

REPUBLIC OF SERBIA¹

CCPR A/33/40 (1978)

366. The Committee considered the initial report (CCPR/C/1/Add.23) submitted by Yugoslavia at its 98th, 99th and 102nd meetings on 27 and 31 July 1978 (CCPR/C/SR.98, 99 and 102).

367. The report was introduced by the representative of the State party who gave further information on certain questions dealt with in the report.

368. Referring to the Constitution of Yugoslavia, he stated that the rights and freedoms guaranteed therein might not be denied or restricted; and that they were protected by a whole system of institutions, especially the judiciary. The Constitution provided for the right to appeal to an organ of higher instance in both the judiciary and the administration as well as for the right to initiate proceedings for the assessment of constitutionality and legality before the Constitutional Court. He described in detail the competence of other institutions such as the social attorney of self-management and the self-management courts which were established to secure effective remedies against violations of human rights. In addition, the Office of the President of the Republic, the Assembly and the Federal Executive Council had separate commissions and expert services which considered such representations and complaints as might be submitted by individuals or organizations claiming violations of their rights. In that connection, he pointed out that, in addition to the extraordinary legal remedies against a legally valid judgement, the new law on Criminal Procedure of 1977 had also introduced the right of the accused, who had been duly sentenced to imprisonment, to submit a request for extraordinary revision of a legally valid judgement and that such a request was decided upon by the supreme courts of the Republics and Provinces, and, if the judgements of these courts were contested, by the Federal Court.

369. Commenting on a statement in the report to the effect that the provisions of the Covenant had become a component of the Yugoslav legislation and were thereby already guaranteed, members of the Committee asked whether that meant that the Covenant provisions had been incorporated into federal law and hence took precedence over other laws; whether it followed that they could be invoked before the public authorities by individuals who felt that their rights were being violated and whether people did so in practice. Members also asked what measures had been taken in Yugoslavia to publish the Covenant in languages accessible to the people. Further explanation was requested concerning the meaning of the statement in the report regarding the “linking of the whole of the individual rights and freedoms directly with the character of social relations, as well as with the activities of man himself within these relations”. It was noted that all civil and political rights in Yugoslavia “should be considered as restricted only by the equal freedoms and rights of others and

¹ [Ed. Note: Formerly Yugoslavia. Effective 4 February 2003, the State of Yugoslavia changed its name to Serbia and Montenegro. Effective 6 June 2006, the state again changed its name to Republic of Serbia.]

by the interests of socialist society”, and the representative of Yugoslavia was asked how it was possible to reconcile the need for the realization and protection of those rights with the interest of socialist society.

370. Noting that self-management was the core of the Yugoslav socialist system and provided the context in which human rights were exercised, members of the Committee requested more information about its operation. They asked whether the Government considered that it had any responsibility under international law, and in particular under the Covenant, for the actions and decisions of the self-management bodies and what the individual could do to ensure respect for the rights provided for in the Covenant should they be violated by the judicial system of self-management.

371. Commenting on article 2 of the Covenant, members of the Committee asked whether Yugoslav law provided guarantees against discrimination on the grounds of political or other opinion; whether available remedies included the equivalent of habeas corpus; what were the cases, mentioned in the report, in which the right of appeal may be ruled out by statute, “if protection of rights and the rule of law were ensured in some other way”; and what were the ways in which the rule of law was guaranteed. Specific information was requested as to the manner in which the law on administrative litigation was applied in practice; as to the kinds of administrative disputes in which administrative litigation might be ruled out by statute; as to whether the decisions of administrative authorities were subject to appeal and, if they were what specific matters were excluded from such right of appeal. Members also asked whether a conflict between national legislation and the provisions of an international agreement ratified by Yugoslavia could be brought before the Federal Constitutional Court, and how frequently that Court had ruled that a federal law was unconstitutional.

372. It was noted that, under exceptional conditions, the rights of self-managing organizations and communities might be suspended. Members of the Committee asked what those rights were and whether their suspension was in keeping with article 4, paragraph 4 of the Covenant; and whether Yugoslav law allowed derogation from the rights specified in paragraph 2 of that article.

373. Regarding article 6 of the Covenant, information was sought on what had been done to reduce infant mortality, on violent crimes, on the kinds of offences for which the death penalty was imposed, on the number of death penalties imposed in the previous year, on any such penalty for political offences and on whether consideration had been given to the abolition of the death penalty.

374. Commenting on articles 7 and 10 of the Covenant, members of the Committee asked whether there were any procedural rules prohibiting the use of evidence extracted by illegal methods; what action could be taken by a person alleging ill-treatment by police or other authorities and how such a complaint was investigated; what was the difference between deprivation of liberty and restriction of liberty under Yugoslav law; whether solitary confinement was used and, if it was, under what circumstances and for what periods; whether all prisoners had access to correspondence, to visits by members of their family and friends and to consultations with counsel; and whether Yugoslav law protected individuals from being subjected to medical or scientific experiments.

375. With reference to article 9 of the Covenant, information was requested on whether persons

were imprisoned for political activities which did not involve violence; on the existence of a special régime for political prisoners, the number of political prisoners, and on whether they could be detained without trial; on the power of administrative authorities to detain persons; and on whether preventive detention was possible under Yugoslav law and, if it was, under what circumstances. Noting that in accordance with the Constitution, a written order and a statement of grounds must be promptly served on a detainee, members of the Committee asked whether that provision applied equally to courts of law and to the administrative bodies; how soon a trial had to be held after an indictment had been filed against a person; whether appeal was possible against extended detention after such indictment; and whether State authorities could be punished for illegal deprivation of liberty under the Criminal Law of Yugoslavia.

376. As regards article 12 of the Covenant, it was noted that Yugoslav law provided for issuance of exit visas to citizens wishing to sojourn abroad. Information was requested on the number of cases in which such visas had been refused; on the “security interests” referred to in the report which limited that right; and on whether exit visas were issued to citizens wishing to live in another country.

377. In connection with article 13 of the Covenant, the representative was asked whether aliens could be expelled from Yugoslavia by an administrative order; whether there were any rules regarding the immediate execution of an order for expulsion or whether an expulsion could be stayed through appeals.

378. Commenting on article 14 of the Covenant, attention was drawn by some members to statements in the report to the effect that the judiciary in Yugoslavia was an integral part of a uniform system of power and self-management of the working people. The representative was asked how the independence and impartiality of the judiciary was guaranteed within that framework; whether a judge was liable to be dismissed or disciplined if other agencies of the system felt he had adjudicated in a manner detrimental to their interests; and how the impartiality of judges was ensured in practice in relation to the right of the accused to be presumed innocent until proved guilty. In that connection, it was observed that the system of self-management had created a new category of courts which operated in parallel with ordinary courts and decided on the protection of the rights of citizens. Members wished to know whether a conflict of competence could arise between the two categories of courts; how consistency was ensured in the functioning of the different courts all over the country; whether the self-management courts tried criminal cases, cases between an individual and the State or cases involving political rights; and whether their procedures complied with article 14 of the Covenant. Noting that the public could be barred from a trial for reasons of “public order” or the “special interests of the social community”, some members requested clarification of the meaning of those two expressions. A number of other questions were asked concerning the entitlement of a defendant to minimum guarantees, provided for in article 14 of the Covenant, in the determination of any criminal charge brought against him.

379. In connection with article 18 of the Covenant, one member referred to a statement in the report that the independence of religious communities in conducting their affairs must not be abused for political purposes, and asked how a church could abuse its function, whether religious communities had the right to print and disseminate religious materials and publications, and whether there were

strict guarantees that membership in a religious community was no ground for discrimination.

380. Commenting on article 19 of the Covenant, the representative was asked how the right to be informed and the right to freedom of expression were reconciled; what recourse was open to the citizen if he considered that his right to freedom of expression had been infringed; what means were used to guarantee fulfilment of the constitutional provision requiring the press, radio and television to inform the public truthfully and objectively; whether dissidents were tolerated when engaged in non-violent criticism of the existing order; what restrictions were placed on publications and opinions, especially on political matters; whether foreign or domestic newspapers and periodicals were subject to prior censorship, and, if they were, how that was justified in terms of article 19, paragraph 3 of the Covenant.

381. As regards freedom of assembly and association, further information was requested on the implementation by Yugoslavia of articles 21 and 22 of the Covenant. Members asked whether any form of administrative permission was required to organize a public meeting; whether it was possible for people to establish trade unions or political parties other than the existing ones; whether the role of self-management organizations was similar to that of political parties; and what action could be taken by individuals and groups to ensure respect for their freedom of assembly and of association.

382. In connection with article 25 of the Covenant and the statement in the report that working people exercised power, a number of questions were asked: Was that a reference to legislative, judicial or executive power? How was executive power exercised in practice in view of the fact that the Yugoslav approach envisaged the involvement of the people in the organization of social and economic life? How did self-management socialism operate in relation to the Communist Party of Yugoslavia? What could be done by the citizen to ensure respect for his right of active and passive suffrage if his idea of self-management differed from the official view? Information was requested on the role and accountability of the President; on which organs of the State the legislative powers rested; on the attributes, competence and mode of operation of the various decision-making bodies; and on the links between the self-managing organizations and communities and the central and provincial Governments.

383. Commenting on article 27 of the Covenant, members of the Committee asked whether there were linguistic, ethnic or religious minorities in Yugoslavia other than the nations or nationalities referred to in the Constitution and, if there were, what rights they had with regard to the publication of newspapers and to the establishment of schools and churches.

384. The representative of Yugoslavia commented on the observations and questions summarized in the preceding paragraphs. He described in detail the basic principles of the socialist system of self-management and the way it operated in Yugoslavia through its “organizations of associated labour” and “self-management communities of interests” and emphasized that socialist self-management was not limited to production but had become dominant in social and cultural fields and to an increasing extent was present in State organs. He stated that the effective exercise of rights and responsibilities under the system required free expression of opinions and that self-management provided better protection than any other known social system from the arbitrary acts not only of the State but also of monopolistic groups. He stressed that the system was not only compatible with the Covenant but

provided additional protection for the individual.

385. The representative explained the constitutional structure and socio-political organizations of Yugoslavia and indicated that international agreements calling for the amendment or enactment of statutes by the Republics or Provinces, or entailing special obligations for them, could be concluded only in agreement with the competent republican or provincial authorities. The Covenant, ratified by the Federal Assembly, had been published in all the country's languages and had legal effect as a federal statute, so that all its self-executing provisions could be executed immediately. He confirmed that the constitutional courts had the power to control and annul statutes passed by the Federal Assembly and the assemblies of the Republics and Provinces. Replying to a question concerning administrative disputes, he stated that litigation was excluded in cases where court protection had been ensured outside the administrative dispute, or in matters decided, on the grounds of constitutional authorization, by the Assembly or Presidency of Yugoslavia or the assemblies or presidents of the Republics and Provinces. Administrative litigation, he maintained, was always available where constitutionally guaranteed rights and freedoms were concerned and where other kinds of court protection had not been provided.

386. In connection with a question raised under article 4 of the Covenant, the representative stated that there was no reason to believe that the rights mentioned in paragraph 2 of that article would be affected by the suspension of the Constitution in a state of war.

387. Replying to questions under article 6 of the Covenant, he pointed out that the child mortality rate had decreased remarkably; and that the death penalty was applied only in the case of the cruellest offences and those seriously affecting human rights and the independence of the country, and that it was always provided as an alternative punishment.

388. With reference to questions raised under article 9 of the Covenant, the representative stated that the so-called political prisoners were persons sentenced by the competent courts for committing offences under the criminal law, such as inciting intolerance and hatred between the various nationalities. The law provided only for pre-trial detention and preventive detention did not exist in Yugoslavia. An order for detention could be issued by the authority responsible for internal affairs only by way of exception and had to be submitted to the court within 48 hours; the court alone could decide whether or not the detention should be prolonged. The detained persons had the right to freely-chosen legal assistance, and the authorities had the duty to inform the accused before his first hearing of his right to legal counsel and the right of his counsel to attend the hearing. The duration of detention was kept to the minimum necessary and the court was bound to endeavour to institute proceedings without undue delay.

389. Commenting on questions raised under articles 7 and 10 of the Covenant, the representative pointed out that scientific and medical experiments on prisoners were prohibited, as was solitary confinement save in exceptional circumstances to prevent acts endangering the lives of other prisoners. Special statutes regulated the resocialization of the prisoners and provided for the right of contact with the family and the outside world, through a liberal policy of family visits, vacation at home and early release.

390. Replying to questions under article 12 of the Covenant, the representative indicated that every year millions of Yugoslav citizens spent their vacations abroad; that some 600,000 were employed in foreign countries; that very few applications for passports were rejected, and in such a case, the applicant had the right to initiate administrative proceedings; and that there were no special formalities for the issuance of passports to Yugoslav citizens.

391. In connection with questions raised under article 14 of the Covenant, he stated that self-management courts had no competence in criminal cases; that the Constitution explicitly proclaimed the independence of the courts; and that the judges and the citizens who took part in the administration of justice in the regular courts were elected by the assembly of the competent socio-political community and enjoyed the corresponding immunity.

392. The representative indicated that the exclusion of the public from trials was an exception, practised in the case of trials for political offences involving foreign States or State secrets. The accused could be tried in absentia if he had escaped or was not available, but persons so sentenced had the right to request a retrial. The right of the president of the court to reject witnesses proposed by the defendant was only an exceptional measure to prevent abuses and unnecessary prolongation of the proceedings. The rejection of witnesses whose evidence could change the verdict and the sentence would constitute a ground for a request for repetition of the proceedings, annulment of the sentence and compensation, and entailed the moral responsibility of the judge and the material responsibility of society. It was the duty of the State and of the republican and provincial authorities to compensate persons unjustly convicted or deprived of their liberty.

393. As regards article 18 of the Covenant, the representative gave detailed information on the activities freely undertaken by the 35 religious communities in Yugoslavia, which included publication of periodicals, formation of associations and establishment of schools. In reply to the question as to how religion could be abused for political purposes, he referred to certain historical examples and to the fact that some religious circles and individual clergymen in Yugoslavia had collaborated with the Nazi occupation forces and misused their influence on their followers for the benefit of the Nazis. He also stated that an individual's religious affiliation did not affect his access to public service.

394. Replying to questions under article 19 of the Covenant, the representative stated that the right to be informed was not a substitute for the freedom of the press. Disagreement with the Government could be encountered in public meetings, in the press, in the various organizations and associations and in the Federal Assembly and no one was persecuted in his country simply for differing with the Government. Organizations and private persons had the right to disseminate news and print newspapers. Foreign newspapers and publications were freely available in all Yugoslav cities; the dissemination of certain foreign newspapers, however, could be prohibited under conditions established by statute. There was no press censorship, but the public prosecutors could provisionally prohibit dissemination pending the final decision of the court, if newspapers carried articles which represented the commission of offences punishable by law.

395. In connection with the freedoms provided for in articles 21 and 22 of the Covenant, the representative stated that peaceful assembly was permitted provided that 48 hours' prior notification

was given, if the assembly was to be held in a public place; and that associations could be formed on the initiative of 10 citizens, but had to be registered within 30 days of their formation. Assemblies and associations could be prohibited if their activities endangered the constitutional system of Yugoslavia, the unity or equality of its nations and nationalities, its territorial integrity and its international relations, or for reasons of public order or morals.

396. Replying to questions under article 25 of the Covenant, the representative gave a detailed explanation of the statement in the report that working people exercised power in Yugoslavia, pointing to the popular basis of the whole political system, to the legislative powers of the assemblies at the communal, provincial, republican and federal levels, and to the various self-management bodies and organizations in his country. He stated that the President of the Republic, elected by the Federal Assembly on the basis of a majority vote and secret ballot, promulgated federal statutes and occupied the highest executive and military positions.

397. In connection with questions under article 27 of the Covenant, he pointed out that the Constitution of some Republics and Provinces contained special provisions to protect the cultural and language rights of ethnic groups such as Gipsies.

398. The representative assured the Committee that the questions raised would be considered by the competent authorities in his country and would be borne in mind in the preparation of the next report.

CCPR A/39/40 (1984)

193. Since the second periodic report of Yugoslavia was the first of its kind for any State party to be considered various ways and means for approaching and proceeding with the study of second periodic reports in general were discussed by the Committee at its twentieth session, 466th and 480th meetings, held on 25 October and 4 November 1983 (CCPR/C/SR.466 and 480/Add.1). The Committee took into account, in this connection, the guidelines adopted at its thirteenth session regarding the form and contents of reports from States parties under article 40, paragraph 1 (b) of the Covenant (CCPR/C/20) 12/ and the suggestions made in that regard by its Working Group on General Comments (see para. 59).

194. In pursuance of paragraph (i) of the statement on its duties under article 40 of the Covenant, adopted at its eleventh session (CCPR/C/18), 13/ the Committee during the twentieth session entrusted a working group of three members to review the information so far received by the Committee in order to identify those matters which would seem most helpful to discuss with the representatives of the reporting State. The working group prepared a list of questions to be put to the Yugoslav representative, inter alia, dealing with progress made and measures taken by the Government of Yugoslavia since the consideration of its initial report to implement the provisions of the Covenant and defining particular areas of concern under a number of articles. The list elaborated by the working group and subsequently supplemented by the Committee was transmitted to the Yugoslav delegation prior to its appearance before the Committee, together with a note stressing that the Yugoslav delegation should also expect some questions regarding other articles of the Covenant.

With a view to achieving a more constructive and richer dialogue, the Committee also agreed with the concurrence of the representatives of Yugoslavia, to use a method - different from the one used for the consideration of initial reports - which provided for immediate responses by the representatives to questions that had been posed.

195. The Committee considered the second periodic report of Yugoslavia (CCPR/C/28/Add.1) at its 483rd, 484th and 488th meetings, held on 8 and 10 November 1983 (CCPR/C/SR.483, 484 and 488).

The report was introduced by the representative of the State party who noted that Yugoslavia's second periodic report consisted primarily of answers to questions put by members of the Committee during consideration of Yugoslavia's initial report. The representative stated that while no major amendments to Yugoslav legislation pertaining to civil and political rights had been adopted during the second reporting period, major efforts had been directed towards ensuring the fuller implementation of existing regulations. In this connection, he stated that exceptional efforts had been made to strengthen "self-management", which was seen as the basic pre-condition for realizing and promoting both individual rights and freedoms and for ensuring full equality of the various nationalities in his country; that the Assembly of the Socialist Federal Republic of Yugoslavia had examined in detail the question of the realization of constitutional rights, freedoms, obligations and

12/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 40 (A/36/40), annex VI

13/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 40 (A/36/40), annex IV

responsibilities of citizens and working people and had called upon the Federal Government to report on the practical steps taken to promote and protect such rights and freedoms; that the Federal Chamber of the Assembly had decided to conduct regular reviews relating to the actual exercise and protection of constitutional rights and freedoms and to the execution of Yugoslavia's international obligations and had proposed to the other chamber of the Assembly - the Chamber of Republics and Provinces - to provide for similar concrete action in areas within its competence.

196. The representative of the State party also referred to various human rights' public information and education activities, citing, in particular, the fact that the news media had conducted public debates on human rights issues, that human rights topics were incorporated in school curricula and that a conference had been organized by the Federal Supreme Court in 1981 to acquaint officials of various national institutions, including judges, public prosecutors and police authorities, with international human rights provisions and to provide guidance in the domestic implementation of these rights.

197. Members of the Committee expressed their appreciation to the Government of Yugoslavia for its second periodic report, parts of which they considered impressive and demonstrating that the highest political organs of the reporting State took a direct interest in human rights questions. With regard to the report's format, however, regret was expressed that the Committee's guidelines for the preparation of second periodic reports (CCPR/C/20) 12/ had not been fully observed and that an article by article approach was not followed.

Progress in the implementation of the Covenant

198. With regard to progress in implementing the Covenant's provisions, clarifications were requested concerning the reasons prompting a review of the realization and protection of constitutional rights by the Assembly and about the eventual results of such a review and further information regarding problems and difficulties being encountered. In addition, questions were asked concerning the accomplishment of a special working body which, according to the report, had been set up to monitor the implementation of the recommendations adopted by the Federal Chamber of the Assembly. More information was also sought about the impact of the consideration by the Committee of Yugoslavia's initial report, particularly whether information about the activities of the Human Rights Committee, including its comments on the report, had been made available to the above-mentioned special working body and similar groups.

199. Referring to information received by the Committee from other sources about various initiatives taken by groups in Yugoslavia to amend the Constitution and to improve the implementation of human rights, it was asked what the fate of these initiatives had been.

200. In his reply, the representative of the State party attributed the lack of specifics regarding human rights developments primarily to the fact that the various bodies established to monitor the implementation of various recommendations made and reviews undertaken by the Assembly and its Chambers had only been in existence for a year or so and had not issued any reports as yet.

201. As an example of existing shortcomings and difficulties experiences, he cited a finding by a working group of the Assembly that since the exercise of some human rights was linked to economic factors regulated, under self-management, by collectives and the organizations of associated labour, situations existed that often were not in conformity with existing federal, republican and provincial statutes. The constitutional courts, if seized with such matters, were able to provide remedies, he noted.

202. In reply to a question as to whether there had been any court decisions directly applying the Covenant, the representative cited, inter alia, a passport case before the Constitutional Court where the federal statute had been upheld as being “in accordance with international obligations”.

203. Finally, the representative asserted that the protection of human rights and the dissemination of relevant information was being adequately handled by the media, particularly the broadcasting bodies and newspapers, which devoted much time and space to individual complaints and their remedies; that school programmes and the organizing of human rights days were also devoted to the dissemination of information on human rights; and that the human rights instruments ratified by Yugoslavia had been published in the languages of the various nationalities.

Right of peoples to self-determination

204. Turning to the specific articles of the Covenant and with specific reference under article 1 to Yugoslavia’s reported active involvement in the struggle for recognition and expansion of human rights and its important role in the realization of the rights of peoples to self-determination, it was asked what had been done to promote the rights of minorities in Yugoslavia; how self-management was applied in concrete terms to the different nationalities of the Yugoslavia population, in conformity with the principles of the Covenant; how equality was achieved between those nationalities; and what were the legal provisions on ethnic minorities in the Constitutions of the republics and provinces.

205. In response, the representative referred to the Constitution of 1974 which confirmed the equality of all nations and nationalities. He stated that for the realization of this goal, inter alia, a special fund existed for investment in the economic development of the republics; that 45 per cent of this fund had been allocated to the economically backward autonomous province of Kosovo; that the Constitution provided for equality through concrete measures often found in the provisions of self-management bodies; and that special attention was given to the representation of nationalities in federal, provincial and communal organs of authority. He expressed his Government’s willingness to prepare an additional report regarding provisions of the Constitution and the legislation relating to the equality of nations and nationalities in Yugoslavia.

Article 2 of the Covenant

206. As regards article 2, paragraph 1, clarifications were asked regarding the discrepancy between the text of the Covenant and article 154 of the Constitution in so far as the rights referred to in the Constitution were not recognized “without distinction to political and other opinions”.

207. The representative, while recognizing that this discrepancy in fact existed, pointed out that the Covenant could be directly invoked before the courts. He added that experts on constitutional law were of the opinion that constitutional law prohibited discrimination on grounds of political opinion.

208. Referring to article 2, paragraph 3, it was noted that although article 180 of the Constitution seemed to be in harmony with the Covenant, articles 215 and 216 of the Constitution provided for certain exceptions to the right of appeal and that, in addition, decisions taken in respect of individuals by the Assembly or the Presidency of the Republic were not subject to appeal.

209. In addition, information was requested concerning the distinction in the Yugoslav Constitution between “citizens” and “workers”.

210. Replying to those questions, the representative of the State party pointed out that the right of appeal could be ruled out but only where other remedies existed. He acknowledged, however, that appeals were ruled out in decisions of the Assembly and the Presidency, although this provision of the Constitution was a rather theoretical one. He noted that according to the Constitution “citizens possessed Yugoslav nationality and thereby certain rights; that “workers” were persons to whom the Constitution recognized particular rights; and that there also existed a third category - “every person” - which applied to any other person on Yugoslav territory, such as aliens or stateless persons.

Equality of the sexes

211. Referring to article 3 and noting that Yugoslav law seemed to provide women with a remarkable status, information was requested as to the practical application of the law; particularly how equality between men and women was actually achieved in Yugoslavia where the impact of different cultures and religions had necessarily to be felt; how many women served as deputies and ambassadors; whether requirements concerning divorce were the same everywhere in Yugoslavia; what were the details in legislation relating to the voluntary interruption of pregnancy in the various provinces and republics; whether a housewife was classified as a “worker” and whether legal machinery existed to enable women both to exercise a profession and to discharge household tasks.

212. The representative replied that the problems of women concerned society as a whole, men as well as women; that women had acquired all the rights of “citizen” and “worker”; that society protected women in their reproductive functions and ensured that their aspirations were satisfied; and that Yugoslavia had ratified many international instruments concerning women which had been integrated into domestic legislation. The representative recalled, however, that Yugoslavia had inherited different traditions emanating from different republics and the problems could not be solved immediately and that some legislation, for example, relating to the family reflected the differences among republics.

213. The representative, replying to specific questions, said that in 1982 17.53 per cent of the members of the Assembly of the Socialist Federal Republic of Yugoslavia were women and that the percentage in the assemblies of the federal units varied from 12 to 30 per cent. As regards the status of “housewife” it had been felt that the Yugoslav community was not required to remunerate work performed at home; that women working outside the house was no cause for conflicts; and that

legislation favoured women, particularly in respect of retirement. However, a case had been brought before the Constitutional Court by women doctors who protested against the alleged advantage of early retirement and consequently the law on retirement was amended to enable women to work up to the age of 65.

Emergency situations

214. As regards article 4 of the Covenant, it was noted that article 317 of the Constitution which foresees in case of war or similar situations the suspension of a variety of rights, regulations and parts of the Constitution by decree had been adopted after 1978 (when the Committee had considered the initial report). Information was requested as to whether an exceptional situation had arisen since 1978. The representative replied in the negative, noting that in 1981 because of disturbances in the autonomous region of Kosovo only the right to movement had been restricted, under article 12 of the Covenant.

Right to life

215. Noting that, with regard to article 6, the report stated that “the Yugoslav self-management socialist society is oriented towards abolishing capital punishment”, members inquired how that “orientation” was reflected at the practical level; how the reported 45 different offences punishable by the death penalty could be in line with article 6 of the Covenant, which required that the death penalty might be imposed only for the most serious crimes; and asked whether there was an organized movement in Yugoslavia for the abolition of the death penalty.

216. The representative of Yugoslavia explained that while the number of offences subject to the death penalty seemed high, these were quite exceptional cases related to exceptional situations endangering the internal or external security of the State; that Yugoslav authorities continued to support retention of the death penalty for most serious crimes but that several campaigns were conducted through the media, calling for its abolition.

Treatment of persons

217. Referring to articles 7 and 10, members remarked that although legislation on the treatment of persons deprived of their liberty was exhaustive, implementation seemed to be quite different; that the second periodic report had not answered questions asked during the discussion of the initial report, i.e. whether remedies were available to a person who had been ill-treated by the police; that further information was needed on whether arrangements existed for regular inspection of prisons. It was asked what was the procedure followed in investigating complaints and what measures were taken against officials found to have infringed articles 7 and 10. It was also pointed out that the protection envisaged in article 7 of the Covenant was more extensive than that prescribed in the Law of Criminal Procedure, and it was asked whether there existed legislation that generally prevented people from being subject to a medical or scientific experiment without their consent.

218. While recognizing that there had been a few cases of abuse by members of the police who had been sentenced to imprisonment from one to 10 years, the representative proposed that Yugoslavia’s

next report provide more information in that regard, particularly concerning the prohibition of medical or scientific experiments.

Liberty and security of persons

219. Regarding article 9, information was requested on several points: whether in accordance with article 196 of the Code of Criminal Procedure - which stipulated that a police officer might make an arrest without a warrant - persons might be arrested just for questioning or only subject to certain conditions; whether compensation under article 9, paragraph 5, of the Covenant existed in cases where a person detained for questioning had been released once his innocence had been established.

220. The representative stated that the police had the right to keep a person in detention up to 24 hours; that such detention was only possible in cases specified in article 191 of the Code of Criminal Procedure; that conditions for granting compensation were set out in detail and the provisions in the Code of Penal Procedure so numerous that he would prefer, if the Committee so agreed, to submit all relevant information in an annex to his Government's next report.

Administration of justice

221. With reference to article 14, information was requested by members on the structure of the Yugoslav judicial and administrative system, more specifically, on the characteristics of the ordinary and self-management courts. In this connection, one member requested explanations as to article 230 of the Constitution which stated that judges of regular courts should be elected, re-elected or relieved of office under conditions and by a procedure which should ensure professional expertise and moral-political capabilities, which seem to indicate, in the member's opinion that the judiciary was not separate but part of a uniform system of power and self-management.

222. Another member referred to an inconsistency in article 230 of the Constitution, namely that in paragraph 2 the judicial independence seemed to be guaranteed for regular judges; that however in paragraph 4 of the article 230 no reference was made to the independence of judges of self-management courts.

223. As regards article 14, paragraph 3, information was requested about the legal assistance offered to an accused person in civil and in criminal cases, most particularly, at what stage of the investigation or trial the accused was informed of his right to have legal assistance and could avail himself of the services of counsel, and as regards the arrangements made to grant legal assistance to needy persons.

224. In response to the questions asked with regard to article 14, the representative pointed out that under the Yugoslav judicial system there were four kinds of courts: the regular courts, the commercial courts, the military courts, and the self-management courts, including the courts of associated labour. Regular courts which dealt with civil and criminal action existed on communal, district, republic and provincial level; the federal court acted as body of last instance in exceptional circumstances such as in the case of acts punishable by death and in the case of extraordinary remedies. He stressed the special jurisdiction of the commercial courts which dealt mainly with

disputes involving economic matters and cases relating to social property; organization of these courts differed according to the provinces and republics, the supreme regular court of the province or republic being also the highest instance for disputes on economic activities. The representative briefly referred to the military courts, it being understood that they dealt with criminal offences committed by members of the armed forces. He denied that self-management courts were conventional State organs, describing them as being mainly courts of associated labour dealing with cases relating to such matters as labour relations, wages and self-management agreements. He further stressed that in his opinion, Yugoslav legislature did not make distinctions between regular and self-management courts.

225. Turning to the question of legal assistance to the accused, the representative pointed out that in accordance with the provisions of the Code of Criminal Procedure the defendant was entitled to such assistance at all stages of the proceedings, including the time of first questioning if he was unable to defend himself; if the offence was punishable by a 10-year prison term or if the accused was tried in absentia; that in some cases defence counsel was appointed ex officio by the court but that the accused could ask that a particular lawyer be debarred.

226. The representative then turned to the questions raised concerning the “capabilities” required from professional and lay judges, stressing that the requirement of “political capabilities” of the candidate for judicial office meant this acceptance of the constitutional systems and order of the State; further noting in this connection that professional judges were elected for eight years and could be re-elected without limit.

227. Answering a question about lay judges, the representative explained that lay judges come from any professional background; that for the 423 regular courts the number of lay judges was 53,391 in comparison to 4,797 professional judges, and for the commercial courts, 3,451 lay compared to 258 professional, it being understood that a considerably higher number of lay judges than regular judges were required because the former were not always available to serve and because the ratio of lay to professional judges on a bench was higher.

228. Furthermore the representative asserted that the judicial authorities carried out regular checks in prisons, that the United Nations Standard Minimum Rules for the Treatment of Prisoners were strictly applied in all prisons; and that prisoners, through prisoners’ councils, were permitted a degree of participation in prison administration, particularly regarding their living conditions.

Freedom of expression

229. Clarification was sought of the term “offences against the people and the State” - offences which were punishable by a prison term ranging from one to 10 years or by the death sentence in the most serious cases.

230. The representative indicated that this term covered a large range of acts mostly related to a wartime context, inter alia, counter-revolutionary activities threatening the social system, service in enemy armed forces in wartime, terrorism, conclusion of international treaties detrimental to Yugoslavia, incitement to national, racial or religious hatred and criminal collusion.

231. In connection with the stipulation under article 19 of the Covenant to the effect that restrictions must be expressly provided by law, which meant that the law defining the nature of criminal offences must be very precisely worded, concern was expressed by the members at the vagueness of expressions used in the Yugoslav Criminal Code whose provisions in particular articles 114 and 133 were liable to give rise to misunderstanding. It was pointed out in this connection that offences such as “damage to the reputation of Yugoslav society and against the State”, for which severe prison sentences were provided, could therefore also include expression of opinions differing from those of the Government and hamper the free discussion of public affairs in contravention of articles 19 and 25 of the Covenant. Information was also requested as to whether peaceful campaigns for political reforms and activities of peace movements were authorized.

232. In his response the representative referred to a statement by the Supreme Federal Court, to the effect that only malicious or unjustified criticism of Yugoslavia’s social and political system constituted an offence; that freedom of expression and opinion existed in Yugoslavia, in particular that criticism against the Yugoslav Government was freely expressed by journalists and broadcasters; and that only persons acting with intent to spread false information or to stir up national or religious conflicts had been charged under article 133. The representative of Yugoslav added in this connection that competent authorities were currently reviewing the provisions of articles 114 and 133 of the Criminal Code with a view to formulating observations and proposals designed to improve national legislation.

Political rights

233. As regards article 25, one member requested more detailed information on the role of the Party within the State; in particular whether the Party could wield power vis-à-vis individuals.

234. The representative of the State party observed that the League of Communists - which was not a political party in the conventional sense - had no power in regard to individuals; that it was one of the socio-political organizations - along with- inter alia, trade unions, the Socialist Alliance of the Working Peoples - which formed part of the institutions which the Constitution recognized as having a special role in the development of the Yugoslav social system. He further illustrated the role of the League of Communists by explaining the Yugoslav electoral system, according to which elections were held on three levels: (1) local communities elected the members of the supreme organs of the Federative Republic and the republics and provinces; (2) the organizations of associated labour elected the members of their boards; and (3) the socio-political organs elected members of the social and political boards - a system that demonstrated total separation of powers between the League of Communists and the State.

Protection of minorities

235. Referring to article 27, it was noted that under the provisions of the Constitution the various languages spoken in Yugoslavia were on an equal footing. It was, however, inquired whether children belonging to a minority group residing outside the region where the minority group originated could receive primary and university education in their own language and whether there was a particular demographic threshold to reach.

236. The representative of the State party explained that the six Yugoslav nations and several nationalities, the latter being certain groups which originated in other countries, had the right to their language without a particular requirement, and that, however, there was a threshold of 1 per cent of the population in a community for the enjoyment of the rights inquired about by the Committee.

237. The representative stated that special measures were adopted to promote the development of the culture of nationalities and to ensure equality despite the costliness of these endeavours and the limited resources available. Bulgarian, Albanian, Hungarian, Italian and Czech newspapers were published; the Official Gazette of the Federative Republic was available in all seven languages and broadcasts were transmitted in all languages.

General observations

238. Members thanked the Yugoslav delegation for its frank and detailed replies, in particular for the fact that the delegation had accepted as an experiment for the consideration of Yugoslavia's second periodic report the option of an immediate exchange of questions and answers. Members stated that the co-operation of the Yugoslav delegation had been most valuable and deserved thanks and that the constructive dialogue augured well for the future relations between the Government of Yugoslavia and the Committee.

CCPR A/47/40 (1992)

431. The Committee considered the third periodic report of Yugoslavia (CCPR/C/52/Add.9) at its 1144th to 1147th meetings, on 8 and 9 April 1992 (CCPR/C/SR.1144-1147). (For the composition of the delegation, see annex VIII.)

432. The report was introduced by the representative of the State party, who referred to important changes bearing on human rights that had occurred since the consideration of the second periodic report. In that connection, he said that fundamental changes had been made to the constitutional and legal systems of the Yugoslav Federation conducive to the introduction of a multiparty political system and a market economy and to the full implementation of international human rights standards.

433. The authorities of the Republics of Slovenia and Croatia had violated the constitutional provisions relating to the federal structure of the State and the modalities for amending the Constitution through their unilateral decisions to proclaim independence and secede from Yugoslavia. Both the Constitutional Court of Yugoslavia and the Government had declared those acts illegal and unlawful and their consequences invalid, while reaffirming the right of each nation to self-determination provided that it was not contrary to the principles of democracy. Those acts of secession ignored two particularly sensitive questions: the rights of other peoples to self-determination, which were threatened by such acts, and the status of the borders of the republics concerned. The population of Yugoslavia was indeed multinational in composition and the secession of certain republics could cause members of the same constituent nation, currently citizens of a single State, to become citizens of different States.

434. The adoption of unconstitutional acts by secessionist republics and the upsurge of nationalism throughout Yugoslavia had led to outbreaks of national and religious hatred and armed conflicts. The armed conflict in Slovenia, caused by the forcible takeover by the Slovenian authorities of Yugoslav border posts and customs services, and the war in Croatia, provoked by the persecution of Serbs, had demonstrated that the use of force and recourse to unconstitutional acts led only to severe human losses and damage to property, while widening the gap between the different peoples and increasing their mutual distrust. Furthermore, the withdrawal of Slovenian, Croatian and Macedonian representatives had led to the paralysis of the federal legislative bodies, preventing the adoption of constitutional amendments and of other provisions that required the approval of all republics. The Republics of Montenegro and Serbia had been trying to redefine a new federation of Yugoslavia, open to all other Yugoslav peoples and republics wishing to accede to it. Alongside the Conference on Yugoslavia, preparations were under way to hold new federal elections and adopt a new constitution.

435. Although the rights of national minorities had been adversely affected by the deterioration of the situation in the country, none of the extensive rights provided to minorities under the 1974 Constitution had been reduced. In violation of the Constitutions of Yugoslavia and the Republic of Serbia, ethnic Albanians had declared the so-called Republic of Kosovo. Consequently, the Assembly of the Socialist Autonomous Province of Kosovo had been suspended and other measures

adopted to protect the territorial integrity and constitutional order of the Republic of Serbia. The implementation of those measures had resulted in abuses and those found guilty had been brought to justice. The unsatisfactory situation in Kosovo could be resolved only if two conditions were fulfilled, namely, the holding of democratic and multiparty parliamentary elections in that province and the recognition of the sovereignty and integrity of the Republic of Serbia as the State in which ethnic Albanians lived. In accordance with existing international instruments, the Government believed that national minorities did not have the right to self-determination and secession and strongly opposed the establishment of a new Albanian State.

Constitutional and legal framework within which the Covenant is implemented, state of emergency and self-determination

436. With regard to those issues, members of the Committee wished to receive further information on the effect of the current crisis on the constitutional order in Yugoslavia and on the discharge of Yugoslavia's international obligations to respect and ensure to all individuals subject to its jurisdiction the rights recognized in the Covenant; the status of the amendments to the federal Constitution adopted since November 1988; developments regarding the adoption of new constitutions for the so-called "federal units"; developments relating to the observance of article 1 of the Covenant, in particular in view of the statement in the report that the adoption of amendments establishing federal units as sovereign States had implied that mutual relations in Yugoslavia had to proceed along new lines and had changed its internationally recognized status; and on the new legal system that had come into being as a result of such redistribution of power. Clarification was also requested of the rights that had actually been derogated from during the recent events; in particular, it was asked why Yugoslavia had not declared a state of emergency; why the notification procedure laid down in article 4, paragraph 3, of the Covenant had not been followed; what safeguards and remedies were available to individuals affected by the recent military operations claiming violations of the rights referred to in article 4, paragraph 2, of the Covenant; and what had been the impact of the state of emergency in Kosovo on the exercise of the rights guaranteed under the Covenant, in particular with regard to safeguards and remedies available to individuals. Members further inquired whether the Government intended to ratify the First Optional Protocol to the Covenant, which it had signed on 14 March 1990.

437. In addition, it was noted that, while the Covenant applied to the entire territory of Yugoslavia, the federal Government could protect civil and political rights only in Serbia and Montenegro. The Government was, however, to be considered responsible for the actions of its troops wherever they operated. Furthermore, information was requested concerning the events that had led to the Government resorting to force and to the war-type situation characterized by sieges and violence against civilians; the Government's view on the *de jure* and *de facto* scope of the application of the Covenant under the current rapidly evolving situation in the country; the status of the Covenant in the republics that had chosen to leave the Federation and establish independent States; and the new draft Constitution which was being drawn up to govern those republics that wished to remain in the Federation. Clarification was also requested of a statement in the report which seemed to ascribe the worsening human rights situation to political pluralism.

438. Lastly, clarification was requested of the statement in the report that the issue of the exercise of

the right to self-determination and to secession concerned all the nations within the Socialist Federal Republic of Yugoslavia and that that right could not be regulated unilaterally by the assemblies of the federal units. In that regard, it was asked whether the Constitution actually permitted the republics to assert their right to self-determination. Further information was also requested on efforts undertaken by the autonomous provinces of Kosovo and Vojvodina to exercise the right to self-determination and on the envisaged status of those autonomous provinces under the new Constitution. It was also asked how the measures taken against Albanians in Kosovo during the state of emergency, such as the dismissal of teachers and lawyers and the closure for Albanian schools, could be reconciled with the provisions of article 4, paragraph 1, of the Covenant.

439. In his reply, the representative of the State party emphasized that the Yugoslav Government was no longer in control of the whole territory of the country. Since under the Constitution and international law, peoples and nations had a right to self-determination, including the right of secession, the Government was in the process of drafting rules for secession that would lay down the mutual rights and obligations of the republics and central Government. With regard to the specific situation in certain republics, he explained that in June 1991 the Republic of Slovenia had tried violently and unilaterally to secede by taking over frontiers and customs posts. Yugoslav troops had been withdrawn from Slovenia by a presidential decision that was later deemed unconstitutional by the Constitutional Court. The crisis in Croatia had been precipitated by the attempt of Croatian authorities to adopt a new constitution without the consent of the Republic's Serbian population. Acts of discrimination against Serbs had escalated into attacks by the Croatian army and paramilitary groups against Serbian villages. Yugoslav army units had then been ordered to intervene between the two conflicting sides and they had, in turn, been attacked by the Croatian military, which had proceeded to commit atrocities verging on genocide. The question of Bosnia and Herzegovina was critical since the Republic was made up of Muslims, Croats and Serbs, all with conflicting wishes.

440. Although the Government did not recognize the secession of the breakaway republics, it was endeavouring to cooperate with them in finding a solution to problems of day-to-day existence, which included human rights issues. Given that the secessionist republics had stated that they intended to be bound by international law, there should not be any difficulty in ensuring the continued application of the Covenant in territories outside the de facto control of the federal Government. The most obvious area of difficulty was, however, that of minority rights.

441. Some of the amendments to the 1988 Constitution had been accepted by all the constituent republics. Fifty amendments had, however, not been adopted, and since there were no representatives of Croatia, Slovenia, Macedonia or Bosnia and Herzegovina in the current national Parliament, they could not now be expected to be adopted. A new draft constitution had recently been prepared and would be open for ratification by all republics wishing to remain in the Yugoslav Federation. The Government had submitted to Parliament a proposal to ratify the First Optional Protocol and to make the declaration provided for in article 41 of the Covenant.

442. A state of emergency had been declared in Kosovo in 1981 and lifted in 1989. The Secretary-General had been duly informed in both cases. While judicial remedies offered the best protection for the exercise of the rights guaranteed under the Covenant, it was not always possible, in a climate of interethnic and interreligious hatred, to prosecute all individuals suspected of crimes. All

international obligations of Yugoslavia with regard to ethnic minorities and human rights would be respected under the new constitution, but the status of autonomous provinces had to be different from that of the 1974 Constitution since the rights granted to those provinces had been widely abused in the past.

Right to life, liberty and security of the person, treatment of prisoners and other persons deprived of their liberty and right to a fair trial

443. In connection with those issues, members of the Committee wished to know what had been the nature and extent of the “flagrant violations of basic human rights” that had occurred during military operations; what concrete measures were being taken to ensure strict compliance with articles 6 and 7 of the Covenant; whether investigations had been carried out in respect of violations, particularly regarding cases of torture, disappearances and killings during military operations and action to punish those found guilty and to avoid the recurrence of such acts; what complaints had been made concerning human rights violations by the army and paramilitary groups and what had been done to investigate those cases and to punish the culprits; what arrangements had been made for the efficient supervision of any places of detention and what procedures existed for submitting and investigating complaints; whether there were any independent and impartial procedures under which complaints could be made and investigated about the ill-treatment of individuals by the police, members of the security forces or prison officials; and what concrete measures had been taken since the examination of the second periodic report to strengthen judicial independence and how the current crisis had affected the situation.

444. In addition, although the investigation of atrocities committed by the Serbian army and paramilitary units was welcomed, it was felt that the lack of proper government control over the army had contributed to the deteriorating situation and helped to accelerate the disintegration of the country. In that regard, information was requested on the implementation of articles 6 and 7 of the Covenant in the parts of the breakaway territories under the control of the Yugoslav army; on the orders that had been given to the army as to the military operations to be conducted; and, in general, on any measures envisaged to keep the army under full control. It was also asked how many civilians had been killed during the armed conflict; whether there were any reliable statistics on summary executions and disappearances; and for what crimes the death penalty could be imposed. With regard to articles 9 and 14 of the Covenant, it was inquired what the maximum length of detention pending trial was and whether measures had been taken to strengthen the independence of the judiciary.

445. In his reply, the representative of the State party explained that efforts had been made by the federal army to safeguard the rights of individuals. Many instances had, however, been documented of genocidal acts committed by Croatian military and paramilitary units against the Serbian population in Croatia. Admittedly, the Yugoslav army had not always been able to control its own units, with the result that there had been some regrettable incidents involving destruction of villages, killings and acts of cruelty. However, although the Yugoslav army had committed crimes against humanitarian law, it had not carried out any summary executions. He agreed that those responsible had to be punished and that a recurrence of such crimes had to be prevented. Although it was difficult for the Government to control the army’s activities, given the latter’s state of disintegration,

it bore responsibility for the army's action and was taking steps accordingly. The Government was thus prepared to punish all those responsible for crimes against civilians. A special commission had recently been established to investigate all reported violations of international humanitarian law, regardless of the nationality of the victims. Moreover, 30 members of the army or paramilitary groups were currently in prison for human rights violations and many other cases were under investigation.

446. Although the death penalty had not been abolished in Yugoslavia, it had been applied in a very limited way. There had been no executions in Serbia for 30 years and it was hoped that the new Constitution would abolish capital punishment altogether. Proposals had been made to authorize capital punishment only for the gravest forms of criminal acts perpetrated during a state of war or immediate danger of war, and to limit its application in other circumstances by requiring the unanimity of a panel of seven judges in passing the death sentence.

447. In the territory under federal Government control all interested groups, including non-governmental organizations and the International Committee of the Red Cross, had been invited to inspect places of detention and had offered advice and assistance, especially concerning prisoner exchange. An impartial procedure for handling complaints of ill-treatment existed through the courts and the special investigation committee. Yugoslavia had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its national legislation contained adequate protection against such practices. Under article 16 of the Constitution of the Republic Serbia, a person suspected of having committed a criminal offence could be detained and held in confinement on the basis of an order issued by a competent court of law only when such detention was indispensable for the conduct of criminal proceedings or for reasons of public safety. The length of detention had to be kept as short as possible. The independence of the judiciary had been strengthened by amendments to the federal Constitution and also by the new constitutional law in the various republics. The practice of re-electing judges had been abolished and judges were now elected to permanent posts.

Freedom of movement and expulsion of aliens, right to privacy, freedom of religion, expression, assembly and association, right to participate in the conduct of public affairs, non-discrimination, equality of the sexes and rights of persons belonging to minorities

448. With regard to those issues, members of the Committee wished to receive information on any special limitations and restrictions on the exercise of freedom of movement and expulsion of aliens, the right to privacy, freedom of religion, expression, assembly and association and the right to participate in the conduct of public affairs and on the compatibility of those limitations and restrictions with the relevant provisions of the Covenant; on controls exercised under the present circumstances on freedom of the press and the mass media, including possible censorship; on measures adopted to eliminate the possibility of repression and discrimination based on ethnic, religious or political affiliation, which reportedly were permitted in the legal system of certain republics; on the situation of ethnic, religious and linguistic minorities in the various republics; and on measures taken to promote the enjoyment of minority rights under article 27 of the Covenant.

449. In addition, further information was requested on the procedures to be followed by a national

who wished to leave the country and on the conditions for obtaining a passport. Concern was expressed over the situation of the civilian population in areas of conflict, particularly women, children and the elderly, and the situation of thousands of persons who had been obliged to abandon their homes and were prevented from returning. In that regard, it was asked whether measures were contemplated by the Government to facilitate the return of people who had sought temporary refuge elsewhere in the country or abroad, and to find solutions in cases where homes had been taken from their rightful owners. Further information was also sought on complaints brought by the Union of Independent Trade Unions of Kosovo to the ILO Committee of Experts on the Application of Conventions and Recommendations. Those complaints concerned the alleged refusal by the federal Government in February 1991 to register Kosovo unions or to admit those unions to the collective bargaining process, as well as the unfair dismissal of union members on the grounds that they resorted to industrial action and refused to join Serbian trade unions.

450. Furthermore, information was requested on the closure of Albanian-language schools and the university, the banning of the Albanian-language newspapers and Albanian radio and television stations and on other measures adopted against Albanian cultural institutions. Clarification was also requested of measures taken to secure participation of members of the Albanian minority in the public affairs of Kosovo. Members also wished to know what measures were being taken to reduce tension between religious communities; whether the proportion of minorities conscripted into the Serbian army was higher than their percentage in the general population; what restrictions, if any, were envisaged in the draft law on education in the Republic of Serbia with regard to the teaching of minority languages, particularly Albanian and Hungarian; and what the situation was of the Hungarian minority in the Autonomous Province of Vojvodina.

451. In his reply, the representative of the State party said that the new provisions in the constitutions of the republics placed no restrictions on freedom of movement, freedom of religion or freedom of assembly and association and were fully compatible with international standards. A passport could be refused only because of obligations regarding families or the courts or on grounds of national security. For obvious reasons, however, the movement of persons had been restricted during the armed conflict in areas of direct hostilities and further obstacles had been created by the new international frontiers between the republics. All displaced persons had the right to return to their homes and, in the territory of Krajina in Croatia, United Nations peace-keeping troops would provide a guarantee of safe return.

452. The right to privacy was guaranteed in almost all the new constitutions of the republics. Articles 18 to 21 of the Constitution of the Republic of Serbia contained provisions guaranteeing the right to privacy, the confidentiality of personal correspondence and personal data and the inviolability of the home. There was no censorship of the mass media and any obstruction to the dissemination of information was prohibited unless it could be established that such information was intended to undermine the established constitutional order, to foment violence or racial hatred or to serve other unconstitutional ends. The use of State media by the ruling party was, however, an intricate issue, and in some republics it had been decided that the editorial board and management of such organs would be elected by parliament.

453. Legal provisions existed to protect children during armed conflict and Yugoslavia was bound

by the provisions of various international conventions. Although efforts had been made to evacuate children and provide them with temporary homes, many children had fallen victim to the armed conflict and a high percentage of refugees were children.

454. The right to participate in the conduct of public affairs was fully implemented in Yugoslavia, with the exception of Kosovo where the majority of the Albanian population did not participate in public affairs in the province. That lack of participation was due, however, not to any limitation of their right, but to a deliberate boycott policy. In consequence, it had been necessary to suspend the Parliament of Kosovo and it was now up to the Albanians to take part in elections of the local administrative bodies, to be held later in 1992. Since the Albanian minorities did not recognize the authority of the State, official circles in the Serbian and Yugoslav Governments declined to make any efforts on behalf of the Albanians. The Union of Independent Trade Unions of Kosovo, which consisted solely of ethnic Albanians, had begun a dialogue with the Serbian Government concerning the issue of the dismissal of workers. The Albanian minority had also objected to certain school programmes on the ground that not enough importance had been attached to Albanian history and culture. The number of pupils in schools had decreased slightly and the Albanian-language newspaper as well as several schools had been closed owing to the State's financial position. Although the Serbian Government had proposed negotiations with a view to solving all the outstanding problems, representatives of the Albanian minority had stated that they would participate only if the Serbian Government recognized the Republic of Kosovo, which the Serbian Government was unwilling to do.

455. Turning to other questions, the representative explained that an investigation had also been conducted on the question of conscription and had produced no evidence to substantiate claims that a disproportionate number of conscripts had been recruited from among the Hungarian minority. The Hungarian language was widely used in all areas of public life. The new Serbian Constitution recognized Vojvodina as an autonomous province and the rights of all minorities would continue to be respected. The Government had made great efforts in recent years to create an atmosphere of tolerance and cooperation between different ethnic and religious groups, at a time when the interethnic situation was deteriorating.

Concluding observations by individual members

456. Members of the Committee expressed their appreciation of the fact that, despite the serious events that had occurred in the country, the federal Government had been able to cooperate with the Committee and to submit a report, albeit late, in response to the decision adopted by the Committee on 4 November 1991. However, the report did not cover the whole period since 30 May 1983, the date of submission of the second periodic report, and did not deal fully enough with the problems encountered by the State party in applying the provisions of the Covenant in practice. The dialogue between the Committee and the representatives of the State party had, to a certain extent, provided additional information on the obstacles to the effective application of the Covenant and highlighted certain efforts being made to improve the legal and regulatory framework within which the Covenant was being applied. In that regard, it was noted that a commission had been set up to inquire into allegations of genocide and violation of human rights during the armed conflict.

457. Members regretted that the present crisis prevented the Committee from supervising the application of the Covenant throughout the territory of the State party. With reference to article 1 of the Covenant, they regretted that no procedure had been established under domestic law for implementation of the right to secede recognized in the federal Constitution, which would have enabled the crisis to be settled peacefully. Concern was also expressed about the excessive steps taken under the state of emergency proclaimed in the province of Kosovo to limit the rights and freedoms guaranteed by the Covenant.

458. Members expressed their gravest concern with regard to the atrocities committed during the interethnic conflicts and the many violations of human rights protected by the Covenant, especially those referred to in article 4, paragraph 2, of the Covenant. The many reported cases of summary of arbitrary execution, forced or involuntary disappearances, torture, rape and pillage perpetrated by members of the federal army were particularly regretted. Noting that paramilitary groups and the militia had also been guilty of similar abuses, members also expressed regret at the extremely low number of inquiries into these allegations, the failure to take measures to punish those guilty and prevent any recurrence of such acts, which had left those responsible to enjoy effective impunity. Concern was also expressed over conditions in detention centres; the alarming situation of the civilian population, particularly women, children and the elderly, in areas of conflict; the situation of displaced persons; the extent of the restrictions and limitations placed on the exercise of freedom of movement, the right to privacy, freedom of religion, expression, assembly and association and the right to take part in the conduct of public affairs; the deterioration in the situation of ethnic, religious and linguistic minorities, particularly those of Albanian and Hungarian origin; and the situation of population groups which had become de facto minorities as a result of recent interethnic conflicts.

459. The representative of the State party assured the Committee that its comments would be duly conveyed to his Government, which intended to abide by all provisions of the Covenant and to investigate the excesses of all military units. The Government did not deny the right of the nations of Yugoslavia to self-determination and would not oppose its lawful exercise.

460. In concluding the consideration of the third periodic report of Yugoslavia, the Chairman thanked the delegation for having engaged in a dialogue with the Committee. There was still some doubt as to whether the protection of human rights had been a high priority for the Government in its recent actions. Clearly, efforts had to be made to investigate human rights violations, to punish those responsible and to prevent their recurrence.

Comments of the Committee

461. As indicated in paragraph 45 above, the Committee, at its 1123rd meeting, held on 24 March 1992, decided that henceforth, at the conclusion of the consideration of a State party's report, it would adopt comments reflecting the views of the Committee as a whole.

462. In accordance with that decision, at its 1148th meeting, held on 10 April 1992, the Committee adopted the following comments.

Introduction and positive developments

463. The Committee thanks the State party through its representative for the report it submitted, albeit late, in response to the decision adopted by the Committee on 4 November 1991. The Committee appreciates the fact that, despite the serious events that have occurred in the country, the federal Government has been able to cooperate with the Committee and to present and discuss its report. The Committee takes note of the information contained in the report on the present constitutional and legal situation. It nevertheless regrets the fact that the report does not cover the whole period since 30 May 1983, the date of the submission of the second periodic report, and that it does not deal fully enough with the problems encountered by the State party in applying the provisions of the Covenant in practice. However, the oral dialogue established in the Committee meant that it was to some extent possible to obtain additional information on the obstacles to the effective application of the Covenant and to highlight certain efforts being made to improve the legal and regulatory framework within which the Covenant was being applied. The Committee noted that a commission had been set up to inquire into allegations of genocide and violation of human rights during the armed conflicts.

Factors and difficulties impeding the application of the Covenant

464. The Committee notes that difficulties had arisen in the province of Kosovo, which had led to the proclamation of several successive states of emergency. More recently, the uncontrolled break-up of the State party's institutions had degenerated into violent interethnic conflicts, leading to widespread violations of most of the human rights safeguarded by the Covenant. As a result, a peace-keeping operation has been set up under the cease-fire negotiated under the auspices of the United Nations.

Principal subjects of concern

465. The Committee notes that as things stand, the present crisis prevents it from supervising the application of the Covenant throughout the territory of the State party; because of the federal State's loss of control in a growing number of republics, little information has been communicated to the Committee on the application of the Covenant in those areas. The Committee stresses the importance of continuing to implement the Covenant in those republics. With reference to article 1 of the Covenant, the Committee regrets the fact that there was no procedure under domestic law for implementation of the right to secede recognized in the federal Constitution, which would have enabled the crisis to be settled peacefully. The Committee also regrets the fact that, under the state of emergency proclaimed in the province of Kosovo, excessive steps have been taken to limit the rights and freedoms guaranteed by the Covenant.

466. The Committee expressed its gravest concern with regard to the atrocities committed during the interethnic conflicts. It is disturbed by the many violations of human rights protected by the Covenant, especially those referred to in article 4, paragraph 2, of the Covenant, which are to be safeguarded whatever the circumstances (right to life and prohibition of torture in particular). The Committee greatly regrets the many cases of summary or arbitrary execution, forced or involuntary disappearance, torture, rape and pillage committed by members of the federal army. Paramilitary

groups and militias have also been guilty of similar abuses. The Committee regrets the extremely low number of inquiries made into these violations, the failure to take measures to punish the guilty and prevent any recurrence of such acts, and the consequent impunity of those responsible.

467. The Committee also expresses its concern over conditions in detention centres, the situation of the civilian population, particularly women, children and the elderly, in areas of conflict, and the situation of displaced persons. The Committee also regrets the extent of the restrictions and limitations placed on the exercise of the freedom of movement, the right to protection of privacy, freedom of religion, expression, assembly and association and the right to take part in the conduct of public affairs.

468. The Committee also expresses its concern over the deterioration in the situation of ethnic, religious and linguistic minorities, particularly those of Albanians and Hungarian origin, and the population groups which have become de facto minorities as a result of recent interethnic conflicts.

Suggestions and recommendations

469. In view of the serious situation prevailing in the State party, the Committee recommends that the Government take all necessary measures to stop violations of human rights, particularly those relating to the right to life and the prohibition of torture. These measures should include re-establishment of control over the army, dissolution of paramilitary militias and groups, punishment of those guilty of violations and adoption of measures to prevent a recurrence of such abuses. The Committee also recommends full application of article 27 of the Covenant, which recognizes the right of persons belonging to ethnic, religious or linguistic minorities to enjoy their own culture, to profess and practice their own religion and to use their own language.

CCPR A/48/40 (1993)

363. Deeply concerned about recent events in the territory of the former Yugoslavia affecting human rights protected under the Covenant, having noted that all the peoples within the territory of the former Yugoslavia are entitled to the guarantees of the Covenant, finding that the new States within the boundaries of the former Yugoslavia succeeded to the obligations of the former Yugoslavia under the Covenant, in so far as their respective territories were concerned, and acting under article 40, paragraph 1 (b), of the Covenant, the Committee, on 7 October 1992, requested the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to submit a brief report on certain issues in respect of persons and events now coming under its jurisdiction (see para. 36 and annex VII for the Committee's decision).

364. The report submitted by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) pursuant to the aforementioned decision was considered by the Committee at its 1202nd meeting on 4 November 1992 (see CCPR/C/SR.1202 and Add.1). (For the composition of the delegation, see annex XI.)

365. The report was introduced by the representative of the State party, who said that both the Federal Government and a large part of public opinion in Yugoslavia were fully aware of the shortcomings in the observance and promotion of human rights. Those shortcomings were due to the fact that for almost half a century the country had been under an authoritarian régime. Various legislative amendments concerning crimes of opinion, freedom of association, freedom of the press and police powers had been adopted and a new Constitution had been promulgated. As soon as it had taken office on 15 July 1992, the present Government had set itself the task of transforming a "party-ruled State" into a State subject to the rule of law. It had formulated two important bills concerning the general amnesty for offences committed in connection with the conflict and the status of minorities.

366. Difficulties connected with the cumbersome nature of the State law-enforcement system and with the mentality of officials were impeding full observance of human rights. All social structures had been affected by the conflict ravaging the former Yugoslavia, and that had led to a resurgence of crime and general insecurity and constituted a further obstacle to observance of human rights in the Federal Republic of Yugoslavia. The most serious consequence of that conflict was its repercussions on relations between the various ethnic groups and nationalities which, until recently, had coexisted without particular problems. Another consequence of the conflict had been the influx of 500,000 Serbian refugees from Croatia and Bosnia and Herzegovina or Muslim refugees. Some of those refugees had arrived with their weapons, intent on making a new home in the Republic, even if it meant using force in order to do so, at the expense of members of non-Serbian ethnic groups whom they regarded as their enemies. The media had played a very negative role in that connection by poisoning relations between ethnic groups, stirring up national and racial hatred. Since the beginning of the "Croat war" in the summer of 1991, paramilitary groups beyond the control of any official military authority had emerged. The new Government had disbanded those groups but they were continuing to act in secret, crossing into Bosnia and Herzegovina and committing serious violations of humanitarian law in that territory.

367. The policy of ethnic cleansing had never been practiced in the territory of the Federal Republic of Yugoslavia. Attempts to do so had been made, notably in Vojvodina, by certain individuals or groups with the aim of forcing non-Serbs to leave their homes; the authorities had, however, reacted after being notified by the victims. Various measures had been taken by the authorities, including greater police supervision, the arrest and prosecution of persons accused of having violated the liberty and rights of persons of another nationality or having encouraged ethnic cleansing, the trial of 145 persons for illegal possession of weapons, and the seizure of large amounts of weapons and ammunition. Those measures had led to a decrease in the number of cases of violence against Croats in Vojvodina, where no case of forcible expatriation had been recorded since September. The Croat families who had fled in the tens of thousands were being encouraged by the authorities to return to their homes. Measures had also been taken to remedy the situation in the Plevlja area, where Muslims had been attacked and threatened, investigations had been started and weapons seized.

368. No arbitrary arrests, so-called political killings or disappearances had occurred in the territory of the Federal Republic of Yugoslavia. A few cases of abuse of authority by State officials might have been committed and, in that connection, 101 complaints had been lodged, 50 per cent of them having been found to be without legal foundation. Criminal proceedings had been brought against 32 persons and 12 sentences had been pronounced.

369. There were no detention camps in the territory of the Federal Republic of Yugoslavia. Prisoners taken in the Croat war had been exchanged through the International Committee of the Red Cross and persons who had not yet been exchanged were being held in ordinary prisons that were regularly visited by the International Committee of the Red Cross. An investigation had been initiated into allegations of ill-treatment at the time when there had been detention camps for prisoners of war, and persons who had committed acts of torture or other serious violations of the Geneva Conventions would be brought to justice.

370. The implementation of the measures prescribed by law against persons who advocated national, racial or religious hatred was a very sensitive issue, and a number of newspaper articles and statements on television should accordingly be condemned. In a context where nationalism was very much in evidence, the public prosecutors were not, in the opinion of the Federal Government, sufficiently resolute in bringing charges. Regulations designed to prevent advocacy of hatred and at the same time protect freedom of expression were currently under study.

371. The members of the Committee, on the basis of various consistent reports originating, in particular, from the Special Rapporteur of the Commission on Human Rights and the reports of the Conference on Security and Cooperation in Europe, strongly deplored the extent of violations of human rights in the territories controlled by the Government. They pointed out that the scale of the military means used in Croatia, Bosnia and Herzegovina, the use of matériel of the federal army of the former Yugoslavia, the deployment of air-forces and the use of tanks and large-calibre guns against the heavily bombed towns of Croatia and Bosnia and Herzegovina did not lend credence to the Government's contention that ethnic cleansing was being carried out outside the territory of the Federal Republic of Yugoslavia and was the responsibility solely of paramilitary units beyond the control of the civil and military authorities. Ethnic cleansing was, according to the same sources, one of the objectives of the war and had in fact already been largely attained, thanks to the use of

methods such as summary execution, torture and rape. The acts thus committed incurred the international responsibility of the Federal Republic of Yugoslavia.

372. The members of the Committee nevertheless asked what measures had been taken to terminate ethnic cleansing, and in particular, the long series of summary and arbitrary executions and cases of torture, rape and disappearance; whether a tribunal had been formed to try crimes against humanity; what was the extent of the amnesty envisaged for violations committed in connection with the armed conflict; whether measures had been taken to lessen the seriousness of the human rights situation in Kosovo, which was characterized by arbitrary arrests and detentions, summary executions, ill-treatment of detainees and measures intended to impede the activities of political opponents; what measures had been taken to ensure respect for the existing frontiers; and, in general, for what reason the various nationalities which had previously lived in harmony in the former Yugoslavia had suddenly manifested such hatred towards one another.

373. In his reply, the representative of the Federal Republic of Yugoslavia emphasized that, although dismayed at the events in Bosnia and Herzegovina, the federal authorities were unable directly to influence the situation and conduct investigations of, for example, members of the federal army who had remained in Bosnia after the withdrawal of military forces from that territory. The Federal Government considered that the area of Bosnia where the Serbs were in a majority was an integral part of the Republic of Bosnia and Herzegovina. It avoided all relations with the so-called Serbian Government in Bosnia and was not at the origin of the atrocities committed in Bosnian territory. The conflict itself had mushroomed from a civil war into an international conflict and, consequently the enforcement of the rules of humanitarian law and the apportionment of responsibilities posed extremely complex questions, which must be resolved in the context of the International Conference on the Former Yugoslavia.

374. The Government was firmly resolved, despite the very complex problems of succession in the existing Yugoslavia, to prosecute all persons suspected of war crimes or crimes against humanity. The general amnesty would apply only to offences connected with the conflict, such as desertions, and would not cover war crimes or crimes against humanity. Ethnic cleansing was by no means an official policy aimed at driving the inhabitants out of the areas where they lived, a policy which public opinion would strongly oppose. It was to be hoped that the case of Yugoslavia would be the first opportunity for international justice to pronounce on war crimes and crimes against humanity.

375. As the Special Rapporteur of the Commission on Human Rights had noted, there were no concentration camps or extermination camps in the territory of the Federal Republic of Yugoslavia. As to possible violations of human rights in prison camps, the competent bodies of the Federal Public Prosecutor's Office had in their possession all the information they needed in order to ascertain the facts and punish those responsible. In Kosovo, where coexistence between Albanians and Serbs inevitably led to human rights violations, certain members of the police had already been charged, but what they had done could certainly not come under the heading of mass killings or systematic torture. In Vojvodina, a census had been conducted in order to ascertain the number of young people who had left the region to evade their military obligations and who now qualified under the General Amnesty Act.

376. Referring to the origin of the current situation, he stated that under the previous régime politicians had brazenly embarked on hate campaigns, using the media for that purpose. The passions of the people were now unbridled and it was difficult to make them see reason. Paramilitary groups had organized themselves at the beginning of the civil war in the parts of the territory of the former Yugoslavia where the Serbs were in a majority and had effectively taken over responsibility for the police or the army. For more than 30 years, the Yugoslav army had kept its military arsenal in Bosnia and Herzegovina, and its personnel were mostly Serbs originating from that region or Croatia. It was therefore not surprising that the majority of those soldiers had stayed behind after the federal army had withdrawn.

377. Replying to further questions, he said that, in the new context in which frontiers had been recently established, it was difficult to establish border facilities rapidly. Demarcation lines were not always accurate and it was difficult to monitor the comings and goings of inhabitants in the mountainous region separating Montenegro from Bosnia and Herzegovina. The federal police were unable to intervene directly in areas where fighting was going on and the federal authorities were not competent to act directly to protect human rights. However, the Constitution would probably be amended after the elections of December 1993 so as to give the Federal Government a free hand in the protection of human rights.

Concluding observations by individual members

378. The members of the Committee said they were appalled by the human rights situation in the former Yugoslavia. They were unable to accept the argument of the representative of the Federal Republic of Yugoslavia, who had simply restated that no deliberate policy of ethnic cleansing had been or was being pursued in the territory of the Federal Republic of Yugoslavia and that most of the atrocities had been committed outside the territory by uncontrolled elements. They again emphasized that, in view of the means used, they were unable to endorse the argument that ordinary demobilized soldiers that were badly organized had been able to wage the conflict and pursue systematic ethnic cleansing. States parties were responsible for the observance of human rights when their representatives were involved and when their acts affected human beings even outside their national territory. There were obvious links between the Serbian forces and authorities outside the federal territory and the Federal Republic of Yugoslavia and the Federal Government was directly or indirectly responsible for the violations occurring there. The members of the Committee said they were extremely concerned about the fact that measures had not yet been taken to terminate ethnic cleansing and the serious violations of articles 6, 7, 9, 10 and 20 of the Covenant deriving therefrom outside and within the federal territory, to investigate the events which had occurred and were continuing to occur, or to punish those responsible. They also expressed their deep concern about the special situation in Kosovo, which needed to be addressed rapidly.

379. The representative of the State party stated that the Federal Government was not lacking in political will, but did not have the means to fulfil its international obligation to punish persons found to be responsible for violations of humanitarian law. It did not deny its responsibility.

380. In concluding consideration of the report submitted by the Federal Republic of Yugoslavia, the Chairman of the Committee said that the submission of the report and the presence of a delegation in

the Committee were proof that the Federal Government intended to fulfil its obligations under the Covenant. He nevertheless regretted that the dialogue had not been more constructive because of the delegation's refusal to comment on human rights violations outside the federal territory. It was surprising that the Government should state that it was powerless to react to events that were taking place on its borders and refused to shoulder any responsibility for policies pursued in the name of the Serbian nation. At the domestic level, no effective investigation seemed to have been undertaken into the human rights violations that had occurred there. It was to be hoped that the Federal Government would prove its good will through real action and genuinely fulfil its responsibilities in order to put an end to a situation that was deplored throughout the world.

Comments of the Committee

381. At its 1205th meeting (forty-sixth session), held on 6 November 1992, the Committee adopted the following comments.

Introduction

382. Deeply concerned by recent and current events in the territory of the former Yugoslavia affecting human rights protected under the International Covenant on Civil and Political Rights; noting that all the peoples within the territory of the former Yugoslavia are entitled to the guarantees of the Covenant; and acting under article 40, paragraph 1 (b), of the Covenant, the Committee, on 7 October 1992, requested the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to submit a short report on the following issues in respect of persons and events now coming under its jurisdiction:

(a) Measures taken to prevent and combat the policy of ethnic cleansing pursued, according to several reports, in the territory of certain parts of the former Yugoslavia, in relation to articles 6 and 12 of the Covenant;

(b) Measures taken to prevent arbitrary arrests and killings of persons, as well as disappearances, in relation to articles 6 and 9 of the Covenant;

(c) Measures taken to prevent arbitrary executions, torture and other inhuman treatment in detention camps, in relation to articles 6, 7 and 10 of the Covenant;

(d) Measures taken to combat advocacy of national, racial or religious hatred constituting incitement to discrimination, hostility or violence, in relation to article 20 of the Covenant.

383. Pursuant to that request, the Federal Republic of Yugoslavia submitted a special report dated 30 October 1992, which was considered by the Committee at its 1202nd meeting, held on 4 November 1992. The Federal Republic of Yugoslavia was represented by Mr. Konstantin Obradovic, Deputy Federal Minister for Human Rights and Ethnic Minorities; Ms. Sladjana Prica, Expert, Federal Ministry of Foreign Affairs; Mr. Miroslav Milosevic, Counsellor, Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva; and Mrs. Olga Spasic, Third Secretary, Permanent Mission of the Federal Republic of Yugoslavia to the

United Nations Office at Geneva. The report was taken up and developed by the delegation in its oral statement.

384. The Committee welcomed the delegation, explaining that it regarded the submission of the report by the Government and the presence of the delegation as confirmation that the Federal Republic of Yugoslavia had succeeded, in respect of its territory, to the obligations undertaken under the International Covenant on Civil and Political Rights by the former Socialist Federal Republic of Yugoslavia.

Implementation of the Covenant by the State party

385. In its replies, the Federal Government referred exclusively to the situation in the territory of Serbia and Montenegro. It mentioned a number of instances of criminal proceedings taken against persons responsible for violations of individual freedoms (32 cases) and ethnic cleansing (5 cases). The Government affirmed that those were isolated acts and that it was not conducting any policy of ethnic cleansing. It indicated that there was no concentration camp established in its territory. It said it was dismayed by the atrocities committed in certain parts of Croatia and Bosnia and Herzegovina but declared that it could not assume responsibility for acts committed outside its territory and hence beyond its control. In regard to Kosovo, the Government did not dispute its responsibility but attributed the current state of affairs in that region to antagonism, which it was difficult to overcome between the Serbs and the Albanian "minority".

Concerns of the Committee

386. Various concordant sources of information - Mr. T. Mazowiecki, Special Rapporteur of the Commission on Human Rights, Rapporteurs of the Conference on Security and Cooperation in Europe and non-governmental organizations - describe mass arrests, summary and arbitrary executions, enforced or involuntary disappearances, torture, rapes and looting committed by Serbian nationalists both in Croatia (Krajina) and in Bosnia and Herzegovina. It is reported that some 20 camps are controlled by these armed men and that they are holding thousands of civilians, including women, children and elderly people, in conditions unworthy of the respect due to the human person. Massive violence has been unleashed, inter alia, against Dubrovnik and Vukovar and is still being directed against Sarajevo. The Committee observed that the means deployed and the interests involved demonstrated the existence of links between the nationalists and Serbia which invalidated the Federal Government's claim to be exempt from responsibility.

387. According to the Special Rapporteur of the Commission on Human Rights, Mr. Mazowiecki, the purpose of these acts is to displace or eliminate Muslims, Croats or other nationalities and thus constitute ethnically homogenous areas.

388. The Committee strongly deplored this situation and regretted the refusal of the Federal Government to acknowledge its responsibility for such acts on the grounds that they were committed outside its territory.

Recommendations

389. The Committee firmly urged the Federal Government to put an end to this intolerable situation for the observance of human rights, and to refrain from any support for those committing such acts, including in territory outside the Federal Republic of Yugoslavia. It called upon the Government to show a clear political will and to effectively dissociate itself from the Serbian nationalist movements by totally repudiating their ideology and condemning their schemes. The Committee considers that a show of unwavering firmness on this point would deprive the extremists of support that is essential to them. The Federal Government was invited to do its utmost to foster public awareness of the need to combat national hatred and to crack down forcefully on the perpetrators of violations of individual rights by bringing them to justice. The Committee also recommended that the Federal Government put an end to the repression of the Albanian population in the province of Kosovo and adopt all necessary measures to restore the former local self-government in the province.