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Summary of Amnesty International's Concerns in the Balkans: July - December 2004

ALBANIA

This country entry has been extracted from an Amnesty International report, *CONCERNS IN EUROPE AND CENTRAL ASIA: July - December 2004* (AI Index: EUR 01/002/2005), issued in September 2005. Anyone wanting further information on other Amnesty International concerns in Europe and Central Asia should consult the full document.

The UN Human Rights Committee

Following its consideration of the initial report of Albania on its implementation of the International Covenant on Civil and Political Rights, the UN Human Rights Committee, on 1 November, noted its concern “about allegations of arbitrary arrests and detention, the excessive use of force by law enforcement officials, ill-treatment of detainees in police custody and use of torture to extract confession from suspects”. The Committee further stated that “[i]t regrets that acts of torture by law enforcement officials are considered as ‘arbitrary acts’ only and treated accordingly. It is also concerned that despite several cases of investigations and punishment of those responsible for ill-treatment, many cases have not been investigated properly and compensation to victims has not been provided (art. 7).” Among the Committee’s recommendations were that: “[T]he State party should take firm measures to eradicate all forms of ill-treatment by law enforcement officials and ensure prompt, thorough, independent and impartial investigations into all allegations of torture and ill-treatment. It should prosecute perpetrators and ensure that they are punished in a manner proportionate to the seriousness of the crimes committed, and grant effective remedies including compensation to the victims.”¹

The Committee also urged Albania to reinforce remedies against trafficking, domestic violence and the abuse and exploitation of children. The Committee further called for guarantees for the independence of the judiciary, and for protection of minority rights.

Albania ratifies Protocol 12 of the ECHR

In July Albania ratified Protocol 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which prohibits discrimination by any public authority on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

¹ *Concluding observations of the Human Rights Committee, CCPR /CO/83/ALB, paragraph 13*

Impunity

Prosecutors did not always investigate complaints of ill-treatment or did so only after delay. Even when an investigation was formally opened, it was often inconclusive. Prosecutors were reluctant to apply articles of the Criminal Code dealing with torture and “any other degrading or inhuman treatment”, preferring to invoke lesser charges, such as “arbitrary acts”, which in practice is often punished with a fine.

Allegations of custodial torture and ill-treatment

Police officers were alleged to have tortured or ill-treated detainees during arrest and in police custody. Such practices were facilitated by violations of legal procedures, in particular the denial of the detainee’s right of access to a lawyer from the moment of arrest.

Merita Kola [f], aged 22, was arrested on 23 July on a charge of trafficking for prostitution. In a letter she subsequently sent to the Prosecutor General and the People’s Advocate she protested her innocence. She further complained: “After they arrested me, they took me to Burrel police station, where at 11.30pm I was questioned without a lawyer”. She alleged that (named) police officers swore at her, slapped her and kicked her in the stomach until she lost consciousness; they then revived her by pouring water on her. One officer allegedly tore the earring from one of her ears, causing heavy bleeding, and the chief prosecutor of Burrel allegedly threatened her. Following the publication of her allegations in the press on 6 August, Merita Kola was released and charges against her were dropped.

In October, Gentian Pollo, a schoolteacher, was among a number of people who were injured and required hospital treatment after masked police units entered two bars in the village of Lazarat in southern Albania to arrest a convicted criminal. He subsequently alleged that police beat and kicked him while driving him, handcuffed, to Gjirokaster police station, and again at the police station. No charges were brought against him.

Complaints of ill-treatment by remand and convicted prisoners were less frequent, but in September a group of prisoners held in Prison 302 complained of ill-treatment by prison guards. In August the parents of two remand prisoners complained that their sons, held in Kukës police station, had been beaten by police.

Alleged custodial ill-treatment of children

In November the Children’s Human Rights Centre of Albania (CRCA) published a report, No one to care, based on visits by its monitors to police stations and remand centres during the period from 2000 to 2004. The CRCA stated that nearly all the children (aged 14 to 17) interviewed alleged that they had been ill-treated by police during or following arrest, often to force them to confess to crimes. The report cited, among others, the cases of S.T., aged 17,

and his younger brother, E.T., aged 15, who were arrested in 2004 on a charge of armed robbery, and held in pre-trial detention in Gjirokastër police station. S.T. told CRCA monitors that during questioning he was repeatedly beaten and punched by five police officers. "I told them right at the beginning where I had put the gun and money, but they didn't believe me." He alleged that his younger brother was similarly beaten.

The CRCA expressed particular concern that, in violation of the law, children continued to be held in cells together with adults, which exposed them to abuses, including potential sexual abuse.

In September the School for Magistrates, with the assistance of UN Children's Fund (UNICEF), started a training course for judges and prosecutors working with children.

Death in custody of Eriguert Ceka

In July Eriguert Ceka, aged 17, suffered an injury to his head while in remand custody in Rrëshen police station on a charge of theft. Three days later he died in Tirana military hospital. Shortly after, two police officers were arrested in connection with his death for investigation on charges of "arbitrary acts", "abuse of duty" and infringing the rules of service. In separate trials in November and December the officers, Viktor Shtjefanaku and Gjon Recu, were convicted of contravening service rules and sentenced to seven months' and eight months' imprisonment respectively. The court failed to establish how Eriguert Ceka came to be injured.

Conditions of detention

The conditions of detention in police stations, with poor ventilation, sanitation and diet, and no heating or access to television, radio or reading materials, in most cases remained unchanged and often could be considered as inhuman and degrading. In July the Albanian Human Rights Group visited Shkodër police station and reported that about 140 detainees were held there, although it had capacity for only 45. In one cell measuring about 18 square metres, there were 30 detainees. At the time the temperature was 42° C, and the cell had only three small windows. The Minister of Justice ordered that all prisoners convicted in final instance held in police stations were to be transferred to prisons by the end of July. This temporarily reduced the severe overcrowding in police stations, although it increased overcrowding in prisons. In November the Albanian Helsinki Committee again reported overcrowding and poor hygiene in Fier and Krujë police stations. The implementation of a government decision to transfer responsibility for all pre-trial detention premises from the Ministry of Public Order to the Ministry of Justice continued to be delayed. A European Union-assisted prison reform plan for the construction of new remand and prison facilities was announced in September.

Violence against Women

Trafficking of women and children for forced prostitution and cheap labour

Albania continued to be a source country for the trafficking of women and children, mostly to EU countries, for forced prostitution, cheap labour or use as beggars, with most victims of these forms of exploitation leaving the country by land. According to Vatra, a shelter in Vlora for trafficked women, the number of trafficked women returned from EU countries increased in 2004. Prosecutions for the trafficking of women and children doubled by comparison with the previous year, and heavy sentences were imposed. However, the problem of the protection of witnesses remained: because of lack of secondary legislation and funding very few victims benefited from a witness protection law adopted in March.

Violence in the family

Independent studies, and the experience of non-governmental organizations (NGOs) working with women, indicated that domestic violence was common. Domestic violence counselling centres in Tirana, Berat, Shkodër and Pogradec reported in November that they had received 6,670 calls for help in the last three years, but concluded that many other women were reluctant to report domestic violence. In December it was announced that a project organized by UNICEF, the School for Magistrates, and an NGO, the Women's Advocacy Centre, would provide specialist training to judges, prosecutors and judicial police on how to handle cases of domestic violence.

The Criminal Code did not specifically criminalize domestic violence. Under the Family Code, adopted in 2003, a spouse who has been subjected to domestic violence may ask a court to ban the perpetrator from the home, but this measure could not be applied by courts for lack of supporting legislation. In October an initiative was launched by 10 Albanian NGOs to draft legislation against domestic violence.

BOSNIA AND HERZEGOVINA

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General and political developments

Bosnia and Herzegovina (BiH) remained divided in two semi-autonomous entities, the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH), with a special status granted to the Brčko District. The international community continued to exert significant influence over the political process in BiH, as part of the civilian implementation of the Dayton Peace Agreement, led by a High Representative whose nomination is proposed by the Peace Implementation Council and then endorsed by the UN Security Council. On 2 December the European Union (EU)-led peacekeeping Operation Althea/EUFOR was launched as the direct descendant, under the Dayton Peace Agreement, of the Stabilisation Force (SFOR) led by the North Atlantic Treaty Organisation (NATO). In addition to approximately 7,000 EUFOR troops, about 150 NATO troops remained in the territory of BiH, reportedly to assist the BiH authorities in combating "terrorism" and in defence reform. Moreover, some 150 US troops remained in BiH, under a bilateral agreement between the USA and BiH. The European Union Police Mission (EUPM), composed of approximately 500 police officers, remained tasked with monitoring and supervising the activities of the local police.

BiH's application to join NATO's Partnership for Peace was rejected by the North Atlantic Council in December, over the authorities' failure to cooperate fully with the International Criminal Tribunal for the former Yugoslavia (Tribunal). Following NATO's negative decision, the High Representative took a number of measures aimed at improving BiH and RS cooperation with the Tribunal. These included the removal from office of nine RS officials, including six senior police officers, believed to have supported suspects indicted by the Tribunal or to have failed in their duty to arrest them. The measures ordered by the High Representative prompted the resignation of the RS Prime Minister, Dragan Mikerević.

Some progress was reported in making fully operational a state-level investigative agency (SIPA), which began working in July in a new building in Sarajevo. SIPA is tasked with fighting organized crime and "terrorism", protecting witnesses and investigating war crimes. In July the High Representative set up a police restructuring commission to present proposals, including by drafting legislation and developing policies, for police reform. In a summary of the commission's proposals published in December it was recommended that

SIPA, the State Border Service and local police forces be united in a single national police structure.

The special Human Rights Commission within the BiH Constitutional Court, continued to deal with the backlog of cases registered with the Human Rights Chamber before its closure in December 2003. Between January and December 2004 the Commission had resolved 3,231 applications while 5,710 remained pending.

War crimes and crimes against humanity

International investigations and prosecutions

The Tribunal continued to try alleged perpetrators of war crimes and crimes against humanity, amid increasing financial difficulties which negatively affected its ability to conduct its activities. Addressing the UN Security Council in November, Tribunal Prosecutor Carla del Ponte stated that lack of adequate resources was already having a negative impact on the activities of the Office of the Prosecutor and could soon adversely affect the conduct of trials.

The trial continued of former president of the Federal Republic of Yugoslavia, Slobodan Milošević, who is accused of war crimes and crimes against humanity for his alleged involvement in the wars in Croatia, BiH and Kosovo. Slobodan Milošević is also accused of having planned, instigated, ordered, committed or otherwise aided and abetted genocide, in connection with his alleged role in the war in BiH. In September the Tribunal's Trial Chamber decided to impose a defence counsel on the accused, who had chosen to defend himself, in order to avoid delays in the proceedings caused by the defendant's health problems. In November the Tribunal's Appeals Chamber partially reversed this decision, ruling that Slobodan Milošević should be allowed to take the lead in presenting his case, when he is physically capable to do so.

In October former Chief of Security of the RS Army (VRS) Ljubiša Beara, was transferred to the Tribunal's custody. The suspect is indicted for genocide, crimes against humanity and violations of the laws or customs of war for his alleged role in the VRS attack on the Srebrenica enclave and the subsequent mass killings and executions of Bosniak boys and men. Also in October, the Tribunal unsealed an indictment against Miroslav Bralo, former member of a HVO special unit, charging him with grave breaches of the 1949 Geneva Conventions and violations of the laws and customs of war for crimes, including murder, torture including rape, and the unlawful confinement of civilians, allegedly committed against Bosniaks in the Lašva Valley in 1993. Miroslav Bralo voluntarily surrendered to SFOR troops in November and was transferred to the Tribunal's custody.

In December Dragomir Milošević, indicted by the Tribunal for crimes against humanity and violations of the laws or customs of war for his alleged role, as commander of the VRS Sarajevo Romanija Corps, in the shelling of Sarajevo, voluntarily surrendered to the

authorities of Serbia and Montenegro. He was subsequently transferred to the Tribunal's custody.

Cooperation between the RS authorities and the Tribunal remained inadequate, with the RS police failing to arrest those indicted by the Tribunal and believed to be within their jurisdiction. A total of 19 publicly indicted suspects remained at large at the end of the year, the majority of them Bosnian Serbs thought to be residing in or regularly travelling between Serbia and Montenegro and the RS. In her speech in November to the UN Security Council the Tribunal Prosecutor stated that the failure to date of the RS authorities to arrest a single suspect indicted by the Tribunal raised fundamental questions about the willingness of RS leaders to match their pledges to cooperate with the Tribunal with firm action. The Tribunal Prosecutor also pointed to fundamental systemic weaknesses built into the law enforcement and security structures in BiH, and in particular the RS.

Domestic investigations and prosecutions

The War Crimes Chamber within the BiH State Court was expected to become operational in January 2005, amid continuing concerns over the lack of financial and other resources needed to meet its requirements. In September and October a number of pieces of legislation regulating different aspects of the functioning of the chamber were passed by the BiH Parliament.

The domestic criminal justice system persistently failed to take steps to actively prosecute alleged perpetrators. A major factor in fostering this continuing impunity was the lack of cooperation between the FBiH and RS judiciary and police forces. Victims and witnesses, as well as courts, remained without adequate protection from harassment, intimidation and threats. However, some trials for war crimes opened or continued before local courts.

The trial of 11 former police officers from Prijedor continued at the Banja Luka District Court. The defendants are accused of the abduction and murder of Father Tomislav Matanović, a Roman Catholic priest, and his parents in 1995.

In July a former member of the Croatian Defence Council (HVO), Dragan Bunoza, was sentenced by the Mostar Cantonal Court to nine years' imprisonment for the murder in 1993 of a nine-year-old Bosniak girl in a village near Stolac. In a separate trial, Marijo Matić, a former member of the HVO military police, was sentenced by the Mostar Cantonal Court to six years in prison for war crimes committed in 1993 against the Bosniak civilian population. Also in July, the Sarajevo Cantonal Court sentenced Milorad Rodić, a former VRS member, for war crimes including forcible expulsions and rape, committed in 1992-93 against the non-Serb population in the Sarajevo suburb of Grbavica.

In September Iraqi-born Abdul Maktouf, already in detention in connection with other offences, was indicted by the BiH State Court for crimes he allegedly committed in 1993 as a foreign fighter in Travnik. The suspect is accused of having taken part in the

abduction and severe beating of five Croat and Serb civilians and in the beheading of one of them. The trial began in December.

In December Zoran Knežević, a former VRS member, was sentenced to 10 years' imprisonment by the Sarajevo Cantonal Court for having raped two non-Serb women in the Sarajevo district of Grbavica in 1992 and 1994.

In a joint action conducted by SIPA and SFOR in October, a man was arrested on suspicion of having committed war crimes against the Bosniak population in Foča during the 1992-95 war. Reportedly, during the operation the suspect was wounded by gunshot, after he had attempted to resist arrest by opening fire on SFOR troops.

In November the RS police arrested, on the basis of arrest warrants issued by the Sarajevo Cantonal Court, eight relatively low-level suspected perpetrators of war crimes committed against the Bosniak population.

Unresolved 'disappearances' and Srebrenica commission

According to data provided by the International Committee of the Red Cross, almost 17,000 persons who went missing during the 1992-1995 armed conflict were still unaccounted for. Many of them were victims of "disappearances", whose perpetrators continued to enjoy impunity.

Between August and November the remains of 456 people were exhumed from a mass grave in Kevljani, near Prijedor. The bodies were believed to be of former Bosniak inmates killed in the Omarska and Keraterm detention camps, run by the Bosnian Serbs.

In October the commission established by the RS authorities to investigate the events which took place in and around Srebrenica between 10 and 19 July 1995 issued its final report. The document presented information about the participation of the RS police and armed forces in the massive human rights violations in Srebrenica, which were recognized by the Tribunal as amounting to genocide. The report acknowledged that 7,800 non-Serbs were killed after the fall of Srebrenica. Moreover, the report identified the location of mass grave sites where the bodies were buried; some of these sites were previously unknown. In November the RS government for the first time apologized for human rights violations committed in and around Srebrenica between 10 and 19 July 1995.

The exhumation of mass graves identified by the Srebrenica commission began at the end of June. To date, approximately 1,300 victims of crimes committed after the fall of Srebrenica have been exhumed and identified.

Right to return in safety and with dignity

According to the UN High Commissioner for Refugees (UNHCR) field mission in BiH the total number of people displaced by the war who had returned to their homes reached one million in July. UNHCR figures put the number of people who returned to their pre-war homes between July and October at approximately 4,700.

Lack of access to employment continued to be a major factor in people's decision not to return and remain in their pre-war community. Employment opportunities were scarce in general, reflecting the weak economic situation and the difficulties of economic transition and post-war reconstruction. In addition, returnees faced discrimination on ethnic grounds when trying to find work and, in some cases, ethnically motivated attacks.

“War on terror”

The six men of Algerian origin who were illegally transferred to US custody in 2002 by the FBiH authorities and detained in Guantánamo Bay, Cuba, remained in detention. In July a delegation of the BiH Ministry of Justice visited four of the men. In a short public statement following the visit, the head of the delegation commented that the treatment of the prisoners was fair. The delegation had not been allowed to visit the cells where the prisoners were kept, but did report that the men had complained of health problems.

Also in July, the cases of two of the detained men were included in a petition for a writ of *habeas corpus* by the New York-based Center for Constitutional Rights (CCR), which attempted to challenge the lawfulness of their detention. The CCR subsequently included in their petition the remaining four detainees transferred from BiH to US custody.

Accountability of peacekeeping forces

SFOR and NATO forces continued to arbitrarily detain individuals suspected of supporting persons indicted by the Tribunal. To AI's knowledge, in no case was an arrest warrant issued against those detained by SFOR, who were not charged with any recognizable criminal offence.

Human trafficking

In July the BiH State Court sentenced two men, including the owner of a nightclub in Kiseljak, near Sarajevo, to up to 15 months' imprisonment for offences related to the trafficking of women for forced prostitution.

In November, following the death in a Mostar hospital of a Ukrainian woman who had been trafficked for forced prostitution, from illnesses related to acquired immune deficiency syndrome (AIDS), the local police opened an investigation into trafficking for forced prostitution. The investigation led to the arrest of several people, including two men accused of having held the woman in detention, forcing her to engage in prostitution.

Committee for the Prevention of Torture

In December the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its first report on BiH, following a visit in April and May 2003 to a number of detention establishments in the FBiH and the RS. The CPT recommended, *inter alia*, a thorough, independent and impartial investigation into allegations of widespread ill-treatment of detainees in the Zenica Prison (Kazneno-popravni zavod Zenica), which allegedly occurred during a riot in February 2003.

The report also pointed to the inadequate staffing levels in the BiH prison system and the lack of out-of-cell activities offered to remand prisoners as having a negative impact on conditions of detention.

CROATIA

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General and political developments

In December the Council of the European Union (EU) decided that negotiations on Croatia's accession to the EU would begin on 17 March 2005, provided that Croatia fully cooperated with the International Criminal Tribunal for the former Yugoslavia (Tribunal). The EU Council urged Croatia to take the necessary steps for full cooperation with the Tribunal and to arrest and transfer to the Tribunal's custody former Croatian Army General Ante Gotovina.

In November Helena Puljiz, a freelance journalist, lodged a complaint with the Parliamentary Committee for the Oversight of Security Service, claiming that she had been interrogated and blackmailed by members of Croatia's Counterintelligence Agency (Protuobavještajna agencija – POA), apparently in an attempt to gather information on Croatian President Stjepan Mesić. Following these allegations the head of POA was dismissed in December.

War crimes and crimes against humanity

International prosecutions

Although the Croatian government pledged its cooperation with the Tribunal, the authorities have failed to arrest and transfer to the Tribunal's custody Ante Gotovina, charged with crimes against humanity and war crimes committed against the Krajina Croatian Serb population in 1995. The Croatian authorities have continued to maintain an ambiguous attitude towards the issues of cooperation with the Tribunal and Ante Gotovina's arrest; reportedly, in October Prime Minister Ivo Sanader publicly stated his belief in Ante Gotovina's innocence. In November Tribunal Prosecutor Carla del Ponte noted in a speech to the UN Security Council that although Croatia had apparently stepped up its efforts to locate and arrest Ante Gotovina, she had serious doubts concerning the efficiency and seriousness of these measures. The Tribunal Prosecutor also suggested that there were strong indications that Ante Gotovina appeared to benefit from a well-organized support network, including within Croatian state structures.

In July the Tribunal unsealed an indictment against Goran Hadžić, who held the position of President of the self-proclaimed autonomous Republic of the Serbian Krajina (Republika Srpska Krajina – RSK) between early 1992 and late 1993. Goran Hadžić, who was still at large at the end of the period under review, is charged with war crimes and crimes against humanity, including persecutions, extermination and murder, committed against the non-Serbian population in the RSK.

In September the Tribunal appointed a trial chamber to consider an application by the prosecutor to refer the case of Mirko Norac and Rahim Ademi to the authorities of Croatia for trial by the Zagreb County Court. The accused played a central role in military operations in the Medak Pocket in 1993, as high-ranking military officers in the Croatian Army. They are charged with crimes against humanity and violations of the laws or customs of war committed against the Croatian Serb population. These include the unlawful killing as well as the cruel and inhumane treatment of Serb civilians and captured and/or wounded soldiers from the Medak Pocket.

A trial continued at the special War Crimes Panel within the Belgrade District Court for war crimes against the ethnic Croat population committed in 1991 in Vukovar, Croatia. After Vukovar fell to the Yugoslav Army and Serbian forces, more than 250 non-Serbs were removed from the Vukovar hospital and executed at the Ovčara farm.

Domestic prosecutions

Trials for war crimes and crimes against humanity continued or started before local courts, mostly against Croatian Serbs. In some cases these trials did not meet internationally recognized standards of fairness; in general, ethnic bias continued to affect the investigation and prosecution by the Croatian judiciary of wartime human rights violations. Despite initial efforts by the Croatian authorities to investigate and prosecute human rights violations allegedly committed by members of the Croatian Army and police forces, there continued to be widespread impunity for such crimes. According to data provided by the Mission to Croatia of the Organization for Security and Co-operation in Europe, in the first ten months of 2004 the Croatian Supreme Court reversed 15 of 23 verdicts in war crimes trials against Croatian Serb and ethnic Croat defendants, mostly for the failure of the court to establish the facts sufficiently and correctly.

In August the Croatian Supreme Court overturned the acquittal verdict by the Split County Court in the 2002 "Lora" trial against eight former members of the Croatian Military Police. The accused are suspected of having tortured non-Croat civilians and of having murdered two of them in Split's Lora military prison in 1992. The trial had reportedly been marred by intimidation of witnesses, public demonstrations of support for the accused, and the court's alleged lack of impartiality. At the end of the year four suspects were in detention and the remaining four at large, amid reports of considerable delays in executing the arrest warrants. The new trial is reportedly expected to begin in early 2005.

In September the retrial started at the Karlovac County Court of a former member of the Croatian special police on charges of having killed 13 disarmed Yugoslav Army reservists in 1991, by firing bursts from his machine gun. His earlier acquittal by the Karlovac County Court had been overturned by the Croatian Supreme Court in March 2004.

In November the retrial began at the Varaždin County Court of three former Croatian police officers and one serving police officer, accused of having killed six captured Yugoslav Army reservists in 1991. In May 2004 the Croatian Supreme Court had quashed an acquittal by the Bjelovar County Court.

Unresolved "disappearances"

The Croatian Government Bureau for Detained and Missing Persons was still searching for approximately 1,200 persons, mostly from the first phase of the 1991-95 war. This figure did not include people, mostly Croatian Serbs, who went missing during operations "Storm" and "Flash" in 1995 and who in many cases were victims of "disappearances" allegedly committed by members of the Croatian Army and police forces. The perpetrators of these crimes largely continued to enjoy impunity.

According to information AI has received from associations of families of the missing, the efforts by the Croatian authorities to clarify the fate and whereabouts of missing Croatian Serbs have been largely insufficient, leading to considerable delays, in particular in the identification process.

Right to return

Approximately 300,000 Croatian Serbs left Croatia during the 1991-95 conflict. According to the UN High Commissioner for Refugees, more than 200,000 Croatian refugees, mostly Croatian Serbs, are still displaced in neighbouring countries and beyond.

While the Croatian authorities had pledged to return illegally occupied residential properties (which had been allocated by the state for temporary use) by the end of June 2004 and other occupied properties by the end of 2004, the repossession rate remained slow. In many cases, physically repossessed properties were made uninhabitable after having been looted or damaged by previous occupants. Many Croatian Serbs, especially those who formerly lived in urban areas, could not return because they had lost their tenancy rights to socially-owned apartments. Lengthy and in some cases unfair proceedings, particularly in lower level courts, remained a major problem for returnees pursuing their rights in court. Croatian Serbs continued to be subjected to discrimination in access to employment and in realising other economic and social rights. In particular, they faced difficulties in obtaining

employment in the public sector and, in some cases, in private businesses owned by ethnic Croats.

Rights of the child

In September the UN Committee on the Rights of the Child (Committee) considered Croatia's second periodic report on measures to give effect to the rights enshrined in the Convention on the Rights of the Child. Prior to this examination AI had submitted a written briefing to the Committee detailing its concerns with regard to issues related to the rights of the child (see AI Index: EUR 64/003/2004).

In its concluding observations the Committee expressed, *inter alia*, its deep concern at cases of violence between children and young adults placed in homes for re-education and other institutions, and at cases of violence and bullying between children and young adults in social care institutions. Moreover, it expressed concern at the *de facto* discrimination against ethnic and national minorities, Romani and foreign children, and at incidents of harassment and hatred that have a negative effect on the development of children. The Committee was also concerned at the different access to education of children belonging to minorities and vulnerable groups, including Romani children, which "hampers their full enjoyment of a system of education adequate to their values and identity".

The Committee recommended that the authorities "take all necessary measures to prevent acts of violence in homes for re-education and social care institutions" and urged the authorities to increase the protection of children in social care institutions by ensuring, *inter alia*, that violent acts are reported and investigated, and providing adequate support and treatment, including psychological treatment, to victims of such violence. The Committee also recommended that Croatia "strengthen its administrative and judicial measures to prevent and eliminate *de facto* discrimination against children belonging to minorities, especially Roma and foreign children" and allocate adequate resources towards the implementation of the National Programme for Roma.

MACEDONIA

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Background

In November Prime Minister Hari Kostov resigned and was replaced by Vlado Buchkovski.

In August parliament adopted a new regional law by which the previous 123 municipalities were reduced to 80. The new internal borders - within which minorities which constitute 25 per cent or more of the population had their language recognized as an official language for that municipality - provoked widespread demonstrations from ethnic Macedonians who saw the new boundaries, especially those relating to Struga and the capital Skopje, as having been drawn to favour ethnic Albanians. However on 7 November a referendum against the new law failed due to insufficient turn-out.

On 6 November armed Albanian militants erected barricades and reportedly took control of the village of Kondovo on the outskirts of the capital Skopje, apparently as a show of strength against the referendum on the new regional law. The occupation lasted until 17 December when it was peacefully resolved after negotiations between the militants and ethnic Albanian party politicians

In October the European Union (EU) formally opened accession talks with Macedonia. The EU, at Prime Minister Kostov's invitation, also extended the mandate of Proxima - the EU police force tasked with advising the country's police force – for a further 12 months from the expiry of its mandate on 15 December.

Unemployment and poverty levels remained high. According to official figures some 400,000 people (out of a total population of 2,002,547 as per the 2002 census) were unemployed and over 30 per cent of the population lived on an income of less than \$US 2.15 per day. Members of the Romani community were especially disadvantaged, usually residing in substandard settlements lacking basic amenities. Roma figured disproportionately highly as unemployed. Furthermore, only one in 10 Romani children completed elementary school: in practice a precondition for registering for health and social insurance.

Extra-judicial executions at Rashtanski Lozja in 2002 (update to AI Index EUR 01/005/2004)

On 15 November the trial began of three former police commanders, two special police officers and a businessman accused of the murder of the seven immigrants (six Pakistanis and one Indian) who were killed in March 2002 in Rashtanski Lozja. Former Minister of Internal Affairs Ljube Boshkovski, who was also indicted but had fled to Croatia and remained protected from extradition due to his dual Macedonian/Croatian citizenship, remained in detention in Croatia pending trial there.

The “disappeared” and abducted in 2001 (update to AI Index EUR 01/005/2004)

There was little progress in bringing to justice those responsible for the fate of 20 missing persons - 13 ethnic Macedonians, six ethnic Albanians, and one Bulgarian citizen - who “disappeared” or were abducted during the 2001 conflict between security forces and the ethnic Albanian armed group, the National Liberation Army (NLA). In September the Ministry of Internal Affairs stated that an arrest warrant had been issued in connection with the abducted ethnic Macedonians but that the suspect, a former local commander of the insurgent ethnic Albanians, was in hiding. However, no indictments in connection with the “disappeared” ethnic Albanians had been issued by the end of the year.

Police torture and ill-treatment

There appeared to be a drop in the number of alleged instances of police torture or ill-treatment, although cases continued to be reported. The Macedonian Helsinki Committee (MHC) reported that in 2004 it had received information on 18 alleged cases, involving 35 people, of torture, ill-treatment or inhuman or degrading treatment by security officials: in 15 of these cases the police were the alleged perpetrators while the other three cases involved prison guards at Idrizovo prison. The MHC reported that often the victims’ complaints were not investigated by an investigative judge, nor were charges brought against alleged perpetrators

CPT report published

In September the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its report to the Government of

Macedonia after a November 2002 CPT visit. The report deplored the lack of safeguards against ill-treatment. It observed that in certain cases, the severity of the alleged ill-treatment was such that it could be considered to amount to torture, and added that after the November 2002 visit the CPT had continued to receive reports of ill-treatment by law enforcement officials. Moreover, the CPT blamed the inactions of judges, public prosecutors and investigating police officers which it concluded “has fostered a climate in which law enforcement officials minded to ill-treat person have come to believe – with very good reason – that they can do so with impunity”.

Pledging that they would act on the CPT’s recommendations, the Macedonian authorities committed themselves to: “investigate all cases of ill-treatment or improper behaviour by law enforcements officials identified in the reports...and to take appropriate action.” However, AI was not aware that the cases highlighted in the CPT report, or in CPT reports of earlier visits, had been adequately investigated, or its recommendations fully complied with.

Violence against women: Domestic violence and the trafficking of women and girls for forced prostitution

Domestic violence against women remained widespread. Official figures released in November reported 98 criminal charges and 623 misdemeanour charges brought during the year for domestic violence.

The trafficking of women and girls for forced prostitution continued, with Macedonia both a transit and a destination country. In December the police announced that in the previous nine months they had discovered 39 cases of trafficking for forced prostitution involving 79 victims.

Refugees and internally displaced persons

There remained some 2,400 registered internally displaced persons after the 2001 conflict in Macedonia, of whom about half were accommodated in collective centres, while the remainder were with relatives. In addition there were an estimated 1,500 refugees from Kosovo, predominantly Roma.

SERBIA AND MONTENEGRO

This country entry has been extracted from an Amnesty International report, *CONCERNS IN EUROPE AND CENTRAL ASIA: July - December 2004* (AI Index: EUR 01/002/2005), issued in September 2005. Anyone wanting further information on other Amnesty International concerns in Europe and Central Asia should consult the full document.

Background

Serbia and Montenegro continued to operate in a loose State Union where most competencies remained under the control of the separate republics. The United Nations Interim Mission in Kosovo (UNMIK) continued to administer Kosovo, with the Special Representative of the UN Secretary-General (SRSG) holding executive powers. Elections were held in Kosovo in October. In November former Kosovo Liberation Army (KLA) commander and leading politician, Ramush Haradinaj, was questioned by prosecutors from the International Criminal Tribunal for the former Yugoslavia (Tribunal) in connection with alleged war crimes and crimes against humanity in Kosovo in 1999. He became Prime Minister in the Provisional Institutions of Self-Government on 17 November.

War crimes

The trial of former President Slobodan Milošević, accused of responsibility for war crimes committed in Croatia, Bosnia and Herzegovina and Kosovo, continued before the Tribunal in the Hague.

The Serbian authorities continued to refuse to transfer Serbian Assistant Interior Minister (dismissed in March) and former Kosovo police chief Sreten Lukić, former Yugoslav army chief Nebojša Pavković, and former commander of Priština Corps Vladimir Lazarević, all indicted by the Tribunal for crimes against humanity and violating the laws or customs of war in Kosovo in 1999. Nebojša Pavković stated that he was willing to be tried in Serbia, as did similarly-indicted Former Chief of Public Security Department Vlastimir Đorđević who was believed to be in Russia. On 13 July Goran Hadžić, former head of the Krajina Serbs in Croatia, fled his house in Novi Sad a few hours after a sealed indictment for him had been forwarded from the Tribunal to the Foreign Affairs Ministry, and before a warrant for his arrest was issued, giving rise to suspicions that he had been warned of the impending arrest.

In October another indictee, Ljubiša Beara, was transferred to the Hague - the sole transferral throughout the year. The authorities claimed he had surrendered voluntarily. However, the Tribunal stated that he had been arrested, and this only after they had informed

the authorities of his exact whereabouts. Some 20 suspects indicted by the Tribunal were believed to remain at large in Serbia and Montenegro.

In November Tribunal President Theodor Meron reported to the UN General Assembly that apart from the case of Ljubiša Beara, Serbia and Montenegro had virtually not cooperated at all with the Tribunal throughout the year. Similarly Tribunal Prosecutor Carla Del Ponte reported to the UN Security Council that Serbia was not willing to arrest indictees, and that networks supporting persons accused of war crimes were so powerful there that they could interfere with judicial proceedings, including by intimidating witnesses, exerting political pressure on judges and prosecutors, or even by threatening the stability of the country. She reported that both in Serbia proper and in Kosovo [see below], aggressive nationalist rhetoric was being used in smear campaigns against the Tribunal and herself.

The trial continued before the special War Crimes Panel within the District Court of Belgrade of six people indicted by Serbia's special war crimes prosecutor in connection with the Ovčara massacre near Vukovar in Croatia in 1991. However, there were concerns about the apparent selective nature of the indictment in that there was no mention of the responsibility of former Yugoslav National Army (JNA) officers in the crime, in spite of the testimony of many witnesses indicating this.

On 27 September the Serbian Supreme Court annulled the 2003 convictions in the 'Sjeverin' abduction case. The court ruled that the trial proceedings had not made explicit the precise role played by each of the accused in the murders and sent the case back for retrial at the Belgrade District Court. Dragutin Dragičević (a Bosnian Serb) and Đorđe Šević had been sentenced to 20 and 15 years' imprisonment respectively while Bosnian Serbs Milan Lukić and Oliver Krsmanović received 20-year sentences in absentia. (Milan Lukić was also accused of leading the paramilitary group responsible for the hijacking of the Belgrade-Bar train at Štrpci in Bosnia and Herzegovina on 27 February 1993, and the abduction and subsequent murder of 20 civilian passengers, and is indicted by the Tribunal for other war crimes). All four were sentenced for the abduction and murder in October 1992 of 17 Muslims, 16 of whom were taken from a bus at Mioče near Sjeverin in Bosnia and Herzegovina.

On 23 December the Belgrade-based Humanitarian Law Center (HLC) reported on the alleged burning of corpses of Kosovo Albanian civilians in the furnaces of the Mačkatica factory in Surdulica on 16 and 24 May 1999. The HLC reported that the alleged incinerations were part of the large-scale operation - which also included the secret burial of hundreds of Kosovo Albanians in mass graves on the Serbian Ministry of the Interior's property at Batajnica and Petrovo Selo - by the Serbian authorities to conceal massive and grave human rights abuses committed by the security forces in Kosovo in 1998/1999. Following the publication of the HLC's allegations, members of the police and the Serbian state security implicated in the HLC report allegedly intimidated and threatened a number of people in Surdulica, Vladičin Han and Vranje so as to prevent them from giving evidence about this matter.

Possible extra-judicial executions

On 5 October conscript sentries Dražen Milovanović and Dragan Jakovljević died in a shooting at a Belgrade military complex. The military claimed that one had shot the other and then committed suicide but other reports alleged that both men had been murdered by a third party. In November a military commission of inquiry into the deaths reaffirmed that they had died after shooting at each other after a quarrel. However, a non-military State Commission of Inquiry set up by President Marović to investigate the deaths announced in December that a third party was definitely involved. The contradictions between the findings of the military and civilian investigations remained unresolved by the end of the year.

Trials and investigations into past political murders

The trial of Radomir Marković, former head of Serbian state security, and other serving or former security officials continued. They were accused of involvement in an attempt in 1999, in which four people were murdered, to kill current Foreign Affairs Minister Vuk Drašković, at the time a leading opposition politician, as well as involvement in the murder of former Serbian President Ivan Stambolić in August 2000. The trial of those accused of involvement in the murder in March 2003 of Serbian Prime Minister Zoran Đinđić continued.

Police torture and ill-treatment

There appeared to be a drop in the number of alleged instances of police torture or ill-treatment in the reporting period. However, allegations continued and investigations into previous allegations of police torture and ill-treatment remained seriously flawed.

In July, Serbia and Montenegro appeared before the UN Human Rights Committee. In its Concluding Observations, the Committee expressed concerns about continued allegations of torture and ill-treatment and in particular, about allegations made in the context of “Operation Sabre” – the widespread clamp-down on organized crime following the assassination of Zoran Đinđić in 2003. During the Committee session the delegation from Serbia and Montenegro referred specifically to investigations which they stated had been opened into the 16 cases featured by AI in its September 2003 report (see *Serbia and Montenegro: Alleged torture during “Operation Sabre”*, AI Index: EUR 70/002/2004) and implied that these 16 cases were the only recorded incidents of torture and ill-treatment that took place during “Operation Sabre”: however, this impression was corrected in responses to questions from the Committee members, and the delegation admitted that some further complaints had been received. Despite claims by the authorities to the contrary, no information was made available on the investigations into the allegations, and in a number of

trials testimony allegedly obtained under torture was admitted in court. No proceedings were initiated against police officers reasonably suspected of using torture during “Operation Sabre”.

On 20 November the UN Committee against Torture (CAT) found Serbia and Montenegro in violation of Articles 1, 12, 13 and 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Their decision was made in the case of Dragan Dimitrijević, a Romani man, who – the Committee found – had been subjected to police brutality amounting to torture after being arrested at his home in Kragujevac on 27 October 1999. The Committee also found Serbia and Montenegro in violation of their obligation to carry out a prompt and impartial investigation into the complaint made to the authorities in January 2000 by Dragan Dimitrijević. Having received no response to his complaint by December 2001, HLC and the European Roma Rights Center filed an appeal with the CAT on his behalf. The CAT also found that, in failing to investigate his complaint, the authorities had denied Dragan Dimitrijevic the opportunity to file a civil case for compensation. The Committee requested that Serbia and Montenegro open a proper investigation into Dragan Dimitrijević’s complaint and inform the Committee of progress within 90 days.

Attacks on minorities

Attacks and racist actions directed against minorities in the multi-ethnic Vojvodina region by non-state actors continued. There were allegations that the police were not acting with due diligence, especially in connection with the attacks on ethnic Hungarians. These allegations were denied by the authorities who claimed that minor incidents, many of which they claimed were not ethnically motivated, were being politicized. On 16 September the European Parliament adopted a resolution pertaining to the inter-ethnic crisis in Vojvodina, which stated that any escalation in inter-ethnic tension would pose a great danger to regional stability, and resolved to set up an EU parliamentary delegation to investigate the incidents.

Violence against women and girls – domestic violence and the trafficking of women and girls for forced prostitution

Domestic violence remained widespread with the majority of victims being women subjected to violence from male partners or former partners. Although there was a rise in the number of proceedings against perpetrators in Serbia since specific criminal legislation was adopted in 2002, the majority of domestic violence cases were not classified as falling within this legislation and were treated as misdemeanours. This was largely due to a narrow definition in the family law of who constituted a “family member”, restricting it to members of the nuclear family and excluding unmarried partners, divorced spouses and others emotionally involved outside of the nuclear family.

Serbia and Montenegro remained a source, transit and destination country for women and girls trafficked for forced prostitution.

In November the Montenegrin government appointed a commission to investigate the actions of the police and the judicial authorities in the case of the Moldovan woman known as S. Č., who is believed to have been trafficked into Montenegro and forcibly made to work as prostitute in the period from 1999 to November 2002. She had been severely tortured, and alleged that Montenegrin politicians, judges, police and civil servants had tortured and raped her and other East European women who like her had been trafficked and held as sex-slaves. The findings of the commission failed to address the issues adequately, portrayed S. Č. as a criminal rather than as a victim of serious human rights violations, made derogatory references to her character in a completely unacceptable manner, and gave rise again to suspicions of an attempt to cover up apparent official complicity in the trafficking of women and girls for forced prostitution in Montenegro.

Kosovo (Kosova)

War crimes

Arrests, trials and re-trials for war crimes and crimes against humanity continued involving both Kosovo Albanians and Serbs. Those involving ex-members of the KLA continued to provoke mass protests by tens of thousands of Kosovo Albanians, who saw the detainees as 'freedom fighters'.

In October the Tribunal prosecutors stated that prosecution witnesses in the case of ex-KLA members Fatmir Limaj, Isak Musliu and Haradinaj Bala - whose trial on charges of crimes against humanity and violations of the laws or customs of war in Kosovo in 1998 began at the Tribunal in November - were subjected to organized and systematic intimidation. Beqa Beqaj, a relative of Isak Musliu, was indicted by the Tribunal for contempt for attempting to threaten, intimidate, bribe or otherwise interfere with witnesses in the case – the only such indictment issued by the Tribunal to date. Begë Beqaj was arrested in November and transferred to the Hague.

Trials following the violence of 17 – 19 March 2004

By October more than 100 trials resulting from the widespread inter-ethnic March violence (see *Serbia and Montenegro (Kosovo/Kosova): The March Violence: KFOR and UNMIK's failure to protect the rights of the minority communities*, AI Index : EUR 70/016/2004) had been completed. 83 people had been convicted, with sentences including fines and imprisonment up to five years, and over 200 cases were still in process. However, UNMIK did not give details of any cases involving alleged Kosovo Police Service (KPS) complicity, despite serious allegations of such complicity in some places.

Apart from the investigations into the March events, UNMIK continued to fail to make any significant progress in investigating and bringing to justice those responsible for many ethnically motivated murders and other violent attacks which occurred since 1999.

Trafficking of women and girls for forced prostitution

Trafficking of women and girls for forced prostitution remained a serious concern (see *Kosovo (Serbia and Montenegro): 'Does that mean I have rights?': Protecting the human rights of women and girls trafficked for forced prostitution in Kosovo*, AI Index: EUR 70/010/2004). Arrests and prosecutions of traffickers remained relatively low and measures to ensure witness protection remained to be implemented. The Administrative Directive, implementing provisions of the Trafficking Regulation and ensuring that trafficked women and girls receive access to support and protection, redress and reparation, remained – after over three years' discussion - to be agreed and implemented as did the Action Plan on Trafficking, originally due to be completed by the end of July.