

FEDERAL REPUBLIC OF YUGOSLAVIA (KOSOVO)

Update from the field January 2000

Introduction

This document describes some of Amnesty International's recent findings from field researchers working in Kosovo (Kosova) in the period from December 1999 to mid-January 2000. It presents background on the situation as well as Amnesty International's concerns and related recommendations. Place names in Kosovo are given in their Serbian form followed by the Albanian-language form in brackets, where this differs. A list of abbreviations is given at the end of the document.

The general situation in Kosovo (Kosova)

At the beginning of December, Amnesty International's researchers in the field observed a disturbing increase in human rights abuses. Twenty-four murders were reported in the first week of December and the researchers received many reports of harassment, intimidation and house burning perpetrated by ethnic Albanians against moderate ethnic Albanians and members of minority groups. By the end of December the human rights situation had improved slightly which may be a result of the increased security measures taken by the international security presence, KFOR, to protect members of minority groups such as Serbs, Muslim Slavs and Roma.

The international presence in the region continues to struggle in many respects to deal with the enormous human rights concerns among the many tasks which it faces. The establishment of a functional judicial system as an essential complement to policing efforts is a particularly urgent need. Amnesty International's concerns are detailed below.

The international presence in Kosovo - six months on

December marked the six-month anniversary of the deployment of the international civil and security presences, UNMIK and KFOR, to Kosovo. In a report issued by the Secretary-General of the United Nations in December it was stated that despite the efforts of UNMIK and KFOR "the level and nature of the violence in Kosovo, especially against vulnerable minorities, remains unacceptable"¹. On 10 December KFOR reported that since their deployment there have been 414 murders: 150 of the victims were ethnic

¹ *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo*, UN Doc no. S/1999/1250, 23 December 1999, p24.

Albanians, 140 Serbs and 124 were of unknown ethnicity. There have been a total of 153 reported abductions of which the highest number of victims are Serbs. The continuing high level of human rights abuses, perpetrated with virtual impunity, led Amnesty International to call once again for the full deployment of the international civilian police force and for the UN to step up its efforts to establish a functioning, independent and impartial judicial system. (See *Kosovo: Six months on, climate of fear flies in the face of UN mission*, AI Index: EUR 70/136/99)

Despite calls by various actors, including Amnesty International, there has been little progress towards the full deployment of an international civilian police force in Kosovo. By the end of December only 1,900 out of the promised 4,800 international police officers had arrived in Kosovo. The number deployed to date falls way short of the 6,000 international police officers which the Secretary-General of the United Nations stated were necessary in order to police Kosovo effectively. Amnesty International repeats its appeals to UN member states to provide the personnel necessary to ensure the full deployment of international civilian police in Kosovo. The organization reminds governments that unless the necessary number of international civilian police officers are deployed, violent human rights abuses against members of minority communities and moderate ethnic Albanians may continue to be perpetrated with impunity.

In December, UNMIK took official steps to integrate the parallel government of the former KLA/UÇK, led by Hashim Thaçi, into the official UNMIK civilian structure. Over the past six months, the parallel government has been openly undertaking illegal activities such as collecting taxes, promulgating laws, evicting people from their homes, and engaging in illegal policing activities. In recent months, Amnesty International's researchers have been concerned about the failure of UNMIK to actively prevent this non-governmental entity from engaging in these illegal activities and committing human rights abuses. On 13 December, in an agreement between the Special Representative of the Secretary-General (SRSG), Dr Bernard Kouchner, Hashim Thaçi, president of the PDK party, Ibrahim Rugova, President of the LDK party and Rexhep Qosja, president of the LDB party, the parties agreed to transform and progressively integrate the parallel government and UNMIK into a Joint Interim Administrative Structure. The agreement recognizes that the SRSG retains legislative and executive authority in Kosovo. Amnesty International's researchers hope that the clarification of UNMIK's policy vis-a-vis the activities of this non-governmental entity will result in the cessation of illegal activities, human rights abuses and in turn in greater security for all the citizens of Kosovo. Amnesty International notes, however, that representatives of the Serbian community in Kosovo who have created the Serb National Council were not a party to the agreement and have refused to join the Interim Administrative Council.

Amnesty urges KFOR to set up human rights complaints mechanism

Amnesty International field researchers were invited to give a presentation to KFOR legal advisors on the work of Amnesty International around the world and in Kosovo. The researchers took the opportunity to facilitate a discussion on the establishment of a mechanism for complaints against KFOR. Some legal advisors welcomed the idea and as a follow up Amnesty International wrote to the Commander of KFOR, General Reinhardt, urging him to set up a transparent and independent mechanism for dealing with complaints against KFOR troops in Kosovo. (*Kosovo: Amnesty International urges accountability in KFOR*, AI Index: EUR 70/01/00).

Although Amnesty International's researchers have not received any reports which indicate that people in KFOR detention have been subjected to ill-treatment, they have received a number of allegations regarding the ill-treatment of people while being apprehended or arrested in Kosovo. They have observed that in such cases complaints against KFOR require the assistance of an international organization to enable them to be channelled to the appropriate KFOR authority and that the response thereto is determined on an *ad hoc* basis. Thus, current practices would appear to provide neither accessibility, transparency, nor uniformity.

In the letter to General Reinhardt, Amnesty International underlined the fact that the international civil and security presence, that is UNMIK and KFOR, should adhere to the highest possible human rights standards and be held accountable for any human rights violations they commit in Kosovo. Indeed, the UN Secretary-General has stated that human rights are a priority in every UN mission and that the protection and promotion of human rights is one of the main responsibilities of the UN presence in Kosovo, as mandated by Security Council Resolution 1244 (1999). Amnesty International reminded General Reinhardt that KFOR's conduct will set an example in Kosovo and the Federal Republic of Yugoslavia as a whole for the manner in which security forces charged with maintaining public safety and order should exercise their duties. The organization urged General Reinhardt to establish a transparent and independent mechanism for dealing with complaints against KFOR in Kosovo. Amnesty International further urged General Reinhardt to ensure that compensation is available to victims in any case where it is demonstrated that KFOR troops have acted in violation of internationally recognized human rights standards.

Amnesty International's researchers continue to monitor the progress of the international civil and security presence in Kosovo and to remind representatives of their obligations to treat their human rights commitments with the seriousness they deserve.

Continuing concerns in the region

The protection of minorities

Amnesty International continues to be seriously concerned about the protection of minorities in Kosovo. During December members of minority communities were denied their civil and political rights, such as the right to life, freedom of movement, freedom of expression, freedom of thought, conscience and religion and the right to use one's own language. In the field of social, economic and cultural rights members of minority populations were denied, among others, the right to education and the right to take part in cultural life.

The Serbs and Roma² who remain in Kosovo continue to live in fear and are subjected to daily attacks, despite the efforts of KFOR and UNMIK to improve security. Serbs are now almost all living in enclaves which are protected by KFOR troops. In Priština (Prishtina), most Serbs now live in one location and they require a military KFOR escort when they go out to conduct day-to-day tasks such as buying food and newspapers. On 18 December 1999, grenades were thrown into the small Serb and Roma enclave in the middle of Orahovac (Rahovec). One Serb died as a result of the attack and several others were injured. Following this incident, on 29 December 1999, 46 Serbs, mostly elderly persons and children, were escorted out of Kosovo to Serbia because of concerns for their security.

In the few remaining areas where minorities and ethnic Albanians live together, members of minority communities continue to be the victims of killings, attacks and intimidation. In Gnjilane (Gjilan), on the 9 December 1999, three Serbs were killed. Amnesty International's researchers note with satisfaction that two people have been arrested on suspicion of perpetrating these killings. On 28 December, in the mixed town of Vitina (Vitia) the researchers received reports of a bomb attack on a Serb shop in which 10 Serbs were injured.

In December, the tension between ethnic Albanians and Serbs in the divided town of Mitrovica increased. For example, on 16 December 1999 a large group of Serbs attacked the office of the Albanian Republican Party in north Mitrovica. Four days later the office was again attacked, burned to the ground and thereafter closed by UNMIK. The office had reportedly been subject to a bomb attack prior to the first attack by the crowd and arms had allegedly been found in it.

Since June 1999 the Serb and ethnic Albanian communities have lived mainly in different parts of Mitrovica separated by a river. Movement across the one bridge is controlled by KFOR. The Serbs, Roma and a minority of ethnic Albanians live on the north side of the town while the majority of ethnic Albanians are on the south side.

² Part of the Roma community in Kosovo identify themselves as *egip_ani* or *egjiptiani* (Egyptians). All are referred to here as there is no differentiation in the way they have been subject to human rights abuses.

People of all three nationalities have been displaced within the town. In December, the Serbs continued to refuse to allow ethnic Albanians to work in or use the only hospital in the town which is on the north side. This move prompted UNMIK to deny further assistance to the hospital.

There were some small, but positive developments in December towards providing accountability for human rights abuses perpetrated against members of minority communities. On 20 December 1999, UN international police arrested a 32-year-old man on suspicion of the murder of five Serbs and one Roma over the past two months in the Lukare area near Priština (Prishtina). Three suspected accomplices were also arrested on suspicion of kidnapping the victims and taking them to killed in the style of executions. UN international police reported that the suspects are believed to be former members of the KLA/UÇK and applicants to the Kosovo Protection Corps (TMK). On 27 December 1999, UN police arrested a 27-year-old man in Priština (Prishtina) on suspicion of killing of a Serb professor and violently beating the victim's wife and mother-in-law during an Albanian holiday celebration in November (See *Amnesty International calls for more international civilian police in Kosovo after attack on Serbs* AI Index: EUR 70/129/99, 30 November 1999). *UN police highlighted the fact that this was the first time that a witness has come forward to provide information regarding a serious crime and that as a result they were able to make an arrest on the basis of information received. Amnesty International notes that thus far human rights abuses against minorities have been committed with virtual impunity and welcomes these arrests as they represent a positive move towards breaking the cycle of impunity in Kosovo.*

Amnesty International's researchers continue to receive reports of human rights abuses perpetrated by extremist ethnic Albanians against moderate members of ethnic Albanian society. These human rights abuses appear to be politically motivated or the victims targeted because they are perceived to have collaborated with the previous authorities -- the FRY forces and government. There were two disturbing killings of former ethnic Albanian judges in December. On 16 December 1999, one former judge was shot on the staircase outside his apartment. It was reported that the victim had worked in the Serbian judicial system and that he had been involved in the trials and sentencing of ethnic Albanians. On 20 December, in Vitina (Vitia), another former judge who had reportedly worked as an inspector for the Serbian Secret Police was killed. A few days prior to the killing, the victim had been appointed by UNMIK to serve as a judge in the interim judicial system in Gnjilane (Gjilan).

Kosovo's criminal justice system

At a press conference marking six months since the deployment of KFOR and UNMIK to Kosovo, the SRSG, Dr Bernard Kouchner, acknowledged that there has been a marked increase in criminality in Kosovo and admitted that his administration has been unable, thus far, to establish a functioning judicial system. Attempting to address this situation, Dr Kouchner announced a number of new initiatives in the field of the judiciary.

The applicable law in Kosovo

Amnesty International's researchers note that in the 35 trials which have been completed in the Prizren District court up until December 1999, judges refused to apply the Serbian Criminal Code which was, according to UNMIK Regulation 1, applicable in Kosovo. Amnesty International's points out that the failure of judges to apply the applicable law may lead to violations of the rights to equality before the law and equal protection of the laws. Attempting to address this situation, on 12 December 1999, Dr Kouchner issued Regulation 24 which states that the applicable law in Kosovo is the law in force on 22 March 1989. For criminal acts this means the Kosovo provincial criminal code, which was applied until this date. It was then abolished along with Kosovo's autonomy at the initiative of the then Serbian President, Slobodan Milošević. However, the Regulation further states that if a competent body or person determines that the subject matter or situation is not covered by the law in force on the 22 March 1989, but is covered by another law in force in Kosovo after 22 March 1989, which is not discriminatory, they may, as an exception, apply that law. The regulation will be retroactively applied to June, avoiding the necessity of retrying the 35 completed cases.

Many observers in Kosovo note that repealing Regulation 1 may undermine the credibility of UNMIK as many people perceive that UNMIK has "given in" to pressure from the majority ethnic Albanian community. The question of the applicable law has become highly politicised in Kosovo and there are fears here that the decision by UNMIK to apply the Kosovo, rather than the Serbian, Criminal Code may further alienate the Serb community and preclude their future participation in the criminal justice system. Currently there are no Serb judges or prosecutors participating in the judicial system.

Amnesty International notes with satisfaction that Regulation 24 states that all laws applied in Kosovo must conform to international human rights standards. Indeed in a report issued in September 1999, the Secretary-General of the United Nations announced that the Council of Europe is reviewing the Serbian Criminal Code and the Federal Criminal Code to determine the extent to which they conform to international human rights standards³.

Amnesty International is concerned that this review has not yet been completed. In addition it is unclear whether the 1989 Kosovo Criminal Code will be reviewed and amended so as to conform to international human rights norms. Amnesty International's researchers in the field will continue to urge UNMIK to facilitate the expeditious review, amendment and publication of all laws applied in Kosovo, to bring them into line with international human rights standards. The researchers will also continue to draw attention to the need for the provision of comprehensive human rights law training programs for all legal professionals in Kosovo.

The creation of a Kosovo Court for war crimes and ethnically motivated crimes

Dr Kouchner further announced that the Technical Advisory Commission on the Judiciary, a group of 10 Kosovar and five international legal experts, have recommended the establishment of a Kosovo Court for war crimes and ethnically motivated crimes. The court will be able to prosecute persons suspected of committing war crimes (grave breaches of the four Geneva Conventions of 1949 and the two Additional Protocols, violations of the laws and customs of war, crimes against humanity and genocide). Many people in Kosovo argued for the creation of the court because the International Criminal Tribunal for the former Yugoslavia (ICTY) is unable to take on all the cases of persons suspected of committing war crimes in Kosovo.

The ICTY has prioritized cases involving persons accused of command responsibility such as FRY President, Slobodan Milošević, and does not have the resources to prosecute all suspects. The Kosovo court will also have the power to prosecute serious crimes when committed with the intent to harm a person of a certain ethnic, religious or political group. Thus, it is envisaged that the court will bring persons to justice who have committed serious human rights abuses against minorities since June 1999. The Kosovo court will consist of two chambers with three judges each and an appeals chamber. Dr Kouchner announced that two-thirds of the judges and prosecutors will be from Kosovo and the others, international. Amnesty International welcomes all attempts by UNMIK to bring to justice persons suspected of committing grave crimes under international law in proceedings which meet international standards for fairness. The organization hopes, however, that the creation of the court will not detract from UNMIK's main task which is the prompt establishment of an independent and impartial judicial system.

Refugees and internally displaced persons

³ Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo UN Doc no. S/1999/987, 16 September 1999 p8.

Amnesty International continues to be concerned about the situation of over 250,000 refugees and internally displaced persons who have fled from Kosovo into Serbia and Montenegro. Amnesty International welcomes UN General Assembly Resolution of 13 December 1999 which attempts to address the problems facing the huge number of refugees and internally displaced persons who have moved from Kosovo to other parts of the FRY. The influx of people from Kosovo has exacerbated the already critical situation of refugees in the FRY.

Between 1991 and 1995 Serb refugees have flooded into Serbia and Montenegro from Croatia and Bosnia-Herzegovina. Some 15,000 of these people had been settled in Kosovo by the Serbian authorities as at the beginning of 1998 and the total refugee population in the FRY was 550,000. Some of these refugees and part of the indigenous Serb population started to leave Kosovo in mid-1998 when the situation in Kosovo deteriorated into armed conflict. However, from June 1999 thousands more Kosovo Serbs and Roma fled into Serbia and Montenegro as a result of the human rights abuses perpetrated by ethnic Albanians against members of the minority communities. The bulk of the refugees from Croatia and Bosnia were among those fleeing into Serbia. This month the General Assembly urged the international community to support programs which aim to ensure that the humanitarian needs of refugees and internally displaced persons in the FRY are met and that they support durable solutions, including repatriation and reintegration.

The reports which Amnesty International's researchers have received from inside Serbia and Montenegro indicate that the rights of refugees and internally displaced persons are frequently denied. Reports of the conditions in which these refugees and internally displaced persons are living indicate that there is an urgent need for the international community to assist the FRY government in its efforts to provide these vulnerable persons with their economic, social and cultural rights. The FRY, Croatian, Bosnian and Macedonian governments should attempt to find durable solutions for all refugees and internally displaced persons in the region as a matter of urgency.

As Serbs continue to flee into Serbia and Montenegro from Kosovo, so ethnic Albanians are moving into Kosovo from Serbia. The movement of ethnic Albanians from Serbia has been prompted by real or perceived threats that they will suffer human rights violations at the hands of the Serbian authorities. Amnesty International's researchers recently interviewed representatives of ethnic Albanians from Serbia who fled the municipalities of Medvedje, Preševo and Bujanovac in southern Serbia during the time of the NATO bombardment and since June 1999. Although UNHCR has registered 5,000 internally displaced ethnic Albanians from these areas in the Gnjilane (Gjilan) area of Kosovo, it is hard to confirm actual figures. The Helsinki Committee for Human Rights in Serbia asserts that 25,000 ethnic Albanians fled Serbia because of killings,

maltreatment, house burning and looting by FRY forces and authorities during the 11-week NATO bombing campaign. However, substantial numbers are known to have returned to their home area following the end of the campaign.

Serbian police and the Yugoslav Army continue to be active in southern Serbia near the boundary with Kosovo and the situation remains tense. Amnesty International's researchers will continue to monitor the situation of between 70,000 and 80,000 ethnic Albanians still reported to be living in southern Serbia.

Ethnic Albanian prisoners in Serbia and “disappearance” of lawyer near Belgrade

During December, Amnesty International continued to monitor the situation of ethnic Albanian detainees from Kosovo who are currently imprisoned in Serbia. In December, 15 ethnic Albanians from Kosovo were tried and received prison sentences of between two and 15 years' from Serbian courts. Amnesty International remains concerned about the fairness of the criminal proceedings in these and other ongoing cases against ethnic Albanians in Serbia. Amnesty International has received reports that indicate that during some proceedings statements which had been obtained through torture were used as evidence and that defendants have been denied their right to private communication with their defence lawyers. There are also complaints of poor prison conditions for the prisoners, including inadequate heating and food. In December, Amnesty International welcomed the release of 26 ethnic Albanians, including a mother and her four-month-old baby who was born in prison, from detention centres in Serbia.

After an unfair trial on 9 December, the well-known ethnic Albanian human rights activist, Dr Flora Brovina, was sentenced to 12 years' imprisonment on charges of “association for the purposes of hostile activity” in connection with “terrorism”. Flora Brovina is accused of assisting the KLA/UÇK by supplying medicines, treating wounded soldiers and helping to supply them with uniforms. These activities were allegedly carried out in Priština (Prishtina) from her medical clinic and the office of the League of Albanian Women, a women's rights organization which she founded in 1992. Amnesty International's information indicates that the charges against Flora Brovina are unsubstantiated and the organization is calling for her release. (See *12-year prison sentence for Kosovo doctor is outrageous* AI Index: EUR 70/133/99, 10 December 1999).

Amnesty International welcomed the release of the ethnic Albanian lawyer Teki Bokshi on 16 December after 10 days of confinement. A ransom of 100,000 German Marks was paid to his captors for his release. His captors used a car with a police registration and police identities to stop and detain him. He was held in a private

apartment somewhere in Belgrade and was kept tied up most of the time. Teki Bokshi believes that at least two of his captors were serving police officers. The incident highlights the security risks that all ethnic Albanian lawyers who continue to defend prisoners in Serbia face. Amnesty International has called for a thorough, independent and impartial investigation into his kidnapping and for action to prevent the recurrence of any similar incidents.

Summary of current Amnesty International recommendations:

The recommendations given below refer to the concerns mentioned in this update.

To the international community:

- provide UNMIK with additional civilian police and expertise to bring the UN force up to strength and enable it and KFOR to provide effective protection to threatened minorities;
- provide UNMIK with increased financial, technical and human resources to fund, train and support an independent, impartial and multi-ethnic judiciary and judicial personnel and to facilitate the completion of its current legislative reform process to meet international standards and thus help to end impunity;
- provide the UN Office of the High Commissioner for Human Rights with enhanced resources to carry out its functions including monitoring of judicial processes in Kosovo.

To UNMIK and/or KFOR:

- establish a transparent, effective and impartial mechanism by which individuals can complain about abuses committed by KFOR, UNMIK civilian police, and those acting under their authority;
- ensure that there is an independent mechanism to scrutinize and report on the performance of the newly established judiciary. Pending the establishment of long-term review mechanisms within Kosovo itself, this task could be undertaken by an appropriate monitoring body within UNMIK, provided it is separated from the body playing a key role in judicial appointments,⁴ or by the OHCHR, provided it is granted sufficient resources;
- facilitate the expeditious review, amendment and publication of all laws applied in Kosovo so as to bring them into line with international human rights standards;
- develop and implement a comprehensive human rights law training program for all legal professionals in Kosovo.

⁴ The Rule of Law Division in UNMIK's Institution Building component.

To leaders of the Kosovo Albanian community:

- stop all human rights abuses against Serbs, Roma and other minorities and cooperate fully with the UN authorities in bringing the perpetrators to justice;
- halt attempts to threaten or influence the newly established judiciary;
- ensure that no persons are held in unauthorized detention.

To the FRY authorities:

- ensure that all political prisoners, including those charged with offences related to the conflict, are given a fair trial in accordance with international standards, including by granting them prompt, regular and confidential access to lawyers and permitting international observers to attend their trials;
- release prisoners of conscience Flora Brovina;
- carry out a thorough, independent and impartial investigation into the kidnapping of Teki Bokshi, ensure that all those involved are brought to justice and act to prevent the recurrence of such cases.

Relevant Abbreviations:

ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ICTY	International Criminal Tribunal for the former Yugoslavia
KFOR	Kosovo Force (the NATO-lead peacekeeping force)
KLA/UÇK	Kosovo Liberation Army, in Albanian <i>Ushtria Çlirimtare e Kosovës</i>
LDK	Democratic League of Kosovo, in Albanian <i>Lidhja Demokratike e Kosovës</i> (an ethnic Albanian political party)
LDB	United Democratic Movement (an ethnic Albanian political party)
NATO	North Atlantic Treaty Organization
OHCHR	Office of the (UN) High Commissioner for Human Rights
OSCE	Organization for Security and Co-operation in Europe
PPDK	Party of Democratic Progress, in Albanian <i>Partia për Progres Demokratik të Kosovës</i> (an ethnic Albanian political party)
SRS	Special Representative of the [United Nations] Secretary-General (the post held by Dr Bernard Kouchner)
TMK	Kosovo Protection Corps, in Albanian <i>Trupa Mbrojtëse e Kosovës</i> .
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Interim Administration Mission in Kosovo