



# KOSOVO

## COMPROMISE 2007

Your daily-updated analyses, charts and solution plug-ins for the Kosovo crisis.

---

January 15, 2009

## Kosovo

KosovoCompromise Staff

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.



# KOSOVO

## COMPROMISE 2007

Your daily-updated analyses, charts and solution plug-ins for the Kosovo crisis.

---

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.



# KOSOVO

## COMPROMISE 2007

Your daily-updated analyses, charts and solution plug-ins for the Kosovo crisis.

---

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.



# KOSOVO

## COMPROMISE 2007

Your daily-updated analyses, charts and solution plug-ins for the Kosovo crisis.

---

### **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.