

EXTERNAL (for general distribution)

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EXTRA 32/93

Fear of death penalty

19 March 1993

**BOSNIA-HERZEGOVINA: Borislav Herak, 22
Sretko Damjanovi_, 31**

Borislav Herak and Sretko Damjanovi_, two Serbs, went on trial on 12 March 1993 before a military court in Sarajevo on charges of genocide, rape and looting. The military prosecutor has called for the death penalty to be imposed on both men. On 17 March Borislav Herak reportedly stated in court that he wanted to be punished by the death penalty. Their trial continues.

The two men were arrested on 11 November 1992, together with a third defendant, Nada Tomi_, common-law wife of Sretko Damjanovi_, who is accused of harbouring the two men and possession of stolen goods. At the time of their arrest the two men were reportedly enlisted with Serbian forces in the Sarajevo region.

Borislav Herak is accused of having murdered some 30 people and of having raped women detained by Serbian forces in a motel about 10 kilometres north of Sarajevo, 11 of whom he allegedly killed. He is also charged with having participated in, or witnessed, the killing of some 220 other civilians. During investigation proceedings, in interviews to journalists, in statements broadcast on Sarajevo television, and again at his trial, Borislav Herak admitted his guilt and denied he had been coerced into making a confession. He said that when he committed these crimes he was acting on orders from his superiors. Although he is reportedly an alcoholic, psychiatrists have concluded that he is sane and was responsible for his actions at the time he committed these crimes. At the trial, his lawyer reportedly complained that the indictment did not provide sufficient details of the dates and times of the crimes. He also noted it was unusual for a defendant to admit to every crime of which he was accused.

Sretko Damjanovi_ is charged with four murders and two rapes. He denies his guilt and alleges that during investigation proceedings he was repeatedly beaten by guards at Sarajevo military prison who forced him to make false self-incriminating statements. He was reportedly unable, however, to provide dates or the names of the guards who allegedly beat him. On 16 March his lawyer complained that he had been denied access to his client since the trial began. The court upheld this complaint and adjourned the trial until the following morning to give him time to meet his client.

BACKGROUND INFORMATION

To Amnesty International's knowledge this is one of the first, if not the first, trials of Serbs for war crimes to take place in Bosnia-Herzegovina since the outbreak of conflict in the republic in April 1992. According to press reports the trial, which is open, is being followed by large numbers of local and foreign

journalists, but few Sarajevo citizens are attending.

Borislav Herak and Sretko Damjanovi_ are being tried under provisions of the old Criminal Code and Criminal Procedure Code of the Socialist Federal Republic of Yugoslavia which have been incorporated into Bosnian law. Under these provisions, the defendants have the right of appeal to the Supreme Court of Bosnia-Herzegovina. A person sentenced to death has the right to appeal for clemency to the President of the Republic and if he/she fails to exercise this right the appropriate procedures for the granting of clemency must be instituted ex officio.

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RECOMMENDED ACTION: Please send faxes/express and airmail letters either in English, French, German or in your own language:

- recognizing the extraordinary gravity of the crimes with which Borislav Herak and Sretko Damjanovi_ are accused;

- recalling that Amnesty International has repeatedly condemned gross human rights abuses perpetrated in the context of the conflict in Bosnia-Herzegovina, in particular deliberate and arbitrary killings of civilians and disarmed or wounded combatants, arbitrary arrest and detention of civilians and the torture and ill-treatment, including rape, of detainees;

- recalling that Amnesty International has repeatedly urged that those responsible for these human rights abuses be brought to justice;

- noting that the military public prosecutor has called for the death penalty for both men;

- explaining Amnesty International's unconditional opposition to the death penalty;

- urging that if one or both of these men are sentenced to death the President exercise his authority to grant clemency and commute this sentence.

APPEALS TO

1) President Alija Izetbegovi_
President of the Republic of Bosnia-Herzegovina
c/o H.E. Mr Muhamed Sacirbey
Ambassador Extraordinary and Plenipotentiary
Permanent Representative to the United Nations
Permanent Mission of the Republic of Bosnia-Herzegovina
1345 Avenue of the Americas
43rd floor
New York, N.Y.10105
Faxes: + 212 8675416

Salutation: Dear President

[Please note that because of the difficulty of sending communications to Bosnia-Herzegovina, Amnesty International is making an EXCEPTION in this particular case in asking its members to write/fax c/o a government's UN representative]

Letters may also be sent to the Mr Alija Izetbegovi_ at the Bosnian Government's offices in Croatia:

President Alija Izetbegovi_
Predsjednik Republike Bosne i Hercegovine
Privremeni Ured Republike Bosne i Hercegovine
Savska 41
41000 Zagreb
Croatia

COPIES OF YOUR APPEALS TO

Bosnian Government offices in your own country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the international secretariat, or your section office if sending appeals after 30 April 1993.