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Kosovo (Serbia): The Constitution needs full consultation

Amnesty International calls on the Kosovo authorities to make the draft Constitution available for public consultation without delay.

In 2007, the President of Kosovo established a working group charged with compiling the first draft of the Constitution of Kosovo. The working group is mandated to draft a Constitution that "represents the best interests of all people of Kosovo".

"The new Constitution should set a framework for respect and protection of human rights and the rule of law in Kosovo. As such, it will have a major impact on the lives of all people there. That is why the people of Kosovo must be consulted and provided with sufficient time and opportunity to make comments," said Sian Jones, Amnesty International's researcher on Kosovo.

"Those leading the consultation process must ensure that it includes all communities, women, non-governmental organizations (NGOs) and other representatives of civil society."

Amnesty International urges the relevant authorities to ensure that the new Constitution:

- Guarantees respect for the full range of economic, social, cultural, civil and political rights, without discrimination – in a manner that is consistent with the provisions of international human rights treaties;
- Guarantees the rights of all people in Kosovo to non-discrimination on any grounds, including sex, gender, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth or other status, disability, age or sexual orientation;
- Contains provisions for the protection of communities which are consistent with those set out in the Framework Convention for the Protection of National Minorities;
- Establishes a range of independent human rights institutions which are mandated to both monitor respect for human rights and provide effective and accessible remedies in cases of abuses of human rights, including reparation;
- Establishes a Constitutional Court which is empowered to receive and decide on petitions from individuals and is empowered to rule on the compatibility of (draft and existing) law and regulations and actions of the authorities with international human rights standards;
- Empowers an Ombudspersons' Office, with jurisdiction over all persons in authority in Kosovo, to receive complaints and conduct investigations with the full cooperation of the authorities;
- Requires an independent judiciary, and ensures that the manner in which judges and prosecutors are appointed, promoted and dismissed guarantees their independence and impartiality;
- Guarantees to all displaced people and refugees the continued right to return, in safety and in dignity; measures to ensure their return and reintegration, set out in the Ahtisaari plan should be included;
- Ensures that internally displaced people and refugees do not become stateless;

- Guarantees the rights of women to be free of all forms of discrimination, including gender-based violence.

Background

Several domestic human rights NGOs and civil society representatives have told Amnesty International that they have not been consulted during the writing of the current draft of the Constitution. Furthermore, Amnesty International notes that while the authorities have created a website as a vehicle for the public to comment on the Constitution, as of today that website does not actually include a copy of the draft Constitution (<http://www.kushtetutakosoves.info/?cid=2,1>).

Martti Ahtisaari, the UN Secretary General's Special Envoy for the Future Status Process for Kosovo, presented to the UN Security Council in March 2007 a "Comprehensive Proposal for the Final Status of Kosovo (Ahtisaari Plan)", advocating "supervised independence". The Ahtisaari Plan proposed jurisdiction by the Kosovo authorities over legislative, executive and judicial functions, a European Security and Defence Policy mission responsible for international judiciary and prosecutors, an international police force and continued military presence, with an International Civilian Representative charged to ensure implementation of the plan.