

# FEDERAL REPUBLIC OF YUGOSLAVIA: KOSOVO

## Open Letter to Members of the UN Security Council from Amnesty International's Secretary General, Pierre Sané

The Security Council has increasingly recognised that human rights play a significant role in the exercise of its mandate to maintain and restore peace and security. When I had the opportunity to address members of the Security Council in September 1997, I argued that human rights should be an important issue in Security Council deliberations regarding situations of armed conflict, notably in conflict prevention, conflict management and in post-conflict peace building. It is in that context that I am writing to you about the situation in Kosovo.

For more than a decade, Amnesty International has extensively documented and publicised its concerns about systematic violations of human rights in Kosovo.<sup>1</sup> The failure of the international community to give adequate attention to these concerns has provided the context for further gross violations of human rights and breaches of principles of refugee and humanitarian law, the most recent of which have been documented by Amnesty International in its Memorandum to the Security Council.<sup>2</sup> Recent incidents, including attacks on civilian or other non-military targets, inadvertent or not, have only added to these concerns. Indeed, human rights violations are the cause and the effect of the crisis in Kosovo.

The Security Council may be asked in the near future to act upon concrete proposals for a political solution which, *inter alia*, envisage the deployment, in Kosovo, of "effective international civil and security presences". Proposals to that effect were included in the general principles agreed on 6 May by Foreign Ministers from the Group of Seven industrialised nations and the Russian Federation. We believe it is essential that the Security Council plays as active a part as possible in promoting and protecting human rights in such situations and in ensuring that all parties concerned are accountable for upholding international standards in their actions. Such action is essential if the foundations are to be laid for lasting peace and stability in the region.

The latest developments provide the Security Council with the opportunity to take decisive action towards ending the human rights violations and ensuring that effective mechanisms are put in place to protect human rights. The Security Council has a distinct responsibility to ensure that any agreement for an international presence in Kosovo constituted under the auspices of the United Nations, whatever its form or composition, contains strong and effective guarantees for the long term protection of the human rights of all

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<sup>1</sup> Kosovo: A decade of unheeded warnings - Amnesty International's concerns in Kosovo, May 1989 to March 1999 (AI Index EUR 70/39/99, April 1999).

<sup>2</sup> Amnesty International Memorandum to the UN Security Council (AI Index: EUR 70/49/99, May 1999).

the people who have suffered as a result of the Kosovo crisis, whatever the national group to which they belong.

Amnesty International calls upon the Security Council, in its approval of any political settlement and authorization of any international peace keeping operation to be deployed in the Federal Republic of Yugoslavia (FRY), to recognize and act upon the following:

- Violations of human rights lie at the heart of the Kosovo crisis. Effective and long term protection of human rights of all the people of Kosovo, whether Albanians or Serbs, and whether they are inside the FRY or have sought asylum abroad, should therefore be at the centre of any agreement, which should call for an immediate end to human rights violations.
- Any international peace keeping force deployed in the FRY authorized by the United Nations must have the mandate and the capacity to monitor and protect persons from violations of human rights and take remedial action.
- In authorizing the establishment of any international force, the Security Council should ensure that the Secretary General's decision to set a minimum age for peacekeepers is met. The Secretary General requires that troops "should preferably be 21 years, and definitely not less than 18".
- Human rights and international humanitarian law standards concerning law enforcement and criminal justice that apply - including regional standards - should be clearly articulated in the agreement.<sup>3</sup> All security forces, law enforcement and civilian personnel, whether national or international, should be required to observe them.
- Effective monitoring of police and security operations should be a vital part of any agreement. It should ensure that human rights implementation and verification by civilian bodies and military forces is based on international standards, draws upon the extensive experience of UN CIVPOL experts, is well coordinated and is authorized to take prompt and effective remedial action. Special international human rights verification mechanisms established as part of an agreement must be independent and impartial.
- Priority should be given to ensuring an effective and well-resourced mechanism to clarify the fate or whereabouts of all those who have "disappeared" or gone missing.
- International human rights monitors, including the United Nations Commission on Human Rights' Special Rapporteur on the situation of human rights in Bosnia and

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<sup>3</sup>The international standards which Amnesty International recommends should apply are described in parts II and III of the document: Federal Republic of Yugoslavia: Kosovo - Essential Safeguards for an Agreement (AI Index EUR 70/08/99, February 1999).

Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, staff of the Office of the High Commissioner for Human Rights or other international bodies, and national human rights monitors should have full and unhindered access to all parts of Kosovo and the FRY as a whole.

- The observance of human rights and the protection of refugees and other displaced persons are of vital importance to achieving lasting peace. Durable conditions should be created to permit asylum seekers and other displaced persons to return freely to their homes in safety and dignity. An agreement should provide for appropriate protection against attacks on their person and property. Furthermore, provisions should be made to ensure that those returning receive full redress and are effectively compensated for any damage to their homes and property.
- International law and protection standards should apply to all those who have crossed borders to seek asylum. The principle of *non-refoulement*, the right to seek asylum and repatriation only on a voluntary basis, with international supervision, should be fully guaranteed.
- Victims of violations of international humanitarian law, whether proven to have been committed by forces or agents of the government, members of the Kosovo Liberation Army (KLA) or by NATO, should be provided with prompt and effective redress.
- Specific measures need to be taken to provide support and protection to elements of civil society whose activities are essential for the promotion and protection of human rights. If renewed cycles of human rights violations are to be prevented, any agreement should also provide long-term measures, notably through institution building, for human rights protection in Kosovo and other parts of the FRY. Safeguards for independent judges and prosecutors should be provided and the international community should make a solid commitment for a long-term program for the training, support for and, where necessary, restructuring of the judiciary, police and law enforcement personnel, as well as other institutions that can contribute to human rights protection. The highest standards and mechanisms for human rights protection should be made to apply throughout the FRY.
- There should be no impunity for those responsible for grave violations or abuses of human rights or international humanitarian law. Any agreement should provide for prompt, independent and impartial investigations of human rights violations and ensure that the perpetrators are brought to justice.
- Under no circumstances should any agreement prevent international forces stationed in the FRY from fulfilling their international obligations to search for, arrest and surrender persons indicted by the International Criminal Tribunal for the former Yugoslavia (ICTY), which should have effective powers and facilities to investigate

and exercise its jurisdiction over individuals from all parties to the conflict in Kosovo, including FRY forces and authorities, the KLA and NATO. We urge Security Council members to ensure that the ICTY receives the widest possible support and resources, that all parties involved co-operate with the ICTY and that governments provide all necessary and relevant information to its investigators.

· Finally, the firsthand experience of the High Commissioner for Human Rights, who has a monitoring staff in the region and who herself has just concluded a visit to the region, could best be made available to the Security Council by a meeting between the Security Council and the High Commissioner for a direct exchange of views.

Amnesty International believes that the protection and promotion of human rights is a *sine qua non* for the achievement of a durable political solution and for a successful process of post-conflict rehabilitation and reconciliation in Kosovo and in the region as a whole.

Pierre Sané  
Secretary General

14 May 1999



