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AMNESTY INTERNATIONAL'S CONCERNS IN SERBIA, INCLUDING KOSOVO: JUNE-DECEMBER 2009

GENERAL AND POLITICAL DEVELOPMENTS: SERBIA

Serbia received positive reports in December from the Chief Prosecutor to the International Criminal Tribunal for the former Yugoslavia (Tribunal) on the country's cooperation with the Tribunal. The European Union (EU) subsequently unblocked Serbia's interim trade agreement. Progress had previously remained dependent on the arrest of former Bosnian Serb General Ratko Mladić and former Croatian-Serb leader Goran Hadžić, the two remaining suspects indicted by the Tribunal. On 23 December Serbia formally applied to join the EU, pending a decision on unfreezing a Stabilization and Association Agreement. EU visa restrictions on Serbian citizens were separately lifted in December.

Also in December the International Court of Justice (ICJ) considered submissions on the legality of Kosovo's 2007 unilateral declaration of independence, pursuant to the adoption by the UN General Assembly in October 2008 of a request by the Serbian government to ICJ to issue an advisory opinion on the legality of Kosovo's declaration of independence. Sixty-four countries had recognized Kosovo's independence by the end of the year.

Serbia's economic situation continued to decline: in November Minister of Labour and Social Policy Rasim Ljajić announced a public debate on a draft bill on social protection, noting that between 675,000 to 700,000 of the population live under poverty line. Some 67 soup kitchens with 30,000 users were introduced as a measure to assist those living in poverty.

IMPUNITY FOR WAR CRIMES

At the end of December Serbia announced its intention to file a counterclaim against Croatia at the ICJ in response to Croatia's 1999 claim against Serbia. The Serbian government alleges that Croatia committed genocide against Serbs in Gospić, Sisak, Pakračka Poljana, Karlovac, Osijek, Paulin Dvor, Medacki Džep (Medak Pocket) between 1991 and 1995, including in Operation Storm.

INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

Vojislav Šešelj, leader of the Serbian Radical Party, on trial for crimes against humanity and war crimes in Croatia and Bosnia and Herzegovina (BiH), was convicted in July for contempt of court for disclosing the identities of three protected witnesses and sentenced to 15 months' imprisonment. Proceedings in the main trial had been adjourned.

Trial proceedings against Vlastimir Đorđević continued at the Tribunal. As the former Assistant Minister in the Ministry of Interior and Chief of the Public Security Department (RJB) he had been responsible for all RJB units in Kosovo between 1 January and 20 June 1999. The former police general was indicted for crimes against humanity and laws and customs of war in Kosovo in that “police forces under his command perpetrated a series of grievous crimes that ended with the deportation of around 800,000 Albanian civilians”. Vlastimir Đorđević was indicted in relation to the enforced disappearance of more than 800 ethnic Albanians, for individual and joint responsibility for his participation in “the joint criminal enterprise... [including that] ...[t]ogether with [Vlajko] Stojiljković and others, he took a lead role in the planning, instigating, ordering and implementation of the programme of concealment by members of the RJB and subordinated units of the crime of murder, in coordination with persons in the RDB [state security] and in the VJ [Vojska Jugoslavije, Yugoslav Army].”

Proceedings opened in October against former Bosnian Serb leader Radovan Karadžić, who had been arrested in Belgrade and transferred to the Tribunal in June 2008. Also in October the Appeals Chamber considered the Prosecution’s application for a re-trial of former Kosovo Liberation Army (KLA) leader Ramush Haradinaj, acquitted of war crimes in 2008.

SPECIAL WAR CRIMES CHAMBER AT BELGRADE DISTRICT COURT

Trials continued at the Special War Crimes Chamber (WCC) at Belgrade District Court against former military personnel and Ministry of Interior police charged with war crimes in Croatia, BiH and Kosovo. Only cases relating to Kosovo are summarised here.

Proceedings opened at the WCC on 23 September against nine ethnic Albanians, former members of the so-called Gnjilane/Gjilan group of the KLA arrested in Preševo/Presheve in southern Serbia in December 2008. Those arrested were indicted in June 2009 - along with eight others (being tried in absentia) - on charges including unlawful detention, inhuman treatment, torture and mutilation of at least 152 Serbs, Roma and ethnic Albanians; the murder of at least 80 of them and the rape of a “large” number of women in Gnjilane/Gjilan between June and October 1999. At least 34 of the victims are still listed as missing.

ENFORCED DISAPPEARANCES AND ABDUCTIONS

Investigations continued into the alleged post-war abduction and subsequent torture of Serbs by members of the KLA at the “Yellow House” near Burrel in Albania by both the Office of the War Crimes Prosecutor (OWCP) and Senator Dick Marty, in his capacity as a rapporteur for the Parliamentary Assembly of the Council of Europe.

In September Sreten Popović and Miloš Stojanović, former commanding officers in the Operational Pursuit Group of the Serbian Special Police Unit, were acquitted by the WCC of the post-war disappearance of Agron, Mehmet and Ilijem Bytici. The officers had been indicted in August 2006 for having “deprived their victims of the right to an impartial and fair trial”. The Bytici brothers, of Kosovo-Albanian origin, held US citizenship and had joined the Atlantic Brigade fighting alongside the KLA. On 8 July 1999 they were released from Prokuplje District Prison, after being convicted and sentenced to 15 days’ imprisonment for crossing into Serbia proper. Following their release they were allegedly detained by the defendants and taken to a training camp at Petrovo Selo where they were shot on 9 July 1999. Their bodies were found in 2001 at the top of mass graves at Petrovo Selo. The prosecution appealed to the Supreme Court. According to the NGO the Humanitarian Law Centre, who had acted for the families of the victims, a total of 96 witnesses were heard, all of whom protected the accused, who were their superior commanders.

EXCESSIVE USE OF FORCE: UNLAWFUL KILLING

In November riot-brigade police officer Miljan Raičević was convicted and sentenced to seven years’ imprisonment for the murder in March 2009 of Đorđe Zarić. Đorđe Zarić, aged 24, was shot in the head by Miljan Raičević after the car in which he had been travelling was stopped after a car chase. The police had initially claimed that the shooting had been an accident.

TORTURE AND OTHER ILL-TREATMENT

The Committee against Torture (CAT) in July made public their May 2009 decision relating to an application made in 2004 by Besim Osmani, a Romani man, who alleged that he had been beaten and verbally abused in June 2000 by what were believed to be plain-clothed police officers, in the presence of uniformed officers, during a forced eviction at the "Antena" settlement in New Belgrade. Besim Osmani's four-year-old son was also hit. The CAT found that Besim Osmani had been subjected to "cruel, inhuman or degrading treatment or punishment," (see *Concerns in Serbia, Jan to June 2009*, Index: EUR 70/016/2009).

PRISON CONDITIONS

In November five prison guards were arrested on suspicion of the abuse and torture of detainees at Leskovac District Prison in January 2009. They had previously been suspended from their employment, along with the former director and two other senior staff. Later in November, media reported that a total of 12 prison guards had been suspended by the authorities in relation to the same January incident. Following the suspension, according to a local NGO, further incidents of ill-treatment took place in which three detainees were reportedly injured and left in a corridor all night without medical treatment; around 100 prisoners subsequently started a hunger strike. The Ministry of Justice opened an investigation. On 5 October, the prison's director had been dismissed following the wounding of a prisoner in the prison yard on 28 September by an unknown assailant who had entered the yard by cutting through the fence surrounding the prison.

No independent complaints mechanism was available to person deprived of their liberty. Serbia had ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in September 2006. Article 17 of OPCAT requires the state party to establish an independent National Prevention Mechanism within one year of ratification. It was envisaged that the Protector of Citizens (Ombudsperson) would undertake this role.

An Amended Law on Execution of Penal Sanctions was adopted in August, improving the internal complaints system by providing for the power of inspection by the Ministry of Justice and the introduction of an impartial internal complaints mechanism. An enabling by-law on the internal oversight of prisons remains to be adopted.

MINORITY REGIONS

Tensions continued between the Albanian population in southern Serbia and the authorities. In July two police officers were injured when a hand grenade was thrown at their car near Bujanovac. In August ethnic Albanian officials announced their proposal to form a separate region in the Albanian-majority Preševo Valley. In November a new Serbian Army base was officially opened in Cepotina near Bujanovac; ethnic Albanian leaders expressed concerns about the "militarization of the region".

DISCRIMINATION

LESBIAN, GAY, BISEXUAL AND TRANSGENDER GROUPS AND INDIVIDUALS

Two days before the 2009 Belgrade Pride, planned for 20 September, the organizers were informed by the Ministry of Interior Police (MUP) that they could no longer guarantee the security of the event. The organizers had indeed received threats against the march and its participants from right wing, neo-nazi and religious groups. The MUP claimed that they had received information that the event might be "bombed" by people on para-gliders or that persons would be shot. No attempt appears to have been made by the authorities to seek out and arrest any persons suspected of making such threats, and requests to the MUP for additional security measures were refused. On 19 September the organizers were invited to a meeting by the Office of the Prime Minister, where they were reportedly asked if they were "real patriots" and "why they wanted Serbia to have bad press" and were urged to change the

location of the event. The organizers were then given a written "decision" which, while not explicitly prohibiting or cancelling the Pride, stated that the security of the participants would not be guaranteed unless the Pride took place in another location, away from the previously agreed route in the city centre. Organizers considered that under such circumstances, the Pride could not take place.

ROMA AND THE RIGHT TO ADEQUATE HOUSING

In December the Representative of the UN Secretary-General on the human rights of internally displaced persons (IDPs), Walter Kälin, reported that a third of Roma from Kosovo internally displaced in Serbia lived in "object[s] not intended for housing", without running water or electricity and vulnerable to forced eviction. Other Roma IDPs living in informal or unregistered settlements were unable to register their residency, and were consequently not eligible for social benefits, employment programmes or health care benefits available to other IDPs.

Several such Romani communities were reportedly subject to forced evictions, while many of those who had been forcibly evicted from Blok 67, a temporary settlement in New Belgrade, in April, remained without permanent shelter or alternative accommodation. In August 176 families were removed from a settlement under the Gazela Bridge, apparently under an organized eviction agreed between the authorities and the community. The majority were reportedly provided with alternative accommodation and access to social benefits conditional on children attending school education, although later reports suggested that not all agreed conditions had been met. Those not originating from Belgrade were required to return to their place of origin, where many reportedly found little or no support from the local authorities.

HUMAN RIGHTS DEFENDERS AND JOURNALISTS

In July the Supreme Court partially reversed a November 2008 Belgrade District Court decision which had found in favour of Biljana Kovačević-Vučo and the NGO Lawyers' Committee for Human Rights (YUCOM) who had been sued for defamation by Aleksandar Tijanić. The case was bought after YUCOM published a book entitled "The Case of Civil Servant Aleksandar Tijanić", composed largely of quotations from statements by Aleksandar Tijanić, current director of the state-run Radio-Television Serbia and a former Minister in Slobodan Milošević's government. On appeal, the Supreme Court found YUCOM responsible for infringement of the author's copyright, (the author being held to be Aleksandar Tijanić), and prohibited YUCOM from printing further copies or distributing the book. According to YUCOM, "The decision presented an effective ban on quotes from published material without its author's prior consent. By mis-using copyright the verdict abolishes the right to criticize public figures by using their own quotes and/or statements. This verdict will thus have large negative influence on the work of human rights organizations, too".

Also in July, anti-fascist activists were physically attacked, allegedly by members of the organization *Obraz*, apparently because of the activists' support for the Blok 67 Romani community (above).

Journalists' associations and the Organization for Security and Cooperation in Europe (OSCE) expressed concerns at the potential impact on freedom of expression of the new Law on Public Information adopted at the end of August, including on the high levels of fines envisaged in the law.

In December, staff of the independent media B92's *Insajder* (Insider) radio programme were subjected to threats, including of rape and murder, which were published on social networking websites and in graffiti painted around Belgrade. Threats began after the *Insajder* team broadcast the first part of an investigative series, in which they reported that despite hundreds of complaints made to the police against "extreme football fans" and their leaders, few criminal prosecutions ever took place. These groups are suspected of threats and attacks on the lives and property of, amongst others, Roma, the LGBT community (and in 2009 the Belgrade Pride) and Human Rights Defenders. The OSCE expressed their deep concerns, in

particular for the editor of *Insajder*, Brankica Stanković.

GENERAL AND POLITICAL DEVELOPMENTS: KOSOVO

The Kosovo government called for the withdrawal of the UN Interim Administration Mission in Kosovo (UNMIK), which following reconfiguration and the adoption of a six-point plan by the UN in 2008 retained a role in relations between Serbia and Kosovo. Some of UNMIK's previous responsibilities, including for international policing, the administration of justice (with respect to war crimes and other serious crimes) and customs were undertaken by the EU-led police and justice mission (EULEX). Peter Feith acted as both EU Special Representative in Kosovo and International Civilian Representative for Kosovo.

In September 22 members of the NGO Vetevendosje! (Self-Determination) were arrested for the alleged damage of EULEX vehicles during a demonstration against the signing of a draft protocol agreed in August on cooperation between the Serbian Ministry of Interior and EULEX, covering in particular cross-border crime. Proceedings against the demonstrators had not concluded by the end of the year.

The ruling coalition party was returned to power in local elections in November which were marred by violent attacks and alleged interference. Serbs largely boycotted the elections and consequently failed to win control of municipalities with a majority Serbian population.

IMPUNITY FOR WAR CRIMES

EULEX conducted prosecutions for war crimes and other serious crimes. In October, in a retrial of the "Llapi Group" ordered by the Kosovo Supreme Court, Latif Gashi, Nazif Mehmeti and Rrustem Mustafa-Remi were convicted of the torture and inhumane treatment of civilian detainees at Llapashtica/Lapaštica in 1998-9, and sentenced to between three to six years' imprisonment. The ethnic Albanian member of the judicial panel publicly revealed his disagreement with the verdict.

In September four Kosovo Serbs were arrested in Novo Brdo/Novobërdë on suspicion of war crimes including the inhuman treatment, unlawful arrest and detention of Kosovo Albanians in April 1999. Their families alleged that the arrests were politically motivated.

ENFORCED DISAPPEARANCES AND ABDUCTIONS

Although the bodies of around half of those who disappeared or were abducted have been found, in October 2009 some 1,882 families in Kosovo and Serbia still awaited the news of the fate and whereabouts of their family members. The Office of Missing Persons and Forensics (OMPF) reported (in January 2010) that during 2009 they had recovered the bodies of 101 individuals. Sixty-three mortal remains were identified in 2009, and 83 bodies returned to families for burial. The OMPF also began and to analyze bones (which had remained unidentified in the OMPF mortuary for several years) thought to represent the remains of 425 individuals. Initial DNA analysis of more than 600 bone samples suggests that the remains actually represent only 375 individuals.

ETHNICALLY-BASED CRIMES

In September the UN Secretary General reported to the Security Council on the growing number of security-related incidents affecting minority communities, although by December the number of reported incidents had declined. Inter-ethnic tensions between Serbs and ethnic Albanians fuelled attacks of life and property, especially in Serb-dominated north Mitrovica, where for example, ethnic Albanians were attacked in three separate incidents in October and November. In October, a fire broke out on the premises of the Serbian television company TV Plus, near Shillovë/Šilovo, causing substantial damage to the Serbian telephone networks of Telenor and Telecom Serbia, affecting Kosovo Serb villages in south-eastern Kosovo. Also in October, an explosive device was thrown into the family compound of a Democratic Party of Serbia member and former Minister; no one was injured.

In July and August Roma were reportedly threatened and attacked in Urosevac and Gjilane/Gjilan respectively (see below); Roma generally did not report such incidents for fear of reprisals or lack of confidence in the judiciary.

Violence again broke out in mid-August and again in early September in Brđani/Kroi i Vitakut in north Mitrovica between ethnic Albanian returnees and Serbs from the same village who had returned to rebuild their houses.

IMPUNITY FOR THE INTERNATIONAL COMMUNITY

In 2007 a Romanian Formed Police Unit (FPU) had been found by an internal UNMIK investigation to have caused on 10 February 2007 the death of two men, Mon Balaj and Arben Xheladini, and the serious injury of two others through the improper use of rubber bullets. The Special Representative of the UN Secretary-General (SRSG) continued to interfere in a case brought before the Human Rights Advisory Panel (HRAP) by the two injured men and the families of the deceased, relating to UNMIK's failure to bring to justice members of the Romanian Formed Police Unit (FPU). Earlier in the year, the SRSG had refused to allow a public hearing by the HRAP, citing security reasons, and declined to attend a further a public hearing in June. In October the SRSG promulgated an Administrative Directive on the HRAP which aimed "to clarify the scope of public hearings", but which, amongst other things, potentially rendered the case inadmissible.

ALLEGED POLITICAL KILLINGS

On 30 November Nazim Bllaca was arrested by EULEX police on suspicion of murder, attempted murder and participation in organized crime after publicly admitting that he had participated in 17 different cases of murder and attempted murder. Nazim Bllaca claimed that the murders were carried out between 1999 and 2003 on the orders of the Kosovo Information Service (SHIK), a Kosovo-based intelligence agency thought to be linked to the Democratic Party of Kosovo (PDK). An investigation into his allegations, including against high ranking political and police officials, was opened by EULEX police and prosecutors.

DISCRIMINATION AGAINST ROMA

Roma, Ashkali and Egyptian communities continued to suffer disproportionate discrimination including in access to basic economic and social rights. Discrimination against Roma remained pervasive including in access to education, health care and employment. Few enjoyed the right to adequate housing. The majority remained without personal documents and access to register their residency and status. No measures were taken to address the right to health and adequate housing of Roma who had suffered lead poisoning and other health problems from living in camps contaminated by the Trepçë/Trepča smelter and mining complex.

In Gnjilane/Gjilan in the last week of July, at least four Roma, including a community leader,

were physically assaulted and injured in separate incidents, allegedly by ethnic Albanians. Another series of incidents was reported in August, when 20 Roma families from the Halit Ibishi neighborhood in the town of Urosevac/Ferizaj submitted a petition to the Urosevac Municipal Community Office saying that the families had been verbally and physically harassed on a number of occasions between August 17 and 22 by “unknown perpetrators.” They sought protection from the municipal authorities and the Kosovo Police Service (KPS) which opened an investigation into the allegations. The organization is not aware of any related arrests.

In October NGOs reported apparent suffering discrimination against Roma applying for new “multi-ethnic” apartments in the predominantly Serbian village of Llapje Selo/ Llapje Sellë. An investigation was opened into these allegations.

The action plan for implementation of the *Strategy for the Integration of Roma, Ashkali and Egyptians* was adopted by the government at the end of December.

FORCIBLE RETURN OF MINORITY COMMUNITIES

Several EU member states and Switzerland had concluded or were negotiating bilateral readmission agreements with the Kosovo authorities which allowed for the forcible return of members of minority communities including Serbs and Roma to Kosovo.

The UN refugee agency (UNHCR) in their November position on the continued international protection needs of individuals from Kosovo, stated that Kosovo Roma, Serbs and Albanians (returning to a minority situation) continue to be at risk of persecution and should be granted asylum or continued subsidiary protection. Also in November the OSCE reported that the 2007 return and reintegration strategy was under-resourced, under-funded and has not yet been fully implemented, especially at a local level.

During 2009, according to UNHCR's monitoring team at Pristina airport, some 2,962 individuals were forcibly returned to Kosovo from western Europe, including 2,492 ethnic Albanians and 470 members of minority communities. In addition to Ashkali, Egyptians, Bosniaks and Gorani these included 193 individuals - 47 Serbs, 147 Roma and 19 Albanians (returned to a minority situation) - from communities held by UNHCR to be in need of continued international protection. Some 764 individuals voluntarily returned to Kosovo from western Europe, including 116 from minority communities.

The Council of Europe Commissioner for Human Rights in July and again in December urged EU member states to refrain from the forcible return of minorities until conditions for their safe and sustainable return were present; this call was repeated by the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin in December.

REPORTS AND PUBLIC DOCUMENTS

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