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Bosnia-Herzegovina: Human Rights Chamber decision on Srebrenica - a first step to justice

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Amnesty International welcomes today's decision by the Bosnian Human Rights Chamber as the first step to justice for the relatives of the "disappeared" from Srebrenica.

The decision by the Human Rights Chamber of Bosnia and Herzegovina found that the human rights of family members of Bosnian men and boys who "disappeared" in the wake of the fall of the Srebrenica "safe area" in July 1995, had been violated by the continuing refusal of the Bosnian Serb authorities (Republika Srpska) to inform them of what had happened to their loved ones.

The Chamber expressly recognized the continuing pain and suffering of the relatives, concluding that the Republika Srpska had done "almost nothing to clarify the fate and whereabouts of the presumed victims of the Srebrenica events, or to take other action to relieve the suffering of their surviving family members, or to contribute to the process of reconciliation in Bosnia and Herzegovina." It further noted that the violations "reflect a total indifference by the authorities of the Republika Srpska to the suffering of the Bosniak community".

In this case, brought by 49 immediate relatives of the "disappeared", the Chamber ordered the Republika Srpska to disclose immediately all information relevant to establishing the fate and whereabouts of their relatives and on the location of mass graves containing the bodies of Srebrenica victims. Furthermore, the Republika Srpska was ordered to conduct an investigation into the events at Srebrenica and to publish its findings by the beginning of September this year.

The Republika Srpska was also ordered to pay compensation for the collective benefit of all applicants and families of Srebrenica victims, in the form of a lump sum of 2 million Konvertible Marks (approximately 1million Euros) to the Foundation of the Srebrenica-Potocari Memorial and Cemetery (where the first burials of Srebrenica victims will take place on 31 March 2003). They must then make four additional payments of 500,000 KM each in the next four years to the same Foundation.

"We hope that this decision will accelerate the long quest for justice for the victims of Srebrenica and their relatives, and that the investigation required by the Chamber will lay the foundation for the prosecution of those who committed the massive human rights violations in the former safe area," Amnesty International said.

In a report, published two days ago, the organization called on the authorities on all levels in

Bosnia-Herzegovina, as well as the international community, to take immediate steps to tackle the pervading impunity for "disappearances".

However, the organization notes that the Chamber also decided it could not make a finding of violations of the human rights of the "disappeared" themselves as these were outside its jurisdiction *ratione temporis* - in view of the fact that the violations happened before the signing of the Dayton Peace Agreement on 14 December 1995.

Under international law "disappearances" are continuing crimes as long as the fate and whereabouts of the victims has not been ascertained or the perpetrators brought to justice. As such, the rights of the "disappeared" themselves continue to be violated.

"It is imperative that redress to victims and relatives will be provided through the domestic justice system in order to heal the lasting trauma and division in society caused by these continuing crimes," the organization said. "The suffering of those left behind in the wake of these violations has been ignored for too long."

Background

The Human Rights Chamber of Bosnia and Herzegovina, a domestic court which includes both national and international jurists, was set up under the Dayton Peace Agreement to examine cases of violations of the rights enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and other international human rights standards. It is empowered to issue decisions binding upon the authorities of the entities and the state government.

The 49 relatives of missing persons from Srebrenica filed applications with the Chamber between November 2001 and March 2002. The Chamber found that the Republika Srpska had violated their rights to private and family life and their right to be free from inhuman and degrading treatment (Articles 8 and 3 of the ECHR), and that they had been subjected to discrimination on account of their Bosniak origin.

Over 7,000 boys and men of Bosniak origin are estimated to have been killed in the aftermath of the fall of Srebrenica to the Bosnian Serb Army. However, the continually increasing number of human remains being recovered from mass graves in the area indicates that the total number of victims may be as high as 10,000.

Conservative estimates suggest that some 17,000 persons in Bosnia-Herzegovina are still recorded as missing. Many of these people "disappeared" after last having been seen in the hands of the armed forces, police or paramilitary groups. Since the outbreak of war in the former Yugoslavia, Amnesty International has campaigned for the resolution of all cases of "disappearances", and for all those responsible to be brought to justice in accordance with international standards.

Amnesty International's report is available at:

<http://web.amnesty.org/ai.nsf/recent/EUR630042003?OpenDocument>

The full text of the Human Rights Chamber decision in the "Srebrenica Case" can be found on : www.gwdg.de

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