

AMNESTY INTERNATIONAL

Public Statement

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Amnesty International calls for full transparency in UNMIK inquiry into deaths of Mon Balaj and Arbën Xheladini

Amnesty International is calling for full transparency in the conduct of the United Nations Interim Administration Mission in Kosovo (UNMIK) police inquiry into the killing of Kosovo Albanians Mon Balaj and Arbën Xheladini during a demonstration on 10 February 2007, called by the NGO Vetëvendosje (Self Determination).

The two men were killed during a demonstration in Pristina against the recently published proposal on the future status of Kosovo issued by UN Special Envoy Martti Ahtisaari.

A third man is reportedly in a coma at US Bondsteel, while according to Vetëvendosje several other persons remain in hospital, some of them in a critical condition. Some 80 persons, including five police officers, were reportedly injured, including by tear-gas.

Some 500 Kosovo Police Service (KPS) and UNMIK civilian police officers, including special police units from countries including Romania and Ukraine, were deployed to the 3,000-person demonstration. The shootings reportedly occurred after protestors had been prevented by the police from approaching the government buildings. Tear-gas was used to disperse the largely non violent procession, some of whom had sat down in the road in front of the police. One eye witness told Amnesty International that the tear-gas was released after about an hour. She turned around to escape the tear-gas as soon as it was released; as she turned, she was shot in the back with a plastic bullet. Four different types of rubber bullets or plastic covered steel bullets were reportedly collected after the demonstration from the site.

According to UNMIK Deputy Police Commissioner Trygve Kalleberg, the investigation will be conducted by an investigative Task Force including both international police and KPS not deployed during the demonstration. According to the UN Special Representative of the UN Secretary General (SRSG), Joachim Reucker, an international prosecutor from the UNMIK Department of Justice is also involved in the investigation, which will be observed by the Police Inspectorate of Kosovo, responsible for the oversight of the KPS.

Amnesty International urges that this investigation is carried out in accordance with the UN Principles on the Effective Prevention and Investigation of Extra-legal Arbitrary and Summary Executions, which sets out the necessary elements of an effective, independent and impartial investigation. The investigation should comprise an analysis of all physical and documentary evidence and statements from witnesses and be carried out by persons of recognized impartiality, competence and independence. It is of particular importance such an inquiry should be independent of any institution, agency or person that may be the subject of the inquiry. In these current circumstances it is therefore essential that the panel should include

independent experts in forensic pathology, ballistics, crowd control and crime scene investigation.

The organization regrets that the withdrawal of the competency of the Office of the Ombudsperson over acts and omissions by UNMIK in early 2006, and the failure of UNMIK to constitute the Human Rights Advisory Panel, intended to review complaints against UNMIK, have resulted in there being no body within Kosovo with the competency to conduct a fully independent and impartial investigation.

The investigation should look into the circumstances in which, and the extent to which, UNMIK police resorted to the use of force. In particular, the investigation should assess whether the use of force and firearms was consistent with UNMIK's own guidelines on the use of rubber bullets or plastic-coated bullets, and consistent with national law and international human rights law and standards, including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In particular, the investigation should examine the rules of engagement, including the risk assessment made in advance and resulting in the deployment of forces armed with plastic bullets, and orders given to the UNMIK police units involved.

Amnesty International urges that the inquiry should be conducted promptly and impartially, and the results made public as soon as reasonably possible. Any UNMIK police officers suspected of unlawful conduct should be immediately suspended; they should not be repatriated but should remain in Kosovo until the inquiry establishes whether there are grounds for a criminal prosecution. In this case, the SRSG should immediately apply to the UN Secretary General for a waiver of the immunity from prosecution granted to members of the UNMIK mission, and the suspects suspended pending indictment.

Amnesty International notes the resignation of Interior Minister Fatmir Rexhepi on Monday, accepting "moral responsibility" for the deaths. The organization also notes the resignation of UNMIK Police Commissioner Stephen Curtis, in response to a request by the SRSG. The organization urges both former officials to fully cooperate with the investigation into the deaths.

Amnesty International is also concerned at reports, including by the Institution of the Ombudsperson, that proceedings against Albin Kurti, leader of Vetëvendosje and one of the organizers of the demonstration, were closed to the press and public, including Albin Kurti's father. According to information received by Vetëvendosje, Albin Kurti has been charged with inciting violence and will be detained for another 30 days, pending investigations. The organization urges UNMIK Department of Justice to ensure that wherever possible -- bearing in mind the rights of the accused and the rights of victims and witnesses -- all trials are open to the public, and that all detained persons are afforded the rights guaranteed under applicable law

Background

Rubber bullets are kinetic impact devices, which may in certain circumstances have lethal force, and should therefore be treated for practical purposes as firearms. They should be used only by trained firearms officers and then strictly in accordance with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officers. This states, inter alia, that "Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury". According to police sources, UNMIK's own guidelines state that these bullets must not be used in close quarters situations, nor should they be aimed above the waist.

UNMIK police should institute strict rules for the issuing of such weapons and ammunition, and monitoring by them, of every round fired; they should also require that regular reports of such use are made by law enforcement agencies to the legislature. They should also have procedures in place to address the lack of a forensic ballistics trail in plastic baton rounds and rubber bullets in order to allow for adequate monitoring and, where necessary, investigation of human rights violations by law enforcement officials when using such equipment.

Amnesty International has previously raised concerns about the use of excessive force and firearms by

both UNMIK civilian police and the Kosovo Police Service, including to the former Police Commissioner, Kai Vittrup, and in the organization's July 2006 report to the UN Human Rights Committee.