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Bosnia-Herzegovina: The government should reject US impunity agreement

As the government of Bosnia-Herzegovina considers giving in to United States (US) pressures to sign an illegal impunity agreement with the US, Amnesty International urges the authorities to uphold its obligations as a state party to the Rome Statute of the International Criminal Court by rejecting such an agreement.

"No one, regardless of their nationality, should enjoy impunity for the worst crimes known to humanity, Amnesty International said.

The Bosnian Presidency reportedly plans to sign the agreement with the US today during the visit of US Deputy Defence Secretary Paul Wolfowitz. The agreement would commit the government not to surrender US nationals accused of genocide, crimes against humanity and war crimes to the new International Criminal Court (ICC).

"These agreements are illegal as they violate Bosnia-Herzegovina's duty to cooperate with the International Criminal Court and the obligations of all states to ensure that people responsible for these crimes, as the most serious crimes under international law, are brought to justice," Amnesty International stressed.

In recent weeks, US authorities have put intense pressure on the government to sign, threatening to withdraw military assistance unless an agreement is concluded by 1 July 2003 as provided by a US law enacted last year, attacking the International Criminal Court, called the American Servicemembers Protection Act.

The American Servicemembers Protection Act, while it does provide for withdrawal of military assistance if states which do not sign impunity agreements by 1 July 2003, also contains broad provision for waiving such measures.

Amnesty International reminds the Bosnian authorities of the guiding principles adopted by the European Union on impunity agreements, which state "[e]ntering into US agreements - as presently drafted - would be inconsistent with ICC States Parties' obligations with regard to the ICC Statute ..."

"Instead of acting alone and giving in to US pressure to secure impunity for its citizens, the government should seek to ally itself with the vast majority of states who are refusing to bow to such pressure in favour of upholding international justice," Amnesty International said.

If the government does sign an agreement today, Amnesty International would call on each member of parliament in Bosnia-Herzegovina urging that Parliament refuse approval of ratification of the agreement.

Background

The US initiative is part of a worldwide campaign to undermine the International Criminal Court and ensure impunity for US nationals. As of 16 May 2003, only 28 states are known to have signed impunity agreements and parliaments in only two states have approved ratification of impunity agreements.

The USA is demanding that any person accused of these crimes should be returned to the USA, without any commitment that they will be prosecuted by US courts and without any recourse if US courts fail to fulfil their responsibilities. In fact, in many cases US courts will not be able to do so as US law does not include many of the crimes under international law as defined in the Rome Statute of the International Criminal Court.

On 11 April 2002 Bosnia-Herzegovina became a state party to the Rome Statute of the International Criminal Court, which has been ratified by 90 states.

The International Criminal Court is in the process of being established and will become operational later this year.

Public Document

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