

## Human Rights Watch

World Report 2010 on Kosovo (covers events of 2009)

The lack of international agreement on Kosovo's status continues to impede efforts to protect the human rights of its inhabitants. Caught between disagreements among its member states, and between Belgrade and Pristina, EULEX struggled in 2009 to fully deploy throughout Kosovo and execute its task of building a functioning justice system. The Kosovo authorities again failed to demonstrate unequivocal commitment to minority rights and the rule of law.

### Protection of Minorities

According to data from the UN Mission in Kosovo (UNMIK), 275 inter-ethnic incidents took place during the first eight months of 2009. Roma, Ashkali, and Egyptian (RAE) communities remain the most vulnerable in Kosovo.

There were numerous clashes between Albanian and Serb residents in Mitrovica in July and August, linked to efforts to return Albanians to reconstructed homes in a neighborhood in the town's Serb-controlled north. Renewed clashes on September 4 prompted an intervention by EULEX police and the NATO-led Kosovo Force. In August an elderly Serb couple, Bogdan and Trajanka Petkovic, was found shot dead in their house in Partes near Gnjilane. EULEX and the Kosovo Police Service (KPS) opened an investigation into the killings.

A series of attacks on Roma in the town of Gnjilane in the last week of August raised concern among rights groups about rising hostility in previously peaceful areas. The KPS was slow to respond to these incidents, but eventually opened investigations into all cases reported to the police. On August 25 a group of Roma families from Urosevac petitioned municipal authorities and the KPS, alleging they were being verbally and physically harassed by "unknown perpetrators." While the KPS initiated an investigation into these allegations, neither Kosovo nor international authorities have publicly condemned the incidents.

### Return of Refugees and Displaced Persons

Voluntary returns to Kosovo, including from Serbia, continued to decline, with only 508, including 132 Serbs, registered by UNHCR during the first seven months of 2009. The volatile political situation, continuing inter-ethnic incidents in some areas, and poor economic conditions hampered sustainable return.

Forced returns from Western Europe continued, with 3,324 persons returned in the first seven months of 2009. According to UNHCR, Kosovo Serbs, Roma, and Albanians from areas where they are in the minority remain in need of international protection. Despite that, 107 people belonging to UNHCR-protected categories were returned during the first seven months of 2009. In November 2008 Kosovo authorities assumed responsibility for managing forced returns from third countries, a role previously played by UNMIK. At this writing the authorities are negotiating bilateral readmission agreements with Western European countries seeking further forced returns.

Forced returnees experience a host of problems beyond security, many linked to the lack of any assistance or programs to reintegrate them. Roma returnees face particular difficulties accessing housing, education (many children no longer speak Albanian or Serbian), and employment. They depend on help from settled Roma, placing a further burden on Kosovo's poorest group.

Ten years after the destruction of the Roma Mahalla in Mitrovica, its former inhabitants remain in camps in north Mitrovica (Cesmin Lug and Osterode) and in Leposavic. Roma in Cesmin Lug and Osterode are exposed to ongoing and harmful lead contamination, adversely affecting their health, especially children's health. At this writing there is no medical treatment for lead contamination available to current or former camp residents.

A United States Agency for International Development pilot project to relocate 50 families from the Osterode and Cesmin Lug camps to the rebuilt Mahalla or another unspecified place of their choice is in its early stages.

The NGO-funded reconstruction of two additional apartment blocks to accommodate 24 families is also underway. Many displaced Roma from the Mahalla are reluctant to return there, with lack of access to Kosovo welfare and problems accessing employment cited as reasons. Many of those who returned there in a 2007 pilot project subsequently returned to northern Kosovo, and some of those who remain are considering doing the same. The reluctance of key donors to engage fully with Serb authorities in the north on resettlement for those unwilling to return to the Mahalla stands in the way of a complete solution.

#### Impunity and Access to Justice

Despite the new energy and optimism that the deployment of the EULEX rule of law mission brought to Kosovo, the judicial branch remains the weakest of Kosovo's main institutions. At this writing, EULEX has yet to prioritize cases related to the March 2004 anti-Serbian and anti-Roma riots, or to develop a strategy for prioritizing the large number of war crimes files it inherited from UNMIK.

EULEX prosecutors and judges concluded three high-profile cases during 2009. The sole defendant charged with the 2001 bombing of the "Nis Express" bus, which killed 12 Serbs, was acquitted in March. The same month Gani Gashi was convicted and sentenced to 17 years' imprisonment for kidnapping and killing a fellow ethnic Albanian in central Kosovo in 1998. In April Gjelosh Krasniqi was convicted for the 1999 kidnap and murder of a Kosovo Albanian man and sentenced to seven years' imprisonment. In September EULEX arrested four Kosovo Serbs (including one woman) on suspicion of committing war crimes against Kosovo Albanians in 1999 around Novo Brdo.

Shortcomings in witness protection continue to impede justice for the most serious crimes, with witnesses unwilling to testify for fear for their safety. Kosovo still lacks a witness protection law, but the courts regularly fail to employ the array of protective measures that are available to them. EU and other western governments remain reluctant to accept witnesses and their families, despite the widespread recognition that it is the only effective means to protect witnesses in the most serious cases. The lack of EU consensus on Kosovo's status stands in the way of a common EU position on such relocation.

In July the ICTY Appeals Chamber affirmed the conviction and three-month sentence of Bajrush Mornia for intimidating a protected witness in an ICTY trial about alleged wartime abuses in Kosovo. It overturned the conviction of Astrit Haraqija for the same offense. Both men were on provisional release at the time of the verdict, having served the duration of the sentences imposed.

In March EULEX opened what it termed a "preliminary investigation" into the alleged transfers by the KLA in 1999 of around 400 Serbian and other captives to detention facilities in Albania. The Council of Europe investigation into the allegations by Swiss senator Dick Marty continued, but his visit to Kosovo, scheduled for 2009, was postponed for unspecified reasons. The Serbian War Crimes Prosecutor has also initiated an investigation. The Kosovo authorities have dismissed the allegations and refused to investigate them.

In July EULEX and KPS exhumed a mass grave containing remains of 11 individuals, presumed to be missing persons, in the village of Kmetovce, close to Gnjilane. According to the International Committee of the Red Cross (ICRC) Kosovo, 1,885 persons, the majority Kosovo Albanian, remain missing from the 1999 conflict.

#### Human Rights Defenders

For most of the year the international Human Rights Advisory Panel (HRAP) continued to process its busy caseload of complaints against UNMIK, despite being understaffed and located in an office to which the public have no access, and a lack of cooperation from UNMIK. In October, however, UNMIK passed an administrative directive with immediate effect that effectively suspended the Panel's operations by requiring, at a time when one panel member post is vacant, that it can only sit with all three members present. The directive also removes jurisdiction over any alleged violations taking place after March 31, 2010.

In November 2008 the Panel ruled that UNMIK had violated the right to life by failing to conduct an adequate investigation into the February 2000 murder of the wife of the complainant Shaip Canhasi; at this writing UNMIK has yet to respond to the ruling. In June 2009 the Panel deemed admissible a claim by a group of Roma current and former residents of the lead-contaminated camps in Mitrovica, including in relation to alleged violations of the right to life, housing, and health, and the prohibition of inhuman and degrading treatment.

In March a public hearing was cancelled in the HRAP case against UNMIK brought by the families of the two Kosovo Albanian men killed by UNMIK police during a February 2007 demonstration. The cancellation followed EULEX and UNMIK statements that they could not guarantee security for such a hearing at any venue. The applicants' families refused to continue the hearing in private, and it was adjourned indefinitely. In September UNMIK offered financial compensation to the families of the two men if they agreed to drop their claims. The families rejected the offer.

In June, after a three-year delay in making an appointment, the Kosovo Assembly elected Sami Kurteshi as Kosovo's ombudsperson, with a five-year mandate. Acting ombudsperson Hilmi Jashari will remain as his deputy.

At this writing, almost 12 months after EULEX's full deployment, the EU Council has yet to approve the creation of an independent review mechanism for EULEX, or to give the mission authorization to initiate formal cooperation with the HRAP or Kosovo Ombudsperson, calling into question the EU's commitment to accountability for potential abuses arising from the exercise of the executive mandate of a flagship European Security and Defence Policy mission.

#### Key International Actors

Kosovo's international status remains uncertain. At this writing 63 countries have recognized Kosovo's independence, including 22 EU member states. Kosovo joined the World Bank and International Monetary Fund during 2009, but the decision of several EU states to intervene in support of Serbia's claim against Kosovo at the International Court of Justice underscored how divided the EU and United Nations remain on the issue.

The February 2009 visit by US Vice President Joe Biden underscored the Obama administration's continuation of Washington's financial and political support for an independent Kosovo.

In August NATO Secretary General Anders Fogh Rasmussen announced a downsizing of the Kosovo peacekeeping Force (KFOR) from 13,800 to 10,000 by January 2010.