

Serbien og Montenegro (31)

PUBLIC

Office of the High Commissioner for Human Rights

Human Rights Field Operation

SERBIA AND MONTENEGRO (& KOSOVO)

Quarterly report

(Period covered: November 2003 to January 2004)

Udgivet marts 2004

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23/3-04

1. Human rights context

1.1. State Union

On 26 December 2003, the State Union of Serbia and Montenegro ratified both the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. However, the instruments still need to be deposited with the Council of Europe.

1.2. Serbia

In November 2003, for the third consecutive time, Serbian Presidential elections were not successful as, once again, less than 50% of the electorate turned out to vote. The percentage who voted (38.79% of an electorate of 6.5 million) was the lowest recorded in Serbian presidential elections. Moreover, the elections registered an upswing in support for ultra-nationalism, with the right-wing nationalist Serbian Radical Party's candidate receiving some 47% of the votes cast.

A similar trend was seen in the early Parliamentary elections held on 28 December, when the Serbian Radical Party got over 27% of the votes cast, making it the largest party in Parliament. Four election lists out of 19 were headed by ICTY indictees: the Socialist Party of Serbia with Slobodan Milosevic; the Serbian Radical Party with Vojislav Seselj; the Liberal Party with police general Sreten Lukic (Chief of Public Security); and the Socialist People's Party with general Nebojsa Pavkovic (ex Chief of Staff of the Army). These general trends made it difficult to form a government supported by a coalition of reform oriented parties with a majority in parliament. As a result of a weak coalition, progress in the reform process and cooperation with the international community might be less enthusiastic.

This 5% threshold contributed to simplifying the Serbian political scene, with only six parties and coalitions out of the 70 that had competed in the elections getting seats in Parliament. While some considered this development to be positive, it has had a negative impact on the minority representation in the Serbian parliament, as none of the national minority parties managed to cross the threshold. The only representation minorities have, therefore, is as candidates on the lists of national parties.

Trial on assassination of PM Zoran Djindjic: The trial of members of the so-called "Zemun Clan" accused of committing various crimes, including the assassination of Serbia's Prime Minister Zoran Djindjic, began on December 22 in the Special Court for Organized Crime.

Serbia rejects UNMIK's plan for the implementation of Standards for Kosovo: Serbia rejected UNMIK's plan for the implementation of Standards for Kosovo, stating that the document does not provide for the full implementation of UN Security Council Resolution 1244, does not offer adequate guarantees for the safety of people in Kosovo, and fails to tackle the issues of the return of internally displaced persons (IDPs) and the restoration of property.

1.3. Montenegro

In view of the results of the Serbian Parliamentary elections, Montenegro's officials have stated that no major policy changes should be expected at the union level and between the two member states, as these are defined by the Belgrade Agreement.

Moldovan trafficking Case: The Montenegrin Government has stated that it might accept the recommendation of a team of independent OSCE and Council of Europe (CoE) experts to reopen the controversial Moldovan sex trafficking case. The Government also announced that it intends to appoint a special commission, which will include a foreign police expert, to investigate the role and actions of the police in the affair.

Montenegrin parliament adopts several new laws: Despite the continued boycott of the opposition parties in December, the Montenegrin Parliament adopted a number of new laws, some having a human rights dimension, including the Criminal Code, Criminal Procedure Code, Law on the Public Prosecutor and the Amendments on the Law on Enforcement of the Criminal Sanction. These laws, proposed by the Government, received unanimous support by the MPs of the ruling coalition.

Population census: Montenegro conducted a population census (from 1-15 November 2003), the first since 1991, which reported a total population of 672,656 citizens. Of these, 273,366 or 40.64% identified themselves as Montenegrins, Serbs – 201,892 or 30.01%, Bosniacs – 63,272 or 9.41%, Albanians 47,682 or 7.09%, Muslims 27,714 or 4.27%, Croats 7,062 or 1.05%, and Roma 2,875 or 0.43%. In comparison to the 1991 census, there has been a drop in the number of citizens claiming to be Montenegrins (down 107,101) while the number of citizens claiming to be ethnic Serbs has increased by 144,439.

1.4. Kosovo

The security situation was generally calmer in the reporting period with fewer reports of violence directed against members of minority communities. However, freedom of movement remains limited for members of the minorities in Kosovo, who still do not enjoy the full range human rights that they are entitled to.

UNMIK has been in the forefront of efforts to secure consensus on the implementation of "Standards for Kosovo", i.e. a set of goals and benchmarks which must be achieved before discussion of Kosovo's final status can begin. The text of a new document defining the Standards was agreed to by both UNMIK and Kosovo's political leaders in November and presented on 10 December. However, the absence of representatives from the Serbian community and from some Kosovo Albanian political parties somewhat undermined the process. The Standards contain important references to human rights-related issues and will be an important element in the development of human rights protection in Kosovo.

Partially within the context of the discussion of the implementation of the Standards, the issue of some 3,500 unresolved disappeared or abducted persons, which had been neglected

in public discourse for some time, has gained new currency. A visit by relatives of missing Serbs to the Kosovar Albanian chair of the Assembly's committee on missing persons was a positive development.

2. Human rights activities and events

2.1. Rule of Law and Impunity

2.1.1. Serbia

OHCHR has been monitoring a number of cases related to rule of law and impunity:

- The Ovcar Case: The Serbian Special Prosecutor for War Crimes has issued eight new indictments for war crimes committed in 1991 against over 250 civilians at the Ovcar farm near Vukovar, Croatia. Three former Yugoslav Army officers have already been charged for this crime by the ICTY, and documentation on the case was handed to the Serbian Special Prosecutor during his visit to The Hague.
- Trial in Kraljevo: OHCHR monitored a trial before the District Court in Kraljevo involving several individuals accused of a murder, several attempted murders, armed robbery, and of illegal possession of explosives. The attorneys of the defendants have challenged the impartiality of the court and allege that it has failed to meet international standards for fair trial. A motion for change of venue is pending.
- Follow-up on Batajnica: The acting CoM met with the Special Prosecutor for War Crimes to follow-up on the Batajnica report and other cases of war crimes.

2.1.2. Kosovo

The Office worked with families of missing persons and their advocates, presenting its findings relating to the lack of progress of criminal investigations arising from the exhumations of mass graves at Batajnica, Serbia. OHCHR has been assisting the families in developing their capacity to represent themselves before the relevant authorities.

2.1.3. Montenegro

An OHCHR consultant completed a first draft of a short report on war crimes cases in Montenegro which reviews the cases that have not been officially investigated by the domestic judicial authorities. These include the "Bukovica case" (the persecution and torture of Muslim civilians in the northern Montenegrin municipality) and the "Bozaj case" (an alleged war crime committed by Yugoslav army at the Montenegro-Albanian border during the NATO campaign).

2.2. Human trafficking

2.2.1. State Union

On 17 and 18 December, OHCHR together with UNICEF and OSCE, launched the *Report on Human Trafficking in South East Europe* in Podgorica and Belgrade respectively. The report notes a reduction in the number of victims of trafficking assisted in this region and identifies ineffective law enforcement as one of the major problems in the SEE countries.

2.2.2. Serbia

With the support of OHCHR, the NGO Victimology Society of Serbia (VDS) conducted a training on monitoring trials of human trafficking cases from the perspective of the human rights of victims/witnesses. OHCHR also engaged in a number of initiatives with respect to child trafficking, which is emerging as an area of concern in this region.

2.2.3. Montenegro

OHCHR received an award from the Women's Safe House for the support that it provided this past year to the shelter for women, victims of trafficking or domestic violence. The media widely reported a statement made by the acting Chief of Mission, who stressed the importance of the top leadership making it clear that it was unequivocally opposed to human trafficking.

2.3. IDPs and Refugees

Advocacy Action Group on IDPs: As a member of the reference group for the advocacy project on IDP' rights of the NGO "Group 484," OHCHR took part in consultations with the five focus groups established under the project. OHCHR also participated in two regional meetings held in Nis and Kraljevo. The Action Group was formed to analyze the situation of IDPs and to improve the capacity of IDPs to advocate for their rights. OHCHR has been providing advice and assistance to the project.

IDP Documentation working group: OHCHR participated in a meeting of the IDP Documentation working group, convened after a long break in activities. The group has been discussing a UNHCR suggestion that it includes in its activities all legal issues concerning IDPs. Meanwhile it was agreed that the group would resume the process of engaging the responsible ministries in resolving documentation obstacles for IDPs in Serbia.

2.4. Human right frameworks for development and poverty reduction

PRSP: The Governments of Serbia and Montenegro have both adopted their Poverty Reduction Strategy Plan (PRSP) after a year-and-a-half of intensive work involving the civil society as well as the international community. OHCHR followed the processes closely since the inception of the interim poverty reduction plans in Spring 2002, participating in the debates and expert meetings, presenting a human rights analysis of the issue of poverty, and providing extensive commentary on the many drafts produced. The OHCHR guidelines on a human rights based approach to PRSP, which OHCHR translated into Serbian and distributed widely to experts, Government, and NGOs, had a significant impact on the final PRSP documents. OHCHR facilitating civil society follow-up of the implementation of the plan, and has brought together human rights NGOs from across the country to discuss the best way forward.

2.5. Human rights education and capacity building

2.5.1. Serbia

Human Rights Education in Formal Education: In the context of OHCHR's aim to develop a national capacity to introduce human rights education into the curricula in primary and secondary schools, a consultant reviewed materials and methodologies being used in the newly introduced "Civic Education" subject, both for pupils and for teachers training. A report, with recommendations, will serve as the basis for continuing OHCHR's efforts in 2004 to institutionally strengthen the Ministry of Education and Sport of Serbia. The aim is not only to enhance the human rights dimension of the "Civic Education" subject in primary and secondary schools, but also to infuse a human rights dimension into overall programming in the schools.

Human Rights Day 10 December: Human Rights Day was used to initiate a number of promotional human rights activities such as roundtable, a conference, a reception, press interviews, etc. These events were extensively covered by the media.

Conference on Gender Equality: OHCHR made an intervention on international standards for gender equality at the International Gender Equality Conference organized by the regional government of Vojvodina, the Secretariat for Labor, Employment and Gender Equality, with support from our Office throughout the preparation process. The conference brought together representatives of Governments of Romania, Bulgaria, Albania, FYR Macedonia, Bosnia and Herzegovina, Croatia, Serbia and Montenegro.

2.5.2. Kosovo

OHCHR worked with local NGOs and other international organizations to celebrate and publicize 10 December, i.e. International Human Rights Day

3. Cooperation with partners

3.1. Serbia

Police training on domestic violence and sexual abuse: OHCHR participated in a training for police on the sexual abuse of children and domestic violence, organized by Incest Trauma Center, NGO from Belgrade. The participants were teachers from police schools and the police academy, as well as police officers who have dealt with these issues in the course of their work. In its presentation, OHCHR focused on international and European human rights standards in these areas.

Access to International Human Rights Conventions: The Office, in the past quarter, has collected 20 of the most important human rights conventions in Serbian and posted them on the UN Country Team website, providing free and easy access to NGOs and Government personnel from all regions of the country.

Training of the UN Country Team: Following a request from the UN Country Team, OHCHR prepared training material for a session on "human rights based approach to development" for the UN staff. A first training was held in December. Other sessions are planned for March 2004, including in the Republic of Montenegro and in Kosovo.

- The PRSP for Serbia was adopted. The PRSP has a solid human rights basis.
- Civil society has been alerted on the importance of monitoring the PRSP from a human rights perspective.
- Ministries and NGOs were given free and easy access to Serbian language versions of the most important human rights international conventions.
- The UN Country Team is being trained on a "human rights based approach" to development.
- The CCA/UNDAF for Serbia and Montenegro is anchored in a solid human rights framework.
- The launch in October 2003 of the OHCHR report on the investigations into mass graves in Batajnica, Serbia, contributed to announcements by the Special War Crimes Prosecutor in January 2004 of new developments in the criminal investigation including the questioning of witnesses by the Prosecutor (see Quarterly Report 3).
- Trial monitoring of human trafficking cases strengthened and broadened. More information available for victims and victim/witnesses of human trafficking; overview of the situation on human trafficking in South East Europe provided; and awareness raised on the part of the media about how to report on human trafficking and the need to protect the rights of victims/witnesses. A separate working group on child trafficking under the National Team for the Combat of Human Trafficking established to be supported by UNICEF and OHCHR.
- Grassroots advocacy of IDP's rights strengthened and the capacity of the IDPs increased.

4. Impact and Achievements

Together with OSCE, OHCHR co-sponsored a meeting of the leaders of Roma organizations in Montenegro, with more than 30 participants, a third of them Roma women. Discussion focused on the issue of education for Roma, the obstacles they faced, how to overcome these obstacles, and how Roma NGOs could work together more effectively.

3.3. Montenegro

Working with other UN agencies, OHCHR advised on the implementation of the Standards and started planning how to assist the process in the coming year. OHCHR continued to contribute to inter-agency efforts such as the Inter-Pillar Working Group on Human Rights.

3.2. Kosovo

The CCA/UNDAF process: The UN Country Team in Serbia and Montenegro adopted the CCA (Common Country Assessment) in late October 2003. The OHCHR has contributed to include a solid human rights component to the CCA through leading the "Rule of Law" working group and conferring other groups with a human rights analysis. The Office carries on the leadership on the issue of Rule of Law in the second phase of this UN planning exercise: the UNDAF (UN Development Assistance Framework), which should result in the adoption of an agreement with the Government in March 2004.

Convention Against Torture: At the initiative of OHCHR, a coalition of national and international organizations was formed to advocate the ratification of the Optional Protocol to the Convention Against Torture (CAT). A series of activities are being planned for 2004.

- Gender equality principles and legislation promoted.
- A coalition of national and international NGOs as well as international organizations formed to advocate the ratification of the Optional Protocol to the Convention Against Torture at the initiative of the OHCHR.
- Positive role of OHCHR recorded among relatives of the missing and disappeared in Kosovo and increased engagement between OHCHR and UNMIK on the issues through distribution of Batajnica report in Kosovo.
- The profile of the OHCHR was raised through 10 December promotional activities.
