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Federal Republic of Yugoslavia: State of emergency does not suspend responsibility to protect human rights

The state of war declared last night by the Yugoslav Federal Government should not be a screen for further human rights violations, Amnesty International said today.

“Even in exceptional conditions the authorities are bound to observe the basic human rights enshrined in the treaties to which the Federal Republic of Yugoslavia (FRY) is a party,” the organization said.

In the early hours of this morning in Priština Serbian police broke down the door of Bajram Kelmendi, a prominent ethnic Albanian human rights lawyer, and struck him with rifle butts claiming he had guns in the house. After ransacking the house police took him away together with his two sons Kustrim (16) and Kastriot (30). Police refused to reveal to Bajram Kelmendi’s wife, Nekibe, also a lawyer, where the men and boy have been taken.

A security guard at the Koha Ditore Albanian language newspaper was allegedly shot dead by police when they forcibly closed down the newspaper during the night.

“We condemn these acts and all similar attempts to curtail the human rights of lawyers, activists in non-governmental organizations, journalists or opposition supporters,” Amnesty International said.

“In the context of gross human rights violations already seen in Kosovo and of growing pressure on the independent media, we fear that emergency legislation may now be passed to consolidate and try to legitimize further violations.”

The situation is tense in the country following air-strikes by the North Atlantic Treaty Organization (NATO) against military and police targets throughout the FRY, which commenced last night. Foreign journalists from NATO member countries are reported to have been ordered out of Serbia.

International human rights standards such as the International Covenant on Civil and Political Rights (ICCPR) permit states some derogations from these obligations in times of emergency. However, states may not derogate from fundamental human rights --especially the right to life and freedom from torture -- under any circumstances.

Background information

One of the key human rights instruments to which the FRY is a party is the ICCPR. Article 4 clearly states that some fundamental human rights can never be suspended or limited. States are prohibited from derogating from Articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18.

Rights that can never be suspended include the right to life and to freedom from torture or cruel, inhuman or degrading treatment or punishment; the right to recognition as a person before the law; the right not to be subjected to arbitrary or unlawful interference with privacy, family, home or correspondence or to attacks on one's honour or reputation; and the right to freedom of thought, conscience and religion.

Article 4 requires that rights and freedoms may only be limited "to the extent strictly required by the exigencies of the situation", that measures taken "are not inconsistent with [the state's] other obligations under international law" and that they "do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin."

Strict rules must also be observed in informing the United Nations Secretary-General of any derogations.

The Geneva Conventions of 1949 and its Additional Protocols of 1977 -- to which the FRY is a party -- cannot be derogated from in any circumstances. Among other things, they protect civilians and persons detained in a conflict by forbidding murder, torture, hostage-taking, humiliating and degrading treatment and the passing of sentences without judgments pronounced by properly constituted courts and other judicial guarantees.

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