



For Immediate Release

Kosovo: EU Should Ensure International Mission is Accountable

Success Will Depend on Effective Scrutiny of Human Rights Record

(Brussels, March 10, 2008) – The new European Union-led international mission to Kosovo must be subject to much greater scrutiny and accountability than its predecessor, the United Nations Mission in Kosovo (UNMIK), if it is to succeed, Amnesty International, Human Rights Watch, and the Norwegian Helsinki Committee said today. The NATO-led Kosovo Force should also be subject to much greater scrutiny.

“If the EU wants to assist in building respect for human rights and the rule of law in Kosovo, it needs to lead by example,” said Holly Cartner, Europe and Central Asia director at Human Rights Watch. “That means that its mission accepts serious independent scrutiny of its human rights record from day one.”

The EU-led international mission is expected to have two elements. An International Civilian Office (ICO), headed by EU Special Representative Pieter Feith, will oversee implementation of the status plan developed by UN special envoy Martti Ahtisaari. A related EU police and justice mission (EULEX), launched by EU states on February 16, 2008, will oversee the reform of the criminal justice system, and take responsibility for the prosecution of war crimes and other serious crimes.

The accountability gap of the UN mission, established in Kosovo in 1999, has been widely criticized, including by the Organization for Security and Co-operation in Europe, the Council of Europe and the UN Human Rights Committee, for the limited remedies available to those who allege violations of their rights by UNMIK.

This accountability gap was starkly illustrated in relation to the UNMIK police response to a demonstration led by the Self-Determination Movement in Pristina in February 2007. UNMIK police responded to the protest with out-of-date rubber bullets, killing two protestors and injuring others. While the UN mission’s much-criticized investigation revealed that members of the Romanian Forward Police Unit were believed responsible for the killings, the unit was repatriated before the end of the investigation. Those responsible for the deaths have yet to be identified and brought to justice either in Kosovo or Romania. This case highlights the lack of independent mechanisms for accountability and oversight of the UN police, and the potential for lasting damage to the reputation of international institutions in the absence of effective accountability.

“In the wake of the February killings, the EU’s commitment not to use rubber bullets in the new police mission is a welcome step,” said Nicola Duckworth, Europe and Central Asia programme director at Amnesty International. “But learning lessons from the past – including the unlawful killings in February by UNMIK police – also requires putting into place effective independent accountability mechanisms. Such mechanisms should be given the mandate to ensure accountability and redress where there are allegations of human rights violations by international police.”

UNMIK has recently taken belated steps to improve its accountability. After an almost two-year delay, in January 2008, the UNMIK Office of the Legal Adviser reversed its position, retroactively clarifying that the Ombudsperson Institution indeed had, and would continue to have, jurisdiction until the official appointment of a new Ombudsperson by the National Assembly. UNMIK also took steps to constitute the Human Rights Advisory Panel, a three-person international board whose members are based outside Kosovo – again, after an almost two-year delay. The panel has just finalized its rules of procedure and will start reviewing among other complaints those brought against UNMIK by the families of the two protesters killed in February 2007. Neither of these steps, however, provides effective redress for abuses that took place during the almost two-year period in which the Ombudsperson Institution was unable to accept complaints against UNMIK and the Human Rights Advisory Panel had yet to begin its work.

“UNMIK has finally begun to take some positive steps to improve its accountability, albeit too late,” said Bjorn Engesland, executive director of the Norwegian Helsinki Committee. “It’s crucial that the EU learns from that experience and creates effective accountability from the outset of the new mission.”

In recent reports, Amnesty International, Human Rights Watch, and the Norwegian Helsinki Committee have also drawn attention to the lack of accountability of members of UNMIK’s International Judiciary and Prosecutors Program, including the absence of an independent regulatory body competent to investigate allegations of professional misconduct.

The NATO-led peacekeeping Kosovo Force (KFOR) will remain in place. There is currently no independent mechanism to oversee KFOR or hear human rights complaints against it. Neither the Human Rights Advisory Panel nor the Ombudsperson Institution, since it became a national institution in February 2006, are competent to investigate complaints against KFOR. Thus the accountability of KFOR depends on the measures taken by troop-contributing countries to KFOR to ensure that allegations of human rights violations are fully investigated.

Amnesty International, Human Rights Watch, and the Norwegian Helsinki Committee consider that the following key measures should be taken to enhance the accountability of

all international personnel in Kosovo:

- The mandate of the Ombudsperson's Institution should be widened to enable the investigation and consideration of complaints about both EU and KFOR missions.
- The International Civilian Office (ICO) and the EU mission to Kosovo (EULEX) should take all measures to facilitate the ability of the Ombudsperson's Institution to conduct investigations into allegations of violations by those authorities.
- Measures to ensure the transparent accountability of international judges and prosecutors, while preserving their independence and safeguarding against political influence should be taken. In particular, the Kosovo Judicial Council and the upcoming Prosecutorial Council should be mandated to approve the appointments of international judges and prosecutors, respectively, and should be mandated to receive and consider public complaints about them, in a manner that will not adversely affect their independence and impartiality. It should be ensured that every allegation of misconduct on the part of an international judge or prosecutor is promptly, thoroughly, independently and impartially investigated and, where necessary, the individual in question be disciplined in fair proceedings.
- ICO and EULEX should also take measures to ensure that staff who depart from the mission remain available to participate in investigations and disciplinary or criminal proceedings.
- Where an independent judge determines that there is a reasonable suspicion that a criminal offense has been committed in Kosovo by a staff member of ICO and EULEX, the relevant sending state should either waive that person's immunity so that they can be prosecuted in Kosovo, or arrange for the case file to be sent to the competent judicial authority in the sending state for prosecution in that country.
- NATO and governments contributing troops to KFOR should permit the Ombudsperson Institution to investigate and consider complaints against KFOR.

For more detail on current accountability arrangements in Kosovo, please see the June 2007 Human Rights Watch briefing paper, "Better Late than Never: Enhancing Accountability of International Institutions in Kosovo," at:
<http://hrw.org/backgrounder/eca/kosovo0607/>

For details of the International Justices and Prosecutor's Programme, please see the January 2008 Amnesty International report, "Kosovo (Serbia): the challenge to fix a failed UN Justice mission," at:
<http://www.amnesty.org/en/news-and-updates/report/justice-failed-kosovo-20080130>

For an overview of rule of law developments and the human rights situation of minorities in Kosovo, please see the Norwegian Helsinki Committee report, "Kosovo – Need for a long term approach to the protection of human rights," at:
<http://www.nhc.no/php/>

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