

AMNESTY INTERNATIONAL

Public Statement

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Amnesty International's concerns in the Federal Republic of Yugoslavia and the proposed accession of the FRY to the Council of Europe

Amnesty International has a number of ongoing concerns regarding the human rights situation in the Federal Republic of Yugoslavia (FRY) (1). Of particular concern is the continuing impunity of those responsible for human rights abuses and violations, including war crimes and crimes against humanity, which occurred throughout the 1990s in connection with the armed conflicts following the break-up of former Yugoslavia. The organization is concerned at the lack of co-operation with the International Criminal Tribunal for the former Yugoslavia (the Tribunal) in the Hague, as well as the rarity of domestic war crimes prosecutions. Amnesty International believes that, in order to create the conditions for the respect and protection of human rights in the FRY, it is imperative that those responsible for these crimes be brought to justice in the course of proceedings which meet international standards of fair trials, and that all victims of these crimes receive adequate reparation. In particular, there is an overwhelming need to resolve the hundreds of cases of enforced "disappearances" and abductions (2), most of which constitute crimes against humanity.

Amnesty International considers that the suffering of relatives of the "disappeared", in their attempts to establish what happened to their family members, amounts to a violation of their right to freedom from torture and inhuman or degrading treatment, and urges the FRY authorities to ensure reparation to the relatives of those "disappeared" and abducted.

The organization is concerned about numerous continuing allegations of torture and ill-treatment by police throughout the country, and the apparent lack of will by the authorities to adequately address this issue. This failure to investigate and prosecute adequately perpetuates a climate of impunity similar to that which exists in relation to war crimes and crimes against humanity.

Amnesty International is also concerned at the apparent failure by the FRY authorities to take adequate measures to protect people from attacks by non-state actors on account of their ethnicity or sexual orientation, and to bring those responsible for such abuses to justice. The organization is also concerned at the continuing discrimination against Roma, especially Kosovo Roma displaced following the 1999 conflict.

The absence of a non-punitive and genuine alternative civilian service for conscientious objectors to military service is also of concern to the organization.

The proposed accession of the FRY to the Council of Europe is an opportunity for the Council of Europe to facilitate the FRY's implementation of its international human rights obligations and to overcome the climate of impunity both for war crimes and ongoing police torture/ill-treatment.

Amnesty International calls on the Council of Europe to ensure that the FRY:

- lives up to its international obligations and comprehensively addresses the legacy of war crimes by bringing to justice those responsible for war crimes and crimes against humanity in the course of proceeding which meet international standards of fair trials;
- removes the stipulation in Article 39 of the Law on Cooperation with the Tribunal that only those already indicted when the law came into force in April 2002 should be transferred to the Tribunal;
- ends the apparent impunity for police torture and ill-treatment by ensuring the initiation of prompt, thorough, independent and impartial investigations into all allegations of police torture and ill-treatment, to ensure that the perpetrators are brought to justice and that the victims receive reparation;
- implements laws and policies to end institutionalized racism and widespread discrimination against Roma;
- ensures that conscientious objectors have access to a non-punitive and genuine alternative civilian service under civilian control.

On 26 June 2002 the Political Affairs Committee of the Parliamentary Assembly of the Council of Europe, after amendments by the Committee on Legal Affairs and Human Rights, approved a list of commitments to be fulfilled by FRY after its accession to the Council of Europe. This list was subsequently handed over to the FRY authorities by Parliamentary Assembly President Peter Scheider. These are to be fulfilled by FRY after accession; however, recent practice by both Federal and Republican authorities in FRY gives rise to concerns about the implementation of the commitments.

For example, the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe and the United Nations High Commissioner for Human Rights (UNHCHR) in December 2001 jointly made extensive constructive comments, article by article, on the draft law on the creation of the office of an Ombudsperson in Serbia. These comments raising many concerns about the draft and encouraged the Serbian authorities to comply with the Principles relating to the Status of National Institutions, adopted unanimously by the United Nations General Assembly (known as the Paris Principles) (United Nations (UN) General assembly resolution 48/134, 20 December 1993, annex). However, these comments were ignored by the Serbian government. Amnesty International believes that this is especially regrettable given the important role that the office of an Ombudsperson should play in protecting human rights in the FRY where the legacy of impunity from the era of former President Slobodan Milosevic continues.

Amnesty International notes the absence of specific commitments - which could be included under the heading "human rights" - aimed at ensuring:

- the prevention and prohibition of torture by among other measures;
- the prompt initiation of thorough, independent and impartial investigations into all allegations of torture and ill-treatment by police officials ;
- the prosecution of perpetrators in proceedings which meet international standards of fair trials;
- adequate reparation for the victims.

In the absence of specific commitments addressing this issue by the Parliamentary Assembly of the Council of Europe (PACE), Amnesty International is hopeful that under commitment iii (c) -- which requires FRY to implement the European Code of Police Ethics -- that this issue will be addressed and monitored by PACE. Amnesty International notes that Article 36 of this Code states: "The police shall not inflict, instigate or tolerate any act of torture or inhuman or degrading treatment or punishment under any circumstances".

In addition Amnesty International urges the Council of Europe to impress on the FRY authorities

the importance of ensuring that the reports of the visits to the FRY of European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) are published promptly and its recommendations fully implemented.

Notes:

1. This paper does not cover Kosovo which since July 1999 has been under control of the United Nations Mission in Kosovo (UNMIK).
2. Amnesty International makes a distinction between "disappearances" and abductions, the former being perpetrated by state authorities and the latter by non-state actors.

Public Document

For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566

Amnesty International, 1 Easton St., London WC1X 0DW. web: <http://www.amnesty.org>

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