

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Kosovo (Serbia): Albin Kurti – a politically motivated prosecution?

Amnesty International is concerned that the trial of Albin Kurti, leader of the non-governmental organization Vetëvendosje (Self Determination), is not being conducted in accordance with law applicable in Kosovo or international standards for fair trial. Albin Kurti is being tried by an international panel of judges in Pristina (Kosovo). Amnesty International is concerned that this prosecution and trial proceedings to date appear to be politicized, and, in this case, at the lack of independence of the judiciary.

Albin Kurti was arrested on 10 February 2007, after he took part in a demonstration against UN proposals for the final status of Kosovo. He is considered to be a leader of popular opposition to both these proposals, and to the presence in Kosovo of the UN Interim Administration in Kosovo (UNMIK).

Albin Kurti was indicted on 31 May 2007 for three public order offences relating to the demonstration of 10 February. These include “participating in a crowd committing a criminal offence”, and “participating in a group obstructing official persons [police]” - although other participant in the demonstration was so charged. He was also indicted for “calling [people] to resistance”; again, no other member of the organizing group has been similarly charged. Charges related to “attacking official persons”, which had initially laid against him, were dropped in June.

If convicted, Albin Kurti could face up to 10 years’ imprisonment. Amnesty International notes that 11 other persons, including another key member of Vetëvendosje also arrested on 10 February in connection with the demonstration, were charged with less serious offences. One person was sentenced to 40 days imprisonment; others were convicted and sentenced by the Minor Offence Court to sentences of between 15 and 40 days’ imprisonment, or in one case, a reprimand. Albin Kurti is the only person amongst the organizers of the February 2007 demonstration who is being tried before an international panel, who normally have jurisdiction over serious crimes, including war crimes.

International and domestic non-governmental organizations (NGOs), as well as the Ombudsperson’s Institution in Kosovo, have expressed concerns about the legality of Albin Kurti’s initial detention, and the absence of a legal basis for his continued detention. On 10 May, without having been charged, Albin Kurti was released from Dubrava prison into 24-hour house arrest at his apartment. Until 14 November, Albin Kurti remained under 24-hour police guard, and was prohibited from leaving his apartment without the express permission of the court, and prohibited from contact with the media or Vetëvendosje. On 14 November, following a review of his detention, the court amended the conditions so that he might leave his apartment between 10 am and 7 pm, imposing a curfew of 15 hours, under police guard. Amnesty International considers that the effect of strict house arrest, even if reviewed on a regular basis, as in this case, can amount to deprivation of liberty.

In May the International Helsinki Federation (IHF), which has been monitoring the trial, reported on their concerns about the independence of the judiciary in decisions related to Albin Kurti’s detention, including that the international judge had approached the prosecutor after the hearing—in the absence of either Albin Kurti or his court-appointed lawyer—to clarify what the

prosecution would like to recommend in relation to his detention. Further, the IHF were refused access to Albin Kurti while in pre-trial detention by Kosovo Ministry of Justice officials on the grounds that he was a “category A” detainee, held exclusively under the jurisdiction of UNMIK. The Acting Director of UNMIK Department of Justice was not able to provide Amnesty International with any document defining “category A” prisoners.

Amnesty International is further concerned at allegations, reported by both international and domestic NGOs, of executive interference in this case. The organization was also informed by Albin Kurti that, during his detention, he received informal visits from UNMIK Department of Justice staff and a US diplomat, who allegedly urged him to stop further demonstrations.

Amnesty International also considers that proceedings have not been conducted in accordance with the provisions of the Provisional Criminal Procedure Code of Kosovo (PCPCK). In proceedings on 19 September, for example, the international presiding judge failed to follow procedures set out in the PCPCK, by failing to inform Albin Kurti of his rights and prohibiting the defendant from making a statement to the court, reportedly telling the defendant to “shut up”. Amnesty International considers that preventing a defendant from making a statement to the court may be a violation of the right to defend oneself as set out in Article 6 (3) (c) of the ECHR and in Article 12 (2) of the Provisional Criminal Code of Kosovo (PCCK).

Amnesty International is also concerned at the lack of compliance with procedures relating to Albin Kurti’s request to dismiss the international panel. The challenge was made on the grounds that the panel had failed to respect his right to the presumption of innocence, and that they were neither impartial nor independent of the executive. Albin Kurti has not received a written determination rejecting his application to dismiss the panel but had received unofficial information on 26 October that his request had been dismissed by the President of the Pristina District Court. His court appointed lawyer, who had previously recused himself before the court, apparently received a letter in which the decision was reported but did not take any action as he no longer represented Albin Kurti. As a result Albin Kurti was denied the right to appeal against this decision.

In a hearing on 14 November, in which Albin Kurti’s detention was reviewed, he was similarly prevented from making a statement to the court. The same occurred in proceedings on 15 November, about which the defendant had only been notified on the previous day, in violation of the PCPCK – which stipulates notice of a hearing must be provided in writing eight days in advance.

Further on 15 November, the court appointed a new defence counsel who reportedly stated that he did not agree with his client’s continued objection to the panel of judges; in proceedings on 4 December, Albin Kurti also sought to present a recording of television programme, in which the court appointed lawyer had reportedly made statements critical of Albin Kurti, in relation to the demonstration of February 2007. Amnesty International notes that Article 6 (3) (c) of the ECHR (incorporated into applicable law in Kosovo) guarantees the right of an accused person to a counsel of his own choosing.

The court also ruled that it had not acted inappropriately by introducing a new indictment on 19 September without first presenting it to Albin Kurti, although the presiding judge reportedly stated that “the new indictment was now not important, because it would not be used”.

Proceedings which took place on 4 December were monitored by a large number of both international and local observers, including by representatives of Amnesty International, IHF, Organization for Security and Co-operation in Europe (OSCE), Office of the UN High Commissioner for Human Rights (UNHCHR), Ombudsperson Institution in Kosovo, the Humanitarian Law Centre, Kosova Rehabilitation Centre for Victims of Torture (KRCT) as well as many local and international media. In the presence of observers the panel, for the most part,

observed procedures set out in the PCPCK, and also allowed Albin Kurti to cross-examine a prosecution witness.

The trial was adjourned to 30 January 2007. Albin Kurti remains under house arrest.

Amnesty International finally notes with concern that no criminal investigation was opened against members of the Romanian Forward Police Unit, who are suspected of the unlawful killing of two demonstrators and the injury of up to 80 others during the Vetëvendosje demonstration on 10 February 2007. No person has been brought to justice by either the Kosovo or Romanian authorities.

Background

In a forthcoming report on the International Judiciary and Prosecutors Programme, introduced into Kosovo in 2000, Amnesty International *inter alia* expresses strong concerns about the lack of independence of members of the international judiciary, appointed by UNMIK. The organization notes the lack of appropriate procedures in place to hold international judges and prosecutors accountable and also reports on examples of executive interference in the allocation of cases, and in some instances, in the conduct of cases.

Amnesty International calls for full transparency in UNMIK inquiry into deaths of Mon Balaj and Arben Xheladini, AI Index: EUR 70/002/2007 (Public); News Service No: 033; 15 February 2007 <http://web.amnesty.org/library/Index/ENGEUR700022007?open&of=ENG-SRB>

Kosovo (Serbia): Romanian police and UNMIK must be brought to account for the deaths of demonstrators in Kosovo, AI Index: EUR 70/010/2007 (Public); News Service No: 130; 9 July 2007 <http://web.amnesty.org/library/Index/ENGEUR700102007?open&of=ENG-SRB>

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