

FEDERAL REPUBLIC OF YUGOSLAVIA

Essential human rights guarantees for Kosovo - Amnesty International's Recommendations

Introduction

This document sets out Amnesty International's recommendations to governments and international organizations for the protection of human rights in the Federal Republic of Yugoslavia in the context of the negotiations over Kosovo between US envoy, Ambassador Richard Holbrooke and the Yugoslav President, Slobodan Milošević. These discussions are taking place in October 1998 in the wake of United Nations Security Council Resolutions and the threat of military intervention by the North Atlantic Treaty Organization (NATO). On 13 October it was announced that an agreement was taking shape in which some 2,000 observers would be deployed in a "verification mission" by the Organization for Security and Co-operation in Europe (OSCE) in order to verify the Federal Republic of Yugoslavia's (FRY) compliance with United Nations Security Council Resolution 1199 (1998) and avert air-strikes which NATO had threatened. The agreement is expected to call for further negotiations over the crisis in the province.

The recommendations which follow are based on Amnesty International's 15 point program for Implementing Human Rights in International Peace-keeping Operations.

Amnesty International's recommendations:

Amnesty International urges that any agreement concerning the situation in Kosovo address the following concerns:

1. The central place of human rights in agreements

Concern for human rights protection and promotion should drive all current efforts towards a settlement of the critical situation in Kosovo. The international community should insist that any agreement between the various parties, which reportedly includes a 2,000 strong "verification mission", contains strong provisions that reflect a serious, consistent and long term commitment to protect and promote human rights effectively in Kosovo, and the Federal Republic of Yugoslavia (FRY) as a whole.

2. Essential guarantees

Any settlement agreed should, as a minimum, include:

- A. A list of specific human rights and standards which the parties agree to observe and protect, including those to which the FRY is already a party. These should include full human rights guaranteed in international and national human rights and criminal justice standards, whichever grants the highest degree of protection. The list of specific rights should include the right of asylum-seekers and internally displaced persons to return to their homes in safety and security as well as the right of all persons to seek, receive and impart information and ideas without interference or threats;
- B. An effective, clearly mandated, adequately resourced, specialised international human rights verification mechanism, to supervise the observance of this human rights component, with full guarantees to function impartially and independently from ongoing political processes. The mandate of that mechanism should include: receiving complaints, full and unhindered investigations including access to remote areas where violations are more likely to occur, and a capacity to ensure that remedial action is taken. Any investigations should conform to the United Nations (UN) Principles for the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, and follow the Guidelines for the conduct of United Nations inquiries into allegations of massacres;
- C. An agreement to ratify and implement in law and practice the major human rights treaties, both in respect of international instruments, including the (First) Optional Protocol to the International Covenant on Civil and Political Rights, and appropriate regional instruments;
- D. Full and unhindered access by the International Criminal Tribunal for the former Yugoslavia (ICTY) to carry out its mandate throughout the FRY, and to transfer persons indicted by the ICTY into its custody, in order to ensure that past abuses are effectively investigated and that the perpetrators are brought to justice. With regard to national courts, there must be a commitment by the government to bring those responsible for human rights violations to justice. There can be no lasting peace without justice;
- E. Prompt access to detainees at risk of torture or ill-treatment and a commitment by all parties to clarify the fate or whereabouts of the

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- “disappeared” and “missing”, and to comply fully with the provisions of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance;
- F. Effective provisions for fair and adequate reparation to victims of human rights violations, including compensation for deliberate destruction of houses as punishment;
- G. Effective guarantees for non-governmental organizations to operate freely throughout the country with unhindered access to any areas.

3. An effective and coordinated human rights program

The UN’s High Commissioner for Human Rights should be involved in the design of any such program. The High Commissioner’s Office in the FRY has just been accorded official status under a status agreement being concluded with the FRY authorities and is therefore well placed to play a prominent role in human rights provisions of the agreement. The Special Rapporteur of the United Nations Commission on Human Rights for Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia should also be consulted.

Should the OSCE assume a prominent role in supervising the agreement, as currently reported, by employing a several thousand strong “verification mission”, it would be highly advisable for the Organization to liaise forthwith with the UN High Commissioner and the Commission’s Special Rapporteur and with its own Office for Democratic Institutions and Human Rights (ODIHR). The UN and OSCE should demarcate clear divisions of responsibility as well as establish mutually supportive working relationships, including the sharing of all human rights information and clear channels of reporting. Intergovernmental organizations, UN specialized agencies, the International Committee of the Red Cross (ICRC), as well as governmental and non-governmental experts should also be consulted at an early stage. Should human rights monitors be employed by the OSCE, particular attention should be paid to appointing qualified persons with human rights expertise.

All UN or OSCE-led field operations should be instructed to monitor compliance with obligations undertaken to uphold and protect international human rights and humanitarian law. There should be no ‘silent witnesses’.

Clear and coordinated channels should be established to report on the human rights situation. There should be comprehensive, frequent, and public reports to the OSCE Chairman-in-Office and the Security Council. All human rights information should be shared with the United Nations High Commissioner for Human Rights. This will ensure

that full human rights information is also available to the United Nations Commission on Human Rights's Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia, as well as to the Commission's thematic Rapporteurs and Working Groups.

4. Incorporate long-term peace building methods

The agreement should envisage detailed, long-term peace building methods to re-build strong, effective and independent institutions and provide appropriate support for the same. They should include:

- A. Measures to facilitate the functioning of an independent and impartial judicial system at all levels;
- B. The creation of national institutions for human rights protection to which individuals can have immediate access for redress. These might include one or more Ombudspersons who could focus on the implementation of specific human rights commitments and / or a national human rights commission operating on the basis of relevant international standards;
- C. The recruitment or reconstruction of a balanced and qualified police force that has the full confidence of the local community as well as the training of that force in human rights standards, especially the Code of Conduct for Law Enforcement Officials and the Guidelines for the Effective Implementation of the Code, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, as well as the Principles for the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions;
- D. Providing assistance in drafting and revising legislation to make laws and practices comply with international standards; devising, in cooperation with national non-governmental organizations, programs of human rights education among all parties concerned; and a vigorous public information program on human rights, including on the right to freedom of expression and association and the rights of detainees;
- E. Providing support for national human rights organisations enabling them to contribute to efforts to promote and protect human rights without any form of interference, threat or harassment.

Information about Amnesty International's current and recent concerns in Kosovo is provided in the series of documents: *A human rights crisis in Kosovo province* which have been issued since June 1998.