

AMNESTY INTERNATIONAL

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Bosnia and Herzegovina: International support for the country's judiciary still needed

Amnesty International is calling on the international community and the authorities in Bosnia and Herzegovina (BiH) to take all necessary measures to ensure that the international judges and prosecutors serving in the War Crimes Chamber of the State Court can continue to assist in prosecutions of war crimes and crimes against humanity carried out during the 1992-1995 war.

Despite the fact that the war ended 14 years ago, many of those responsible for war crimes and crimes against humanity committed during the conflict remain at large, and impunity for the crimes committed by them still prevails. It has been estimated that between 6,000 to 16,000 unresolved war crimes cases, at different stages of prosecution, have been registered in different jurisdictions through the country.

Most of the cases of war crimes, crimes against humanity and genocide have been prosecuted by the War Crimes Chamber (WCC) of the State Court of BiH. The WCC, which was established in 2005, includes both international and domestic judges and prosecutors. The mandate of international judges and prosecutors will expire at the end of 2009 unless the law is amended and additional resources for their continued work are secured.

The international judges and prosecutors have helped to build the capacity of the country's judiciary through their expertise, impartiality and independence. As the Peace Implementation Council (PIC) is scheduled to meet this week Amnesty International is calling on the international community to redouble its efforts in supporting the judiciary of Bosnia and Herzegovina (BiH). The PIC is an intergovernmental body which was established to monitor the implementation of the Dayton Peace Agreement which ended the war in BiH.

In the last year the political situation in the country has been deteriorating and tensions between the three constitutive nations – Bosnian Muslims (Bosniaks), Croats and Serbs – have increased.

Some high level politicians have continued to espouse nationalistic rhetoric. Some have openly attacked the independence of the justice system, or denied the occurrence of incidences of war crimes, notwithstanding final judgments of courts confirming the existence of the crime and convicting individuals responsible for it. The support of international judges and prosecutors for the prosecution of war crimes and crimes against humanity committed during the war is therefore needed now more than ever.

Further, the international judges and prosecutors serving in the WCC have been working on a number of cases of war crimes and crimes against humanity. Amnesty International is concerned that despite the fact that their mandate, unless extended, is due to expire in a few weeks, no arrangements have been made to assign those cases to the local staff.

This failure could result in the need to start the prosecutions of many of these cases from the beginning as required under the BiH Code of Criminal Procedure, further prolonging justice. In

some cases witnesses would need to be recalled to testify again, which would constitute a burden on them.

Amnesty International is calling on the government of BiH and on the international community to take all necessary measures to ensure that the international judges and prosecutors can continue with their important work on war crimes cases. The organization is also calling on the international community to assist in creating a political climate that is conducive to ensuring the conduct of fair, independent and impartial prosecutions of those responsible for war crimes and crimes against humanity committed during the war. The international community should continue to provide the human and financial resources needed to ensure that international judges and prosecutors can continue the key roles they are playing, along side the judiciary in BiH, in ensuring such prosecutions, take place in accordance with international fair trial standards.

Background

Between April 1992 and September 1995 Bosnia and Herzegovina was the scene of grave violations of human rights constituting war crimes, crimes against humanity and acts of genocide, including large number of unlawful killings, rapes and forced displacements. Amnesty International documented many of these crimes under international law in reports it has published during and after the conflict (see below).

During the conflict, it is estimated that around 100,000 people were killed; some 2 million became refugees or were internally displaced. Approximately 12,500 individuals are still missing.

Since 1993, prosecutions against high-level political and military officials accused of war crimes, crimes against humanity and genocide have been taking place before the International Criminal Tribunal for the former Yugoslavia (Tribunal).

Since 2005, proceedings against lower ranking officials have been taking place before the War Crimes Chamber (WCC) of the State Court of BiH. Since its creation the WCC has prosecuted 39 cases and additional 90 cases are ongoing.

In its report, *Whose Justice? The Women of Bosnia and Herzegovina Are Still Waiting* published in September 2009, Amnesty International documented how the measures of witness support and protection in all courts in BiH were inadequate and in some cases have prevented survivors of war crimes of sexual violence from accessing justice.

For more information on Amnesty International's work on war crimes and crimes against humanity in Bosnia and Herzegovina please see:

Amnesty International, Bosnia and Herzegovina: '*Whose Justice? Bosnia and Herzegovina's women still waiting*' (Index: EUR 63/006/2009)

Amnesty International, Bosnia and Herzegovina: *Submission to the UN Universal Periodic Review: Seventh session of the UPR Working Group of the Human Rights Council, February 2010* (Index: EUR 63/007/2009)

Amnesty International, Bosnia-Herzegovina: '*Shelving Justice - War Crimes Prosecutions in Paralysis*' (Index: EUR 63/018/2003)

Amnesty International, Bosnia-Herzegovina: '*Gross Abuses of Human Rights*' (Index: EUR 63/01/92)

Amnesty International, Bosnia-Herzegovina: *'Rape and Sexual Abuse by Armed Forces'* (Index: EUR 63/01/93)

Amnesty International, Yugoslavia: *'Torture and deliberate and arbitrary killings in war zones'* (Index: EUR 48/26/91)

Amnesty International, Yugoslavia: *'Further reports of torture and deliberate and arbitrary killings in war zones'* (Index: EUR 48/13/92)

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