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HUMANITARIAN LAW CENTER HUMAN RIGHTS IN FR YUGOSLAVIA 1998 REPORT

SUMMARY

The state of human rights in FR Yugoslavia deteriorated in 1998 as compared to preceding years. Rights guaranteed by the Constitution and law were violated by the executive branch of government and, since courts lacked independence, individuals were unable to obtain effective legal remedy. Particularly dramatic were violations of the rights to life, a fair trial, freedom of expression and freedom from torture, cruel and inhuman or degrading treatment or punishment.

Close to 2,000 people, the great majority ethnic Albanians, died in Kosovo during 1998. Besides members of the Kosovo Liberation Army (KLA) killed in armed conflicts, a large number of civilians lost their lives, either as the result of willful killing or indiscriminate attacks by the security forces. According to numerous witnesses, police killed and carried out extra-judicial executions of ethnic Albanian civilians in the Kosovo villages of Donji Prekaz, Jirez, Liko{ane, Ljubeni} and Golubovac. There were also reliable indications that police were responsible for the deaths of 20 villagers in Gornje Obrinje, and that at least six Albanians from Poklek, a village near Glogovac, were killed after arrest.

An undisclosed number of police officers and soldiers were killed. The bodies of some 20 ethnic Serb and Montenegrin civilians were found and identified. There were, however, grounds to believe that many more Serbs were killed after being abducted by the KLA. Tens of Albanians employed in government agencies and state companies were also killed by the KLA. Police discovered 34 bodies, mainly of Serbs and Albanians, in a mass grave at Glodjane village, a KLA base, and the authorities claimed to have found mass graves of Serbs and Montenegrins near Kle~ka village and at the Volujak mine. The remains had not been identified nor were there reliable indications as to the perpetrators at the time of writing.

Enforced disappearances, for which both the Serbian police force and KLA were responsible, were a typical human rights violation during the armed conflict in Kosovo. Research by the Humanitarian Law Center (HLC) up to the end of July 1998 brought out that all trace of 47 ethnic Albanians was lost after their arrest, that 22 disappeared in unclear circumstances, that at least 50 Albanians from Orahovac went missing following fighting between the KLA and police in the town, and that the responsibility for the disappearance of three Albanians could be attributed to the KLA. The fate of 42 Serbs and Montenegrins for whose disappearance the KLA was clearly responsible, and of 64 Serbs and Montenegrins, eight Roma and one Muslim who went missing in unclear circumstances, remained unknown.

On the basis of its own investigations and media reports, the HLC registered some 500 cases of torture, cruel or inhuman treatment by the police, of which the great majority in Kosovo. There were reliable indications that the deaths of seven Albanian and one Serb detainee were the result of torture. In two separate cases, police officers cut and burned symbols and words in the skins of non-Serb victims with a knife and soldering iron.

Prosecutors, courts and disciplinary bodies within law enforcement agencies failed to investigate allegations of torture and to take measures against those responsible. Several serious cases of torture were registered also in Montenegro. In its conclusions of 18 November 1998, the Committee against Torture expressed grave concern at the widespread practice of torture and cruel and inhuman and degrading treatment or punishment in FR Yugoslavia, and the unwillingness of the Yugoslav authorities to comply with the Convention against Torture.

Courts violated the right to a fair trial by handing down decisions based on the political needs of the authorities rather than the Constitution and law. Where criminal proceedings in Kosovo involving charges of a political nature were concerned, confessions were extracted by force during the period of police custody when detainees do not have the benefit of counsel. Afraid of being subjected to the same treatment again, detainees frequently repeated their statements when brought before investigating judges, and courts, as a rule, allowed confessions to be entered as evidence even when there were clear indications that they were forced.

There were some 80 first-instance rulings during 1998 sentencing ethnic Albanians to prison terms for acts of terrorism or seditious conspiracy. The majority were handed down in November and December in spite of the 13 October agreement between FR Yugoslavia President Slobodan Milošević and US Special Envoy Richard Holbrooke that there would be no criminal prosecutions in connection with the Kosovo conflict. Government and other officials violated the principle of presumption of innocence by declaring in advance that defendants were culpable, thereby exerting pressure on courts to find them guilty as charged.

Both the Law on the Armed Forces and its implementation in practice were in contravention of the constitutionally guaranteed right to conscientious objection. The civilian alternative of military service was punitive in nature, lasting twice as long as regular military service. By disallowing young men to voice conscientious scruples after induction into military service, the authorities denied them effective protection of the right to adopt a belief. A member of the Nazarene sect was sentenced to one year in prison for refusing to perform civilian work in a military facility.

Senior officials of the ruling parties – Socialist Party of Serbia (SPS), Yugoslav Left (JUL), and Serbian Radical Party (SRS) – waged a fierce campaign against organizations, media and individuals critical of their policies, regularly labeling them «fifth columnists» and «enemies,» accusing them of fomenting «defeatism» and, at times, openly threatening them.

1998 was marked by the most serious attempt thus far by the Serbian authorities to silence independent electronic and printed media. In addition to the pressures present before – closing down of radio and television stations, refusal to issue broadcasting permits, preventing reporters from covering events on the ground – the year saw more frequent threats to journalists, physical violence against them, summoning of editors for investigatory interrogations, banning of radio and television broadcasts and printing of newspapers, and imposition of extremely high fines. In Montenegro, state television and the leading daily newspaper were under the control of the ruling Democratic Party of Socialists and its coalition partners, the National and Social Democratic Parties.

Of the almost 50 members of the Association of Independent Media who applied for radio frequencies and television channels, only three received licenses from the federal licensing authority, and these were either media close to the government or with purely entertainment programming. In the course of the year, the Serbian authorities banned 11 local electronic media whose news and information programs were critical of the government.

Toward the end of 1998, the Serbian government passed first a decree and then a law which for all practical purposes introduced press censorship. The law prescribes stiff fines for libel, incitement to overthrowing the constitutional order and attempting against the territorial integrity and independence of Serbia, and of ethnic, racial and religious hate when such acts are carried out through the media. The way the law was applied amply demonstrated that it was enacted for the sole purpose of silencing

media critical of the authorities. Administrative proceedings were too brief to enable the media concerned to prepare a proper defense, and ended with the imposition of very high fines. The law also makes media liable for carrying statements made by others when those statements contain elements of the punishable offenses. The risk of high fines not only for their own reporting but also for quoting statements by public figures, inhibited journalists from freely and objectively covering political developments and events.

Albanians, Muslims, Hungarians, Bulgarians and other ethnic communities in Serbia did not have their own independent news media. Albanian-language radio stations in Kosovo, all owned by Serbs, broadcast only music and other entertainment. There was not a single radio or television station in the Sandak whose program could be described as objective or representative of the views of the majority Muslim population of the region.

1998 saw also the most serious attempt by the authorities to place under full control the six state universities in Serbia. On 26 May, the Serbian Parliament passed the University Act which *de facto* abolished academic autonomy. In contravention of the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, public officials openly stated that state universities were autonomous only with regard to their programs and curricula but not in the sphere of management. The act authorizes the government to appoint the boards of governors and other supervisory bodies of state universities and to control the appointment of faculty members. SPS and JUL members were installed as university presidents, and only members or supporters of these parties and their coalition partner, the SRS, were appointed deans and to governing boards.

Furthermore, the act makes it obligatory for all university teaching and other staff hired before it went into effect to sign new employment contracts. This provision, in contravention of both Serbian and federal labor legislation, is clearly an attempt to force university teachers to make declarations of loyalty. Though the act does not envisage any specific sanctions for failure to sign a new contract, faculty members who refused to do so were prevented from conducting classes and examinations.

On 23 March 1998, the Committee for the Implementation of the 1996 Agreement between Slobodan Milošević and Kosovo Albanian leader Ibrahim Rugova on the normalization of education in Kosovo arrived at a set of measures under which ethnic Albanian students and professors were to have access to Priština University buildings by 30 June, and to the libraries, student dormitories and other facilities by 30 September. The Committee also agreed that classroom instruction for Albanian elementary and secondary school students would resume in public schools by 30 April. By the end of 1998, however, only the building of the University's School of Engineering was made available to Albanian students and professors. Other university departments, secondary and elementary schools continued to provide instruction in private facilities.

Public gatherings of students, opposition supporters, workers and ethnic Albanian protesters in Kosovo during 1998 were, as a rule, either prevented or dispersed by Serbian police. Demonstrations by both ethnic Serbs and ethnic Albanians were frequent in the first half of the year. While police took no action against Serb protesters, demonstrations by Albanians were on several occasions forcibly dispersed. An Albanian man was killed during a protest in the town of Pejë on 18 March. In Montenegro, police used force to break up a political rally whose participants attempted to enter the government building in the republic's capital, Podgorica, on 14 January.

There were no elections in Serbia in 1998. A public referendum was held in April on whether or not foreign mediators should be involved in settling the Kosovo crisis. The results of this referendum clearly indicated that it was geared to the political needs of the organizers, and no credence can be given to the official figure of several hundred thousand ethnic Albanian votes against international mediation.

The parliamentary election in Montenegro in May was evaluated by neutral observers as free and fair. The key election laws, drawn up with the assistance of Organization for Security and Cooperation in Europe (OSCE) experts, were adopted by all the political parties holding seats in the Parliament. However, the republic's leading media – the Montenegrin state broadcasting organization and *Pobjeda* daily – clearly gave preferential treatment to the ruling Democratic Party of Socialists during the election campaign.

Ethnic Muslims and Croats in FR Yugoslavia did not enjoy even the minimum of cultural and educational autonomy envisaged by international standards for national minorities. The policies pursued by the Serbian authorities in the Sandak region, including personnel policy, discriminated against Muslims. The authorities tried unsuccessfully to conceal this discrimination by appointing «loyal» Muslims to senior positions in the local government bodies established when the municipality of Novi Pazar was placed under an interim administration.

The incidence of physical abuse of Roma by private citizens declined in 1998 as compared to the previous year. There were, however, a number of cases of police violence, including the beating of the young son of a Roma political activist, which caused major concern in the Roma community. Federal, republican and municipal authorities failed to make any serious effort to improve the living conditions of the Roma or to introduce affirmative action to promote their education and provide more jobs.

Members of the Bulgarian minority were exposed to strong attacks by the authorities when they institutionalized cultural exchange with their co-nationals in Bulgaria early in the year. Several instances of police harassment of ethnic Bulgarian human rights activists were also registered.

The federal Law on Citizenship was a major obstacle to the integration of refugees in Yugoslav society as it does not provide for dual citizenship. On the other hand, the authorities did very little to facilitate refugees' return to Croatia and Bosnia-Herzegovina, and ignored the efforts in 1998 of the Human Rights Ombudsperson for Bosnia-Herzegovina, the Office of the High Representative, and NGOs from Bosnia and Yugoslavia to enable refugees to repossess their apartments in Bosnia-Herzegovina. And, on 24 September, the Serbian Supreme Court handed down a decision *de facto* absolving the state of any responsibility for the conscription by force in 1995 of refugees and their dispatch to combat zones in Croatia. As participants in the armed conflict in Croatia, these refugees were taken prisoner and transferred to Bosnia-Herzegovina where many were subjected to torture.

Some 300,000 people, mainly ethnic Albanians, were forced to flee their homes during the Kosovo conflict and seek refuge in other parts of Kosovo and Serbia, Montenegro, Albania, Macedonia and Bosnia-Herzegovina. Although the forced displacement did not reach the proportions of the ethnic cleansing in Bosnia-Herzegovina, there were elements of ethnic cleansing in the form of torching of homes, looting and destruction of property, attacks on civilians and forcible relocation from certain areas.

The Yugoslav authorities continued in 1998 to block bringing to justice of persons responsible for war crimes in Croatia, Bosnia-Herzegovina and Kosovo. They refused to surrender indicted war criminals to the Yugoslavia Tribunal at The Hague, failed to investigate grave violations of humanitarian law in Kosovo, and prevented the Tribunal from conducting such investigations. Not a single trial for war crimes committed during the conflicts in Bosnia-Herzegovina, Croatia or Kosovo was held in Serbia during 1998. In Montenegro, Neboj{a Ranisavljevi} from Despotovac (central Serbia), went on trial before the Bijelo Polje Court in May for involvement in the abduction of Muslim citizens of Yugoslavia from the Belgrade-Bar train in February 1993.

INTRODUCTION

The main characteristic of the human rights situation in the Federal Republic of Yugoslavia in 1998 was its continuing deterioration, chiefly as the result of disregard for the rule of law by the Yugoslav federal and Serbian republican authorities and their non-compliance with the constitutional human rights guarantees.

The leading parties in both Serbia and FR Yugoslavia are the Socialist Party of Serbia (SPS) of President Slobodan Milo{evi}, and the extremist Yugoslav Left (JUL) led by his wife, Mirjana Markovi}. In Serbia, their coalition partner is the far-right Serbian Radical Party (SRS) of Vojislav [e{elj} and, at federal level, Momir Bulatovi}'s Socialist People's Party of Montenegro (SNP). Like the SPS, the SNP has no clear ideological profile and is marked by total loyalty to and dependence on the personal power of Slobodan Milo{evi}.

These parties are xenophobic to an extreme and systematically foment intolerance and xenophobia, with adverse effects on the attitude of both the authorities and members of the public toward human

rights. Calls for respect of human rights are said by the authorities to provide the international community, primarily the United States, with an excuse to interfere in the internal affairs of FR Yugoslavia. Continually hearing this interpretation, the greater part of the general public has come to accept it.

The provisions of the Yugoslav, Serbian and Montenegrin Constitutions treating human rights are on the whole in accordance with international standards. Problems arise, however, with how these constitutional principles are embodied in legislation, particularly in the sphere of guaranteed rights. The executive authorities violate constitutionally guaranteed rights and individuals are unable to obtain effective redress from courts. Some pieces of legislation, e.g. the Serbian Law on Public Information, give the executive authorities powers that rightfully belong to courts of law. The courts themselves, especially the highest, are influenced by and dependant on the executive authorities, and base their decisions on the day-to-day political needs of the ruling parties rather than the Constitutions and law.

Violations of the right to life, to a fair trial, freedom of expression and freedom from torture and cruel, inhuman or degrading treatment or punishment are rife and dramatic.

1. Right to life

FRY Constitution, Article 21(1): «Man's life shall be inviolable.»

1.1. Violation of the right to life in Kosovo

The Kosovo Committee for the Protection of Human Rights and Freedoms reported on 17 November¹ that 1,795 ethnic Albanians had been killed by police and Yugoslav Army members since mid-January 1998. Neither this nor other Albanian sources classified separately Albanians who died as combatants or casualties of fighting between the Kosovo Liberation Army (KLA) and security forces on the one hand, and, on the other, of Albanian civilians who were willfully killed or died in indiscriminate attacks, and Albanian combatants killed after surrendering. In conditions of armed conflict, only the second category may be considered victims of breaches of international humanitarian law and, consequently, that the authorities are responsible for the violation of their right to life.

The list of Kosovo Serb and Montenegrin casualties is far shorter. The HLC registered 20 cases of killed Serb and Montenegrin civilians. Of these, 13 were killed in separate incidents while the remaining seven were killed at the same time and place and their bodies were found in a mass grave near Glodjane village. It was impossible to determine the exact number of police officers and soldiers who died or to reliably estimate how many ethnic Albanians were killed by the KLA as «collaborators of the Serbian authorities.» Owing to the nature of the conflict in Kosovo and the fact that the fighting was in areas predominantly inhabited by Albanians, Serb and Montenegrin civilians did not figure as collateral casualties of indiscriminate attacks by the KLA.

Numerous statements by witnesses to the HLC and other NGOs bring out that police were responsible for willful killings and extra-judicial executions of a larger number of Albanian civilians in the villages of Donji Prekaz, Jirez, Liko{ani, Ljubeni} and Golubovac. There are indications also that civilians in Gornje Obrinje were willfully killed by police. Most of these killings occurred immediately after the deaths of members of the Serbian police force in KLA attacks.

During a police operation in Liko{ane, a village in the Drenica area, on 28 February and 1 March, 11 male members of the Ahmeti family and their guest from another village were killed after being arrested. In neighboring Jirez, which was included in the same operation, police came to the home of Sefer Nebiju and killed his pregnant wife in the house and his young son outside in the yard. Abide Sejdiu recounted that police took her four adult sons into the yard and killed them there. On 1 March, after the operation in Liko{ane and Jirez, the police authorities announced that all the killed Albanians were «terrorists.»² The operation was in response to attacks on police patrols in the area in which four officers were killed and two wounded.

¹ *At Least 1795 Albanians Killed in Kosova since Mid-January, Human Rights Group Says*KIC – Kosova Daily Report, No. 1614, Pri{tina, 17 November 1998.

² *Ubijena ~etiri policajca i {esnaest albanskih terorista*[Four police and 16 Albanian terrorists killed], Serbian Ministry of Internal Affairs statement, BLIC, 2 March 1998.

The tens of Albanians killed by police in Donji Prekaz (Drenica) in an operation on 4-6 March included at least 11 children and seven women, most of whom were members of the extended family of [aban Ja{ari. In a report to the Serbian government on 11 March, the Ministry of Internal Affairs excused these civilian deaths by claiming that police could not have known that some members of the family stayed in their homes after being warned to come out. According to witnesses, police in two cases warned people to come out after first subjecting their homes to long-lasting shelling in which several persons died. In one of these cases, police fired at people who had surrendered, killing at least two men and wounding others.

Police carried out extra-judicial executions of eight civilians in Ljubeni}, Pe} Township, on 25 May after first torturing the victims. The executions took place during a police operation in response to an armed attack earlier that day by Albanians on a civilian automobile in which a Serbian police officer was riding. Police ordered the civilians out of their homes, allowed the women and children to go, and killed the men. Three men of Ze}ir Hamzaj's family were killed in one yard and four male relatives in another. A man from the nearby town of De~ani was also killed on this occasion.

Twenty-one Albanian civilians were killed in the course of a police operation in Gornje Obrinje, Drenica area, on 26-27 September. The majority, 16, were women, children and elderly. There were no eyewitnesses but the indications point to members of the Serbian police force as the perpetrators and the death of a larger number of officers in a landmine explosion in the village on 25 September as the motive.

In Golubovac, another Drenica village, police arrested, tortured and killed 13 Albanian men from the villages of Plo~ice, Golubovac, Djurdjevik, Iglarevo and Balinac. A police officer fired a volley of shots into the backs of kneeling men in the Had'aj brothers' yard. One man survived. He subsequently gave testimony to the Contact Group Observer Mission and sought refuge in Macedonia.

Information gathered by the HLC suggests that several tens of Albanians died in Orahovac in mid-July after police repulsed KLA forces from the town. These Albanians were killed either while attempting to flee the town, or in or just outside their homes. In addition to a series of separate killings, the HLC also has information about several instances of people killed in groups. Four elderly members of the Popaj family were killed on 18 July in their homes in Bela Crkva, near Orahovac. At least 11 Albanians were killed at Blato on the outskirts of Orahovac while trying to flee the town. In Orahovac itself, a crowd of fleeing people was machine-gunned from two armored personnel carriers at the intersection near the Kadir Mosque. Witnesses estimate the number of dead in this incident between five and 10. On 20 July, seven men of the Silka family were shot dead as they complied with a police order to come out of a cellar in which they were sheltering with their families. Four members of the Mulaabazi family were killed in a similar fashion.

The discovery on 9 September of a mass grave near Glodjane village, a major KLA stronghold, suggests that members of this formation are responsible for the deaths of tens of civilians. Police found a total of 34 bodies. Twelve have been identified and included five Albanians. The remains of 22 unidentified victims were buried in nearby Djakovica on 20 September³.

According to the authorities, KLA members killed and burned the bodies of a large number of Serb civilians near Kle~ka village. The site was discovered on 27 August. The circumstances, however, remain unclear. None of the bodies has been identified. Witnesses, alleged by the authorities to be KLA members and by the KLA to be «longstanding State Security stoolies,» were questioned by Investigating Judge Danica Markovi} in front of television cameras and numerous reporters⁴.

Toward the end of the year, on 15 December, six Serb youths were killed in a terrorist attack on a cafe in Pe}. Although the KLA's political spokesman denied any KLA involvement, the indications are that the attack was in reprisal for the deaths the day before of over 30 KLA members when attempting to illegally cross into Yugoslavia from neighboring Albania.

³ *Sahranjene neidentifikovane `rtve* Unidentified victims buried¹, POLITIKA, 20 September 1998.

⁴ M.V., *Dve strane medalje* [Two sides of the coin¹ VREME, 5 September 1998; D.A., *OVK odbija odgovornost za zlo~in* [KLA denies responsibility for crime¹, DANAS, 1 September 1998.

1.2. Capital punishment

The FR Yugoslavia Constitution does not envisage capital punishment, in contrast to the Federal Criminal Code, the Constitutions of Serbia and Montenegro and their Criminal Codes, which do. The Serbian Criminal Code prescribes the death sentence for armed and aggravated robbery and murder.⁵ No death penalties have been carried out in FR Yugoslavia since 1993. In 1998 a working group set up by the federal government drafted a new Federal Criminal Code under which capital punishment would be abolished.⁶

2. Freedom from enforced disappearance

FRY Constitution, Article 22: «(1) The inviolability of the physical and psychological integrity of the individual, his privacy and personal rights shall be guaranteed. (2) The personal dignity and security of individuals shall be guaranteed.»

Enforced disappearances, for which both Serbian police and the KLA were responsible, were the most frequent human rights violation during the Kosovo conflict.

On 17 November, the Kosovo Committee for the Protection of Human Rights and Freedoms reported that over 900 ethnic Albanians⁷ had disappeared in the preceding 10 months. It did not, however, specify the criteria applied to classify someone a victim of forced disappearance. HLC research in the first six months of 1998 brought out that 47 Albanians disappeared after arrest and 22 in unclear circumstances, that at least 50 Albanians went missing in Orahovac after fighting between the security forces and KLA in the town, and that all trace of three Albanians was lost after their abduction by the KLA.

Information gathered by HLC up to mid-December showed that the fate of 42 Serbs and Montenegrins abducted by the KLA, as well as of 64 Serbs and Montenegrins, eight Albanians, eight Roma and one Muslim who went missing in unclear circumstances, remained unknown.

There are indications that some of the missing in Kosovo were killed after being abducted or arrested. In mid-December the KLA's political representative, Adem Dema}i, said frankly he doubted any of the abducted Serb civilians were still alive. Where missing Albanians are concerned, there are reliable indications that 14 members of the extended Ja{ari family, who disappeared after the police operation in Donji Prekaz on 5-6 March, were killed, and that six Albanians from Poklek near Glogovac were killed after being arrested on 31 May.

3. Freedom from torture and other inhuman or degrading treatment or punishment

FRY Constitution, Article 22: "The inviolability shall be guaranteed of man's physical and mental integrity, his privacy and personal rights. Man's personal dignity and security shall be guaranteed."

FRY Constitution, Article 25: «(2) Any violence against a person deprived of liberty or whose liberty has been restricted, as well as any extortion of a confession or statement shall be forbidden and punishable. (3) No one may be subjected to torture, degrading treatment or punishment.»

In its conclusions of 18 November 1998, the Committee against Torture, which monitors compliance with the 1984 Convention against Torture expressed grave concern at the widespread practice of torture, cruel and inhuman or degrading treatment and punishment in FR Yugoslavia and the unwillingness of the Yugoslav authorities to comply with the Convention.⁸

3.1. Serbia

⁵ Aleksandra Pani }, *Smrtnom kaznom {titi se pravo na `ivot*[Capital punishment protects right to life¹, POLITIKA, 27 December 1997

⁶ B.O. Ili }, *Umesto smrtne kazne – do`ivotna robija*[Life imprisonment instead of death penalty¹, NA[A BORBA, 5 August 1998.

⁷ *At Least 1795 Albanians Killed in Kosova since Mid-January, Human Rights Group Sayssupra 1.*

⁸ Conclusions and recommendations of the Committee against Torture, 18 November 1998, CAT/C/SR. 354.

On the basis of its own investigations and media reports, the HLC registered some 500 cases of torture and inhuman treatment, mostly in Kosovo. There are grounds to believe that the deaths of six Albanians (Adem Beri{a, Red`ep Bisljimi, Cen Dugoli, Bilalj [alja, Be}ir Cacaj and Maksut Jafle{i) and one Serb (Veselin Pavlovi}) were the result of torture during police detention. HLC research brought out a systematic practice by police of torture and inhuman treatment of detainees: slapping, punching, beatings with rifle butts and nightsticks and, in some cases, electric shocks. Prosecutors, courts and disciplinary bodies within law enforcement agencies failed to investigate allegations of torture and took no steps to punish those responsible.

Veselin Pavlovi}, a 19-year-old waiter, died on 7 June after being subjected to severe physical abuse at the police station in the Belgrade suburb of Rakovica. Pavlovi} was arrested on 26 May on suspicion of fraud: stealing a Turkish national's passport and then returning it to the owner for a reward of 500 Deutsche marks. When his mother visited him in jail seven days later, he complained he had been severely beaten by the police. Pavlovi}'s condition worsened and he was taken to the Belgrade Emergency Medical Center where doctors recommended hospitalization. Nonetheless, he was returned to the District Prison where he died two days later.

Be}ir Cacaj (50) died on 8 June as the result of the torture at the police station in De~ani, Kosovo. Cacaj was arrested on 28 May as he, his family and neighbors attempted to flee the town amid fighting. Over the next few days, he was questioned several times and returned to his cell with visible marks of torture on his body. According to witnesses, the De~ani police chief, Vukmir Mir~i}, was among the officers who tortured Cacaj, and prevented his transfer to a hospital for medical treatment.

Red`ep Bisljimi (32), a human rights activist and former prisoner of conscience, died at the Pri{tina hospital on 21 July. On 3 July, the District Prosecutor had requested the institution of an investigation into Bisljimi on charges of seditious conspiracy. He was arrested in Uro{evac on 6 July and taken to the prison in Gnjilane, from where he was transferred to the hospital on 19 July. Bisljimi's relatives recounted that his body was covered with bruises and wounds and that his right arm was broken, and substantiate this with photographs of the body taken after the autopsy. The medical report with which he was discharged from the Pri{tina hospital stated that three of his left ribs were fractured.

Cen Dugoli, an activist of the Democratic Alliance of Kosovo, died at the Pri{tina hospital on 17 August, almost two months after his arrest on suspicion of seditious conspiracy. His wife alleges that his body was covered with bruises and his head with scars. She said police began beating her husband when they arrested him in their yard.

Adem Beri{a (33) died on the surgical ward of the Pri{tina hospital on 18 August. According to the Kosovo Information Center,⁹ Beri{a was arrested on the Draga{-Pri{tina road on 13 August. He was admitted to the Prizren hospital on 14 August for treatment of injuries sustained at the State Security Service, and, in a coma, transferred to the Pri{tina hospital the same day. The Kosovo Information Center quoted witnesses as saying Beri{a's kidneys were badly damaged. He died at 6.10 p.m. on 18 August without regaining consciousness.

According to the Prizren branch of the Kosovo Committee for the Protection of Human Rights, Maksut Jafle{i from Belobrade vilage died on 23 August after being tortured by police in Uro{evac. His brother stated that Jafle{i was stopped and beaten by police on the Prizren-Uro{evac road. He received no medical attention in Uro{evac and was subsequently transferred to the Pri{tina hospital where he died.

Biljal [alja, a 47-year-old teacher and member of the ethnic Albanian Social Democratic Party, died at the Uro{evac police station on 29 August. He was arrested on 28 August together with his son Agron, who was released later that day. Agron heard his father's cries when police interrogated him. On 30 August, the family was notified that they could take over [alja's body from the Pri{tina hospital morgue. They stated that the body was covered with bruises.

⁹ *Albanian Detainee Dies from Serb Police Torture* KIC – Kosova Daily Report No. 1526, Pri{tina, 19 August 1998.

Police tortured detainees or subjected them to inhuman treatment in hundreds of other cases, most frequently in Kosovo. Such misconduct is routine and is not punished. Police abuse in its most drastic form is against non-Serbs and non-Montenegrins. Sako Rugovac, a Muslim from the Montenegrin town of Ro`aje, was stopped by Serbian police on 12 April on the Klina-Pri{tina road in Kosovo. After checking his identity, the officers pulled him out of the taxi and took him to the basement of a building next to the Pe} police station. They asked if he was a supporter of «Momir ŠBulatovi}»¹ or Milo ŠDjukanovi}»¹, to which he replied «Milo.» The police then beat him and one officer used a hot soldering iron to inscribe «Milo» on Rugovac's chest, and cut it in several places with a knife. After two hours of this treatment, Rugovac was allowed to go. The officers threatened to find and kill him if he told anyone what had happened. A photograph of Rugovac showing the scars forming the name «Milo» appeared in the press. The scars were still visible two months later, on 16 June, when Rugovac spoke with an HLC researcher.

Arsim Krasni}i, a Kosovo Albanian, found himself surrounded by six police officers as he was sweeping a street near the Pri{tina District Court on 30 April. The officers led him behind some nearby sheds and began kicking him and beating him with their nightsticks. Most of the blows landed on Krasni}i's head and back. The police asked him if he was a KLA commander, where KLA soldiers were hiding in his neighborhood, where his «artillery» was. At the police station, Krasni}i was handcuffed to a radiator, beaten with nightsticks, kicked and slapped. An officer carved a three-centimeter cross on his chest and stabbed him in the left leg.

Destan Ruki}i, a Pri{tina lawyer who defended many ethnic Albanians in political trials over the years, was transferred to the Pri{tina hospital on 30 July with serious kidney damage after being beaten at the Lipljan prison. He underwent dialysis five times at the Pri{tina hospital. On 6 August, he was brought to the prison hospital in Belgrade, where he also underwent dialysis and received three blood transfusions. His kidney failure was due to the injuries inflicted by police at the prison. Ruki}i was arrested on 23 July, the same day he was given 60 days in prison for contempt of court after an argument with Danica Marinkovi}, investigating judge of the Pri{tina District Court, over her refusal to allow him to copy parts of the court record of his client Cen Dugoli. ŠDugoli died on 17 August of injuries sustained at the hands of the police; Ruki}i was serving his term at the time of his client's death.¹

Lawyers were not alone in receiving such treatment from the police in Kosovo. University teachers were also targeted. Twenty-three professors of the Albanian-language Humanities Department in Pri{tina were beaten by police on 10 June. One suffered a serious spinal injury. On the basis of witness statements, the HLC established that some 20 police, equipped for anti-riot duty, came to the Department at about 1.15 p.m. that day. Two officers entered the room in which a faculty meeting was being held and, without saying a word, began beating and kicking those present. The professors fled, only to be beaten and kicked again by police in the hallway. Several officers went to the dean's office and seized the official stamps. None gave any explanation for the action.

3.2. *Montenegro*

While accusations of police repression by Momir Bulatovi}'s Socialist People's Party of Montenegro (SNP) should be taken with reservations in view of the state of political strife in which they are voiced, more credence can be given to information from neutral sources on the rising incidence of torture by Montenegrin police. There was, however, a positive development recently when five officers involved in a case of police torture were dismissed from the force.

A report on the torture of Zoran Jeli} of Podgorica appeared in the weekly *Monitor* on 10 July. When he was brought before an investigating judge as a suspected car thief, Jeli} stated that police at the Podgorica Police Department beat him with a thick electric cable on the head and chest. although he claimed to be an epileptic and begged them to stop. Jeli} also said the officers drove him to Lake Skadar and threatened to drown him, and, aiming unloaded pistols at him and pulling the triggers, pretended they were going to shoot him.¹⁰ Though Articles 47 and 48 of the Montenegrin Criminal

¹⁰ [eki Radon~i}, *Te{ka ruka plavih an/ela* [Heavy-handed Blue Angels¹, MONITOR, 10 July 1998.

Code envisage stiff prison terms for extraction of statements by force,¹¹ no steps had been taken to determine the responsibility of these officers up to the time of writing.

Veselin @i{i}, member of the SNP Main Committee and Chairman of the Montenegrin Boxing Federation, was beaten up by police in Nik{i} on the night of 7/8 October when several officers came into his cafe and told him to turn down the music. @i{i} stated that he did so immediately while the police authorities allege that he physically assaulted the officers. Some six or seven officers pushed @i{i} into a police van where they struck him on the back, chest and head with nightsticks. Photographs of his body show that @i{i} was subjected to a severe beating. Five officers were subsequently suspended¹² and, in late November, dismissed from the police force.¹³

According to HLC witness statements, Montenegrin police beat up a number of Albanians who were among several thousand displaced from Kosovo. These people waited near Plav from 11 to 13 September to see if police would allow them to continue or return them to Kosovo (12.2. *Displaced persons*).

After a verbal argument with Goran ^avi} on 7 November, an officer from the Budva police station punched him and knocked him down. As he fell, ^avi}'s head hit a slab of concrete. An ambulance arrived and, instead of taking him to hospital, drove him to his apartment building. ^avi}'s lawyers allege that the police carried him into his apartment and left him there although he was unconscious and bleeding. He was found in the apartment by friends who took him to the hospital. ^avi} underwent surgery in Podgorica on 9 October and was told by doctors that he barely survived.

4. Right to a fair and public trial

The judiciary in FR Yugoslavia is not independent. The highest federal and Serbian republican courts carry out the policies of the authorities, reversing the decisions of inferior courts based on the constitutions and rule of law. Although the principle of the independence of the judiciary has not been attained in Montenegro either, there was at least one case in 1998 of the republic's Supreme Court finding a politically motivated government decision unlawful and quashing it (6.2.3. *Banning of electronic media*).

The main obstacle to a fair trial in criminal proceedings for offenses of a political nature, most of which take place in Kosovo, is the extraction by force of confessions while a person is in police custody and does not have the benefit of counsel. The treatment of pre-trial detainees is an essential component of the right to a fair trial, as stated in an 1994 report of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities.¹⁵

Article 23 (5) of the FR Yugoslavia Constitution states that a detained person has the right to counsel of his own choice,¹⁶ but does not specify whether or not this right obtains immediately after the person

¹¹ *Ibid.*

¹² [eki Radon~i}, *Udri mu{ki* [Hit hard¹, MONITOR, 16 October 1998

¹³ Prelevi} Law Office, Podgorica, 15 December 1998.

¹⁴ [eki Radon~i}, *Nemoj po glavi, dru`e plavi* [Not on the head, my blue friend¹, MONITOR, 30 October 1998.

¹⁵ «[S]ome important components of the right to a fair trial. [...] for example, [...] the treatment of pre-trial detainees, such as [...], the right not to be tortured or subjected to other cruel, inhuman or degrading treatment or punishment [...].» Report of the UN Sub-Commission on Prevention of Discrimination and Protections of Minorities at its 46th Session, The Administration of Justice and the Human Rights of Detainees, Final Report prepared by Mr. Stanislav Chernichenko & Mr. William Treat, U.N. Doc. E/CN.4/Sub.2/1994/24 (1994), para. 83. [*herinafter*: REPORT].

Also «(...) Persons under any form of detention or imprisonment shall not be subjected to torture or cruel, inhuman or degrading treatment or punishment.» Draft Body of *Principles on the Right to a Fair Trial and a Remedy*, principle 45, in REPORT.

¹⁶ FRY Constitution, Article 23 (5): «A person deprived of liberty shall have the right to a defense counsel of his/her own choosing."

has been taken into custody.¹⁷ Law enforcement officers have no obligation to inform detainees of their right to counsel.¹⁸ Hence, police question detainees without the presence of their lawyers or giving them an opportunity to consult a lawyer before being interrogated. Interrogations are as a rule accompanied by physical abuse, which frequently reaches a level constituting torture and has in some cases resulted in fatalities (3. *Freedom from torture*). The practice has been present for years although extraction of statements by force is expressly prohibited by Article 25 of the FR Yugoslavia Constitution,¹⁹ Article 19 of the Federal Criminal Code,²⁰ and Article 218 (8) of the Federal Criminal Procedure Code.²¹

It is only when a detainee or suspect is taken before an investigating judge that he is entitled to be informed by this judge of his right to a lawyer. Lawyers have the right to be present when a detainee is first questioned by the investigating judge. However, a detainee with poor knowledge of the law and fearing he might again be subjected to physical abuse, most often does without a lawyer and repeats the same statement to the investigating judge whom he perceives as part of the same machinery as the police. Some lawyers allege that plainclothes officers have on a number of occasions been present during questioning of detainees by investigating judges. In the face of such intimidation, a detainee can hardly be expected to do anything but repeat his forced statement.

Even when a detainee denies his statement to the police when brought before an investigating judge and although the police report is removed from the court record and may not be admitted as evidence, the presiding judge and lay judges do have a possibility of reading the police report before its removal.

Application of the Serbian Law on Public Information, enacted in October 1998, marked a further decline in respect for the right to a fair trial. High fines are imposed in proceedings of which defendant news organizations need not be notified and, hence, have no possibility of presenting their case. Under Article 72 of the Law, it is deemed sufficient if the summons to a preliminary hearing is publicized in the media, and the main hearing takes place within 24 hours of this «service of process.» The Podgorica weekly *Monitor* was recently sentenced to pay a stiff fine under this provision. Both the article and its application constitute a drastic violation of a fundamental requirement for a fair trial: that the court hear both parties.

4. 1. *Political trials of Kosovo Albanians*

That proceedings against Kosovo Albanians are in fact political trials is evident not only from the charges against them but also from the authorities' attitude toward these trials. Top government

¹⁷ Whereas «Any person arrested or detained shall have *prompt* access to a lawyer, and in any case not later than 24 hours from the time of arrest or detention (...)» Draft Body of Principles on the Right to a Fair Trial and a Remedy, principle 37 (b), in REPORT, *supra* note 15.

¹⁸ Whereas «The accused has the right to be informed, if he or she does not have legal assistance, of the right to defend him or herself through legal assistance of his or her own choosing. (...) The accused has the right to choose his or her own counsel freely. This right begins when the accused is first detained or charged.» Draft Body of Principles on the Right to a Fair Trial and a Remedy, principle 49, in REPORT, *supra* note 15.

¹⁹ FRY Constitution, Article 25: " (2) Any violence against a person deprived of liberty or whose liberty has been restricted, as well as any extortion of a confession or statement shall be forbidden and punishable.»

²⁰ Criminal Code of Yugoslavia (1976) Article 190: "(1) Whosoever in an official capacity resorts to force, threats or other impermissible means or impermissible ways with the intention of extorting a deposition or other statement from the accused, witnesses, experts or other persons, shall be punished by imprisonment from three months to five years. (2) If the extortion of the deposition or statement is attended by severe violence or if, due to the extortion of a statement, particularly grave consequences have arisen for the accused in criminal proceedings, the perpetrator shall be punished by imprisonment of at least one year."

²¹ Law on Criminal Procedure (1977), Article 218 (8): "The use of force, threats or similar means with a view to obtaining a statement or a confession from the defendant shall be prohibited."

officials openly suggest that judges should be governed by political reasons when rendering their decisions, instead of basing them on the law and the facts of the case. Thus, addressing newly-appointed judges on 28 May, Serbia's Minister of Justice Dragoljub Janković said patriotism was a fundamental value and should be a guide for judges: « It is your duty not only to uphold the Constitution and the law but also to love this country. Do not forget your roots... We must combat terrorism...»²²

Trials of ethnic Albanians in connection with the Kosovo conflict are on charges of terrorism and seditious conspiracy. According to the Kosovo Committee for the Protection of Human Rights, 77 Albanians were convicted in 1998.²³ The majority of these trials took place in November and December, in spite of the 13 October agreement between FR Yugoslavia President Slobodan Milošević and US Special Envoy Richard Holbrooke that there would be no criminal prosecutions in connection with the conflict in Kosovo.²⁴

Defendants frequently allege that statements were extracted from them by torture during police custody, and deny these statements at trial. Contrary to Article 12 of the Convention against Torture²⁵ and Article 190 of the Federal Criminal Code,²⁶ the competent authorities fail to investigate allegations of torture or to take steps to punish the perpetrators. In addition, rulings are often based on statements extracted from defendants although Article 15 of the Convention against Torture,²⁷ ratified by Yugoslavia and thereby part of its national legislation, states that such statements are inadmissible as evidence, and Article 233 of the Federal Criminal Procedure Code²⁸ stipulates that court decisions cannot be based on the defendant's confession alone.

On 18 June the Pristina District Court found Naim Krasniqi (44) guilty of transferring arms from neighboring Albania and conspiring to murder an ethnic Albanian loyal to the Serbian authorities, and sentenced him to seven and a half years' imprisonment. The decision was based solely on the confession Krasniqi made in the pre-trial proceedings and which he denied at trial. He told the court he had made the statement after being tortured for three days at the State Security in Prizren, and that two plainclothes officers were present when he was questioned by the investigating judge. His allegations were dismissed by the trial judge as irrelevant.

The Military Court in Niš on 28 September convicted Gazmend Tahiraj (28) and Metaja Iber (27) on the charge of terrorism. The trial judge removed the reports on the questioning of the suspects during the pre-trial proceedings from the court record only after hearing the closing arguments. Under the law, however, these reports should be removed by the investigating judge or, at the latest, by the judge presiding the panel before the trial opens.

Mujo and Sinan Tafiljaj were sentenced to prison terms of three years after the Peja District Court found them guilty of seditious conspiracy on 10 November. The prosecution's main piece of evidence against them was that their names were on a list of KLA members in their village. The defense argued that the list could not be used as evidence since it was unsigned and unstamped.

²² J.R., *Janković*: *^istka u pravosuđu* [Purge of the judiciary], DNEVNI TELEGRAF, 29 May 1998.

²³ The List of the Persons Convicted by the Serbian Courts in the Course of 1998, Kosovo Committee for the Protection of Human Rights and Freedoms, website (http://www.kohf.org/eng/1998/12/12_1998.html).

²⁴ «No one shall be subject to criminal prosecution before state courts for criminal offenses in connection with the conflict in Kosmet», point 10, Statement of the Government of the Republic of Serbia, 13 October 1998, published in POLITIKA, 14 October 1998.

²⁵ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987), Article 12: «Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.»

²⁶ The Criminal Code of Yugoslavia (1976), Article 190, *supra* note 20.

²⁷ Convention against Torture, Article 15: «Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.»

²⁸ Law on Criminal Procedure, Article 233 (1): «The body conducting the proceedings is bound to gather other evidence besides the confession of the accused.»

In several cases, defendants told courts they had been tortured when interrogated by police but did not retract the statements they had given. A case in point is the trial of [aban Mehmetaj and six other defendants charged with attempting to transfer arms and ammunition from neighboring Albania. The District Court in Pe} on 11 November sentenced them to prison terms ranging from two to four and a half years.

On 2 December, the Prizren District Court found [aban Ru`di guilty of seditious conspiracy. The grounds for the decision were photographs of a semi-automatic rifle and a KLA uniform, reportedly found during a search of Ru`di's home. Defense counsel argued that the photographs were inadmissible as they were not taken at Ru`di's home, and moved that the court call as witnesses members of his family and neighbors who would testify that no search of the house was conducted. The judge dismissed the motion and sentenced Ru`di to two and a half years in prison.

4.2 *Prejudging of trial outcomes by public officials and government media*

As a rule, trials of Kosovo Albanians are mere formalities since public officials exert pressure on courts to find defendants guilty as charged at any cost. Labeling defendants «terrorists,» they declare them guilty even before the case goes to trial. Noteworthy for statements of this kind is Dragoljub Jankovi} who, by virtue of his position as the Serbian Minister of Justice, should guarantee observance of the principle that a person is presumed innocent until found guilty by a court of law. Thus Jankovi} stated that his «Ministry is taking certain steps to create conditions for trials of Albanian *terrorists* to be well prepared» (*Politika*, 27 August) and that «the majority of trials of *terrorists* are expected to start in late September (*Politika*, 11 September). Statements of this kind are contrary to the principle of the presumption of innocence in Article 14 (2) of the Covenant on Civil and Political Rights. In its General Comments on this article, the Human Rights Committee was explicit in stating that «it is a duty for all public authorities to refrain from prejudging the outcome of a trial.»²⁹

4.3. *Inaction on law enforcement abuses*

In spite of the great many allegations by defendants, lawyers and human rights organizations of law enforcement abuses, in particular against persons in police custody, prosecutors fail to prosecute those responsible. And, when proceedings are initiated by the injured parties themselves, the accused police officers regularly fail to appear in the courtroom, some with no explanation at all, others with certificates from their superiors that they were justifiably prevented from attending. Proceedings are thus delayed, sometimes for years, preventing the injured parties from obtaining redress.

In 1997 and 1998, the HLC filed 85 criminal complaints against police officers. Prosecutors responded to only three, informing the HLC that they had requested information from the police; an indictment was brought in one of these cases.

5. Freedom of thought, conscience and religion

FRY Constitution, Article 35: "Freedom of conviction, conscience, thought and public expression of views shall be guaranteed."

The question of freedom of conscience in Yugoslavia arises in connection with the right to conscientious objection, that is, the refusal to carry arms for reasons of conscience or profound conviction. These reasons may be religious, ethical, philosophical or similar. Since 1987, the UN Human Rights Committee has in a number of resolutions reaffirmed that conscientious objection represents a legitimate expression of freedom of thought, conscience and religion as embodied in Article 18 of the International Covenant on Civil and Political Rights. The FR Yugoslavia Constitution makes provision for civilian alternatives to military service. The Law on the Armed

²⁹ «[T]he presumption of innocence implies a right to be treated in accordance with this principle. It is, therefore, a duty for all public authorities to refrain from prejudging the outcome of a trial.» Human Rights Committee, General Comment 13, Article 14 (Twenty-first session, 1984), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 14 (1994).

Forces and practice, however, depart from the constitutionally guaranteed right to conscientious objection.

Civilian service in Yugoslavia is punitive in nature. Under the Law on the Armed Forces, it lasts two years, twice as long as armed service. Furthermore, the Federal Constitutional Court has ruled that men who have already performed military service cannot invoke conscientious objection when called up to do reserve duties that involve taking up of arms.³⁰ This ruling denies effective protection of a person's right to adopt a belief and is contrary to Article 18 (1) of the International Covenant on Civil and Political Rights.³¹

Pavle Bo`i} of Stari Banovci, a Nazarene sect member, is currently serving a term of one year in prison. He was sentenced on 23 February for refusing to perform civilian service at the Karadjordjevo military establishment.³²

Freedom of religion is exercised in FR Yugoslavia. However, there have been indications recently in Serbia of less tolerance with respect to some cults and sects. According to a report in the *Na{a Borba* daily of 20 June, the Executive Council of Vojvodina province, under the control of the SPS, has drafted and submitted to the provincial Assembly for adoption a document accusing the Nazarene sect, Hare Krishna cult and others of being «the weapons of the new world order spreading out from America with the goal of destroying Orthodoxy and Serbdom.»³³ The Executive Council denounced as particularly negative the advocacy of pacifism by some sects.³⁴ The document has been temporarily withdrawn from procedure.

6. Freedom of expression

FRY Constitution, Article 35: "Freedom of conviction, conscience, thought and public expression of views shall be guaranteed."

6.1. Suppression of critical thought

Presenting themselves as «defenders of Serb national interest,» leading officials of the ruling parties (SPS, SRS, JUL) openly campaign against organizations, media and individuals that publicly criticize their policies, regularly accusing them of being «fifth columnists and enemies,» of spreading defeatism and the like.

Mira Markovi}, the JUL leader and wife of President Milo{evi}, stated in March that «the supporters in Yugoslavia itself of foreign pressures on Yugoslavia must be treated as its greatest enemy, as they would be in any other country of the world that is free, independent and holds dear its dignity.»³⁵ Rhetoric of this kind peaked in October when NATO threatened to use armed force to stop the violence in Kosovo, and senior officials of the ruling parties openly threatened the independent media, journalists and human rights activists. Vojislav [e{elj}, Serbia's Deputy Premier and leader of the Serbian Radical Party, called them «America's fifth column» and «spies,»³⁶ adding that, in the event of NATO strikes, Yugoslavs working as correspondents for the BBC, Voice of America, Radio Free Europe and Deutsche Welle «can expect no good.»³⁷ @eljko Simi}, who serves on the SPS Main

³⁰ OUT OF THE MARGINS: THE RIGHT TO CONSCIENTIOUS OBJECTION TO MILITARY SERVICE IN EUROPE, Amnesty International, Report EUR 01/02/97, April 1997 (section «Federal Republic of Yugoslavia (Serbia and Montenegro)»).

³¹ «Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have *or to adopt* a religion or *belief* of his choice...».

³² Lj. G., *Dr`ava ne po{tuje Zakon o vojsci*ŠNon-compliance of state with Law on Armed forces¹, NA[A BORBA, 15 May 1998.

³³ ³³ Jan Briza, *Sezona lova na ve{tice* ŠWitch hunt season¹, NA[A BORBA, 20 June 1998.

³⁴ *Ibid.*

³⁵ *Snage zla hoje da stanu na put obnove* ŠForces of evil aim to prevent reconstruction¹, POLITIKA EKSPRES, 26 March 1998.

³⁶ Current Situation of Media in the Federal Republic of Yugoslavia, Report of the OSCE Representative on Freedom of the Media, 19 November 1998, Vienna.

³⁷ D.B.V., *Napad na vojnike svuda po svetu*ŠAttack on soldiers around the world¹, BLIC, 1 October 1998.

Committee, labeled independent media a «fifth column working for the Western powers to destabilize Serbia» and said «the kind of information they provide constitutes betrayal of the country.»³⁸

Courts are also used to discourage and suppress public criticism, and rule in favor of state officials who file libel or defamation suits. On 9 July, the Serbian Supreme Court sentenced Democratic Party (DS) leader Zoran Djindjić to seven months in prison suspended for three years because of a DS advertisement two years earlier in the *Dnevni Telegraph*, in which the party alleged suspect financial transactions by Serbian Premier Mirko Marjanović in a wheat export deal.³⁹ Toward the end of the year, several Serbian newspapers which had published articles critical of state officials were sentenced to high fines (6.2.5. *Media penalized under new legislation*). These sentences are contrary to the principle of freedom of expression in democratic society and the jurisprudence of the European Court of Human Rights⁴⁰ and the US Supreme Court,⁴¹ which found that the limits of acceptable criticism are wider for politicians than for private individuals, and that legal protection of politicians has to be weighed in relation to the interests of open discussion of political issues.

6.2. *Censorship and other media restrictions*

(See 11.1.1. *Albanians*, 11.1.2. *Muslims*, 11.1.3. *Roma*, 11.1.4. *Hungarians*, 11.1.6. *Bulgarians* for media in the languages of ethnic communities)

The FR Yugoslavia Constitution guarantees freedom of the press and other mass media⁴² and prohibits censorship.⁴³ The Serbian authorities, however, have drastically violated these constitutional provisions since the introduction of the multi-party system in 1990. The Serbian Broadcasting Organization (RTS), whose radio and television programs are alone in covering the entire territory of the republic, is firmly controlled by the Socialist Party of Serbia and has been a propaganda mouthpiece for Slobodan Milošević and the ruling party since it came to power. There is no comparable monopoly of pro-government media where the printed press is concerned but the influence of independent newspapers and periodicals is limited owing to the low purchasing power of readers and small circulation.

The most resolute attempt so far by the authorities to suppress independent electronic and printed media was in 1998. Along with the closure of radio and television stations, denial of broadcasting permits and prevention of journalists from covering events on the ground, forms of pressure present in preceding years, journalists were increasingly threatened and intimidated and even subjected to physical violence, editors were summoned by police to investigatory interrogations, radio and television broadcasts and newspaper were banned, and high fines were imposed on media organizations.

In Montenegro, state television and the leading daily, *Pobjeda*, are controlled by the ruling Democratic Party of Socialists (DPS) and its coalition partners – the National and Social Democratic Parties. Nonetheless, these two media did carry opposition parties' press releases and were not as overtly biased as the state media in Serbia. During the parliamentary election campaign in May, however, they gave preferential treatment to the ruling DPS (10.2. *Abuse of public media in election campaign*).

6.2.1. *Investigatory interrogations*

On 30 January, police in Vranje detained Vojkan Ristić, the local correspondent of *Naša Borba*. Ristić was interrogated for 15 hours, his personal documents were taken and he was warned «to lay off writing about Dragan Tomić,» a Serbian government minister and director of the Simpo company in Vranje. Police threatened to take him in again if he published the book he was writing about

³⁸ Zoran B. Nikolić, *Da se zna ko je kriv* «Just so we know who's to blame!», VREME, 10 October 1998.

³⁹ *Zoranu \in/i}u sedam meseci zatvora uslovno* «Seven months in prison, suspended, for Zoran \in/i}», POLITIKA, 19 July 1998; *A.A., Zoranu \in/i}u tri godine uslovno* «Zoran \in/i} gets three years' suspended sentence!», BLIC, 23 November 1998.

⁴⁰ Eur. Court H.R. Lingens judgment of 8 July 1986, Series A, no. 103.

⁴¹ *New York Times v. Sullivan*, 376 US 254 (1964); *Gertz v. Robert Welch, Inc.*, 418 US 323 (1974).

⁴² FRY Constitution, Article 36 (1): «Freedom of the press and other mass media shall be guaranteed.»

⁴³ FRY Constitution, Article 38 (1): «Censorship of the press and other mass media shall be prohibited.»

Minister Tomić's dealings. After his release, Ristić and his family members received anonymous phone threats.

Police summoned the editors-in-chief of the Belgrade dailies *Blic*, *Danas*, *Naša Borba*, *Demokratija* and *Dnevni Telegraph* to investigatory interrogations on 10 and 11 March for allegedly printing misinformation about the events in Kosovo and failing to designate KLA members as terrorists. The interrogations were ordered by the Belgrade District Prosecutor to establish whether grounds existed for criminal prosecution. No proceedings were initiated.

6.2.2. *Police violence against journalists*

Several foreign correspondents and Kosovo Albanian reporters were beaten up by police during demonstrations in Priština against the deaths of over 50 Albanians during the police operation in the Drenica area.

When dispersing protesters on March 2, for example, police beat four Priština news reporters and a Tirana TV correspondent, and that same day entered the premises of the *Koha Ditore* newspaper and physically abused people who had taken shelter inside from the police violence in the streets⁴⁴.

6.2.2. *Difficulties in obtaining licenses and permits*

On 7 February, the Federal Ministry of Telecommunications invited bids for the temporary allocation of radio frequencies and television channels. Montenegro's Minister of Information, Božidar Jaređić, stated that the invitation did not apply to Montenegro.

Although the Ministry cited the 1988 Law on the Communications System as the legal basis for the invitation, the terms prescribed for allocation of frequencies and channels were not in accordance with this law. Namely, Article 72, which lists the documentation required, makes no mention of a certificate that a legal person has been registered as a broadcasting organization. The Ministry, however, required applicants to present such certificates. These proved to be impossible to obtain as commercial courts in Serbia refuse to register broadcasting organizations unless they have already been allocated a frequency or channel by the Federal Ministry of Telecommunications. Just before the deadline for the submission of bids expired, the Ministry instructed commercial courts to issue certificates of registration to applicants even if they did not possess a frequency license.

On 15 May, the Ministry announced the results. Out of the 425 radio and television stations which applied for frequencies and channels, 247 received permits, all either close to the authorities or with exclusively commercial programming. Only three member organizations of the Association of Independent Media (ANEM) were licensed: two television stations (RTV Panëvo and TV F in Zaječar) and one radio station (Radio B92). In November 1998, ANEM had 51 members - 33 radio and 18 television stations.⁴⁵ Organizations denied permits were asked to submit additional documentation, which they did within the given deadline. Although the time period fixed for deciding on the applications has expired, at the time of writing the Ministry had neither issued any new licenses nor notified applicants that they had been turned down.

6.2.3. *Banning of electronic media*

The Serbian authorities continued banning electronic media and confiscating their equipment, always citing as the formal reason their lack of broadcasting licenses. The following electronic media were banned in 1998: Radio Lazarevac (Lazarevac), TV Studio M (Vranje), TV Aga (Prešovo), Radio Herc (@itoradje), TV Feman (Jagodina), TV Pirot (Pirot), Radio Kontakt (Priština), Radio City (Niš), Radio Senta (Senta), TV Negotin (Negotin), and Radio Index (Belgrade). All these stations broadcast news and information programs critical of the authorities and almost all retransmitted foreign news and current affairs programs. Essential equipment was confiscated from all of them, with the exception of Radios Herc and Aga and TV Lazarevac.

⁴⁴ HUMANITARIAN LAW VIOLATIONS IN KOSOVO, Human Rights Watch Report, November 1998, (section «Government restrictions on the media»).

⁴⁵ Saša Mirković, Director, Radio 92, presentation at Media for a Democratic Europe conference, 4-5 December 1998, Belgrade.

In Montenegro, the republic's Information Secretariat banned Radio Pljevlja and the weekly *Pljevaljski Novine*, the only local media to remain under the control of the Socialist People's Party of Montenegro (SNP) following the May 1998 parliamentary election.⁴⁶ The reason cited was that the Programming Committee of the Pljevlje Information Center, a public company under whose aegis the radio station and weekly operated, had denied minority parties in the local assembly access to these media. On 16 December, the Montenegrin Supreme Court found the Secretariat's decision unlawful and set it aside.⁴⁷

6.2.4. *New regulations for public information in Serbia*

On 6 October, a time of threatened NATO strikes to stop the violence in Kosovo, the Serbian Ministry of Information warned the editors of media retransmitting BBC, Voice of America, Radio Free Europe, and Deutsche Welle Serbian-language programs to cease doing so. In its letter, the Ministry said these programs were «vehicles of propaganda and psychological warfare by the Western powers, which are pursuing a distinctly hostile and aggressive policy toward Serbia and Yugoslavia.» It added that retransmission of such programs denoted «conscious agreement to spy on one's own people.» Upon receiving the warning, most electronic media discontinued the retransmissions.

A Serbian government decree formalizing the ban on foreign programs went into force a few days later, on 9 October, and enabled the authorities to close down printed and electronic media which «spread defeatism and act contrary to the conclusions ... of Parliament ... expressing the unity of the nation on vital national and state interests.»

A provision banning retransmission of foreign programs was written into the new Serbian Law on Public Information passed on 20 October. Throughout this period, no state of immediate threat of war or state of war was declared in Yugoslavia, which could have served as a legitimate ground for the restrictions on rights guaranteed by international instruments and the FR Yugoslavia Constitution.

The new law is extremely restrictive with regard to the freedom of the press and information. Key provisions envisage prohibitively high fines for libel, incitement through the media to overthrowing by force the constitutional order and attempting against the territorial integrity and independence of Serbia, and fomenting of national, racial or religious hate. All these acts are already defined as criminal offenses by the Criminal Code. The new law, however, treats them as misdemeanors, making it possible for independent media to be prosecuted before bodies that are not independent judicial bodies, and in time periods so brief as to prevent the defendants from preparing any kind of viable defense. Under the law, the proceedings must be concluded within 24 hours of service of summons to the preliminary hearing and are conducted by magistrate courts, which are administrative, not judicial bodies. Magistrates do not have the independence of judges or their tenure of office. They are appointed for specified terms by the republican government and the procedure for their dismissal is simplified, and hence are more susceptible to outside influence than judges of regular courts.

The law makes it possible for media to be heavily fined if journalists quote statements by others containing elements of libel, incitement to overthrowing the constitutional order and other actionable offenses. This inhibits journalists from freely reporting political events and results in self-censorship. Since the adoption of the law, the media have noticeably refrained from carrying reports of human rights organizations and statements by prominent individuals who have been labeled by public officials as «traitors» and «mercenaries in foreign pay.»

6.2.5. *Media fined on basis of new regulations*

Invoking the 9 October decree, the Ministry of Information from 13 to 15 October banned publication of the independent dailies *Danas*, *Dnevni Telegraph* and *Naša Borba*. The Ministry, an executive organ, thus arrogated powers which, under the FR Yugoslavia Constitution, belong only to courts⁴⁸

⁴⁶ Z.R., *Jaredi* } *privremeno ugasio «Radio-Pljevlje» i «Pljevaljske novine»* } Jaredi } shuts down Radio Pljevlje and Pljevaljske Novine¹, DNEVNI TELEGRAF, 14 August 1998.

⁴⁷ R.V., *Poništena zabrana*, ŠBan quashed¹, VIJESTI (Podgorica), 17 December 1998.

⁴⁸ FRY Constitution, Article 38 (2): «No one may prevent the distribution of the press or dissemination of other information, unless it has been determined by a court decision that they call for the violent overthrow of the constitutional order or violation of the territorial integrity of the Federal Republic of Yugoslavia, violate

The 9 October decree became void just prior to the enactment on 20 October of the Law on Public Information, and these three dailies were able to resume publication. Shortly afterward, however, they became subject to the provisions of the new law.

Evropljanin, a Belgrade weekly news magazine, was fined on 24 October for printing an open letter to President Milošević in which the editors listed the catastrophic results of his rule; printing a cartoon of Lenin in a coffin under «Yugoslavia», the title of a regular column; and reporting that between 150,000 and 200,000 young people had emigrated from Yugoslavia. On 7 November, *Dnevni Telegraph* was fined because of a paid advertisement of the Otpor (Resistance) student movement consisting of a stylized drawing of a fist and the words: «This isn't a system – this is a disease! Fight the disease! Come to your senses! Live OTPOR!» The magistrate found that printing of the advertisement constituted incitement to overthrowing the constitutional order. The Podgorica *Monitor* was fined 10 days later because of the same advertisement. The Belgrade daily *Glas Javnosti* was sentenced to a fine on 21 November for quoting the brother of a former SRS member and Serbian government minister as saying that «some ŠSRS¹ members are collaborating directly with the KLA against the interests of the Serb people in Kosovo.»⁴⁹

The fines in all these cases were extremely high. On the other hand, magistrates either dismissed libel actions filed against pro-government media or imposed much lower fines. Whereas *Monitor* was fined 2.8 million dinars, *Evropljanin* 2.4 million, *Dnevni Telegraph* 1.2 million and *Glas Javnosti* 380,000 dinars, the pro-government newspaper *Politika*, sued for libel by Democratic Party leader Zoran Djindjić, was sentenced to 150,000 dinars. The majority of actions subsequently filed against *Politika* and other pro-government media were dismissed as unfounded.

The substance and application of the Law on Public Information strongly indicates that the lawmakers' intention was to create formal grounds for suppressing the independent media. The extremely short time period in which the proceedings must be concluded prevent defendants from substantiating their reporting, and magistrates have virtually unlimited discretion in determining what constitutes a punishable element in an article or report. Nor do other solutions in the law guarantee a fair trial, and magistrates fail to observe even the minimum protection accorded by law to defendant media. For instance, the magistrate sentenced *Evropljanin* even though the action was filed by the Patriotic Alliance of Yugoslavia, a party with no direct interest in the affair, and not the Ministry of Information, the sole body which may by law institute such proceedings.

6.3. *Expression of opposition to war in Kosovo banned*

Police in several Serbian cities – Niš, Novi Pazar, Kruševac, Kraljevo, Kuršumlija – detained student activists of the Anti-War Campaign movement who were distributing leaflets against the war in Kosovo, and in some cases confiscated the leaflets.⁵⁰ The students were released after being interrogated by police for several hours and asked, «Who are your backers?»

7. Academic freedom

The University has for years been a focal point of civil resistance to the undemocratic Serbian authorities who in 1998 launched their most serious attempt so far to place the six state universities in the republic under their full control.

Though the autonomy of universities and the right of the academic community to participate in self-government are not explicitly protected by international instruments,⁵¹ suppression of autonomy and

the guaranteed rights and liberties of man and the citizen, or foment national, racial or religious intolerance and hatred.»

⁴⁹ Lj. Jovanović, *[e]l protiv srpskih interesa* [e]l against Serb interests¹, GLAS JAVNOSTI, 19 November 1998.

⁵⁰ Veljko Popović, *Policija hapsi po naređenju* [Police follow orders and arrest¹, DANAS, 18 June 1998; S.M., *Oni o izdaji, mi o zakonu* [They talk of treason, we talk of the law¹, NA[A BORBA, 20-21 June 1998; *Oduzet propagandni materijal antiratne kampanje* [Anti-War Campaign propaganda literature confiscated¹, NA[A BORBA, 22 June 1998.

⁵¹ «ŠT¹here are no explicit guarantees of university autonomy, no right of members of the academic community to participate actively in the self-government of institutions of higher education, and no detailed provisions for the protection of academic freedom. The general freedom of thought, opinion, expression,

prevention of self-government constitute or imply violation of human rights that enjoy international legal protection, including the right to education. Thus, in the preamble to its Recommendation concerning the Status of Higher-Education Teaching Personnel, UNESCO states that this right can be exercised fully only in an atmosphere of academic freedom and autonomy of institutions of higher education. The repressive measures taken against Belgrade University professors in the fall of 1998 also violated their right to work and to freedom of thought and expression.

On 26 May 1998, the Serbian Parliament passed the University Act which *de facto* abolished university autonomy. Defending the new law, public officials said state universities have autonomy with regard to curricula and programs but not in management of the institutions.⁵² This position is contrary to the UNESCO Recommendation, which defines autonomy of institutions of higher education as «that degree of self-government which is necessary for effective decision making by institutions of higher education with regard to their academic activity, standards, *management* and related activities.»⁵³

The Act empowers the government to appoint state university boards of governors and other bodies, gives it control over the selection of teachers, and obliges teachers to sign new employment contracts.

The Serbian government appoints and dismisses the presidents and deans of state universities who, in their turn, appoint and dismiss the vice presidents and vice deans. The government also appoints and dismisses all the members of university boards of governors and the members of auditing and other supervisory committees. Deans appoint teaching personnel and are not obliged to give any explanation for refusing a candidate who has all the required qualifications. Appointment of full professors is subject to the approval of the Minister of Education.⁵⁴

Implementation of the Act soon brought out that its primary objective was to establish control over university teaching personnel and, thereby, over all the activities of institutions of higher education. Jago{ Puri}⁵⁵, a longstanding SPS official, was appointed president of Belgrade University, and Svetolik Avramov,⁵⁶ a JUL official, president of Novi Sad University. Radmilo Marojevi} of the SRS became the dean of the Philology School and Oliver Anti} of the Law School. None of them have the support of faculty members or students, nor do they enjoy professional prestige. The 15 members of Belgrade University's Board of Governors include six senior officials of the JUL, SPS and SRS, appointed as non-university members, and three university professors who are simultaneously Serbian government ministers.⁵⁷

Article 165 of the University Act obliges all teaching and other staff hired before its enactment to conclude new employment contracts within 60 days of entry into force of the Act. This provision is in

information, assembly and association as enshrined in Articles 18, 19, 21 and 22 of the CCPR, are obviously regarded to be sufficient for the protection of academic freedom.» Manfred Nowak, *The Right to Education*, in *ECONOMIC, SOCIAL AND CULTURAL RIGHTS*, (Eds. A. Eide et al, 1995), p. 209.

⁵² «Autonomy comes to expression in issues of instruction, curricula and programs; there is no autonomy in management», Ratko Markovi}, in V. Jeli-i}, *Autonomija samo u nastavi, a ne i u upravljanju dr`avnim univerzitetom* ŠAutonomy only in instruction and not in managing state universities!, *POLITIKA*, 19 May 1998.

⁵³ «Autonomy is that degree of self-governance necessary for effective decision-making by institutions of higher education regarding their *academic work, standards, management and related activities consistent with systems of public accountability, especially in respect of funding provided by the state, and respect for academic freedom and human rights*» UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, Resolution adopted on the report of Commission II at the 26th plenary meeting, 11 November 1997, para. 17.

⁵⁴ Dragoljub Popovi}, *Razvla~enje igre u {irinu*ŠSpreading out the scheme!, *NA[A BORBA*, 18 May 1998.

⁵⁵ Some time ago, Puri} signed a declaration by Serb intellectuals calling for withdrawal of the indictment of Radovan Karad'i}, as recalled by Stanko Pihler in *Ravnodu{nost puka, nezrelog i otupelog*ŠIndifference of the immature and numbed populace!, *NA[A BORBA*, 12 June 1998.

⁵⁶ Jan Briza, *Julski ispitni rok*ŠJuly examination period!, *NEDELJNA NA[A BORBA*, 18-19 July 1998.

⁵⁷ Helsinki Committee, *Radikalan atak na akademske slobode*ŠRadical attack on academic freedom!, *NEDELJNA NA[A BORBA*, 18-19 July 1998.

contravention of both the federal⁵⁸ and Serbian Labor Codes of 1996⁵⁹ under which employees hired before the codes went into force are not obliged to sign new contracts.

Nonetheless, most professors did sign new contracts. Education Minister Jovo Todorovi} interpreted the Act as meaning that those professors who did not sign could not hold classes or examinations.⁶⁰ The deans of several Belgrade University schools who refused to sign were re-assigned to work at fictitious «research and publishing centers.» Faculty members, including a member of the Serbian Academy of Sciences and Arts, who were banned by the dean from holding classes, were physically prevented by security from entering lecture halls at Belgrade's Electrical Engineering School.

In contrast to Serbia, the Montenegrin Constitution guarantees autonomy of the university.⁶¹ The republican government appoints only one third of the University Council members and is therefore unable to control the institution.⁶²

8. Freedom of peaceful assembly and association

FRY Constitution, Article 40 (1): "Citizens shall be guaranteed freedom of assembly and other peaceful gatherings, subject to prior notification to the competent authority."

Further restrictions on the freedom of assembly were imposed in Serbia in 1998. Police usually used force to disperse gatherings of opposition supporters, students, workers and ethnic Albanian demonstrators in Kosovo.

8.1. Prevention of public gatherings outside of Kosovo

A gathering staged by the Women in Black organization in protest against the conflict in Kosovo was broken up by police on the ground that the organization had not notified the competent authorities in advance.⁶³ The authorities regularly give this reason when preventing gatherings at which disagreement with official policies is expressed. However, police react in a similar manner even when prior notification of a gathering is made. In April and May, police in Belgrade, Ni{ and Novi Sad preventing an anti-war street performance titled «What's Your Name?» although the organizer, the independent Serbian Student Movement, had obtained all the necessary permits.⁶⁴

Students protesting the adoption of the University Act were beaten by police on 26 May in front of the Serbian Parliament building in Belgrade.⁶⁵ Though the incident was recorded by television cameras, Vljako Stojiljkovi}, the Minister of Internal Affairs, stated to the press: «There has been no intervention. You're talking nonsense.»⁶⁶ Students were again the target of police violence on 29

⁵⁸ Article 80: «Those employed on the date of entry into force of this Law shall not conclude employment contracts.» FR Yugoslavia Labor Code, FRY Official Gazette No. 29/96, 26 June 1996.

⁵⁹ Article 149 (1): Employees hired prior to the date of entry into force of this Law on Amendments to the Labor Code (Official Gazette of the Republic of Serbia, No. 49/95) shall not be obliged to conclude new employment contracts.» Labor Code, Official Gazette of the Republic of Serbia, No. 55/96, 31 December 1996.

⁶⁰ *Zakon o univerzitetu se vrlo uspe{no primenjuj}ŠVery successful implementation of University Act¹, POLITIKA, 22 October 1998.*

⁶¹ Dragoljub Popovi}, in Slobodanka Ast, *[ta }e vam autonomija? ŠWhy do you need autonomy?¹, VREME, 23 May 1998; Article 63 of the Constitution of Montenegro states: «The autonomy of the university and institutions of higher education shall be guaranteed.»*

⁶² *Ibid.*

⁶³ I.K., *Policija prekinula protest ŠProtest disrupted by police¹, NA[A BORBA, 16 March 1998.*

⁶⁴ Ana Lukovi}, *Ruglo od grada ŠSuch an ugly city¹, NIN, 23 April 1998; Z. Miladinovi}, *Performans «Kako se ti zove{« zabranjen ju-e u Ni{u ŠWhat's Your Name performance in Ni{ prevent yesterday by police¹, NA[A BORBA, 25 April 1998; P.P., MUP: Bez antiratnih poruka ŠInterior Ministry: No anti-war messages¹, NA[A BORBA, 4 May 1998.**

⁶⁵ N. Todorovi} & J. Mandi}, *Prebijeni studenti i gra/ani ŠStudents and citizens beaten up¹, NA[A BORBA, 27 May 1998.*

⁶⁶ *Intervencija policije na Platou – glupost ŠPolice intervention on plaza - nonsense¹, NA[A BORBA, 27 May 1998; N.K. – S.B., Ukinuta autonomija ŠAutonomy abolished¹, DANAS, 27 May 1998.*

May⁶⁷ and, particularly brutally, on 2 June when they tried to march to the Serbian government building to protest against the University Act.⁶⁸

Worker protests were also obstructed. On 23 April, police prevented several hundred demonstrators, members of the Nezavisnost 'Independence' Union, from marching through central Belgrade.⁶⁹ Workers at an arms factory in Kragujevac demonstrated in April, May and June, demanding pay which was several months in arrears. On 23 June, police blocked access roads to the city to prevent union members from other parts of Serbia from joining in the protest.⁷⁰

8.2. Discriminatory dispersal of demonstrations

A series of demonstrations by both Albanians and Serbs took place in Kosovo in the first half of the year. Serbs were allowed to protest without hindrance while police on several occasions used force to disperse Albanian protesters.

On 2 March, police used water cannons and nightsticks to break up a demonstration by some 50,000 ethnic Albanians protesting against the killing of 26 Albanians in Jirez and Liko{ane villages on 28 February and 1 March⁷¹ (1.a. *Violation of right to life in Kosovo*). The Serbian Ministry of Internal Affairs stated afterwards that «demonstrations or similar actions in support of terrorism will not be allowed.»⁷² Over 50 Albanians were injured and several news reporters beaten up in this incident.⁷³

Jerim Muri}i (51), was killed during a protest in Pe} on 18 March. According to his daughter and cousin, police gave demonstrators five minutes to disperse but, two minutes later, fired at the crowd and fatally wounded Muri}i. The next day, the Serbian Ministry of Internal Affairs issued a statement denying that police had used firearms.⁷⁴ The *Dnevni Telegraf* reported that police had to interpose themselves between Albanian demonstrators and some 1,500 Serbs and Montenegrins who were moving toward the Albanians.⁷⁵ The next day, more than 20,000 Serbs and Montenegrins demonstrated without hindrance in Pe}, protesting against ethnic Albanian separatism and the international community's Kosovo policy.⁷⁶

Serbs protest were allowed also in Pri{tina.⁷⁷ Demonstrations were held on 18 and 19 March and were particularly massive on 23 March when Serbs protested against an agreement reached that day

⁶⁷ D.P. – N.T., *Uporniji od profesora* antrfile ŠMore staying power than professors!, box «Studenti prebijeni, taksista uhap{en} ŠStudents beaten up, cab driver arrested!, NA[A BORBA, 30 May 1998.

⁶⁸ V.P.-G.Br., *Isterivanje /avola iz Vlade Srbije* ŠExorcism at Serbian Government!, DANAS, 3 June 1998.

⁶⁹ G. \uki}, *Policija spre~ila {etnju* ŠPolice prevent march!, NA[A BORBA, 24 April 1998. A public referendum organized by the government to win support for refusing foreign mediation in settling the Kosovo crisis was held that day; G. \uki}, *Danas referendum sveta rada* ŠToday's referendum – a show for the world!, NA[A BORBA, 23 April 1998.

⁷⁰ Z. Radovanovi}, *Po~etak zajedni~ke borbe za radni~ka prava* ŠCommon struggle for workers' rights begins!, NA[A BORBA, 24 June 1998; S.Radosavljevi}, *Policija blokirala autobuse sa sindikalcima, Pazarce vratila zbog protivpo`arnog aparata* ŠPolice block union buses, members from Pazar turned back for lacking fire extinguisher!, DNEVNI TELEGRAF, 24 June 1998.

⁷¹ Radojica Barjaktarevi}, *Suzavcem i vodenim topovima rasterali kolonu* ŠMarchers dispersed with tear gas and water cannon!, BLIC, 3 March 1998.

⁷² *Policija rasterala demonstrante vodenim topovima i suzavcem* ŠPolice disperse demonstrators with water cannon and tear gas!, (box: «Demonstrations in support of terrorism will not be allowed»), NA[A BORBA, 3 March 1998.

⁷³ *Policija rasterala demonstrante vodenim topovima i suzavcem* ŠPolice disperse demonstrators with water cannon and tear gas!, NA[A BORBA, 3 March 1998.

⁷⁴ *Demanti policije* ŠPolice denial!, DNEVNI TELGRAF, 20 March 1998.

⁷⁵ S.V., *Umalo sudar sprskih i albanskih demonstranata* ŠClose encounter between Serb and Albanian demonstrators!, DNEVNI TELEGRAF, 19 March 1998.

⁷⁶ S.V., *Protestovalo 20.000 Srba i Crnogoraca* Š20,000 Serbs and Montenegrins protest!, DNEVNI TELGRAF, 20 March 1998.

⁷⁷ S. @ivkovi}, *Kosmet samo u – Srbiji* ŠKosmet can only be part of Serbia!, POLITIKA EKSPRES, 19 March 1998; M.K.-M.V., *Mi postojimo!* ŠWe exist!~, VE^ERNJE NOVOSTI, 20 March 1998.

by Serb and Albanian negotiators on the normalization of education in Albanian-language schools and university.⁷⁸

Ethnic Albanians staged daily half-hour protests in Priština and other Kosovo towns from 9 April to 10 June under the slogan, «Kosovo – the biggest prison in the world.» Police at times used force to disperse the marchers.

The right to public assembly became an issue in Montenegro when supporters of Momir Bulatović began to stage protests. At a rally in Podgorica on 14 January, police used force to break up a demonstration during which a crowd, including several armed men, attempted to enter the building housing the republic's government.⁷⁹

9. Freedom of movement: Right to leave and return to one's country

FRY Constitution, Article 30: «(1) Citizens shall be guaranteed freedom of movement and residence and the right to leave and return to the Federal Republic of Yugoslavia. (2) The freedom of movement and residence and the right to leave the Federal Republic of Yugoslavia may be restricted by federal statute, if so required for criminal proceedings, to prevent the spread of contagious diseases, or for the defense of the Federal Republic of Yugoslavia.»

Freedom of movement was violated on several occasions in Kosovo when police prevented human rights activists from visiting villages that had reportedly been targets of attack by security forces. On one occasion, opposition party leaders had their freedom of movement in Kosovo restricted. Democratic Party President Zoran Djindjić and Vice President Zoran Đinđević were stopped at a police check-point in Kuršumlija, near the Kosovo boundary, on 7 November. After being detained for half an hour, they proceeded, telling the police that only force of arms would deter them. The police allowed them into Kosovo.⁸⁰ The leaders of Democratic Alternative and Social Democracy, Nebojša Đinđević and Vuk Obradović, were stopped at the same checkpoint on the same day and were unable to continue to Kosovo.⁸¹

A federal government decision on the payment of an exit tax when leaving the country has been in force since 1993. Individuals pay 100 dinars (approximately US\$ 7.5) and 200 dinars (US\$ 15) for vehicles.⁸² As the average wage amounts to only 1,200 dinars⁸³ (US\$ 80), these are indeed high taxes. They are unaffordable for many who wish to travel abroad and thus restrict their right to leave the country.

In the 1996-1998 period, the FR Yugoslavia government concluded bilateral agreements with Germany, Switzerland and Sweden⁸⁴ on the return and readmission of Yugoslav citizens without title to remain in those countries. The agreements mainly affect Kosovo Albanians and Muslims from the Sandžak region. On 10 September 1998, the Yugoslav government suspended the implementation of these agreements following a decision by the Council of Ministers of the European Union to ground Yugoslav Airlines (JAT)⁸⁵, and gave as its reason the fact that, under the agreements, the citizens were to be returned on JAT flights.⁸⁶ In the course of 1997, the implementation of the agreements was

⁷⁸ *Podrška naporima za očuvanje integriteta Srbije* Support for efforts to preserve Serbia's integrity¹, POLITIKA, 24 March 1998.

⁷⁹ Bojana Oprijan-Ilić, *Pravo ograničeno pendrekom* Right restricted with nightsticks¹, NA[A BORBA, 27 January 1998.

⁸⁰ D.T., *Ja idem, vi pucajte!* ŠI'm going; you shoot if you want¹, DNEVNI TELEGRAF, 8 November 1998.

⁸¹ *Zadržani* Held back¹, DNEVNI TELEGRAF, 8 November 1998.

⁸² *Taksa za izlazak iz zemlje ostaje* Exit tax stays¹, DANAS, 30 April 1998.

⁸³ Average wage in October 1998. See *Primanja budućih funkcionera* Salaries of future officials¹ (table), BLIC, 9 December 1998.

⁸⁴ The agreement with Sweden was signed on 16 January 1998 in Stockholm. See N.A., *[vedska deportuje 1.800 Albanaca]* Sweden to deport 1,800 Albanians¹, DNEVNI TELEGRAF, 22 January 1998.

⁸⁵ S. Gucijan, *Odlazili u inostranstvo da bi «dokazali» da su ugroženi u Srbiji* They went abroad to «prove» they were threatened in Serbia¹, POLITIKA, 12 September 1998.

⁸⁶ *Suspendovan sporazum o povratku lažnih azilanata* Agreement on return of false asylum-seekers suspended¹, DANAS, 11 September 1998.

obstructed by ill-treatment of returnees and, occasionally, by barring them from entering the country and placing them on the first available return flight.

10. Right of citizens to express their will at free and fair elections

In 1998 a parliamentary election was held in Montenegro while a public referendum on foreign mediation in settling the Kosovo problem took place in Serbia.

10.1. Montenegrin parliamentary election

Montenegro held its parliamentary election on 31 May. Although the leaders of the defeated Socialist People's Party of Montenegro (SNP) and their political allies in Serbia (SPS and JUL) denied the legitimacy of the results, neutral observers assessed the election as free and fair. The CSCE Monitoring Mission concluded that there were no major problems on election day itself.⁸⁷ Representatives of the Podgorica Center for Democracy and Human Rights and the Belgrade Center for Free Elections and Democracy, two organizations which specialize in election monitoring, found that the irregularities registered were too slight to affect the results.⁸⁸

Since it had endorsed the new legislation on electoral rolls and election of deputies, the SNP directed its criticism at the state media and their bias in favor of the ruling Democratic Party of Socialists (DPS) headed by Milo Djukanovi}. The SNP and its allies, in particular JUL, also claimed intimidation of opposition supporters by the authorities during the election campaign.⁸⁹

In late May, human rights NGOs received from the JUL leadership information to substantiate its claims of human and political rights violations during the Montenegrin election campaign. The majority of statements by JUL members and supporters sent to the HLC referred to obstruction of JUL election rallies by unidentified persons in civilian clothes. It was not possible to determine on the basis of the information provided whether these persons were acting on behalf of the Montenegrin authorities. JUL also criticized Montenegrin police for the identity checks and searches of vehicles with Belgrade license plates at the Serbia-Montenegro boundary. In view of the events prior to and after the 1997 Montenegrin presidential election, when armed groups from Serbia were apprehended in that republic and riots involving the use of firearms broke out in Podgorica, and the SNP's threats of fresh unrest,⁹⁰ the measures taken by Montenegrin police in the border area were a reasonable precaution. Notwithstanding, the HLC called on the Montenegrin authorities to investigate JUL allegations that several of its members were harassed by police during the election campaign.

10.1.1. Election laws

The Law on Electoral Rolls was adopted on 11 February 1998 with the votes of all parties represented in the Montenegrin Parliament.⁹¹ The Law on Election of Deputies and Councilmen was also passed by consensus on 17 February.⁹² The first law prescribes that voters must prove their identity at polling stations with identity cards or another document containing a photograph and personal number or ID card number,⁹³ thereby fulfilling the main demand of opposition parties, in

⁸⁷ *Izbori dobro sprovedeni* 'Well-conducted election', DANAS, 2 June 1998.

⁸⁸ *Ibid.*

⁸⁹ Statement by Zoran @i{i}, SNP Vice President, *SNP ne}e priznati nepo{tene izbore* 'SNP will not recognize unfair election', POLITIKA, 29 May 1998.

⁹⁰ FR Yugoslavia Minister of Justice Zoran Kne`evi}, a senior SNP official, called on party supporters to gather in Podgorica streets in the evening of 31 May after closing of polling stations, and said, «We won't demonstrate by banging pots and pans» and that there were others ways for expressing dissatisfaction. D.P., *Bulatovi}evci opet najavljuu nerede* 'ŠBulatovi} supporters announce disorders again', DNEVNI TELEGRAF, 12 May 1998.

⁹¹ D.V., *Crnogorsko «dobar dan» Evropi* 'Montenegro bids Europe «Good day»', NA[A BORBA, 12 February 1998.

⁹² Dragoljub Vukovi}, *Kompromis za demokratsku infrastrukturu* 'Compromise for sake of democratic infrastructure', NA[A BORBA, 20 February 1998.

⁹³ D. Be}irovi}, *Nema glasanja bez upisanog broja li~ne karte ili mati~nog broja* 'No balloting without ID or personal number', POLITIKA, 30 May 1998.

particular Momir Bulatovi}’s SNP, which had contested the regularity of the Montenegrin presidential election in 1997 because voters were not obliged to prove their identity⁹⁴.

Montenegro’s election legislation, in whose drafting OSCE experts took part, reserves five seats in Parliament for regions with an ethnic Albanian majority.⁹⁵ Two candidates fielded by ethnic Albanian parties were elected.⁹⁶ Following the election, the Democratic Alliance and Democratic Union of Albanians entered the government.

10.1.2. *Media abuses during election campaign*

Notwithstanding the generally positive evaluation of the Montenegrin election, neutral observers found that the republic’s leading media – the Montenegrin Broadcasting Organization and *Pobjeda* daily – had given preferential treatment to the ruling Democratic Party of Socialists (DPS) during the election campaign, and that the imbalance exceeded the accepted standards of fair coverage.⁹⁷ On the other hand, the Serbian Broadcasting Organization was distinctly biased in favor of the SNP and critical of the DPS and its partners in the «To Live Better» coalition. In the week leading up to the election, 80 percent of time allocated to the Montenegrin election in Belgrade TV’s prime time news was taken up by positive references to the SNP. In contrast, coverage of Milo Djukanovi} and the DPS was negatively intoned and, at times, insulting.⁹⁸ Radio Belgrade is heard in all of Montenegro while Belgrade TV programs reach only the northern parts of the republic.

10.1.3 *Citizens’ will not recognized*

For months after the November 1996 local elections in Serbia, the Serbian authorities refused to concede the loss of several major cities to the opposition. And for months in 1998, the Serbian authorities and federal government refused to recognize the results of the 1997 Montenegrin presidential election at which the incumbent, Momir Bulatovi}, a major political ally of Slobodan Milo{evi}, lost to his premier, Milo Djukanovi}. Following the 31 May 1998 parliamentary election, assessed by the OSCE Monitoring Mission and independent domestic organizations as free and fair, the Socialist Party of Serbia spokesman said the election was «held in a total media blockade and pressures exerted jointly by the police and mafia in Montenegro.»⁹⁹

10.2. *Referendum in Serbia*

A public referendum on whether or not foreign factors should be involved in settling the Kosovo crisis was held in Serbia on 23 April 1998. In the absence of genuine monitoring, it would appear that the results were rigged to suit the parties which urged the referendum: the SPS, JUL, SRS and Serbian Renewal Movement (SPO). According to the official results, for instance, 130,000 people voted in Pe} Township (Kosovo), the overwhelming majority against foreign involvement. It is highly unlikely that at least 100,000 ethnic Albanians in the township voted in line with the authorities’ exhortations.¹⁰⁰ Nor is it likely that several hundred thousand Albanians of the 1.7 million in Kosovo came out against foreign involvement, as the results indicate. The authorities also claim that the turnout in Belgrade was 50 percent higher than at the September 1997 Serbian parliamentary election. Since all the political parties which urged the referendum took part in those elections, the huge increase seems improbable.¹⁰¹

⁹⁴ Law on Electoral Rolls, see V. @. Joksimovi}, *Usvojen zakon o bira-kim spiskovima*ŠElectoral Rolls Law adopted¹, POLITIKA EKSPRES, 12 October 1998.; Law on Election of Deputies and Councilmen, see Dragoljub Vukovi}, *Kompromis za demokratsku infrastrukturu*ŠCompromise for sake of democratic infrastructure¹, NA[A BORBA, 20 February 1998.

⁹⁵ D. Vukovi}, *Crna Gora jedna izborna jedinica* ŠMontenegro – one election district¹, NA[A BORBA, 18 February 1998.

⁹⁶ *Koalicija DPS, NS i SD dobila 42, a SNP – 29 poslani-kih mandata*ŠDPS-NS-SD coalition wins 42, and SNP 29 seats¹, POLITIKA, 13 June 1998.

⁹⁷ *Izbori dobro sprovedeni*ŠWell-conducted election¹, DANAS, 2 June 1998.

⁹⁸ Report by Monitoring Mission of CSCE Office for Democratic Institutions and Human Rights, in Z.R., *Pobolj{anje, ali... ŠImprovement, but ... ¹*, MONITOR, 4 September 1998.

⁹⁹ J. Kosani}, *Da-i}: Izbori mafija{ki, Bulatovi} ostaje premije*ŠDa-i}: Mafia-style election; Bulatovi} remains prime minister¹, NA[A BORBA, 5 June 1998.

¹⁰⁰ N. Todorovi}, *Repriza u poznatom maniru*ŠRerun in well-known style¹, NA[A BORBA, 29 April 1998.

¹⁰¹ *Ibid.*

11. Ethnic and religious discrimination

11.1. Ethnic communities

The authorities frequently claim that protection of minority and ethnic rights in Serbia is in accordance with the highest European standards.¹⁰² Though the federal and republican constitutions and legislation do not contain *de iure* discriminatory provisions, they are in fact below the standards developed by the Council of Europe, an organization of which FR Yugoslavia, along with only Belarus and Bosnia-Herzegovina, is not a member. In early December, the Federal Parliament ratified the Framework Convention for the Protection of National Minorities adopted by the Council of Europe in 1995. This was an unusual political gesture since, under the Convention, FR Yugoslavia could accede to it only if invited to do so by the Council's Committee of Ministers.¹⁰³ The explanatory report on the Framework Convention specifies that the Committee of Ministers may invite a non-member state of the Council of Europe to accede to the Convention on condition that the state participates in the OSCE.¹⁰⁴ The Committee of Ministers had not invited FR Yugoslavia to accede as its membership of the OSCE has been suspended since July 1992.

A particular segment of discrimination against non-Serbs and non-Montenegrins and Roman Catholic and Muslim believers is the image of them created in the media. Notwithstanding the express prohibition of incitement to national and religious hate and intolerance embodied in the Yugoslav Constitution (Art. 50)¹⁰⁵ and federal Criminal Code (Art. 134),¹⁰⁶ pro-government and numerous other media have with impunity incited such hate and intolerance since the late 1980s. When the conflict in Kosovo broke out, for instance, the Belgrade daily *Politika Ekspres* printed an article headlined «Bravest When They Run and Steal»¹⁰⁷ The journalist cited in the subtitle the words of the commanding officer of an SS division in Kosovo during World War II: «An Albanian attacks only until he finds something to steal or plunder. When he does, the war is over for him.»

11.1.1. ALBANIANS

Ethnic Albanians in Serbia boycotted the 1991 census. Most estimates put their number in Kosovo between 1.7 and 1.8 million. In the course of 1998, the pro-government daily *Politika* published several articles attempting to prove that the Albanian population is far smaller. In the middle of the year, Ivan Sedlak, the Minister for Minority Rights, said the figure of 1.7 million was «used by Albanian leaders to promote their own interests,»¹⁰⁸ and stated that there were 1.2 million Albanians in Serbia.¹⁰⁹ And, in an interview with *Washington Post* and *Newsweek* in December 1998, Slobodan Milošević estimated some 800,000 Albanians in Kosovo.¹¹⁰ However, in a 1997 report to the

¹⁰² e.g. SPS Main Committee Press Office release: in *Srbija garantuje sva prava nacionalnih manjina i etni-kih zajednica po najvišim evropskim standardima* ŠSerbia guarantees all rights of national minorities and ethnic communities according to the highest European standards¹, POLITIKA, 1 April 1998.

¹⁰³ «After the entry into force of this framework Convention and after consulting the Contracting States, the Committee of Ministers of the Council of Europe may invite to accede to the Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe, any non-member State of the Council of Europe which, invited to sign in accordance with the provisions of Article 27, has not yet done so, and any other non-member State.» Framework Convention for the Protection of National Minorities, Article 29 (1).

¹⁰⁴ Explanatory report on the Framework Convention for the Protection of National Minorities, para. 99: « It is understood that "other States" are those States which participate in the Conference on Security and Co-operation in Europe.»

¹⁰⁵ FRY Constitution, Article 50: «Any incitement or encouragement of national, racial, religious or other inequality as well as the incitement and fomenting of national, racial, religious or other hatred and intolerance shall be unconstitutional and punishable.»

¹⁰⁶ Under Article 134, Criminal Code of FR Yugoslavia, incitement and fomenting of national, racial, religious or other hatred and intolerance carries a prison term of one to 10 years.

¹⁰⁷ Rade Negojević, «Najhrabriji kad – be`e i kradu»ŠBravest when they run and steal¹, POLITIKA EKSPRES, 10 March 1998.

¹⁰⁸ Sedlak: Neistine o broju albanskog stanovništvaŠFalsehoods about the size of the Albanian population¹, POLITIKA, 30 May 1998.

¹⁰⁹ *Ibid.*

¹¹⁰ We calculate about 800,000 Albanians in Kosovo, S. Milošević, interview to *Washington Post* and *Newsweek*, carried in GLAS JAVNOSTI, 14 December 1998.

Committee on the Elimination of Racial Discrimination, the FR Yugoslavia government said there were 1,714,768 ethnic Albanians in Yugoslavia, of whom 119,000 outside of Kosovo (41,000 in Montenegro¹¹¹ and 78,000 in Serbia without Kosovo, according to the 1991 census).

Restrictions on property transactions in Serbia

The Serbian Law on Special Conditions for Real Property Transactions has been in force since 1989. Although the law is not discriminatory on its face, the manner in which it is applied brings out that that its enactment was for the purpose of discrimination. It requires the approval of the Ministry of Finance on a case-to-case basis for all real estate sale/purchase/lease contracts in Serbia with the exception of Vojvodina province. Approval is granted only if such contracts do not contribute to altering the ethnic makeup of the population or to the migration of members of a certain ethnic group, and is regularly withheld if the parties are Albanian or Muslim on the one hand and Serb on the other. Conclusion of a contract without Ministry approval is qualified as a misdemeanor and buyers, not sellers who are most often Serbs, face a prison term of 60 days since it is deemed that such transactions create a feeling of insecurity among Serbs and Montenegrins in Kosovo and the Sand`ak region.

Albanian-language education

On 1 September 1996, Slobodan Milo{evi}, then Serbia's president, and Ibrahim Rugova, the Kosovo Albanian leader, signed an agreement on the normalization of education in Kosovo. Two years later, the situation remains virtually unchanged.

Since the 1991/1992 school year, the Serbian authorities have prevented most Albanian-language high schools and all university departments from providing instruction in their own buildings. Albanian schoolchildren and university students and teachers refuse to accept the Serbian uniform school programs and curricula, and have resisted attempts to impose them. On 23 March 1998, the Group 3+3, a committee set up to implement the Milo{evi}-Rugova agreement, formulated a set of measures to give effect to the agreement. These measures envisaged the return by 30 June of Albanian students and professors to Pri{tina University buildings and their access to the libraries, student dormitories and other facilities by 30 September.¹¹² The Group also agreed on the return to public school buildings in Kosovo of all Albanian elementary and secondary school students by 30 April.¹³

Neither the Milo{evi}-Rugova agreement nor the Group made an effort to tackle the main subject of controversy – the school programs and curricula. And on 26 May, the Serbian Minister of Education, Jovo Todorovi}, stated that Albanian students would have to leave Pri{tina University facilities if they refused to accept the uniform programs and curricula.¹⁴

Serb students and professors staged numerous protests in Pri{tina against the agreement, and were supported by a large number of co-nationals in the latter half of March. In mid-May, some 100 students barricaded themselves inside three University buildings just prior to their opening to Albanian students. They were ejected by police on 17 May. The building of the Engineering Department was handed over to Albanian students and faculty members at the beginning of the 1998/1999 academic year and is used also by students of other departments. All other Albanian university students continue receiving instruction in privately-owned facilities. Apart from high school students being allowed to return to their school building in Podujevo, the situation in secondary education in the Albanian language remains unchanged.

According to a report by the FR Yugoslavia government to the Committee on the Elimination of Racial Discrimination, 3,118 ethnic Albanian schoolchildren were receiving classroom instruction in the Albanian language in 11 elementary schools in Montenegro in the 1995/1996 school year. Albanian-language instruction was provided for 900 Albanian high school students in three schools

¹¹¹ Bo`idar I. Mili~i}, *Dr`avni interesi nadja~ali emocije*ŠState interests prevail over emotions¹, NA[A BORBA, 19-20 September 1998.

¹¹² *Nastava u smenama*ŠClassroom instruction in shifts¹ (Text of 3+3 Group measures, points 4, 5 and 6), DANAS, 24 March 1998.

¹¹³ *Ibid.*

¹¹⁴ D. Banjac, *Zajedno – {to da ne? ŠTogether – Why not? ¹* (box: They have to accept curricula), NA[A BORBA, 27 May 1998.

(Plav, Tuzi and Ulcinj).¹¹⁵ The Montenegrin authorities, however, did not allow Albanian schoolchildren displaced from Kosovo to continue their education in Montenegrin elementary and secondary schools on the ground that their diplomas were obtained outside the Serbian education system.

Albanian-language media

The three Albanian-language radio stations in Kosovo are owned by Serbs and broadcast only music and other entertainment. The privately-owned *Koha Ditore* organization, which publishes the Albanian-language daily of the same name, participated in the bidding invited by the Federal Ministry of Telecommunications in 1998 for allocation of radio frequencies and television channels. It did not receive either license. Another Albanian-language electronic medium, Radio 21, also had its application denied.

The independent Radio Kontakt in Priština was ordered to go off the air on 1 July when it included Belgrade's Radio B92, Voice of America and BBC World Service news and information in its until then mainly entertainment program. The station's editors and journalists, members of various ethnic groups, had intended shortly to introduce in-house programming in both Albanian and Serbian.

According to Ministry of Information data, 33 registered and seven unregistered Albanian-language newspapers and magazines come out in Kosovo.¹¹⁶ On 17 December, the Ministry of Information warned five dailies, including the leading *Koha Ditore* and *Bujku*, that misdemeanor and/or criminal proceedings would be instituted against them unless they complied with the new Law on Public Information and other Serbian legislation.¹¹⁷

The first independent radio station in Montenegro with 80 percent of its programming in Albanian started operating at Tuzi, near Podgorica, on 16 September 1998.¹¹⁸ The radio retransmits BBC and Voice of America Serbian- and Albanian-language programs, and Radio Free Europe and local Antena M Radio programs in Serbian. In addition to Podgorica and environs, its broadcasts can be heard also in Ulcinj Township where ethnic Albanians are a large percentage of the population.

11.1.2. MUSLIMS

According to the 1991 census, there were 336,025 Muslims in the territory of the present Yugoslavia,¹¹⁹ mainly in the Sandžak, a border region extending into both Serbia and Montenegro.

Fewer instances of overt repression were registered in the Serbian part of the Sandžak (now Raška District) as compared to previous years. In addition to police violence against Sandžak Muslims, several cases of which were reported in the media and documented by regional human rights groups, the basic complaints of local Muslims are with regard to their unresolved status as an ethnic minority, the increased presence at times of Yugoslav Army troops in the region, restrictions on local electronic media, and the continuation of the interim administration of Novi Pazar, the region's center, imposed by the Serbian government in 1997. According to Muslim intellectuals and political leaders, Muslims have moved out of the region in large numbers owing to the political instability and the economic

¹¹⁵ Committee on the Elimination of Racial Discrimination, Reports of States-Parties under Article 9 of the Convention, 14th periodic report due by 1996, addendum, Yugoslavia, CERD/C/299. Add. 17., 31 July 1997, paragraphs 85-86.

¹¹⁶ M. Petrić, *Na jezicima manjina i etničkih grupa 80 listova* Š80 newspapers in languages of minority and ethnic groups¹, POLITIKA, 5 December 1998.

¹¹⁷ *Upozorenje glasilima na albanskom jeziku* ŠWarning to Albanian-language media¹ (Serbian Ministry of Information press release), POLITIKA, 18 December 1998.

¹¹⁸ *Poela rad prva nezavisna radio-stanica na albanskom* ŠFirst independent Albanian-language radio goes on air¹, NA[A BORBA (FoNet), 17 September 1998.

¹¹⁹ FR Yugoslavia Government Report to Committee on the Elimination of Racial Discrimination, *supra* 115, paragraph 8. Other figures on minorities from this report.

situation.¹²⁰ The conflict in neighboring Kosovo prompted several thousand Sand`ak Muslims to leave during 1998.¹²¹

Muslims not recognized as an ethnic community

Since the breakup of the former Yugoslavia, Sand`ak Muslims are increasingly calling themselves Bosniacs as they regard Bosnia-Herzegovina as their ancestral land. Following the disintegration and in accordance with the generally accepted definition, Muslims, Croats and Macedonians in FR Yugoslavia became national minorities as their co-nationals have homelands outside of Yugoslavia. However, in the report it submitted to the Committee on the Elimination of Racial Discrimination last year, the federal government made no mention of Muslims, Croats and Macedonians in the section dealing with minority rights.

The Muslim ethnic community has no educational or cultural autonomy, possibly because the greater part of the cultural and political public in Serbia consider them ethnic Serbs who profess the Muslim faith. The Serbian Radical Party, one of the three parties making up the ruling coalition, openly denies the specific national features of Muslims.

Police violence in the Sand`ak

On 20 July, *Sand`a-ke Novine*, a local weekly, reported the physical abuse of Ramiz Ali-kovi} at the police station in Ribari}e, a village near the town of Tutin, and printed a photograph showing his left arm in bandages. Ali-kovi} was beaten on 13 July, allegedly for his membership of the Muslim Party of Democratic Action (SDA) and participation three days earlier in a protest rally in Novi Pazar on the anniversary of the interim administration in the town.¹²²

Interim administration in Novi Pazar

The interim administration imposed in Novi Pazar on 10 July 1997¹²³ remains in force. At the November 1996 local election, the List for the Sand`ak – Dr Sulejman Ugljanin won 33 of the 47 seats in the municipal council. On May 14 1998, the Serbian Constitutional Court ruled that the imposition of the interim administration was in accordance with law.

There were many indications in 1998 that the authorities were preparing to introduce an interim administration in Tutin, another Sand`ak municipality. Virtually from the moment the local government was constituted, SPS councilmen boycotted the work of the municipal council because «the flag of another state is displayed in the offices of the Town Hall.»¹²⁴ According to the Belgrade *Naša Borba*, the Serbian Ministry of Local Self-Government in May ordered the Tutin municipal council to discontinue the use of Latin-script typewriters and to write all official documents and records in the Cyrillic script and ekavian dialect.¹²⁵ In early August, the Serbian authorities prohibited the Tutin municipal council from levying some local taxes, and SPS officials accused the local authorities of misappropriating budget funds to finance Sulejman Ugljanin's foreign travel and the work of one-national (Muslim) organizations.¹²⁶

Muslim media in the Sand`ak

¹²⁰ *Nestabilno i bez perspektive* ŠUnstable and without prospects!, DANAS, 29 September 1998 (statement of Rasima Ljaji}a, President, Sand`ak Coalition); Murat Balti}, *Ostajte ovdje* ŠStay here!, PARLAMENT, 16 October 1998 (over 70,000 people have emigrated from or fled Sand`ak since 1991).

¹²¹ A.F., *Masovno iseljavanje Bošnjaka* ŠMassive emigration of Bosniacs!, SAND@A^KE NOVINE, 31 August 1998.

¹²² Albin Gegi}, *Biju i prijete bombama* ŠBeatings and bomb threats!, ÓöÜëíá! Äáí Ý÷âé ñéóóâß óâééääâßééçè. NOVINE, 20 July 1998.

¹²³ The decision was taken on the basis of Art. 45 of the Law on Self-Government under which the government may appoint a new municipal council if it is determined that the elected council has acted unlawfully or in contravention of the Constitution.

¹²⁴ Statement by unidentified SPS official in Tutinu, in M. Dugali}, *SDA ~uva i fotelje i mandate* ŠSDA works only to keep seats!, POLITIKA, 12 March 1998.

¹²⁵ *Vlada naredila samo jirilicu i ekavicu*! ŠGovernment orders use of Cyrillic and ekavian only!!, NA[A BORBA, 7 May 1998.

¹²⁶ Zvonko Prijovi}, *Taksa kao izgovor* ŠTaxes are only an excuse!, DANAS, 7 August 1998.

Three political periodicals written and edited by Muslims come out in the Sand`ak. There are, however, no electronic media whose programming is objective or representative of the views of the majority Muslim population. Muslims are a majority in three municipalities in the Serbian part of the Sand`ak region: Novi Pazar, Sjenica and Tutin. Since the imposition of the interim administration in Novi Pazar in July 1997, the local radio station advocates the political positions of the SPS and JUL. In October 1997, Radio Sjenica started broadcasting programs supportive of the local authorities (List for Sand`ak – Dr Sulejman Ugljanin). Ten days later, police confiscated its equipment and forced it to go off the air.¹²⁷ Faced with this example, the local Muslim party in power in Tutin did not even try to establish a radio station with news and information programs.

Discrimination in personnel policy

Both the Serbian and Montenegrin authorities discriminate against local Muslims where policy-making and appointment of officials are concerned. In its Declaration on the Position of Bosniacs in FR Yugoslavia, the Sand`ak Coalition Main Committee stated that of the 75 judges in 11 municipal and two district courts in the Sand`ak, 51 were Serbs and Montenegrins and only 24 Muslims, although Muslims account for over 50 percent of the total population of the region.¹²⁸ Only two court presidents were Muslims («Bosniacs»), compared to 11 Serbs and Montenegrins. Not a single Muslim held any of the nine senior positions at the Novi Pazar Police Department though 80 percent of the municipality's inhabitants are Muslims.¹²⁹

An incident that occurred in January during the constituting of the Serbian Parliament's Committee on Town Planning and Construction was illustrative of the discrimination by the republican authorities against Muslims. Caucus leaders in the Parliament agreed to elect D`email Suljevi}, a List for the Sand`ak deputy, to chair of the Committee. At the session, however, SPS deputy Slobodan Vuja-i} stated that «a nationalist can't chair a Serbian committee.» He nominated another deputy, also from the SPS, who was duly elected.¹³⁰

The authorities endeavor to cover up this discrimination by appointment to senior positions in the Novi Pazar interim administration of «loyal» Muslims who do not have the support of the local population. The president of the Novi Pazar Municipal Council is Husein Li~ina of the SPS. The nine-member Council includes several other Muslims from the SPS and JUL. The editor-in-chief of the local radio station, Zuhra Mumi}, is a member of JUL.

Muslims in Montenegro

Unlike ethnic Albanians, Muslims in Montenegro, some 15 percent of the republic's population, are not represented in local government bodies and the republican Parliament by ethnic parties. The reasons is that the majority of Muslims voted for the Democratic Party of Socialists (DPS). Two ethnic parties, the SDA and List of Allied Bosniacs-Muslims, failed to win the three percent of votes required to qualify for election.

Sand`a~ke Novine, a Novi Pazar weekly close to the List for the Sand`ak – Dr Sulejman Ugljanin party, on several occasions reported police violence against Muslims in the Montenegrin town of Ro`aje. According to a 3 June report, Milhad Muratovi}, leader of the Bosniac Youth Union of Ro`aje, was beaten and warned against taking part in his party's election campaign. On 21 September, the weekly reported that police beat up a group of Muslims («Bosniacs») who were picking mushrooms outside Ro`aje.¹³¹

11.1.3. ROMA

¹²⁷ Fahrudin Kugi}, *Poseban tretman za Sand`ak*ŠSpecial treatment for the Sand`ak!, SAND@A^KE NOVINE, 15 June 1998.

¹²⁸ «[I]n 1991 about 54 percent of the Sandzak's 420,000 people were Slavic Muslims who lived intermixed with Serbs and Montenegrins, INTERNATIONAL CRISIS GROUP, ÓÜëíá! Äáí Ý-áé ñéóóáß óáééäíäáßêçò. CALM FOR NOW, 9 November 1998.

¹²⁹ M.T., *Nit' su narod, nit' manjina*ŠNeither a people nor minority, NA[A BORBA, 5 May 1998.

¹³⁰ M. Torov, *Povratak sindroma etni~ke podobnosti*ŠReturn of the ethnic fitness syndrome!, NA[A BORBA, 19 January 1998.

¹³¹ A.F., *Milova pendrek-demokratija*ŠMilo's nightstick democracy!, ÓÜëíá! Äáí Ý-áé ñéóóáß óáééäíäáßêçò. NOVINE, 21 September 1998.

There were 143,519 Roma in Yugoslavia according to the 1991 census. Since many Roma declared themselves Serbs or members of some other national group during census-taking, the actual figure is estimated at up to 500,000.

The dire economic circumstances of the Roma population prevent them from exercising many rights, including, in some cases, the right to life. Federal, republican and municipal authorities have not invested effective efforts to improve the living conditions of Roma or introduced any kind of affirmative action to upgrade their education and provide more jobs.

The poverty in which many Roma live is dramatically illustrated by two deaths in 1998. A three-month baby, Emra Beri{a, froze to death in central Belgrade on 15 March.¹³² A Roma boy, Muhamed Aleksi}, died in an abandoned factory building in Belgrade where his and other Roma families were living, because his parents did not have money to buy the medicine he needed.¹³³

Roma organizations have launched a campaign for recognition of the Roma as a national minority in FR Yugoslavia. Such status, they believe, would enable members of the Roma community to enjoy rights envisaged by law specifically as minority rights. In practice, however, there are no obstacles to Roma exercising at least some of those rights. For instance, the Serbian Law on Elementary Education provides for classroom instruction in native languages or bilingual instruction if at least 15 students make such a request.¹³⁴ Hence, this possibility is open to Roma also. In 1998 instruction in the Roma language was provided in elementary schools in Obrovac and Tovari{evo, villages in the Vojvodina municipality of Ba~ka Palanka.¹³⁵ There was such a class in Obrenovac, near Belgrade, in the first half of the year and, periodically since the mid-1980s, about ten classes in Kosovo.

Though these Roma-language classes were a step in the right direction, the overall assessment of the authorities' lack of concern for the education of this community remains. Many Roma children do not attend school at all since they live too far away and no bussing is organized. Many more are assigned to schools for mildly retarded individuals as the result of a culturally biased placement process. In standardized intelligence testing, the majority of Roma children are classified as borderline cases. Additional criteria - socio-economic status, cultural habits and knowledge of Serbian - are then applied to determine whether they should be assigned to regular or special schools. Owing to their poverty and poor Serbian, the great majority are placed in special schools in which they are highly over-represented, making up 80 percent of the student body.

Violence against Roma by police and private citizens

The HLC registered tens of cases of police violence against Roma in 1998. The actual number is much higher but human rights organizations find it difficult to obtain information since Roma generally fear that reporting such cases will lead to greater police repression and reprisals against them. In addition, a large majority of Roma traditionally vote for the ruling parties (SPS and JUL), believing that as «loyal citizens» they will be better treated by the authorities. There are indications of some change in this regard but many Roma do not yet have enough confidence in opposition parties and human rights NGOs, and few turn to them for assistance and legal aid.

Three cases of police violence caused major concern in the Roma community. On 12 January, police in Valjevo (central Serbia) beat up four young Roma men following an incident in a local cafe where a group of Roma were at a party for a friend who had been called up for military service. Some non-Roma at the locale started insulting them with racist remarks. A fight broke out between the four Roma and nine other men. The next day, police came to the homes of the Roma and beat them and cursed their «Gypsy mothers.» The four Roma were then taken to the police station where the beating

¹³² D.T., *Preminula tromese-na beba*ŠThree-month baby dies¹, BLIC, 16 March 1998.

¹³³ Z.M., *Pre mesec dana opštinski centar nudio sme{ta}š*Social work center offered accommodation a month ago¹, NA[A BORBA, 18 March 1998.

¹³⁴ FRY Report submitted to the Committee on the Elimination of Racial Discrimination, *supra* note 115, para. 26.

¹³⁵ *Odeljenje za nastavu na romskom jeziku*ŠClasses receive instruction in Roma language¹, POLITIKA, 20 March 1998.

continued. When he arrived at the police station, a lawyer found one of the young men unconscious.¹³⁶

On 7 May, Krsta Kalinovi}, a Belgrade Roma, without arrested without a warrant. Police beat and threatened him until he consented to report which of his neighbors were involved in criminal activity. Kalinovi} alleges that he was beaten at the police station with nightsticks and a chair and kicked, and that the police threatened that his wife would have to prostitute herself.

Inspectors from the Novi Sad Police Department on 2 September arrested Dino Toplica, chairman of the local branch of the Roma Congress Party, and severely beat his 17-year-old son. Toplica was arrested at the party offices and told that he had been charged with black market money changing. His son, who was at the offices at the time, was also taken to the Police Department. Toplica recounted to the HLC that he was questioned in one room while his son was taken to another, made to kneel and then struck with a nightstick and slapped. Among the questions put to Toplica by Inspector Smiljani} and other officers was how many Orthodox and Muslim Roma there were in Novi Sad, and why he liked music on the *zurle* (traditional woodwind instrument of Muslim Roma) when the tambouritza was the «Gypsies' instrument.»

The incidence of physical assaults on Roma by private citizens dropped sharply in 1998 as compared to the preceding year.

11.1.4. HUNGARIANS

According to the 1991 census, there were 334,147 Hungarians in FR Yugoslavia. They are the largest minority in Vojvodina, 17 percent of the total population of the province,¹³⁷ and predominate (over 50 percent) in seven municipalities.¹³⁸ More than 30,000 Hungarians left the country in the 1991-1994 period because of the war and the economic situation. The six ethnic Hungarian political parties¹³⁹ cannot agree a strategy for the improvement of the minority's status in Serbia.

The 1991 Serbian Law on the Official Use of Languages and Scripts envisages official use of minority languages in parallel with Serbian in areas inhabited by minorities. The Statue of the Autonomous Province of Vojvodina contains an identical provision,¹⁴⁰ and pertains to place and street names, traffic signs, names of legal persons, the use of languages in courts and official documents and the like.¹⁴¹ Under the law, however, administrative and judicial proceedings are conducted in minority languages only in the first instance, in contrast to previous practice in Vojvodina when minority languages were used at all levels.¹⁴² When the parties cannot agree which language to use, the proceedings are conducted in Serbian. All decisions and records must be translated into Serbian. These provisions have resulted in fewer proceedings in minority languages in Vojvodina.¹⁴³ Judges exert pressure on parties to waive the right to proceedings in their language in order to avoid the expensive and time-consuming process of translating all documents and records into Serbian.¹⁴⁴ Furthermore, members of minorities fear that insistence on using their language could influence courts

¹³⁶ B. Puzovi}, *Batine do nesvesti* ŠBeaten senseless!, VE^ERNJE NOVOSTI, 21 January 1998; B. Novovi}, *Privedeni, pa prebijeni* ŠArrested and then beaten up!, POLITIKA EKSPRES, 20 January 1998.

¹³⁷ Vesna Pe{i}, sociologist, in lecture at Institute of Philosophy and Social Theory, 2 December 1998.

¹³⁸ Jovo Paripovi}, *Za{to je Kasa video Slobu* ŠWhy Kasa saw Sloba!, DNEVNI TELEGRAF, 24 January 1998.

¹³⁹ @. Seren~e{, *Ni slike, ni rama* ŠNo picture, no frame!, NA[A BORBA, 23 March 1998.

¹⁴⁰ FRY Report submitted to the Committee on the Elimination of Racial Discrimination, *supra* note 115, para. 31.

¹⁴¹ *Ibid.* para. 30

¹⁴² Tama{ Korhec, *Stalno su`avanje standarda* ŠContinual narrowing of standards!, NA[A BORBA, 7 January 1998.

¹⁴³ MIROSLAV SAMARD@I], *ÓöÜëí! Äáí Ý÷:áé ìñóóâß óâëëäüãâêôçð.* MANJINA U VOJVODINI ŠPOSITION OF MINORITIES IN VOJVODINA!, (Belgrade, 1998), p. 81.

¹⁴⁴ Korhec, *supra* note 142.

or other bodies against them.¹⁴⁵ During the 1980s, some 25 percent of proceedings in Subotica were in Hungarian whereas the number has now declined to less than one percent.¹⁴⁶

Hungarian is an official language along with Serbian in 32 of the 45 municipalities in Vojvodina.¹⁴⁷ In practice, however, place names are inscribed in accordance with Serbian usage.¹⁴⁸ In contravention of the law, there are no placques on the buildings of the Vojvodina Parliament and Executive Council on which the names of these institutions are inscribed in the minority languages.¹⁴⁹ In Subotica, the center of a municipality in which ethnic Hungarians are 43 percent of the population and Serbs 15 percent,¹⁵⁰ only Serbian is used on the PA system at the railway station, and it was only in July that the train timetable appeared in both the Latin and Cyrillic scripts.¹⁵¹

There are 30 municipal and six district courts in Vojvodina. Only one, the municipal court in Senta, has an ethnic Hungarian president.¹⁵² The prefects of the province's seven districts are either Serb or Montenegrin.¹⁵³

Hungarian schoolchildren receive their elementary education in their own language in 83 of the total of 345 schools in Vojvodina,¹⁵⁴ and secondary education in 28 (of 112) schools.¹⁵⁵ The curricula, however, contain almost no courses on Hungarian national culture¹⁵⁶ since they are drawn up by the Serbian Ministry of Education without consultation with minority representatives.¹⁵⁷

In its 1997 report to the Committee on the Elimination of Racial Discrimination, the FR Yugoslavia government said there were 75 Hungarian-language newspapers and periodicals in 1994.¹⁵⁸ However, a 5 December 1998 report in the pro-government daily *Politika*, based on the Serbian Ministry of Information Register of Public Media, gave the figure as 18.¹⁵⁹ The leading daily newspaper, *Magyar Szó* of Novi Sad, pursues an independent editorial policy. Radio Novi Sad operates a 24-hour program in Hungarian and Novi Sad television features several hours of Hungarian-language programming daily. In contrast to *Magyar Szó*, the Hungarian-language television news and current affairs programs reflect the views of the SPS-JUL-SRS majority in the Serbian Parliament.

11.1.5. CROATS

The 1991 census brought out 111,650 ethnic Croats in FR Yugoslavia. The number has dropped in the meantime owing to emigration during the armed conflicts in former Yugoslavia.

¹⁴⁵ SAMARD@I], *supra* note 143, p. 83.

¹⁴⁶ According to Nezavisnost non-governmental organization, Subotica, 16 December 1998.

¹⁴⁷ FRY Report submitted to the Committee on the Elimination of Racial Discrimination, *supra* note 115, para. 32.

¹⁴⁸ A. Meand`ija, *Razgovori sa predsednikom Milo{evi}em konkretni i efikasni* Talks with President Milo{evi} were concrete and effective¹, POLITIKA, 1 February 1998.

¹⁴⁹ Jan Briza, *Vi{ak ili manjak jirilice* Too much or too little Cyrillic¹, NA[A BORBA, 11 February 1998.

¹⁵⁰ *Ibid.*

¹⁵¹ According to Ravnopravnost non-governmental organization, Subotica, 16 December 1998.

¹⁵² *Ibid.*

¹⁵³ SAMARD@I], *supra* note 143, p. 90.

¹⁵⁴ Statement by Bo{ko Pero{evi}, President, Vojvodina Executive Council, in *National Minorities in Vojvodina For Serbia*, POLITIKA, 28 May 1998. These schools are located in 29 of the 45 Vojvodina municipalities. FRY Report submitted to Committee on the Elimination of Racial Discrimination, *supra* note 115, para. 74.

¹⁵⁵ Statement by Bo{ko Pero{evi}, President, Vojvodina Executive Council, in *National Minorities in Vojvodina For Serbia*, POLITIKA, 28 May 1998. FRY Report to the Committee on the Elimination of Racial Discrimination states there are 27 such schools. FRY Report submitted to Committee on the Elimination of Racial Discrimination, *supra* note 115, para. 74.

¹⁵⁶ Korhec, *supra* note 142 («Hungarian-language classes, for instance, study 100 times more Serbian national history than their own.»); Meand`ija, *supra* note 148 («Agreement has been reached in the sphere of education... that joint committees should design programs enabling the study and fostering of the national identity of Hungarians.»)

¹⁵⁷ Korhec, *supra* note 142.

¹⁵⁸ FRY Report submitted to the Committee on the Elimination of Racial Discrimination, *supra* note 115, para. 88.

¹⁵⁹ Petri}, *supra* note 116.

As the result of the breakup of former Yugoslavia, Croats, like Muslims, are *de facto* a national minority but without being able to exercise the rights belonging to minorities. Most ethnic Croats live in Vojvodina (74,808 according to the 1991 census) but have no schools in their language or the possibility of studying their national culture.¹⁶⁰ There are no radio or television programs for members of the Croat national minority.

The Municipal Court in Zemun, a Belgrade municipality in which the extremist Serbian Radical Party is in power, upheld the rights of an ethnic Croat family. In July 1998, it ruled in favor of the Barbali} family who had been forced out of their apartment a year earlier. The apartment was unlawfully occupied by an SRS secretary and her husband.¹⁶¹ In spite of the ruling, the local police, with the open support of the SRS municipal authorities, refused to assist in the eviction of the unlawful occupants, who were soon afterwards even allowed to purchase the apartment. All the indications are that the Barbali}s face a long legal battle to regain their apartment.

11.1.6 BULGARIANS

There are 26,922 ethnic Bulgarians¹⁶² in Serbia, according to the 1991 census. Although Article 48 of the FR Yugoslavia Constitution guarantees the right of national minorities to establish and foster unhindered relations with co-nationals within and outside of Yugoslavia, ethnic Bulgarians came under strong attack in early 1998 when they took a concrete step in this direction. Just before the opening of Caribrod, the Bulgarian cultural and information center in Dimitrovgrad (eastern Serbia), in early February, the state news agency Tanjug said the aim was to create a foundation for actions «from the positions of Greater Bulgaria policies and for territorial claims on FR Yugoslavia.»¹⁶³ In March, when Bulgarians in Bosilegrad announced the opening of a cultural and information in this town too, the local SPS-JUL authorities reacted in the same way and used identical language to condemn the move: «The Center represents an institutional framework for legal political activity from the positions of Greater Bulgaria policies and for territorial claims on Yugoslavia.»¹⁶⁴ In late May, police in Dimitrovgrad disrupted a performance by the Sofia (Bulgaria) ensemble Zornica, one of a series of events commemorating 24 May, Day of Slavic and Bulgarian Literacy, on the grounds that no advance notification of the event had been made,¹⁶⁵ and briefly detained the leader of the Democratic Party of Bulgarians in Yugoslavia (DSBJ) for «organizing an unannounced gathering.»¹⁶⁶

Bulgarian-language weekday radio programs last 15 minutes and 30 minutes on Sunday.¹⁶⁷ They are prepared by members or supporters of the SPS and JUL and are not representative of the views of the Bulgarian minority. The Caribrod radio and television station in Dimitrovgrad, where ethnic Bulgarians are 90 percent of the population, broadcasts a very short daily news program in Bulgarian and seven hours of programming in Serbian.¹⁶⁸ On 11 July, the SRS used the station's airwaves to send a message to DSBJ leader Dr Marko [ukarev to «move to Bulgaria and join his paymasters there.»¹⁶⁹ The message was repeated two days later.

Another case of harassment of ethnic Bulgarian human rights activists occurred on 31 August when Zdenka Todorova, Chair of the Helsinki Committee for the Protection of Human Rights and Freedoms

¹⁶⁰ Korhec, *supra* note 142.

¹⁶¹ M. Z. Milo{evi}, *Dugo putovanje do klju~eva stana*ŠLong battle for apartment¹, NA[A BORBA, 22 July 1998.

¹⁶² FRY Report submitted to the Committee on the Elimination of Racial Discrimination, *supra* note 115, para. 63.

¹⁶³ [ta ho}e «Caribrod» u DimitrovgraduŠWhat does «Caribrod» want in Dimitrovgrad¹, NA[A POLITIKA, 8 February 1998.

¹⁶⁴ V. Risti}, *Kome u op{tini smeta bugarski ambasador*ŠWho in the municipality is bothered by the Bulgarian ambassador¹, NA[A BORBA, 18 March 1998.

¹⁶⁵ *Proteran ansambl iz Sofije*ŠSofia ensemble deported¹, DANAS, 26 May 1998.

¹⁶⁶ Lj. Gogi}, *Reprizirane pretnje radikala*ŠRerun of Radicals' threats¹, NA[A BORBA, 15 July 1998.

¹⁶⁷ FRY Report submitted to the Committee on the Elimination of Racial Discrimination, *supra* note 115, para. 55.

¹⁶⁸ Mile Todorov, *Ljudska prava – razlog za represiju*ŠHuman rights – cause for repression¹, NA[A BORBA, 17 February 1998.

¹⁶⁹ Zdenka Todorova, *Pritisци, hap{enja i pretnje proterivanja*ŠPressures, arrests and threats of expulsion¹, NA[A BORBA, 7 August 1998.

of Bulgarians in Yugoslavia, was taken off a train to Sofia at the border and questioned for three hours in spite of having a valid passport.¹⁷⁰

11.1.6. OTHER

Members of other ethnic groups in FR Yugoslavia demonstrated no public dissatisfaction with their status or possible restrictions on their rights. These are Slovaks (66,863 according to the 1991 census), Romanians (42,364), Macedonians (47,118) and other smaller groups.

11.2. Religious communities

FRY Constitution, Article 43 (1): "Freedom of belief, private or public profession of religion and practicing of religious rites shall be guaranteed.»

Article 50: «Any incitement or encouragement of national, racial, religious or other inequality as well as the incitement and fomenting of national, racial, religious or other hatred and intolerance shall be unconstitutional and punishable.»

The Islamic Community has been endeavoring for 15 years to obtain from the Serbian authorities a permit to build a new mosque in Belgrade. There has been no response to its requests.¹⁷¹ In late January, the authorities of the Belgrade municipality of Vračar denied the Islamic Community further use of its Belgrade residence.¹⁷² During the eviction and subsequent questioning at a police station, the Mufti of Belgrade and his sons were treated roughly¹⁷³ and without the respect due to a religious dignitary. Serbian President Milan Milutinović interceded and the residence was returned to the Islamic Community and the Mufti of Belgrade.¹⁷⁴

Pro-government printed media at times bring out articles that speak in offensive terms of non-Orthodox religious communities. For instance, in a text on relations between Yugoslavia and the Vatican, the Belgrade daily *Politika* wrote: «During World War II, the Vatican also proved itself to be, in the most extreme form, a generator of the massive genocide of Serbs in the Independent State of Croatia.»¹⁷⁵

12. Refugees and displaced persons

12.1. Refugees

The FR Yugoslavia authorities have invested very little effort for the integration in society of refugees or to facilitate their return to their homes. The main obstacle to integration is the Law on Citizenship enacted on 1 January 1997, which does not provide for dual citizenship. Under the law, a person must first renounce the citizenship of another state before he or she can be admitted to Yugoslav citizenship. Fearing that giving up the citizenship of their countries of origin could lead to the loss of their property and other rights there, the majority of refugees hold back from taking this step.

With the exception of positions for which Yugoslav citizenship is a requirement, refugees have the same right to work as envisaged by law for Yugoslav citizens. In practice, however, few have been able to find regular employment in keeping with their qualifications. The majority work for private employers for low pay and without social security.

Under Article 2 (2) of the Serbian Law on Refugees, refugees have an obligation to perform military service like all Yugoslav citizens. This is in contravention of the Convention regarding the Status of

¹⁷⁰ *Kr{enje ljudskih prava aktiviste za za{titu prava}*ŠHuman rights activist's human rights violated¹, DANAS, 1 September 1998.

¹⁷¹ J. Bulaji}, *Izgradnja d'amije u nadle`nosti Republike*ŠBuilding of mosque within competence of republican authorities¹, DEMOKRATIJA, 13 January 1998.

¹⁷² *Privojen beogradski muftija Jusufspahi*ŠMufti Jusufspahi} of Belgrade taken in by police¹, BLIC, 21 January 1998.

¹⁷³ V. Popovi}, *Op{tina zakora~ila u nadle`nost savezne dr`ave* ŠMunicipality encroaches on federal state's competence¹, DANAS, 22 January 1998.

¹⁷⁴ M. Z. Milo{evi}, *Dugo putovanje do klju~eva stana*ŠLong battle for apartment¹, NA[A BORBA, 22 July 1998. p. 13 (box.: *Not the only case*).

¹⁷⁵ R. Kova~evi}, *Vatikanu je smetao Vidovdan*ŠVatican against St. Vitus Day¹, POLITIKA, 15 April 1998.

Refugees whose Article 7 (1) stipulates that states must accord refugees the same treatment as they accord to aliens in general.¹⁷⁶

The authorities have done very little to facilitate the return of refugees to Croatia and Bosnia-Herzegovina. When they signed the accord on the normalization of bilateral relations on 23 August 1996, FR Yugoslavia and Croatia undertook to ensure conditions for the safe return of refugees to their homes or other places of their choice. The two sides were to conclude an agreement within six months of the signing of the accord on payment of compensation without recourse to judicial proceedings for all destroyed, damaged or missing property. No such agreement has been signed yet.

Nor did the Yugoslav authorities support the efforts of the Human Rights Ombudsperson for Bosnia-Herzegovina, the Office of the High Representative and NGOs in Bosnia-Herzegovina and in FR Yugoslavia for the return of refugees' occupancy rights over their apartments. At the beginning 1998, the Office of the Ombudsperson called on refugees from the Federation of Bosnia-Herzegovina to file complaints against the violation of their rights to respect for their homes and enjoyment of their property (Article 8, European Convention on the Protection of Human Rights and Fundamental Freedoms, and Article 1, Protocol 1 to the Convention, respectively). The action, in which the HLC took an active part, brought about the amendment in April 1998 of the Federation's Law on Abandoned Apartments. Despite the urging of NGOs, the Office of Serbia's Commissioner for Refugees was in no way involved in this effort.

In the second half of the year, the authorities adopted the same stand toward the initiative of the UNHCR and NGOs in FR Yugoslavia to assist refugees in filling out claims for repossession of their apartments and distribution of the claims to the appropriate housing authorities in the Federation of Bosnia-Herzegovina. The subject was ignored also by state-controlled media. The HLC was told by a number of refugees that Commissioner for Refugees staff were unable to give them basic information on how to file claims for the repossession of their apartments.

In an attempt to shield Serbia from responsibility for the violation of refugee rights, the republic's Supreme Court on 24 September 1998 quashed the 1997 decisions of a municipal court and the Belgrade District Court ordering the state to pay compensation to refugees from Croatia for the violation of their rights and freedoms. In 1995, during the civil war in Croatia, Croatian Serb refugees were conscripted by force by Serbian police and dispatched to combat zones in Croatia. They were captured, transferred to prisons in Bosnia-Herzegovina and subjected to torture. The municipal court found Serbia in breach of several provisions of the Convention regarding the Status of Refugees (Art. 3 – non-discrimination; Art. 26 – freedom of movement; Art. 33 – prohibition of expulsion or return), and its law enforcement agencies responsible for violation of universal human rights such as the right to life, freedom of movement and protection from torture. On appeal, the District Court ruled Serbia responsible for unlawfully detaining and restricting the movement of the plaintiffs but not for the harm they suffered in consequence of being sent to combat zones. The Supreme Court overruled both decisions, considering that the municipal and the District Court should have established whether or not Serbia had delivered the refugees to the so-called Republic of Serb Krajina at the official request of that «state.» If Serbia had acted on the basis of such a request, the Supreme Court held, it could not be held responsible since the life and freedom of the ethnic Serb refugees would not have been threatened in the territory of the Republic of Serb Krajina on account of their race, religion, nationality or other status under Article 33 of the Convention.¹⁷⁷ The Republic of Serb Krajina was proclaimed in 1991 by Croatian Serbs in territories of Croatia they held until 1995. It was never recognized as an independent state, not even by FR Yugoslavia.

12.1. *Displaced persons*

¹⁷⁶ «Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.» Convention relating to the Status of Refugees of 28 July 1951, 189 U.N.T.S. 150, entered into force April 22, 1954.

¹⁷⁷ «No Contracting State shall expel or return ("*refouler*") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.» Convention relating to the Status of Refugees, *supra* note 175, Article 33 (1).

Hundreds of thousands, mainly ethnic Albanians, were forced to leave their homes during the conflict in Kosovo and seek refuge in other parts of the province, Serbia and Montenegro. Toward the end of the summer, when the crisis was at its peak, the number of displaced was estimated at close to 300,000.¹⁷⁸ UNHCR spokesman Chris Janowski said the forced displacement had not reached the dimensions of ethnic cleansing in the form and scope seen during the war in Bosnia-Herzegovina, though it did contain «elements of ethnic cleansing» such as torching of homes, attacks on civilians and forcing the civilian population to leave certain areas.¹⁷⁹

Information gathered by the HLC implies that the recipients of relief aid and building materials for repair of damaged houses were mainly displaced Serbs. In violation of international law, the authorities prevented the return of displaced Albanians: their homes were destroyed by the police and military, and those who attempted to return were arrested and intimidated. The situation began to improve in October when, to prevent a humanitarian disaster, NATO warned the Yugoslav authorities that it would launch air strikes on military targets.

During the conflict in Kosovo, the Montenegrin authorities on the whole allowed displaced persons into the republic and provided them with basic necessities. On 11 September, however, police stopped some 3,000 people at Plav, a town close to the boundary with Kosovo. The government claimed there were 400 armed members of the Kosovo Liberation Army among the displaced and barred them from entering Montenegro. The family members of these men refused to be separated from them and, two days later, the whole group was transferred over the border of neighboring Albania. Ethnic Albanian political parties in Montenegro, human rights NGOs and the UNHCR mission protested with the Montenegrin government.¹⁸⁰

A number of displaced returned to their homes in the fall and there were no more displaced without shelter at the end of the year. Many of those whose homes were destroyed moved in with relatives or friends. On 19 November, the independent Kosovo Albanian Union estimated their number at 250,000.¹⁸¹ There were just under 200,000 displaced in Kosovo in mid-December according to the UNHCR. The figure reported by the UN Liaison Office in Belgrade was 175,000.¹⁸² Though the estimates vary, they all indicate that only up to 100,000 displaced have been able to return to their homes.

13. Authorities' attitude toward human rights

13.1. Attitude toward punishment for war crimes

The Yugoslav authorities continued in 1998 to prevent the establishing of responsibility for war crimes in Croatia, Bosnia-Herzegovina and Kosovo and bringing the perpetrators to justice. They refused to surrender to the International Criminal Tribunal for the former Yugoslavia (ICTY) persons indicted by the ICTY Prosecutor for war crimes in Croatia, failed to investigate serious breaches of international humanitarian law in Kosovo and, at the same time, blocked such investigations by the Office of the Prosecutor.

Invoking the constitutional prohibition of extradition (Article 17 (3)), the authorities refused to surrender to the ICTY three Yugoslav citizens accused of war crimes in Vukovar (Croatia) in 1991. The provision in fact prohibits extradition to another state but not surrender to a body formed by treaty or a decision of the United Nations. The ICTY is such a body since it was established by a resolution of the UN Security Council. Furthermore, international law does not recognize domestic law as a reason for non-compliance with a state's international obligations. FR Yugoslavia's

¹⁷⁸ According to UNHCR, there were 241,700 displaced in Kosovo in early September, in addition to 14,000 refugees in Albania. UN Inter-Agency Situation report 59, UGEB/MS/HCR/1341, in International Crisis Group, KOSOVO'S LONG HOT SUMMER: BRIEFING ON MILITARY, HUMANITARIAN AND POLITICAL DEVELOPMENTS IN KOSOVO (2 September 1998).

¹⁷⁹ Janovski: *Na Kosovu nema pravog etni~kog ~if*}enjaŠJanowski: No real ethnic cleansing in Kosovo¹, DANAS, 8-9 August 1998.

¹⁸⁰ Veseljko Koprivica, *Seoba iz jednog u drugi pakao Š*From one hell into another¹, DANAS, 19 September 1998.

¹⁸¹ SPKBK: «About 115,000 dislocated Albanians returned home», ARTA (Pri{tina), 19 November 1998.

¹⁸² T. Rakovi}, *Niko nije pod otvorenim nebom Š*No one in the open air¹, GLAS JAVNOSTI, 15 December 1998.

obligation to cooperate with the ICTY, which includes surrender of suspected war criminals and allowing investigations in its territory, is reiterated in several UN Security Council resolutions, from resolution 827 (1993) establishing the ICTY¹⁸³ to resolutions 1160, 1199, 1203 and 1207¹⁸⁴ of 1998.

On 4 November, the FR Yugoslavia government refused to grant visas to ICTY Prosecutor Louise Arbour and her team to conduct investigations into possible war crimes in Kosovo. Informed that she would be granted a visa only to attend an international conference on war crimes the HLC was convening in Belgrade, Prosecutor Arbour declined to travel to Yugoslavia.

The FR Yugoslavia and Serbian authorities refuse to allow the ICTY Prosecutor's Office to work in Kosovo on the ground that there is no armed conflict there to which international humanitarian law is applicable, and that the terrorist activities of a group of Kosovo Albanians are in the jurisdiction of the Yugoslav criminal justice system. However, only the ICTY Trial Chambers, when considering indictments, have the authority to determine whether the Tribunal has jurisdiction. States, in this case FR Yugoslavia, do not have authority to pre-determine that the ICTY lacks jurisdiction or to prevent investigations.

In addition, since some acts defined as punishable by the ICTY Statute, genocide for instance, may be committed in times of peace, the argument on the non-existence of an armed conflict is irrelevant.

No trials for war crimes committed in Bosnia-Herzegovina, Croatia or Kosovo were held in Serbia during 1998. Charges against Slobodan Mi{i} from Vranje were dropped in March. In November 1997, Mi{i} told a news reporter he had killed some 80 people in Bosnia-Herzegovina during the war in which he took part as a volunteer. Although the investigating judge questioned only Mi{i}'s co-fighters, who could hardly be expected to testify against each other, he found that Mi{i}'s statements did not correspond to the facts. The available information suggests that the investigating judge did not request the assistance of the Bosnia-Herzegovina authorities or the ICTY to obtain statements by Muslims and Croats in the area where Mi{i} allegedly committed the crimes.¹⁸⁵

Slobodan «Lugar» Miljkovi}, a Yugoslav citizen indicted by the ICTY for war crimes in Bosnia-Herzegovina, was killed by a former police officer in August 1998.¹⁸⁶ With HLC assistance, his lawyer, Tatomir Lekovi} of Kragujevac, delivered to the ICTY documentation given to him by his client for safekeeping. This documentation reportedly indicates the involvement of high-ranking Serbian police officials in the war in Bosnia-Herzegovina. The Kragujevac Police Department immediately pressed criminal charges against Lekovi} for his allegation that the Serbian Ministry of Internal Affairs and the State Security Service had had Miljkovi} killed, and for stating that he would file against Slobodan Milo{evi} for incitement of national and religious hate, massive deaths, ethnic

¹⁸³ «The Security Council,... 4. Decides that all States shall cooperate fully with the International Tribunal and its organs in accordance with the present resolution and the Statute of the International Tribunal and that consequently all States shall take any measures necessary under their domestic law to implement the provisions of the present resolution and the Statute, including the obligation of States to comply with requests for assistance or orders issued by a Trial Chamber under Article 29 of the Statute.» S/RES/827 (1993), 25 May 1993.

¹⁸⁴ «The Security Council, ... 1. Reiterates its decision that all States shall cooperate fully with the Tribunal and its organs in accordance with resolution 827 (1993) and the Statute of the Tribunal, including the obligation of States to comply with requests for assistance or orders issued by a Trial Chamber under Article 29 of the Statute, to execute arrest warrants transmitted to them by the Tribunal, and to comply with its request for information and investigations; 2. Calls again upon the Federal Republic of Yugoslavia, and all other States which have not already done so, to take any measures necessary under their domestic law to implement the provisions of resolution 827 (1993) and the Statute of the Tribunal, and affirms that a State may not invoke provisions of its domestic law as justification for its failure to perform binding obligations under international law.» S/RES/1207 (1998), 17 November 1998.

¹⁸⁵ Vuka{in Obradovi}, *Zlo-ina ima, zlo-inaca nema* 'There are crimes but no criminals', NOVINE VRANJSKE (Vranje), carried in DANAS, 14.-15 March 1998.

¹⁸⁶ D. Alempijevi}, *Optu`en Lugarov advokat* 'Lugar's lawyer charged', GLAS JAVNOSTI, 3 December 1998.

cleansing in the territory of former Yugoslavia and similar.¹⁸⁷ In early December, the public prosecutor indicted Lekovi} and charged him with libel and defamation of the Serbian police force.¹⁸⁸

Montenegrin officials on several occasions expressed readiness to cooperate with the ICTY. Neboj{a Ranisavljevi} of Despotovac (Serbia), went on trial in Bijelo Polje (Montenegro) in May for complicity in the abduction and killing of 20 passengers, mainly Sand`ak Muslims who were taken off the Belgrade-Bar train on 27 February 1993. The abduction took place at the [trpci railway station, where the tracks pass through Bosnian territory. Ranisavljevi} was arrested by Montenegrin police on 19 October 1996. He admitted his involvement in the abduction and killing of the passengers when questioned by the police and the investigating judge, and was subsequently charged with a war crime against the civilian population. However, when the trial opened on 4 May, Ranisavljevi} denied everything he had said during the investigatory proceedings.¹⁸⁹ Representing the victims' families, HLC attorneys urged bringing of a prosecution against Milan Luki}, allegedly the leader of a Serbian paramilitary group which abducted the passengers, and joining of the two cases. The trial has not resumed, leading human rights NGOs to suspect political manipulation of the case by the Montenegrin authorities as the proceedings were instituted during an election campaign and may have been designed to win Muslim votes. The Montenegrin State Prosecutor has said that the delay is due to the fact that additional information and evidence have been requested from another state (Republika Srpska, Bosnia-Herzegovina).

13.2. *Attitude toward neutral election monitors*

The Montenegrin authorities enabled domestic as well as international organizations to monitor the parliamentary election in the republic. The domestic monitors were the Podgorica Center for Democracy and Human Rights (CEDEM) and the Belgrade Center for Free Elections and Democracy (CESID).¹⁹⁰ In contrast, the Serbian authorities refused to give CESID monitoring status at the parliamentary and presidential elections in 1997.¹⁹¹

13.3. *Attitude toward human rights organizations*

In October, when NATO threatened air strikes in FR Yugoslavia territory, SPS and SRS representatives openly threatened human rights activists and accused them of collaboration with NATO. At a session of the Federal Parliament on 5 October, SRS deputy Rada Trajkovi} stated that, in the event of strikes, Serbs would settle with «these Helsinki Committees and ŠHLC Executive Director¹ Nata{a Kandi}s.»¹⁹² Women in Black, an anti-war organization, was similarly threatened by SRS leader Vojislav [e{elj. Members of the Helsinki Committee for Human Rights in Serbia received anonymous phone threats at the time.

¹⁸⁷ Z. Radovanovi}, *Policija uzvra}a udarac*ŠPolice strike back!, NA[A BORBA, 14 September 1998.

¹⁸⁸ Alempijevi}, *supra* note 186.

¹⁸⁹ *Ranisavljevi} negirao sve izjave iz istra`nog postupka*ŠRanisavljevi~} denies all statements made during investigation!, NA[A BORBA, 5 May 1998.

¹⁹⁰ N. Todorovi}, *Lak{e u Podgorici nego u Beogradu*ŠEasier in Podgorica than in Belgrade!, NA[A BORBA, 21 April 1998.

¹⁹¹ *Ibid.*

¹⁹² Draft transcript of Federal Parliament session on 5 October 1998, p. ZS 4/2.