



JANUARY 2009

COUNTRY SUMMARY

Serbia

Kosovo declared independence from Serbia on February 17, 2008. This is rejected by Serbia, and it has not clarified Kosovo's international legal status, although an independent Kosovo has been recognized by a number of key bilateral partners of both Serbia and Kosovo including several European Union states.

In Serbia the formation in June of a new coalition government produced dramatic results on war crimes, with the arrest of Radovan Karadzic and his transfer to the International Criminal Tribunal for the former Yugoslavia (ICTY). But the government failed to arrest Ratko Mladic. There was a wave of attacks against ethnic Albanian businesses and homes following Kosovo's independence declaration. The Roma minority remains vulnerable. Human rights defenders and journalists came under renewed pressure.

War Crimes Accountability

On July 30 Radovan Karadzic was transferred from Serbia to the ICTY, 13 years after his indictment (see also Bosnia chapter). The arrest was a significant breakthrough in Serbia's cooperation with the tribunal, reflecting the growing authority within the government of President Boris Tadic's Democratic Party. The previous month Serbia transferred to the ICTY Stojan Zupljanin, a former commander of Bosnian Serb police. Widespread public hostility to the ICTY persists.

ICTY indictees Ratko Mladic and Goran Hadzic remain at large at this writing. Serbia's special prosecutor for war crimes, Vladimir Vukcevic, reiterated in August that the arrest of both fugitives was a priority for Belgrade. In August the president of Serbia's national council on ICTY cooperation, Rasim Ljajic, said that Mladic hid in military barracks in Belgrade from June 2002 until the end of 2005. During a September visit to Serbia ICTY Prosecutor Serge Brammertz expressed "careful optimism" that Mladic

would be “arrested soon,” but declined publicly to assess Serbia’s cooperation with the ICTY.

In October ICTY judges upheld the conviction of Milan Martić for crimes committed during the shelling of Zagreb in 1995, sentencing him to 35 years’ imprisonment. The trial of Vojislav Šešelj at the tribunal continued during 2008, where he is accused of helping to orchestrate the wartime mass expulsion of Muslims, Croats, and other non-Serbs from Croatia, Bosnia, and Serbia. Other continuing high-profile trials included those of Milan Milutinović, Dragoljub Ojdanić, Nikola Šainović, Nebojša Pavković, and Vladimir Lazarević.

The Belgrade War Crimes Chamber continues its efforts to hold alleged perpetrators accountable for wartime abuses, despite limited funding, inadequate political support, and little public awareness of its work. In August the chamber indicted Branko Grujić and Branko Popović for war crimes against Bosniak civilians in the area of Zvornik. The “Suva Reka” trial, relating to the killing of Kosovo Albanians in 1999, was among the seven ongoing prosecutions in the chamber during 2008. The trial of four “Scorpion” paramilitary members, accused of war crimes against Kosovo Albanians, resumed in October. In September Serbia’s Supreme Court ruled on appeals against the 2007 convictions of four members of another “Scorpion” paramilitary unit operating in the area of Srebrenica. It upheld the convictions of three defendants (reducing one sentence from 20 to 15 years), and ordered the retrial of the fourth, pointing to alleged irregularities in the original trial.

War crimes special prosecutor Vukčević continued to receive death threats, especially following the arrests and transfer of Karadžić and Zupljanin. In October Vukčević made a formal request to the Albanian government to visit Albania to investigate the alleged abduction, transfer to Albania, and murder of Kosovo Serbs in 1999. Albanian authorities responded positively, but the visit had yet to take place at this writing.

In June the Supreme Court sentenced former secret police chief Radomir Marković to 40 years’ imprisonment, and several other defendants to long prison terms, for the attempted murder of opposition leader Vuk Drasković in October 1999. Four aides to

Draskovic had been killed in the staged road accident. The verdict concluded an eight-year cycle of trials, during which three earlier decisions of lower courts had been annulled by the Supreme Court, which ultimately tried the case itself.

Treatment of Minorities

Kosovo's declaration of independence on February 17 triggered public anger in Serbia. In the days that followed, ethnic Albanians suffered acts of harassment and intimidation, many involving smashing the windows of business and homes, as well as attempted arson, the spraying of hate graffiti, and intimidating protests in front of homes and businesses. The response of the Serbian authorities was inadequate: The police were more active in safeguarding minority-owned businesses after the attacks than during a wave of similar attacks in 2003 and 2004, but they failed to take preemptive action to protect minority homes and businesses and generally failed to identify perpetrators, even when police were present during attacks. Few perpetrators were charged with attacks by misdemeanor judges or by municipal and district prosecutors.

The Roma minority continues to suffer discrimination and economic and political marginalization; it has the highest rate of unemployment and school dropouts, and over half live below the poverty line. During a September visit to Serbia the Council of Europe commissioner for human rights highlighted the "inhumane conditions" and "social exclusion" experienced by Roma.

In August Roma activists and 450 residents in Kursumlija called for a public investigation into allegations that three local police officers beat two Roma men. Following public pressure, the police suspended the three officers and launched an investigation to determine whether excessive force had been used.

Internally Displaced Persons and Refugees

There was little progress in finding durable solutions for the more than 200,000 internally displaced persons and almost 100,000 refugees in Serbia. Both groups face ongoing problems with documents, housing, and employment. More than 7,000 refugees from Bosnia and Croatia, and displaced persons from Kosovo remain in

collective centers, often in substandard conditions. The forced removal from Western Europe of Roma from Kosovo and elsewhere in Serbia continues to place a burden on Roma communities.

Media Freedom

The independent news organization B92 received threats in February, and during mass protests in Belgrade linked to Kosovo on February 21, an arson attempt was made on its offices, but was prevented by a police cordon. B92 cameraman Bosko Brankovic and Beta news agency correspondent Milos Djorelijevski were severely beaten while covering a protest in July against the arrest of Radovan Karadzic, but in August and October members of two ultranationalist groups forced their way into Beta's offices, demanding coverage of protests against Karadzic's arrest. They were removed by police.

Two journalists from the news weekly *Nedeljni Telegraf* received death threats on March 24 in a letter signed by the "Red Berets" (a disbanded special police unit). The reasons for the threats were unclear. Vukasin Obradovic, owner and editor-in-chief of the weekly *Vranjske*, received repeated threatening phone calls in early November, apparently related to the magazine's coverage of organized crime. The police promptly deployed patrols around the *Vranjske* offices and Obradovic's home.

Human Rights Defenders

In February the executive director of the Humanitarian Law Center, Natasa Kandic, was subjected to threats after attending the session of the Kosovo Assembly at which it proclaimed independence from Serbia. Activists from the Socialist Party of Serbia collected signatures to lodge a criminal complaint against Kandic, accusing her of threatening the constitution and the state; she was not charged, however. The newspapers *Kurir* and *Vecernje Novosti* respectively referred to Kandic as a "traitor" and "a woman who does not exist."

The Helsinki Committee for Human Rights in Serbia and its director Sonja Biserko received threats in September linked to their work on war crimes accountability. Ultranationalists protested outside the group's office on September 30. On October 2,

Biserko's home address was published by a tabloid newspaper article calling her a "traitor." She was subsequently placed under police protection.

Key International Actors

The European Union signed a Stabilization and Association Agreement with Serbia in April, despite its failure to transfer Mladic to the ICTY. At this writing, EU member states have yet to ratify the agreement, a move dependent on full cooperation with the ICTY. In September the EU decided not to offer interim trade benefits to Serbia, after the Dutch government refused to ratify the deal, citing Serbia's failure to apprehend Ratko Mladic and Goran Hadzic. The European Commission's regular report on Serbia published in November highlighted Mladic, and the plight of Roma.

The UN Human Rights Council was due to consider Serbia under its Universal Periodic Review mechanism in December 2008.

The Council of Europe's Commission against Racism and Intolerance published a report on Serbia in April. It recommended improved legal protection for religious minorities, enhanced legal remedies for racial discrimination, bringing to justice the perpetrators of attacks against religious and ethnic minorities, and improved living conditions for Roma.

Kosovo

Not only did Kosovo's declaration of independence from Serbia in February fail to clarify its international legal status, but it also brought no visible improvements to human rights conditions. The weak criminal justice system frustrates efforts to tackle impunity for ethnic violence and other serious crimes. Minorities face continued violence and discrimination. Few displaced persons and refugees returned to their homes, even as forced returns from Western Europe increased.

Uncertainty over the status of the UN interim administration in Kosovo (UNMIK) and successor EU missions hindered their effectiveness. Kosovo's status plan, based on the so-called "Ahtisaari plan" (envisioned by the UN chief negotiator Martti Ahtisaari) proposed that an EU-led International Civilian Office (ICO) and EU police and justice

mission (EULEX) would assume responsibility from UNMIK following Kosovo's declaration of independence. But the UN Security Council failed to agree the change, delaying the deployment of EULEX, and leaving a gap in oversight of the justice system. The UN secretary-general approved in June a more informal transfer of responsibility to EULEX and a scaled down role for UNMIK. At this writing EULEX has yet to deploy to the Serb-controlled north of Kosovo, a process complicated by objections from authorities in Pristina and Belgrade about the implications for Kosovo's status. The status of the ICO remains unclear.

The NATO-led Kosovo peacekeeping force, KFOR, remains deployed throughout Kosovo, including in the north. In the first six months of 2008 the number of troops decreased from 15,900 to 14,759.

Protection of Minorities

There was limited violence following Kosovo's declaration of independence, most of it concentrated in the north of Mitrovica. Forty-five ethnically motivated incidents (18 in Mitrovica) were recorded by the Kosovo Police Service (KPS) in the first six months of the year, down from the 31 it recorded in Mitrovica during the same period in 2007. UNMIK, which recorded almost 200 "inter-ethnic" incidents in 2007, did not provide figures for 2008.

In January and February 2008, buses carrying Serbs and Gorani were stopped and searched by armed masked men. No one was hurt and the perpetrators have not been identified. On two separate occasions in April shots were fired at the Serbian village of Banjski Suvi Do from a nearby Albanian village. The KPS and KFOR attended promptly on both occasions, but the perpetrators have not been identified. In May an elderly Serbian returnee to Decani was beaten up. The investigation into this incident was still ongoing at this writing.

A Ukrainian policeman was killed and more than 150 people injured during clashes in Mitrovica on March 15, after Serbs tried to storm a UN courthouse. Tension persisted in Mitrovica in subsequent months, resulting in renewed clashes on August 4 during which three Serbs and one international policeman were injured.

Roma, Ashkali, and Egyptians (RAE) face persistent discrimination, particularly in employment and access to public services, and continue to be affected by the highest unemployment, school drop-out, and mortality rates in Kosovo.

Return of Refugees and Displaced Persons

The number of voluntary returns to Kosovo, including from Serbia, continues to decline, with only 229 (including 80 Serbs) registered during the first eight months of the year. Returns are hampered by the unstable political situation and the lack of conditions for sustainable return, including employment and social services. According to the United Nations High Commissioner for Refugees, Serbs, Roma, and Albanians from areas where they are in the minority remain in need of international protection.

A survey by the Mitrovica Institute of Public Health in May concluded that lead levels among displaced RAE in camps in North Mitrovica remain dangerously high, despite efforts to administer treatment for lead contamination. The Ombudsperson launched an investigation into the issue in July 2008. Efforts to return RAE to their homes in Mitrovica continued, with 14 families returned to newly reconstructed homes in 2008.

Forced returns from Western Europe continued, with 1,727 persons returned in the first eight months of 2008, including 437 from Germany and 290 from Switzerland. While UNMIK continues to directly manage such returns, the Kosovo Ministry of Internal Affairs is now responsible for monitoring the process. But the government's reintegration strategy, which foresees 5,000 returns per annum, lacks mechanisms to ensure the access to documentation and housing necessary to facilitate reintegration.

Impunity and Access to Justice

Ramush Haradinaj, a former commander of the Kosovo Liberation Army, was acquitted by the ICTY on April 3, 2008. Haradinaj, who was Kosovo's prime minister at the time of his indictment, had been accused of murder, persecution, rape, and torture during the Kosovo conflict. ICTY judges found him not guilty on all counts. The court cited significant difficulties in obtaining testimony of many witnesses due to security concerns. One co-defendant, Idriz Balaj, was found not guilty on all counts,

while another, Lahi Brahimaj, was convicted and sentenced to six years' imprisonment. Prosecution appeals against the two acquittals and Brahimaj's sentence, and an appeal by Brahimaj against conviction, are pending at this writing.

In July the ICTY convicted well-known Kosovar journalist Baton Haxhiu for contempt of court for revealing the identity of a protected witness who testified during the Haradinaj trial. He was fined €7,000.

Kosovo's criminal justice system continued to be the weakest of its main institutions. A 2004 law requiring prosecutors, rather than judges, to take the lead in investigating cases has yet to be fully implemented. Insufficient coordination between police and prosecutors, and between national and international actors, remains a barrier to the effective administration of justice. The absence of designated judicial police, as required by the law, undermines the ability of police to meaningfully assist prosecutors. The electronic case management system is still not operational.

Witness protection is a particular problem, especially in cases involving organized crime, war crimes, and attacks on minorities. Widespread witness intimidation and harassment mean that many witnesses are unwilling to come forward. Kosovo lacks a witness protection law, and judges and prosecutors often fail to use those measures that are available. Reluctance on the part of Western governments to host witnesses and their families hampers witness relocation.

The number of active war crimes prosecutions remains low. The ongoing trials include that of ethnic Albanian Gani Gashi, accused of killing Albanian civilians in 1998. Ethnic Serb Momcilo Jovanovic was arrested in March for crimes against Albanian civilians in 1999. In May ethnic Serb Miroslav Vuckovic was sentenced to eight years' imprisonment for crimes against ethnic Albanian civilians in May 1999, including endangering lives through the use of explosives and firearms, property destruction, theft, and looting.

There was little progress in bringing to justice persons responsible for the most serious crimes arising from riots in the March 2004. According to the latest statistics from UNMIK, by the end of October 2008, 35 people had been convicted on charges

of arson, looting, inciting racial, religious and ethnic hatred, and assault, the same number as at the end of January.

There was also little progress in determining the fate of missing persons. As of April 2008, 1,963 persons—the majority Kosovo Albanian—remain missing. In June the Parliamentary Assembly of the Council of Europe nominated Dick Marty as rapporteur to investigate the fate of missing Serbs allegedly transferred to northern Albania after June 1999. The Kosovo government has refused to investigate the allegations.

Human Rights Defenders

Human rights defenders are largely free to operate without hindrance from international authorities or the Kosovo government.

The Ombudsperson Institution remains compromised by the failure of the Kosovo Assembly to appoint an ombudsperson, with the process restarted in September 2008 for the third time. The institution has had an acting ombudsperson since 2006. But UNMIK's cooperation improved, with progress on addressing the backlog of correspondence and requests from the Ombudsperson. At this writing, EULEX had yet to initiate cooperation with the institution.

The Human Rights Advisory Panel has received over 30 cases, dealing with alleged property rights violations, access to court, and challenges to UNMIK executive decisions. At this writing EULEX had yet to indicate whether the panel can receive complaints against it. In December 2007 the families of two protestors killed by Romanian UN police in 2007 filed their claim with the panel. In September the UN Special Representative of the Secretary General (SRSG) argued that the claim was inadmissible because of a failure to exhaust alternative remedies. The SRSG has not provided a response to the merits of the complaint to date, despite a request from the panel. The panel decided in October to convene a public hearing in January 2009 to consider the admissibility and merits of the case. At this writing, it had yet to issue a recommendation in relation to any case before it.

Key International Actors

In October the United Nations General Assembly approved Serbia's request for a ruling by the International Court of Justice on whether Kosovo's unilateral declaration of independence accords with international law.