

Kosovo⁴

IHF FOCUS: elections and referenda; freedom of expression and media; judicial system; independence of the judiciary; law enforcement; national minorities; returnees and displaced persons.

The prevailing feature of the overall developments in Kosovo was predominantly characterized by a slow but certain movement towards the normalization of life. The November general elections, deemed free and fair, as well as the adoption of the Constitutional Framework for Provisional Self-Government, were major achievements in 2001. The Constitutional Framework, besides its constitutional principles, includes also a number of international human rights treaties that are directly applicable to Kosovo, as well as guarantees and mechanisms for minority communities that provide for their political representation. The international administration retains supreme authority in key functions such as security, external relations and the judiciary.

A multinational and representative Parliament of Kosovo, representing all national communities was established in December as a result of the first free and democratic general elections in the history of Kosovo, emphasizing the hope for and necessity of inter-ethnic co-existence. The participation of Serbs and other minorities in the Parliament represented a new and positive development.

Within the framework of international administration, the Joint Interim Administrative Structure (JIAS) has continued to operate as well as its central executive organ, the Interim Administrative Council (IAC) which functioned until the election of the President and nomination of the Government in early 2002. The IAC functioned as a surrogate interim Government of Kosovo and its departments as surrogate Ministries, while the Kosovo Transitional Council (KTC) was dissolved in the period immediately preceding the general elections. The multi-

ethnic participation in JIAS structures included Kosovo Serb representatives. The election of the President and the nomination of the Government were delayed due to the issue of coalition building among Kosovo Albanian political parties and the unexpected resignation of the head international administrator, Mr Haakerup, at the end of 2001. The appointment of a new international administrator is expected to mitigate the process.

The October 2000 municipal elections resulted in functioning local governments, albeit rather modest and far from optimal. All vital segments of life were strengthened, although considerable deficiencies and shortages persisted.

International and domestic experts were in the process of drafting new Criminal, Civil and Procedure Codes in line with European standards. In order to enhance the upholding of human rights standards, the institution of the Ombudsman was established in 2000, and in 2001 his office reported on human rights violations by the UN administration, including cases of executive detention orders issued by the International Administrator in some serious and unclarified cases involving inter-ethnic violence.

The legal responsibility for law and order and security rested in practice with the internationals, while the local Kosovo Police Service (KPS) was being trained and in the process of assuming greater duties and responsibilities.

Despite positive developments, a multitude of problems still remained, particularly relating minorities due to the lack of rule of law. This resulted in insufficient overall security, particularly for Serbs and

Roma, and was reflected primarily in the curtailment of their freedom of movement, as well as politically-motivated violence and hostility. The latter problems, however, occurred on a significantly lower scale than in previous years. In addition, organized crime also increased, including trafficking in women. The modestly functioning judicial and law enforcement systems represented the weakest sectors of the post-war Kosovo administration.

According to the UNMIK, in 2001, there were 136 cases of violent deaths or killings,⁵ i.e. almost 50% less than in 2000. Of the 136 deaths, 92 were Albanians, 32 Serbs and the rest represented other ethnic groups. While the KHC assumed that most of the killings were related to ordinary crimes, it indicated that 64 were somehow inter-ethnically motivated: 36 deaths of Albanians (56%), 22 of Serbs (34%), and 6 of Roma (9%), affecting Serbs and Roma disproportionately. Eight victims were killed due to land mines, including three KFOR soldiers. Most cases of death remained unresolved.

However, the increasing number of incidents of violence, especially among Albanians, were believed to be purely criminal acts. The number of persons wounded in violent incidents was 124, fourteen of whom were injured by land mines.

The detention of Albanians in Serbian prisons and the issue of missing persons also aggravated the situation. As of the end of 2001, 475 Albanians had been released from Serbian prisons but 150 remained incarcerated despite international calls for their release. According to the International Committee of the Red Cross (ICRC) 3,600 persons went missing in the Kosovo war: 2,745 Albanians and 843 others belonging to minorities. There was still no reliable indication as to their whereabouts. During 2001, however, a number of mass graves in Serbia were discovered containing about 800 bodies, believed to be Kosovo Albanians who had been buried secretly

during the war by Serbian forces. Most of them have yet to be identified.

The dissolution of ethnic enclaves that practically amounted to a form of artificial and forced ethnic segregation, first and foremost providing security for freedom of movement of all citizens, remains a serious and primary challenge for international and domestic police structures in the forthcoming period.

Elections

An important step towards normalization and institutional development was the 17 November general elections organized by the OSCE Mission in Kosovo (OMIK). These elections resulted in the first freely and democratically elected Parliament in the history of Kosovo. Numerous international and domestic observers and monitoring teams, including the Kosovo Helsinki Committee (KHC), deemed the elections well organized, democratic and free.⁶

A very important feature of the elections was the participation of the Kosovo Serb community that boycotted the municipal elections in 2000. The Kosovo Serbian coalition "Return" managed to get some 90,000 votes (11.2%), both in Kosovo and from the internally displaced persons in Serbia and Montenegro where the OMIK in cooperation with Belgrade authorities organized the polling. As a result of the constitutionally provided "positive discrimination", the Serbian community is represented by 22 members in the Parliament and two members in the seven-member Parliament Presidency. The constitutional provisions also provide that at least one Serbian member should be in the nine-member Kosovo Government, as well as one belonging to other minorities.

Freedom of Expression and Media

There were a large number of Albanian-language media outlets, particularly print media outlets. Despite the attempts of

the UNMIK and the OSCE to re-establish print and broadcast media systems representing all ethnic groups in Kosovo, Serbian and other minority-language media experienced difficulties.

Kosovo Public Radio and Television operated under the supervision of the OMIK, and transmitted up to ten minutes programme in the Serb language daily. Programmes in the Turkish language were broadcast occasionally. UNMIK TV transmitted a daily ten-minute Bosnian-language news report. In addition, a number of other private electronic media transmitted in the Albanian and partially in the Serbian language. Serbian-language printed media was available only in Serb enclaves.

No censorship in the media was reported, but there was a self-imposed restraint on the reporting on certain topics such as organized crime, ethnically and politically motivated violence, sensitive political issues, etc. due to fear of potential retaliation by those affected. Several print media were fined by the OSCE supervising board for violations of journalists' ethical codes as well as unbalanced and biased reporting during the pre-electoral campaign. The daily newspaper *Epoka e Re*, closely affiliated with the Democratic Party of Kosova (PDK), was fined 1,000 DM (511 Euro) for strong bias towards PDK. The daily *Bota Sot*, closely affiliated with the Democratic League of Kosova (LDK), was fined twice, up to 10,000 DM for publishing a picture with a slanderous caption against the PDK presidential candidate and for imbalanced and biased reporting on political issues.

Judicial System and Independence of the Judiciary

In May, the UNMIK promulgated a Constitutional Framework for Provisional Self-Government in Kosovo. Among other things, it provided for the structure of the Administrative Department of Justice, which includes three directorates: the

Directorate for Administration of Courts and Public Prosecuting Offices; the Directorate of the Correctional Service; and the Directorate of Professional and Legal Development. The Justice Department, as well as all the other four key governmental segments such as the police and defense affairs, foreign relations and financial policy, will remain under direct control of the international administration also after the formation of the Government and Parliament of Kosovo

According to Chapter 8 of the Constitutional Framework, the Kosovar justice system remained under the direct authority of UNMIK, and the International Administrator was the supreme authority. The Framework set up the Judicial and Prosecuting Council, which was authorized to counsel the International Administrator on all relevant issues.

As of the end of 2001, there were 29 regular courts, 23 courts for misdemeanours and 13 public prosecutors' offices functioning in Kosovo. Further, the Supreme Court of Kosovo was in operation, with one of its sections also dealing with constitutional questions. In addition, there was the Court for Economic Matters, five district courts, and 22 communal courts and the High Court for Misdemeanours.

The judicial system of Kosovo recuperated from the war and managed to reach its fully developed institutional form, with the help of the international community. However, there were still a number of courts and other judicial organs that were in very poor condition.

The international community dispatched international judges and prosecutors to Kosovo in order to avoid and/or remedy potential bias and partiality of the judiciary in cases where parties were of different ethnicity, and to provide the necessary experience of a modern judiciary. Ten international judges and six public prosecutors were appointed to the Supreme Court, to

the Office of Public Prosecutor and to all district courts, to deal with war crimes, inter-ethnic and other more complex cases. Their numbers, however, were still too small and did not even remotely meet the needs.

Correctional institutions and prison facilities were reconstructed, the major ones being the Dubrava facility near Istog, and the prison and correctional institution near Lipjan. There were five district prisons in Kosovo.

The legal system became operational and functional, although with considerable difficulties. Despite the appointments of multi-ethnic judges, the personnel were still mono-ethnic. Risks and difficulties faced by judges and other judicial personnel representing minorities discouraged non-Albanians from serving in the judicial system: in general, Serbs constituted no more than 2% of judicial staff, while in public prosecutors' offices and misdemeanour courts they were not represented at all.

Serb judges and judicial personnel generally rejected jobs within the Kosovar judicial system and set up a parallel Serbian judiciary in Serbian enclaves in Kosovo. This happened despite the fact that the international administration and its Department of Justice supported the idea of minority judges and prosecutors being incorporated into the existing system, permitting them to have a full and active role in the delivery of justice in a fair and impartial manner.

Law Enforcement

Three years after the armed conflict in Kosovo, providing for law, order and security was one of the key efforts and concerns of international authorities. This remained an overly challenging task, and by the end of 2001, the number of CIVPOL international police officers deployed in Kosovo was increased to 4,500. Additionally, the Kosovar civil police force known as the Kosovo Police Service (KPS), was growing

and being trained. By the end of 2001, there were 4,500 KPS cadets, some 15% of them representing minorities: 8% Serbs and 6% Bosniaks, plus some Turks and Roma. Serb police officers were mainly located in the Serbian enclaves of Kosovo. Seventeen percent of the KPS forces were women.

The number of KPS police officers needed to deal efficiently with law, order and security issues was estimated at 8,000-10,000 officers. The shortage of law enforcement officers, coupled with the modest operation of the judicial system, resulted in insufficient rule of law and prevailing deficiencies in security.

Due to a lack of authority, KPS cadets came under threat and physical attacks by Kosovar citizens.

◆ In September, a KPS cadet was killed and another seriously wounded as they tried to stop a reported theft of cattle in the Gjilan region.

The main reasons for the security flaws were political tensions resulting from uncertainty about the final political status of Kosovo. Both key ethnic actors, the Albanians and the Serbs continued to have antagonistic positions and aspirations, trying to substantiate their basic aspirations. Technical reasons for the unsatisfactory security situation and poor efficiency of international and domestic police forces could be attributed to the lack of direct local police officers who would be adequately trained, structured, and controlled, as well as acquainted with local circumstances and able to speak local languages. The lack of sufficient cooperation with law enforcement on the part of citizens was also one of the reasons – but, at the same time, one of the consequences for the lack of cooperation: locals hesitated to cooperate and provide necessary information both for fear of the police leaking information and due to the absence of a witness protection programme.

National Minorities

The protection of minorities was one of the main concerns in Kosovo in 2001 despite the significant decrease in violent incidents in comparison to the previous year. Freedom of movement continued to be one of the main concerns and one of the most visible indicators of the vulnerability of minority communities, particularly Serbs and Roma.

Restrictions on the freedom of movement, coupled with the risk for personal safety, reduced the lives of Serbs and Roma to confinement within the borders of their enclaves, except when travelling in KFOR escorted convoys. As a consequence, they also suffered from other violations of basic rights, such as the right to employment, health care, property, etc.

Explosions of hand grenades and bombs, injuring minority members and the kidnappings of young girls, mostly Albanians but also Serbs and others, were reported throughout the year, albeit to a lower extent than a year earlier. Ethnically and politically motivated violence also targeted Serbian-speaking Bosniak Muslims.

On the positive side, civil society activities involving ethnic Albanians and some members of the Bosniak, Turkish, Ashkali and Roma minorities were initiated by several prominent Albanian activists and NGOs. These led to greater participation by minority members in public and other structures and improved their public image in Kosovo. One such initiative was the round table organized by the IHF, KHC and the CDHRF in Prishtina in November on "Elections, Inter-Ethnic Relations and Rule of Law" in which prominent representatives of Albanians, Serbs and other minorities participated. The IHF and KHC also organized seminars about the European Convention on Human Rights for Kosovar lawyers. In addition, the Norwegian Helsinki Committee and the KHC organized human rights schools for students in Peja and Prizren.

Violence against Serbs

Based on international field assessments, an estimated 97,000 Serbs (i.e. about one half of their pre-war number) remained in Kosovo, making up about 6.2% of its population. They lived primarily in the northern part of Kosovo and in enclaves in Grachanica near Prishtina, Gjilan, Vitina, Kamenica, Shterpce, Obiliq, Fushe Kosove, Lipljan, and Rahovec. Some 100,000 Serbs left Kosovo along with the withdrawal of Serbian forces. International sources estimated that other minorities made up some 73,000 people or 4.6% of the total population.

In the summer of 2001, the Interim Administrative Council approved a programme for the return of Serbs. The first such pilot project was launched in August in the village of Osojane near Istog, where 54 mainly elderly Serbs returned to their homes most of which had been destroyed. The houses were to be repaired by the UN-HCR while the Spanish contingent of the KFOR was responsible for.

Reports of violence against Serbs were received throughout the year. In January, hand grenades were thrown into Serbian homes in Vitina and the village of Hoqa e Madhe, near Rahovec, exploding and injuring several persons. February turned out to be one of the worst months for Serbs in terms of security. Later in the year, the wave of violence against Serbs was subdued but intimidation and harassment continued on a lower scale.

◆ In January, a hand grenade was thrown into a Serbian home in the centre of Vitina severely damaging it and wounding a Serbian woman living in it. On the same day, a bomb was thrown into an uninhabited home of a Serb in the village of Crnica near Gjilan.

◆ In February, the Serbian Orthodox Church in Gornji Livoq, near Gjilan, was destroyed in an explosion.

◆ On 27 February, Branko and Savita Jovic, an elderly Serb couple, were found beaten to death in the village of Charakovc near Kamenica.

Periodical KFOR-escorted bus convoys for Serbs provided safe travel in Kosovo as individual travel in cars and the use of public transport were too risky for them.

◆ On 16 February, one of the most severe attacks against Kosovar Serbs occurred since 1999. A powerful, remote-controlled explosive detonated when a KFOR-escorted convoy from Serbia to Kosovo passed over it near the Merdare border point. Eleven Serbs were killed and some 40 were wounded. In July, the international police arrested four people, among them members of the Kopsovo Protection Corps, on suspicion of involvement in the incident. Their detention and investigation were extended several times under “executive orders” by the International Administrator. The investigating international judges released them due to a lack of evidence after nearly one year of detention. The international Ombudsman contested the “executive orders” as an extra-legal mechanism that violated the detainees’ rights. The three were released upon the Ombudsman’s recommendation while the investigation proceeded.

◆ On 29 August, the body of a Kosovar Serb who had been reported missing one day earlier was found full of bullets in the Serbian Shterpce enclave.

◆ A Kosovar Serb woman (78) was brutally murdered in Ferizaj, as well as a Kosovo Serb farmer in Vitina.

◆ On 5 November, 14 Serbian gravestones were broken and damaged by unknown perpetrators in the southern part of Mitrovica.

The acts of terror, killing and sabotage, including stone throwing and damaging the railway line, contributed to a negative cumulative effect on Kosovar Serbs and re-

sulted in the collective fear of being targeted by ethnic Albanians even when travelling under KFOR security escort.

Violence against Roma

After the war, the Roma population, to which also Ashkalia and Egyptian Roma belonged, were generally perceived by Kosovar Albanians as Serbian collaborators. They became targets of indiscriminate and arbitrary violence by some extremists. Their security and freedom of movement were considerably curtailed, although improvements did occur also due to recent reconciliation between the civil society organisations in Kosovo.

In addition, all Roma groups had faced discrimination, harassment and social exclusion already before the war. Ashkali and Egyptians were perceived to be closer to Albanians because they frequently spoke the Albanian language, and were not routinely regarded as being collectively allied with Serbian forces during the war. Still, these groups were sometimes also subjected to ethnically motivated violence and hostilities. Insufficient security and a lack of freedom of movement remained overriding concerns for Roma in 2001.

◆ On 8 February, an abandoned Roma home was set on fire and completely destroyed.

◆ On 10 February, individuals throwing hand grenades attacked a Roma family in Suva Reka.

◆ On 13 February, a Roma Ashkali home was hit with a bazooka and an Ashkalia man was found shot dead and dumped on the roadside near Shtimje.

◆ An old Ashkali Roma woman Zylfije Hamza (80) died when her house was set on fire in April in Rahovec.

◆ Four Roma and two Ashkalia Roma women were wounded in attacks on 4 August. In addition, other forms of low-level at-

tacks, intimidation and harassment were directed towards members of Roma communities.

Violence against Albanians

Ethnically and politically motivated violence was also directed towards the Albanian population, particularly in the Serbian-controlled northern Mitrovica enclave. Their security and freedom of movement were severely restricted almost in the same manner as that of ethnic Serbs in the rest of Kosovo.

- ◆ 15-year-old Gazmend Ibrahim was killed in northern Mitrovica by a grenade thrown by rioting Serbs on 29 January. Seven Albanians and a Bosniak were wounded in the clashes and an Albanian house was burnt down. The incident sparked protests amongst Albanian and Serbian communities, followed by further violence and casualties. French KFOR forces separated the two sides and stopped the violence, resulting in 14 injured KFOR soldiers. The violent protests lasted for over a week.

- ◆ Raif Vllasi (62), brother of the former prominent Kosovo Albanian politician, was found dumped on a roadside with his cut throat. Two local Serbs were apprehended as suspects.

Cases of political violence against Albanians happened mostly in other parts of Kosovo.

- ◆ In April, local mayor Ismet Rraci, Head of the LDK party in Klina, was assassinated by unknown gunmen while leaving his house.

- ◆ The Albanian family Hajra, including husband, wife and three children (between the ages of nine and 22) were killed in August in their car near Drenas (Glogovac) by unknown gunmen spraying machine-gun fire from an ambush. Hamz Hajra (50) was suspected of collaborating with the Serbian secret police even before the war and to have persecuted Albanians. The

man had gone into hiding for a couple of years after the withdrawal of Serbian forces. Albanian extremists were said to be responsible for the attack.

- ◆ On 19 October, an Albanian journalist of the newspaper *Bota Sot* was killed in Vucitrn, and a local LDK official was wounded.

- ◆ On 10 December, the day of the first session of the Kosovo Parliament, a driver and personal guard of the local mayor of Istog, head of the local LDK, was killed.

A number of high-ranking members of the TMK were arrested as suspects in the assassination of a prominent former Kosovo Liberation Army (KLA) Commander Ekrem Rexha–Drini. In addition, a number of suspects involved in the assassination of prominent LDK functionaries Ismet Rraci, Shaban Manaj and Xhemajl Mustafa (the last two assassinated in 2000) were arrested. International police were thus beginning to be perceived as much more effective than before. In November, Gani Imeri, Lt.Colonel of the TMK and head of its 343 Battalion (former KLA), was arrested by international police officers suspected of involvement in the abduction and killings of Serbs before and after the war.

Returnees and Displaced Persons

Due to the fighting in Macedonia, a flow of Albanian refugees came to Kosovo. At the peak of the crisis in the summer of 2001, the number of refugees reached 81,000 persons, leading to serious humanitarian emergencies and additionally raising inter-ethnic tensions. By the end of 2001, most of the 20,000 refugees from Presevo valley had returned to their homes.

- ◆ On 8 March, Albanian families were forcefully evicted by extremist Serbs in northern Mitrovica. Eleven houses were damaged and one was burned.

It was estimated that in the post-war period only some 1,500 Serb internally displaced persons had returned to Kosovo.