court of Serbia of 8 July 2004, declaring unconstitutional some of the measures derogating from the Covenant taken by the Republic of Serbia under the state of emergency, and steps taken to punish violations that have occurred during this period and to provide compensation to all victims. Nevertheless, the Committee regrets that several concerns remain, particularly with regard to allegations of torture of detainees in the context of 'Operation Sabre' (articles 4, 7, 9, 14, 19).*
>
> *The State party should take immediate steps to investigate all allegations of torture during 'Operation Sabre' and take all necessary steps to ensure adequate mechanisms to prevent such violations and any abuse of emergency powers in future. The Committee draws the attention of the State party to its General Comment No. 29 for the assessment of the scope of emergency powers."(30)*

During the Human Rights Committee session – which took place in Geneva, Switzerland, on 19-20 July 2004 – the delegation of SCG presented the Human Rights Committee with a written response to questions submitted by the Committee.(31) In this document, the government referred specifically to investigations which they stated had been opened into the 16 cases featured in Amnesty International's report. Indeed, the government's statement implied that these 16 cases were the only recorded incidents of torture and ill-treatment that took place during "Operation Sabre"; however, this impression was corrected in responses by SCG officials to questions from the Committee members who cited some further complaints which had been received.

According to the government's written response to the Human Rights Committee, the Serbian Interior Ministry, through the "competent Service of the Inspector General of the Public Security Service, carried out a procedure for checking the allegations contained in this [Amnesty International's] report". The Ministry reportedly found that in six of the cases raised by Amnesty International "coercive measures were used by police officers in a manner and to the extent which are in contravention of Article 22 of the Law on Internal Affairs". Further, "respective organizational units" were asked to identify the police officers concerned and to take appropriate legal measures against them. No details of these legal measures were included in the report.

Misinformation to the Human Rights Committee

The Delegation from SCG, headed by Vladimir Božović, stated during the Committee's examination of SCG's periodic report that Amnesty International had been informed by the Serbian authorities of the results of their investigations into the cases raised by Amnesty International in connection with "Operation Sabre". Despite these claims by the authorities, on the contrary, no information had been made available to Amnesty International on the results of the investigations. Since then, Amnesty International has continually requested the Serbian authorities to provide the promised information to no avail.

In September 2004 the Rapporteurs on SCG for the PACE Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) stated:

"Apart from signing and ratifying the Convention for the Prevention of Torture and Inhuman or Degrading treatment or Punishment, Serbia and Montenegro was also asked to prevent ill-treatment of citizens by the police. This remains a serious problem, as was also demonstrated in Serbia during the state of emergency, when there were many serious allegations of ill-treatment of detained persons by the police. To make matters worse, the Serbian Ministry of Interior has first rejected the allegations and later admitted to their existence but insisted that their internal investigation had shown that they were groundless. The absence of systematic, transparent and credible investigation of complaints is a cause of great concern. According to the Serbian Minister of Interior, this situation has now changed, and the work of the new General Inspector of Police is a guarantee that all abuses and irregularities will be properly investigated and, if necessary, sanctioned." (32)

As shown below this guarantee from the Serbian Minister of Internal Affairs regarding the role of the General Inspector of Police, Vladimir Božović, has not been fulfilled.

The "missing" report

On 2 February 2005 an Amnesty International delegation met with Vladimir Božović and once again raised the six cases during "Operation Sabre", in which the authorities had admitted that torture had occurred, as well as concern over possible torture in other cases given that over 10,000 other people had been arrested during the operation. Vladimir Božović informed the Amnesty International delegation that he had seen the investigations into the six cases in question detailed in a report finished by his predecessor (Vladimir Božović took office in 1 April 2004). According to Vladimir Božović, this report had been sent to the then Serbian Minister of Internal Affairs Dušan Mihajlović, who had sent it on to the then Serbian Assistant Interior Minister and Director of Police, Sreten Lukić, who was dismissed in March 2004. (Sreten Lukić was indicted on 2 October 2003 by the Tribunal for crimes against humanity and violations of the laws or customs of law in Kosovo in 1999 but at the time of writing was openly residing in Belgrade due to the Serbian authorities' refusal to transfer him to the Hague - see above).

Vladimir Božović stated that the report was now "missing" and he said that during the (UN) Human Rights Committee's session in Geneva he had telephoned the current Serbian Minister of the Interior Dragan Jočić, who informed him that the report would be produced within 30 days, which did not happen. Vladimir Božović promised to raise the issue again with Minister Jočić and send a copy of the report to Amnesty International if and when he received a copy. Given the apparent unavailability of the report, when asked about the possibility of creating a new report, he replied that this was not possible as he lacked the political support to do this, and his office did not possess sufficient resources to undertake this task. He further informed the Amnesty International delegates that the Human Rights Committee had sent a strongly worded letter to the Serbian Ministry of Internal Affairs on this matter.

Vladimir Božović also stated that proceedings arising from the investigations had been initiated but, as the "missing" report only outlined who was tortured and not who the perpetrators were, the authorities were unsure as to whom to prosecute. He also stated that there were more cases under investigation but he was unable to supply further details or give an estimate of the number of such cases.

On 1 March 2005 the Serbian Parliamentary Defence and Security Committee decided to initiate an investigation into "Operation Sabre". Part of this investigation will apparently involve questioning the Serbian Ministry of Interior about allegations of torture and ill-treatment of citizens by officials during the operation.(33)

Amnesty International remains deeply concerned about allegations of torture of detainees by security forces in SCG in connection with "Operation Sabre", and the apparent lack of adequate, if any, investigations into these widespread and credible allegations. To date, to Amnesty International's knowledge, no proceedings have been initiated against police officers reasonably suspected of using torture during "Operation Sabre". The torture allegations included asphyxiation by taping plastic or other material bags over the head, beatings, electric shocks to the head and body, and mock executions.

3.4 Denial of medical assistance to torture victims of "Operation Sabre", refusal of investigative judges to record or investigate allegations and alleged torture testimony admitted in court

Dragan Lukić

According to a long statement given to the Leskovac Committee for Human Rights, and sent to Amnesty International, Dragan Lukić (born 16 December 1965) was subjected to repeated torture and ill-treatment while in police detention from 2 April to 15 April 2003 following his arrest in the course of "Operation Sabre". Despite severe injuries sustained as a result of such treatment, he was not allowed access to medical treatment until 15 April 2003. He was then denied further medical assistance until 2 June 2003. On 20 April 2003 he was brought before an investigative judge, who reportedly refused to record any details of his physical condition or record his allegations of severe torture. In addition to his physical injuries, he has been diagnosed as suffering from depression and currently remains unable to work.

Dragan Lukić was arrested on 2 April 2003 in "Operation Sabre" and was apparently told that he was to be charged

with the theft of two cars and with forging number plates, but when released on 27 June 2003 no criminal proceedings had being opened against him.

Following his arrest he was reportedly subjected to repeated torture and ill-treatment at Zemun police station by an unknown number of persons. He alleged that he was beaten on the soles of his feet, head and back and buttock with truncheons and baseball bats. On the second day, he was reportedly rolled into a carpet, and repeatedly beaten on the soles of his feet, which were the only exposed parts of his body. When he lost consciousness, cold water was thrown over him. On several occasions he was reportedly forced to urinate in his underwear. He stated that on the third day, he was handcuffed to a chair, and a plastic bag was repeatedly placed over his head to the point of partial asphyxiation; this process was repeated over the course of a day. On the fourth day he was again allegedly beaten and threatened that he would be taken to the river Danube where he would be killed. At night he was reportedly handcuffed to a chair which was tied to a metal cupboard in a basement room in the police station which, because of a broken window, was open to the air. He was allegedly beaten again on 10 April 2003. On 11 April 2003 he was reportedly forced to place his swollen feet into pails of ice for half an hour. On the same day, having been returned to the basement a doctor was brought to him; without anaesthetic, the doctor reportedly used a scalpel to cut the bruises; the precise reasons for this intervention remain unclear. He reportedly received no appropriate medicines. He stated that on 12 April 2003 he was taken to the police rifle range in the attic of the police-station where he was kept tied to a target for three days and three nights.

According to Dragan Lukić, on 15 April a police doctor, who provided pain-killers and anti-inflammatory medicines, attended to his feet.

He was not taken before a court until 20 April 2003. He stated that when he appeared before the investigative judge he was unable to wear his trainers (shoes) as his feet were still too swollen and that because of this he was holding his trainers in his hands, and that this was plainly visible to the court officials. Despite this and despite his requests, the investigative judge reportedly did not allow any details of Dragan Lukić's physical condition to be recorded by the court. Dragan Lukić was subsequently detained at the Central Prison in Belgrade and, despite repeated requests for medical attention, was not allowed to see a doctor until 2 June 2003. He was released from detention on 27 June 2003. Amnesty International is in possession of a number of statements of fellow detainees which corroborate the allegations that Dragan Lukić was subjected to torture and that he was denied medical assistance.

On his release, Dragan Lukić sought medical assistance at the Belgrade Hospital. Medical records reportedly confirmed that his body still bore signs of the beating he had received almost two months earlier, including swellings of the knees, ankles and the soles of his feet. A rheumatologist certified that his knee injuries would prevent him from working. According to medical records he was prescribed pain-killers and sedatives and referred to a neuropsychologist, cardiologist and gastroenterologist. He was also treated by the Belgrade Institute for Mental Health where he spent some time as an in-patient and where he was diagnosed with "mixed personality disorder" and anxio-depressive disorder. On 20 October 2003 he was examined at the I.A.N. rehabilitation centre for torture victims in Belgrade which confirmed the anxiety and depressive disorder diagnoses.

Desimir Grbić

Desimir Grbić, who was arrested on 11 April 2003 in connection with "Operation Sabre", was allegedly tortured at the 29 November police station. He informed Amnesty International that while he was in detention he was also denied medical assistance for the injuries he received as a result of the alleged police torture.

On 10 July 2003 he was sentenced to eight months' imprisonment for the unauthorized possession of a firearm and ammunition which he was accused of giving to Aleksandar Vuksanović, a person whom he denies having ever met. He appealed against his sentence, including on grounds that his "statement", which was admitted as evidence in the trial, was extracted from him by torture in contravention of Article 15 of the UN Convention against Torture and of Articles 12 and 178 of the SCG Basic Code of Criminal Procedure. On 12 February 2004 the Belgrade District Court dismissed his appeal on the grounds that he had made the confession in the presence of the public prosecutor and a named lawyer, and that he did not deny signing the confession.

In addition to the above-mentioned concerns about the allegations of torture of detainees during "Operation Sabre", Amnesty International is concerned at the denial of appropriate medical assistance to torture victims. From the information available to Amnesty International, it appears that medical personnel may have been complicit in the alleged torture. Furthermore, Amnesty International is concerned that court officials refused to record both physical evidence indicating that torture had been used as well as statements from defendants to that effect. The organization is also concerned at the possible use, in trials connected with "Operation Sabre", of testimony obtained under torture.

3.5 Torture allegations corroborated in the Boško Buha murder trial

In November 2002 Amnesty International wrote to the then Minister of Internal Affairs Dušan Mihajlović in connection with the arrests of people on suspicion of involvement in the murder in June 2002 of former police chief Boško Buha. Amnesty International was concerned at reports of alleged ill-treatment by police of Nikola Maljković after his arrest on

27 October 2002. He was examined at the Emergency Centre of the Clinical Centre of Serbia on 27 October and admitted to prison hospital the following day. A medical report on his health from the Serbian Ministry of Justice, dated 1 November 2002, detailed the findings of the Emergency Centre as well as the ongoing treatment he was receiving at the prison hospital. This report stated that he was suffering from a broken shoulder blade, multiple bruising on his back and groin, and contusion of the head. His lawyer alleged that his injuries were due to police ill-treatment.

On 1 November 2002 Minister Dušan Mihajlović denied these allegations, reportedly telling the Belgrade radio station B92 *"I can say, with full responsibility, that the police did not overstep their authority"* and stated that Nikola Maljković was injured while trying to escape and that he physically resisted arrest. Amnesty International noted that while it was indeed possible that Nikola Maljković physically resisted arrest, the extent of his injuries, as recorded in the medical report, appeared consistent with allegations of ill-treatment by police in Belgrade after arrest. Specifically it was alleged that following arrest a bag was placed over his head and that an unknown number of people (whether police officers or others acting in conjunction with the police - see below) repeatedly hit him.

Dragan Ilić 'Limar' was also arrested for the Boško Buha murder (a third person arrested, Dragan Malešević 'Tapi', died during interrogation – see above). In November 2002 Amnesty International also raised his case with the Serbian authorities. Dragan Ilić was reportedly beaten in the street by an unknown assailant after being released from custody on 29 October 2002 on the order of the investigative judge. Due to the beating, Dragan Ilić reportedly required treatment at the Emergency Centre from where he was re-arrested and transferred to Belgrade Central Prison. Amnesty International was informed that police were reportedly incensed by the decision to release him, and there was suspicion that his attacker may have been connected to the security forces. Amnesty International urged that a thorough investigation into the attack on Dragan Ilić be carried out and the assailant brought to justice.

In its 2004 report,(34) Amnesty International detailed the torture allegations read out in court by Dragan Ilić. The organization noted that even in such an extreme case as this where his injuries, including fractures to both hands and legs, fingers and jaw were reportedly visible at the court proceedings, neither the prosecutor nor the investigative judge took any action. The Serbian authorities have not replied to any of Amnesty International's concerns regarding the above allegations of torture of those arrested and accused of the murder of Boško Buha.

On 16 September 2003 the trial began of Željko "Maka" Maksimović, Nikola Maljković, Dragan Ilić 'Limar', Slobodan Kostovski, Vladimir 'Karlos' Jakšić and former police officers Dragan Alijević and Goran Rajčić: all charged with murder, consorting, terrorism and illegal possession of weapons. The trial ended on 18 November 2004 with all the defendants being acquitted of murder but found guilty of illegal possession of weapons. During the trial on 30 September 2004 Milorad Ulemek 'Legija' Luković, who at the time of the arrests was head of the special police unit (JSO) and a suspect for the assassination in March 2003 of Prime Minister Zoran Đinđić, testified that officials and criminals, allegedly led by Dušan Spasojević(35) and working with the police, had tortured Nikola Maljković and Dragan Ilić. Milorad Ulemek 'Legija' Luković stated that former Serbian Deputy Prime Minister Čedomir Jovanović had requested Dušan Spasojević's help in finding Nikola Maljković after police, who had been following him, lost him. He stated that Dušan Spasojević had found Nikola Maljković. He further stated that when he had gone to meet Dušan Spasojević to get the video tape of Dragomir Ilić's confession, he had seen Dragomir Ilić in a room with two masked men and Dušan Spasojević, who was filming the interrogation. Milorad Ulemek 'Legija' Luković reportedly stated:

> *"When we arrived* [Inspector Slobodan] *Pažin started questioning* [Dragan Ilić] *Limar, and he denied everything. I got really stressed, as General Buha was my friend ever since we fought in the war until 5 October, and I respected him a lot. I ran into the room and took one of the tools, I think it was a shovel, and hit Limar with it about six or seven times. Pažin jumped up and took me outside and told me to calm down... I went to see Dušan* [Spasojević] *a couple of days later and he told me that little* [Nikola] *Maljković was really tough, how they had tried to break him for about five hours, but he did not confess to anything. Then they gave him to the police as any more [ill-treatment] made no further sense, as the only thing left would be to bury him."(36)*

Amnesty International remains seriously concerned at the alleged torture of Nikola Maljković and Dragan Ilić as well as the alleged use by the police of criminal gang members in the abuse, and calls for a thorough, independent and impartial investigation into the allegations, and that if the allegations are confirmed all those responsible be brought to justice in the course of fair proceedings.

3.6 Failure to investigate torture allegations and bring perpetrators to justice in the Sandžak

Due to the war in neighbouring Bosnia and Herzegovina from 1992-5, the ethnic Bosniak population of the Sandžak was apparently viewed by then FRY authorities as being pro-Bosnian and potentially disloyal to Belgrade due to religious affiliation.(37) In the course of 1992-5, the Bosniak population of the Sandžak was reportedly subjected to an official policy of extreme harassment. Large numbers of Bosniaks - local human rights groups estimate the number to be in the thousands - were called in by the police for 'informative' talks, and allegedly routinely severely beaten with truncheons, punched and kicked, typically by two police officers at a time, often after being tied to a radiator. Amnesty International is informed that many of these 'interrogations' were part of widespread operations ostensibly looking for unauthorized firearms but whose real aim appears to have been the widespread intimidation of the local Muslim population.(38)

Allegations of ill-treatment of Bosniaks by police offiers in the Sandžak continued after the ending of the war in Bosnia and Herzegovina in 1995. However, despite the thousands of cases documented by human rights groups in the period 1992-2002, to Amnesty International's knowledge there have been virtually no successful prosecutions of those believed to have been responsible, and many alleged perpetrators remain as serving police officers. Human rights groups informed Amnesty International that doctors were forbidden to issue medical certificates to victims of police torture in the period 1992-5, and that despite widespread knowledge of the abuses, the public prosecutors failed to act.

A rare exception to this pattern of widespread immunity was on 1 July 2002 when the District Court in Užice, central Serbia, found three police officers guilty, albeit eight years after the complaint was made, of using torture/ill-treatment against two Bosniak detainees from the Sandžak in February 1994 in order to force them to admit to possessing illegal weapons. The court sentenced each police officer to five months' imprisonment. The trial came about due to a complaint filed by the HLC on 6 April 1994.

Despite the apparent unwillingness of the authorities to open proceedings, human rights groups have filed some 35 other criminal charges alleging torture or ill-treatment of Bosniaks in the period 1992-2002(39) at the Novi Pazar District Court, and in 2003 court proceedings were finally opened against three named police officers alleged to have been responsible for numerous cases of ill-treatment and torture in the region from 1992 onwards.(40) However, as the three accused have reportedly regularly failed to turn up to court hearings, and in winter witnesses from rural communities often have difficulty in coming to Novi Pazar for hearings, the case may well be prolonged.(41)

Amnesty International is concerned at allegations of widespread torture and ill-treatment of large numbers of Sandžak Bosniaks by police during the period 1992 - 2002. The organization is further concerned that there has, to date, been no thorough and impartial investigation into the majority of these serious allegations, and that those police officers allegedly responsible have been, and continue to operate in a climate of impunity and are still serving in the police force in the Sandžak.

3.7 Alleged official complicity and cover-up in sex-trafficking and torture case in Montenegro

Amnesty International is also concerned at the failure to investigate independently, impartially and thoroughly allegations of official abuse in the case of the Moldovan woman known as S. Č. who is believed to have been trafficked into Montenegro, tortured and forcibly made to work as a prostitute in the period 1999 – November 2002 when she was transferred to the Women's Safe House in Podgorica for victims of trafficking. The organization is concerned that the government-appointed commission to investigate the actions of the police and judicial authorities in the case failed to adequately address the issues, giving rise to suspicions of an attempt to cover-up alleged official complicity in the trafficking of women and girls for forced prostitution in Montenegro.

S. Č., a 28-year-old mother of two, suffered horrendous physical and sexual abuse for over three years resulting in severe injuries including seven broken bones, internal injuries so that she could not sit down without pain, scars from handcuffs, cigarette burns on her genitals, and bruises in her mouth. She alleged that Montenegrin politicians, judges, police and civil servants had tortured and raped her and other East European women who like her had been trafficked and held as sex-slaves. From the available information Amnesty International considers that she had been trafficked for the purposes of forced prostitution, and that the treatment she had been subjected to amounted to torture.

As such the Montenegrin authorities were duty bound by domestic and international law to bring those responsible to justice, and to ensure that S. Č. was not treated as a criminal but afforded support as a victim, and ensured reparation for the violations of human rights she sustained.

A criminal investigation headed by investigative judge Ana Vuković was opened into the case and four people, including Deputy State Prosecutor Zoran Piperović, were arrested in connection with the case on suspicion of being involved in trafficking women for the purposes of forced prostitution. In April 2003 Ana Vuković announced that the investigation into the case had been completed and the matter was now in the hands of the state prosecutor. However, on 30 May 2003 the case against the four suspects was dropped, ostensibly for lack of evidence. The halt in criminal proceedings led to suspicions of a cover-up by the Montenegrin authorities. On 16 May 2003 the Organization for Security and Cooperation in Europe (OSCE) called for the case to be re-opened. Under international pressure, the Montenegrin government allowed the OSCE and the Council of Europe to jointly investigate the legality of the case. On 30 September 2003 the OSCE and Council of Europe submitted their joint report on the case to the government. The report concluded that there had been serious shortcomings by both the police and the judicial authorities in handling the case, and urged that the authorities initiate an independent inquiry into how the case had been handled. (42) On 5 November 2003 Ana Vuković published a letter in which she claimed that she had been threatened and her telephone had been tapped because of her attempts to investigate senior officials allegedly implicated in the case.

In April 2004 the Montenegrin government appointed a commission to investigate the actions of the police and the judicial authorities in the case. The government-appointed commission completed its work in November 2004 which largely exonerated the authorities' handling of the case. However, on 30 November the OSCE publicly expressed its dissatisfaction with the commission's findings. The Head of the OSCE Mission to SCG, Ambassador Maurizio Massari, stated :

> *"The findings of the Commission do not respond to the issues of the general functioning of the police and judicial system raised in the joint OSCE-Council of Europe report... Human trafficking is a serious human rights violation. National authorities are therefore obliged to treat such persons as victims, not as criminals.... The way the report deals with the character of the Moldovan citizen is not helpful in efforts to address and combat such forms of organized crime in Montenegro."*

Amnesty International is seriously concerned about a number of issues in connection with the findings of the commission which, as the OSCE stated, portrayed S. Č. as a criminal rather than as a victim of serious human rights violations, made derogatory references to her character in a completely unacceptable manner, and gave rise once again to suspicions of an attempt to cover-up apparent official complicity in the trafficking of women and girls for forced prostitution.

The commission's report stated that:

> *" S. Č. is a person of suspicious moral values, whose husband and father were killed by criminals in Moldova, which could indicate that she also has criminal tendencies. It is evaluated that she possesses modest intellectual abilities, which was especially evident from the video recording under review."*

Amnesty International considers such character assassination to be totally unwarranted, irrelevant to the investigation and apparently intended to denigrate her testimony. The statement about S. Č.'s "suspicious moral character" appears to be based on her being registered to work as a striptease artist in the Vojvodina in 1999 - when, there is reason to believe, she was already a victim of trafficking for forced prostitution - and her subsequent 'illegal' entry and stay in Montenegro where it is apparent she was forced to work as a prostitute and was savagely abused over a long period. The fate of her father and brother is irrelevant, and the commission's projection that she also possibly possessed "criminal tendencies" because of their supposed criminal activity is unwarranted. Also irrelevant is the classification of her as a person of "modest intellectual abilities". That such a conclusion was apparently made from a video recording of her when she was understandably in a highly distressed state on 13 November 2002 soon after having escaped from her traffickers, and suffering from severe injuries due to the prolonged sexual abuse, further underlines the suspicion that the commission was deliberately attempting to undermine her testimony.

The commission's report clearly indicated that, in the authors' view, a "minor case was transformed into a case which provoked serious consequences and great damage to institutions and persons in political life, the judiciary and the state in general", and reiterates the government's claim that the case was a political conspiracy against the current authorities. The claims of Ana Vuković and others alleging official attempts at a cover up were not treated seriously by the commission. However, the commission's report did acknowledge that:

> *"individual employees of the MUP* [Ministry of Internal Affairs] *had full knowledge of S. Č.'s stay in the Republic of Montenegro and her activities, but despite this they did not perform their duties as regulated by the Law.*
>
> *If the Law on residence and movement of foreigners had been properly implemented, omissions of this kind would not have occurred, that is S .Č. as a foreign citizen would not have been able to stay in Montenegro without permission from an authorized body, her movement would have been monitored and necessary measures taken at the appropriate time if it had been determined that S.Č. was involved in illegal activity.*
>
> *A certain number of MUP employees knew that S. Č. was illegally in Montenegro, without a passport but they did not report this as they were officially obliged to do. The Commission assess that such behaviour constitutes a very serious dereliction of duty which should result in disciplinary or criminal responsibility."*

Thus the commission acknowledged that members of the MUP were culpable in S. Č.'s 'illegal' entry and stay in Montenegro. However, the commission failed to openly acknowledge that S. Č. was a victim of trafficking. On the contrary the commission's report apparently concluded that she was voluntarily criminally involved in illegal prostitution. The report stated:

> *"During the long period of her stay in the Republic of Montenegro, S. Č. contacted many people of different personal, intellectual, professional and material characteristics. As a foreigner with modest personal abilities* [again a gratuitous character denigration], *she could not have been able to, in a competent manner, determine what kind of people they were and whether contact with such people could bring her certain 'profit' which created a confusion in her and left her almost without hope as her family was in Moldova, so obviously she was searching for an opportunity to leave the situation she was in. After many attempts to resolve her own existential problem, she came on 12 November 2002 for the first time to the Inspector for Foreigners at the Security Centre in Podgorica."*

Thus the commission assumed, without reference to the existence of any evidence to back up its findings, that she

was operating independently, presumably as a prostitute, until she realized her position was hopeless and made contact with the authorities in order to leave Montenegro. This assumption was made despite the acknowledgement by the commission that she had no passport, had been forcibly injected with narcotics and that she "could have been, with no effort, abused by people who had a particular interest or intention". Amnesty International believes that, even without her testimony, this strongly indicated that she was a victim of trafficking for forced prostitution. The fact that members of the MUP had "had full knowledge of S. Č.'s stay in the Republic of Montenegro and her activities" points to official complicity in this.

Amnesty International believes that the Montenegrin authorities remain duty bound by domestic and international law to bring those responsible for S. Č.'s treatment to justice, and ensure that S. Č. is ensured reparations for the violations of her human rights she suffered. However, to Amnesty International's knowledge, no-one has yet been brought to justice for the trafficking for forced prostitution and torture of S. Č., and she has not received any compensation.

Amnesty International considers that the commission has failed to address the issues in an impartial manner, and urges that the case be re-opened as a matter of priority. Furthermore, the organization is seeking information from the Montenegrin authorities on whether any disciplinary or criminal measures have been initiated against MUP members for dereliction of duty in line with the commission's findings.

3. 8 Amnesty International's recommendations regarding police torture and ill-treatment

Amnesty International is calling on the Serbian and the Montenegrin authorities to ensure that:
· prompt, thorough and impartial investigations are carried out into all allegations of torture and ill-treatment;
· no prosecutions are based on "confessions" allegedly obtained as a result of torture, ill-treatment or duress;
· in cases in which a confession is a source of evidence, the courts carry out a thorough investigation, which includes detailed examination of medical evidence, to determine whether the confession was lawfully obtained before it is admitted as evidence in the trial;
· in cases in which there is reasonable suspicion that torture or ill-treatment has been used against detainees, the state prosecution institutions should immediately undertake measures to identify the perpetrators and bring them to justice;
· all victims of torture and ill-treatment receive adequate reparation in a timely manner;
· any law enforcement official responsible for ill-treatment face disciplinary proceedings and criminal charges where appropriate;
· any law enforcement official convicted of torture or serious ill-treatment be subjected to appropriate criminal sanctions commensurate with the severity of the crime, and be dismissed from the police force;
· all cases in which court officials have been accused of refusing to record torture allegations be thoroughly investigated ,and any court official found responsible be subjected to appropriate sanctions.

4. Conscientious objection to military service

SCG commitments to the Council of Europe include in 13 iv (e) :

> *" to enforce legislation concerning conscientious objectors and, within three years, to enact legislation on an alternative type of service;"*

Amnesty International supports the right of conscientious objection to military service. The organization has previously called on the SCG government to guarantee conscientious objectors a non-punitive and genuine alternative civilian service in accordance with international standards as recommended by the (UN) Human Rights Committee, the Council of Europe and the European Parliament, and to release all those imprisoned for refusing military service on grounds of conscience.

Amnesty International is concerned that legislation introduced to allow an alternative to military service for conscientious objectors is discriminatory in effect and does not apply to all those who genuinely object to military service on grounds of conscience.

Amnesty International noted the adoption of the decree which amended the Regulation on Civilian Service by the Committee of Ministers of SCG on 27 August 2003 which came into force on 15 October 2003. This decree offered for the first time an alternative to military service (of 13 months instead of the nine-month military service). However, Amnesty International considered the Regulation as amended by the 2003 decree to be incompatible with international standards on conscientious objection to military service in a number of ways. Article 8 of the decree stipulated when a person could apply for civilian service. This stated that conscientious objectors could apply for civilian service only before recruitment, or, for those already recruited, during the first three months of military service.

The Regulation was amended again in a decree of January 2005. The new decree in Article 4 changed Article 26a of

the Regulation so that those who request to perform civilian service must do so within eight days of receiving the summons to serve military duty. Thus the new legislation removed the right of all those already recruited from applying at any time, and so further restricted the time when there was a right to apply for civilian service to before recruitment only.(43) Amnesty International notes that the Regulation on Civilian Service in its 2003 form already in this regard fell short of the standards set out in Section 5 of the PACE's Recommendation 1518 (2001), *Exercise of the right of conscientious objection to military service in Council of Europe member states*, and that the 2005 legislation further compounds the non-compliance with the Recommendation.

Amnesty International urges SCG to amend the law so as to ensure that conscripts are guaranteed the right to be registered as a conscientious objector at any time before, during or after conscription or the performance of military service, in accordance with Section 5.1 of Recommendation 1518. (44)

In addition, according to the January 2005 decree, appeals against a negative decision would not delay call-up, and thus that those awaiting the results of such an appeal would have to do so from within the military. Furthermore, Amnesty International is informed that there is no provision for permanent members of the armed forces to apply for the granting of conscientious objector status. Consistent with Section 5.2 of PACE's Recommendation 1518, Amnesty International considers that people should be allowed to register as conscientious objectors at any time, and that permanent members of the armed force should also have the right to apply for the granting of conscientious objector status at any time during their military service.

Article 27a of the Regulation as amended by Article 10 of the 2003 decree forbade alternative service to people in a number of categories including those: who have a license to carry weapons; who have been sentenced to criminal acts involving violence in the three-year period before submitting an application; who have applied for a licence to carry weapons within this same three-year period; and members of hunting and rifle associations or whose work is to sell or repair weapons. These restrictions have remained largely unchanged under the 2005 decree: Article 27a was amended to refuse the right to anyone "who has a licence to carry a weapon or to possess one; a person who was legally convicted for a criminal act on the basis of official duty or for a criminal act with elements of violence prosecuted on the basis of a private claim; a person who has been legally convicted for criminal acts involving violence in the last three years". Amnesty International has similar objections to those raised above in connection with Article 27b of the Regulation which was amended by the 2005 decree so that civilian service would be terminated for anyone "who, during the service, commits an act contrary to the reasons for which he had been sent to that service (a fight, use of cold or fire arms, violent behaviour etc)... Such a person will be sent to serve military service in combat units."

Amnesty International remains concerned at these restrictions as they appear to deny that anybody who has used, or is connected with, firearms - for example for sport, pleasure or hunting - could by reason of their conscientiously-held beliefs possibly be genuinely opposed to war or military service, and appears to confuse conscientious objection by those genuinely opposed to military activities with other pastimes seemingly unconnected with military affairs apart from the shared use of firearms. The restriction on those sentenced for criminal acts involving violence is another tendentious stipulation as such convictions do not necessarily rule out a genuine conscientious objection to military service; Amnesty International believes that such people's claims for conscientious objector status should be considered on a case by case basis. Furthermore, the three-year period referred to above, does not make allowance for conscientious objection for people who change their beliefs after this period.

The case of Dragoslav Djokić from Niš is illustrative of some of Amnesty International's concerns about the legislation. His application for civilian service was reportedly rejected by the Commission on Civilian Service under Article 10 of the 2003 legislation on account of an incident in 2002 when he was reportedly fined 400 dinars for taking his dog for a walk in a park without placing a muzzle on the dog. As the dog was on a lead, and they were in a park, Dragoslav Djokić had removed the dog's muzzle. Amnesty International notes that he was not charged under the criminal code, but rather fined for a "misdemeanour" (*prekršaj*). Amnesty International understands that the Commission found that this offence was "an act of violence that put other people in danger", and on these grounds denied his application for alternative civilian service. Dragoslav Djokić's subsequent appeal to the Ministry of Defence was again denied in a written reply, dated 1 November 2004 and signed by General Slobodan Kosovac, which approved the Commission's decision. Dragoslav Djokić has since appealed to the court of the State Union of SCG on the grounds that his constitutional right to conscientious objection under Chapter 18 of the Constitutional Charter of SCG, and guaranteed under Article 28 of the Charter of Human and Minority Rights, has been violated. Amnesty International notes that Dragoslav Djokić has received no reply from the court, but received his call-up papers in January 2005. On 5 February police came to his house to arrest him for refusing to perform military service.

Amnesty International considers that Dragoslav Djokić has been arbitrarily denied his right to claim conscientious objection status. If he is detained for refusing to perform military service, the organization will consider him to be a prisoner of conscience and call for his immediate and unconditional release.

Amnesty International urges the deletion of Articles 27a and 27b which among other things are discriminatory in effect, and urges that the Regulation be made applicable to all those who genuinely object to military service on grounds of conscience.

Specifically, Amnesty International is calling on the authorities of SCG to amend the legislation:

· to remove the stipulations which restrict the time frame in which a person can apply for conscientious objector status;
· to remove the categories of people forbidden to apply for alternative civilian service so that the regulation applies to all who genuinely object to military service on grounds of conscience; and
· to allow for permanent members of the armed forces to apply for the granting of conscientious objector status.

5. Roma(45)

The list of commitments which SCG undertook to fulfil upon joining the Council of Europe also includes in para 16 that :

> *" special attention should be paid to combating discrimination against, and promoting equal treatment of, Roma".*

The state of SCG is a party to the International Convention on the Elimination of All Forms of Racial Discrimination which obliges all states parties to take all appropriate measures to prohibit and eliminate racial discrimination by any person, group or organization. The state of SCG is also a party to the International Covenant on Civil and Political Rights (ICCPR) which prohibits discrimination and, in Article 26, guarantees to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and to the International Covenant on Economic, Social and Cultural Rights (ICESCR) which in Article 2 (2) obligates States Parties to guarantee the rights enunciated in that treaty similarly without discrimination. These rights include: the right to work (Article 6); the right to an adequate standard of living and housing (Article 11); and the right to education (Article 13). On 11 May 2001 the FRY ratified the Council of Europes Framework Convention for the Protection of National Minorities (Framework Convention). This in Article 4 prohibits any adverse discrimination based on belonging to a national minority, and obliges states "to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority". The Council of Europe's European Commission against Racism and Intolerance's general policy recommendation No. 3, "Combating racism and intolerance against Roma/Gypsies", similarly calls on member states to end discrimination against Roma,(46) while in February 2005, the Council of Europe's Committee of Ministers called on member states to improve the housing conditions of Roma and travellers.(47)

The Council of Europe's mechanism for monitoring states' implementation of the Framework Convention (Advisory Committee) issued an opinion on SCG in November 2003 which was made public 2 March 2004.(48) This stated:

> *"The Advisory Committee considers that both legislative and practical measures are needed to improve the implementation of the principles of non-discrimination and full and effective equality. In this respect, the serious difficulties faced by displaced and other Roma merit urgent attention including in terms of the adoption and implementation of a comprehensive Roma strategy. These difficulties are particularly apparent in such fields as health, housing and employment as well as in education, where the problem of undue placing of Roma children in schools for persons with mental disabilities needs to be addressed as a matter of high priority."*

5.1 Continuing problems

Although economic hardship and unemployment affected many sections of society, many Roma continued to be particularly affected: living in sub-standard unhygienic settlements as well as subject to discrimination in education, employment and health.(49) These severe problems are faced by Roma in both Serbia and Montenegro. On 21 December 2004 Ivan Toskić, head of the Democratic Roma Centre, reportedly told a news conference that the majority of Roma in Montenegro lived in poverty with almost 70 per cent illiteracy and that they have a life expectancy of around 60 years. He said that the low level of education and inherited prejudices were preventing Roma from getting jobs in the state and private sectors and that only five per cent of Roma had permanent employment. He said that a poll carried out among 1,000 Romani women revealed their catastrophic status both within the family and in society at large. *"The poll revealed a very low level of education among Roma women, a very small number of whom have completed primary, secondary or college education."* He said that only three Romani women in the whole of Montenegro had university degrees. Ivan Toskić accused the Montenegrin media of failing to pay sufficient attention to problems affecting the Roma community and said that Montenegrin Radio had only started broadcasting programmes about the Roma at the instigation of the Democratic Roma Centre.(50)

The majority of the Roma who fled Kosovo after July 1999 continued to be particularly disadvantaged facing severe problems exacerbated by difficulties in obtaining registration and thus depriving them of access to health care and social welfare. This compounded in Montenegro where they continued to be *de facto* treated as "refugees" and thus not entitled to benefits of citizenship, while many Roma from both Serbia and Montenegro similarly suffered due to never having been officially registered at birth (see below).

In 2004 in Serbia the authorities began to implement strategies aimed to improve the Roma's plight in Serbia but they have had little real effect to date. The Draft Strategy for the Integration and Empowerment of the Roma (Serbian Roma National Strategy - referred to by the Advisory Committee above) drawn up in December 2003(51) remained, as of mid-March 2005, to be officially endorsed. On 7 April 2004 the National Council of the Roma National Minority(52) adopted a strategy, developed with the assistance of the OSCE Mission, which set priorities on education, housing, employment and the situation of internally displaced persons. On 20 January 2005 the Montenegrin government adopted a National Action Plan for "Decade of Roma Inclusion 2005 – 2015" in the Republic of Montenegro (Montenegrin National Action Plan), which identified education, employment, health and housing as priority areas. However, as noted below, in some key areas such as housing this plan did not contain any specifics but rather laid out a framework for further strategies to be developed. In both Serbia and Montenegro it remains to be seen how fully these and other strategies(53) will be implemented and how they will have an effect on the basic problems which remain largely unaddressed.

Amnesty International is calling on:
· the SCG authorities to do their utmost to implement the plans to ameliorate the desperate situation of the majority of its Romani population in both Serbia and Montenegro as quickly as possible;
· the international community and international bodies, such as the European Union, the Council of Europe and the OSCE, to assist SCG in this daunting task.

5.2 Access to registration

The November 2003 opinion of the Council of Europe's Advisory Committee (see above) stated:

> *"The Advisory Committee finds that problems of Roma are exacerbated by the fact that many of them do not possess personal documents and considers that the authorities should support additional initiatives aimed at improving Roma's access to such documents...*
>
> *notes that limiting the scope of the term national minority to citizens only may have a negative impact for example on the protection of those Roma or other persons whose citizenship status, following the break-up of Yugoslavia and conflict in Kosovo, has not been regularised, including those displaced persons from Kosovo who, in the absence of personal documentation, have had difficulties in obtaining confirmation of their citizenship."*

Roma without requisite documentation or evidence of citizenship are routinely denied access to health care and social welfare, and their children face discrimination in the provision of education in both Serbia and Montenegro. As noted in Amnesty International's 2004 report,(54) registration of Roma has perennially been a problem as large numbers of Roma have never registered marriages or births, and effectively have lived almost completely outside of the state system in illegal or semi-legal settlements. To obtain personal documents in Serbia, a person must prove that his/her mother was born in Serbia (including Kosovo), a process which is all but impossible if the parents themselves were never registered: this condition has been termed "chronic unregistration".(55) The majority of the Roma who were internally displaced after fleeing Kosovo after July 1999 faced additional severe problems in obtaining registration due to the 'parallel system' whereby documents and information from local government centres in Kosovo were transferred to parallel registry offices situated in Serbia. This system required displaced people to go to the relevant parallel centre to acquire identity cards: a bureaucratic procedure problematic for many Roma living in extreme poverty on the margins of society.(56) In other cases, the bureaucracy reportedly actively discriminated against Roma by refusing to issue identity cards to those who had the necessary documentation. However, as noted in Amnesty International's 2004 report in the Subotica area - one of the three areas of high Roma concentration (the other two being Belgrade and Southern Serbia) - Romani internally displaced people (IDPs) from Kosovo who were without documentation were granted official temporary residence status from the police in 2002 just by claiming that they were IDPs from Kosovo, this allowed them access to basic health care.

An additional obstacle to registration by Roma in Serbia is the cost of requesting an official document. Until June 2003 the average price for a document was 30 dinars, but the June 2003 Law on Administrative Tax raised the average prices to 60 dinars for municipal documents and between 210 and 310 dinars for other documents.(57)

The Serbian Roma National Strategy specifically recommended a new registration of Roma IDPs be carried out so as to cover those who were not registered. However, this has not happened as yet, and, while local and international NGOs, including Roma organizations, have been active in assisting Roma to obtain documentation within the confines of the current system, there remains no legal mechanism for the "chronically unregistered" to become registered, and the success of NGOs has been limited.(58)

The problems of Kosovo Roma IDPs in Montenegro are compounded by the Montenegrin government's view that all Kosovo IDPs are citizens of Serbia and not of Montenegro and thus outside the scope of governmental responsibility, (59) despite Article 8 of the February 2003 Constitutional Charter of the State Union of SCG which states:

"A citizen of a member state is also a citizen of Serbia and Montenegro.

> *A citizen of a member state has equal rights and duties in the other member state, as its citizens, except for the electoral right."*

Prior to the State Union Constitution, citizenship was determined by the Federal Ministry of the Interior. However, on 8 July 2000 the Montenegro Parliament passed a resolution with the force of law, *Non-recognition of Federal Decision*, which stipulated that:

> *"The Parliament of the Republic of Montenegro shall not recognize or accept any legal or political act, whatsoever, passed by the legislative, executive and judicial authorities of the Federal State without participation of lawful and legal representatives of Montenegro."*

The federal citizenship law was amended without participation of Montenegrin members of the Federal Parliament and thus was not recognized by Montenegro. Similarly, Montenegro did not recognize the February 2002 Federal Law on the Protection of Rights and Freedoms of National Minorities which in the preamble specifically refers to *"the adoption of special measures towards equality, especially with regard to the Roma national community"*, and similarly in Article 4. The Montenegrin Citizenship Law of 1999 remains in force in Montenegro and this gives primacy to Republican citizenship over State Union citizenship. Article 19 of this law requires 10 years' continuous permanent residency to obtain citizenship which is in breach of Article 8 the State Union Constitution. However, even this 10-year period appears insurmountable for IDPs and refugees as the Montenegrin Commissariat for Displaced Persons only issues temporary residence cards making permanent residency impossible. Moreover, it appears that in practice the Montenegrin Ministry of Interior is not implementing any law on citizenship as the 1999 law was never enforced and the federal law was not recognized in Montenegro. In March 2001 the processing of all applications for citizenship, including those filed by refugees and IDPs from former Yugoslav Republics then residing in Montenegro, were stopped.(60)

Amnesty International calls on:
· the authorities of both Serbia and Montenegro to undertake a process of registering Roma IDPs and other Roma who remain outside of the system because of lack of basic documentation;
· the authorities of Montenegro to amend its legislation to ensure that IDPs (Roma and others) have the same access to basic facilities as do citizens of Montenegro.

5.3 Attacks by non-state actors

Roma continue to be regularly reported as being victims of attacks by racist groups with the authorities affording little apparent protection. For example, in May 2004 it was reported that Roma living in a shanty town on the edge of the Belgrade suburb of Zemun - where the ultra-nationalist Serbian Radical Party is especially strong and controls the local executive - were being harassed and physically attacked by unidentified young men on a daily basis. There had also been a new outbreak of anti-Roma graffiti in the suburb.(61) Another report in the daily *Glas javnosti* named an ultra-nationalist group who local Romani leaders claimed was responsible for night-time attacks on Romani settlements in Zemun, and for issuing a leaflet warning all ethnic minorities, especially Roma, not to leave their settlements. The Romani leaders also named a weekly responsible for publishing incitements for "skinheads and other fascists" to attack Roma.(62) In June 2004 Serbian Minister of Internal Affairs Dragan Jočić met Roma representatives to discuss the recent attacks their communities had experienced.(63) Members of the National Council for the Roma Minority told Dragan Jočić that other than graffiti and posters found in the Roma communities, which openly support racism and hate, there were also several internet sites that encourage discrimination against Roma in Serbia. In July 2004 Dragan Jočić reported that in the first half of 2004, there were 44 attacks and 13 fights involving members of different national communities. He said there had been 17 attacks in Belgrade alone on members of the Roma community, making them statistically the most targeted group.(64)

The Serbian government has publicly condemned these attacks on Roma.(65) However, as in the Zemun case above, it appeared that the police often failed to adequately investigate and bring to justice the perpetrators of many of these attacks on Roma. However, this was not uniform practice. On 22 February 2005 it was reported that two Roma, Robert Dimić and a girl known as E.C., had been attacked in Niš on 19 February 2005 and that their attackers, Nikola Radonjić, Stefan Ver and Marko Vidić, had been apprehended and sentenced to 30 days in prison for disturbing the peace; they are expected to face further charges for hate crimes. One of the attackers, Marko Vidić, admitted to being a member of a "skinhead" movement, and Nikola Radonjic was already being investigated for vandalism and racist graffiti allegations. Robert Dimić said:

> *"We were walking around the fortress. I did not see anyone in front of me, someone hit me with a bat on the head from behind and continued to hit me... They hit the girl too and knocked her down, but she got away and ran away to call for help. She found a woman, who called the police. Thankfully, the police officers were close, and came right away, and the attackers probably, started running when they saw the police coming."* (66)

In the attack Robert Dimić reportedly suffered a broken finger, injuries to his head, face and needed stitches in his right arm. He also suffered bruised ribs from being kicked and hit.

Amnesty International calls on the authorities in Serbia and in Montenegro to promptly, thoroughly and impartially investigate all racist attacks on Roma by non-state actors, to do their utmost to bring the perpetrators to justice and to adequately compensate the victims.

5.4 Education

The November 2003 opinion of the Advisory Committee stated:

> *"154. The Advisory Committee finds that, in Serbia, Roma children are frequently placed in the so-called "special schools" designed for children with mental disabilities, on the basis of tests that do not take into account the needs and culture of Roma. The Advisory Committee finds that the resulting situation is not compatible with Article 12, paragraph 3, of the Framework Convention and considers that the authorities should pursue as a matter of high priority their plans to address this issue.*
>
> *155. The Advisory Committee finds that in some municipalities specific classes have been established for Roma and considers that the authorities should pursue their efforts in this sphere with a view to enabling and encouraging Roma children to stay in the regular classes.*
>
> *156. The Advisory Committee finds that low school attendance and high drop-out rates are a problem amongst Roma children, and it considers that the draft strategy for the Integration and Empowerment of Roma contains a number of initiatives that could significantly improve the situation."*

The initiatives referred to by the Advisory Committee were detailed by Amnesty International in its 2004 report(67) and it remains to be seen how well they will be implemented. Similarly with the educational strategies detailed in the Montenegrin National Action Plan which had 10 goals.(68) The issue of misdiagnosing Romani children in Serbia as "educationally handicapped" and sending them to special schools - some 50-80 per cent of all pupils at such schools are Roma - as well as the segregation of Romani pupils in some schools was raised in Amnesty International's 2004 report.(69) Amnesty International considers that the testing process unfairly stigmatizes many Romani children as being disabled and is discriminatory against them by severely reducing their educational possibilities. However the same tests for diagnosing children as educationally handicapped remain in use: tests which officials in the Ministry of Education acknowledge are not suitable for many Romani children due to a number of factors including mother tongue and lack of adequate knowledge of the Serbian language. Regarding this latter aspect, NGOs such as *Romsko Srce* (Romani Heart) and the Society for the Improvement of Local Roma Communities (DURN) have shown in their projects that where pre-school lessons in Serbian language for Roma have been introduced, the numbers of Roma who fail the tests dramatically drops.(70) However, these projects are not run by the Ministry of Education which appears content to leave them to NGOs who have to provide the funds for the teachers and premises. In 2004 the lower age limit for those being tested was raised by three months to six years and six months, and a different approach to the tests was seen in some places in Serbia with pre-training as well as using Roma assistants in the testing process, all of which saw the numbers of those failing decline.(71)

In some places segregation in the education system in Serbia remains, for example in two schools where 70 per cent or more of the pupils are Roma.(72) A large part of this latter problem is due to negative attitudes towards Roma from majority populations. However, as examples show,(73) such attitudes are not insurmountable.

Amnesty International calls on the Serbian Ministry of Education to:
· support pre-school education specifically for Romani children;
· revise the testing process so that it is applied consistently and is non-discriminatory towards Roma;
· wherever possible eliminate segregated schools or classes and integrate Romani children in 'regular' classes.
Amnesty International also calls on both the Serbian and Montenegro authorities to fully implement the educational strategies in their respective national plans aimed at raising the educational level of the Roma as a whole.

5.5 Housing and health

The November 2003 opinion of the Advisory Committee stated:

> *"130. The Advisory Committee finds that the authorities have not been able to secure full and effective equality between the majority population and Roma and that the housing and health situation in informal Roma settlements, as described in various reports, is alarming and not compatible with the principles contained in Article 4 of the Framework Convention. The Advisory Committee considers that these problems merit urgent attention and targeted measures, including as regards the legal status of such settlements."*

Although many major problems facing Roma are interrelated, this is especially so for housing and Roma health issues. Roma, who live in substandard unhygienic settlements often literally built on rubbish dumps and with no or limited

access to running water and adequate sewage, are unsurprisingly prone to health problems. In the above-mentioned Deponija settlement in Belgrade, hepatitis, pneumonia, skin diseases such as scabies, head and body lice, eye-problems and teeth-problems are common – and this in a settlement which was legally recognized in 2001 and in 2002 managed to obtain electricity and water (before then the inhabitants had to walk some 500 metres to the nearest water supply). Additionally, as noted above, many Roma face problems of accessing health services due to lack of registration.

On a republican level, in Serbia there were as noted in Amnesty International's 2004 report(74) a number of ambitious plans which sought to address the acute housing problems faced by many Roma (and others, see below) living in severely disadvantaged conditions. These plans included on the republican level a strategy to address the needs of those living in extreme poverty which includes a law on social housing to replace that of 1976,(75) the 'General Plan for Belgrade up to 2021' which includes Roma as a specific category as a disadvantaged group(76) and the July 2003 plan by the city of Belgrade to construct 5,000 apartments housing the estimated 25,000 people living in the 29 slum areas and 64 unsanitary settlements in and around the city. While the Roma constitute the majority of those living in such conditions, others include non-Roma refugees from Bosnia and Herzegovina and Croatia and internally displaced people (IDPs) as well as other categories of people in disadvantaged situations such as the elderly. This latter plan was accepted, and at the time of writing, plans drawing up the actual technical provisions for its implementation were awaiting Belgrade city assembly approval.(77) Amnesty International welcomes these ongoing initiatives. However, the organization notes that as of March 2005 they remained for the most part in draft form or awaiting formal acceptance by the relevant body to be actually implemented.

Amnesty International calls on the relevant authorities in Serbia to officially adopt the plans at both republican and Belgrade city level, and make finances available for their realization.

In Montenegro, the Montenegrin National Action Plan, adopted in January 2005, has a section devoted to the housing needs of disadvantaged Roma of which the first envisaged goal was to increase the accessibility to drinking water to Roma, Ashkali and Egyptian (RAE) communities. The plan also envisaged either moving RAE communities situated in illegal settlements often on or in close vicinity to rubbish dumps, or if this was not feasible to renovate the existing dwellings. However, the plan in all of these areas made no concrete recommendations other than the commissioning of further detailed plans and/or strategies. As such Amnesty International believes that the Montenegrin National Action Plan failed to adequately address this crucial issue. Similarly in the section dealing with health issues of the Roma population, the plan makes reference to the need for adequate surveys and analyses of the health conditions of Roma but makes little specific recommendations on how to address the problems.

As noted above, the Montenegrin National Action Plan makes no reference to Roma IDPs from Kosovo who are severely disadvantaged in Montenegro.

Amnesty International calls on the Montenegrin authorities as a matter of urgency to draw up and implement concrete plans to ameliorate the acute housing and health problems faced by Roma in Montenegro and to implement them as quickly as possible.

5.6 Discrimination in social settings

The November 2003 opinion of the Advisory Committee stated:

> *"The Advisory Committee welcomes the fact that the authorities recognise that the problem of ethnic discrimination exists in Serbia and Montenegro, in particular in relation to Roma, and that they are taking certain measures to address this issue. The Advisory Committee is nevertheless concerned that the developments in this field are not adequately monitored. The State Report refers to individual court cases concerning discrimination of Roma notably in their access to public services, but the Advisory Committee regrets that, according to the authorities of Serbia and Montenegro, no detailed statistics are available on the implementation of civil or criminal law provisions on ethnic discrimination. The Advisory Committee urges the authorities to step up its monitoring in this field as this would contribute to the design, implementation and evaluation of anti-discrimination measures."*

To Amnesty International's knowledge, in SCG there has only been one prosecution, brought privately, for discrimination against Roma in access to public services.

5.6.1 Supreme Court of Serbia rules in Šabac discrimination case

On 16 September 2004 the Serbian Supreme Court upheld the first ruling in Serbia in a case involving refusal of access of three Roma - Merihana Rustenov, Jordan Vasić and Zoran Vasić - to the local Krsmanovača sports and recreation centre in Šabac.(78) The HLC, the Democratic Union of Roma and the Oaza organization had filed a civil action for racial discrimination against Jugen TTT, the company that operated the sports centre. The Šabac Municipal Court, in a decision that was subsequently upheld by the District Court, ordered the company to make a public

apology to the three Roma and have it printed in the high-circulation daily *Politika*. The Court also ordered the centre to cease discriminating against Roma and barring them from the sports facilities. The defendant appealed against this decision to the Supreme Court.

In making its ruling and in a notable departure from previous jurisprudence of domestic courts, the Serbian Supreme Court invoked and directly applied provisions prohibiting discrimination contained in UN conventions to which SCG is a party. It referred in particular to the International Convention on the Elimination of All Forms of Racial Discrimination under which states have an obligation to prohibit and eliminate discrimination in access to public places and facilities such as transport, hotels, restaurants, public parks and the like. The Court also cited Article 26 of the ICCPR.

Regarding domestic legislation the Supreme Court ruled that Article 157 of the Law on Obligations related to *"pre-emptive protection from actions which inflict harm to the plaintiffs by violating their rights, and prescribes the prohibition of behaviour that injures a person's honour, reputation, dignity and similar"* (79) and the plaintiffs' demand that Jugen TTT desist from discriminating against them, should they decide to go to the sports centre again, was upheld.

The Supreme Court also found that previous lower court decisions on the case obliging a public apology in *Politika* at the expense of the defendant were grounded in Article 199 of the Law on Obligations, the intent of which was to *"remove the consequences of the violation of human rights in one of ways enumerated in the Article."* Noting that the law did not specify all the ways in which it is possible to eliminate the harmful consequences, the Court said this made it possible for injured parties to, in keeping with their personal feelings, request a way which best provided them with satisfaction for the violation committed.

The Supreme Court also underlined the principle of the prohibition of discrimination, especially in access to public places, defined the concept of the rights of the person and the forms of judicial protection of these rights, ruling that:

> *"All persons have the right to protection of their rights irrespective of race, colour, national or ethnic origin. All places and services intended for public use must be equally accessible to everyone. Discrimination on any grounds whatsoever is an insult to human dignity whose components are honour, reputation, personal integrity and the like; violation of the rights of the person enjoys judicial protection both through a request to cease and desist from violation and through requests for reparation."*

Amnesty International welcomes the Serbian Supreme Court's ruling and calls for the ruling to act as a basis for future protection of Roma and other victims of racial discrimination. The organization calls on both the Serbian and Montenegrin authorities to fully implement legislation which prohibits discrimination against Roma.

5. 7 Deportations from Western European countries

Amnesty International's concerns regarding forced deportations of Roma from Council of Europe states to SCG were detailed in its 2004 paper.(80) The organization urges that in assessing individual asylum cases issues surrounding access to economic and social rights and the rights of children are thoroughly examined. On 10 January 2005 it was reported that during 2004, 515 Romany families, or about 3,000 persons, had been deported from West European countries to Montenegro. Professor Vladan Stanojević, director of the Romany Centre for Strategy, Development and Democracy, said that during the year 315 Romani families were deported from Germany, France, Austria and the Benelux countries to Podgorica alone. A total of 10,200 Roma were deported in 2004 to Serbia.(81)

Amnesty International continues to call on:
· Council of Europe states to only promote voluntary returns of Roma to SCG in situations when these can take place in conditions of safety and dignity;
· Council of Europe states to ensure Romani asylum-seekers from SCG have access to a full and fair asylum procedure, through making sure that all Romani asylum-seekers have access to a full and fair individual asylum procedure where issues surrounding access to economic and social rights and the rights of children are thoroughly examined;
· Council of Europe states to exercise utmost caution in forcibly returning rejected Romani asylum-seekers in light of the widespread discrimination against Roma in SCG;
· Council of Europe states to ensure that no Roma originating from Kosovo are forcibly returned to SCG.

6. Summary of Amnesty International's concerns

6.1 War crimes

Amnesty International is calling on the SCG authorities to:
· Immediately transfer Sreten Lukić and Nebojša Pavlović to the Tribunal;
· do the utmost, as a matter of priority, to transfer to the Tribunal all remaining indictees believed to be at large in the country;

· fully cooperate in making available to the Tribunal all official documents and other information requested.;
· demonstrate the political will and take measures to honour obligations under international law to bring to justice all those responsible for war crimes and crimes against humanity, including all those responsible for and involved in the murder and secret burial of the bodies at Batajnica, Petrovo Selo and Bajina Bašta;
· bring those responsible for "disappearances" and other war crimes and crimes against humanity to justice as a matter of urgency;
· to bring to justice all persons allegedly responsible for the Štrpci and Sjeverin abductions, including those involved in planning and sanctioning of these war crimes against the civilian population;
· thoroughly, independently and impartially investigate the allegations that members of the security forces took part in the destruction of evidence of mass atrocities in Kosovo by burning bodies at the Mačkatica factory in May 1999, so that alleged perpetrators at all levels may be brought to justice;
· thoroughly, independently and impartially investigate the allegations that members of the security forces have been intimidating and threatening a number of people in Surdulica, Vladičin Han and Vranje so as to discourage them from giving evidence of alleged war crimes;
· ensure adequate reparation to victims of war crimes and crimes against humanity, including the families of those disappeared and abducted.

6.2 Police torture and ill-treatment, possible extra-judicial executions and deaths in custody

Amnesty International is calling on the Serbian authorities and the Montenegrin authorities to ensure that:
· those murders which are widely believed to have been political assassinations carried out by state agents are speedily resolved and all those responsible brought to justice;
· that thorough, independent and impartial investigations are carried out into the deaths of Milan Ristić, Petar Šutović, Dražen Milovanović, Dragan Jakovljević, Dejan Petrović and Dragan Malešević 'Tapi' which should include accurate forensic investigation to ascertain the casues of death and, in the cases of Milan Ristić, Dejan Petrović and Dragan Malešević 'Tapi', whether they had been subjected to torture or ill-treatment by police immediately prior to death;
· thorough and impartial investigations are carried out into all allegations of torture and ill-treatment;
· no prosecutions are based on confessions allegedly obtained as a result of torture, ill-treatment or duress, and in the prosecution cases in which a confession is the main source of evidence, the courts carry out a thorough assessment, including detailed examination of all relevant medical evidence, to determine whether the confession was obtained in a manner consistent with international standards, *before* it is admitted as evidence in the trial;
· in cases in which there is reasonable suspicion that torture or ill-treatment has been used against detainees, the prosecution should immediately undertake measures to identify the perpetrators and bring them to justice;
· all victims of torture and ill-treatment receive adequate reparation;
· any law enforcement official convicted of torture or serious ill-treatment be subjected to appropriate sanctions commensurate with the severity of the crime, as well as immediate dismissal from the police force;
· any medical personnel found to have been complicit in torture, or who refused to record both physical evidence indicating that torture had been used be subjected to appropriate sanctions;
· the case of the alleged trafficking for forced prostitution and severe torture of S. Č. be re-opened as a matter of priority, and the allegations of official complicity be thoroughly, independently and impartially investigated.

6.3 Conscientious Objection to military service

Amnesty International is calling on the authorities of Serbia and Montenegro to amend the legislation in line with Council of Europe standards:
· to remove the stipulations which restrict the time frame in which a person can apply for conscientious objector status;
· to remove the categories of people forbidden to apply for alternative civilian service so that the regulation applies to all who genuinely object to military service on grounds of conscience; and
· to allow for permanent members of the armed forces to apply for the granting of conscientious objector status.

6.4 Roma

Amnesty International is calling on:
· the authorities in Serbia and in Montenegro to do their utmost to implement the plans to ameliorate the desperate situation of the majority of its Romani population in both Serbia and Montenegro as quickly as possible;
· the authorities of both Serbia and Montenegro to undertake a process of registering Roma IDPs and other Roma who remain outside of the system because of lack of basic documentation;
· the authorities of Montenegro to amend its legislation to ensure that IDPs (Roma and others) have the same access to basic facilities as do citizens of Montenegro.
· the authorities in Serbia and in Montenegro to promptly, thoroughly and impartially investigate all racist attacks on Roma by non-state actors, to do their utmost to bring the perpetrators to justice and to adequately compensate the victims;

· on the Serbian Ministry of Education to support pre-school education specifically for Romani children, and to revise the testing process so that it is applied consistently and is non-discriminatory towards Roma;
· the Serbian and Montenegro authorities wherever possible to eliminate segregated schools or classes and integrate Romani children in 'regular' classes.
· the Serbian and Montenegro authorities to fully implement the educational strategies in their respective national plans aimed at raising the educational level of the Roma as a whole;
· The authorities in Serbia to officially adopt the plans at both republican and Belgrade city level aimed at addressing the housing needs of Roma, and make finances available for their realization;
· the Serbian and Montenegrin authorities to fully implement legislation which prohibits discrimination against Roma;
· the international community and international bodies, such as the European Union, the Council of Europe and the OSCE, to assist SCG in addressing the problems faced by the Roma;
· Council of Europe states to only promote voluntary returns of Roma to SCG in situations when these can take place in conditions of safety and dignity, and that Council of Europe states to ensure that no Roma originating from Kosovo are forcibly returned to SCG;
· Council of Europe states to ensure Romani asylum-seekers from SCG have access to a full and fair individual asylum procedure where issues surrounding access to economic and social rights and the rights of children are thoroughly examined on a case by case basis;
· Council of Europe states to exercise utmost cautions in forcibly returning failed Romani asylum-seekers in light of the widespread discrimination, including impunity for violent attacks by non-state actors, against Roma in SCG.

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(1) For the full list of commitments see 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 [Serbia and Montenegro was known as the Federal Republic of Yugoslavia until February 2003], adopted 24 September 2002.

(2) Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe, AI Index: EUR 70/002/2004.

(3) Serbia and Montenegro was formerly known as the Federal Republic of Yugoslavia (FRY). In November 2002, an agreement was reached on a new Constitutional Charter which changed the name of the country to 'Serbia and Montenegro'. The new name came into force on 4 February 2003 after acceptance by the respective parliaments. The constituent republics became semi-independent states running their own separate economies, currencies and customs systems, while the joint entity retained control of defence, foreign policy matters and UN membership, as well as being responsible for human and minority rights and civil freedoms. The agreement allowed either of the two republics to secede after three years.

(4) Composed of Foreign Ministers of member states.

(5) Composed of delegations of parliamentarians from member states.

(6) Amnesty International makes a distinction between (disappearances(and abductions, the former being perpetrated by state authorities and the latter by non-state actors.

(7) Amnesty International notes that the UN Human Rights Committee has taken this approach in the case of Quinteros v. Uruguay of 21 July 1983.

(8) Serbia and Montenegro: Compliance with obligations and commitments and implementation of the post-accession co-operation programme, SG/Inf(2004)23 revised 2.

(9) Parliamentary Assembly of the Council of Europe (PACE), Functioning of democratic institutions in Serbia and Montenegro, Doc. 10281, 20 September 2004.

(10) CoE, SG/Inf(2004)33.

(11) In late 2004 the SCG authorities informed the Tribunal of Sreten Lukić's medical condition following heart surgery in October 2004 and implied that he was too ill to travel to the Tribunal and stand trial. On 1 March 2005 a medical commission from the Tribunal announced, after examining him, that it had found no medical obstacle to his transfer to the Hague (see Lukic cleared medically for The Hague, B92, Belgrade, 1 March 2005). However, on 7 March 2005 the chairman of the SCG National Council for Hague Cooperation, Rasim Ljajić, said that Sreten Lukić's physicians had insisted that the minor surgery, which would only require one day for the intervention and recovery, was necessary before he undertook any kind of travel (see More games with Hague demands, B92, Belgrade 7 March 2005).

(12) Address by Carla Del Ponte, Prosecutor of the International Criminal Tribunal for the former Yugoslavia, to the United Nations Security Council, 23 November 2004, The Hague, 23 November 2004, CDP/P.I.S./917-e.

(13) Croatia requested to try the case as the crime was committed in Croatia and has concerns about whether they will be brought to justice in Serbia (as noted above, to date there have been no trials in Serbia of senior JNA officials or

any senior political figures for war crimes). Serbia wanted the case because it is already trying 18 people for the massacre and does not trust the Croatian judicial system to give the three accused a fair trial: war crimes trials of Serbs in Croatia have been marked by very low standards regarding fair trials with Serbs being disadvantaged due to their ethnicity (see OSCE Mission to Croatia, Background Report: Domestic War Crimes Trials 2003, 22 June 2004 and Human Rights Watch Briefing Paper, Croatia: The Case of Ivanka Savić, 19 July 2004). For AI's concerns regarding Croatia's failure to bring Croats accused of war crimes and crimes against humanity to justice see Croatia: A shadow on Croatia's future: Continuing impunity for war crimes and crimes against humanity (AI Index: EUR 64/005/2004). Also, Serbia pointed out that they transferred/extradited Radić and Šljivančanin to the Tribunal not to Croatia: Serbia and Montenegro is constitutionally bound not to extradite its citizens outside its territory "except in accordance with its international obligations" (Article 35 of the Charter on Human and Minority Rights and Fundamental Freedoms which is an integral part of the Constitutional Charter of the State Union of Serbia and Montenegro).

(14) □ Milan Lukić was also accused of leading the paramilitary group responsible for the hijacking of the Belgrade-Bar train at Štrpci in Bosnia and Herzegovina on 27 February 1993, and the abduction and subsequent murder of 20 civilian passengers – 19 Muslims and one ethnic Croat, and is indicted by the Tribunal for other crimes against humanity and violations of the laws or customs of war.

(15) The former Prime Minister in the Provisional Institutions of Self-Government in Kosovo who was indicted by the Tribunal on 8 February 2005 and who then resigned as Prime Minister and voluntarily went to the Hague on 9 February.

(16) See Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe, AI Index: EUR 70/002/2004.

(17) However, he said that the Parliament could not set up a body to investigate the allegations that bodies of victims were burned in a bid to destroy the evidence and added that law enforcement agencies had started investigating the allegations. In a subsequent letter to the Speaker, the HLC and seven other human rights organizations - Civil Initiative, the Helsinki Committee on Human Rights, Youth Initiative for Human Rights, the Committee of Lawyers for Human Rights (YUKOM), Women in Black, Cultural Decontamination Center and Belgrade Circles - pointed out that the legislature's Rules of Procedure do envisage the possibility of establishing parliamentary bodies to inquire into and gather facts on specific events Although such bodies do not have the power to conduct judicial and other investigations, their members may under the Rules request information, documents and data from state agencies and other organizations, and take statements from individuals. Those asked to do so have an obligation to provide the body with truthful statements and information and authentic documentation. When it completes its inquiries, the body submits a report together with recommendations to the Parliament. On 21 February 2005 the eight organizations announced that they had asked to meet with the Speaker Predrag Marković to discuss the forming of a commission of inquiry into the mass graves and destruction of evidence by the burning of bodies ('NGOs call for commission of inquiry into mass graves and burning of bodies', HlcIndexOut: 0201-167-2, Belgrade, 21 February 2005).

(18) See Murders "too hard to solve", B92, Belgrade, 8 March 2005 and Jočić: Sorry State of Police Hinders Solving of High Profile Murders, VIP, Belgrade 8 March 2005.

(19) In addition see the case (detailed in Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe, AI Index: EUR 70/002/2004) of Milan Jezdović who was allegedly tortured to death on 5 December 2002 at the '29 November' main Belgrade police station. The official autopsy report from the Belgrade Forensic Institute stated that he had died from a heart attack and exonerated the police. However, a second doctor engaged by the family of the deceased challenged the findings and his death remains the subject of ongoing criminal proceedings.

(20) HLC Objections to Expert Findings in Ristić Case, HLCIndexout : 0201-1326-1, Belgrade, 15 October 2004.

(21) Information from the HLC 21 February 2005.

(22) It is noteworthy that the second post-mortem examination performed in the UK concurs with the Serbian authorities' assessment of the case and ignore salient facts such as the obvious facial injuries as well as the above-noted inconsistencies regarding his blood stained clothes. Amnesty International is informed that the UK coroner contacted the Belgrade Forensic Institute about the fact that the heart was missing from the body when returned to the UK and was told that the British post-mortem was mistaken and that the heart was with the body. It appears that the UK coroner took no further action on this, apparently presuming that the heart had been retained in Belgrade for educational or research reasons. Susan Šutović informed Amnesty International that the UK coroner told her that there could be further police involvement in the case and, when asked what involvement there had been to date, the coroner called for an inquest to be held at seven days' notice. The inquest was held and an open verdict recorded. Amnesty International is informed that at the inquest the coroner disregarded information produced by Susan Šutović and refused a request for an adjournment which would have allowed forensic reports (which she had privately initiated) on the deceased's blood-stained clothing to be taken into account. Susan Šutović applied for judicial review proceedings against the coroner over his conduct in the case and on 4 March 2005, the UK High Court granted her request reportedly stating that the coroner had failed in his duties. Following this decision the case was referred to a substantive hearing, which in mid-March had not yet been held, to decide whether there should be a fresh inquest.

(23) The State Union Constitutional Charter of February 2003 stipulated that military courts be closed down and

military judicial cases be transferred to civilian courts. Article 23 of the Law on implementation of Constitutional Charter of the Joint State of Serbia and Montenegro, stated that "[t]he military judicial bodies will continue their work until the enactment of the law ... [which] will be enacted at the latest within six months from the day that the Constitutional Charter comes into force". However, supplementary legislation was not adopted within the envisaged time period and the military courts continued to function. On 19 May 2004 the Committee of Ministers of the Council of Europe "invited the authorities of Serbia and Montenegro to co-operate actively with the Council of Europe on the reform of the judicial and prosecutions systems and, more particularly, on the transfer of powers from the military to the civil courts of the [member states] of the union" (see document SG/Inf(2004)14). Finally in January 2005 this transfer took place, and so any further judicial investigations into the Topčider deaths would henceforth be conducted by a civilian authority.

(24) The suspicious death of Dejan Petrović was highlighted in Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe, (AI Index: EUR 70/002/2004, March 2004).

(25) The right to receive compensation in civil proceedings is laid out in the Law on Obligations under which an employer is responsible for damage caused by an employee to a third party. In this case the employer is the Serbian Ministry of Internal Affairs. Responsibility for damages is established under general rules prescribed by this law and so criminal legal standards do not apply. However, Article 12 paragraph 3 of the Law on Civil Procedure stipulates that in a civil court hearing for non-pecuniary damages, the civil court is obliged to recognize the decision of a criminal court if that court has found the accused guilty. The judge appeared to have interpreted this to mean that the criminal case must be heard first and that the civil case is dependent on the criminal case as otherwise there might be a conflict between the two rulings. However, this is not the case: as civil responsibility is wider than criminal responsibility and the subsequent standards of proof of criminal responsibility more rigorous, a person can be acquitted in criminal proceedings but still be found responsible for civil damages.

(26) The Basic Code of Criminal Procedure in Article 74 has a proviso that the Public Prosecutor can forbid the disclosure of evidence in the case until those suspected have given their statements. Amnesty International is informed by the HLC that there was no problem in obtaining relevant documents other than the forensic report.

(27) His testimony was reported in the daily Danas on 1 October 2004.

(28) Communication No. 207/2002 Serbia and Montenegro UN Doc CAT/C/33/D/207/2002, 29 November 2004.

(29) SG/Inf(2004)23 revised 2, para 29.

(30) Concluding Observations of the Human Rights Committee: Serbia and Montenegro. 30/07/2004. CCPR/CO/81/SEMO. (Concluding Observations/Comments), adopted 28 July 2004.

(31) Replies to the List of Issues to be taken up in connection with the Initial Report of Serbia and Montenegro submitted under Article 40 of the International Covenant on Civil and Political Rights, Belgrade, July 2004.

(32) Parliamentary Assembly of the Council of Europe (PACE), Functioning of democratic institutions in Serbia and Montenegro, Doc. 10281, 20 September 2004, para 34.]

(33) Danas, Belgrade, 2 March 2005.

(34) Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe, AI Index: EUR 70/002/2004.

(35) Whose death on 27 March 2003 may have been an extra-judicial execution (see above)

(36) Reported in the daily Danas, 1 October 2004.

(37) The Sandžak is the region of the country which straddles the border between Serbia and Montenegro. Until the break-up of the Ottoman Empire in the First World War the region was nominally controlled by the Ottomans. However, similar to the situation in neighbouring Bosnia and Herzegovina, in reality the region was administered by Austria-Hungary which had been instrumental in keeping the area under Ottoman sovereignty to prevent the fledgling Serbian and Montenegrin modern states from uniting. A result of this was, and again similar to Bosnia and Herzegovina, that a significant part of the population was Serbo-Croat speaking Muslims who by the late 1960s and 1970s were classified as belonging to the 'Muslim' nation of the Socialist Federal Republic of Yugoslavia. This Muslim population, due to shared religion and culture, looked towards and identified with the Bosnian Muslims, and similarly to the case in Bosnia, began to view themselves as 'Bosniaks' rather than 'Muslims'. According to the census of April 1991 – the last official census - Muslims made up 52 per cent of the population of the Sandžak. However, since the 1991 census there have been major population movements and thousands of Muslims have left the area due to a variety of factors including the wars in former Yugoslavia and the associated systematic ill-treatment of the Sandžak Muslim population by the authorities (see below), and the two high-profile abductions and murders of Sandžak Muslims by Serb paramilitaries: the Sjeverin and Štrpci cases (see above section 2. 2).

(38) See Serbia and Montenegro: Legal loopholes allow impunity for torturers in the Sandžak, AI Index: EUR 70/002/2003.

(39) There is no specific crime of torture in current Serbian domestic legislation. Under current legislation the maximum sentences for police officers torturing or ill-treating detainees is three years' imprisonment under Article 191 of the SCG Basic Criminal Code dealing with ill-treatment by an official in the course of duty, or five years' under Article 190 if the force was used to try and extract a confession (the analogous articles in the Serbian republican criminal code are Articles 66 and 65 respectively). Amnesty International notes that under Article 95 of the Basic code, which deals with statutes of limitation, a criminal prosecution can thus only be undertaken within a three-year period from the date of the offence for use of torture or ill-treatment or within a five-year period if the torture or ill-treatment was used to try and extract a confession unless "the extraction of the testimony or statement was accompanied by grave violence, or if, in the course of criminal proceedings, the defendant suffered particularly grave consequences as a result of the statement made under duress" (Article 190 (2) of the Basic code or Article 65 (2) of the Serbian Republican code) in which case the statute of limitation is 15 years.

(40) See IWPR Victims of Police Brutality wait for Justice, 2 February 2005, and Amnesty International Legal Loopholes Op Cit.

(41) IWPR Op. Cit.

(42) The OSCE published the report and the Montenegrin government's reply on 27 November 2003.

(43) The new legislation, however, in Article 28, allowed those performing civilian service to request at any time to perform "his military duty in a combat unit within the Army" and laid out how the remaining part of the "military service" should be calculated.

(44) The Rapporteurs on Serbia and Montenegro for the Monitoring Committee of the PACE who in their report of 20 September 2004 (Doc. 10281) with regard to the commitment on conscientious objectors and alternative service stated "This commitment has been complied with, with the exception of the issue of persons who refused the draft before entering into force of the Council of Ministers Decree on Civilian Alternative Service in October 2003." However, Amnesty International does not fully agree with the Rapporteurs' findings as the alternative service introduced within the required time limit fails to adequately conform to Council of Europe standards.

(45) While Roma as a whole remain, as in many countries in Europe, among the most disadvantaged groups in SCG, it must be stressed that the Roma do not form a homogenous group. They are widely differentiated and are present in all social classes from highly educated and/or financially successful to those less advantaged although in percentage terms they are heavily predominant amongst the latter category. This section concentrates on those Roma in the SCG who are less privileged, and whose harsh circumstances are made worse by discriminatory practices. Other groups such as the Ashkali and Egyptians share similar problems as Roma and are often equated with Roma by other groups.

(46) CRI (98) 29, Strasbourg, 6 March 1998.

(47) Committee of Ministers, Rec(2005)4E, 23 February 2005.

(48) ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

(49) See Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe, AI Index: EUR 70/002/2004).

(50) Mina news agency, Podgorica, 21 Dec 2004.

(51) See Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe, AI Index: EUR 70/002/2004.

(52) For more on the Roma national minority council see Ibid.

(53) These include the Serbian Ministry of Education and Sport's Strategy for improvement of Roma education in the Republic of Serbia, and poverty reduction strategies and programs such as the Belgrade municipal assembly's program for clearing unhygienic settlements and another Belgrade city program looking at vulnerable and socially disadvantaged groups which included Roma as a specially endangered group, see Ibid. In Montenegro the National Action Plan for "Decade of Roma Inclusion 2005 – 2015" is based on the Poverty Reduction Strategy adopted by the Montenegrin government in November 2003 as well as the 2002 Agenda of Economic Reforms and the 2004 National Action Plan for Children.

(54) Ibid

(55) This term is used by the IDP Working Group established by UN agencies working together with local and international NGOs.

(56) Here it should be noted that, as many NGOs and others point out, the bureaucratic system in Serbia is a challenge to all members of society however well informed or educated.

(57) Humanitarian Centre For Integration and Tolerance, Novi Sad, October 2003 in IDP Interagency Working Group, Analysis of the Situation of Internally Displaced Persons from Kosovo in Serbia and Montenegro: Law and Practice, Belgrade, October 2004. The average net wage in Serbia in October 2004 was calculated at 14,444 dinars or about €190 for those in work: Roma, as noted, figure disproportionately among the already high percentage of unemployed.

(58) IDP Interagency Working Group, Analysis of the Situation of Internally Displaced Persons from Kosovo in Serbia and Montenegro: Law and Practice, Belgrade, October 2004.

(59) It is noteworthy that the Montenegrin National Plan for "Decade of Roma Inclusion 2005-2015" in the Republic of Montenegro makes no reference to problems of registration and no reference to Roma IDPs.

(60) IDP Interagency Working Group, Analysis of the Situation of Internally Displaced Persons from Kosovo in Serbia and Montenegro: Law and Practice, Belgrade, October 2004..

(61) Radio B92 , Belgrade, 7 May 2004.

(62) Glas javnosti, Belgrade, 8 May 2004.

(63) Beta news agency, Belgrade, 4 June 2004.

(64) Radio B92, Belgrade, 20 July 2004

(65) For example, Prime Minister Vojislav Koštunica in talks with the Romani National Council in May said that state institutions and society as a whole had to do everything within their power to prevent such events and that if they happened then it was necessary to punish the perpetrators and publicly condemn their activities in the sharpest terms – FoNet news agency, Belgrade, 13 May 2004.

(66) Radio B92, Belgrade, 22 February 2005.

(67) Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe, AI Index: EUR 70/002/2004.

(68) These are: increasing the number of Romani children in preschool institutions (Goal 1); increasing the number of Romani children successfully enrolling and completing basic education, high school and university (Galas, 2, 3 and 4); encouraging institutions to implement training programs and preparing Roma for work (Goal 5); elaboration and implementation of the adjusted literacy programs for Romani population and children who have not started their education on time (Goal 6); additional construction and adjustment of infrastructure inhabited by Roma (Goal 7); upgrading public awareness on the need to include Romani population in regular education (Goal 8); providing adequate human resource base for work with Romani children in their mother tongue (Goal 9); and providing reduced-price textbooks for Roma students (Goal 10).

(69) Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe, AI Index: EUR 70/002/2004.

(70) For example the 'Deponija Project' which Romsko Srce have been involved in. Deponija is a Romani settlement built on a rubbish dump in Belgrade with some 800 inhabitants of whom most are from Roma who settled there on Belgrade Port territory some 30-40 years ago and the rest (about 60 families) are Kosovo IDPs. Other examples are education projects in 11 municipalities in S. Serbia which DURN have been involved in. The latter projects are aimed at all those from the poorest levels of society and as such are not specifically Roma projects although Roma figure disproportionately highly in them.

(71) Information from Ljiljana Vasić, Country Programme Manager for the Christian Children's Fund (CCF), Belgrade, 3 November 2004.

(72) These are the Vuk Karadžić primary school in Niš which is next door to a non-Roma school and which was daubed with anti-Roma graffiti and swastikas in May 2004, and one in Kragujevac – information from Živojin Mitrović, President of Romsko Srce and a member of the Roma National Council responsible for education, 2 November 2004.

(73) For example, after the 'Deponija Project' (see above) began to show a large measure of success in its pre-school education policies, in the local primary school there appeared for the first time significant numbers of Romani children – between five and 12 in each class – which resulted in protests from non-Roma parents who began to withdraw their own children. The NGOs sought help from the Ministry of Education and within a period of 20 days the protest were assuaged after a series of meetings between DURN, Romani and non-Romani parents and different sections of Belgrade city council (e.g. health and sanitation).

(74) Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe, AI Index: EUR 70/002/2004.

(75) This remained, at the time of writing in draft form. While it makes no specific reference to Roma, it will be of immediate relevance to disadvantaged Roma living in unsanitary dwellings. This new law if and when adopted is seen to be the basis for opening local funds for housing as under the 1976 legislation municipalities had very limited access

to state funds (information from Vladimir Macura, Belgrade, 2 November 2005).

(76) Along with: young families with insufficient income to purchase an apartment; single parents; families with adult children and with low income; refugees; IDPs; those physically disabled by war; the elderly; physically and mentally handicapped people; other unemployed without income; and other socially at risk categories (see Službeni List Grada Belgrada, 15 October 2003).

(77) These were, Predlog tehničkog pravilnika za planiranje I proejektovanje kompleksa i stanova sociajalne izgradnje drawn up by the Belgrade Town Planning Institute in September 2005, information from Zlata Vuksanović, 2 November 2004, Belgrade.

(78) The case involved refusal of access of Roma to the local Krsmanovac sports and recreation centre in Šabac – see Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe, AI Index: EUR 70/002/2004.

(79) For the Court's ruling see, HLC, Serbian Supreme Court Upholds Ruling in Racial Discrimination Case, HLCIndexout : 0201 – 1306 – 1. Belgrade, 17 September 2004.

(80) Serbia and Montenegro: Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe, AI Index: EUR 70/002/2004.

(81) Dan, Podgorica, 8 Jan 2005.

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