

You will find below information on various aspects of the situation in the Sandzak region, situated in the Federal Republic of Yugoslavia (Serbia and Montenegro; FRY) which is considered to be significant for the assessment of asylum applications and decision-making on the removal of rejected asylum-seekers originating in Sandzak. In drawing up the following report, particular account was taken of the claims made by various asylum-seekers originating in Sandzak in their asylum applications in the past.

The information given below is based, inter alia, on our own investigation on the spot. Use has also been made of information from local human rights organisations, Amnesty International, the OSCE, ECOMM, UNHCR and other UN organisations, and from various European partners, confirmed press reports, information from the FRY authorities and official documents, letters and communiqués from Muslim organisations such as the SDA and the MNCS. Because of their presumed propagandist content (on the part of both the authorities and the Muslim organisations), "official" documents are used only if the information they contain can be confirmed from other sources.

1. General situation

1.1 Introduction

Sandzak ⁽¹⁾ is an area situated partly in Montenegro and partly in Serbia, on a high plateau in the centre of the Balkans. The main town, Novi Pazar, is its cultural and economic centre, and the majority of the population are Muslims.

The authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro; hereinafter referred to as the "FRY") deny the fact that Sandzak has ever existed as a territorial or administrative unit in Yugoslavia. In the present FRY, as well as in its composite Republics, Sandzak has never been referred to as a distinct unit, and so "Sandzak" does not officially exist. The Serbian region which corresponds geographically to (the Serbian part of) Sandzak is referred to as "Raska".

The name "Sandzak" is nevertheless frequently used, particularly by the Muslim population. The Muslims thus want to emphasise the specific historical, religious, geographical and cultural character of the region.

⁽¹⁾ "Sandzak" (English spelling) is a name of Turkish origin denoting a particular region.

1.1.1 Country and people

Sandzak comprises eleven municipalities, i.e. the municipalities of Novi Pazar, Nova Varos, Priboj, Prijepolje, Sjenica and Tutin in the Republic of Serbia, as well as the municipalities of Bijelo Polje, Berane, Plav, Pljevlja and Rozaje in the Republic of Montenegro ⁽²⁾. Together these municipalities cover approximately 10 000 km² of the territory of Serbia and Montenegro.

No unequivocal data can be obtained about the composition of the population of Sandzak. According to some sources, the latest census (1991) showed that the total population of Sandzak consisted of 420 862 inhabitants. The authorities themselves quote the figure of 325 710. According to official data, the first mention was made in 1991 of a majority, albeit small, of Muslim inhabitants in the area (52,5% as against 46,1%) who called themselves "Serbian/Montenegrans". The remainder of the population declared themselves during the census to be "Yugoslav". The latter element contributes to the difference of viewpoints between the authorities and the Muslims over the composition of the population of the area. The lack of clarity over which percentages represent the Muslim and Serbian/Montenegrans population groups is further accentuated by the fact that, despite their numerical superiority, the Muslim population actually constitute a majority of the population in only a limited proportion of the Sandzak region. Looking at the composition of the population of each municipality, the Muslims only constitute a majority in the Serbian part of Sandzak in Novi Pazar, Sjenica and Tutin, and in the Montenegrans part in the municipalities of Plav and Rozaje. In the Constitution of the former Socialist Federal Republic of Yugoslavia, the Muslims were referred to as a separate "nation". On 27 April 1992, this Constitution was replaced in the FRY by a new Constitution. In that Constitution, the Muslim population, like the other ethnic population groups in the FRY, is no longer referred to as a separate "nation", but mention is only made of national minorities in general. The Constitution of Serbia uses the term nationality, and the Constitution of Montenegro speaks of national minorities and ethnic groups.

⁽²⁾ In the UN documents consulted while drawing up the previous official report of 19 November 1996, bearing the reference DPC/AM/No 66995, the UN defined Sandzak as a region covering eight municipalities. However, UNHCR recently stated that in the current definition, Sandzak consisted of eleven municipalities, 6 of which in Serbia and 5 in Montenegro. It is unclear when the change in the description of the area took place within the UN.

1.1.2 Status of Sandzak

History

At the beginning of the eleventh century, the area of the Sandzak, together with Kosovo, formed the centre of the first Serbian State. From the end of the fourteenth century until 1870, the area came under the Ottoman Empire and formed part of Bosnia-Herzegovina. The area enjoyed complete cultural autonomy until 1878. During the Congress of Berlin, Sandzak was separated from Bosnia-Herzegovina, and the Austro-Hungarian monarchy gained administrative control over that Bosnia-Herzegovina. Formally, Sandzak still belonged to the Ottoman Empire. In October 1908 Austria-Hungary annexed the Turkish provinces of Bosnia-Herzegovina, and left Sandzak to Turkey in exchange for acceptance of the annexation. During the first Balkan War, Serbian and Montenegrin troops occupied Sandzak in October 1912 and divided up the area. This division of the area was formally recorded in the Treaty of Bucharest, concluded in August 1913 at the end of the second Balkan War. In 1943, Tito's Anti-Fascist Council for the Liberation of Yugoslavia proclaimed Sandzak to be an autonomous region. In 1945 the region was again divided up between Serbia and Montenegro, and neither under the Yugoslavian Constitution nor under the Serbian or Montenegrin Constitutions was it given autonomy.

However, the Muslims are continuing to strive for some form of autonomy for Sandzak in order to emphasise the individual historical, religious, geographical and cultural character of the region. Recent expressions of that endeavour have been the referendum of October 1991 and the memorandum of June 1993.

The referendum of October 1991

The Muslim National Council of the Sandzak (MNCS) is an assembly of disparate Muslim organisations, originally including the Party for Democratic Action (SDA), the most important political party of the Muslims, the humanitarian organisation Merhamet and the Writers' Union of Sandzak. Between 25 and 27 October 1991 the MNCS organised a referendum on autonomy for Sandzak. In the six Serbian municipalities of Sandzak in which the referendum was held, approximately 70% of the population took part. The Muslim population voted massively (98,9%) in favour of regional autonomy. The referendum was declared invalid and unconstitutional by the Serbian authorities.

The memorandum of June 1993

On 6 June 1993 the SDA and the MNCS submitted a joint memorandum to the Federal Parliament and the two Parliaments of the Republics. The aim of the memorandum, entitled "Memorandum on the Establishment of a Special Status for the Sandzak", was to give further content to the concept of autonomy. In the period between the referendum and the drafting of the memorandum, the final goal of the referendum was interpreted in various ways, ranging from cultural autonomy to secession. The memorandum made mention of a special status for Sandzak, the underlying thinking being more or less total autonomy for the local authorities. The memorandum thus argued in favour of setting up a parliament, as well as the appointment of a governor and a cabinet with powers in the fields of education, cultural policy, the media, the issue of work permits, the environment, health care, taxation and the police. At the same time the demilitarisation of the region was proposed. The memorandum was rejected out of hand by the Federal Parliament as a de facto attempt at secession by Sandzak. By the MNCS and the affiliated parties, it is, however, still cited as the only acceptable starting-point for a dialogue with the authorities over the status of Sandzak. However, neither the Serbian nor the Montenegrin authorities in any way contemplate entering into a dialogue with the Muslims about the status of Sandzak.

1.2 Characteristics of the current regime in the FRY which also apply to Sandzak

Sandzak has no special territorial or administrative status within the FRY and thus, under the Constitution of the FRY, the municipalities in that region come under the central government of the Republic to which the particular municipality belongs. Ethnic Muslims are proportionately very under-represented in the police force, army, municipal and regional government and other State institutions. In view of the centralised structure of the FRY State, a local authority has little or no influence on these services and institutions.

1.2.1 Independent judiciary

The Constitution of the FRY makes provision for an independent judiciary, but in practice the latter is controlled by the executive. A court judgment in the FRY will not go against the interests of State security lightly. Judicial proceedings may be instituted in order to produce an intimidating effect. These proceedings can drag on endlessly and can constitute an administrative obstacle to obtaining official documents, such as passports ⁽³⁾.

1.2.2 Political parties

The SDA is the largest Muslim party. Since the memorandum was drawn up in 1993, however, the SDA has become internally divided over the political line to be followed. Ugljanin, the then President of the SDA, and his supporters were, and still are, in favour of a more radical solution to the problem of Sandzak, which is primarily tantamount to a more far-reaching form of autonomy or even total self-government under the supervision of the UN or the EU. This viewpoint is expressed in publications and documents of the MNCS.

Ljajic, the then Party Secretary who took over the leadership of the party after Ugljanin had left the country in 1993 in order to escape judicial proceedings ⁽⁴⁾, was, and still is, a supporter of a more moderate line: achieving a limited measure of autonomy by means of consultations with the Serbian authorities. Ljajic also wants to establish contacts with the various regional parties in Vojvodina and Central Serbia and is seeking contacts with the opposition parties in Belgrade.

At the beginning of 1995, a definitive rift occurred within the party when the Serbian Ministry of Justice gave its approval to registration of Ljajic's SDA. Registration of Ljajic's party also implied that Ugljanin's faction could no longer formally use the name SDA. This led to vigorous reactions within Ugljanin's faction, which could now do little else than have itself registered anew as a political party (under another name). As a consequence, in addition to the SDA under Ljajic's leadership, there are now the SDA of Sandzak, the Reformist Party of Sandzak, the SDA of Yugoslavia, the Liberal Bosniac Organisation of Sandzak and the Right Democratic Action Party. These parties are all members of the Muslim National Council of Sandzak under the leadership of Ugljanin. For the Serbian parliamentary and presidential elections of 21 September 1997, these parties put up a united front with the name "List for Sandzak Dr Sulejman Ugljanin". During the municipal council elections in 1996, these parties also formed a coalition with the name "List for Sandzak". Initially, Ljajic and Ugljanin were to form a coalition with a joint list in these elections. However, Ugljanin withdrew from this arrangement at the last moment, which was why Ljajic could not take part in the elections: the list had already been submitted to the Serbian authorities.

⁽³⁾ See also footnote 14.

⁽⁴⁾ See also page 12.

In the Serbian part of Sandzak political opinion is being radicalised to a certain degree as a result of the growing popularity among the Serbs of the ultra-nationalist Seselj ⁽⁵⁾. This is making the Muslims feel they have to vote for the equally nationalist-inclined Ugljanin.

Some Muslims have even joined the YUL, Yugoslav United Left, chaired by Milosevic's wife, and the SPS, the Socialist Party of Serbia, Milosevic's party. In this way they are trying via links with the present regime to avoid financial and economic forms of repression on the part of the authorities.

1.2.3 Free elections; influence of Sandzak

Distribution of electoral constituencies

For the elections to the Federal Parliament of the FRY on 3 November 1996, the number of electoral constituencies in Serbia was increased from 12 to 29, and in Montenegro from 1 to 7, whereby Sandzak was divided into five constituencies. Of these five constituencies, some extended to areas in the FRY with large Serbian majorities, so that the Muslim votes in these Serbian areas were neutralised. Thus, Novi Pazar and Tutin were incorporated into the electoral constituencies of Kraljevo Raska and Vrnjacka Banja, which are entirely inhabited by Serbs. At municipal level, a discriminatory distribution also took place to the disadvantage of the Muslims. For the Serbian presidential and parliamentary elections of 21 September 1997, the number of electoral constituencies in Sandzak were adjusted accordingly.

Nonetheless, Muslims were elected to the Federal Parliament, the Parliaments of the Republics and in a number of municipalities.

Elections to the Federal Parliament

On 3 November 1996 Ugljanin, on behalf of the "List for Sandzak Dr Sulejman Ugljanin", won one seat in the Federal Parliament. The Montenegrans SDA also got one seat. There are 138 seats in the Federal Parliament.

Elections to the Montenegrans Parliament

On 3 November 1996 parliamentary elections were also held in Montenegro. One Ugljanin supporter, a member of the Montenegrans SDA, was able to win one of the 30 seats.

Elections to the Serbian Parliament

On 21 September 1997 three Ugljanin supporters were elected to the Parliament of the Republic of Serbia. There are 108 seats in that Parliament.

Municipal council elections

The last round of the municipal council elections in Serbia and Montenegro took place on 17 November 1996. In these elections, despite the discriminatory distribution of electoral constituencies, the Muslim coalition "List for Sandzak" won in the three largest towns in Sandzak: Novi Pazar, Sjenica and Tutin.

⁽⁵⁾ Former Presidential candidate and leader of the Serbian Radical Party.

Serbian Presidential elections

During the Presidential elections for the Republic of Serbia which were also held on 21 September 1997, Ugljanin came seventh out of the seventeen candidates, with about 22 000 of the 4 131 487 votes cast. All the Muslim parties in Sandzak boycotted the second round of the Presidential elections between Lilic and Seselj on 5 October 1997. This boycott provoked the tension that was needed, as the Muslims, by withholding their votes, were held responsible by the Socialist Party of Serbia for their candidate Lilic's loss. After Lilic was replaced by Milutinovic for the new Presidential elections made necessary because of too low an electoral turnout, the latter was also able to beat Seselj. However, the Muslims also boycotted these following rounds of the Presidential elections.

Montenegrin Presidential elections

The two candidates for the Montenegrin Presidential elections of October 1997 were the Belgrade-orientated incumbent President Bulatovic and the opposition candidate Djukanovic. Despite an appeal by Ugljanin to boycott these elections as well, many Muslims voted for Djukanovic. Once Bulatovic's loss was made known, the Muslims were bombarded with racist rhetoric by the Serb media and the SPS and YUL. This time it was not because they had boycotted the elections, as in Serbia, but because they had in fact voted: for the opposition candidate Djukanovic.

1.3 Fundamental rights

The Constitution of the FRY claims to respect the inviolability of the individual and to guarantee the fundamental civil and political rights laid down in international treaties, such as freedom of expression, association and assembly, freedom of movement and establishment throughout the territory, and religious freedom. According to the Constitution, the FRY has no State religion. The Constitution provides for an independent judiciary. The preamble to the Constitution states that the FRY should be regarded as the legal successor to the SFRY. This signifies that, from the FRY's viewpoint, all international treaties to which the SFRY was a party are also valid for the FRY⁽⁶⁾. However, the international community takes the view that the FRY, as one of the successor States to the SFRY, should accede afresh to organisations and treaties, like the other successor States to the SFRY. The Constitution of the constituent Republic of Serbia of 1990⁽⁷⁾ does not go as far as this, and is not subordinate, moreover, to the Constitution of the FRY of 1992. In the event of dispute, the Serbian Constitution prevails for Serbian territory.

Legislation concerning citizenship

A new law concerning citizenship of the FRY entered into force on 1 January 1997⁽⁸⁾. According to the transitional provisions of this law, citizenship of the FRY is automatically accorded to two categories of persons⁽⁹⁾. Those are persons who, at the time of the proclamation of the FRY on 27 April 1992, had Serbian or Montenegrin nationality, as well as those who, on that date, had their official place of residence in the FRY and did not hold the nationality of another former Yugoslav Republic. The law also provides for the possibility

⁽⁶⁾ E.g. the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the UN Code of Conduct for Law Enforcement Officials, the UN Body of Principles for the Protection of All Persons Under Any Form of Detention and Imprisonment, and the UN Standard Minimum Rules for the Treatment of Prisoners (Helsinki Committee for Human Rights in Serbia, Report on Human Rights in Serbia for 1996, p. 9).

⁽⁷⁾ This does not, for example, contain a specific paragraph relating to the rights of minorities.

⁽⁸⁾ After the FRY Parliament approved the law on 16 July 1996.

⁽⁹⁾ For the text of the law, see Annex II.

of "registration as" a citizen of the FRY. Persons who were persecuted on the grounds of their faith or other conviction in another former Yugoslav Republic and who fled to the FRY come into consideration for this procedure. Furthermore, they may not hold the citizenship of that other Republic. The application to obtain citizenship of the FRY must, moreover, have been set in motion within one year of the entry into force of the law. Persons who do not fall into one of the abovementioned categories have a longer distance to cover, namely the procedure for "admission to" citizenship of the FRY. This procedure applies to persons who are of a nationality other than Serbian or Montenegrin. In order to be considered for citizenship of the FRY, they have to relinquish their other nationality. The holding of dual nationality is allowed only in very exceptional cases.

Criticism has been voiced on the part of human rights organisations and the political opposition that the law is too restrictive and complicated. It is also claimed that there is too much scope for arbitrariness on the part of the government body responsible for implementing it, the Ministry of the Interior.

There is also criticism ^B on the part of the UNHCR and HC/CHR ⁽¹⁰⁾, among others ^B that the law is creating the possibility of statelessness, which may be the consequence of the revocation of an earlier decision on according citizenship ⁽¹¹⁾.

It is still not clear by which criteria the Ministry will be guided when applying this law. Implementation of the arrangements as laid down in the law is still being awaited ⁽¹²⁾. The processing of tens of thousands of applications for citizenship of the FRY has been suspended.

1.4 Socio-economic situation

Sandzak is an economically under-developed region. Agriculture represents the largest sector of the economy; industrial development has focused on textiles since 1945. Unemployment amongst the Muslim population group in Sandzak has partly been caused by the discriminatory and unfair treatment to which they have been exposed on the labour market. Since 1992, many medical staff, policemen, teachers and military personnel have also been dismissed for very vague reasons.

It should be noted here that the official unemployment rate amongst Muslims is many times higher than the genuine number of unemployed Muslims. The reason for this is, in particular, the considerable unofficial sector in which many Muslims are working.

The lack of economic prospects and the hindrance experienced in, for example, obtaining accommodation and permits means that many have in the meantime resorted, and are still resorting, to leaving for foreign countries.

Immovable property

In 1989 a law came into force in Serbia laying down special conditions for the sale of immovable property. The intention of the legislation is to prevent the free sale of immovable property from leading to a change in the ethnic structure of the population. The law regulates the sale of immovable property between all citizens of Serbia, with the exception of transactions on the territory of Vojvodina, but in practice the law controls and limits, in particular, the sale of immovable property by Serbs to Muslims and ethnic Albanians. In particular, under this law, citizens are obliged, prior to any sale of immovable property, to apply to the Ministry of Finance for authorization for such a transaction. In practice, this means that such authorization is frequently withheld where a Serb intends to sell immovable property to a Muslim or an ethnic Albanian.

⁽¹⁰⁾ United Nations High Commissioner for Human Rights, Centre for Human Rights, Field Operation in Former Yugoslavia.

⁽¹¹⁾ Human Rights Watch ^B Yugoslavia (Serbia and Montenegro), Persecution Persists: Human Rights Violations in Kosovo, December 1996, p. 34.

⁽¹²⁾ The FRY is a party to the 1961 Convention on the Reduction of Statelessness.

If the transaction takes place without the authorisation of the Ministry of Finance, a sixty-day prison sentence or a fine of from 100 to 1 000 Dinar may be imposed on the buyer. There are no sanctions for the seller. In such cases the contract for the transaction is declared null and void ⁽¹³⁾.

1.5 Entry and exit procedure

The FRY Constitution provides for freedom of movement. Citizens can usually obtain passports. A person who has not (yet) completed military service can only obtain a passport if authorisation for that purpose is obtained from the Federal body responsible for defence matters. In the vast proportion of cases that authorisation is given. We have no knowledge of discrimination against Muslims in this procedure.

However, embassies and consulates of the FRY frequently refuse to extend the period of validity of travel documents, or even to issue such documents to citizens resident abroad ⁽¹⁴⁾. They frequently require men of military service age to submit a document showing that they have completed military service or that they have been exempted from it by the Federal body responsible for defence matters.

Citizens of the FRY who wished to return of their own free will from Germany and Switzerland have been known to have been apprehended at the border, even when they were in possession of valid travel documents. This suggests that if there is a bilateral agreement between the FRY and the country of last residence, the FRY authorities only admit those persons who are covered by the readmission agreement.

A FRY passport is no proof of citizenship. Citizenship of the FRY can be evidenced by means of an extract from the population register of the FRY or if it can be shown that the legal requirements for citizenship are fulfilled.

2. Human rights situation

2.1 Human rights violations

The human rights violations that took place in Sandzak in the period between 1992 and now can in general be divided into three phases.

The first phase directly followed the outbreak of violence in Bosnia-Herzegovina in April 1992. That also brought about a wave of serious human rights violations in the neighbouring Sandzak. The most serious cases occurred in the remote Muslim villages directly along the border with Bosnia-Herzegovina. In the autumn of 1992 and the spring of 1993, the Muslim population, particularly in those parts of Sandzak, were the victims on a large scale of abductions, murders, arson and pillaging. These crimes were committed by paramilitary units, Bosnian Serb army units and to a lesser extent also by army units of the FRY army, the Vojske Jugoslavije (VJ). The FRY authorities were aware of the activities, but took no action against them. According to estimates, in the municipalities along the Bosnian border 60% of the Muslim population left.

⁽¹³⁾ For the text of the law see Annex I.

⁽¹⁴⁾ According to the Helsinki Committee for Human Rights in Sandzak, the Federal Ministry of Transport and Communications is said to have issued instructions to Yugoslav representations entitled "Ban of return to people who sought asylum". However, we have no knowledge of any such instructions.

Once Milosevic gave up the idea of a military solution to the problems of Bosnia-Herzegovina in mid-1993, after lengthy pressure from the international community, violent action by paramilitaries and Bosnian Serb army units in Sandzak also decreased. The involvement of the VJ in human rights violations in Sandzak also came to an end, although the VJ is still present in the region. The action of paramilitaries and army units made way for repressive action by the Serbian police against the Muslim population. The police exercised this repression by carrying out largescale house searches and arrests, often in a very violent manner. This police action was directed in particular at the most influential personalities of the SDA, local leaders and activists. According to international observers (OSCE, ECMM), this phase lasted for somewhat more than a year (approximately until autumn 1994).

The third phase began around the end of 1994 or the beginning of 1995. During that period, visibly violent action gave way to economic and financial forms of repression, such as extortion, dismissal, regular controls by financial departments and deliberate hindrance in the issuing of permits for commercial activities and in obtaining accommodation.

The foregoing does not mean, however, that after 1994 there were no more cases whatsoever of serious (physical) violence against Muslims. In the summer of 1995 the homes of Muslims were also set on fire in the localities of Zabrnjci, Batkovice and Lisicine, and one inhabitant of the locality of Lisicine was injured by gunfire. By placing the blame for such incidents on the Bosnian Serbs, the FRY attempted to shrug off all responsibility for them.

In May 1996 a match between two local football clubs from Plav and Andrijevica formed the pretext for totally disproportionate police action ⁽¹⁵⁾. It is claimed that 21 Muslims were beaten up by the police in this incident.

In the first few months of 1997, a few cases of street vandalism against Muslim property occurred. For example, on 6 January 1997, the celebration of the Orthodox Christmas Eve, an explosive device was thrown into a Muslim's shop in Priboj. On the same evening in Priboj, kiosks and shops belonging to Muslims were destroyed by persons unknown. It is claimed that these cases were not investigated by the police.

The so-called "informative conversations", involving persons being summoned to appear at local police stations and being interrogated in an aggressive manner, are also not yet entirely a thing of the past, although they are becoming increasingly infrequent. Nor are there any known cases of the use of excessive violence during these interviews. In particular, active members of the more radical Muslim parties affiliated to the MNCS can be "invited" to such interviews.

Nevertheless it has been stated on various sides that the direct physical threat to Muslims in Sandzak came to an end in 1995.

⁽¹⁵⁾ The official report of 19 November 1996 wrongly stated that the said incident took place at the end of June. The incident actually took place on 26 May 1996. On 30 June 1996 the Serbian police issued a public statement about its action on 26 May 1996.

Consequences of these human rights violations for the population balance

Estimates concerning the consequences of the serious human rights violations which have taken place in Sandzak vary. The MNCS claims that between 70 000 and 90 000 people have left Sandzak since 1992. The authorities put this at 30 000 to 40 000. Many of them have settled in Turkey or Western European countries. Some of the around 3 000 people who have fled the villages situated on the border with the Republika Srpska, such as Sjeverin, Batkovce, Kukurovici and Sastavci, have settled in Priboj. Of the estimated 1 500 people who felt forced to leave their homes in the Bukovica area in Montenegro, only 46 Muslims have settled in Pljevlja. Consequently, the present Muslim proportion of the population of the municipality of Priboj is only approximately 20%, as compared with 30,4% in 1991, and the Muslim proportion in the municipality of Pljevlja has been reduced from 17,66% in 1991 to about 10% now.

In Sandzak as a whole, however, somewhat more than half the current population still consists of Muslims. However, Muslims are indeed still leaving the region as a result of the lack of economic prospects caused by the economic malaise in the FRY in general, and the financial and economic repression to which they are exposed, in particular. A movement has also been observed from the countryside towards the larger towns in Sandzak itself, which is connected with the relatively better economic prospects in the towns, particularly in the unofficial sector.

2.2.1 Inviolability of the person

House searches

House searches for arms on a large scale hardly ever occur ⁽¹⁶⁾, if at all.

Detention

Article 23 of the FRY Constitution prohibits arbitrary detention and Article 25 prohibits the use of violence against detainees.

However, anyone may be detained for 24 hours in order to establish their identity. The police and security services subsequently have the possibility to hold someone for a further

72 hours, without the assistance of a lawyer, on grounds of exceptional circumstances under Article 196 of the Law on Criminal Procedure. Only after that period does the detainee have the right to legal assistance. The period of 72 hours for preliminary investigation has been known to have been exceeded without any reasons being given. A new Criminal Justice Code for the FRY is in the process of being prepared, and this Article will lapse ⁽¹⁷⁾.

Wholesale arrests have not taken place in Sandzak since the beginning of 1995. With regard to arrests of individuals, no cases of serious human rights violations are known.

⁽¹⁶⁾ The Helsinki Committee for Human Rights in Sandzak reports a single house search in the municipality of Sjenica in February 1997.

⁽¹⁷⁾ Rehn 3, point 146: "The Special Rapporteur also welcomes the fact that Article 196 of the Law on Criminal Procedure, permitting police to detain a person in exceptional circumstances, will be deleted from the draft code".

A number of arrests were carried out during police action in Novi Pazar on 10 July 1997⁽¹⁸⁾. These people were released again immediately. There is one known case of a member of the Executive Council of the Bosniac Youth Alliance who was beaten up by the police on that date. Legal proceedings were subsequently initiated against him on the accusation of causing problems and threatening three policemen with physical violence⁽¹⁹⁾.

Prison conditions

Prison conditions for those convicted in the FRY meet the minimum requirements imposed at international level⁽²⁰⁾. There is no lack of medicine or food.

Death sentence

At least five people were sentenced to death in 1996 in the FRY⁽²¹⁾. No executions have been reported. In the new Code of Criminal Law for the FRY, which is to replace the Codes of Serbia and Montenegro, provision is no longer made for the death sentence. No Muslims have been sentenced to death.

Trials

The sensational legal proceedings against SDA members in Sandzak date back to a few years ago. An amnesty was declared for those involved in December 1995 in Montenegro. The legal proceedings in Novi Pazar are still pending.

Legal proceedings in Novi Pazar

On 19 October 1993, accusations were brought against a total of 25 people, all SDA members from Novi Pazar, Sjenica and Tutin, before the District Court in Novi Pazar. Eleven of the accused were taken into detention on 24 May 1993. Eight of them were reservist officers of the former Yugoslav army (JNA). The public prosecutor regarded Hajriz Kolasinac as the "leader" of the group. He was accused of being the brain behind alleged subversive and terrorist acts of the SDA and of having assembled around himself an "army" of 250 youths. The charge against the 25 read "attempts to set up, using violence, an independent State of Sandzak on the territory of the Federal Republic of Yugoslavia". The indictment also involved the illegal acquisition and possession of large quantities of arms, munitions and explosives. The defence did not deny the illegal possession of arms, but contradicted the fact that these were intended to bring about the secession of Sandzak. According to the defence, these were arms with which the Muslim population might possibly be able to defend itself against violent action by the police in Sandzak. The accused also included SDA leader Sulejman Ugljanin. After the arrest warrant was issued by the FRY authorities, Ugljanin fled to Turkey.

Legal proceedings against the 25 SDA members began almost four months later, i.e. on 9 February 1994, before the District Court in Novi Pazar. As evidence in the proceedings,

⁽¹⁸⁾ See also page 14.

⁽¹⁹⁾ Such proceedings have also been initiated against participants in the demonstrations in Belgrade in December 1996 and frequently serve a deterrent purpose. In most of these cases, sentence has not yet been passed. Under Section 23 of the Federal Code of Criminal Law, the sentence varies from 6 months' to 3 years' imprisonment. If a person does not have a criminal record, it is more likely that a provisional sentence will be handed down.

⁽²⁰⁾ UN Standard Minimum Rules for the Treatment of Prisoners.

⁽²¹⁾ 1996 Yearbook, Amnesty International.

the public prosecutor made use of the "illegal referendum" of October 1991 and the memorandum on the special status of Sandzak as it was claimed that these showed that the Muslims refused to recognise the sovereignty of Serbia/Montenegro. In August 1994 the accused went on a hunger strike to protest against the repeated stays of proceedings. On 12 October 1994 they were sentenced on the grounds of violating Article 116 and Article 138 of the Code of Criminal Law of the FRY. Sulejman Ugljanin was sentenced by default. The defence appealed against the judgment. On 26 March 1996, the Serbian Supreme Court overturned the judgment of the District Court in Novi Pazar. On the basis of the same ruling, the six prisoners with the heaviest sentences were released after more than two years' imprisonment. The other 18 had already been released previously. The legal proceedings were referred back to the court in Novi Pazar by the Supreme Court.

On 11 July 1997 the District Court of Novi Pazar re-opened proceedings against Ugljanin and on 17 and 30 July 1997 he was questioned. On 28 July he was informed that his immunity as a member of the Federal Parliament had been revoked. Since then he himself has no longer been summoned to appear, but he asserts that witnesses against him have indeed been given a hearing in camera. His lawyers were not allowed to attend these hearings. It is not known whether irregularities took place in hearing these witnesses. On 30 July it was announced by the investigating judge that the case against Ugljanin had been joined with the case still pending against the other 24 SDA members which had been referred back to the court in Novi Pazar by the Serbian Supreme Court.

Legal proceedings in Bijelo Polje

The Muslims in the Montenegrin part of Sandzak had to cope with comparable action. A wave of arrests and house searches took place from 25 January 1994 in the municipalities of Bijelo Polje, Pljevlja, Rozaje and Berane. According to the MNCS, more than 150 arrests had already been made on 29 January 1994, during which those involved were taken in for questioning by the police. Most of them were released again after a short while, but others were arrested on the accusation of illegal possession of arms. The police appeared to have particularly targeted prominent SDA members.

In the period during which those involved were in preventive detention, various human rights violations were recorded by human rights organisations in the FRY. Thus, those involved were given medical examinations only about two weeks after their arrest. It was also only then that an SDA lawyer was first allowed access to his clients in the prison in Bijelo Polje. On that occasion, the prisoners reported ill-treatment and torture (beatings, electric shocks, deprivation of sleep, threats) and confessions obtained under duress. Various violations were reported even during the preliminary judicial investigation, such as the presence of prison warders during interviews. One of the detainees is said to have committed suicide in a police cell after ill-treatment. The preliminary investigation in this case lasted about six months. Not until 26 September 1994 were proceedings initiated before the District Court in Bijelo Polje against 21 SDA members, most of whom held prominent positions within that party. The sentences in this case were handed down on 28 December 1994.

In December 1995 the then President of Montenegro, Momir Bulatovic, proclaimed an amnesty for all those involved, and they received damages amounting to 2,5 million Dinar.

2.2.2 Civil rights

Freedom of assembly

On 11 July 1997 the Serbian Ministry of the Interior banned the convening of the meeting of the MNCS which was planned for 12 and 13 July. The Serbian authorities justified this measure on the grounds that the meeting would constitute "a threat to the security of persons and property".

The most important reason for the ban was the public announcement that the MNCS would be meeting on those days to organize a referendum on the independence of Sandzak.

Freedom of the press

Radio and television are completely under the control of the government. A recent attempt to set up an independent local radio station in Sjenica is said to have been blocked by the Serbian authorities. On 26 May 1997 the independent radio station Radio San, based in Novi Pazar, was taken off the air. It did not have the necessary documents and permits to broadcast.

Two Muslim publications appear in Sandzak. Sandjacke Novine is an Ugljanin-linked Muslim national weekly. In addition there is the independent monthly Magazine Has. This magazine is supported by the Swedish Helsinki Committee.

Religious freedom

According to the Constitution, the FRY formally has no State religion, but in practice the Serbian Orthodox faith enjoys privileged treatment in relation to other religions. There are no restrictions on the practice of a religion, but this does not detract from the fact that the authorities go to very little trouble to take action against attacks on mosques in Sandzak, let alone finding those responsible and bringing them to justice. However, there are no indications that the Muslims from Sandzak have to suffer repression on the part of the authorities solely on the grounds of their religious conviction.

2.2.3 Political rights

Freedom of political association

There are no indications that membership alone of a political party leads to arrests or other forms of repression. Where political repression occurred against SDA members in the 1993-1994 period, it concerned the figureheads of the party at the time. However, such occurrences are no longer being repeated. Politically active but less well-known members of political parties affiliated to the MNCS may, indeed, be "invited to an informative conversation". Instances of the use of excessive violence during these conversations are not known.

Dissolution of the municipal council of Novi Pazar in July 1997

On 10 July 1997, on the basis of a decision of the Government of Serbia and in the presence of the Serbian Minister for Local Self-Government, Milosavljevic, a police raid was carried out on the town hall of Novi Pazar. All the municipal bodies legally elected on 17 November 1996 in Novi Pazar, consisting of members of the majority coalition "List for Sandzak Dr Sulejman Ugljanin", were dissolved and the municipality of Novi Pazar was placed in receivership. An emergency administration was appointed, consisting of members of the Socialist Party of Serbia (SPS) and its coalition partner the "Yugoslav United Left" (YUL).

According to the statement by the Serbian Government, the municipal administration had adopted a number of illegal decisions which were in conflict with the Constitution and would have discriminatory consequences for Serbian citizens, namely:

- the decision to replace the board members of the state undertakings and municipal institutions with members of the SDA;

- the decision to increase the number of local boroughs;

- the decision to affix symbols of the SDA in municipal buildings in Novi Pazar.

In addition, the municipal bodies were claimed to have neglected to produce funds for elementary and secondary schools.

The Serbian authorities stated that the dissolution of the municipal administration of Novi Pazar was based on the Law on the territorial organisation of the Republic of Serbia and local administration, and was therefore totally legal. This law allows central government very considerable discretion in decision-making ⁽²²⁾. The emergency measures introduced led to the de facto annulment of the outcome of the municipal elections.

It is generally expected that the emergency administration will remain until the next national municipal council elections, which do not have to take place for another three years.

Cultural and linguistic rights

According to the Constitution of the FRY, members of national minorities have the right to education and media in their own language, the right of educational and cultural association and the right to maintain relations with members of their own nation both inside and outside the FRY. In practice, however, the didactic material contains only a very slight proportion of Muslim cultural and historical information. A negative, or even inimical, picture of the role of the Muslims in the area is also painted in various historical and geographical school books.

3. Evasion of military service and amnesty legislation

With regard to military service in the FRY, I would refer you to my letter dated 23 May 1995, reference DAZ-BA/60346. In addition, the following new development has taken place in this area.

On 18 June 1996 the Parliament of the FRY adopted an amnesty law. This law was published in the Official Gazette of the FRY (No 28/96) on 21 July 1996 and came into force as of the same date.

All those who evaded or refused to perform military service or deserters from the FRY who, in the period up to 14 December 1995, did not respond to a call-up for military service, evaded military service, were absent without leave or deserted, are covered by this amnesty law, irrespective of their ethnic origin. These categories also include those refusing to perform military service and deserters from the former Federal Yugoslav army, the JNA. The introduction of the amnesty law is a direct consequence of the Dayton Accord concluded on 14 December 1995. That date is therefore mentioned in the law. For that reason as well relatively intensive monitoring of its implementation by the international community takes place.

Professional soldiers and officers are excluded from the amnesty law ⁽²³⁾. Although the authorities have promised that a separate amnesty law was to come into force with regard to professional soldiers and officers, that has not yet happened.

⁽²²⁾ In this connection, it should be noted that Ljajic has criticised Ugljanin for the latter's unilateral policy concerning appointments. Ljajic reproaches Ugljanin with having provoked the measures taken by the Serbian Government by means of this policy. The Helsinki Committee for Human Rights in Sandzak has also stated that, although the Serbian Government's drastic measures cannot be justified, the discriminatory nature of the municipal administration's policy had been pointed to on more than one occasion.

⁽²³⁾ For sanctions, I would refer you to the aforementioned letter of 23 May 1995; it should be noted that Article 226(3) of the Federal Code of Criminal Law imposes a heavier sentence for an offence under Article 217(3) and (4) in times of war or a state of imminent war. A state of imminence of war was proclaimed for the period from 3 October 1991 to 26 May 1992.

The law is actually implemented and amnesty has thus been granted on a large scale to citizens of the FRY. Judgments already handed down have lapsed and, if need be, those involved have been released, sentences already imposed have not been executed, the legal consequences of judgments handed down previously have been overruled and persons who have not yet been sentenced have been discharged from prosecution ⁽²⁴⁾ .

There is a possibility for applying for alternative service. A person wishing to be exempted from military service on the grounds of conscientious objection has, within two weeks of receipt of the invitation to register as a military serviceman who may be called up, to address an application to the Military Division of the district in which the person concerned is resident. The Military Division passes the application on to the "Registration Commission", which will take a decision within 60 days. If the "Registration Commission" decides to reject the application, the serviceman who may be called up may appeal against that decision within 15 days to the head of the Military Division in question. The ruling on appeal is definitive and may not be disputed at any higher instance.

4. Persecution

Although there is a considerable difference between the human rights violations which occurred in 1992-1993 and those of today, the human rights situation in Sandzak, especially with regard to discrimination against Muslims, still gives cause for concern. It should be noted here that the situation for Muslims in the Montenegrin part of Sandzak is better than that for the Muslims in the Serbian part. Political opinion is becoming radicalised in Serbia. This may be attributed on the one hand to the inflexible attitude of the regime towards questions of democratisation and minorities, and on the other hand to the popularity of the nationalist Seselj. In Montenegro the Government's attitude is more well-intentioned. Thus, in cooperation with UNHCR, it has set up a programme for the return of displaced persons in Pljevlja. In order to promote the security situation in the Bukovica region, it has also opened a new police station. The election of Djukanovic has given hope for a positive evolution of the democratisation process in Montenegro.

As mentioned, action by the FRY authorities has in general been confined since 1995 to economic and financial forms of repression, whereby the economic prospects for young people, in particular, are very restricted. Muslims are thus encouraged to leave the region. Muslims in Sandzak may all be arbitrarily confronted with these forms of repression on the part of the FRY authorities. There are no indications that intentionally repressive action is connected with any membership of a Muslim party, with apparent affinity with one of those movements, or with whether or not a person belongs to the more radical tendency within the Muslim community, although it is possible that the authorities may show a greater interest in such persons.

The phenomenon of "informative conversations" is not yet entirely a thing of the past. Although in the past it was mainly prominent members of the SDA who were invited to such conversations, active members of the more radical Muslim parties affiliated to the MNCS, in particular, may be confronted with this practice.

There are isolated incidences of Muslims being exposed to serious forms of misdemeanour on the part of the local non-Muslim population. As in the past, the FRY authorities still provide inadequate protection against this.

⁽²⁴⁾ Amnesty International reports in its yearbook for 1996 (p. 225) that it appears from press reports that about 12 500 men have taken advantage of the amnesty, many of whom had left for abroad after the outbreak of the armed conflict in former Yugoslavia in 1991.

The amnesty legislation of 16 July 1996 is being implemented. There are no indications that those evading or refusing military service or deserters have attracted the special attention of the FRY authorities.

4.2 Internal flight alternative

Muslims from Sandzak may settle elsewhere within the Federal Republic of Yugoslavia. However, by doing so they could end up in social and religious isolation, as settlement may provoke resistance on the part of the local population. The reason for this possible resistance is the combination of being Muslim and the deteriorating economic situation in the FRY. This could make things more difficult and cause problems in finding a job and/or housing and in obtaining schooling for Muslims. However, the situation does not appear to be so serious that settlement elsewhere in the FRY could not be required.

There is also the impression that irregularities might occur more easily in the event of settlement in the countryside than in the event of settlement in the towns. Individual local officials are in a position where there is less direct supervision of their actions.

5. Return

No unequivocal and definite answer can be obtained about the numbers of fleeing Muslims who have already returned. Some local politicians state that nobody has yet returned. The humanitarian organisation Merhamet speaks of a few dozen, and HC/CHR states that about 1 000 displaced persons and refugees have returned.

An unknown number of people have crossed the border illegally and have thus managed to return permanently to Sandzak.

With regard to asylum seekers who have exhausted all remedies and have returned, there are no indications that the sole fact that they have stayed abroad or that they have applied for asylum leads to persistent negative attention from the authorities. However, they may on their return be questioned by the police about their stay abroad. We have no knowledge of cases of use of excessive force during such questioning.

Those against whom criminal proceedings are or were pending will on the whole be invited by the police to an "informative conversation".

5.1 Standpoint of UNHCR

The UNHCR is not calling for special attention for certain categories of asylum seekers from Sandzak. Case-by-case assessment is advised. In doing so, active involvement in political activities, leadership of a Muslim political organisation, the degree of involvement with or active support for the Bosnian Muslims in the war in Bosnia-Herzegovina, involvement in activities in favour of secession and previous persecution should be taken into consideration.

For the UNHCR, the low standard of living in Sandzak is no reason to issue negative advice regarding the return of rejected asylum seekers who have exhausted all remedies. However, this is notwithstanding its opinion that a large influx of Muslims from European countries may destabilise the situation in Sandzak, particularly when the prospects for a standard of living of the level enjoyed abroad are slight.

The UNHCR is therefore advising countries in which large numbers of rejected asylum seekers who have exhausted all remedies are staying not to proceed immediately with expulsion on a large scale, but, in agreement with the Yugoslav authorities, to arrive at an organised and regulated return over a certain period.

5.2 Expulsion policy of Western countries

Belgium

Belgium makes a distinction within the group of Muslims from Sandzak, who are only a few in number, between two groups at risk, in particular: persons who have carried out political activities in the opposition and persons who moved to Bosnia during the war, obtained a passport there and later returned once again to Sandzak.

There is no particular expulsion policy regarding rejected Muslims from Sandzak.

According to Belgium, the situation of Muslims in Sandzak is not such as to make such a policy necessary.

Regional or ethnic origin are not taken into consideration in the event of expulsion to the FRY.

Denmark

Denmark conducts no specific policy regarding Muslims from Sandzak. Each case is assessed on its own merits. Nor does Denmark have a specific policy concerning the return of rejected asylum seekers from Sandzak who have exhausted all remedies.

Denmark is at the moment conducting negotiations with the FRY on a readmission agreement. It has no figures available on the number of Muslims from Sandzak staying in Denmark. It is estimated that this involves a very small group which is totally disproportionate to the group of ethnic Albanians from Kosovo.

Germany

Germany has no specific policy for treating asylum applications by Muslims from Sandzak. Nor do any particular specifications apply to this group in the event of expulsion. Insofar as they hold citizenship of the FRY, Muslims from Sandzak come under the readmission agreement concluded by Germany with the FRY. In the event of expulsion, consideration is not given to regional or ethnic origin. The number of Muslims expelled to Sandzak is not known either.

France

France has no specific asylum policy for Muslims from Sandzak. All applications from asylum seekers from the FRY are assessed on their individual merits. Any involvement in political activities or membership of an opposition political party plays a part in the assessment, but does not necessarily lead automatically to granting of refugee status. France does not have a readmission agreement with the FRY. In the first half of 1997 476 persons from the FRY submitted asylum applications. It is estimated that less than 10% come from Sandzak. The majority of asylum applications involve Kosovars.

Norway

It is not known how many Muslims from Sandzak are staying in Norway, as this group is not registered separately. In all probability, this involves a few hundred persons out of the total of 10 000 from the FRY staying in Norway. Only criminals or persons who have already applied for asylum in another country will be expelled. Norway has recently concluded a readmission agreement with the FRY, but the latter has not yet entered into force.

Sweden

Sweden grants refugee status to politically active Muslims from Sandzak, e.g. former journalists and those who have demonstrably had a high political profile in their home country. About 1700 to 1800 asylum seekers who have exhausted all remedies and originate in the former Yugoslavia are currently staying in Sweden, including a maximum of 50 Muslims from Sandzak, who are eligible for expulsion. Sweden concluded a readmission agreement with the FRY on 16 January 1998.

Switzerland

The return of rejected asylum seekers with citizenship of the FRY takes place in the framework of the readmission agreement between Switzerland and the FRY which was signed on 3 July 1997 and entered into force on 1 September 1997. Switzerland has no special asylum policy regarding Muslims from Sandzak. Hitherto, 100 persons have actually been expelled. There were no Muslims from Sandzak in this group.

6. Conclusion

There could be said to be a relative improvement in the situation of Muslims in Sandzak. It should be noted that the situation for Muslims in the Montenegrin part of Sandzak is in general better than that in the Serbian part.

Serious human rights violations on the part of the FRY authorities, such as abductions, murders, arson and pillaging, no longer occur. Wholesale house searches and arrests have also come to an end. From 1995 onwards, the visible violent action of the FRY authorities has made way for economic and financial forms of repression. However, the phenomenon of "informative conversations" is not yet entirely a thing of the past. Active members of the more radical Muslim parties affiliated to the MNCS may, in particular, be confronted with this practice.

Muslims may occasionally be exposed to forms of human rights violations on the part of the local non-Muslim population, against which the FRY authorities still provide inadequate protection. Street vandalism against Muslim property and attacks on mosques come to mind.

In addition, the socio-economic conditions in Sandzak in general and the bad employment situation for the Muslim population group in the official sector, in particular, are a cause for concern.

One explanation for the fact that the aforementioned serious human rights violations no longer occur is that the Muslim proportion of the population has decreased. In the two municipalities of Priboj and Pljevlja, where the most serious instances of cleansing took place, the Muslim share of the population amounts to only 20% and 10% respectively. Even in the municipalities of Novi Pazar, Sjenica, Tutin, Plav and Rozaje, where the Muslim population still constitutes a majority, in principle just as few serious human rights violations still take place.

It seems that it must be concluded that the extreme tension between the Serbian and Montenegrin population groups, on the one hand, and the Muslim population group, on the other, and the associated human rights violations in the period from 1992 until the beginning of 1995 cannot be viewed in abstraction from the state of war in Bosnia-Herzegovina. The position adopted by the FRY authorities in that conflict and the ethnic cleansing in the eastern part of the Republika Srpska have had their impact on the situation of Muslims in Sandzak. This is also apparent from the fact that the most serious human rights violations took place in the remote Muslim villages directly along the border with Bosnia-Herzegovina.

The subsequent more moderate attitude of the FRY authorities and the stabilisation of the situation in Bosnia-Herzegovina have resulted in the fact that the tension between the various population groups in Sandzak has decreased considerably.

In view of the foregoing, the general situation in Sandzak gives no cause for assuming in advance that a Muslim originating in that region whose application for refugee status or for the granting of a residence permit is rejected cannot be expelled.

FOR THE MINISTER FOR FOREIGN AFFAIRS
the Director for Movement of Persons, Migration and
Consular Affairs

(Mr H.H. Siblesz)