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OSCE in damning indictment of Kosovo judiciary

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A new OSCE report on the March 2004 Kosovo Albanian violence against Serbs, which was presented on Thursday, said that these developments had seriously undermined Kosovo's efforts to become a tolerant multiethnic society and pointed at numerous serious omissions of the Kosovo judiciary to punish the perpetrators.

The report, entitled "Four Years Later", presented in Pristina, looks at the work of the judiciary in Kosovo in cases relating to apportioning guilt for crimes committed during the pogroms of Serbs initiated by the province's Albanians in March 2004.

"The Kosovo courts are still having difficulty in obtaining statements from witnesses, private persons, and police officers, as they failed to appear before the courts, and gave statements that differed from their original statements," the report states.

The OSCE also points out frequent cases where "charges or sentences issued to suspected perpetrators for certain crimes do not befit the gravity of the crime in question."

"Courts frequently failed to take into account ethnically motivated factors, which were the cause of many of the crimes. Suspects convicted of serious crimes, such as setting alight religious monuments or injuring people, including policemen, often received lenient sentences, many of which were suspended," the report continues.

Concern is also expressed over the small number of indictments, backed up by the fact that between March 2004 and April 2008, 242 people were charged over the March violence.

A further 157 individuals were charged with minor offenses.

Since December 2005, only 21 new cases have been launched, which means that since March 2004, prosecutors have only launched proceedings against 400 people, while over 50,000 people took part in the disturbances altogether, meaning that the majority of perpetrators have escaped without punishment.

"The small number of indictments prevents non-punishment being stopped in an adequate manner and a clear message being sent that the escalation of ethnic violence such as witnessed in March 2004 will not be tolerated," says the OSCE, stressing the fact that, by not bringing the perpetrators to justice, public confidence and the rule of law is being undermined in Kosovo.



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The wave of unrest surged on March 17 and 18, 2004 throughout Kosovo, and was caused by two incidents that were allegedly believed to be ethnically motivated.

Nineteen people were killed, over 900 were injured, including 65 members of the international police and 58 Kosovo Police Service (KPS) officers, while 800 buildings were destroyed or damaged, including 29 churches and monasteries.

Prior to the latest report, the OSCE compiled its first report on the March 2004 violence in 2005, focusing on the reaction of the Kosovo judiciary to the incidents.

In that first report, the OSCE stated that the difficulties in collecting evidence and the reluctance of witnesses to come forward were the biggest obstacles to concluding proceedings successfully, something that has not changed in the new report.

The OSCE adds that the Kosovo justice system could make more progress in prosecuting individuals responsible for the March 2004 violence, and says that “such failures have been allowed by all actors involved in criminal proceedings—the police, prosecutors, courts, and witnesses.”

“In certain instances, police officers did not submit their reports on time, and did not attend hearings to which they were summoned as witnesses. Prosecutors rarely punished alleged perpetrators for the relevant crimes, and did not submit well-outlined appeals on time to rectify possible oversights in first-instance proceedings,” the report continues.

The OSCE states that “although the majority of rulings were within the legally defined framework, courts should have sanctioned criminals more severely, especially in cases where crimes were evidently ethnically motivated.”

It is stressed that through the frequent use of suspended sentences, the Kosovo judiciary had failed to ensure that those responsible for crimes during the violence of March 2004 had been brought to account for their actions.

The OSCE believes that the Kosovo Police Service, among others, must urgently wrap up investigations into crimes committed during the violence, and bring cases before the prosecutor without any further ado.

It is also stressed that Kosovo prosecutors should only charge people for taking part in a group that committed a crime if there is no other better alternative.

They must also carefully decide whether there are elements of more serious acts, such as causing general danger or arousing national hatred.

Kosovo courts must carefully decide where the factual status described in indictments



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corresponds with the prosecutor's legal qualifications, and when certifying indictments, should, where necessary, pre-qualify indictments to reflect the gravity of the crime in question, concludes the document.