

Serbia: Kosovo: Report of the Secretary-General pursuant to SC resolutions 1160 (1998), 1199 (1998) and 1203 (1998)

Original published date: 30 Jan 1999

Country: Serbia, Montenegro

Content format: UN Document

Language: English

Source: UN Security Council

S/1999/99

30 January 1999

REPORT OF THE SECRETARY-GENERAL PREPARED PURSUANT TO RESOLUTIONS 1160 (1998), 1199 (1998) AND 1203 (1998) OF THE SECURITY COUNCIL

I. INTRODUCTION

1. The present report is submitted pursuant to Security Council resolutions 1160 (1998) of 31 March 1998, 1199 (1998) of 23 September 1998 and 1203 (1998) of 24 October 1998. It covers the period since my previous report of 24 December 1998 (S/1998/1221).

II. SITUATION IN KOSOVO

2. The present report addresses humanitarian and human rights aspects of the situation in Kosovo. It is based on contributions provided by the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Office of the United Nations High Commissioner for Human Rights, as well as by individual Member States. Information provided by the Chairman-in-Office of the Organization for Security and Cooperation in Europe (OSCE) and by the Secretary-General of the North Atlantic Treaty Organization (NATO) is contained in annexes I and II respectively. This information, submitted by organizations directly involved in the monitoring of the situation in Kosovo, should be read as complementing that contained in the present report.

Violence

3. The human rights situation in Kosovo has remained consistently grave for nearly 11 months. The October 1998 ceasefire did reduce the number of internally displaced persons and civilian casualties, the use of heavy weaponry, and the destruction of property and means of livelihood. However, during the reporting period, violence in Kosovo, including violations of the ceasefire, has continued, and the situation of human rights has further deteriorated, culminating with the massacre of Kosovo Albanian civilians in Racak.

4. The most disturbing new element is the spread of violence in Kosovo and the transformation of the nature of that violence. Prior to the ceasefire hostilities were limited to certain geographic locations, with fluid lines of engagement, although sniper fire did occur sporadically outside the discrete areas of encounter. In many cases, the civilian population fled from threatened locations to areas of perceived relative safety, some to urban areas within Kosovo but many others to exposed conditions with poor access to shelter and food. Following the ceasefire, many internally displaced persons began returning to their homes, but many continue to express fear of government forces and paramilitary units in and around villages. Calculated acts of violence followed by retaliatory measures now occur frequently in cities that, until winter, had been notably exempt from violence, even during the influx of internally displaced persons into urban areas whose social resources were already overtaxed. With the exception of some isolated incidents, the resident communities of Kosovo's large multi-ethnic cities, where most of its population resides, have not turned violently upon each other. However, targeted acts of violence and growing expressions of public rage during the past month might seriously threaten peace in urban areas.

5. In December, field staff of the Office of the United Nations High Commissioner for Human Rights in the Federal Republic of Yugoslavia attempted to follow up acts of discriminate violence, interviewing victims, families and community leaders, not only in the immediate aftermath of incidents but long after them. While some violent acts were widely publicized, it would appear that most were less well known, particularly in cases in which the perpetrators, be they Serb police or Kosovo Albanian paramilitary units, still maintained positions or control in or near the area. The Office of the United Nations High Commissioner for Human Rights observed that the transformation of the nature of violence in Kosovo had reduced the geographic area of perceived safety and had resulted in a real increase in the number of persons who live in apprehension of

direct experience of violence or arbitrary treatment. During this period, assailants have selectively fired directly upon urban sidewalks and cafés, as well as civilian passenger vehicles - in at least one instance, on a car clearly transporting a family group.

6. The violence and arbitrary treatment characterizing this period have surgically targeted influential individuals and localities known for open-mindedness and flexibility in community relations. The Office of the United Nations High Commissioner for Human Rights concluded with concern that a message was being transmitted throughout Kosovo, where codes based on individual reputation have for generations governed social relations within and among all regional communities, that a reputation for open-minded and flexible behaviour was no guarantee of personal safety. The responsibility for targeted killings is increasingly a matter of attribution by one side or another. Frequently, assailants have been identified simply as "masked men", and witness interviews by the Office of the United Nations High Commissioner for Human Rights have indicated that the "masked men" have exhibited signs of unfamiliarity with their immediate surroundings. Moreover, public responsibility is rarely claimed for acts of violence, further fuelling polarization and fear. Perpetrators of acts of violence, gross official misconduct and crimes against humanity committed throughout the crisis still have not been brought to justice, suggesting that such acts are committed with impunity.

7. A brief summary of casualty figures is insufficient to illustrate how the nature of violence against civilians has been transformed or to suggest how it has fuelled an atmosphere of fear. A narrative of the time and place of major incidents better suggests how tensions have spread.

8. The abduction and murder on 16-17 December of the deputy mayor of Kosovo Polje, noted in my last report, sparked several days of public protests from the Serb community. On 22 December, armed assailants attacked a café in Kosovska Mitrovica, killing one Kosovo Albanian immediately, while another, who was reportedly a member of the newly created municipal government's local security force, died later of his wounds. On 27 December, Kosovo Albanian paramilitary units claimed responsibility for the 26 December killing of an elderly Serb from the village of Obranza, shot on the doorstep of his home. On 27 December, three Roma were found dead in Kosovska Mitrovica. On 29 December, the bodies of five Kosovo Albanians were found, left alongside roads or bridges, in three municipalities, two in Prizren, two in Kosovska Mitrovica and one on the Pec-Decani road. On 30 December, a Kosovo Albanian was killed near the village of Dremnjak. On 31 December, a Serb janitor in the Urosevac agricultural school was found dead on the outskirts of the town.

9. On 2 January, the bodies of several Serbs were demonstrably left in the Roma neighbourhood of Kosovska Mitrovica. The same day, unknown assailants killed a Kosovo Albanian in front of his house in Stimlje. During the night of 4-5 January, two Kosovo Albanians were killed at a gasoline station in Vitina, south-west of Gnjilane, a region of comparatively little violence. On 5 January, a grenade exploded outside a Serbian café in Pristina, followed by shooting in Pristina, as well as vandalism directed at cafés frequented by Pristina's Albanian community. The 6 January killing outside Pristina of a Serb electric company employee from Kosovo Polje sparked angry armed demonstrations by Serb civilians, who effectively sealed all roads in and out of Pristina on 7 January. On 9 January, one Kosovo Albanian was killed and another wounded by unknown attackers who opened fire on them from a car.

10. On 11 January, the director of the Kosovo Information Centre, Enver Maloku, was killed by unknown assailants while getting out of his car in a Pristina suburb. On the same day, a Kosovo Albanian man was shot and killed in a car near Pec. On 13 January, one Kosovo Albanian man was shot and killed in front of his house in Kosovska Mitrovica by unknown assailants and another was reported to have been killed in Urosevac. Also on 13 January, the mutilated body of a local forest caretaker, a Serb, was discovered at the same spot on a highway outside Pristina where the dead body of Kosovo Polje's deputy mayor had been left less than one month before.

The Racak massacre

11. During the period from 15 to 18 January, fighting occurred in and around the village of Racak, near Stimlje. On 15 January, the Serb police and, as indicated in some reports, paramilitary units entered Racak. On 16 January, the Kosovo Verification Mission reported that the bodies of 45 Kosovo civilians, including 3 women, at least 1 child and several elderly men, were found, 11 in houses, 23 on a rise behind the village and others in various locations in the immediate vicinity of the village. Many of the dead appeared to have been summarily executed, shot at close range in the head and neck. The Council is aware of the developments in the aftermath of the Racak massacre that prompted the presidential statement of 19 January 1999 (S/PRST/1999/2). Detailed information on this incident was contained in the special report by the Kosovo Verification Mission attached to my letter of 17 January 1999 addressed to the President of the Security Council and in the report of the Kosovo Verification Mission attached to my letter of 20 January 1999 addressed to the President of the Security Council.

12. The Special Rapporteur on human rights in the territory of the former Yugoslavia, in a statement issued on 16 January from Prague, and the United Nations High Commissioner for Human Rights, in a letter of 19 January to President Milosevic, condemned the massacre and called for an immediate investigation of the Racak deaths. However, investigative and forensic efforts in the wake of this massacre have been wilfully obstructed by the lack of cooperation by the authorities of the Federal Republic of Yugoslavia with the international community. In an attempt to enter the Federal Republic of Yugoslavia to

investigate the Racak deaths, the Chief Prosecutor of the International Tribunal for the Former Yugoslavia, Louise Arbour, was turned back, without a visa, at the border of the Federal Republic of Yugoslavia on 18 January 1999; the Government of the Federal Republic of Yugoslavia continues to assert that the International Tribunal for the Former Yugoslavia does not have jurisdiction to investigate alleged war crimes in Kosovo. In order to resolve this problem, the Chief Prosecutor proposed to the authorities of the Federal Republic of Yugoslavia that she would publicly state that her access to Kosovo would not prejudice the position of the Federal Republic of Yugoslavia on jurisdiction, nor would she use the access as evidence that the Federal Republic of Yugoslavia has voluntarily submitted to the jurisdiction of the Tribunal. The authorities, however, continued to deny the Chief Prosecutor's entry to Kosovo.

13. Meanwhile, on 18 January, the bodies of the victims were moved from the site to Pristina, where autopsies were performed in the presence of monitors of the Kosovo Verification Mission. The authorities of the Federal Republic of Yugoslavia, however, failed to respond to the appeal of the head of a Finnish forensic team to postpone examinations until the arrival of Finnish experts. The forensic team arrived in Pristina on 21 January. By that time, 16 autopsies had been carried out without the Finnish experts being present. The Finnish team, together with Serb and other foreign experts, performed autopsies on the remaining bodies and examined the autopsies performed earlier.

Abductions and taking of hostages

14. During this period, no new information emerged or was volunteered on the whereabouts or fate of persons abducted or reported missing. On 26 December, after the Head of the Kosovo Verification Mission, William Walker, met with the families of persons abducted from Orahovac, the Mission announced that it had opened a special office to investigate reports of abductions. The office, staffed in shifts by two international verifiers, takes testimony on reported abductions.

15. From 24 December to 2 January, during fighting around Podujevo, it was reported that 11 Serbs and Kosovo Albanians were captured by Kosovo Albanian paramilitaries and released with the intervention of the Kosovo Verification Mission and the Kosovo Diplomatic Observer Mission.

16. On 8 January, as the OSCE Chairman-in-Office, Knut Vollebaek, began his visit to Albania and the Federal Republic of Yugoslavia, Kosovo Albanian paramilitary units attacked a Yugoslav Army convoy north-east of Kosovska Mitrovica, capturing eight army personnel, including several conscripts. This action led to the largest build-up of infantry, armour and artillery since the deployment of the Kosovo Verification Mission. Representatives of the Verification Mission initiated negotiations for the captives' release, which continued intensively throughout the Chairman's visit, and, on 13 January, the eight were released. The release did not, however, lead to a reduction of forces of the Federal Republic of Yugoslavia deployed throughout the area. Yugoslav Deputy Prime Minister Sainovic and all Serbian government officials emphasized that the release of the army personnel had been absolutely unconditional. On 14 January, a communiqué issued by Kosovo Albanian paramilitary units asserted that the eight had been released as part of an exchange for nine "prisoners".

Detention and trials

17. Reports of arbitrary detention and systematic ill-treatment of persons in police detention and under the jurisdiction of the Ministry of Justice continue. Measures that would build confidence among communities are not forthcoming. Of particular importance would be implementation of points 10 and 11 of the 13 October accord between President Slobodan Milosevic and United States Special Envoy Richard Holbrooke, release of information as to the whereabouts of those reported abducted and missing, and full cooperation by all parties with the International Committee of the Red Cross regarding persons held in detention.

18. Court proceedings on criminal charges of alleged terrorist and anti-State activity, as well as conspiracy to aid and abet such activity, continue to be held regularly in all district courts in Kosovo. Related proceedings have also begun in the military courts of Belgrade and Nis. The Office of the United Nations High Commissioner for Human Rights continues to monitor proceedings directly and to obtain court records of proceedings it cannot physically attend. The efforts of the Office to illuminate the legal and procedural issues raised by the proceedings have expanded informal working exchanges between and among court officials, prosecutors, defence attorneys, defendants and national and international organizations interested in the administration of justice. As part of this process, the Office makes repeated inquiries into judicial practice in the area of detention. Its consultations have contributed to a re-evaluation of detention decisions in cases throughout Serbia and, in some proceedings in Kosovo, to critical evaluation of evidence previously used to bring criminal charges or to justify continued detention. A small but growing body of precedent is being established as courts have released from detention, or dropped charges against, roughly 40 persons who were the specific subject of inquiry by the Office of the United Nations High Commissioner for Human Rights. However, hundreds of Kosovo Albanians remain in detention and the wave of violence described in this and my previous report has led to sweep arrests, police detentions, or "informative talks" in the search for perpetrators. As of 18 January, the Serbian Ministry of Justice had not responded to the Office on approximately 50 inquiries pending since late November. At the political level, no policy on implementation of points 10 and 11 has been enunciated, although existing federal and Serbian laws and procedures already include means for implementing, inter alia, federal and republic-level executive amnesty, termination of proceedings, suspension of charges, mitigation of sentences and release

from detention.

19. Several proceedings involving especially large groups of defendants or incidents and operations of an especially sensitive nature were scheduled during the traditional December and January holidays. In monitoring many trials, the Office of the United Nations High Commissioner for Human Rights has observed violations of domestic judicial procedure in the treatment of selected groups of Kosovo Albanians. Courtroom observation also indicates obvious differences in the physical condition and demeanour of prisoners held in Lipljan and Gnjilane prisons, both under the jurisdiction of the Pristina district prison administration, from those held in the jurisdiction of the Prizren district prison administration. Reports of ill-treatment at Lipljan are received regularly, and two prisoners have already died in custody in Gnjilane. During this period, the Office repeatedly observed the transport of Lipljan prisoners in the 40-member Kosovo Albanian "Orahovac group" by heavily armed special police, who, holding automatic weapons, were permitted by the presiding judge to remain in the courtroom, at a ratio of one policeman to one defendant, instead of regular court guards. Such prisoners were chained on arrival in the courtroom, remained in a submissive head-down position throughout the proceeding, looked to individual police guards before answering even cursory questions put to them by the court and were rechained on removal from the courtroom. In contrast, imprisoned Kosovo Albanians kept in the Prizren prison jurisdiction were transported in handcuffs by prison guards who carried light arms and handguns; prisoners did not appear ill or malnourished, and they looked attorneys, judges and even family members in the eye during court proceedings.

20. The Office of the United Nations High Commissioner for Human Rights monitored several trials during this period that included the conviction and sentencing of persons in absentia. As a general rule, persons convicted in absentia received higher sentences than those present for trial.

21. The Office of the United Nations High Commissioner for Human Rights monitored trials in which several Kosovo Albanian defendants, in open court testimony, indicated that their statements during police detention and after arraignment before an investigative judge were made under ill-treatment or torture. Of the 26-member "Urosevac group" arrested in June 1998 and brought before the Pristina district court in late December and mid-January, two defendants had died while in police custody, and all nine standing trial (the others were in absentia) claimed that they had been tortured and still had visible traces of injuries inflicted by police and State security officials, including after arraignment. Of the 15-member "Kacanik group" arrested in August 1998 and tried in Pristina in mid-December, all present (eight were in absentia) testified to having been subjected to ill-treatment ranging from beatings to electric shock. Neither the presiding judge nor the prosecutor made further inquiry into these allegations. All members of the group were convicted of sentences ranging from three to nine years, and those sentenced to less than three years were not released pending appeal, even though such provision exists in domestic law for sentences of under five years.

Forensic investigation of mass graves

22. Following the incident at Gornje Obrinje referred to in my previous report, the Finnish forensic team discussed the matter with the Serb authorities and representatives of Kosovo Albanian paramilitary units. Both parties suggested independently that since for the moment it was dangerous to carry out investigations at Gornje Obrinje (and also Golubovac), the Finnish team should instead start work at other locations currently not under the control of Kosovo Albanian paramilitary units, investigating in the first instance sites at Glodjane and Orahovac. The team, however, did not consider it possible to continue its field work at any other locations and therefore decided to leave Pristina on 20 December for a Christmas break. Under the prevailing circumstances, it remains uncertain whether in the foreseeable future there will be any prospect of making another attempt at Gornje Obrinje.

23. The difficulties experienced by the Finnish forensic team in performing their task were discussed at a meeting with the European Union Heads of Mission, and the Federal Republic of Yugoslavia Vice-Prime Minister and Head of the Government Commission for Cooperation with the Kosovo Verification Mission, Mr. Sainovic, on 29 December 1998 in Belgrade. Mr. Sainovic indicated his Government's readiness to discuss the problems, but only once the Finnish team was back in the Federal Republic of Yugoslavia.

Coordination with the Kosovo Verification Mission

24. Since the arrival of the Technical Assessment Team and throughout the build-up of the Kosovo Verification Mission, the Office of the United Nations High Commissioner for Human Rights has briefed representatives of OSCE and the Kosovo Verification Mission on the situation of human rights and has provided regular introductions to human rights issues to Verification Mission inductees. In December, the Office of the United Nations High Commissioner for Human Rights provided the services of a consultant on mission to the Kosovo Verification Mission, who advised the Mission on plans for sustained human rights training of its verifiers. UNHCR and the Office of the United Nations High Commissioner for Human Rights also met with the OSCE Chairman-in-Office and the OSCE secretariat delegation during its mission to the Federal Republic of Yugoslavia.

Humanitarian situation

25. Since late December, more than 20,000 people have fled from some 23 villages in the four municipalities of Decane, Podujevo, Stimlje and Suva Reka. The four days of fighting in late December at Podujevo led to the flight from the suburbs and surrounding villages of an estimated 5,000 people. As little damage was done to buildings, return to the villages started as soon as a ceasefire was brokered. However, following the capture of eight Yugoslav soldiers, tension rose again, leading to new displacement. From a total of 11 villages in the Podujevo-Mitrovica area some 15,000 inhabitants fled, of whom over 5,000 people later returned.
26. In the second week of January, clashes in the Decane municipality prompted some 4,000 people to flee from five villages. UNHCR estimates that over 500 of these have now returned to two of the villages. As a result of serious fighting in Stimlje/Suva Reka and following the massacre in Racak on 15 January, 6,400 Kosovo Albanian civilians fled from six villages.
27. Meanwhile, from some 90 villages, principally in central and western Kosovo, all Serbian inhabitants have left, estimated to total some 1,500 people.
28. Where peace has held, there have been continuing returns, usually slow and gradual. For example, in Malisevo more than half of the 3,000 who left in July have come back, returns are continuing and some normalcy is being established. At Lodja near Pec, work stopped on the school that is to serve as a home for some families while they repair their houses following the murders in the Pec café, but is now expected to start again. Representatives of 20 families from Opertusa, a village in Suva Reka, have asked UNHCR for assistance to return home. At Junik, a village from which 10,000 fled in August, there have been 1,500 returns; however, some trouble between the villagers and the police last week prompted about 200 to flee the village again. Returns to Junik appear to be from Albania and Djakovica and, despite the recent incident, appear to be continuing.
29. At the start of 1999, UNHCR estimated that some 180,000 civilians remained displaced within Kosovo, the vast majority of whom are Kosovo Albanians, including some 5,000 displaced in the last days of 1998. Some 110,000 were thought to have returned to their villages, if not their homes, in the last quarter of 1998. The great majority of these returns were from displacement within Kosovo, but included were some 12,000 returnees from Montenegro. No other significant returns were reported from outside Kosovo.
30. With regard to those still displaced or refugees outside Kosovo as a result of the conflict, at least 20,000 from Kosovo are thought to have moved to other parts of Serbia, and there are indications that the figure may be higher. Some 25,000 displaced persons are in Montenegro. Numbers in neighbouring countries are estimated as follows: Albania, 22,000 (of whom only some 500 remain in the Tropoje district); Bosnia and Herzegovina, 10,000; and the former Yugoslav Republic of Macedonia, 3,000. It is estimated that some 93,890 persons from the Federal Republic of Yugoslavia sought asylum in other countries in Europe in 1998, of whom 85 to 90 per cent are Kosovo Albanians.
31. In the first three weeks of 1999, some 20,000 persons are thought to have fled their homes for reasons of insecurity. Of these and those displaced at the end of 1998, some 7,000 have already been able to return, and a further 3,000 have returned to areas not affected by recent conflict. As at 20 January, UNHCR therefore estimated that some 190,000 remained displaced within Kosovo.

III. OBSERVATIONS

32. I am shocked and dismayed by reports of the atrocities committed in Racak on 15 January and urge the Yugoslav authorities to launch an urgent investigation of this crime with the participation of international experts. Sadly, the massacre and events surrounding it appear indicative of the pattern of disproportionate use of force by the authorities of the Federal Republic of Yugoslavia in retaliation for provocations by Kosovo Albanian paramilitaries. It is imperative that the perpetrators be brought to justice in order to deter further violence and to give peace in Kosovo a chance. Any appearance of impunity for the perpetrators could become a real obstacle to the process of finding a peaceful solution to the conflict through negotiation. In this regard, I urge that unconditional respect be given to the authority of the International Tribunal for the Former Yugoslavia throughout all of the territory of the former Yugoslavia.
33. The violence since 24 December, and in particular the massacre at Racak on 15 January and subsequent events, has been a major setback for the humanitarian operation, just when the deployment of the Kosovo Verification Mission was beginning to help create and consolidate conditions for return of the internally displaced, even to the most difficult areas such as Malisevo. Civilians have once again had to flee for their lives; many have had to spend bitter nights in the open. Continued violence would undermine what has been achieved by the humanitarian operation to date.
34. Fear of fighting between the security forces and Kosovo Albanian paramilitary units and continued violence against civilians are the overriding obstacle to return and to the sustainability of those returns that have taken place. The humanitarian operation has demonstrated its capacity to deliver large-scale assistance, but without an end to violence and the establishment

of a climate of security this will not suffice. I am deeply concerned about the risk of a return to the situation that existed in Kosovo before October 1998, and I urge those in positions of public authority to put an end to the spiral of violence and to seek the path of constructive dialogue.

35. I am increasingly concerned that the spread of violence and the nature of the attacks could lead to a situation of all-out civil war in Kosovo, which might have unpredictable repercussions for the entire region. Violence, from whatever quarter, can only lead to further suffering for the civilian population in Kosovo, which has been the main target and victim of the conflict. Full and unconditional acceptance of peaceful negotiations is the only way to resolve the crisis in Kosovo. I therefore once again urge the parties to engage in negotiations on a peaceful settlement in Kosovo without further delay and without preconditions, as demanded by the international community and, in particular, by the Security Council in its resolutions 1160 (1998), 1199 (1998) and 1203 (1998).

36. I support the efforts of OSCE and of the Head of the Kosovo Verification Mission, Mr. Walker, to facilitate such a settlement and call upon the Yugoslav authorities to honour their obligations under the 16 October agreement and to cooperate fully with Mr. Walker and the Kosovo Verification Mission. I also call upon the authorities of the Federal Republic of Yugoslavia to honour their obligation to cooperate fully with the Prosecutor of the International Tribunal for the Former Yugoslavia as requested in Security Council resolutions 1160 (1998), 1199 (1998) and 1203 (1998).

37. I expect that the OSCE Chairman-in-Office, in consultation with the Head of the Kosovo Verification Mission, will henceforth be in a position to provide the Council with regular information on the political aspects of the situation in Kosovo.

For full report, go to: <http://www.reliefweb.int/library/documents/kosovo1.html>

30 Jan 1999