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Subject	Section
Situation (of ethnic Albanians) in Kosovo ⁽¹⁾	Directorate for Movement of Persons, Migration and Consular Affairs

I would hereby inform you as follows on some aspects of the situation of ethnic Albanians in the region of Kosovo, which are regarded as significant in evaluating asylum applications, and for deciding whether rejected Albanian asylum-seekers originating in that region may be expelled. The information which follows is based inter alia on an on-the-spot investigation by an official mission.

I have also drawn on information from authoritative governmental and non-governmental organizations such as UNHCR, HC/CHR, Amnesty International, Human Rights Watch, the Swiss Bundesamt für Flüchtlinge, the US State Department and the German Bundesamt für die Anerkennung ausländischer Flüchtlinge (BAFL) ⁽²⁾. On account of its assumed subjective nature, information from the FRY authorities and from ethnic Albanian organizations has been used only with reservation.

⁽¹⁾ Kosovo is a province in the Republic of Serbia. Serbia forms, with the Republic of Montenegro, the Federal Republic of Yugoslavia (FRY). This official report uses the term "Kosovo", the most usual international name for the region. The ethnic Albanian population calls it Kosova. The Serb authorities use as the official name Kosovo-Metohija or Kosmet, two geographical entities which together make up the province. The name Metohija refers to mediaeval orthodox monastery lands near the village of Pe . A map of the region will be found in Annex 1.

⁽²⁾ HC/CHR = United Nations High Commissioner for Human Rights, Centre for Human Rights, Field Operation in Former Yugoslavia. The information in question is taken inter alia from the following reports by Ms E. Rehn, the Special Rapporteur on the Former Yugoslavia:

1. "Situation of Human Rights in the Territory of the Former Yugoslavia. Special Report on Minorities" (25 October 1996).
2. "Situation of Human Rights in the Former Yugoslavia" (12 November 1996).
3. "Situation of Human Rights in the Territory of the Former Yugoslavia" (29 January 1997).
4. "Situation on the Human Rights Activities in the Former Yugoslavia" (30 April 1997).
5. "Report on standards for fair trial of Kosovo Albanians charged with offences against the state" (8 August 1997).

The reports will be referred to in the text as "Rehn 1" etc.

Amnesty International: In addition to the material from the head office in London, I have also made use of letters from AI Netherlands dated 15 April 1996 and 26 May 1997. I have also read the most recent reports of Organisation Suisse d'Aide aux Réfugiés (OSAR).

1. General situation

1.1 Introduction

In Kosovo relations between the ethnic Albanians and the Serb population are disharmonious. Just as elsewhere in the Balkans historical awareness is very much alive in both sections of the population. Kosovo is governed from the Serbian capital Belgrade. For the Serbs Kosovo is part of their national territory, once the cradle of the mediaeval state of Serbia, a region with many Serbian historical religious and cultural monuments. The ethnic Albanians, however, form by far the largest population group in Kosovo. Nine out of ten inhabitants are Kosovan⁽³⁾. They too have lived in Kosovo for centuries. It was here that the Albanian national movement of 1878 arose (see 1.1.2).

The nationalist aspirations of Serbs and Albanians conflict with each other, and so Kosovo is an ethnic, territorial and security problem⁽⁴⁾. After the death of Marshal Tito in May 1980 the Kosovans' demand to make Kosovo a republic of the former Yugoslavia (SFRY) became louder, which led to fierce Serbian reactions.

With the fall of communism at the end of the 1980s Belgrade embarked upon a centralist, nationalist course, and the situation in Kosovo was exploited by nationalist leaders like Slobodan Milošević and others (see 1.1.2). Since then there has been heightened conflict between the authorities dominated by the Serbs and the predominantly ethnic Albanian population. This conflict manifests itself in all areas of society and leaves hardly any opportunity for dialogue⁽⁵⁾. The conflict goes hand-in-hand with abuse of power by the (Serbian) authorities vis-à-vis the ethnic Albanian population.

Both the Kosovans and the Serbs claim control over the region. The two principal aspects of the crisis in Kosovo, the constitutional (see this section) and the humanitarian aspect (see sections 2 and 3) are considered below.

1.1.1 Land and people

Kosovo, which lies in the south-west of Serbia, is bordered in the west by Albania and in the south by Macedonia. The province has an area of 10 887 km².

The composition of the population of Kosovo is not easy to determine, as the ethnic Albanians boycotted the 1991 census⁽⁶⁾. According to the earlier census in 1981 at least 1,2 million Albanians lived in Kosovo. This population group is increasing rapidly in numbers. Families with six children are not exceptional. In 1981 the population had already quadrupled since the Second World War. For 1991 estimates range between 1 750 000 and 1 930 000 Kosovans. At present it is believed that about 85 to 90% of the population of

⁽³⁾ References in this report to ethnic Albanians mean ethnic Albanians from Kosovo. The term Kosovans is also used to mean ethnic Albanians from Kosovo.

⁽⁴⁾ A security problem, because an armed conflict in Kosovo could spread to neighbouring countries like Albania and Macedonia (where the ethnic Albanian minority is 20%).

⁽⁵⁾ In the approach to the parliamentary and presidential elections for the Republic of Serbia on 21 September 1997 a Serbian standpoint that seemed to accommodate ethnic Albanian wishes could have cost many potential votes. In April 1997 a round table conference took place in New York between Kosovans and the Serbian opposition in Belgrade. From 23 to 25 June 1997 there was a meeting in Montenegro between prominent Kosovans and Serbs from Belgrade. Both sets of talks have as yet produced little in the way of concrete results.

⁽⁶⁾ According to the 1991 census the total population of Serbia and Montenegro was almost ten million.

Kosovo is of ethnic Albanian origin.

Fewer than two hundred thousand people belong to the Serb population group. The number of Serbs is decreasing ⁽⁷⁾. In 1961 the Serbs formed 25% of the population of Kosovo. Now the percentage has fallen below ten.

Since the break-up of the former Republic of Yugoslavia (SFRY) and the outbreak of the war in Bosnia, hundreds of thousands of Kosovo Albanians have ended up living outside the country's borders. Many had already left before receiving their first call-up papers for military service or avoided military service when called up by the SFRY authorities or later those of the FRY. By far the largest group lives at present in the Federal Republic of Germany.

In 1995 hundreds of thousands of Serbs were driven out of Krajina ⁽⁸⁾ by Croatia and given refuge in Serbia. In Kosovo, according to recent UNHCR figures, there are now at least 19 000 refugees accommodated in schools and reception centres (see 2.2.4).

In Kosovo there also live a relatively small number of ethnic Moslems, Montenegrins, Turks, Croats and Roma (see also 2.2.4).

The provincial capital of Kosovo is Priština; other towns include Podujevo, Pejë, Prizren, Dakovica, Mitrovica and Uroševac.

1.1.2 History

In the present conflicts between Serbs and ethnic Albanians in Kosovo the perception by people of their own history plays an important part. Slav peoples arrived in the region in the seventh century. The heart of the political, economic and cultural life of mediaeval Serbia lay in Kosovo. This period ended with the defeat of the Serbs in 1369 in Kosovo Polje (the Battle of the Blackbird Field) by the advancing troops of the Ottoman Empire. That defeat plays an important part in the national consciousness of the Serbian people and shows how before 1389 the Serbs were in control, which is why the Serbs now claim to have the oldest rights. It was on account of the Kosovo question in particular that the former communist leader Milošević was able to increase his popularity. In 1989 he organized the 600th anniversary celebrations of the 1389 battle and made the historical rights of the Serbs over Kosovo the theme of the event, even though in the course of the centuries many Serbs had moved away.

The Kosovans are said to be (direct) descendants of old Illyrian tribes, who dominated the Balkans until the 5th century. When many Serbs moved away as a consequence of the defeat in Kosovo Polje, ethnic Albanians settled in the unoccupied area in the Kosovo lowlands. Over several centuries they gradually adopted the Islamic faith of their Turkish rulers. The first conflicts between Serbs and Albanians arose as a consequence of (periodic) oppression of the Christian population in the Ottoman Empire. This oppression was followed by an exodus of Serbs northwards. Serbian refugees settled inter alia in the Vojvodina and in Krajina.

As a result of the wars against the Austrians and Hungarians in 1876-1878 the Ottoman Empire was greatly weakened. The Congress of Berlin in 1878 began the process of dividing the Empire up.

⁽⁷⁾ A spokesman for Kosovo province estimated that 5 to 6% of the Serb population leave Kosovo annually. In addition to ethnic tensions, the poor economic situation is the most important reason for leaving.

⁽⁸⁾ Croatian territory where traditionally many Serbs lived. The meaning is "border".

Among the Albanians a national consciousness had arisen that led to the founding of the League of Prizren in 1878. This was the first expression of the demand for autonomy. After the Balkan War of 1912, the independent state of Albania was created at the London Conference in 1913. Serbia's desire to obtain an outlet to the sea was not recognized. Kosovo became part of the Kingdom of Serbia and Metohija part of the Kingdom of Montenegro.

After the First World War both regions became part of the "first" Yugoslavia (1918-1945), the kingdom of Serbs, Croats and Slovenes, a constitutional monarchy. In the period between the wars the Yugoslav authorities encouraged Serbs to move to Kosovo in order to restore the "balance of the population". This population policy was accompanied by discrimination against the local Albanian population and abuse of power by the local authorities. It is thought that between 1922 and 1941 60 000 Serbs settled in Kosovo.

In the Second World War Kosovo was part of Greater Albania, which had become a protectorate of Italy. As a consequence of this many Serbs and Montenegrins left during that period.

1945-1989

After the successful resistance by the Yugoslav communists under Tito's leadership against Germany and Italy the "second" Yugoslavia came into being (1945-1991), the Socialist Federative Republic of Yugoslavia (SFRY). Kosovo-Metohija became an autonomous region within the Republic of Serbia in the SFRY. Under the SFRY Constitution of 1963, Kosovo-Metohija and the region of Vojvodina in the north were defined as an autonomous province of the Republic of Serbia. Under the 1974 Constitution both Kosovo and Vojvodina, although constitutionally remaining part of Serbia, obtained a status almost identical to that enjoyed by the six republics of the SFRY⁽⁹⁾. As a province Kosovo gained a high degree of autonomy. Thus, for example, Kosovo was entitled to its own constitution, judiciary, parliament and government, and these rights were also exercised in practice. Although it was part of the Republic of Serbia, Kosovo was represented in the Federal Parliament, the Collective Presidency⁽¹⁰⁾ and other Federal bodies. Ethnic Albanians occupied important positions of power and dominated the education system, the courts and the police in Kosovo. In Priština an Albanian language university was opened. On the death of Tito, who had been able for decades to hold the ring between the various nationalities, a change came about in the relative calm in Kosovo. Demonstrations in 1981, involving inter alia calls for the release of political prisoners and the formal status of republic for Kosovo, were harshly repressed.

With the disappearance of the communist ideology and the rise of nationalism under the leadership of the former communist Slobodan Milošević a process of centralization was set in train. In 1990 the Serbian Constitution was amended, removing the autonomous status of Kosovo and Vojvodina, and both regions were given the status of provinces. The central power was placed entirely in the hands of Belgrade. Kosovo was once more given the name Kosovo-Metohija (for the reaction to this by the Kosovo Albanians, see p. 5).

On 5 July 1990 Serbia dissolved the parliament and government of Kosovo, as a reaction to a decision taken a few days previously (see below) by the Kosovo Albanians to declare the independent Republic of Kosova.

According to Article 6 of the Constitution of Serbia, the Republic of Serbia includes the

⁽⁹⁾ i.e. Croatia, Slovenia, Macedonia, Bosnia-Herzegovina, Serbia and Montenegro.

⁽¹⁰⁾ After the death of party leader Tito, a rotating leadership came into existence. In the 80s, the ethnic Albanians also provided a President in the Collective Presidency of the SFRY.

autonomous provinces of Vojvodina and Kosovo-Metohija. Some cultural and territorial autonomy is provided for within limits set by Serbia.

On 27 April 1992 the old SFRY Constitution was replaced by that of the FRY. That Constitution speaks not of autonomous or other provinces, but of republics. The FRY consists of the republics of Serbia and Montenegro ⁽¹¹⁾. The Constitution of Serbia defines the status of Vojvodina and Kosovo-Metohija. The Federation leaves the option open for other states to join the FRY.

According to the FRY Constitution members of the ethnic minorities have a right to education and media in their own languages, the right to form educational and cultural associations and the right to maintain relations with ethnically related peoples within and outside the FRY.

Reaction of the Kosovo Albanians

As a reaction to the disappearance of communism and the centralization of power in Belgrade, the writer Ibrahim Rugova set up in 1989 the Democratic League of Kosovo (*Lidhja Demokratike e Kosovës, LDK*). His party was to play the leading role in the ethnic Albanians' national movement. Other newly formed parties were brought together under the leadership of the LDK in a Democratic Forum of Kosovo. In the first instance the Kosovans wanted Kosovo to be included as a seventh republic within the SFRY, which at that time had not yet broken up; later the demand for an independent Kosovo grew louder.

After the Kosovo parliament in an ad hoc meeting on 2 July 1990 had declared *Kosova* an independent republic ⁽¹²⁾, the Serb authorities decided to dissolve the parliament. On 7 September 1990 the (former) members of the Kosovo parliament adopted a Constitution of their own. This Constitution was presented to the population in an *unofficial* referendum in September 1991 and adopted. Ninety percent supported the aspiration to independence. This "Constitution" forms the basis on which almost all Kosovo Albanians have operated since then. The ethnic Albanian leadership chooses a peaceful path. It has turned away from the authorities and called into existence a complete parallel society, outside the ambit of the Serb authorities.

In May 1992 the Kosovans held their own parliamentary and presidential elections. The Democratic League of Kosovo emerged as the leading party with 96 of the 144 seats. Its head, Dr Ibrahim Rugova, was elected "president" ⁽¹³⁾ as the only candidate with 99% of the votes. The parliament has however never met; standing parliamentary committees do function though. In May 1996 the term of office of Rugova was extended by one year by decree. In May 1997, therefore, parallel elections should have been held once more, but they were postponed until December 1997.

Since 1990 ethnic Albanians in Kosovo have not taken part in official elections, and thus they now exercise almost no formal influence over affairs of state in Serbia and the FRY ⁽¹⁴⁾. The leaders of Kosovo have also decided this year not to take part in the elections for the Serbian Parliament and the Serbian President.

⁽¹¹⁾ Mountainous Montenegro has only 600 000 inhabitants, less than a third the number in Kosovo.

⁽¹²⁾ Only recognized by Albania.

⁽¹³⁾ Ibrahim Rugova is regarded by the Kosovans as president. Since *Kosova* is recognized as an independent state only by Albania, and de jure and de facto no independence exists, I have chosen to place the word "president" in inverted commas.

⁽¹⁴⁾ Ethnic Albanians outside Kosovo in southern Serbia did take part in elections. They are represented in a number of places.

In 1990 the likelihood of war in Kosovo on the eve of the outbreak of violence in former Yugoslavia was considered great. The peaceful policy of isolationism of Rugova and the LDK contributed to the maintenance of peace and stability in this part of Serbia. Nevertheless in 1997 the Albanian population in Kosovo seems to be becoming increasingly discontented. The policy followed since 1990 offers little prospect of change. Splits, and polarization, seem to be threatening the ethnic Albanian unity which has survived up to now.

- B** The most important political tendency is still represented by the LDK party under the leadership of "president" Rugova: the party argues for peaceful passive resistance against the Serb oppressor. Internally, however, contradictions are also discernible.
- B** Furthermore Rugova has in the last few months gained more and more competition from the PKK (*Partia Parlamentare e Kosovës*) led by A. Demaqi. This party wants to achieve independence for Kosovo in a peaceful but more inventive way and seems to be more open to dialogue with Belgrade. Young people, too, such as the "Post Pessimists", are trying to break through the impasse by entering into talks with Serbs ⁽¹⁵⁾. The editors of the daily newspaper *Koha Ditore* which has appeared since April 1997 also follow this line.
- B** A small proportion of the Kosovo Albanians seem to have opted for a more radical course. They do not exclude the use of force to achieve separation and are turning away from the peaceful policy of Rugova and others. The National Movement for the Liberation of Kosovo (*Lëvizja Kombëtare për Çlirimin e Kosovës: LKÇK*) and the terrorist Kosovo Liberation Army (*Ushtria Çlirimtare e Kosovës: UÇK*) belong to this group. The UÇK has since 1996 been carrying out attacks. Kosovo Albanians who are accused of collaborating with the Serbian authorities, Serb policemen, members of the security service and other representatives of the authorities are particular targets. In an attack in July 1996 five Serb policemen lost their lives ⁽¹⁶⁾. A section of the population has sympathy for the actions of the UÇK, if only because the present situation seems to hold out no prospects.

Position of the international community

The recognition of the FRY on 9 April 1996 by the European Union and the granting, under certain conditions, of preferential trade relations on 29 April 1997 diminished the hope for a free independent Kosovo among the ethnic Albanians. In spring 1997 both the US and the European Union clearly set out their positions on Kosovo: a solution to the status of Kosovo must be found within the national borders of the FRY ⁽¹⁷⁾.

⁽¹⁵⁾ The dialogue is however largely conducted with Serbs from Belgrade.

⁽¹⁶⁾ Amnesty International reports in its 1996 Yearbook that between April and October 1996 nine Serbs, including five policemen, were shot dead. Six others were injured. The attacks began after a Serb national had shot dead a young ethnic Albanian in April 1996. The perpetrator was arrested and charged. The following day five Serbs, including a policeman, were shot dead. Four others were injured, including two policemen.

⁽¹⁷⁾ The EU expects from Belgrade, however, substantial progress on democracy and human rights. On 29 April 1997 the EU adopted a "conditionality paper". In that document a number of conditions were put to the FRY with a view to improving relations with the EU. Most of the conditions relate to applying the rules of democracy, respect for human rights and the rights of minorities and the implementation of the Dayton agreements.

The EU expects the FRY to hold a dialogue with Kosovo Albanians on the future status of Kosovo and has made its financial and economic relations with Belgrade dependent on this. The US has imposed an "outer wall of sanctions". These sanctions will remain in place until the FRY has, inter alia, restored civic and political rights in Kosovo.

1.2 Characteristics of the current government

1.2.1 The parallel society

The Serbs rule the roost in Kosovo. In the police and army, the provincial authorities and other state bodies there is hardly an ethnic Albanian to be found any more. Official daily life is strongly "Serbianized" ⁽¹⁸⁾.

Alongside the official state bodies of the Republic of Serbia a number of parallel bodies of the so-called "Republic of Kosova" have come into being, for example in the area of health care and education. Two separate societies function without communicating with each other. The sharp conflicts of the earlier 1990s seem to have abated. The break-up of the SFRY, the war in Bosnia and the risk of war in Kosovo then played a prominent part. After the establishment of the Dayton agreements, however, an unexpected modus vivendi came into being and the Serb authorities seem to be tolerating the existence of the parallel society ⁽¹⁹⁾.

Health care

Since a supposed poisoning incident ⁽²⁰⁾ at the time of a vaccination programme by Serb doctors in March 1990, official medical facilities have been boycotted as far as possible by the ethnic Albanian population. It does happen that ethnic Albanian patients are operated on in a state hospital because of a lack of surgical facilities in the parallel society.

In general the level and quality of health care for the ethnic Albanian population group is inadequate. The current poverty, the inefficient functioning of a parallel system alongside official health care and the limited availability of medicines have harmful consequences for the treatment of almost all illnesses. Infant mortality in Kosovo is high.

The official health care institutions are funded by the state, the parallel institutions (mostly clinics, not hospitals) depend on donations from the Albanian population itself and also receive support from humanitarian organizations abroad.

A semi-official institution of importance is the humanitarian organization "*Mother Teresa*" ⁽²¹⁾. This organization has its headquarters in Pristina and smaller offices scattered throughout the country. Every month "Mother Teresa" provides humanitarian help to tens of thousands of families. It also provides health care facilities. Thus, according to its own information, the organization has 86 clinics in Kosovo where free health care is offered to ethnic Albanians. It is believed that care is also given to Serbs, predominantly from the lower and middle class. "Mother Teresa" has an effectively functioning distribution network.

The joint polio vaccination programme set up in 1996, in which the Serb medical authorities,

⁽¹⁸⁾ In Pristina and other towns Albanian street names have been changed into Serbian or Montenegrin names, and often also been put into Cyrillic script.

⁽¹⁹⁾ Page 5 of the Country Report on Human Rights Practices for 1996 by the US Department of State states that "The climate appears to be moderating, no doubt as a result of the cessation of hostilities in Bosnia".

⁽²⁰⁾ Thousands of ethnic Albanian children were affected by a mysterious illness.

⁽²¹⁾ Mother Teresa, who died on 5 September 1997, was of Albanian origin.

the parallel ethnic Albanian Red Cross, "Mother Teresa", UNICEF and the WHO worked together with success may be mentioned as a hopeful development. Previously, the number of vaccinated children was deplorably low ⁽²²⁾.

Education

Until 1990/1991 Kosovo had an autonomous school system. After the declaration of independence of 2 July 1990 and the subsequent Serbian decision to dissolve the parliament and government of Kosovo, the situation changed quickly. Autonomous ethnic Albanian education was abolished and new curricula, in which ethnic Albanian history was rewritten, were introduced. In August 1991 the Serbian Ministry of Education decided to dismiss about six thousand ethnic Albanian teachers. Lecturers at the University of Priština were also dismissed. The school buildings and the Albanian section of the university were taken over by the authorities. From then on primary schools were no longer funded by the state and at the end of 1991 were completely closed.

Kosovan educationists decided to set up the education system for ethnic Albanians again, as a result of which a parallel structure from primary school to university came into being. The authorities no longer adopt a repressive attitude to this alternative structure ⁽²³⁾. More than 350 000 pupils are educated in these educational institutions. The parallel university says that for 1997/1998 it has registered more than six thousand new students. This parallel university education takes place in living rooms and small halls scattered over the town, but is lacking in current scientific study material and laboratories.

An interesting development in the past year seemed to be the agreement between the Serbian President Milošević and the ethnic Albanian leader Rugova in the area of education. Through mediation by the Italian non-governmental organization "Comunità di Sant' Egidio" an agreement was signed on 1 September 1996 which attempted to normalize the education system in Kosovo. The agreement provides for a return of ethnic Albanians from the parallel school system to state education. Up to now, however, the agreement has not been implemented. Since 1 September 1996 there have been talks on several occasions by a committee of three ethnic Albanians and three Serbs led by Sant' Egidio to try and make progress on the issue, but as yet no tangible result has been achieved. There is agreement on which primary and secondary schools ethnic Albanian young people will rejoin, but no agreement has yet been reached on funding and the common curriculum.

The parallel system is supported financially by Kosovo Albanians at home and abroad. The Kosovans have set up a system of 3% parallel taxation, which is levied both in Kosovo and among ethnic Albanians in Western countries. Detailed information on the costs and revenue of the parallel taxation system is not available.

⁽²²⁾ The number of children inoculated in the area of the village of Vitina, for example, was less than 1%.

⁽²³⁾ The official mission visited various schools in Kosovo. The general quality of school buildings is poor. The parallel school system mostly makes use of alternative accommodation. The parallel university does so too. In areas where the population is almost 100% Albanian, existing school buildings are sometimes used. There are schools where half the building is used by Serb children and the other half by ethnic Albanian children. In such cases there are separate entrances: the ethnic division is quite visible. There are also school buildings where Serb children are taught in the mornings and Albanian children in the afternoons or vice versa.

1.2.2 Other developments

Cultural, sporting⁽²⁴⁾ and political activities take place in Kosovo. There are various political parties which operate openly (see 2.2.3). The Council for the Defence of Human Rights in Priština (see 2.1) and the LDK information centre are able to investigate freely and distribute press releases daily. The kiosks sell daily and weekly papers of ethnic Albanian persuasion alongside newspapers and magazines that support the Serbian Government.

1.3 Basic rights

The FRY Constitution of 1992 claims to respect the inviolability of the person and to guarantee the fundamental civil and political rights laid down in agreements, such as freedom of speech, peaceful assembly and association, freedom of movement and establishment throughout the national territory and freedom of religion. According to the Constitution the FRY has no state religion.

The Constitution provides for independent courts, but in practice they are controlled by the executive. A court judgment will not readily be made against the will of the state security service. Ethnic Albanians are routinely deprived of a fair trial (see also 2.2.1). The preamble to the Constitution states that the FRY should be seen as the successor to the SFRY. This implies, in the view of the FRY, that all international agreements to which the SFRY was a party also apply to the FRY⁽²⁵⁾. The more tightly formulated 1990 Constitution of the Republic of Serbia is not subordinate to the 1992 Constitution of the FRY. In the event of conflict, the Serb Constitution prevails in Serb territory.

Citizenship law

On 1 January 1997 a new law on citizenship of the FRY came into effect⁽²⁶⁾. According to this law, citizenship of the FRY is automatically granted to two categories of person. These are persons that had Serbian or Montenegrin nationality when the FRY was declared on 27 April 1992, and persons who on that date had their official place of residence in the FRY and did not have the nationality of another former Yugoslav republic. The law also provides for the possibility of "acceptance into" FRY citizenship. Persons eligible for this procedure are those who on account of their belief, ethnic origin or political persuasion were persecuted in another former Yugoslav republic, fled to the FRY and have relinquished the nationality of the other republic. The application for FRY citizenship must be made within a year of the entry into force of the law. Persons who do not fall into one of the above categories must follow a longer route, i.e. "admission to" FRY citizenship. This procedure applies to persons who are of other than

(²⁴) The many cafés and restaurants are visited by Kosovans in large numbers. In May 1997 a parallel "Miss Kosovo" contest was held. There are also parallel sport competitions, such as football and tennis.

(²⁵) E.g. the "UN International Covenant on Civil and Political Rights", the "UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", the "UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment" and the "UN Standard Minimum Rules for the Treatment of Prisoners". (Helsinki Committee for Human Rights in Serbia **B** Report on Human Rights in Serbia for 1996, p. 9). The international community is of the view however that the FRY, as one of the successor states to the SFRY, must accede again to organizations and agreements, as must the other successor states to the SFRY.

(²⁶) After the FRY Parliament had adopted the law on 16 July 1996.

Serbian or Montenegrin nationality. To be eligible for FRY citizenship they have to give up their other nationality however. Having dual nationality is permitted only in very exceptional cases.

Criticism has been voiced by human rights organizations and the political opposition that the law is too restrictive and too complicated. It is also claimed that it allows too much scope for arbitrariness on the part of the government body which is to implement it, the Ministry of the Interior.

There is also criticism ^B inter alia from the UNHCR and HC/CHR ^B of the fact that the law creates the possibility of statelessness, which can be the consequence of the reversal of an earlier decision granting citizenship ⁽²⁷⁾.

It is still not clear what criteria the Ministry will follow in implementing this law.

Interpretation of the rules laid down in the law is long in coming ⁽²⁸⁾. The processing of tens of thousands of applications for citizenship of the FRY has been suspended.

1.4 Socio-economic situation

In the former Yugoslavia the development of prosperity and economic activities in Kosovo already lagged behind that in other parts of the country. Since then the economic situation has deteriorated further.

The socio-economic situation in Kosovo has two aspects. On the one hand hundreds of thousands of people have become unemployed as a consequence of mass dismissals in the early 1990s. Ethnic Albanians who were employed in state companies or by the government were systematically dismissed under the policy of repression because they were Albanian or because they refused to sign a declaration of loyalty to the Serbian authorities. In all 150 000 Kosovans are thought to have been dismissed. The proportion of unemployed among ethnic Albanians reached 80%.

On the other hand, alongside the state economy a privately organized Kosovo-Albanian economy has arisen as a reaction. Numerous small shops, market stalls and street sellers characterize the street scene in the towns. Every week from the village of Prizren alone eight buses set off with traders to Turkey in order to buy goods in. It is difficult to say how large this grey circuit is.

Large groups of the Kosovan population, however, still live in great poverty. In order to escape the poor living conditions in Kosovo, many have now resorted to moving abroad. As a result of the common political ideal and the traditional close family structure, Kosovans at home and abroad give monthly solidarity contributions, often in foreign currency, for example German marks. The parallel system would not be able to survive without this continuous flow of money.

Immovable property

Ownership of one's own house is something Kosovans aspire to. The prices of land and houses are particularly high. Yet there is a lot of building going on, as can be seen throughout Kosovo. The Serb minority in Kosovo is forbidden to sell immovable property to ethnic Albanians.

⁽²⁷⁾ Human Rights Watch-Yugoslavia (Serbia and Montenegro). Persecution Persists: Human Rights Violations in Kosovo, December 1996, p. 34.

⁽²⁸⁾ The citizenship question is a bilateral and multilateral problem for all former SFRY republics. The SFRY was a party to the 1961 Convention on the Reduction of Statelessness.

The buyer faces 60 days imprisonment or a fine of between 100 and 1000 dinar. The seller is not punished. In such a case the purchase is declared illegal ⁽²⁹⁾.

1.5 Entry and exit procedure

The FRY Constitution provides for freedom of movement. Citizens can in general obtain a passport.

It has happened that ethnic Albanians who have exhausted all remedies for asylum in Germany have been refused entry to the FRY at Belgrade airport. Such refusals were either before the readmission agreement between Germany and the FRY came into effect or, subsequently, because the returnee did not fall within its scope (see 5.1). Under current legislation (Law on Foreign Exchange Operations, Article 69) travellers entering the country are obliged to declare how much foreign currency they have in their possession. Customs officials sometimes confiscate foreign currency from FRY nationals.

2. Human rights situation

2.1 General

Anyone wanting to find out about the human rights situation in Kosovo, must bear in mind that information from both Serb and ethnic Albanian sides is from ONE of the parties to the conflict ⁽³⁰⁾.

The Serbian authorities and the LDK leadership seem to be sticking to their irreconcilable views about the present and future status of Kosovo. The Serbian authorities use repression and intimidation to consolidate their power in Kosovo. Radio and television, government bodies and public services are controlled by the Serbian authorities.

The authorities use various means of intimidation. There are economic measures such as dismissal, regular control by financial services, opposition to the granting of permits for commercial activities and a ban on buying houses from Serbs, as well as harsher means of repression.

Almost all Kosovans seem to have independence as their goal. The Serbian authorities claim

⁽²⁹⁾ The legal text is set out in Annex 2. There are many Serbs outside Kosovo with property in Kosovo. They would like to be able to dispose of their property, but this is difficult. The Serbs may not sell their property to ethnic Albanians but can, for example, sell it to certain ethnic Moslem groups (see 2.2.4) **B** although they are few in number **B** living in Kosovo, such as the Gorani south of Prizren. That population group may also not sell property to ethnic Albanians. A poignant example: in the late 1980s a number of ethnic Albanians asked a state company to build new houses. The houses have been completed, paid for, and are lived in, but the state has declared that, under the above law, those who live there are not owners.

⁽³⁰⁾ Violations of human rights are trivialized by the Serbian authorities. Much is made of the struggle against ethnic Albanian terrorism. "Hate speech" is a much used means of propaganda. Information about violations of human rights in Kosovo originates largely from the LDK or the CDHRF (Council for the Defence of Human Rights in Prishtina or *KMDLNJ: Këshilli për Mbrojtjen e të Drejtave dhe Lirive të Njeriut në Prishtinë*), which is closely linked to the ethnic Albanian movement. The CDHRF is an ethnic Albanian volunteer organization. Its headquarters is in Pri tina; there are also 29 branches in the area which pass information to the headquarters. The CDHRF's summaries certainly give a useful insight into the form of recorded and reported repressive activities by the Serbian police; nevertheless, given the method of working and in the light of the level of professionalism and independence of the organization, information from the CDHRF should be regarded with a certain degree of reservation. LDK and CDHRF do not adopt an independent position. Various groups **B** including the ethnic Albanians **B** assert that both organizations greatly exaggerate the scale of human rights violations.

therefore to be reacting to the threat of an imminent armed uprising and to be searching for weapons and terrorists.

This action has further radicalized some of the Kosovans. The UÇK claims attacks on policemen and Kosovo Albanians accused of collaborating with the Serbian authorities. The activities of the UÇK so far amount only to incidental acts.

Radicals and militants, although still only few in number, might gain increased support if no constructive dialogue is forthcoming.

Human rights violations mostly occur at present:

- a. as a reaction to (terrorist) incidents, where arbitrary arrests may be made;
 - b. in the context of house searches for weapons (and foreign currency).
- (see 2.2.1)

Maltreatment and torture can occur in the first phase, especially during the preliminary investigation which lasts 72 hours. A few cases are known of detainees who have been tortured so severely that they died. When someone is invited for an "informal" interview, there is also sometimes maltreatment. Police and state security service are guilty of this sort of human rights violation. Both are important links in maintaining the present power relationships.

Condemnations after political trials based on confessions obtained through torture during the preliminary investigation are known to occur.

The international community has repeatedly condemned the human rights situation in Kosovo. The UN Commission on Human Rights (1997/57⁽³¹⁾) and the European Parliament (13 March 1997) recently adopted resolutions on the situation in Kosovo.

In Priština the UNHCR⁽³²⁾ UNICEF, the Red Cross, the Helsinki Committee and Humanitarian Law Center, among others, are active. The United States has its own information centre in Kosovo.

2.2 (Violations of) human rights

2.2.1 Inviolability of the person

House searches

In Kosovo house searches for weapons take place⁽³³⁾. These police actions, sometimes on a large scale, may be accompanied in some cases by force. House searches take place above

⁽³¹⁾ Resolution 1997/57 of the UN Commission on Human Rights urged the FRY "to cease torture and ill-treatment of persons in detention, notably in Kosovo, to pursue a dialogue with representatives of the Albanian community there, and called on all parties to refrain from acts of violence" (Rehn 4, p. 10).

⁽³²⁾ Since 1993 the United Nations High Commission on Refugees has had an office in Priština, but the representation on the spot has only officially been recognized by Milošević since April 1997. There is no longer any OSCE representation in the FRY, as the FRY's membership of the OSCE has been suspended.

⁽³³⁾ The scale of house searches cannot be determined. Most house searches took place in the early 1990s, when tensions were high as a result of the break-up of the SFRY and the ensuing war in Bosnia. According to FRY sources arsenals of weapons are regularly found; the Kosovans claim it is simply the odd shotgun. As a result of the plundering of arms depots in Albania in the last few months, the possibility of arms smuggling to Kosovo has considerably increased. Young Kosovans can be charged with having undergone training in foreign (i.e. Albanian) armed forces. One (incidental) aim is often discovering foreign currency, which can be seized on the basis of currency regulations.

The police can carry out house searches without authorization. A report is made of the search; a receipt

all in remote areas, because the number of potential hiding places is larger there. Often the house of the person who enjoys a degree of authority in a village is searched, with the aim of intimidating the other inhabitants of the village. Villagers can be taken away by the police for interrogation (an "exploratory" interview) at the police station, and force is sometimes used to obtain information. If the person sought is not present, a member of the family may be taken along as a "hostage" for a time, to induce the person concerned to report to the police.

Campaigns against (alleged) terrorists

In 1996 and 1997 the UÇK claimed attacks on policemen and on Kosovo Albanians accused of collaborating with the Serbian authorities⁽³⁴⁾. On 20 May 1997 the UÇK claimed responsibility for killing a citizen "who is said to have openly collaborated with the Serbian authorities" and for injuring two Serb policemen. This underground organization seems to a considerable extent to be controlled from abroad⁽³⁵⁾.

The Serbian authorities assume that another organization, the LKÇK, also has terrorist links. The LKÇK has been in existence for several years and is an underground organization with its own clandestine periodical *Çlirimi* (Liberation). Although the members do not exclude violence in their fundamental principles, they claim not to have been involved in any violent activities.

Since the first UÇK terrorist acts in early 1996 the Serbian police seems to feel increasingly under threat and reacts harshly against (alleged) terrorists. Hundreds of (alleged) members of the UÇK or LKÇK have been arrested in recent months. A number have meanwhile been released (see "Trials").

Family members in Kosovo of (alleged) UÇK/LKÇK members abroad can be invited for an "exploratory" interview.

Detention

In the first period of detention serious violations of human rights can take place. It is precisely in the preliminary investigation phase that maltreatment and torture occur.

In order to establish identity a person may be detained for 24 hours. Subsequently the police and security services may detain a person for a further 72 hours, without legal assistance, in exceptional circumstances. Only after this does the detained person have a right to legal assistance. The period of 72 hours preliminary investigation is sometimes exceeded without

should be given for property seized. In practice items seized are not clearly named. Confiscated foreign currency is mostly not reported. The standard report and the receipt should be made out on the spot and handed over. Dishonest practices are quite possible however.

⁽³⁴⁾ Letter of 3 April 1997 from the HC/CHR to the Chairman of the 53rd sitting of the UN Commission on Human Rights. On 16 January 1997 the rector of the University of Priština, Radivoje Papovic, and his driver were seriously injured when their car was blown up by a bomb in the centre of Priština. The UÇK claimed responsibility for the attack. As a reaction to this, on 22 January 1997 the Serbian authorities began a wave of arrests. More than 100 persons are thought to have been arrested. In March more than half of them were released. A large number of those arrested were subjected to torture and maltreatment during police interrogation. One detainee died on 22 February in circumstances which lead to the suspicion that he died as a consequence of torture. On 5 March 1997 a bomb exploded not far from the Pristina philosophy faculty. Four people were hurt. UNHCR reported that between December 1996 and May 1997 at least twelve people were killed and nine injured in terrorist attacks for which the UÇK claimed responsibility.

⁽³⁵⁾ Responsibility for the attacks is usually claimed by fax from Switzerland.

any reason being given⁽³⁶⁾. Article 23 of the FRY Constitution, however, prohibits arbitrary detention and Article 25 prohibits the use of violence against detainees.

A new Penal Code for the FRY is in preparation. It is said that Article 196 of the Law on Criminal Procedure, permitting police to detain a person in exceptional circumstances for 72 hours without judicial supervision and without access to a lawyer, will be repealed⁽³⁷⁾.

Those guilty of violations of human rights vis-à-vis detainees are seldom prosecuted. Two policemen are known to have been condemned. In one case the individual concerned was sentenced to three years in prison for the death of a detainee in Prizren in 1993, and another policeman received four years in prison in 1995 for maltreatment in Kosovo Mitrovica⁽³⁸⁾.

Prison conditions

There are thought to be about a hundred ethnic Albanian political prisoners. They have mostly been sentenced on the basis of Article 116 (undermining territorial integrity) in conjunction with Article 136 (conspiracy for the purposes of hostile activities) and/or Article 138 (planning activities to undermine the state). Article 125 (hostile activities and terrorism) is also applied more and more frequently⁽³⁹⁾.

The best-known political prisoner is Ukshin Hoti, the president of the political party Unikomb (*Partia e uniteit kambetar te Kosovës*, see Annex 3), who was sentenced to five years imprisonment in September 1994. He is one of the six Kosovans taken prisoner outside the region (in Niš). Most male political prisoners are placed after their condemnation in the prison at Istok, not far from Peja. The few female political prisoners are in Lypjan near Prishtina.

Prison conditions for prisoners in the FRY meet international minimum standards⁽⁴⁰⁾. There is no shortage of medicines and food. Prisoners can subscribe to periodicals such as Bujku and Koha (see 2.2.2). They are however censored "at the gate".

⁽³⁶⁾ The most notorious recent case concerned the detention of Nait Hasani. He was arrested on 28 January 1997 for (alleged) involvement in terrorist activities and taken to an unknown place of detention. It was not until 28 February that he appeared before the investigating magistrate in Prishtina, where he declared that he had been severely tortured. He is at present in detention pending his trial. A number of people have died in police custody as a consequence of torture.

⁽³⁷⁾ Rehn 3, No 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". See also note 43.

⁽³⁸⁾ Rehn 3, No 142.

⁽³⁹⁾ For a review of articles in the FRY Penal Code that are often used see also the official report of 18 January 1996. The number of political prisoners quoted is accepted both by the ethnic Albanians and by human rights and international organizations. The Humanitarian Law Center in Belgrade speaks of approx. 250 political prisoners. A spokesman of an international organization who wishes to remain anonymous estimates that in addition to 70 political prisoners a further 30 people are free on bail. The ICRC has access to the prisons in Kosovo.

Rehn 4, p. 11, reports that about 38 people are detained for alleged involvement in terrorist activities. As far as is known, no criminal proceedings were initiated in 1996 against ethnic Albanians on the basis of Articles 116 and 136 (US Department of State, Serbia-Montenegro Country Report on Human Rights Practices for 1996, Internet version under 1E). For 1997: see "Trials".

⁽⁴⁰⁾ UN Standard Minimum Rules for the Treatment of Prisoners (1955).

Trials

From 19 to 30 May 1997, with great attention from (inter)national observers the trial was held in the District Court in Pristina of twenty (alleged) LKÇK members, including two in absentia. Sixteen persons had been detained since January, when more than a hundred Kosovans were arrested, the other two since April. Most of the suspects declared in court that they had been subjected during the preliminary investigation to physical and psychological torture⁽⁴¹⁾. Several of their lawyers withdrew the initial statements made to the police or security service, on the grounds that they had been made under duress.

The public prosecutor could produce no solid proof. Yet all were found guilty. The minimum sentence was two years in prison for distributing *Çlirimi*. The main suspect, Avni Klinaku, was given ten years in prison for involvement in hostile activities and planning terrorist acts. Nine of those sentenced, who were given less than five years in prison, were released pending appeal. In the night following the trial judgment an LKÇK pamphlet was distributed in Pristina⁽⁴²⁾.

From 3 June to 11 July the trial took place in Pristina of fifteen (alleged) UÇK members. Only three, Besim Rama, Idriz Asllani and Avni Nura, were present in the courtroom, the others were convicted in absentia. The three, all accused on the basis of Article 125, had been in preventive detention since autumn 1996. Rama and Nuri are said to have been held incommunicado after arrest for 16 days. The fifteen were prosecuted for killing three policemen, injuring various other people and carrying out bomb attacks on an army barracks and a Serb refugee camp. Besim Rama and ten others were sentenced to twenty years imprisonment, Idriz Asllani and one other to fifteen years, one to ten years and Avni Nura to four years in prison. The conviction is said to be based on confessions made in the first phase of the investigation. During the trial the defence stated expressly that the three had been subjected to torture during the preliminary investigation. An observer of the UN Special Rapporteur (HC/CHR) concluded that neither of the above trials met the UN's minimum guarantees for a fair trial⁽⁴³⁾.

Trials of ethnic Albanian policemen

The high-profile trials of (alleged) policemen and (alleged) soldiers already date from a number of years ago. In November 1994 more than 150 (alleged) former policemen of ethnic Albanian origin were arrested. In all 152 people were sentenced to imprisonment. Some were sentenced in absentia. Those sentenced made use of the possibility of appealing against the sentences. These cases are at present before the Supreme Court in Belgrade⁽⁴⁴⁾. Most of those convicted have been released pending consideration of their case. No recent

⁽⁴¹⁾ The assumption that some of the accused immediately made statements of confession out of fear that otherwise such confessions would be obtained through the use of torture seems justified.

⁽⁴²⁾ The European Union condemned this political trial sharply. The EU stated that the FRY is free to investigate terrorist attacks. However, in doing so the FRY should respect its own laws and international agreements on human rights. The EU is concerned that the minimum guarantees for proper procedure and a fair trial have not been respected, and that those convicted have later said that their statements were obtained through torture and by force. The EU points out that repeatedly no access to lawyers was permitted and that the convictions were largely based on self-incriminating statements and not on proof that was adequately investigated.

⁽⁴³⁾ For an account of the two trials, see Rehn 5. See also Amnesty International Urgent Actions EUR 70/22/97 and EUR 70/23/97.

⁽⁴⁴⁾ For the trials: see also the official report of 18 January 1996. The case of the Prizren 42 has now started before the Supreme Court in Belgrade.

cases of prosecution of policemen or soldiers are known.

Death penalty

The Amnesty International Yearbook for 1996 reports that in that year in the FRY at least five people were sentenced to death. No executions were reported. A new Penal Code for the FRY is in preparation, which is to replace the Penal Codes of Serbia and Montenegro. The draft Penal Code no longer provides for the death penalty⁽⁴⁵⁾.

2.2.2 Civil rights

Freedom of expression

Press freedom

Radio and television are fully controlled by the government. The Kosovans have therefore massively turned to satellite television using dish aerials. This is the most important source of information for many, because for example Albanian state television broadcasts information about Kosovo daily at 18.15 and 20.00. Other important sources of information are Voice of America, BBC and Deutsche Welle in Albanian, and Radio France International and Radio Free Europe in Serbian. These stations have their own correspondents in Priština⁽⁴⁶⁾.

Printed media in Albanian can be obtained everywhere. The daily newspaper *Bujku* (Farmer) is a far from objective newspaper, linked to the LDK. *Bujku* has had a monopoly position for a long time, but since April 1997 there has been a second daily newspaper, *Koha Ditore* (Daily Time) which seems to be following a professional course: critical towards the Serbian authorities and critical towards Rugova's LDK policy. The circulation of *Koha Ditore* is said to have already substantially overtaken the circulation of *Bujku*. *Bujku* is now thought to distribute fewer than 10 000 copies. Influential weekly papers are *Zëri* (the Voice) and *Koha*-weekend edition. In addition there is one Serbian daily newspaper that it published in Priština: *Jedinstvo* (Unity), a paper linked to the Serb government which carries partisan, chauvinistic news. Its circulation is thought to be small (about 2 000 copies).

Freedom of religion

There is freedom of religion in the FRY. The Serbs are predominantly Serbian Orthodox. Most Kosovans are Moslem. They can practise their faith in one of the many mosques. There is also a small number of Kosovans of the Orthodox or Catholic faith. The latter have mostly moved to Kosovo from Albania. The Serbian Orthodox church can on occasion receive preferential treatment. There are no indications that people of ethnic Albanian origin are subject to repression by the authorities on the basis of their religious conviction.

Freedom of peaceful assembly and association

Trade unions

The independent trade union played an important role in the past in the political set-up in Kosovo.

⁽⁴⁵⁾ This information was given to the Special Rapporteur in answer to questions on 7 October 1996. Rehn 3, No 145.

⁽⁴⁶⁾ Helsinki Committee for Human Rights in Serbia. Report on Human Rights in Serbia for 1996, p. 42.

The miners' strike in 1989 and the mass dismissals in 1990 and 1991 are examples of this. At present the influence of the trade union seems to have decreased. The independent trade union is strongly under the influence of the LDK. The simple fact of being active in an ethnic Albanian trade union does not arouse particular attention from the Serbian authorities.

2.2.3 Political rights

Political parties

Several ethnic Albanian political parties operate in Kosovo (see Annex 3). The political line has been determined over the last few years by the LDK under the leadership of Ibrahim Rugova⁽⁴⁷⁾. It is the largest party. The LDK has registered itself. Political parties can also operate without being registered. The LDK and other ethnic Albanian political parties have committed themselves to the same goal: independence for Kosovo. Ideas over the way in which independence can be achieved differ. The monopoly position of the LDK has been disputed over the last six months by the rise of the PPK (*Partia Parlamentare e Kosovës*), since Adam Demaqi⁽⁴⁸⁾ took on the leadership of the party. The PPK seems to be taking advantage of the feelings of dissatisfaction now that the political path followed by Rugova after six years seems to have led to nothing more than stalemate. Recently a split seems to have arisen within the PPK as a result of a visit by a number of party members to Albania without the agreement of PPK leader Demaqi.

The Social Democratic party attracts intellectuals, but has remained a small party. Other parties seem to be satellite parties of the LDK, have stopped their activities or have hardly any support.

There are no indications that membership of an "above-ground" political party has led to arrests or other forms of repression⁽⁴⁹⁾.

There is one regional Serb political party, the Serb Resistance Movement (*SAM*), led by M. Trajkovic (see 2.2.4). In Kosovo there are branches of other political parties in Serbia.

2.2.4 Specific groups

Situation of women

In the ethnic Albanian community women are not so much in the foreground. The Kosovans are traditionally patriarchal in attitude. Women are in general not involved in politics and are often economically dependent on men. There are few women activists, although this seems to be changing among young people. There are many women working in the parallel health care system. These activities do not lead to particular attention from the FRY authorities. The League of Women of Kosovo is linked to the LDK.

⁽⁴⁷⁾ Because of his peaceful political resistance he is known as the Kosovo "Gandhi".

⁽⁴⁸⁾ Demaqi spent nearly thirty years in prison as a political prisoner. He is known as the Kosovo "Mandela". Before he became leader of the PPK he was chairman of the CDHRF.

⁽⁴⁹⁾ Political parties in Kosovo issue membership cards, as does the LKÇK. However, it is not possible to establish with certainty the authenticity of membership cards produced by asylum seekers.

Situation of ethnic Albanian policemen

See 2.2.1

Situation of people active in the parallel society

The Serbian authorities seem, more now than before, to tolerate the parallel society. There does not seem to be an increased risk of repression as a result of the simple fact of being active in the parallel society.

Minorities in the province of Kosovo

Serbs and Montenegrins

The most noticeable minority in Kosovo is the Serb population group, which consists of fewer than two hundred thousand people. The Serb Resistance Movement says that it wants to conduct a dialogue with ethnic Albanians, as long as the premise is accepted that a solution for Kosovo is sought within the Serbian state. The Serbs in Kosovo feel driven into a corner. On the one hand they are disappointed with the authorities in Belgrade, because they think the promises made that the position of the Serbs in Kosovo would be strengthened have not been kept. On the other they are apprehensive about the considerable growth of population of the ethnic Albanians. The possibility of increasing radicalization heightens further their feelings of uncertainty. The number of Montenegrins in Kosovo is decreasing. In 1981 27 000 Montenegrins lived there; ten years later only 20 000.

Ethnic Turks

At present at least ten thousand ethnic Turks still live in Kosovo. The dividing line between the Turkish and Albanian ethnic groups is not always very clear. In the small town of Prizren, for example, a large proportion of the population speaks Turkish and Albanian. There are at least two local Turkish political parties. One is linked to the state, the other sympathises with the LDK. There is no indication that the FRY authorities adopt a particularly negative stance towards the Turks in Kosovo.

Other Moslems

Various non-Albanian and non-Turkish ethnic Moslem groups live in Kosovo, such as the Gorani to the south of Prizren around the small town of Draga . The census indicated in 1981 that 59 000 ethnic Moslems lived in Kosovo, and in 1991 66 000. There is no indication that the FRY authorities adopt a particularly negative stance towards these Moslems in Kosovo.

Serbs from Croatia

These are mainly ethnic Serbs originating from Krajina, who fled to Serbia in August 1995 (some 170 000 people). The largest group moved to Belgrade or Vojvodina in 1995 after the Croats conquered Krajina. According to recent UNHCR figures (July 1997) this concerns about 19 000 people in Kosovo ⁽⁵⁰⁾. They are accommodated in schools, barracks or hotels ⁽⁵¹⁾.

⁽⁵⁰⁾ UNHCR states that 81% of them are Krajina Serbs who arrived around August 1995. The others are mainly Bosnian Moslems who arrived earlier, in 1991/2. They are mostly accommodated privately. A spokesman for the province of Kosovo said that at present about 2 000 people are concerned; the Vice-Chairman of the LDK, Hyseni, cited a figure of 30 000 people.

⁽⁵¹⁾ An example in the centre of Pristina is the accommodation of refugees in the former Hotel Bozur. UNHCR reports that there are in all 144 reception centres for refugees in Kosovo: 117 communal centres, 6 social institutions and 21 school buildings.

The arrival of this group attracted great attention. The Serbian authorities seemed to hope to increase the number of Serb inhabitants of Kosovo permanently by this means; the Kosovans spoke of a great danger for stability in the region. If it is to be assumed from the attitude of the Serbian authorities that the policy aimed to change the demographic composition of the population of Kosovo, then it must be observed that the policy has so far had little effect. There is hardly any permanent settlement. Most people wish to leave, but have nowhere else to go ⁽⁵²⁾.

3. Evasion of military service and amnesty legislation

As far as military service in the FRY is concerned, I would refer in the first place to my letter of 23 May 1995, reference DAZBA/60346. Further to this it may be noted that on 18 June 1996 the FRY Parliament adopted an amnesty law which was published in the "Official Gazette" of the FRY on 21 July 1996 (No 28/96) and came into effect on that same date.

All those in the FRY who evaded military service, or who were conscientious objectors or deserters, regardless of their ethnic origin, who in the period to 14 December 1995 did not answer a call-up for military service, evaded the military service obligation, were absent without leave, or deserted, fall under this amnesty law ⁽⁵³⁾, with the exception of professional soldiers. The law was indeed implemented ⁽⁵⁴⁾. Amnesty was granted to nationals of the FRY. Existing convictions lapsed and the persons concerned were where necessary released, sanctions already imposed were not carried out, the judicial consequences of earlier convictions were annulled, and persons not yet convicted were not prosecuted.

It is still possible to be called up to fulfil the military service obligation. Call-up papers to Kosovans seem to be sent arbitrarily. The ethnic Albanians barely heed the call-up and the authorities in general turn a blind eye to this ⁽⁵⁵⁾. The authorities seem to use the call-up as an instrument to keep alive feelings of uncertainty among the population. "Exploratory" interviews in which threats are made sometimes occur in order to increase the psychological pressure. This is a further way of trying to persuade ethnic Albanians to leave Kosovo. That happened above all on a massive scale at the time of the war in Croatia and Bosnia-Herzegovina. Kosovans were at that time called to arms on a more limited scale because they were expected to lack loyalty to the SFRY army and it was feared they would

⁽⁵²⁾ According to UNHCR in Belgrade only a few return to Krajina. In 1996 about 900 people from the whole of the FRY, in 1997 up to June, only 23 people from South Serbia returned.

⁽⁵³⁾ They include conscientious objectors and deserters from the former Federal Yugoslavian Army, JNA. The amnesty law is a direct consequence of the Dayton Agreement that was concluded on 14 December 1995. This is why that date is mentioned in the law. This is also the reason why there is, from an international viewpoint, relatively more monitoring of its implementation than would normally be the case with legislation in a given country. Although the authorities have agreed that a separate amnesty law would be enacted covering professional soldiers and officers, this has not yet happened. Amnesty International reports in its 1996 Yearbook (p. 225) that press reports indicate that about 12 500 men have benefited from the amnesty, many of whom had fled abroad after the outbreak of armed conflict in former Yugoslavia in 1991.

⁽⁵⁴⁾ This is confirmed by UNHCR in Priština and diplomats in Belgrade. HC/CHR confirms the picture that the law is being observed.

The ethnic Albanians say they distrust the law, but the CDHRF knows of no cases where conscientious objectors or those who have evaded military service have been convicted, nor do the Helsinki Committee for Human Rights in Serbia and the Humanitarian Law Center in Belgrade.

⁽⁵⁵⁾ An ethnic Albanian liable for military service is sometimes called up repeatedly.

turn against the SFRY army at a vital moment in any (possible) combat. Desertion has therefore not been common.

There is a possibility of applying for alternative service. In practice almost no-one takes advantage of that law ⁽⁵⁶⁾.

4. Persecution

The human rights situation in Kosovo is far from rosy. Without progress at the political level there is little prospect of improvement in this situation.

Albanians in Kosovo sometimes suffer repression by the FRY authorities. Arbitrary arrests and ill-treatment associated with house searches for weapons or searches for (alleged) terrorists sometimes occur.

(Alleged) members of the LKÇK and UÇK run an increased risk of violations of human rights. Above all in the first 72 hours of detention, when no control is exercised over the behaviour of police and/or security services, there is an increased risk of torture and ill-treatment. There are cases of this detention period in practice lasting longer than 72 hours. The authorities also sometimes give special attention to members of the families of persons who live abroad and are suspected of activities for the LKÇK or UÇK.

The FRY authorities exercise pressure on the ethnic Albanian population with the aim of creating an atmosphere of uncertainty and encouraging Kosovans to leave the region. House searches for weapons (and foreign currency) may especially be mentioned in this connection. Intimidation of shopkeepers and market traders and expulsion of people from their houses also occurs. People who in a village or remote area enjoy a certain degree of authority and might therefore be used as examples vis-à-vis those around them may be subject more readily to repressive action.

Activities in the parallel society do not in themselves necessarily lead to repressive action. There is no indication of any specific link between a repressive attitude by the Serbs and simple membership of the LDK, PPK or any other "above-ground" political movement.

The amnesty legislation concerning military service of 16 July 1996 has been implemented. There is no indication that those who evade military service, conscientious objectors, or deserters who fall under the amnesty rules receive special attention from the FRY authorities.

The terrorist activities of the UÇK seem to be aimed above all at Kosovo Albanians, who are accused of collaborating with the Serbian authorities, at Serbian policemen, members of the security services and other representatives of the authorities.

⁽⁵⁶⁾ As stated the ethnic Albanians pay little heed to the call-up.

A person who wishes to be exempted from the military service obligation as a conscientious objector must, within two weeks of receiving the summons to register as liable to be called up for military service, apply for exemption to the Military Division of the district where he lives. The Military Division passes the application to the "Registration Commission", which will take a decision on the application within 60 days. If the "Registration Commission" turns the application down, the person liable for call-up may within 15 days appeal against the decision to the head of the relevant Military Division. The decision on appeal made by the head of the Military Division is final and cannot be appealed against to any higher body.

5. Return

Introduction

UNHCR is of the view that Kosovans residing in Western Europe who require no international protection, can in principle return to Kosovo. With the large numbers of Kosovans residing in Germany in mind, UNHCR is of the opinion that their return (from the Netherlands as well) should be staggered⁽⁵⁷⁾. The LDK's view is that there must first be a political solution before return is possible.

Reports that rejected Albanian asylum seekers are exposed systematically to the risk of violence and repressive measures by the authorities on their return to Kosovo cannot be confirmed⁽⁵⁸⁾. Ethnic Albanians sent back to Kosovo are not treated any better or worse than those who never left.

The simple fact of applying for asylum in a third country is not made punishable in the Serbian or the FRY Penal Code. There is no indication that this is not observed in practice.

At present various Western countries are negotiating with the FRY authorities about the return of asylum-seekers who have exhausted procedures. Germany reached an agreement on 10 October 1996. It came into effect on 1 December 1996. Other countries such as Sweden and Switzerland have completed negotiations.

The Netherlands has as yet no readmission agreement with the FRY. Belgium is negotiating at present **B** on behalf of the Netherlands also **B** on a possible readmission agreement. The agreement will also have to cover ethnic Albanians who (are forced to) return to Kosovo.

Until the Netherlands has a readmission agreement with the FRY, the compulsory return of individual ethnic Albanians will be difficult. The Netherlands authorities must now where necessary reach agreement with the FRY on a case-by-case basis, which is not impossible.

5.1 Western countries' expulsion policy

Germany

Germany has concluded a readmission agreement with the FRY. An implementation protocol has also been drafted. Agreements have been made to monitor the implementation of the agreement periodically.

In its statistics Germany makes no distinction between the different FRY population groups. According to a spokesman from the German Embassy in Belgrade, 80% of those from the FRY who have exhausted procedures are Kosovans.

During the first four months of 1997, 580 persons were sent back to the FRY by

⁽⁵⁷⁾ This information is based on conversations by the official mission with UNHCR in June 1997. Return is a difficult subject for both the FRY authorities and the Kosovans. The FRY authorities have in the last few years accepted returnees only on a very small scale, since the return of large numbers of Kosovans would shift the balance of population numbers in Kosovo even more in favour of the ethnic Albanians. For the Kosovans the returnees form an extra burden on the community. Unemployment is high. Furthermore, Kosovans abroad provide considerable financial support to the survival of the parallel society in general and to members of their families in particular. This support would disappear if they returned.

⁽⁵⁸⁾ OSAR reports of May 1997 and October 1996; opinion of the Humanitarian Law Center in Belgrade of 16 June 1997.

Germany⁽⁵⁹⁾. Over the whole of 1996 there were 428. The German authorities report no problems with implementing the agreement. There are no cases known of persons falling under the agreement who have experienced problems⁽⁶⁰⁾. The German authorities inform the FRY authorities of the personal details of the persons they wish to expel. After a report agreeing to the readmission of the person concerned, a *laisse-passer* is applied for from the FRY Embassy in Germany. After it has been obtained the returnee is booked on a plane. HC/CHR has received information that two asylum-seekers returning from Germany were ill treated at Belgrade airport. They returned in September 1996, and thus before the readmission agreement. A spokesman for the Swiss authorities in Belgrade declared to the official mission that the persons named in the OSAR report of 17 May 1997 do not appear on the list under the readmission agreement of Germany and the FRY⁽⁶¹⁾.

According to the FRY authorities ethnic Albanians from Germany may not return by any other means. The FRY has argued for some time that persons from abroad can be sent back to the FRY only on the basis of an agreement. If a person returns outside the framework of the agreement, he is likely to be refused entry. If, in such a case, someone is stranded at the airport in Priština, this entails waiting in transit for a week until the return flight to Belgrade.

Among the first to return were a number of Kosovans with criminal backgrounds. It is quite possible that the Serbian authorities interrogated the persons concerned on arrival at the airport, because they were interested in their criminal past. Returnees have sometimes been questioned briefly about their stay abroad.

Switzerland

Following Germany, Switzerland also signed a readmission agreement on 4 July 1997. It came into effect on 1 September 1997. The number of Kosovans in Switzerland who have exhausted procedures is thought to be 12 500.

Sweden

The Swedish authorities are already involved in well-advanced negotiations with the FRY authorities about a readmission agreement. Of the asylum applications from the FRY turned down by Sweden, about 60% to 70% are from ethnic Albanians. The number of Kosovans who have exhausted procedures is thought to be 2 000 to 3 000.

Denmark

The Danish authorities are holding talks with the FRY authorities about a readmission agreement.

⁽⁵⁹⁾ A spokesman from the German Embassy in Belgrade estimated that the number of Kosovans alone who have exhausted procedures was 80 000. The ethnic Albanians say there are up to 150 000.

According to the German Embassy in Belgrade, 128 persons were expelled under the agreement up to 25 January 1997. More Kosovans arrive in Germany each month than return under the agreement.

Germany does not inform UNHCR or other organizations in advance of expulsion procedures, since it is accepted that trust in the asylum procedures implies that monitoring is superfluous. Nevertheless, embassy staff regularly travel to Kosovo. They keep in close touch with human rights organizations and lawyers there.

Koha Ditore has its own correspondent in Bonn who keeps the editorial staff informed about a flight.

Koha reporters who have monitored the arrival of charter flights from Germany via Belgrade in Priština have not noted any irregularities.

⁽⁶⁰⁾ Rehn 4, 29 January 1997, No 154.

⁽⁶¹⁾ OSAR is a Swiss organization. Switzerland sought out this information in the context of the readmission agreement to be concluded between Switzerland and the FRY.

Norway

The Norwegian authorities are expected to start negotiations in the near future on a readmission agreement for the return to the FRY of about 3 000 Kosovans who have exhausted procedures.

Belgium

From April 1996 up to and including May 1997 at most five ethnic Albanians from Kosovo were expelled by Belgium. This small number is a consequence of the lack of cooperation from the FRY authorities. FRY subjects are granted permission to return only with great difficulty.

France

In their statistics the French make no distinction between ethnic Albanians and other FRY citizens. In 1996 129 persons were expelled in all, including an unknown number of ethnic Albanians from Kosovo. In 1997 up to the end of May 22 persons were expelled.

6. Conclusion

The human rights situation in Kosovo still gives cause for concern. Thus there is talk of ill treatment and torture, which is a particular danger facing persons under arrest in the investigation phase. There are reports of a number of deaths in prison as a consequence of torture. Arbitrary arrests and ill treatment in connection with house searches for weapons or searches for (alleged) terrorists can occur. Persons primarily at risk are those suspected of being members of the UÇK or the LKÇK.

Activities in the parallel society do not in themselves necessarily lead to repressive action.

With reference to ethnic Albanians from Kosovo, it must be concluded that there is no persecution within the meaning of the Convention relating to the Status of Refugees of (members of) this population group as such.

On the basis of the general situation in Kosovo there is in principle no reason to suppose that an ethnic Albanian from Kosovo, whose application for admission as a refugee or to be granted a residence permit is turned down, cannot be expelled.

THE MINISTER FOR FOREIGN AFFAIRS
For the Minister
The Director for Movement of Persons, Migration and Consular Affairs
H.H. Siblesz

Annexes: 3

LAW
ON THE SPECIAL CONDITIONS FOR TRANSACTIONS
IN IMMOVABLE PROPERTY *

Article 1

Transactions in immovable property between natural persons and between natural persons and legal persons in the area comprising the territory of the Republic of Serbia excluding the autonomous area of Vojvodina shall be subject to the special conditions which come into effect with this law, for a period of ten years from the time this law enters into force.

"Legal persons" as referred to in the first paragraph of this Article, also means, in addition to civil legal persons, associations of persons, companies in private ownership and state-owned companies which are engaged in the provision of residential and industrial property intended for the market (hereinafter called "undertakings").

Article 2

Transactions in immovable property within the meaning of this law shall be understood as meaning the transfer of the right of ownership and other real rights to immovable property, and leasing or any other form of acquisition.

By way of exception to what is stated in the first paragraph of Article 1, a gift between relatives in the first hereditary degree shall not be regarded as a transaction in immovable property.

Article 3

The Ministry of Financial Affairs **B** Property Law Department shall approve a transaction in immovable property within the meaning of Article 1 of this law where the transaction does not lead to a change in the national structure of the population or to the departure of persons belonging to a particular population group or nationality, and where the transaction does not lead to feelings of unrest or insecurity, or to an inadequate level of equal rights for citizens belonging to another population group or nationality.

If the Ministry of Financial Affairs **B** Property Law Department does not approve a transaction, a decision shall be taken by a Commission set up by the Parliament of Serbia via an appeal lodged by one of the persons concerned within thirty days of receipt of the decision.

No appeal shall be possible against the decision of the Commission referred to in the second paragraph of this Article.

* The law on limiting transactions in immovable property was published in the "Official Gazette of the Socialist Republic of Serbia", Nos 30/89 and 42/89, and in the "Official Gazette of the Republic of Serbia", No 22/91.

Under the changes made in No 22/91, the title "Law on limiting transactions in immovable property" was replaced by "Law on the special conditions for transactions in immovable property".

All specialist and administrative acts for the Commission referred to in the first paragraph of this Article shall be carried out by the government body responsible for property law matters.

Article 4

The competent local authority bodies shall, as soon as it becomes known that a person has, without the conclusion of a contract, come into the possession of immovable property subject to approval as referred to in the first paragraph of Article 3 of this law, immediately take measures to make continued possession of the property in question impossible.

Article 5

A contract for a transaction in immovable property that has been concluded contrary to Article 1 and the first paragraph of Article 3 of this law shall be regarded as null and void.

Article 6

A citizen who, without the conclusion of a contract, comes into the possession of immovable property subject to approval as referred to in the first paragraph of Article 3 of this law, shall be liable for this infringement to a prison sentence of at most sixty days or a fine of between one hundred and one thousand new dinars.

An association of persons or an undertaking which concludes a contract without approval having been granted within the meaning of Article 3 of this law shall be liable for such an infringement to a fine of between one thousand and ten thousand new dinars.

In addition, for an infringement as referred to in the second paragraph of this Article, the person responsible within the association of persons or the undertaking shall be liable to a fine of between one hundred and one thousand new dinars.

Article 6a

No fees shall be levied for any of the information provided and decisions issued in connection with enforcing the rights deriving from this law.

Article 7

When this law enters into force the validity of the provision in paragraphs 4 and 5 of Article 3 of the Law on transactions in immovable property ("Official Gazette of the Socialist Republic of Serbia", Nos 43/81, 24/85, 26/87 and 6/89) shall cease.

Article 8

This law shall enter into force on the day of its publication in the "Official Gazette of the Socialist Republic of Serbia".

Kosovo-Albanian political parties

* LDK	president Ibrahim Rugova
* PPK	president Adem Demaqi
* Partia Liberale e Kosovës	president Gjergj Dedaj
* UNIKOMB	president Ukshin Hoti
* Partia Socialdemokratike e Kosovës	president Besim Bokshi
* Same; second wing	president Luljeta Pula
* Partia Shqiptare Demokristiane e Kosovës	president Mark Krasniqi
* Partia Fshataare e Kosovës	president Hivzi Islami

This last party, the Kosovo Farmers' Party, froze all its activities on 1 July 1995.

(Source: Beta Week 13.2.1997, p. 10).

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Date	Telephone	Reference
7 November 1997	070-3485576	DPC/AM Nr. 539356

Subject	Section
Return from the Federal Republic of Germany of asylum-seekers from the Federal Republic of Yugoslavia/Kosovo whose applications have been refused and who have exhausted all remedies	Directorate for Movement of persons, Migration and Consular Affairs

With reference to the return from the Federal Republic of Germany of Kosovans whose applications have been refused and who have exhausted all remedies, I can give you the following information.

From 1 December 1996 to 26 October 1997 in total 3 361 persons, most of them Kosovans, have been expelled to the FRY on the basis of the readmission agreement between the FRY and the FRG. If there have been cases of persons who have returned outside this framework, then this can only have been a few persons who did so voluntarily or without knowledge of the agreement.

The United Nations Special Rapporteur on former Yugoslavia has reported that two asylum-seekers returning from Germany suffered ill treatment at the airport in Belgrade. These were persons who returned in September 1996, before the readmission agreement came into effect.

Assertions that Kosovans expelled from Germany have experienced problems are investigated by the German authorities as far as possible. Cases where the FRY does not seem to have behaved in accordance with the readmission agreement are raised in periodic bilateral consultations between Germany and the FRY. Five specific cases were to be investigated more closely in that context. The reaction of the FRY authorities is expected in December 1997.

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

H.H. Siblesz