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Sierra Leone: An independent prosecution policy must be assured

"If the Special Court for Sierra Leone is to tackle impunity effectively and fairly and contribute to the peace and reconciliation process, the independence of the prosecutor must be assured and monitored, adequate and sustained funding must be guaranteed, and a clear relationship between the Special Court and Truth and Reconciliation Commission (TRC) established," Amnesty International said today, welcoming the agreement signed on last week between the UN and the Sierra Leone government regarding the establishment of the Special Court.

Amnesty International fears that if these issues are not addressed the credibility and the effectiveness of the Special Court could be at stake and undermine efforts to ensure respect for human rights and the rule of law in Sierra Leone.

Amnesty International has repeatedly called for a balanced and independent prosecution policy to ensure that those most responsible for the gravest abuses be brought to justice regardless of political position or allegiance, either past or present. Amnesty International was encouraged by the recent public assurance from the UN Assistant Secretary-General Ralph Zacklin that the independence of the court would be guaranteed by its international character, and his further statement that the prosecutor would be independent of both the government and the UN.

"However, the prosecutor of the Special Court must be granted full independence in practice to examine all the evidence and try all individuals who bear the greatest responsibility for the commission of

violations of international and crimes committed under Sierra Leone law" the organization said.

Assured funding for the Special Court to initiate and complete all trials is critical. Currently, adequate funding for the first year is lacking and pledges for the second and third years do not match half of what is needed. "The absence of guaranteed funding could undermine the court's effectiveness by creating uncertainty and may discourage applications of experienced criminal justice experts," Amnesty International said. In view of the difficulties in obtaining adequate commitments from UN member states to finance the court through voluntary contributions, the UN Security Council should reconsider its financial mechanism and, in particular, consider funding from assessed contributions.

The organization believes that a clear understanding of the relationship between the Special Court and the TRC needs to be clarified. Currently the ground is being laid for the TRC, however there are critical issues that need to be worked out to ensure the proper functioning of both. Amnesty fears that if this relationship is not worked out, both institutions could be undermined and progress towards peace and reconciliation could be jeopardized.

Background

On 14 August 2000 the UN Security Council passed Resolution 1315 (2000) to establish an independent Special Court for Sierra Leone to try those alleged to have committed crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as crimes under relevant Sierra Leonean law committed within the territory of Sierra Leone.

Since the resolution in August 2000, Amnesty International has repeatedly stressed the need for an independent prosecution policy,

adequate funding for the court, and a clear relationship between the TRC and the Special Court. Amnesty International has also called for the start date of the Special Court's temporal jurisdiction to be amended to 23 March 1991, so that those responsible for crimes under international law throughout the period of the conflict be brought to justice. The organization opposes the amnesty for crimes under international law. At the same time, priority must be given to the speediest possible reconstruction of the Sierra Leone judicial systems so that it can conduct fair trials, without the possibility of the death penalty, of those perpetrators of human rights abuses who are not tried by the Special Court.

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