

AMNESTY INTERNATIONAL

Public Statement

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Kosovo (Serbia): The Ombudsperson should guarantee the human rights of all persons in Kosovo

Amnesty International urges the Assembly of Kosovo to ensure that its process of selection of the next Ombudsperson of Kosovo is open and transparent and aimed at ensuring that the person selected for this position possesses the necessary expertise, independence and profile to fulfil the mandate of ensuring the protection of the rights of all persons in Kosovo.

Amnesty International has repeatedly urged both UNMIK and the Provisional Institutions of Self-Government to ensure the establishment of properly functioning institutions which will promote and protect the human rights of all persons in Kosovo. The organization has also called for mechanisms to ensure the accountability of all persons exercising a public function in Kosovo.

Amnesty International notes the concerns expressed in the local media, and by international and domestic non-governmental and human rights organizations, at the process by which candidates for the post of Ombudsperson in Kosovo have been selected.

Amnesty International is concerned at reports that the process to date has not been transparent and has not aimed at ensuring that all nominees for the position meet the criteria for the Ombudsperson set out in UNMIK Regulation 2007/15, which established the mandate of the Ombudsperson. This regulation requires that persons occupying this office should be "eminent figures of high moral character, impartiality and integrity, who possess a demonstrated commitment to human rights".

The Ombudsperson has an onerous responsibility "to monitor, promote and protect the rights and freedoms" of persons in Kosovo, "in order to ensure that all such persons are able to exercise effectively the human rights and fundamental freedoms safeguarded by international human rights standards as incorporated in the applicable law".

The Ombudsperson is required to advise the government, assembly and other institutions on the protection and promotion of human rights, including that all legislative and administrative provisions conform to international human rights standards, and ensure the applicability of international standards in Kosovo. The Ombudsperson is also required to ensure accountability of all persons in authority, including when Kosovo institutions or their personnel violate the human rights of any person in Kosovo. To this end the Ombudsperson is required to perform his or her duties thoroughly, independently and impartially and not to seek or accept instructions from any outside source.

Amnesty International further notes that the process of selection appears not to have been conducted in accordance with UNMIK Regulation 2007/15; the organization notes that allegations that delays in making an appointment may have been caused by political interference in the process. Allegations of political interference in the appointment are of extreme concern.

Amnesty International has previously expressed concerns that since the jurisdiction of the Ombudsperson's Office in cases of human rights violations committed by the international community in Kosovo was revoked in 2006, persons in Kosovo have no access to redress, including reparations, for such violations.

Background

A conference held in Pristina in 8-9 June 2007, concluded that effective Ombudsperson institutions should abide by

The United Nations Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) approved by the UN General Assembly in December 1993. The six key criteria in the Paris Principles include independence guaranteed by statute or constitution; autonomy from government; pluralism, including in membership; a broad mandate based on universal human rights standards; adequate powers of investigation; and adequate resources.

The Paris Principles also state that “The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of *inter alia* (a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists; (c) Universities and qualified experts; (d) Parliament; (e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity)”