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لجنة حقوق الإنسان
الدورة الحادية والستون
البند ١١ (ج) من جدول الأعمال المؤقت

الحقوق المدنية والسياسية، بما في ذلك مسألة حرية التعبير

تقرير السيد أمبي ليغابو، المقرر الخاص المعني بتعزيز وحماية الحق في حرية الرأي والتعبير

إضافة

البعثة إلى صربيا والجبل الأسود*

* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير ذاته فيرد في مرفق هذه الوثيقة ويعمم باللغة التي قُدم بها.

موجز

يرمي هذا التقرير، الذي أعدّه بموجب قرار لجنة حقوق الإنسان رقم ٤٨/٢٠٠٢، إلى عرض وتحليل معلومات حول الحق في حرية الرأي والتعبير جمعها المقرر الخاص قبل وأثناء زيارته إلى اتحاد صربيا والجبل الأسود، في الفترة من ١٠ إلى ٢٠ تشرين الأول/أكتوبر ٢٠٠٤، من مصادر للأمم المتحدة، ومسؤولين رسميين ووطنيين، ومنظمات غير حكومية، وأفراد.

ولمنطقة البلقان أثر بارز في تاريخ القارة الأوروبية ككل، خصوصاً عبر ثقافتها المتعددة وتقاليد العرقية. بيد أن نزاعات الماضي، لا سيما أزمة التسعينات التي تمخضت عن انحلال جمهورية يوغوسلافيا الاتحادية الاشتراكية، خلقت عبئاً مريعاً من ذكريات أليمة وجروح لم تندمل. ومن المؤسف أن الانقسامات العرقية لم تنزل في صميم الجدال السياسي معرقة النمو الاقتصادي والاجتماعي في هذا الإقليم، وبالتالي معرقة تطور النظم الديمقراطية القائمة على الاحترام والتسامح المتبادلين.

ويزيد تضارب الآراء ووصم المجموعات العرقية واستخدام الخطاب المحرض على الكراهية من خطورة حالة عدم الاستقرار المستمرة ويجول دون إيجاد بيئة تمكن من تنمية حرية الرأي والتعبير، التي تعتبر شرطاً مسبقاً للديمقراطية والحكم الرشيد.

ولا يبعد أن يندلع العنف الاثني مجدداً في أي وقت، مقوضاً الجهود الدائبة لإنهاء الصلح والتعايش السلمي. وقد تمخض هذا الوضع غير المستقر عن كرب شديد بين عوام المواطنين وأصبح عقبة حقيقية دون حريتهم في التعبير. وفي هذا السياق، يمثل السعي والنضال من أجل ممارسة حرية الرأي والتعبير عاملاً أساسياً للتوصل إلى حل دائم للشقاق العرقي.

فضلاً عن ذلك، فإن تغلغل نشاطات إجرامية في إدارة الدولة وفي الساحة السياسية يبدو من أهم العراقيل التي تحول دون تنمية حرية الرأي والتعبير. وترتب على ذلك من مظاهر الفساد والإفلات من العقاب ما يُضعف سيادة القانون والتمتع بحقوق الإنسان الأساسية والنهوض بمجتمع مدني مزدهر.

وتستعصي ممارسة حرية التعبير بشكل خاص في إقليم كوسوفو؛ حيث أعربت عدة مصادر عن انتقادات جمة لدور وعمل بعثة الأمم المتحدة للإدارة المؤقتة في كوسوفو، ولكن يظل من الصعب موضوعياً، في الأمد القريب، تصور مستقبل بدون وجود منظمات دولية وقوات لحفظ السلام. وما زال ينبغي عمل الكثير لتحقيق مستوى مستدام من التعايش السلمي والتسامح بين كافة المجموعات العرقية وهيئة مناخ موات لممارسة حرية الرأي والتعبير على أكمل وجه.

أما وسائل الإعلام، فقد أشار العديد من تحدث معهم المقرر الخاص إلى أن النمو السريع لوسائل الإعلام المطبوعة والمذاعة منذ تشرين الأول/أكتوبر ٢٠٠٠ لم يواكبه تطور في التدريب المهني، لا سيما في مجال أخلاقيات

المهنة وأهمية مراعاة حقوق الإنسان في الاضطلاع بالأدوار الإعلامية. ومن أبرز نتائج هذا القصور استمرار الخطاب المحرض على الكراهية، والمنتشر في وسائل الإعلام الأصولية المطبوعة منها والمذاعة.

ومن جهة أخرى، لا يزال التشهير يعتبر جزءاً من القانون الجنائي. وفي غضون الأعوام الأربعة الماضية، رفعت في صربيا وحدها حوالي ٣٠٠ دعوى قذف. وعلاوة على ذلك، يبدو أن الصحفيين أنفسهم كثيراً ما يتعرضون لضغوط قاسية ويتلقون تهديدات من منظمات إجرامية.

وينبغي كخطوة أولى إلى الأمام إجراء مراجعة سريعة للقوانين الحالية بشأن الإعلام، لجعلها تمتثل امتثالاً تاماً للمعايير الدولية. بيد أن تطوير الحس المهني لا يمكن أن يتم عبر القانون وحده، بل لا بد أيضاً من توفير تدريب محدد بشأن حقوق الإنسان الخاصة بالعاملين في مجال الإعلام وبشأن أخلاقيات المهنة، الأمر الذي بات ضرورة ملحة.

أما فيما يتعلق بالأقليات، فلم يجرز الحوار بين شتى الأقليات المقيمة في كوسوفو تقدماً يذكر. ويبدو أن أحداث آذار/مارس ٢٠٠٤، عندما أدت بعض الاحتقانات العرقية إلى اندلاع جولة شرسة من العنف في شتى أنحاء الإقليم، قد محت من أذهان جمع من المواطنين جهود الصلح والبحث عن الحقيقة، التي لم تنقطع منذ نهاية الحرب.

ومن الواضح أن الأقلية الصربية تعاني من قيود ثقيلة على حرية التنقل، وبمجرد استخدام لغتها قد يكون مصدراً لاندلاع أحداث عنف. وبالمثل، يتحاشى أفراد المجموعة الألبانية زيارة المناطق الصربية، بينما تخشى الأقليات الأخرى، فيما يبدو، المجموعات المهيمنة. وقد أدى هذا الوضع إلى تقييد حرية التجمع بما لذلك من نتائج سلبية على حقوق العمال وأنشطة النقابات العمالية.

وينشط حالياً العديد من وسائل الإعلام المطبوعة والمذاعة باللغة الألبانية في كوسوفو، تحت سلطة المفوض المؤقت لوسائل الإعلام، في انتظار إنشاء لجنة مستقلة لوسائل الإعلام. أما المعلومات باللغة الصربية فتصدر بشكل أساسي من صربيا، ويبدو أن الصحفيين الصربيين المقيمين في كوسوفو يواجهون صعوبات حمة في ممارسة عملهم. وفي هذا السياق، يودّ المقرر الخاص التشديد على أن الحق في حرية الرأي والتعبير حق أساسي لا يمكن إخضاعه لقيود معينة إلا في حالات استثنائية، كما تنص على ذلك الصكوك الدولية والإقليمية لحقوق الإنسان.

وحسب المعلومات التي تلقاها المقرر الخاص، يبدو أن التوتر أقل حدة في الجبل الأسود، رغم مقتل صحفي وإعلامي بارز قبل أشهر. وتبدو هيئة تنظيم الإعلام في أوج نشاطها، حيث يُنتظر اعتماد مشروع قانون بشأن حرية الوصول إلى المعلومات وآخر بشأن تكتل وسائل الإعلام، بحيث يكتمل قريباً الإطار التشريعي القائم في هذا المجال. ورغم أن قضايا القذف لا تزال تعتبر جزءاً من القانون الجنائي، فإنها قد تفضي إلى دفع غرامة، ولكن الأحكام بالسجن أمر مستبعد.

Annex

**REPORT SUBMITTED BY THE SPECIAL RAPPORTEUR ON THE
PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM
OF OPINION AND EXPRESSION, AMBEYI LIGABO, ON HIS
MISSION TO THE STATE UNION OF SERBIA AND MONTENEGRO
(10-20 October 2004)**

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Introduction

1. The present document is the full report of the mission of the Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo, to the State Union of Serbia and Montenegro, held from 10 to 20 October 2004 at the invitation of the Government. The delegation comprised the special Rapporteur, an official from the Office of the United Nations High Commissioner for Human Rights in Geneva, supported by officials of the office of the United Nations High Commissioner for Human Rights in Serbia and Montenegro.
2. The Special Rapporteur would like to mention that, in the preparation of his mission and this report, he consulted material from United Nations sources, particularly the reports of the Secretary-General on the United Nations Interim Administration Mission in Kosovo to the Security Council.¹ He also took note of the concluding observations of the Human Rights Committee adopted upon the consideration of the initial report submitted by Serbia and Montenegro, on 28 July 2004,² and of the decision of the Committee against Torture regarding its communication No. 207/2002.³
3. The Special Rapporteur wishes to thank the State Union of Serbia and Montenegro for its openness and for guaranteeing unhindered access to any location. He underlines that he was in a position to carry out his mission in an effective way, without any prejudice. The Special Rapporteur would also like to express his gratitude to all national and international personalities, members of minorities, institutions, members of the media, trade unions and individuals with whom he met and had a comprehensive exchange of opinions and information. Moreover, he wishes to thank the office of the High Commissioner for Human Rights in Serbia and Montenegro for its valuable support and assistance.
4. The office of the High Commissioner for Human Rights in the State Union of Serbia and Montenegro was first established in March 1996 to provide support to the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the State of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro). Because of the evolution of the situation, the High Commissioner decided to open sub-offices in Kosovo in April 1998, and in Montenegro in August 1999, in addition to the Belgrade office. The mandate of OHCHR in Serbia and Montenegro is to monitor, report on, promote and protect human rights. Within this framework, OHCHR supports the Government in implementing human rights standards and United Nations agencies in including a human rights perspective in their programmes. Since the beginning, the office has devoted special attention to issues related to freedom of expression such as legislation on the media, on slander, on workers' rights, and media monitoring.
5. During his visit to the State Union of Serbia and Montenegro, the Special Rapporteur met with Republic of Serbia and Republic of Montenegro government officials, and members of the provincial institutions. The Special Rapporteur also met with representatives of the national and international media, press professional associations, other non-governmental organizations working in the field of human rights and some individuals allegedly victims of human rights violations. The Special Rapporteur travelled to Kosovo where he met international organizations officials, members of the Provisional Institutions of Self-Government (PISG), representatives of the civil society and the media working in the area.

6. For the sake of clarity, the Special Rapporteur systematically repeated the contents of his mandate at the beginning of all meetings he took part in, underlining, as appropriate, certain aspects of his work specifically relevant to the nature and purpose of the meeting. In particular, the Special Rapporteur stressed that his mandate does not concern exclusively the right to the promotion and protection of freedom of opinion and expression of the media, but it includes all forms of opinion and expression as exercised by citizens, groups and associations regarding civil, political, social, economic and cultural matters. The Special Rapporteur considers that by no means should the right to the promotion and protection of freedom of opinion and expression be used to amplify racism, ethnic hatred and other forms of human rights violations, which have vigorously been fought by international human rights and humanitarian law for many decades.

7. The contents of the present document refer to the situation prevailing in the State Union of Serbia and Montenegro at the time of the Special Rapporteur's visit.

I. BACKGROUND

8. In the course of 1991, three of the former federal republics of Yugoslavia (Croatia, Slovenia and Macedonia) declared their independence, while Bosnia and Herzegovina did so in 1992. The break-up led to full-scale armed conflicts (except in Macedonia) in the course of which mass summary executions and grave human rights violations were committed. An international tribunal, the International Criminal Tribunal for the former Yugoslavia, was established to try the perpetrators of war crimes and crimes against humanity. In spring 1999, North Atlantic Treaty Organization (NATO) troops intervened in Kosovo to stop another massive wave of human rights violations, including summary executions, disappearances, abductions and other abuses. Since then, the United Nations Interim Administration Mission in Kosovo (UNMIK) has administered the province whose future status remains uncertain though it is legally considered as a part of Serbia and Montenegro.

9. The State Union of Serbia and Montenegro was established on 14 March 2002, thus ending the Federal Republic of Yugoslavia, and marking the start of the democratic transition. The majority of the population in the Republic of Serbia are Serbs, with minority communities accounting for 27.24 per cent of the population. In Kosovo, the population is made up of more than 90 per cent ethnic Albanians.

II. GENERAL HUMAN RIGHTS LEGAL AND INSTITUTIONAL FRAMEWORK

10. The federal Constitutional Charter of the State Union of Serbia and Montenegro and the constitutions of the Republic of Serbia and of the Republic of Montenegro guarantee a broad range of political, civil, social, economic and cultural rights, as well as the rights of national minorities. All rights and freedoms are guaranteed by the judicial system and abuses are unconstitutional and punishable by law. In addition to regular judicial proceeding before a court, all citizens may begin legal action before the Constitutional Court of Serbia and Montenegro against any document or act that violates the rights and freedoms guaranteed in the federal Constitution.⁴ On 28 February 2003, the National Assembly of the Republic of Serbia, the National Assembly of the Republic of Montenegro and the Federal Assembly adopted the Charter on Human and Minority Rights and Civil Liberties, as foreseen in articles 8 and 9 of the Constitutional Charter of the State Union. In this Charter, article 29 deals with freedom of

opinion and expression, article 30 with freedom of the mass media, article 31 with freedom of assembly, article 32 with freedom of association and, finally, article 37 with freedom of movement.

11. The Constitution of the Republic of Serbia, adopted in 1990, and the Constitution of the Republic of Montenegro, adopted in 1992, contain several provisions regarding freedom of opinion and expression and related rights, such as freedom of the press, freedom of speech, freedom of assembly and association.

12. At the time of the Special Rapporteur's mission, the situation of the national human rights commission was rather complex. While there was no commission with a mandate for neither the Republic of Serbia nor the Republic of Montenegro, as well as no Federal Commission, there is an Ombudsperson in Montenegro and one in the province of Vojvodina. Previous Governments worked on legislation concerning a "Law on the People's Attorney" with Ombudsman functions, to no avail. The Special Rapporteur received information concerning the planned establishment, by the Ministry of Human and Minority Rights of Serbia and Montenegro, of a human rights commission that would include relevant local NGOs, representatives from international organizations, as well as prominent human rights activists.

13. In Montenegro, the office of the Ombudsperson commenced its activities in December 2003 and since then, it had received approximately 500 cases, 200 of which were solved. The typology of the complainant may vary, from ordinary employees, parliamentarians, lawyers and political analysts, to members of minorities. Sixty-seven (67) per cent of the complaints are related to Court cases, especially about delays concerning the conclusion of judicial proceedings.

14. The province of Vojvodina, with its five official languages, represents a typical case of the complexity of guaranteeing freedom of opinion and expression in a multi-ethnic society. The Ombudsperson in Vojvodina holds a wide mandate on the protection of minorities, definitely the most sensitive issue because the minorities living in the province are particularly numerous. The Ombudsperson explained to the Special Rapporteur the principal functions carried out by his office, especially the solution of conflicts regarding the use of different languages within public environments. The provincial government was working on drafting a bill on the right to freedom of religion and belief. Should authorities be unable to redress the present balance among the numerous religious groups, the exercise of freedom of religion could become another source of conflict.

15. In Serbia, another subject of great concern was the capacity of witnesses, victims and defendants in war crime trials to exercise their right to freedom of expression. NGOs and human rights defenders have often called on the Special Prosecutor for War Crimes and the Special Department for War Crimes to ensure protection for witnesses and to examine cases pending before district courts in Serbia in order to avoid war crimes from being considered as ordinary criminal offences.⁵

16. The former Socialist Federal Republic of Yugoslavia had started signing and ratifying the main international human rights treaties as early as the 1970s. Serbia and Montenegro, as the successor State, is now party to the following instruments: the International Covenant on Civil and Political Rights and its two Optional Protocols; the International Covenant on Economic,

Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination (the State declaration under article 14 accepting competence of the Committee for individual complaints in force since 2001); the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (State declaration lodged under article 22 recognizing competence of the Committee for individual complaints in force since 2001); and the Convention on the Rights of the Child and its two Optional Protocols. Serbia and Montenegro signed in September 2003 the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, but it has not yet ratified it. Serbia and Montenegro is party to other international conventions, such as the Convention on Political Rights of Women; the Convention on Citizenship of Married Women; the Convention on the Prevention and Punishment of the Crime of Genocide; the Convention on the Status of Refugees (and Protocol on the Status of Refugees); and the Rome Statute of the International Criminal Court.

17. Serbia and Montenegro is also party to the most fundamental European human rights conventions:

- The Convention for the Protection of Human Rights and Fundamental Freedoms (signed in 2003 and entered into force in March 2004);
- The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (signed in March 2004 and entered into force on 1 July 2004);
- The Framework Convention for the Protection of National Minorities.

III. THE SITUATION OF THE MEDIA IN SERBIA AND MONTENEGRO

A. Media legislation

18. The Act on Telecommunications, adopted by the National Assembly of Serbia, which took effect on 1 June 2003, aimed at the reform of the telecommunications area and at the regulation of the market for telecommunications, providing for the equitable status of all participants. It would further prevent monopoly, enhance the quality of services and ensure consistency with international standards. The decision-making process on the rights and obligations is transferred from the State to the Republic Agency for Telecommunications, an independent body that should cooperate with other governmental and independent authorities to reform the telecommunications system as a whole. The agency would be entrusted with the control of communications and the management of frequencies.

19. Article 6 of the Broadcasting Law establishes the Republic Broadcasting Agency as an autonomous organization, with independent legal entity, which shall exercise public powers, with the aim to providing conditions for efficient implementation and improvement of broadcasting policy in the Republic of Serbia in a manner appropriate to a democratic society.

20. Article 8 of the Broadcasting Law stipulates that the Agency shall, inter alia, grant broadcasting licenses and create the form for the licenses; set the rules binding for all broadcasters, which ensure implementation of the broadcasting policy in the Republic of Serbia; monitor the operation of broadcasters in the Republic of Serbia; and take appropriate measures against broadcasters, in accordance with this law. In addition, the agency also carries out activities and actions related to measures taken in the field of broadcasting with the aim of protecting minors and preventing broadcasting programmes that contain information encouraging discrimination, hatred or violence against a person or a group of persons due to their affiliation or non-affiliation to a particular race, religion, nation, ethnic group, or based on sex.

21. Through his meetings with media representatives in Serbia, the Special Rapporteur learnt that both the Agency of Telecommunications and the Republic Broadcasting Agency have experienced delays in commencing their work. While the establishment of the former has been delayed for many months, the Republic Broadcasting Agency has had difficulties in setting up its own council. Unfortunately, without the Agency for Telecommunications, the Republic Broadcasting Agency Council could not carry out two important tasks. The first one is the adoption of the Broadcasting Development Strategy, which is the technical framework for the reform of telecommunications in the country. The second task is the public competitions for licenses because the Law on Telecommunications, in its article 6, stipulates that the Ministry in charge of telecommunications affairs “shall adopt the Plan for Distribution of Radio Frequencies, upon such proposal by the Republic Agency for Telecommunications”. The non-existence of the Agency for Telecommunications, hence, interrupts the work of both the Ministry in charge, presently the Ministry for Capital Investments, and the Republic Broadcasting Agency Council.

22. The Public Information Act, passed in a summary proceeding in April 2003 during the state of emergency following the assassination of Prime Minister Djindjic, contains measures regarding censorship and self-censorship. Journalists were particularly concerned about article 16, which reads: “The authorized district court may at the request of public prosecutor ban dissemination of information, if it is established that such information in a democratic society instigates war and violence or advocates racial, national, or religious hatred, that is, discrimination, hostility, or violence, and publishing thereof poses a great threat with grave consequences.” This provision has clearly been included as a safeguard against the propaganda spread during recent wars in the former Yugoslavia and it does not contradict the provisions included in articles 19, paragraph 3, and 20 of the International Covenant on Civil and Political Rights. Yet media professionals consider that the fact that a judicial authority could decide on banning a publication and/or its contents, could potentially limit their freedom of expression. It should be noted that article 38 of the Public Information Act envisages only a public apology in cases of women-hatred.

23. In his meeting with the Special Rapporteur, the Deputy Minister of Justice stated that freedom of the media is a constitutional right and the present Government would like to contribute to increasing the media’s quality without interfering with its freedom of expression. The Deputy Minister also informed the Rapporteur that the Parliament would soon discuss the adoption of a law on the right to access to information.

24. With media professionals in Montenegro, the Special Rapporteur discussed legislation relevant to freedom of opinion and expression, composed of three laws adopted on 16 September 2002 and two draft bills, largely inspired by international and regional

instruments, especially those adopted within the European Union, on freedom of opinion and expression and media. The first instrument, the Media Law, contains general principles and safeguards about media freedom, and the methodology for their development. The second one, the Broadcasting Law, places emphasis on broadcasting and broadcast media as a specific means of exercising the right to freedom of expression and information. The Law on Public Broadcasting Services fosters media independence in relation to political parties and the Government and ensures that news programmes fairly present facts and events, encouraging the free formation of opinions. The draft bills concern free access to information and media concentration.

25. One of the provisions of the Broadcasting Law, adopted in September 2002, was the creation of the Montenegro Broadcasting Agency as an independent regulatory body in charge of the supervision of the implementation of the law. Its main tasks were the adoption of a broadcasting development strategy and a frequency allocation plan. Among other functions, the agency issues licences for transmission and broadcasting of radio and TV signals and licences for the development and the use of distribution systems, imposes fines on broadcasters and decides on complaints of natural and legal persons to the work of broadcasters. The Broadcasting Agency gave the Rapporteur a comprehensive study, written by its director, Abaz Beli Dzafic, on compatibility of Montenegrin legislation with the European Convention on Human Rights and Fundamental Freedoms.

26. The Ministry of Justice of the Republic of Montenegro discussed with the Special Rapporteur the contents of the draft laws on access to information and on media concentration. The Ministry said that, also in this field, Montenegrin legislators have tried to stick to European standards though there was remarkable resistance on access to sensitive data whose disclosure could endanger the Republic, according to some senior officials. The law on media concentration would try to avoid a media monopoly and to create instead a market-oriented telecommunications business where competitors do their best to offer comprehensive services to the client.

B. Specific issues of concern

27. Journalists and media workers are often under varying degrees of pressure from the political power, economic lobbies and the organized crime. It is clear that investigative journalism about these groups, which sometimes are melted together, might reveal to be a dangerous exercise. In addition to that, there is also an objective difficulty in dealing with the recent past, which seems to be concentrated on the issue of ethnic conflicts. Correspondents in small towns are even more vulnerable; public authorities, as it was during Milosevic's regime, are often hostile and the civil society still very divided. Addressing certain subjects, for instance sexual violence between different ethnic groups, could be very dangerous for the journalist and can create a wave of violence. In order to avoid troubles, media professionals can work on a sort of stand-by mode, limiting their activity to the coverage of statements, communiqués, and press conferences given by various power-holders.

28. During the state of emergency following the assassination of Prime Minister Djindjic in 2003, two publications, *Identitet* and *Nacional*, were banned by the judiciary and the financial sponsors of *Identitet* were later charged with complicity in the assassination of the Prime Minister. A foreign investor subsequently bought *Nacional*. According to some

journalists, the pressure of the Government and other institutions like the judiciary was higher than during Milosevic's regime, and that corruption of media professionals remained a serious obstacle to freedom of expression. Lack of ethic standards and professional codes, poor professionalism, the improper use of information coming from other sources, the increasing number of tabloid newspapers, have contributed to tarnishing freedom of opinion and expression through the systematic use of false information, defamation and hate speech. Access to information, especially on sensitive cases, was practically impossible without having personal connections within the Government and the secret services. Political parties and their members appeared to be too dependent from international organizations and some foreign Governments, which were ultimately interfering in domestic affairs in an unacceptable manner.

29. It also appears that the Public Information Act prevents journalists from carrying out investigations on sensitive cases and that both formal and informal pressure exists. Investigations into cases regarding organized crime may turn dangerous and journalists' security may easily be at stake, though media professionals, like the rest of the population, is accustomed to an atmosphere of violence, which is a constant feature in the region in the last 15 years. Another contentious event was the trial of the presumed killers of Prime Minister Djindjic, where friends of the defendants menaced a number of journalists.

30. In Belgrade, the Special Rapporteur met the Human Rights Contact Group to discuss freedom of expression and media accountability. Several media played a significant role in the dissemination of nationalism and hate speech during the Milosevic regime, but any attempt at scrutinizing their role was considered as an attack on media freedom. Members of the group noted that the fall of Milosevic regime meant the complete liberalization of the press, but left unresolved the central issues of the former Yugoslavia: peaceful coexistence among various ethnic groups, full awareness and responsibility for war crimes, the final status of Kosovo and Serb enclaves, the political struggle in Serbia and its relations with Montenegro. In this context, the rapid growth of print and broadcast media could not have been more difficult.

31. Generally speaking, professionals felt that in Montenegro there was less pressure on media than in Serbia and Kosovo. Though the future status of Montenegro is still to be decided, there are few signs of tension between those who support the union with Serbia and those supporting the idea of an independent Montenegro. Montenegro seems to orient its politics toward the European Union with confidence and its legislation, including laws relevant to freedom of opinion and expression, contains principles and provisions enshrined in international standards. In such an atmosphere, the killing in spring 2004 of Mr. Jovanovic, director and editor-in-chief of the daily newspaper *Dan*, came as an unexpected event. Montenegrin authorities are still investigating this killing and top governmental officials assured the Special Rapporteur that everything would be done in order to disclose all circumstances surrounding it. According to some media sources, journalists may be treated in a rude way and, in several cases, expelled from press conferences without a reason. Likewise, a number of them have no access to information that other media seem to obtain easily. In this connection, it was felt that the Parliament should adopt a law on the supervision of police and secret services in order to make sure that they respect the law and, in particular, that access to information held by these bodies is impartially guaranteed.

32. In their meetings with the Special Rapporteur, officials of the Government of the Republic of Montenegro stated that the Government has seriously been engaged in the drafting of new legislation on media rights. The efforts made in this regard, like the draft law on free access to information, are largely inspired by legislation adopted in the member States of the European Union. Relations between the Government and media can be harsh sometimes, especially with publications promoting hatred and discrimination.

C. Defamation

33. The Special Rapporteur was especially worried by the mounting trend of defamation lawsuits, approximately 300 in the last four years.⁶ Often, these lawsuits end with the payment of high fines, but rarely does the sentence foresee prison terms. Several elements contribute to the persistence of this phenomenon; on the one hand, political parties are not favourable to the decriminalization of defamation. They insist that in the great majority of European countries defamation is still considered a crime and thus dealt with in criminal law. On the other hand, press and media, particularly tabloids, are almost ferocious in attacking personalities, members of political parties, of the judiciary and of the Army. These attacks, which do not spare individuals' private life, are often dictated by the political agenda of the group to which media belong. Several of the Special Rapporteur's interlocutors stated that this phenomenon is a sort of vicious circle, which highlights the pressure of politics on the media, the resulting lack of independence, self-censorship and the impoverishment of investigative journalism in favour of sensationalism.

34. The Special Rapporteur appreciated that there were various opinions on this subject. In June 2003, the Independent Association of Journalists of Serbia (NUNS) cautioned that the increasing number of lawsuits against journalists was a major trend that could affect freedom of information. The Helsinki Committee for Human Rights in Serbia was instead of the opinion that the influence of plaintiffs on the judiciary, notably politicians and financial lobbies, would affect media freedom more than the number of lawsuits.

35. Media professionals offered some expert views in their meetings with the Special Rapporteur on defamation. It was noted that the target of most defamation lawsuits was media treating political and social matters in a serious manner. The "yellow" press - the tabloids - was instead able to provide the reader with instant information, without necessarily providing an analysis of it, because of their contacts with the secret services and with some elements of the Government. Another journalist observed that, overall, the majority of journalists, especially those working for big media groups, did not feel that defamation was a real obstacle to their activity: the judiciary avoids imposing heavy fines, while the Government tended to pardon journalists convicted for defamation. Even some human rights NGOs felt compelled to file a civil complaint against the print media in order to defend their honour and to re-establish the difference between facts and opinions. Of course, moving defamation from criminal to civil law would be a welcome development.

36. The Deputy Minister of Justice of the Republic of Serbia stated that 90 per cent of tabloids oppose the Government through articles that are often offensive, and this may partially explain the high number of defamation suits. On the other hand, two units, the SOS office and the office for individual complaints, work within the Ministry for Culture and Media. Both units have to deal with numerous complaints every day, though the peak was reached during the state

of emergency following Djindjic's killing. The Deputy Minister for Culture and Media stated that the current Government had decided that the fines paid by media during the state of emergency would be reimbursed.

37. In the Republic of Montenegro, in spite of some resistance, the legislature was able to adopt a law on defamation that excludes prison sentences in favour of the imposition of fines. Unfortunately, defamation remains part of criminal law and the amount of fines could still be high. The Ministry hoped that, in a search for harmonization with European legislation, it would be possible to improve these provisions in the future. Media professionals felt that the imposition of high fines could weaken the financial balance of their enterprises.

D. Hate speech

38. The Minister of Foreign Affairs of the State Union, in his meeting with the Special Rapporteur, affirmed that the grave incidents, in which 19 people lost their lives, of March 2004 in Kosovo were an example of the pernicious consequences of hate speech and the media's lack of responsibility. In this regard, it was noted that, in Serbia, several media treated the killers of Prime Minister Djindjic like heroes. There is no culture of tolerance and mutual understanding in the country because of the former dictatorship; large parts of the population as well as media professionals are not educated to respect others' freedom of expression. His ministry was willing to work on the improvement of this dire situation with the help of international organizations.

39. A participant in the meeting with the human rights contact group in Belgrade raised the question whether the exercise of the right to freedom of expression should entail some limitations dealing with minorities and hate speech. For example, in a classic case of hate speech, a media outlet recently defined the killing of Roma peoples as a recreational activity. The border between freedom of expression and hate speech seems to be a grey area in which personal sensitiveness and professional responsibility are more important than sound legislation.⁷

40. Hate speech targeting several public personalities increased in the media after suspension of a state of emergency, in the second part of 2002 and during the pre-election campaign. Hate speech was manifest in tabloids and even reputable weeklies where commentators regularly attack prominent personalities using questionable arguments.

41. Formally, almost all media oppose the use of hate speech and, in general, avoid the use of sensationalism. However, an analysis of this phenomenon should necessarily be linked to the recent history of the country and of the former Federal Republic of Yugoslavia. For example, young people, including media professionals, know little about ethnic Albanians; they are unable to analyse the recent past because of the ongoing atmosphere of suspicion and hatred. To this picture, one should add the economic crisis and a sense of emptiness created by the dissolution of Yugoslavia. Bearing in mind these elements, the persistence of hate speech, even among youth, should not come as a surprise: this is the price to pay for the lack of any serious and comprehensive effort in the field of reconciliation and truth. Furthermore, on the one hand, the use of hate speech from certain media seems to be linked more to marketing considerations than to an editorial strategy; on the other hand, hate speech and discriminatory statements are often quoted from politicians' speeches.

E. Media and the International Criminal Tribunal for the Former Yugoslavia

42. The media regularly report on trials of war crimes in The Hague, which are still a significant topic for the public opinion in the region. In Serbia, some media continue to fuel a negative image of the Tribunal, underrating the testimonies of witnesses, who are often considered as traitors, and presentation of evidence by the prosecution. The notion that the fight against impunity represents a necessary step for future reconciliation within the region is almost completely absent. Dissenting views on this matter, though not very common, are barely tolerated and the security of media professionals may be seriously endangered.

F. Privatization of media

43. Under the Law on Radio-Diffusion, which entered into force on 30 April 2003, public media funded by the State or a local administration should be closed down within two years from the entry into force of the Act. Nonetheless, it would take a few years to complete the privatization of municipal radio and TV stations in order to ensure that the privatization process would not result in the creation of a private monopoly. Bearing in mind that in Serbia only, approximately 1,400 radio and TV are operational, privatization of public broadcasters represents one of the major businesses of the near future in the country.

44. According to the Deputy Minister for Culture and Media of the Republic of Serbia, the Government is aiming at a more competitive market and ultimately to a more balanced circulation of ideas. Its ministry enacted instructions on privatization, as requested by the law, in summer 2004, which would globally regard almost 1,500 electronic media, the highest figure per capita in Europe. For the time being, all trade of frequencies and radio-television media could be cancelled in the next six months. State authorities will especially be vigilant to prevent abuses and to guarantee that the competition will be fair and open to all solvable tenders. Despite the privatization process, which should end in 2006, radio and television public service will not disappear because it will receive funds from the State coming for the imposition of a subscription tax. Media professionals and workers will also have a new role, as they will directly participate in the constitution and management of media's capital.

IV. KOSOVO

45. The dominant political issue in Kosovo, and a main issue in Serbia, is Kosovo's future status. Since 1999, neither the Kosovo Albanian leadership, the Serbian political leaders in Kosovo or Serbia nor the international community have presented any coherent plan nor policy as to how any option or compromise position could be realized. The ethnic Albanian majority almost unanimously calls for full independence while the Serbian minority wants reintegration into Serbia. Moreover, there are minority communities living in Kosovo: Turks, Bosniacs (and other Slav Muslims), Roma, Ashkali and Egyptians, who feel caught in the middle of the conflict between Kosovars and Serbians, and are often victims of discrimination.

46. Political parties in Serbia have repeatedly reaffirmed their willingness to bring Kosovo back under the jurisdiction of Serbia and Montenegro, and underlined that, despite the presence of the United Nations and the Organization for Security and Cooperation in Europe (OSCE) in the region, all basic human rights of the Serb minority have been violated: the freedoms of expression, movement, security, and property rights.

47. Many of the Special Rapporteur's interlocutors believed that the United Nations Interim Administration Mission in Kosovo (UNMIK), which has administered the province under Security Council resolution 1244 (1999) and the Governments of Serbia and Montenegro failed to address the legacy of human rights violations and abuses thoroughly. The fate of those who disappeared and were abducted during and in the aftermath of the war in Kosovo, approximately 3,000 ethnic Albanians and 1,200 members of other minority communities, and the ongoing impunity for inter-ethnic violence perpetrators, are obstacles in all attempts to commence a productive dialogue on human rights.

A. Freedom of expression under the interim administration

48. Following the military intervention of NATO, Kosovo was placed under the administration of the United Nations in June 1999, but formally remained a part of the then Federal Republic of Yugoslavia, now Serbia and Montenegro. At the outset, the United Nations formed an interim administration, UNMIK, which initially had powers in all fields, except defence, which is under the NATO-led KFOR (Kosovo Force) peacekeeping force. Since 2002, many functions of Government have been transferred from UNMIK to local institutions in Kosovo, the so-called Provisional Institutions of Self-Government (PISG), under the jurisdiction of the Constitutional Framework. Powers transferred to PISG include education, culture, social welfare, the economy and public administration. The powers that remain with UNMIK include the police, judiciary and representation of Kosovo abroad.

49. The Special Representative of the Secretary-General exercises functions analogous to a president, with executive powers; as such he promulgates legislation, including that passed by the Assembly, and can intervene in the work of the PISG, a power that has rarely been used. The judiciary is nominally part of the PISG and composed mainly by local judges and staff who are appointed by the SRSG and UNMIK Pillar I (Police and Justice). Within UNMIK Pillar I, there are also international judges and prosecutors in charge of sensitive cases.

50. A number of other independent institutions operate independently of UNMIK and PISG; these include the Ombudsperson Institution and the Temporary Media Commissioner. The Ombudsperson Institution is mandated to address complaints concerning human rights violations involving UNMIK and PISG, while KFOR is excluded. Its recommendations are not binding, but the present Ombudsperson has been a vocal advocate of human rights, criticizing at times UNMIK and PISG. In the future, it is expected that the Ombudsman will be a Kosovo citizen. Established by UNMIK regulation No. 2000/38 of 30 June 2000, the Ombudsperson Institution is an independent body that addresses disputes regarding alleged human rights violations or abuse of authority between the individuals, group of individuals or legal entities and the Interim Civil Administration, or any central or local institution in Kosovo. The Ombudsperson accepts complaints, initiates investigations and monitors the policies and laws adopted by the authorities to ensure that they respect human rights standards.

51. The Constitutional Framework foresees the creation of an Independent Media Commission set up by PISG, but as the relevant legislation has not yet been adopted, a Temporary Media Commissioner (TMC), appointed by the Special Representative of the Secretary-General, currently performs Commission's functions.⁸ The Temporary Media Commissioner is responsible for the development and promotion of an independent and professional media and the implementation of a temporary regulatory regime for all media in Kosovo. The Commissioner upholds the principles of freedom of opinion and expression and exercises disciplinary authority to ensure broadcasters meet their licensing obligations.

52. Opinions on the role of TMC are diverse: a part of media considered that the Commissioner did not open the door for dialogue with journalists and merely impose his decisions on them. In addition, the media criticized UNMIK and OSCE for their inactivity in upgrading media professionalism through training that would include human rights. They also reported on unsuccessful efforts in creating a professional association whose members could belong to any ethnic group. Finally, media professionals would consider the appointment of an Independent Media Commissioner from Kosovo as a significant step in the process leading to self-government of the province.

53. In fact, mass media are numerous in Kosovo; international organizations provide independent media with technical support and programmes. According to TMC, there are 112 licensed broadcasters, 89 radio stations and 22 televisions; the overall percentage of broadcasters in Albanian language is 69 per cent and 33 per cent in Serbian, followed by media in the Bosniak language with 4 per cent, while only 3 per cent of the media are multi-ethnic. Television is the most popular means of communication, reaching 70 per cent of the population even in the most remote and poor areas of the province. Significantly, one of the major television stations, *RTK*, broadcasts programmes in Albanian, Serbian, Turkish and even the Roma idiom. The global circulation of Albanian daily newspapers is 25,000 copies; almost half of this figure regards the sale of *Koha Ditore*. A number of outlets targeting internally displaced peoples, communities and other key actors provide information on returns, human and minority rights issues.

B. Consequences of the ethnic conflict on the enjoyment of freedom of expression

54. One of the major factors thwarting the exercise of the right to freedom of opinion and expression in Kosovo is the intensity of the ethnic conflict, which is still very high. Ethnic Albanian media tend to be very reactive on certain subjects, like the fate of approximately 3,500 people who are still missing since the war, and their relations with TMC, an institution that, in the opinion of some, does not promote freedom of expression but tends to exercise censorship on Albanian publications.

55. Although the legal framework specifies that Kosovo is multilingual, in practice members of minority communities, including ethnic Albanians in areas where they are the minority, are not able to use their languages freely in accessing public services or other aspects of life. The current laws on the provision of documents and signs in all the official languages are arguably inadequate or ignored. There are other minority communities in Kosovo, including Turks, Bosniacs (and other Slav Muslims) and Roma, Ashkali and Egyptians, who also have problems in the use of their languages or expression of their identity.

56. Hate speech in Kosovo and alleged incitement to ethnic intolerance are issues of great concern, which might generate waves of violence. In March 2004, two days of rioting, mainly by ethnic Albanians who targeted Serbs, Roma and the international presence resulted in 20 killed, hundreds injured, the displacement of some 4,500 people (mainly Serbs) and widespread damage to properties and worship places, many of them of great artistic value. Irresponsible reporting in the media allegedly incited the violence in part: an incident occurred in which a group of ethnic Albanian children was drowned in a river. A claim, apparently without any foundation, that some Serbs had chased them into the water, thus causing their deaths, was widely reported in the media and allegedly contributed to the violence.

57. Media representatives in Kosovo stated that they could not be considered as the only ones responsible for the events of March 2004, although there was some exaggeration in the first reports, particularly from a journalist working in that area. In their opinion, the reaction of UNMIK and KFOR to the first violent manifestations was incredibly slow and ineffective. They also added that TMC tends to sanction newspapers and journalists without a factual enquiry.

58. Representatives of international organizations said that mass media in Kosovo can vehicle very partisan views with no limitations. Incendiary statements, hate speech and defamation are often used. They also told the Special Rapporteur that they expected to strengthen their activities in the field of freedom of expression. Notably, they would like to enlarge professional training and contribute to the creation of a media professional association open to all ethnic groups. TMC is fulfilling a crucial role in the establishment of an independent media commission composed by citizens of Kosovo. The Temporary Media Commissioner informed the Special Rapporteur about his initiatives regarding the code of conduct, advertisement on the electoral campaign, and the issuance of new publishing licences for the press. Interestingly, the signature of the code of conduct is a condition of receiving a licence to broadcast from TMC, who also stated that his institution was devoting particular attention in detecting hate speech and discriminatory statements. He finally observed that defamation was unfortunately included in the new criminal code drafted by UNMIK.

59. Another deficiency is the lack of training, including a human rights-oriented approach to the job, of journalists who are very young and do not hold sufficient experience to deal with situations in which sense of responsibility and professionalism have to prevail on personal feelings. Finally, yet importantly, coherent legislation that could provide a legal framework beyond emergency measures is absent, and legislation into force at the time of the former Republic of Yugoslavia is still widely used.

60. Freedom of movement was another main subject discussed during the stay of the Special Rapporteur in Kosovo. The Serb minority believed that, in spite of some marginal improvement, the security situation is not much different from four or five years ago. Use of the mother tongue, access to information, to schooling and a normal lifestyle are impossible: the Serb minority felt isolated and physically surrounded by hostile neighbours. It was noted that the only press available for the Serb minority in their mother tongue was the weekly newspaper *Jedinstvo*, with 10,000 copies being distributed between Kosovo and Serbia.

61. The Special Rapporteur also received information concerning alleged violations of freedom of peaceful assembly; in August 2004, some 40 people who participated in the day of missing people were arrested and quickly released. In the same incident, media equipment was confiscated.

62. Proper legislation on workers' rights is also absent. Having considered the dire condition of public industry in the province and the slow pace of privatizations, unemployment could quickly become a serious problem, especially should the level of salaries remain low. Lack of job security also increases all sorts of illegal trade and cases of corruption. Workers denouncing corruption and mismanagement were suspended from their job and received menaces. The representative of a workers' union felt that international institutions should do more for the respect of workers' rights, bearing also in mind that workers belonging to different ethnic groups merge in factories and other enterprises throughout the province without any major conflict to date.

63. During his visit to Serbia, the Special Rapporteur met the author of a book, a woman who lived in Kosovo for several years and personally saw a number of atrocities against Kosovo's population perpetrated by Serb paramilitary groups. In those days, she wrote notes and thoughts that later she decided to transform in a book. She presented the book in a programme broadcast by B92, a media outlet that ran a strong campaign against Slobodan Milosevic during his regime. Since then, she has systematically been harassed; she received death threats and was physically attacked in Vranje. Her book was confiscated by the police and virtually disappeared from bookstores. Although police ensured protection, her family split up and she now lives in hiding. She hoped to reunite her family soon and to become an expatriate in order to build up a new life. The Special Rapporteur discussed this issue with representatives of the Government of the Republic of Serbia.

V. CONCLUSIONS

64. The consequences of the Balkan wars in the 1990s still represent a burden that troubles the conscience of populations and Governments in the region. In addition to material damages, that period has left a legacy of intolerance and brutality that many people could not forget. Countless efforts have unsuccessfully been made to commence a process of truth and reconciliation, an indispensable factor for the stabilization of peace.

65. In spite of all difficulties and past failures, the country needs new ideas to stop ethnic confrontation, develop and ultimately achieve reconciliation. All components of the society should make a new start in order to develop peaceful coexistence in the region, and to act based on the rule of law and human rights.

66. The present context leaves the door open to the continuation of human rights violations against minorities, including children and women, and to the persistence of discriminatory behaviours. The extent and seriousness of violations may unexpectedly rise with sudden outbursts of violence, often caused by false rumours and racist considerations. Media professionals are under considerable pressure from power-holders and organized crime. Although the relation with politics remains confrontational, a degree of self-censorship has

replaced lobbies' pressure. The yellow press often disseminates hatred and racial discrimination, and ultimately reinforces the polarization of opinions around key issues like the future status of Kosovo.

67. There is an undeniable need to hear alternative voices and opinions. A dialogue among seasoned media professionals and other intellectual categories, coming from different provinces and ethnic groups, could provide an in-depth overview about the past and the way of escaping from its upsetting legacy. The Special Rapporteur is convinced that this dialogue could give a substantial contribution to the end of the stalemate created by many years of war.

68. Hate speech and the systemic use of defamation have political and economic backgrounds: they serve to maintain or reinforce a prejudice, to justify a strategy that may easily culminate in physical confrontation, and to attack enemies spreading false information. In a word, hate speech and defamation are constituent parts of the mechanism that allows the survival of the status quo.

69. The role played by the media in the dissemination of hatred cannot be underestimated. Yet, this lack of responsibility and accountability has deep roots in the political background of the country. Journalists receive scarce professional training or none at all, with no ethical component.

70. Other professional categories, trade unionists, writers and human rights defenders in general, are under severe stress: authorities and the press often portray them as traitors and proxies of unidentified hostile forces.

71. For the purpose of guaranteeing the existence of pluralism, relevant authorities should make sure that both State and private media provide enough room for constructive debate and dialogue to all sides, especially to those groups that have rarely the opportunity of expressing their opinions to a wide audience. In this context, the concentration of mass media in the hands of few entrepreneurs may further limit the freedom of expression of media professionals.

VI. RECOMMENDATIONS

72. The Special Rapporteur urges the State Union Government of Serbia and Montenegro, the Kosovo Provisional Institution of Self-Government and UNMIK to consider action against impunity as one of the main priorities ahead and to do their utmost to ensure impartial and comprehensive investigations of ethnically motivated crimes, including disappearances and abductions.

73. The Special Rapporteur urges the Government of Serbia and Montenegro and international organizations to strengthen their action against organized crime, corruption and impunity. The perpetrators of human rights violations and crimes should be brought to justice regardless of their political affiliation. Law enforcement agencies and judicial authorities should speedily conclude investigations on the assassination of media professionals and workers' union leaders.

74. The Special Rapporteur invites the Government of the Republic of Serbia to consider appropriate legislation for the establishment of an independent national human rights commission and of an Ombudsperson's Office.
75. The Special Rapporteur urges the Governments and Parliaments of the Republic of Serbia and of Montenegro to conclude their work on a comprehensive body of legislation, which would also include law on the right to access to information.
76. The Special Rapporteur calls on UNMIK, OSCE and KFOR to ensure that their activities comply with human rights and humanitarian standards, especially with regard to freedom of opinion and expression. The mandate of the Kosovo Ombudsperson's Office should be extended in order to cover KFOR activities.
77. The Special Rapporteur recommends to national institutions and international agencies to establish a mechanism that would monitor, on a regular basis, the status of freedom of opinion and expression of minorities in Vojvodina.
78. The Special Rapporteur encourages Governments and other relevant authorities to consider the opportunity of reducing drastically the amount of fines to be paid in relation to defamation cases. Moreover, legislators should take the necessary action to modify the present legislation on defamation, include it in civil law and make sure that fines do not suffocate media activity. Defamation law should include the principle that public personalities should tolerate a greater degree of criticism than ordinary citizens.
79. National, provincial and international organizations should work together in order to build up a consistent strategy against the dissemination of hatred and hate speech. Mere legislative actions may not be sufficient to thwart a phenomenon that is deeply ensconced in the society. Measures against these scourges should not entail a reduction of the right to freedom of expression, but should promote a new vision in communication based on human rights principles.
80. International organizations and institutions should promote the establishment of national inter-ethnic professional media associations, which could provide a forum for dialogue. These associations should also be the principal promoters of a press code, which would include basic human rights principles, and would develop an ethical approach to the profession. An independent, inter-ethnic authority, composed of jurists, media professionals and other intellectual categories, could help solving the most controversial cases regarding the violation of professional ethics.
81. The Special Rapporteur encourages all international organizations on the ground to find fresh impetus in their work. Programmes on peaceful coexistence, tolerance and reconciliation should be strengthened and freedom of opinion and expression considered as one of the major channels for constructive dialogue. International and regional organizations may think about the establishment of a journalism school. Professional training and financial investments, especially an increase in the salaries, may upgrade the moral stance of the press and the media industry.

Notes

¹ (S/2004/71 of 26 January 2004; S/2004/348 of 30 April 2004; S/2004/613 of 30 July 2004; and S/2004/907 of 17 November 2004.)

² CCPR/CO/81/SEMO.

³ CAT/C/33/D/207/2002.

⁴ Excerpt from the concluding observations of the Human Rights Committee, 12 August 2004. (CCPR/CO/81/SEMO), para. 23: “While noting the adoption of the Law on the Protection of the Rights and Freedoms of National Minorities, the Committee remains concerned that the practical enjoyment by members of ethnic, religious and linguistic minorities of their Covenant rights still requires improvement. In this context, the Committee notes the lack of a comprehensive non-discrimination legislation covering all aspects of distinction (arts. 2, 26, 27). The State should ensure that all members of ethnic, religious and linguistic minorities, whether or not their communities are recognized as national minorities, enjoy effective protection against discrimination and are able to enjoy their own culture, to practice and profess their own religion, and use their own language, in accordance with article 27 of the Covenant. In this context, the State party should enact comprehensive non-discrimination legislation, in order to combat ethnic and other discrimination in all fields of social life and to provide effective remedies to victims of discrimination.”

⁵ Following the appointment of the Special Prosecutor for War Crimes, Mr. Vladimir Vukcevic, the establishment of the Special Department for War Crimes of the Belgrade District Court and related War Crimes Court in July 2003, the first trial on war crimes started in March 2004.

⁶ Excerpt of concluding observations of the Human Rights Committee, 12 August 2004 (CCPR/CO/81/SEMO), para. 22: “The Committee is concerned at the high number of proceedings initiated against journalists for media-related offences, in particular as a result of complaints filed by political personalities who feel that they have been subject to defamation because of their functions. The State party, in its application of the law on criminal defamation, should take into consideration on the one hand the principle that the limits for acceptable criticism for public figures are wider than for private individuals, and on the other hand the provisions of article 19 (3), which do not allow restrictions to freedom of expression for political purposes.”

⁷ Excerpt of concluding observations of the Human Rights Committee, 12 August 2004, (CCPR/CO/81/SEMO), para. 25: “While noting reports about the decrease in police violence against Roma, the Committee continues to be concerned at violence and harassment by racist groups, and inadequate protection against racially motivated acts afforded by law enforcement officers (arts. 2, 20, 26). The State party should take all necessary measures to combat racial violence and incitement, provide proper protection to the Roma and other minorities, and establish mechanisms to receive complaints from victims and ensure investigation and prosecution of cases of racial violence and incitement to racial hatred, and ensure access to adequate remedies and compensation.”

⁸ UNMIK regulation No. 2000/36 of 17 June 2000.

APPENDIX

List of participants in meetings with the Special Rapporteur

Government officials

State Union of Serbia and Montenegro:
Vuk Draskovic, Minister of Foreign Affairs

Republic of Serbia:
Branislav Bjelica, Deputy Minister, Ministry of Justice
Natasa Petrusic, Chief of Bureau for International Cooperation, Ministry of Internal Affairs
Milorad Todorovic, Chief of Staff, Ministry of Internal Affairs
Vladimir Davidovic, Counsellor, Ministry of Justice

Autonomous Province of Vojvodina:
Petar Teofilovic, Ombudsman

Republic of Montenegro:
Miodrag Vlahovic, Minister, Ministry of Foreign Affairs
Dragan Durovic, Deputy Prime Minister and Minister of Interior
Yeliko Sturanovic, Ministry of Justice
Sefko Crnovrsanin, Ombudsman

Media

Momcilo Petrovic, Editor-in-Chief, *Balkan*
Perica Vucinic, Editor-in-Chief, *Reporter*
Mladen Milutinovic, Editor-in-chief, *Dan*
Slobodan Doric, Acting Secretary-General, Republic Broadcasting Agency
Stojan Jovanovic, Journalist, Beta News Agency
Abaz-Beli Dzafic, Director, Broadcasting Agency of Montenegro
Djordje Vujnovic, Adviser to the Director, Broadcasting Agency of Montenegro
Blerim Shala, Editor, *Zeri*
Nebojša Bugarinović, President of the Independent Association of Journalists of Serbia
Saša Mirković, Director, B92 Television
Predrag Jeremić, Acting editor in chief, *Inter-Nacional*
Stojan Jovanovic, Beta Agency
Nikola Besevic, freelance journalist
Zarko Joksimovic, TV Most Zvecan
Sasa Sekulic, Radio Gracanica

Non-governmental organizations

Behxet Shala, Executive Director, Council for the Defence of Human Rights and Freedoms
Bahri Shabani, President, Union of the Independent Trade Unions of Kosovo
Jeta Xharra, Project Manager, Institute for War and Peace Reporting
Naser Miftari, Representative of the Journalists' Association

Pajazit Nushi, President, Council for the Defence of Human Rights and Freedoms
Dragutin Vidosavljevic, Legal Adviser, Leskovac Committee for Human Rights
Sonja Biserko, Helsinki Committee for Human Rights in Serbia
Javan Nicic, Project Coordinator, Humanitarian Law Center
Dragan Lalosevic, Human Rights Project Coordinator
Dejan Milenkovic, Legislation Initiative Coordinator, Lawyers' Committee for Human Rights
Srdan Darmanovic, Director, Center for Democracy and Human Rights (Montenegro)

Intergovernmental organizations

Organization for Security and Cooperation in Europe
Mission in Kosovo:

Pascal Fieschi, Head of Mission
Katia Chirizzi, Head of Human Rights Division, Department of Human Rights and Rule of Law
Fredrik Wesslau, Political Officer, Department of the Head of Mission
Robert Gillette, Temporary Media Commissioner
Wouter Dol, Media Researcher and Policy Adviser, Office of Temporary Media Commissioner

United Nations

United Nations Interim Administration Mission in Kosovo:

Lawrence G. Rossin, Principal Deputy Special Representative of the Secretary-General
Habit Hajredini, Director of Office of Good Governance, Human Rights, Equal Opportunities and Gender Issues
Thomas J. Monaghan, Director, Department of Justice
Nick Booth, Senior Advisor to the Deputy Special Representative of the Secretary-General for Police and Justice
Christa Meindersma, Deputy Head of the Office of Returns and Communities
Sherwin Das, Returns Officer, Office of Returns and Communities, Office of the Special Representative of the Secretary-General

Aleksandra Segec, Communications Assistant, United Nations Development Programme, Montenegro

Province of Kosovo (under UNMIK administration)

Local administrators:

Zoran Krcmarevic, Municipality Community Office, Vitina
Stojan Kovacevic, Coordinator, Za Srpsku Zajednicu
Snezana Karadzic, OCA, UNIMIK, Pristina
Nebojsa Simic, Director, Municipality Community Office, Kameniza
Sladana Lazic, Director, Municipality Community Office, Kosovo Polje
Predrag Vasic, Municipality Community Office, Pristina
