

CAMPAIGN FOR
INTERNATIONAL
JUSTICE



KOSOVO
STILL MISSING AFTER
ALL THESE YEARS

AMNESTY
INTERNATIONAL



“If I could know where Albion my son is, and if I could bury him and put a flower on his grave, I would be in a better place.”

Nesrete Kumnova, 2011

Some 3,600 people disappeared or were abducted in Kosovo during the 1998-9 armed conflict and in its immediate aftermath. Thirteen years later, an estimated 1,797 people are still missing. Their relatives still live in hope that, one day, the bodies will be found, and they will be able to bury the bones of their family member.

Since 1999, the bodies of around 1,800 people registered as missing have been found, identified, and returned to their families for burial. But few of the perpetrators have been brought to justice and, in most cases, the relatives of the missing still do not know who killed them.

In December 2008, EULEX, the European Union Rule of Law Mission in Kosovo, took over responsibility for the investigation, prosecution and adjudication of war crimes in Kosovo. Previously, this had been the responsibility of the UN Interim Administration Mission in Kosovo (UNMIK).

Since then, investigations have been conducted by EULEX’s international police and prosecutors, and any resulting criminal proceedings are heard by a panel of

international and Kosovo judges. EULEX has made some significant progress, including in opening investigations into some cases of enforced disappearance which Amnesty International has campaigned on since 1999. But the vast majority of cases have not been investigated, and the relatives are still waiting for justice.

WHO ARE THE MISSING?

Around 3,000 Kosovo Albanians were the victims of enforced disappearance by Serbian military, police and paramilitary forces. Some Kosovo Albanians, accused of being traitors or otherwise allied with Serbs, were also allegedly abducted by members of the Kosovo Liberation Army (KLA). (Amnesty International distinguishes enforced disappearance – in which state agents are directly or indirectly involved – from abduction carried out by non-state actors, such as armed opposition groups, for example the KLA, except where they also amount to crimes against humanity, as explained below).

During the war, and in particular in the period following the end of the international

armed conflict on 10 June 1999, around 600 Serbs, Roma and members of other minority communities were abducted, allegedly by the KLA.

The majority of the missing – Albanians, Serbs, Roma and others – were civilians. They were ordinary people who, just because of their ethnicity, were taken from their homes or from the streets and later killed. They included children and elderly people. The majority were men, but there were some women among them. Their relatives have waited for years for their bodies to be returned and they still wait for justice.



Left: EULEX Forensic Archaeologist (left) working for the Department of Forensic Medicine, mentoring members of the local exhumations team, 2011.



LUTFI (ENVER) BUNJAKU AND BEKIM BUNJAKU



Floza Bunjaku is the mother of Bekim Bunjaku, aged 15, and the wife of Lutfi (Enver) Bunjaku, aged 47, when they disappeared in 1999. She spoke to Amnesty International.

“I told UNMIK police about the case in 2000, I told the war crimes unit... the important fact that I knew the Serb policeman who took my son and husband... I told them his address and his identity card number.

“Please help us to resolve these cases to the end, not like UNMIK did, that left everything unresolved... I will give you the name of the policeman who took my husband and son and then he should tell what he did with them, and how he killed them. He is in Serbia. I would ask that those responsible for the crimes should be brought to justice, if the law exists.”

WHY HAS JUSTICE BEEN DELAYED?

Between 1999 and 2008, UNMIK ran the police and justice system in Kosovo. However, UNMIK's international police failed to promptly open effective investigations into the reports they received from the families of the missing. Some cases were ignored by UNMIK police and prosecutors, sometimes deliberately. In other cases, evidence was not gathered, or evidence gathered was lost. The NATO-led Kosovo Force (KFOR) also received hundreds of reports from the relatives of the missing, which they failed to hand over to international police. Few effective investigations were conducted, and few perpetrators were brought to justice.

“Please help us to resolve these cases to the end, not like UNMIK did...”

Floza Bunjaku, mother of Bekim Bunjaku and wife of Lufti (Enver) Bunjaku

“We know everyone who took our relatives. There are 30 families to be interviewed; I am one of the six who survived.”

Agron Limani, October 2011

KRUSHË E VOGËL

Agron Limani spoke to Amnesty International in October 2011. He said he had received good news: “Two weeks ago two Kosovo Police [from the EULEX War Crimes Investigation Unit] told me that they want to collect current information about the massacre in Krushë e Vogël, and I was surprised. I said what am I hearing? For the first time in 12 years?”

Agron is a survivor of the killing of all but six men in the village of Krushë e Vogël/Mala Kruša in 1999. He told Amnesty International: “They said they wanted to meet with the village representatives and take brief details about every case to send to the prosecutor, and then the prosecutor will come and interview everyone. So we planned how to do this. The greatest thing has happened. We know everyone who took our relatives. There are 30 families to be interviewed; I am one of the six who survived.”

WILL EULEX BRING JUSTICE?

In December 2008, EULEX took over the investigation and prosecution of war crimes from UNMIK. They inherited 1,187 suspected war crimes cases from UNMIK, including cases of enforced disappearance and abduction.

More than 300 of these cases were effectively closed, for want of evidence which had not been promptly or effectively gathered by EULEX’s predecessors. In September 2009, more than 850 cases remained to be investigated and prosecuted.

In June 2011, fewer than 60 war crimes cases were being investigated by EULEX police and prosecutors. According to the EULEX Police War Crimes Investigation Unit, they only have the resources and staffing to conclude an average of three investigations per year.



FINDING THE BODIES

By March 2012, over half of the bodies of Kosovo Albanians disappeared by Serb forces have already been found.

Between April and May 1999, the bodies of Kosovo Albanians killed and buried in Kosovo by Serbian forces were exhumed by Serbian Ministry of Interior employees and transported to Serbia, where they were reburied. In total, the remains of at least 900 individuals who were killed in Kosovo were exhumed in Serbia, mostly from mass or individual graves, and the majority of identified remains returned to their families for burial.

Between 700 and 800 bodies of Kosovo Albanians are still to be found. Some are buried in Kosovo; some are believed to be buried at Raška, in southern Serbia, but excavations at this site have so far found no evidence. Others will never be found. There is evidence to suggest that their bodies were burned in smelters and incinerators in southern Serbia.

Amnesty International has called on the Office of the War Crimes Prosecutor in



Left: The reburial in 2007 of the men of Krushë e Vogël/Mala Kruša who were killed in 1999. Only six adult men from the village survived the massacre.

Serbia to open an investigation into Ministry of Interior police employees who allegedly took part in the operation to conceal the bodies of ethnic Albanians killed in Kosovo, and to establish where the remaining bodies of ethnic Albanians were taken.

IDENTIFYING THE BODIES

In Kosovo, the Department of Forensic Medicine (DFM) plays a key role in the investigation of enforced disappearances and abductions. The DFM, formerly the EULEX Office of Missing Persons and Forensics, is responsible for identifying potential burial sites and conducting exhumations but relies on witnesses to come forward and tell them where such burial sites can be found. The DFM also works to identify the bodies in conjunction with the International Commission for Missing Persons, which conducts DNA analysis of the remains. Then the DFM arranges for the bodies to be returned to their families for burial. The DFM also plays a crucial role in providing evidence in war crimes prosecutions.

The transfer of responsibility for the DFM from EULEX to the Kosovo Ministry of Justice is planned for 2012. Amnesty International urges that this transfer be delayed until a sufficient number of trained and experienced local staff can be appointed. For example, there are no local forensic scientists with the requisite skills needed for complex exhumations and the identification of human remains.

Amnesty International does not consider that there is sufficient political support from the Kosovo government to ensure that all remains, including those of Serbs and other minorities, are dealt with on an equitable and impartial basis.

ALBION KUMNOVA

Albion Kumnova from Gjakovë/Đakovica is believed to be among those whose bodies were transported to Serbia, along with five of his friends.



On 31 March 1999, Serbian police forced their way into the yard of the Kumnova family home. Six young men – all civilians – were forcibly taken away and never seen alive again. Five bodies were exhumed near Bajna Bašta in Serbia in September 2001, and returned to their families in September 2005 and September 2006.

Albion Kumnova is still listed as missing by the International Committee of the Red Cross.

In 2011, EULEX opened an investigation into his enforced disappearance. By March 2012, his body had not been found, nor had the Serbian police officers responsible for his enforced disappearance been identified. Albion's mother, Nesrete Kumnova, is still waiting for justice.



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PETRIJA PILJEVIĆ

On 28 June 1999, Petrija Piljević (*left*), a 57-year-old Kosovo Serb, was abducted from her flat in Pristina by men wearing KLA uniforms. A year later, her body was exhumed from a cemetery in Pristina by a team of experts working for the International Criminal Tribunal for the former Yugoslavia. Her son identified his mother's body from the clothes she was wearing.

Thirteen years since her abduction and murder, the perpetrators have not been brought to justice. In 2010, her son's complaint that UNMIK had failed to conduct an effective investigation into her abduction was declared admissible by the Human Rights Advisory Panel, and is due to be considered in 2012. Petrija Piljević's sons are still waiting for justice.



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HUMAN RIGHTS ADVISORY PANEL

UNMIK's failure to investigate the abductions of Serbs, Roma and other minorities has been challenged by Kosovo Serb families, the majority of them now living in Serbia. The Human Rights Advisory Panel (HRAP) is a body of independent leading international lawyers charged with reviewing human rights violations by UNMIK. The HRAP does not have the powers to instigate a criminal investigation, but it has the power to call on UNMIK to reopen the investigation.

In 2011, the HRAP declared admissible over 40 complaints by families in Serbia, on the basis that UNMIK had failed to properly investigate the abduction of their relative. In the majority of these cases, the HRAP also recognized that the pain and suffering of the relatives caused by UNMIK's failure to investigate these abductions also violated the prohibition of torture and other ill-treatment or inhuman and degrading behaviour under the European Convention on Human Rights. These families are still waiting for justice.

ABDUCTIONS OF SERBS, ROMA AND OTHER MINORITIES

During and after the conflict, up to 600 ethnic Serbs, Roma and members of other minority communities were abducted and killed, many by the KLA. Most of their bodies have not been found. The prevailing culture of impunity for members of the KLA means that few witnesses have come forward to help identify burial sites, and few cases have been properly investigated. Amnesty International considers that this climate of impunity is encouraged by the Kosovo government's lack of political will to see former members of the KLA brought to justice. However, under international standards, and the 2011 Kosovo Law on Missing Persons, the families of the abducted have the right to know what happened to their family member.

Abductions which took place after June 1999 are not considered by EULEX to be war crimes or crimes against humanity, nor are they investigated and prosecuted by the Special Prosecution Office of Kosovo (SPRK). In 2009 the SPRK (composed of international and local prosecutors, and responsible for the investigation of war crimes and serious inter-



A Kosovo Albanian man walks past destroyed houses in a former Roma community in Kosovska Mitrovica/Mitrovicë, 25 April 2006. The Romani population had been forced to leave this area in 2009.

DAKA ASANI

On 1 August 1999, Daka Asani (also known as Asanović) went with his son to the market in Uroševac/Ferizaj in Kosovo where he lived. He stayed longer at the market than his son, as he liked to look around.



According to a stall-holder at the market, Daka Asani was taken away in a car by an unidentified person. His wife approached KFOR and asked them for help. They were unable to assist her.

On 19 August 1999, the family asked the International Committee of the Red Cross in Kosovo to trace Daka Asani. On 1 December 2006, the UNMIK Office of Missing Persons and Forensics informed Daka Asani's family that his body had been identified, after being exhumed from a grave in Pristina in 2000. He had died as a result of "multiple gunshot wounds to the head and trunk". Daka Asani's body was returned in December 2006 to his brother in Serbia. No criminal investigation was ever opened by UNMIK.

In 2008 Amnesty International provided UNMIK with information about a potential witness to the abduction, who had approached Daka Asani's brother in Serbia. As far as the organization is aware, no investigation into Daka Asani's abduction and murder has been opened.

ethnic crimes) reviewed the unresolved abduction cases that had never been effectively investigated by UNMIK. It did not reopen the investigations but, on the basis that the abductions occurred after the end of the conflict, transferred 62 cases of alleged abduction to EULEX prosecutors in the local District Prosecutors' offices. Few of these cases have subsequently been investigated; others have been classified as ordinary crimes. Amnesty International considers that the abductions which took place after June 1999, in the aftermath of the war, were part of a widespread, as well as a systematic, attack on a civilian population and as such are crimes against humanity. Therefore the SPRK should investigate and prosecute all these abductions as crimes against humanity.

SPECIAL INVESTIGATIVE TASK FORCE

In a major step forward in 2011, EULEX appointed a Special Investigative Task Force (SITF), headed by a former Head of UNMIK's Department of Justice, to investigate allegations related to post-war abductions in Kosovo.

This appointment followed the international outcry that followed the adoption by the Parliamentary Committee of the Council of Europe of a report by Swiss Senator Dick Marty, which alleged that senior members of the KLA, including the current Prime Minister, Hashim Thaçi, were complicit in the abduction of both Serbs and Kosovo Albanians. Abducted Serbs were allegedly taken from prison camps in Kosovo after June 1999 to prison camps in Albania. There they were allegedly tortured, and most of them killed. Others allegedly had their organs removed.

UNMIK had received information from witnesses about these allegations in 2003. The information was later reported by the Chief Prosecutor to the International Criminal Tribunal for the former Yugoslavia, but at that time UNMIK failed to open an effective investigation.

By March 2012 the SITF had reported little progress, except that it was analysing information, and that agreements had been reached on co-operation with the Albanian authorities, enabling the SITF to conduct investigations in the country.

More than 400 Serbian families are still waiting for the bodies of their relatives to be found; many believe that their son, father or brother may be among the Serbs taken to Albania. They are still waiting for justice.

Relatives of Roma, Ashkali, Gorani, Bosniaks and other minorities are also waiting for justice. Many Kosovo Roma were abducted and killed after the war by the KLA or other ethnic Albanians because of their perceived association with Kosovo Serbs. Few investigations have been carried out into these abductions.

THE OFFICE OF THE WAR CRIMES PROSECUTOR, BELGRADE

The Serbian authorities are also responsible for the investigation and prosecution of war crimes which took place in Kosovo.

Some Serb police and paramilitary forces responsible for war crimes, including the enforced disappearances of Kosovo Albanians by Serb forces, have been prosecuted and convicted at the Special

War Crimes Chamber at Belgrade District Court. However, progress in bringing perpetrators to justice has been slow.

Amnesty International recognizes that investigations conducted by EULEX in Kosovo, in co-operation with the Office of the War Crimes Prosecutor, have led to some prosecutions at the Special War Crimes Chamber, in which Kosovo Albanian witnesses have testified.

PROTECTING THE WITNESSES

There will be no justice or truth for the families of the missing, unless witnesses in both Serbia and Kosovo come forward with information about where the bodies are buried. There will be no justice unless witnesses to enforced disappearances and abductions feel confident to testify to investigators and prosecutors in Serbia and in Kosovo.

Amnesty International is calling on both the Kosovo and Serbian government to break the cycle of impunity, and create a safe atmosphere in which witnesses can testify.

WHAT SHOULD EULEX DO?

There is an urgent need to investigate cases of enforced disappearances and abductions: the bodies of the missing need to be found, and returned to their relatives, and those who killed them should be brought to justice.

Without the allocation of sufficient resources and personnel to EULEX for the identification of burial sites, exhumations and criminal investigations, and without effective witness protection, there will be no justice for the relatives of the missing, especially in cases involving the alleged abduction of Serbs, Roma and other minorities by the KLA.

In June 2012, the Council of the European Union will renew EULEX's mandate for another two years. Amnesty International encourages EU institutions and EU member states to ensure that they provide EULEX with the resources and capacity it needs to guarantee that justice is no longer delayed.



This campaign briefing accompanies a report *Kosovo: Time for EULEX to prioritize war crimes* (Index: EUR 70/004/2012)

Cover: A Kosovo Albanian man stands in front of a wall depicting the names of missing people since the 1998-99 conflict in Kosovo, during the Day of Missing Persons in Pristina on 27 April, 2011. © ARMEND NIMANI/AFP/Getty Images

RECOMMENDATIONS

Amnesty International urges the Council of the European Union to mandate EULEX to:

- Prioritize the investigation and prosecution of the backlog of war crimes cases;
- Increase the number of international EULEX war crimes police, prosecutors and judiciary;
- Ensure that the Department of Forensic Medicine is professionally staffed and has sufficient resources to recover the bodies of the missing;
- Ensure the investigation and prosecution of those responsible for the post-war abduction of Serbs, Roma and members of other minority communities;
- Ensure the investigation and prosecution of wartime crimes of rape and other forms of sexual violence;
- Establish, with the assistance of European Union member states, an effective, international witness protection programme;
- Develop an impartial and independent body of local prosecutors to investigate and prosecute war crimes;
- Explore options for the future investigation and prosecution of war crimes in Kosovo, in conjunction with the Kosovo Ministry of Justice and other relevant bodies, as part of EULEX's exit strategy.

Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

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