

Mandates of the Special Rapporteur on minority issues; the Special Rapporteur on the human rights of internally displaced persons; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

REFERENCE:
AL KSV 1/2020

29 June 2020

Mr. Hoti,

We have the honour to address you in our capacities as Special Rapporteur on minority issues; Special Rapporteur on the human rights of internally displaced persons and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 34/6, 41/15 and 34/35.

In this connection, we would like to bring to your attention information we have received regarding the **worrying number of incidents targeting minorities in Kosovo**,¹ including physical and verbal assaults, harassment and intimidation, as well as the destruction and misappropriation of property. This may have a broader detrimental impact on the return of internally displaced Kosovo minorities, social cohesion and efforts to bring peace and stability to the region.

According to the information received:

From the onset of the COVID-19 crisis in March 2020 to 31 May 2020, 36 incidents targeting minorities in various communities in Kosovo have been reported. The number of inter-ethnic incidents continued to increase in the month of June 2020, and included four new reported cases. The reported incidents have involved alleged arson and destruction of property, burglaries and thefts, physical assaults resulting in injuries, verbal threats and offensive graffiti that may amount to incitement to discrimination, hostility or violence.

Most of the incidents have been directed against members of the Kosovo Serbian minority, and in particular Serbian internally displaced persons who have returned to Kosovo, as a means of discouraging further returns and pressuring them to leave Kosovo again. The incidents have largely occurred in locations where police investigations have not led to the arrest and prosecution of perpetrators. As a result, minority communities report that municipal institutions and police cannot be trusted to protect and ensure their rights without discrimination, and express concerns over the continuing impunity of perpetrators.

Several incidents have had a direct impact on the equal enjoyment without discrimination of the right to own property by members of minority communities

All references to Kosovo in the present document should be understood to be in compliance with Security Council resolution 1244 (1999)

in Kosovo. In particular the homes of several families have been damaged by reported arson and stoning. Certain incidents have involved burglaries and theft, including of agricultural equipment and livestock. In other cases, victims reported that they were prevented from using or cultivating their land due to verbal and physical attacks, property damage and illegal landfills. Such cases will reportedly impact upon the livelihoods of the concerned persons and have the potential to affect the realization of a number of human rights, including their right to an adequate standard of living.

According to the information received, on 10 April 2020 Kosovo police received reports that unknown persons damaged tombstones at the cemetery of Roma, Ashkali and Egyptian minority communities in Rahovec/Orahovac. Two incidents were further reported on 30 April and 9 May in different municipalities in which unknown perpetrators drew offensive graffiti against Kosovo Serbs. In another incident that took place on 21 May, a Kosovo Serb family was verbally assaulted and shouted at “leave” and “this is Albania”. The use of verbal assaults and provocative symbols adds to the fact that minority returnees and residents in these municipalities do not feel welcome and safe.

It has been reported that police have opened a number of investigations into some of the above allegations and, in some instances, have identified the alleged perpetrators. However, to date, no prosecutions have occurred as a result of these investigations. Measures have reportedly been taken to increase police patrols in areas where Kosovo Serb and other minorities live, and in a limited number of cases, local authorities have publicly condemned the inter-ethnic violence and requested that the incidents are duly investigated. Their call has been joined by the Special Representative of Secretary-General for Kosovo, other international actors operating in Kosovo, as well as some civil society organizations which advocate for an end to ethnically motivated violence and the prevailing impunity surrounding such acts. Nonetheless, incidents appear to continue and information received suggest no perpetrators have been brought before courts.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned by the increased number of violent incidents against minorities in Kosovo. More specifically, we are concerned that most incidents violate the right of returnees to live in safety and dignity, enjoy legal security of tenure, as well as undermine their use and ownership of land and property and access to housing without discrimination

We encourage all responsible institutions, including the law enforcement authorities in Kosovo, to ensure that the security and property of minorities, including all returnees, shall in all circumstances be protected, in particular, against attacks, theft, destruction or other acts of violence, illegal appropriation, occupation or use. Moreover, it is important to restore trust in the justice system and provide returnees with effective remedies for the violations of their rights, in line with international human rights framework. While remedies exist, they do not appear to be effectively applied or implemented for the concerned minorities are not provided with the expected protection,

leading to the impunity of perpetrators. It also appears that impunity may be the most important factor contributing to the phenomenon of violence against ethnic minorities. Therefore, perpetrators of human rights abuses should be identified and brought to justice.

We are gravely concerned about the alleged physical violence and verbal assaults that amount to incitement to discrimination, hostility or violence, which seem to occur repeatedly and are still ongoing. While the threats to life of minorities and returnees have been largely reduced, we are concerned about the alleged insufficient protection of certain minorities who are particularly exposed to the risk of attacks. This has a profound detrimental impact on social cohesion in Kosovo and efforts to bring peace and stability to the region. Individuals and communities need to be protected against ethnically motivated hate speech, xenophobia and violence, which requires extra vigilance and responsible action in compliance with the international human rights, refugee and international humanitarian law.

In order to identify the most urgent human rights concerns, authorities are encouraged to undertake consultations with minorities, who are most often excluded or marginalized on their conditions and needs, and fulfil their obligations to ensure an environment conducive to social cohesion and sustainable return of minorities by fully respecting and implementing relevant human rights guarantees.

In connection with the above alleged facts and concerns, please, refer to the **Annex on reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please, provide information on the steps taken to safeguard the rights of persons belonging to minorities in compliance with international human rights instruments.
3. Please, provide information on the steps taken to ensure the protection of human rights and safe integration of internally displaced persons returning to Kosovo, especially those who are members of minority communities,
4. Please, provide information on the steps taken to prevent attacks and violence on minority communities
5. Please, provide information on how many perpetrators of inter-ethnic violence and attacks have been brought to justice, the results of these

prosecutions, and information on the rates of prosecutions and convictions, if any.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Mr. Hoti, the assurances of our highest consideration.

Fernand de Varennes
Special Rapporteur on minority issues

Cecilia Jimenez-Damary
Special Rapporteur on the human rights of internally displaced persons

E. Tendayi Achiume
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia
and related intolerance

Annex

Reference to international human rights law

Even though Kosovo is not a party to any of the international conventions of human rights, Article 22 of its Constitution foresees the direct applicability of international human rights conventions. By incorporating these instruments into the Constitution, the legal system and the authorities of Kosovo shall be obliged to adhere to them.

We would like to bring to your attention the international standards regarding the protection of the rights of persons belonging to minorities, in particular article 27 of the International Covenant on Civil and Political Rights and the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which in its Article 1 refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the measures to that end. Article 4 of the UN Declaration on the Rights of Persons Belonging to Minorities stipulates that states shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law. Article 26 of the ICCPR further states all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.

We would like to remind Kosovo its obligation to protect the right to own property in accordance with article 17 of the Universal Declaration on Human Rights; article 5 (d)(v) of the Convention on the Elimination of All Forms of Racial Discrimination. The right to own property should be viewed together with the principle of equality and non-discrimination,

We would further like to draw your attention to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination and article 20 of the International Covenant on Civil and Political Rights, which prohibit any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. In addition, Article 5 (b) of ICERD guarantees the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.

We also wish to stress Kosovo's commitments to the "Skopje Process" aimed at creating Durable Solutions for Displaced Persons from Kosovo. In this connection, we also make reference to the 1998 Guiding Principles on Internal Displacement, which reflect international human rights law and international humanitarian law. We would particularly like to draw your attention to Principle 9, which highlights that States are under a particular obligation to protect against the displacement of minorities. Furthermore, Principles 28 – 30 provide that internally displaced persons have the right to assistance from competent authorities in voluntary, dignified and safe return, settlement elsewhere or local integration, including help in recovering lost property and possessions.

Furthermore, we also wish to refer to the report of the former Special Rapporteur on the human rights of Internally Displaced Persons on his visit to Serbia and Kosovo in October 2013 (A/HRC/26/33/Add.2) in which the issue of durable returns by IDPs to Kosovo was noted, and recommendations made, in particular regarding the need for developing durable solutions for IDPs, including special protection, security and safety for returning IDPs to their places of origin, as well as in places of integration or resettlement.

We also wish to bring to your attention the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence as a comprehensive framework to assist States in implementing their obligations to combat incitement to hatred. The Rabat Plan of Action contains specific guidance on balancing freedom of expression enshrined in article 19 of the International Covenant on Civil and Political Rights, with the prohibitions of article 20, through a six part threshold test for forms of speech that should be prohibited by law. Among the key factors put forward in the Plan to prevent incitement to hatred are the collective responsibility of States, media and society and the need to foster social consciousness, tolerance, mutual respect and intercultural dialogue.