



## Serbia

### Events of 2009

Serbia continued on the path toward greater domestic accountability for war crimes, but the government failed to arrest the region's most wanted war crimes suspect Ratko Mladic. Tensions in the Albanian-majority Presevo valley flared into instances of violence in July. The forced eviction of more than 100 Roma from their homes in Belgrade underscored that minority's vulnerable position in Serbia as a whole. The cancellation of the Gay Pride Parade in Belgrade illustrated continuing intolerance toward lesbian, gay, bisexual, and transgender (LGBT) people.

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### War Crimes Accountability

Serbia failed to bring to justice Ratko Mladic and Goran Hadzic, both indicted by the International Criminal Tribunal for the former Yugoslavia (ICTY) and believed to be in Serbia. The Serbian government has repeatedly undertaken (including in 2009) to arrest Mladic, a precondition for closer ties with the European Union.

In February the ICTY convicted five former top Serbian officials for war crimes and crimes against humanity in Kosovo. Nikola Sainovic, Nebojsa Pavkovic, Sreten Lukic, Vladimir Lazarevic, and Dragoljub Ojdanic were given prison sentences ranging from 15 to 22 years. A sixth defendant, former Serbian president Milan Milutinovic, was acquitted of similar charges.

In July the ICTY sentenced Vojislav Seselj, the former leader of the Serbian Radical Party, to 15 months' imprisonment for breaching witness protection rules. Seselj is currently on trial before the Tribunal for alleged war crimes in Bosnia and Croatia.

The Belgrade War Crimes Chamber continued its efforts to hold alleged perpetrators accountable for wartime abuses, despite limited funding, inadequate political support, and little public awareness of its work. In March the Chamber convicted 13 former Yugoslav army reservists for their participation in the 1991 massacre of around 200 Croats in Ovcara, Croatia, sentencing them to up to 20 years' imprisonment. In June the Chamber sentenced four members of the "Scorpions" paramilitary unit to prison terms of between 15 and 20 years for crimes against Kosovo Albanian civilians committed in 1999.

Significant ongoing trials in the Chamber during 2009 and relating to alleged crimes in Bosnia, Croatia, and Kosovo include the Zvornik trial, the "Tuzla Column" trial, the Lovas trial, the Suva Reka trial, the Banski Kovacevac trial, the Trbojevic trial, the "Bytyqi Brothers" trial (named after the victims), the Podujevo trial, and the Morina trial. Notable new indictments include charges in June against 17 former members of the Kosovo Liberation Army (KLA)'s "Gnjilane group" for alleged war crimes against Serbs, Roma, and Albanians in 1999, and charges in July against Nenad Malic for alleged war crimes against Bosniak (Bosnian Muslim) civilians in 1992.

In September 2009 the Supreme Court delivered the final decision in the "Zvornik I" case, reducing the sentences of two

former Bosnian Serb paramilitaries and confirming the sentence and acquittal of two others.

### **Treatment of Minorities**

Forced evictions in Belgrade in April underscored the fact that Roma in Serbia continue to lack full enjoyment of their rights. On April 3, police forcibly evicted 128 Roma people, some of them displaced from Kosovo and including women and children, from their informal homes in a poor neighborhood in New Belgrade. On April 2 the Roma had received official notification from Belgrade municipal authorities that they had 15 days to leave. Less than 24 hours later police arrived with bulldozers to destroy their makeshift homes. The evicted families were left homeless and lost most of their belongings. At this writing they have not been compensated for their lost property.

The evicted Roma are currently living in metal containers in another municipality, near Belgrade. Their move there was initially blocked by local residents, illustrating the widespread discrimination and hostility Roma face in Serbia.

In July the United Nations Committee against Torture found Serbia to have violated the Convention against Torture in the case of Besim Osmani, a Roma man, who had been beaten by police together with his four-year-old son in June 2000 during a forced eviction and demolition operation in an informal settlement in Belgrade. At this writing the Serbian government has yet to respond to the decision.

Longstanding tensions in the Albanian-majority Presevo valley area occasionally flared into violence in 2009. The most serious incidents occurred in July: two Serbian police officers were injured in a grenade attack, and two days later two ethnic Albanians were injured in a bomb explosion in the village of Lucani, prompting the Serbian government to raise the level of alert in the region, which resulted in additional police forces being deployed. Five days later the Presevo municipal assembly requested the withdrawal of the additional police and condemned alleged "general police brutality." In August the regional assembly of Presevo, Medvedja, and Bujanovac passed a declaration demanding the establishment of a separate autonomous region with its own institutions.

In a positive move, the Serbian parliament in March approved an anti-discrimination law, prohibiting discrimination on the basis of race, religion, gender, and sexual orientation, despite opposition to the inclusion of protection for LGBT people from a coalition of churches led by the Serbian Orthodox Church.

In September Prime Minister Mirko Cvetkovic advised the organizers of the Gay Pride Parade in Belgrade to move the event from the streets to a city park, saying the police were otherwise unable to guarantee security to the participants (the only previous parade, in 2001, had ended in violence). The marchers called this "unacceptable" and cancelled the event. Less than a week later, Serbia's public prosecutor called on the government to ban two far right groups linked to the threats that led to the cancellation.

### **Integration of Refugees and Displaced Persons**

According to the United Nations High Commissioner for Refugees (UNHCR), as of August 2009 there were 309,171 internally displaced persons (IDPs) and refugees in Serbia. Many continue to face problems obtaining documentation, accessing housing and other social services, and finding employment. Around 6,000 displaced persons from Bosnia, Croatia, and Kosovo remain in collective centers in Serbia, often in substandard conditions. Roma IDPs from Kosovo face particularly poor economic and

social conditions.

Forced returns of Roma from Western Europe continued, absent any program to assist them, placing a particular burden on Roma host communities. According to UNHCR, between January and May, 163 individuals, including 110 Roma, were involuntarily deported to Serbia from Western European countries. UNHCR did not record any Kosovo Roma being involuntarily returned to Serbia during the first five months of 2009.

### **Media Freedom**

Amendments to the Law on Public Information entered into force in July, prompting widespread criticism by Serbian media and international press freedom organizations because of the excessive size of permissible fines for libel. Critics fear this could discourage investigative journalism and stifle press freedom.

### **Human Rights Defenders**

The LGBT NGO Gay-Straight Alliance came under pressure in 2009. In February the organization was prohibited from holding a news conference in Belgrade's Sava Congress Center by municipal officials. After criticism in the media and by Serbia's human rights minister, the director of the center and Belgrade's mayor both apologized for the decision. In March hooligans threw stones at the door of a conference center in Kragujevac where the organization was holding a press conference to present its annual report. Police arrested and fined three people (including one minor). The Kragujevac city council condemned the attack.

In February a Belgrade municipal court found Natasa Kandic, director of the Humanitarian Law Center, guilty of criminal libel against Tomislav Nikolic, an MP, member of the Serbian Progressive Party and former Radical Party leader, and ordered her to pay Nikolic 200,000 dinars (approximately €2,000) in damages. The suit arose from comments by Kandic that Radical Party members should be investigated for war crimes committed against Croatian civilians in 1992. The Belgrade district court quashed the judgment in June. The government was silent throughout the episode.

### **Key International Actors**

The European Union's Stabilization and Association Agreement (SAA) with Serbia was stalled due to Serbia's failure to apprehend Ratko Mladic. However, in July the European Commission proposed that Serbian citizens should be allowed to travel visa-free to the EU's Schengen area as of early 2010. Approval of the proposal is pending at this writing. The European Commission's annual progress report on Serbia in October 2009 highlighted the need to apprehend Mladic and address the plight of Roma.

During a visit to Serbia in May 2009, US Vice President Joe Biden expressed the Obama administration's desire to "deepen relations with Serbia," stating that Washington supported its plan to join the EU.

During the Universal Periodic Review of Serbia at the UN Human Rights Council in December 2008, key concerns raised included the treatment of Roma, protection of minorities, violence against and trafficking of women, the plight of human rights defenders and independent journalists, and war crimes accountability.

In July 2009 the UN representative on the human rights of IDPs, Walter Kalin, published a report following his visit to Serbia

earlier that month, pointing to the ongoing problems with housing and employment faced by Roma and other IDPs from Kosovo.

Political tensions surrounding the status of Kosovo continued. Serbia's claim against Kosovo following its declaration of independence remained pending at the International Court of Justice. A September police cooperation agreement between the Serbian government and the EU police and justice mission in Kosovo (EULEX) stirred political controversy in Belgrade and Pristina. In October, Serbian authorities agreed to collaborate with EULEX on identification of the remains of victims in mass graves from the Kosovo conflict.

### **Kosovo**

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 Gjesh 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.

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