

Distr.  
GENERAL

E/CN.4/1999/162  
28 April 1999  
ARABIC  
Original: ENGLISH

## المجلس الاقتصادي والاجتماعي



### لجنة حقوق الإنسان

الدورة الخامسة والخمسون

البند ٩ من جدول الأعمال

مسألة انتهاك حقوق الإنسان والحريات الأساسية في أي جزء من العالم

رسالة مؤرخة في ٢٦ نيسان/أبريل ١٩٩٩، وموجهة من القائم بالأعمال المؤقت للبعثة الدائمة  
لجمهورية يوغوسلافيا الاتحادية لدى مكتب الأمم المتحدة في جنيف إلى رئيس لجنة حقوق الإنسان

يشرفني أن أحيل اليكم، رفق هذا\*، الوثيقة المعنونة "تقييم لعدوان حلف شمال الأطلسي على يوغوسلافيا، استناداً إلى معايير النظام القانوني الداخلي لجمهورية يوغوسلافيا الاتحادية ومعايير القانون الدولي" الصادرة عن المحكمة الدستورية الاتحادية لجمهورية يوغوسلافيا الاتحادية في ١٨ نيسان/أبريل ١٩٩٩. وأرجو منكم التكرم بنشر هذه الوثيقة كوثيقة رسمية من وثائق الدورة الخامسة والخمسين للجنة حقوق الإنسان في إطار البند ٩ من جدول الأعمال.

(التوقيع)  
برانكو برانكوفيتش  
السفير  
القائم بالأعمال المؤقت

\* يُعمم المرفق كما ورد وباللغة التي قُدم بها فقط.

**ASSESSMENT  
OF THE NATO AGGRESSION AGAINST THE FEDERAL  
REPUBLIC OF YUGOSLAVIA BASED ON THE STANDARDS OF  
THE FRY'S INTERNAL LEGAL SYSTEM AND INTERNATIONAL  
LAW**

The Federal Constitutional Court composed of President Milomir Jakovljevic and Justices Milan Vesovic, Arandjel Markicevic, M.Sc.Iur. Dr. Milutin Srdic and Dr. Branislav Tomkovic, acting in accordance with its constitutional function to protect constitutionality and legality, human rights and freedoms established by the FRY Constitution, international treaties and generally accepted rules of international law, and in accordance with the provisions of Article 16, paragraph 2, of the FRY Constitution, at its session on 18 April 1999,

**ESTABLISHED**

the following regarding the North Atlantic treaty Organization's armed assault against the Federal Republic of Yugoslavia:

1. On 24 March 1999, NATO launched an armed assault against the Federal Republic of Yugoslavia, in contravention with the United Nations Charter. NATO has undertaken massive and continuing air strikes against the population, towns and villages, economic and other civilian facilities, which is an act of aggression against a sovereign state - member of the United Nations.

2. By these continuing acts, the aggressor has violated the United Nations Charter, one of the main objectives of which is to maintain international peace and security. The UN Charter specifies that only the United Nations are authorized to take efficient collective measures to prevent and eliminate threats to peace, acts of aggression and other violations of peace. Under the UN Charter, only the Security Council is competent to decide whether there is imminent threat to peace, violation of peace or aggression to make recommendations and take decisions of measures to be taken, including the use of the armed force pursuant to the principles established by the Charter, in order to maintain the established international peace and security.

In accordance with its own acts, NATO may resort to arms, or the armed force, but only in case of armed attack against a NATO member state.

Rules and principles of international law do not, in any case whatsoever, give the authority to NATO alliance or any other military or civilian authorities and organizations to apply political criteria and freely assess that they can use force to kill people and destroy goods. NATO is now destroying goods that are invaluable and essential for the life and work of the Yugoslav citizens.

According to the United Nations Charter, the UN Organization and its member states are obliged to seek to implement the above mentioned objectives in accordance with the principles of sovereign equality of all

members, so as to ensure the exercise of the rights and obligations under the UN Charter.

The UN Charter forbids the use of force against a sovereign state that has not committed aggression against another state. This arises from the principles established by the provisions of Article 2, paragraph 1, of the Charter, which stipulate the obligations of the members of the United Nations:

- to resolve their international disputes by peaceful means, so that international peace and security, and justice, are never violated (item 3);
- for the member states to refrain in their international relations from the use of threat of force or the use of force against territorial integrity or political independence of any state (item 4);
- not to interfere, in any manner, in matters falling within internal competence of each state, and not to request from member states to seek to resolve such matters on the basis of the United Nations Charter (item 7).

In committing the aggression, NATO circumvented the competent authorities of the United Nations as the only organization authorized to take prescribed measures in the case of imminent threat to peace, violation of peace and aggression (article 39 of the Charter).

3. With their activities preceding the aggression and by the act of aggression itself, NATO members and certain European countries within the Partnership for Peace, have violated the 1978 Helsinki Final Act of the Conference on Security and Cooperation in Europe, which stipulates that member state shall:

- refrain from any interference, direct or indirect, individual or collective, in internal and external affairs falling within the national competence of individual states, regardless of their mutual relations, and that they shall refrain from any form of armed intervention or threat with armed intervention against another member state, as well as from undertaking political, economic or other coercion;
- refrain from the provision of direct or indirect assistance to terrorist activities or sabotage or other activities aimed at forceful overthrow of the regime of another member state;
- respect the principle of territorial integrity of member states;
- respect the principle of peaceful settlement of disputes;
- undertake to condemn and eradicate terrorism,

- contribute to the facilitation of free and broader dissemination of all types of information and promotion of conditions of work of journalists.

4. By its armed intervention, NATO is killing and hurting innocent citizens of the Federal Republic of Yugoslavia, members of all ethnic communities, jeopardizing their health, destroying bridges and railroads, railway tracks, trains, airport and port facilities, electric power plants and transmission lines, telecommunications facilities, water supply and sewage systems, schools and universities, children's institutions, hospitals and health institutions, social welfare institutions, cultural and religious facilities, plants and factories, oil refineries and gas pipelines, chemical plants, TV buildings, stations and transmitters, towns and villages, and polluting rivers and soil, with unfathomable environmental consequences. As a result, the population is forced to leave, after which refugee convoys are bombed.

5. The act of aggression and its enormous tragic consequence violate the rules and principles of the General Declaration on Human Rights:

- the rights to life, freedom and personal security, by massive killings, infliction of bodily injuries and erosion of health of a large number of the FRY citizens (Article 3);
- to right to possess property and not to be arbitrarily deprived of property, by massive destruction and infliction of damage on the property of legal and natural persons in the FRY territory (Article 17);
- the right to the freedom of opinion and expression, as well as the rights to request, receive and disseminate information and ideas via any media and regardless of boundaries (Article 19);
- the right to exercise cultural rights essential for human dignity and free development of personality (Article 22);
- the right to work, to freely chose once profession, to be provided with fair and satisfactory work conditions and to be protected against unemployment (Article 23);
- the right to schooling and education (Article 26).

The act of aggression has also violated the standards of the International Covenant on Civil and Political Rights (Articles 1, 5, 10 and 15), the International Covenant on Economic, Social and Cultural Rights (Articles 3, 10, 12, 13, 14, 14, 16), the acts of the 1990 Paris Charter for New Europe regarding human rights, democracy and rights of states, friendly relations among states, security, human dimension, environment and culture, the European Convention for the Protection on Human Rights and Liberties and other documents of international law.

The unprecedented aggression has made it impossible for the citizens of FR Yugoslavia to move in the territory of their own state, to use their own property by themselves or together with other people, to exercise economic and natural rights essential for their dignity and their personal development in accordance with the organization and resources of their state. At the same time, the right to the protection of children and family, the citizen's right to enjoy cultural goods, to participate in scientific progress and to enjoy goods arising therefrom, and an array of other interconnected rights and freedoms, have been violated.

6. By its mass destruction of towns and villages and killings of civilians, NATO has committed war crimes as serious violations of rules of war law, which are prohibited by the 1899-1907 Hague Conventions and the Geneva Conventions on the Protection of Victims of War (Articles 50, 51, 130 and 147), and the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

7. The principles, rules and norms of the Declaration on the Rights of Members of National or Ethnic, Religious or Language Minorities and the Framework Convention on the Protection of National Minorities had been ipso jure and ipso facto ensured and implemented in FRY in the period preceding the aggression. This is confirmed by the fact that the Federal Constitutional Court had not received any reasonable request for the protection of national minorities, which is a prerequisite for addressing the European Court for Human Rights. Proceeding from the fact that the Federal Republic of Yugoslavia is a multiethnic community, the Constitution of the Federal Republic of Yugoslavia and constitutions of the member republics contain all normative solutions envisaged by the said international legal acts. In this respect, the Federal Constitutional Court states that the Federal Republic of Yugoslavia has provided all the necessary prerequisites and created all conditions for the exercise of the established national minority rights. Members of national minorities enjoy the right to their own national or ethnic, cultural, religious and language identity in the territory where they live, the right to use their own language and scripts, to practice their own culture and religion, to perform religious ceremonies, to establish their own associations. They are guaranteed equality before the law and equal legal protection; traditional local names of streets and other signs are written in local languages; the freedom of expression includes the freedom of conviction and reception and dissemination of information and ideas in minority languages. They are guaranteed the right to establish and use their own mass media, cultural, educational, language and religious institutions, and to establish and foster unhindered relations and maintain peaceful contacts with co-nationals outside the Yugoslav borders, as well as the right to participate at the national, regional and local levels.

All of the above mentioned rights are exercised in the authorities of the Federal Republic of Yugoslavia, in the member republics, in the autonomous provinces of Vojvodina and Kosovo and Metohija, that is, in their local self-government authorities.

Nevertheless, under the binding international law, each member of a national minority is obliged to respect the national legislation and the rights of others, especially of members of the majority and other national minorities (Article 20 of the Framework Convention of the Protection of National Minorities - Strasbourg, 1995).

The aggressor's acts cannot contribute to the exercise of the established rights of national minorities. On the contrary, they impede the exercise not only of the rights of national minorities but also of fundamental universal civil liberties and rights and render such exercise impossible.

8. Based on the above stated, the Federal Constitutional Court has established that the unjust, illegitimate and illegal NATO aggression against the FR Yugoslavia has violated the international public law and the international legal order. The imposition of unlawfulness instead of law has also jeopardized peace in the international community at large.

Sl.No. 1/4-99  
18 April 1999  
B e l g r a d e

(Signed) Milomir Jakovljevic, m.sc.iur.  
PRESIDENT OF THE FEDERAL  
CONSTITUTIONAL COURT