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Kosovo (Serbia): Romanian police and UNMIK must be brought to account for the deaths of demonstrators in Kosovo.

Amnesty International calls on the international community to ensure that justice is done in relation to the killing of two Kosovo Albanians and the wounding of scores of others during a demonstration in February 2007 in the capital Pristina. The organization makes the call in the wake of the publication of a second report by a task force established by the United Nations Interim Administration in Kosovo (UNMIK) to establish criminal liability for the shootings, and address operational failures within the UNMIK police.

Robert Dean, international prosecutor within the UNMIK Department of Justice, reported on 3 July that the deaths of Mon Balaj and Arbën Xheladini, during a demonstration on 10 February, were caused by "improper deployment of rubber bullets by at least one and perhaps two Romanian gunners". The report concluded that insufficient evidence existed to bring charges against any particular officer.

On 21 March, the Romanian authorities withdrew from Kosovo 11 members of the Romanian Forward Police Unit (FPU) who had been assisting the investigation, and who were reportedly in possession of crucial information. An interim report, published in April, found that there was a substantial basis on which to conclude that gunners attached to the Romanian FPU were responsible for the fatal shootings. Despite requests by UNMIK and Amnesty International, the Romanian authorities have refused to return the police officers to Kosovo for further investigation.

"International police taking part in international operations and suspected of violations of human rights should not be allowed to evade justice by hiding behind national borders. The international community was mandated by the UN Security Council to re-establish the rule of law and respect for human rights in Kosovo. The UN and contributing countries must ensure that all those responsible for human rights violations, criminal or other wrongful conduct are brought to justice," said Sian Jones, Amnesty International's researcher on Kosovo.

"It is important that the international community in Kosovo abide by the highest of international standards, and uphold the rule of law in Kosovo so that justice may be done and be seen to be done."

Amnesty International urges the UNMIK Department of Justice to open a criminal investigation into the deaths of Mon Balaj and Arbën Xheladini, and the serious injury of up to 80 other persons.

Amnesty International urges Romania to return to Kosovo the 11 police officers to be questioned in the context of a criminal investigation, or otherwise make them available in Romania to the UNMIK authorities so to ensure that those responsible are brought to justice and that the families of the deceased as well as those that were injured receive full and adequate reparation.

Amnesty International also calls on the UN Secretary General to approve the lifting of the immunity from prosecution enjoyed by international personnel in Kosovo with respect to any person suspected of involvement in unlawful conduct in relation to the deaths of the two men and the serious injury of others.

Amnesty International also notes that the Dean report found that the international police's command and control structure had broken down and operational orders for the demonstration had been followed. The organization therefore recommends that UNMIK's criminal investigation should also seek to establish whether any senior police officers, including the Head of UNMIK police, bear any criminal responsibility for the failure to protect the right to life of Mon Balaj and Arbën Xheladini.

Further, Amnesty International urges UNMIK to immediately convene the Human Rights Advisory Panel so that the relatives of the deceased and those that were injured may make an application for reparations for the alleged violations of their rights by members of UNMIK.

In the run up to the planned replacement of UNMIK by the European Security and Defence Policy Mission to Kosovo (pending a resolution by the UN Security Council), Amnesty International urges the European Union (EU), to ensure that all police from EU member states to be deployed to Kosovo are trained in international standards on the use of force and firearms before their arrival; that clear and comprehensive command and control structures are established for all future deployments; to establish and implement mechanisms to bring to account in Kosovo any law enforcement officers - or any other members of the mission - suspected of violating international standards; and ensure that provisions for reparation including compensation and rehabilitation are enforced.

Background

As part of its worldwide monitoring of the respect and protection of human rights, Amnesty International has for the last eight years monitored the respect and protection of human rights by UNMIK and the NATO-led Kosovo Force (KFOR) in Kosovo. Both UNMIK and KFOR were mandated by UN Security Council Resolution 1244/99 to protect and promote the human rights of all persons in Kosovo.

Amnesty International has regularly raised concerns that UNMIK personnel, including civilian police and contractors, and members of the international peace keeping force (KFOR) have - with some rare exceptions - enjoyed impunity for human rights violations for which they have been responsible. The organization is also concerned that few states from which alleged perpetrators of human rights violations originate have brought them to justice.

UNMIK has failed to guarantee the right to a remedy to people whose rights have been violated by members of the international community, a consequence of the immunity from prosecution in Kosovo enjoyed by UNMIK personnel and their consequent lack of accountability before the Kosovo courts. In the absence of prosecutions in Kosovo, Amnesty International has also called on UN member states to bring perpetrators of human rights violations to justice in domestic courts, although this has rarely occurred.

In 2006, Amnesty International had urged UNMIK and the UN to ensure that persons whose rights have been violated by UNMIK over the previous seven years receive prompt and adequate reparation, including redress, as required under Article 2 of the International Convention of Civil and Political rights.

On 23 March 2006, UNMIK Regulation 2006/12, On the Establishment of the Human Rights Advisory Panel, established a body to which complaints might be submitted in cases where human rights as defined in applicable law had allegedly been violated by UNMIK. This body has not yet been convened.

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