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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED
TO ANY FORM OF DETENTION OR IMPRISONMENT

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND
OTHER DEPENDENT COUNTRIES AND TERRITORIES

RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC,
RELIGIOUS AND LINGUISTIC MINORITIES

Letter dated 27 January 1995 from the Ambassador, Chargé d'affaires, a.i., of
the Federal Republic of Yugoslavia to the United Nations Office at Geneva
addressed to the Chairman of the Commission on Human Rights

I have the honour to transmit herewith the comments of the Government of the Federal Republic of Yugoslavia on the ninth report of Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights on the situation of human rights in the former Yugoslavia (A/49/641-S-1994/1252 of 4 November 1994).

I should be grateful if you would circulate these comments as an official document of the fifty-first session of the Commission on Human Rights, under agenda items 10, 12 and 20.

(Signed) Vladimir Pavićević

GE.95-10823

**FEDERAL REPUBLIC OF YUGOSLAVIA
FEDERAL GOVERNMENT**

**COMMENTS OF THE GOVERNMENT OF THE FEDERAL REPUBLIC OF
YUGOSLAVIA ON THE NINTH REPORT OF MR. TADEUSZ MAZOWIECKI,
SPECIAL RAPPORTEUR OF THE UNITED NATIONS COMMISSION ON
HUMAN RIGHTS ON THE SITUATION OF HUMAN RIGHTS
IN THE FORMER YUGOSLAVIA**

Belgrade, December 1994

INTRODUCTORY REMARKS

These comments of the Government of the Federal Republic of Yugoslavia pertain to the Ninth Periodic Report of the United Nations Special Rapporteur on the Situation of Human Rights in the Former Yugoslavia.

GENERAL OBSERVATIONS

1. In its comments on the Sixth Mazowiecki Periodic Report, the Government of the FR of Yugoslavia stressed that the territorial divisions, appellations and the introduction of non-existent administrative units (Kosovo, Sandjak), insisted upon by the Special Rapporteur are not acceptable. The attempts of the Special Rapporteur to justify this practice in his letter to the Chairman of the Commission of 26 August 1994, in which he says that the place names are used in the same way as in the two resolutions of the Commission on Human Rights, is a perversion of truth. In point of fact, the Mazowiecki Reports serve as the basis for the adoption of the resolutions of the Commission on Human Rights, and if these Reports were not as they are, there would be no ground for resolutions related to his mandate. Such attitude by the Special Rapporteur is unacceptable if he aspires to have his Reports considered as serious and objective. Regarding this issue, the Yugoslav Government firmly upholds its positions presented in the "general observations" on the Sixth Periodic Report (E/CN.4/Sub.2/1994/45).

2. On several occasions, the Government of the FR of Yugoslavia expressed its position on the visits of the missions of various international organizations to the FR of Yugoslavia as a sovereign State. The Special Rapporteur is well acquainted with that position. On this occasion it is reiterated that these missions to Yugoslavia are possible under two conditions. Firstly, their work must be based on the principle of equality, i.e. representatives of the FR of Yugoslavia must be allowed to participate in the work of international organizations, particularly of the OSCE. Secondly, the Yugoslav Government will allow work in its territory to the representatives of those international organizations which recognize its territorial integrity and whose work is not directed solely towards certain parts of the country, as is the practice of the Special Rapporteur of the UN Commission on Human Rights. Acting along these lines, the Special Rapporteur singles out for censure the existence of some problems, whereas he turns a blind eye to the existence of some other problems, including the violation of some fundamental human rights, particularly the rights of the child, as a result of the imposition of unjust United Nations sanctions.

3. The Special Rapporteur has somewhat adjusted his positions to fit the changes in the overall international climate about the FR of Yugoslavia. Notwithstanding these adjustments, the Special Rapporteur maintains in this Report the practice of repeating what has already been said in his previous Reports, disregarding all the explanations of, and the relevant facts submitted by, the Government of the FR of Yugoslavia in connection with his allegations (a list of the comments of the Government of the FR of Yugoslavia on the Mazowiecki reports is contained in documents A/49/273 and C/1994/864). This is eloquent proof that these Reports are politically biased and tendentious in the sense that they create a semblance of the permanent existence of various tensions in Yugoslavia and that they are being prepared without a modicum of good will and positive intentions.

4. The characteristic of this Report is that its allegations are not authentic and that, very much like the Sixth Periodic Report, it is dismissive of the Constitution of the FR of Yugoslavia and its positive legislation. In its comments on previous Reports, the Government of the FR of Yugoslavia took a firm stand on such approach by the Special Rapporteur to the problems under consideration.

5. The prevailing impression is that this Report has also been prepared according to the established clichés and that no account has been taken of the evolution in the international public perception of, and developments in, the FR of Yugoslavia. The Special Rapporteur remains faithful to the prejudices of his first Report and unwilling to change them, irrespective of the ever more obvious truth.

**SPECIFIC OBJECTIONS TO THE CHAPTER ENTITLED:
FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)**

Republic of Serbia

Security of the person and the decline of the rule of law

6. (Para 166) The competent authorities and institutions of the FR of Yugoslavia find it very difficult to communicate with the Special Rapporteur because he sends a large number of individual requests which vary in content and volume, and sometimes number several a month, while at the same time, he sets unrealistically short deadlines for replies. In this way, the Special Rapporteur secures himself an excuse for constant repetitions in his Reports that he is receiving no replies to his requests. In doing so, the Special Rapporteur is not only damaging the image of the FR of Yugoslavia, but is also paying lip service to the interest of all those in the United Nations who do set store by receiving an objective picture of the situation in the FR of Yugoslavia and by objective reporting. One example will suffice to illustrate the practice. In his letter to the Federal Minister of Foreign Affairs of the FR of Yugoslavia of 16 September 1994, the Special Rapporteur reminded the Minister that his next report would be published in October 1994 and made a request for answers to the questions raised and grouped under five subtitles. These questions fell within the purview of work of several Ministries, including those of Justice, Information, Internal Affairs and Education as well as of the Federal Parliament. In his letter of 17 October 1994, the Special Rapporteur informed the Federal Minister of Foreign Affairs "that the deadline for the completion of my report must be Wednesday, 19 October 1994" and that the reply of the Yugoslav Government must be received "before then". Although the procedure for obtaining replies from relevant institutions was initiated immediately after the receipt of the first letter in September, it was not possible to prepare a reply within such a short period of time.

It turned out, curiously enough, that the Special Rapporteur himself was unable to meet that same deadline, which is evinced by the date of his latest Report. Moreover, some chapters and questions which the Special Rapporteur characterized in the said letter as "my main concerns regarding the human rights situation in your country" were not included in his Report (e.g. chapter 3, as contained in his letter and some questions raised in it by the Special Rapporteur and dealt with in other chapters, such as the status of the Bulgarian minority, etc.).

7. (Para 168) The allegations of the Special Rapporteur contained in this paragraph about "the continuing violence and apparent incapacity of the police forces" are so arbitrary and free-wheeling that they merit no comment. What does merit a comment, however, is the fact that the Special Rapporteur provides no proof to support his assertions. It is therefore safe to assume that these allegations and the "concern" of the Special Rapporteur are calculated at eliciting ill will, even hostility, of the reader of the Report towards the FR of Yugoslavia.

8. (Para 169) The Special Rapporteur rightly observes that the police have "performed a large number of seemingly unmotivated identity checks and vehicle controls". However, the Rapporteur appears not to think twice before drawing a

conclusion that this practice is directed mainly "against members of minorities and the political opposition". First, whoever considers himself an expert on the situation in the FR of Yugoslavia must be acquainted with the fact that various political parties or coalitions are in power at various levels. It is therefore irrelevant which political party is in opposition and which is not. Secondly, identity checks and vehicle controls often reveal that some of these vehicles have been stolen, and sometimes lead to apprehension of perpetrators of serious criminal acts. Rather than being condemned, such actions enjoy citizens' full approval.

According to statistical data, crime in the Republic of Serbia and the Republic of Montenegro is on the decline, due primarily to the better functioning of the police and security organs. As to excessive use of force, it should be noted that the dividing line between the necessary and excessive use of force is very thin indeed. As it happens, the brutality of the perpetrators of criminal acts is increasing and there were cases in which members of security organs lost their lives on the line of duty.

Accordingly, the use of force exclusively against a certain group of citizens, such as members of a national minority or a political organization, is out of the question as force is used only when necessary to prevent a perpetrator from committing a criminal act or to arrest him, irrespective of religion, nationality or political leanings.

9. (Para.170) All cases of excessive use of force by official persons have been vigorously prosecuted by competent authorities. Such persons have been disciplined or tried before a court of law and had to bear all the consequences of their unlawful acts. They are suspended, dismissed and, in the most serious cases, sentenced to long prison terms.

Discrimination on ethnic and political grounds

10. (Para.171) The allegations contained in the first part of this paragraph are undocumented and untrue. The allegations from this paragraph concerning the case of a Croat are untrue on two counts. One, the Special Rapporteur was sent the information on this case with such speed that it probably stands no comparison to any of the cases brought before the Human Rights Committee against a State party to the Optional Protocol to the Covenant on Civil and Political Rights. Two, the allegation of the Special Rapporteur about discrimination on ethnic grounds is in clear contradiction with Mr. Erceg's own conviction, expressed in one of his letters of complaint and quoted in the reply of the Government of the FR of Yugoslavia to the Special Rapporteur submitted by the Yugoslav Mission to the United Nations Office at Geneva on 8 November 1994 under No. 927/1.

11. (Para.172) The allegation of the Special Rapporteur of the United Nations Commission on Human Rights about "discriminatory abuse of legislative acts...[in]the manner in which the Act of the Yugoslav Army ... has been implemented" are untrue.

Article 17 of the Constitution provides for the existence in the FR of Yugoslavia of Yugoslav citizenship and Yugoslav citizens are, at the same time, the citizens of the constituent republics. It proceeds from the above that, at the time of the entry into force of the Constitution of the FR of Yugoslavia, Yugoslav citizenship was acquired only by the citizens of the constituent republics, i.e. only the persons who, at the time of the entry into force of the Constitution, had the citizenship of the Republic of Serbia or the Republic of Montenegro. Also, under Article 134 of the Constitution of the FR of Yugoslavia, the Army of Yugoslavia is composed of Yugoslav citizens.

In view of the said provision of the Constitution of the FR of Yugoslavia, it was necessary to provide, in the transitional provisions of the Act of the Yugoslav Army, for the obligation of certain categories of persons to initiate the procedure for acquiring Yugoslav citizenship. The idea of the transitional provision of Article 350 of the Act of the Yugoslav Army is that active officers, junior officers, military personnel and civilians

in the Yugoslav People's Army who, on the date of the entry into force of this Act, accept transformation into professional officers and professional NCOs of the Army of Yugoslavia or civilians serving in the Army of Yugoslavia, and have no Yugoslav citizenship, will be obliged to apply for admission into Yugoslav citizenship within six months from the day of the entry into force of this Act.

Since no federal law on Yugoslav citizenship has been adopted to date, the citizenship of the members of the Army of Yugoslavia, just as of the other citizens of Yugoslavia who were not citizens of the Republic of Serbia or the Republic of Montenegro at the time of the proclamation of the Constitution of the FR of Yugoslavia, will be resolved in accordance with a federal law on citizenship upon its adoption. Until that time, all members of the Army of Yugoslavia listed in Article 350 of the Act of the Yugoslav Army who applied for admission into the citizenship of the Republic of Serbia, the Republic of Montenegro or Yugoslavia within six months from the date of the entry into force of this Act will have the same status as the persons who fulfil the conditions for admission into citizenship. None of these persons has had service in the Army of Yugoslavia suspended on this ground.

12. (Paras.174 and 181) It is true that the FR of Yugoslavia, as the successor State of the former SFR of Yugoslavia, is a signatory of the International Covenant on Civil and Political Rights and that it complies with its provisions. In support of this assertion and in connection with the humanitarian situation in Yugoslavia, it is pointed out that out of 465,000 refugees 100,000 are of Muslim or other nationality. They are accorded the same treatment as the Serbs fleeing the war-affected areas and enjoy all the rights they are entitled to under relevant international conventions and national laws. We agree that there are difficulties in their accommodation but this is not a product of the official attitude towards them, but rather the consequence of the overall pauperization of the population of the FR of Yugoslavia and of other objective problems resulting from the sanctions imposed on it. Accordingly, despite the best intentions of the competent organs to render all the assistance possible, they share the destiny of the rest of the population of the FR of Yugoslavia.

13. (Para.176) : During recent months, as noted by the Special Rapporteur, the official and the so-called independent trade unions have synchronized their efforts to promote workers' interests. The Yugoslav authorities have no knowledge of any dismissal on account of membership in a trade union organization, all the more so as a number of legal acts regulating the rights of workers during the period of sanctions imposed on the FR of Yugoslavia by the international community remain in force. According to these acts, no worker can be dismissed during the sanctions; he can possibly be sent on compulsory holiday or eventually dismissed only if he refuses another job corresponding to his qualification.

As no specific evidence has been presented in paras 171, 173 and 176, the allegations of the Special Rapporteur are to be construed as insinuations designed to discredit Yugoslavia's legal and political system in respect of political rights and freedoms and the legal protection of its working citizens.

The question of citizenship

14. (Para.177) The proposal for a new Citizenship Law to be adjusted to the circumstances created after the break-up of the former SFR of Yugoslavia is currently being drafted. It will be considered by the Federal Government in December 1994 and then submitted to the Assembly of the FR of Yugoslavia for adoption.

The draft provisions include all important principles contained in international instruments and agreements ratified by the FR of Yugoslavia, protecting certain categories of persons in the situations referred to by the Special Rapporteur.

Thus, the citizens of the former Yugoslav republics with registered residence in the territory of the FR of Yugoslavia will be able to acquire Yugoslav citizenship by applying to the competent organ and making a deposition to the effect that they have no other citizenship. Furthermore, the Draft Law provides for additional possibilities for acquiring citizenship by way of acceptance and full adoption. The citizens of the former SFR of Yugoslavia would be able to acquire Yugoslav citizenship by making a deposition if, by acquiring it, they do not pose a threat to the security, defence or international interests of the country.

As regards the category of refugees and displaced persons, referred to by the Special Rapporteur, it is pointed out that, in addition to every likelihood of regulating the question of citizenship by the new Law, they do continue to enjoy full protection in the FR of Yugoslavia. The existing forms of the protection of these persons go beyond the standards prescribed in such situations by relevant international documents. As a matter of fact, the rights enjoyed by refugees and displaced persons are identical or almost identical with those enjoyed by the citizens of the FR of Yugoslavia, particularly in the fields of health, social insurance, education, employment, etc., which is an indication of the intention to treat them in the same way as the citizens of Yugoslavia.

The situation of refugees

15. (Para.178) As regards the "practice of mobilizing" refugees referred to by the Special Rapporteur, it should be borne in mind that the vast majority of refugees in the FR of Yugoslavia are of Serb nationality, with many family and other ties, so that they do not fall under the accepted definition, according to which refugees are frequently foreigners as well. On the other hand, some of the refugees are often accommodated at various places in the FR of Yugoslavia, without regulating their legal status. Unaware of their status, some refugees are convinced that they have the right to refugee status and protection simply by arriving in the FR of Yugoslavia. At the same time, many of them continue to be registered by the authorities of the Republic of Srpska and the Republic of Serbian Krajina as their own citizens and are called upon by them to fulfil their citizens' duties voluntarily.

The cases reported by the Special Rapporteur are very small in number, far from occurring on a mass scale. This is evident from the general data on the refugee population in the FR of Yugoslavia. The majority of the registered refugees are female (83%) and elderly people, so that the number of refugees eligible for alleged mobilization is negligible.

The FR of Yugoslavia pointed out on many past occasions that it abided by the 1951 Convention on the Status of Refugees and the 1967 Protocol, as well as by the resolutions and decisions of the United Nations General Assembly and other bodies of the United Nations system in matters of international legal protection of refugees, which it will continue to do also in the future.

16. (Para.179) In May and June 1994, the Republic of Serbia carried out a revision of the status of all refugees who had acquired such status previously. The procedure was not carried out by amending the existing Law on Refugees and the purpose of this exercise was to update and systemize the refugee records, since, due to the number of refugees at the beginning of the war in the former SFR of Yugoslavia, refugee status had often been granted en masse. In the estimation of the Yugoslav Commissariat for Refugees, out of the overall number of registered refugees, 80,000 - 100,000 of them are not likely to be issued new refugee cards. However, it does not mean that these persons will be deprived of all forms of protection; although the loss of refugee status will entail a loss of some rights, such as the right to free medical protection and some other forms of refugee assistance, many of them will continue to live in the

Republic of Serbia, considering that authorities of the FR of Yugoslavia are committed to the principle of non-refoulement.

The situation in the Autonomous Province of Kosovo and Metohija

17. (Para. 184) Legal proceedings have been instituted against all accused persons. The fact that four members of the Albanian national minority charged with the criminal act of posing a threat to the territorial integrity of the FR of Yugoslavia are also members of the Democratic League of Kosovo gives rise to legitimate doubts as to what real objectives of this political organization are. However, it is considered that the purpose of this exercise is not to prejudice the act of any individual. It is up to the court of law to establish whether there is a link between the accused individuals and the political organization whose members they are. It is further considered that the Special Rapporteur should also distance himself from passing premature judgements, all the more so as the past practice has shown that more often than not the suspicion of the Special Rapporteur has been based on fiction rather than on facts.

18. (Para. 185) The difficult conditions in illegal or private schools in the Autonomous Province of Kosovo and Metohija are the exclusive problem of their Albanian founders or owners. The members of the Albanian minority have been requested by the Republic of Serbia to return to legal schools in which instruction would be carried out in their mother tongue, as was the case before they abandoned these schools of their own accord as well as to have all missed school years recognized. They rejected this offer under the influence of the leaders of some political parties who refuse to reconcile to the fact that they live in the Republic of Serbia and the FR of Yugoslavia and to have their official signs embossed on their diplomas. The Government of the FR of Yugoslavia has explained the situation over and over again to interested international organizations and in its comments on the Reports of the Special Rapporteur of the United Nations Commission on Human Rights. However, the Special Rapporteur continues to turn a deaf ear to these explanations and persists in his support for the positions of some political parties in Kosovo and Metohija, in which way he makes himself an accessory in the commission of educational damage to several generations of young Albanians and discredits himself as Special Rapporteur of such an important institution as the United Nations Commission on Human Rights.

The situation in the Autonomous Province of Vojvodina

19. (Para. 186) As to the allegations of the Special Rapporteur concerning the education of the members of the Hungarian national minority in the FR of Yugoslavia, it is necessary to know the following facts:

Whenever merited by pedagogical and other conditions, elementary and/or secondary education is provided in the mother tongue. In the absence of such conditions, the law provides for the right of the members of national minorities to study their mother tongue and elements of their national culture. However, the statement of the Special Rapporteur that the situation is "more or less" satisfactory falls short of being appropriate, as the right of national minorities to education in their mother tongues in the Republic of Serbia is guaranteed according to the highest international standards. In 29 out of 45 municipalities of the Autonomous Province of Vojvodina, Hungarian is the language of instruction in elementary schools and in 27 secondary schools.

Seven faculties and colleges have instruction in Hungarian. The laws of the Republic of Serbia provide for the right to education in the languages of national minorities at college and university levels and whenever merited by pedagogical and organizational conditions, and especially by the number of students interested in education in a national minority language. Since the number of national minority members interested in such education is often insufficient, it is not always possible to

organize such studies, among other things, because the recruitment of teaching staff to teach a limited number of study groups would be far too expensive. Some other facts, however, should be borne in mind: the number of student members of national minorities is proportional to their number in the overall population of the Republic of Serbia, while separate study groups in the languages of national minorities are organized within the system of higher schools, whenever so merited by the conditions. Furthermore, enrolment in schools and the university is not determined by the nationality but by the results of knowledge tests from enrolment exams. Accordingly, the allegations that national minorities are discriminated against in the educational system of Serbia are unsubstantiated and have nationalist political leanings.

The elementary and secondary education in any of the languages in official use, including Hungarian, is free of charge.

As to the allegations of the Special Rapporteur that the access of national minorities to the media is impeded, the following information would perhaps help him reassess his judgement.

Not only do members of national minorities have free access to the media in the FR of Yugoslavia, but the publication of newspapers and magazines and the radio and television broadcasts in their respective languages are subsidized by the State even in the present difficult economic conditions for the entire information field affected by United Nations sanctions.

According to the latest statistical data, 65 newspapers and 50 magazines are published in the languages of national minorities in the FR of Yugoslavia. From the total of 285,287 radio and television hours, 44,800 hours have been broadcast in the languages of national minorities. Seventeen newspapers and 4 magazines, for instance, are published in Hungarian, a full-day radio programme is broadcast in this language and Novi Sad TV broadcasts in Hungarian every day.

20. (Para. 187) Unable to provide any other evidence, the Special Rapporteur repeatedly returns to the events publicly qualified as impermissible acts of terrorism and intensely investigated by the Government of the FR of Yugoslavia and the Government of the Republic of Serbia. This leaves an impression that it is being done in order to uphold a theory that the Special Rapporteur has set himself beforehand.

The situation in the Raška region

21. (Paras 191 and 194) By indictment KT No. 67/93 of 18 October 1993, the Public Prosecutor of Novi Pazar charged a group of 25 Muslims from the municipalities of Novi Pazar, Sjenica and Tutin with the commission of the criminal act of threatening the territorial integrity of the FR of Yugoslavia punishable under Art. 116 of the Criminal Code of the FR of Yugoslavia and with the preparation of this act punishable under Art. 138 of this Code.

Considering the fact that the persons suspected were not small in number, the investigation lasted from 22 May until the end of September 1993 and was carried out within the period provided for by law. For objective reasons, i.e. the number of suspects, it was not possible to complete the investigation earlier, as it was necessary to collect evidence requested both by the Public Prosecutor and by the suspects or their defence.

The accused held no high political offices in the Party of Democratic Action, except that six of them had been appointed by the Muslim National Council for the so-called Sandjak as high or senior military officers in which capacities they organized the activities threatening the territorial integrity of the FR of Yugoslavia. Other accused persons' assignments consisted of organizing military activities in the areas of Novi Pazar, Sjenica and Tutin according to the plans prepared by the "supreme headquarters". Some of the accused are not members of the Party of Democratic Action.

The organization of the trial did begin immediately after the bringing in of the indictment and its becoming legally effective, but it was not possible to hold the main hearing for objective reasons. At the time, the District Court of Novi Pazar, one of the smaller courts in the Republic of Serbia, was short of one out of the six required judges, so that it was necessary to request the Supreme Court of Serbia to appoint a judge from other district courts in Serbia. The main hearing, commenced on 31 January 1994, was resumed on 25 May and concluded on 23 September 1994. The decision was pronounced on 12 October 1994.

The five-member Council of the District Court of Novi Pazar pronounced all accused persons guilty of having committed the criminal act they had been charged with. The person accused of being supreme commander of the illegal supreme headquarters for the so-called Sandjak was sentenced to six years in prison. The others were sentenced to shorter prison terms and all of them had been released to stand trial on bail.

The accused did not file any complaint to the investigating judge that they had been subjected to physical or psychological torture by the police during investigation with a view to making and signing confessions to the effect that they had planned an armed rebellion.

It is pointed out that prior to the interrogation by the investigating judge, the accused had been advised of other rights, such as the right to defence and medical assistance, but, as evinced by the official records, most of them declined to have defence counsellors attend the interrogation, although all accused persons did have defence counsels.

The District Court in Novi Pazar has no evidence that the accused were deprived of necessary medical assistance while in detention. On the contrary, the medical records kept on them while in detention show that they were accorded adequate medical assistance whenever they requested it.

The Republic of Montenegro

22. (Para.193) Indictment Kt.No. 5/94 was brought in on 21 July 1994 against 21 persons. These persons had been accused of committing the criminal act of threatening the territorial integrity of the country punishable under Art. 116, para 1, of the Criminal Code of the FR of Yugoslavia in conjunction with the criminal act of unlawful possession of arms or explosives, punishable under Art. 204, para 2, in connection with para 1 of the Criminal Law of the Republic of Montenegro. The main hearing under this indictment was held on 26 September 1994 and the proceedings continue as provided for by law. In addition to being open, the trial is attended by the representatives of international organizations and no complaint has been made about the conduct of the proceedings.

The unsubstantiated allegations of the Special Rapporteur create an impression that his principle aim is to invalidate the investigation procedure conducted by the Ministry of Internal Affairs of the Republic of Montenegro as rigged and inquisitorial and, by extension, question the validity of the evidence.

The following facts disprove the allegations of the Special Rapporteur that the statements of the accused are "false" and made "under torture": five "M-53", "M-42" and 7.62mm machine-guns, two "Zolja" M-70 missile launchers; 27 "Kalashnikov" AP M-70 and M-56 automatic rifles; nine M-48 rifles; seven "Scorpio" automatic rifles; 12 snipers, 16 "Thompson" pistols; 34 bombs; 25 packages of plastic explosive; 110 "Vitezit" economic explosive charges; one cumulative tromblon mine; two unregistered radio stations and several thousand pieces of rifle and pistol ammunition of various calibre

and large quantities of explosive and detonators have been found on the accused. Moreover, evidence has been collected on the establishment of the so-called "Security Department" from the level of the Party of Democratic Action in Novi Pazar to municipal levels with a strictly defined organizational structure according to the principle of military organization, with activities towards the targets chosen in advance and the tasks to prepare secession and create a separate State of "Sandjak", as well as the firm evidence on the so-called units for silent liquidation acting within, and under the leadership of, the "Security Department".

It is therefore quite legitimate to ask whether any State in the world would tolerate these activities and whether the Special Rapporteur would go as far as to impute that the statements of the accused are "false" and made "under torture". Perhaps, he would level the same accusations against France, for example, where a large group of Muslim fundamentalists has been arrested recently for similar activities and on whom similar evidence has been found.

The Special Rapporteur will, no doubt, appreciate to know that, in supervising the work of the detention prison, the Ministry of Justice of the Republic of Montenegro maintained permanent contact with the prison and was informed that the detainees were treated very correctly indeed. Following the interrogation of the accused, the Deputy Prime Minister and Minister of Justice of Montenegro visited the prison in Bijelo Polje and spoke with some of them in the presence of their defence counsels. None of them complained about their treatment by the prison authorities and stated that they were treated correctly. As these statements were given in written form and signed by the accused, their content can be verified. The International Red Cross also stated that they were satisfied with the way in which the accused had been treated in prison.

Prejudging the outcome of a court trial is a disservice to justice and when it is done by the Special Rapporteur, the implications of such an exercise are fraught with political discredit against the country concerned rather than with genuine concern over the violations of human rights.

23. (Para.197) The situation of the "independent" trade unions in the Republic of Montenegro" has already been explained in the comments of the Government of the FR of Yugoslavia of para 176 of this Report.

It is pointed out, however, that the Government of the Republic of Montenegro has close and correct cooperation with the trade unions on the questions of the social, legal and labour status of workers, as well as on all other questions of trade union interest.

On the other hand, the Government has its own social programme, solving with enormous efforts the problems of the affected categories of the population, including the unemployed and workers on forced holidays. The Special Rapporteur is certainly aware that "growing unemployment and forced holidays" in the FR of Yugoslavia have been brought about by the unjust and inhuman sanctions imposed by the United Nations Security Council. Accordingly, rather than calling the Governments of the Republic of Serbia and the Republic of Montenegro to account for alleged violations of workers' and trade union rights and encouraging "the Government of Montenegro to ensure that" these rights "are respected, and that any conflicts or strikes that may occur are resolved in a peaceful manner", he should concentrate his efforts to improve the economic and workers' situation in the FR of Yugoslavia on lifting these sanctions, the imposition of which accounts for the most flagrant violations of the rights he so piously professes to promote.

CONCLUSIONS AND RECOMMENDATIONS:

24. (Para.198) The conclusion of the Special Rapporteur "that the police forces in the FR of Yugoslavia appear reluctant to prevent and control acts of violence and harassment" is unfounded. The results of their work testify to the opposite. By suppressing the activities of a number of terrorist groups whose members were of Muslim origin and by apprehending the perpetrators of some very grave criminal acts and by other activities aimed at maintaining public peace and order, the police authorities of the FR of Yugoslavia have prevented the scenario from the former Yugoslav Republic of Bosnia-Herzegovina from repeating in Serbia or Montenegro. In doing so, they have protected the fundamental human rights of the entire population of the country, primarily the right to life, and prevented the escalation of war to the territory of the FR of Yugoslavia.

25. (Para. 199) The categorical statement of the Special Rapporteur in this paragraph on the use of "excessive force" is at variance with his statements elsewhere in the Report in which such "alleged" cases are not corroborated with firm or any evidence. It is also considered that, unfamiliar with the circumstances of each individual arrest, the Special Rapporteur is ill advised to judge whether "excessive force" has been used on such occasions and in doing so to rely exclusively on the statements of the arrested persons.

26. (Para.200) Courts in the Federal Republic of Yugoslavia are independent. They decide whether an act of the authorities is in accordance with the law. A wide range of legal remedies are available to legal and physical persons to contest the regularity of the work of a State organ, if they consider that some of their rights have been violated, including the acquired rights and those guaranteed by labour and contract laws.

Like in the past, the Yugoslav Government will continue to invest every effort to ensure, through competent authorities, that labour disputes are solved in full accordance with positive laws which do not contain discriminatory provisions as to religion, nationality, political or any other conviction.

The request of the Special Rapporteur from this paragraph is unwarranted either by the text of the report or by the actual situation.

27. (Para.201) The Special Rapporteur's conclusion concerning violent house searches in the Raška region and Kosovo and Metohija that should be put an end to is contradictory. Everywhere in the world house searches are carried out unannounced and without prior consent, with a court order and coercion or at least a threat of coercion.

28. (Para.202) The call of the Special Rapporteur on third States not to "return externally displaced persons to the FR of Yugoslavia", their country of origin, designed to maintain the semblance, sustained in all his Reports, of the existence of a threat to national minorities in the FR of Yugoslavia.

29. (Para.203) The Government of the FR of Yugoslavia will reconsider its decision not to allow international monitors to conduct missions in its territory when the international organizations sending the missions change their position and enable the FR of Yugoslavia to resume full membership and work in these organizations.