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Paddy Ashdown  
High Representative for Bosnia-Herzegovina  
Emerika Bluma 1  
71000 Sarajevo  
Bosnia-Herzegovina

By FAX : 9, 00 387 33 283 819            28 May 2002

Dear Mr Ashdown,

Amnesty International is writing to you in your capacity as new High Representative of the international community, and in particular of the European Community, for Bosnia-Herzegovina, and with a view to expressing the organization's recommendations on one of the issues which has been of great concern to us for a number of years. We believe that this issue presents an exciting opportunity for the High Representative to make a substantial and long-lasting contribution to the restoration of justice and effective reconciliation in Bosnia-Herzegovina.

We understand that, following a visit by Carla del Ponte, Chief Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY) to Bosnia-Herzegovina in October 2001, a number of consultations and discussions have been held on the subject of the transfer of the numerous cases of investigations into violations of international humanitarian law from the ICTY to the Bosnian criminal justice system. Special consideration has been given by many experts to this issue, in particular in your office, which we understand has taken the lead on presenting a proposal to take domestic prosecutions forward, notably by establishing a special division inside the future State Court of Bosnia-Herzegovina which will focus on prosecutions for crimes under international law, including genocide, crimes against humanity and war crimes.

Amnesty International has engaged for over a decade in campaigning against impunity for past human rights violations in the former Yugoslavia, because it believes that bringing perpetrators to justice is a precondition for improving the human rights situation throughout the region and promoting respect for the human rights of every person. We have in particular focussed on the need for the apprehension of those indicted by the ICTY, for violations of international humanitarian law, by NATO-led Stabilization Forces inside Bosnia-Herzegovina, as part of the Arrest Now! campaign which was launched in 1997 together with Human Rights Watch and other non-governmental organizations. The organization has also consistently lobbied the entities and state authorities in Bosnia-Herzegovina, Croatia and the Federal Republic of Yugoslavia (FRY) to cooperate effectively and unconditionally with the ICTY, and to complement its work by conducting thorough investigations and effective prosecutions for war crimes in line with internationally recognized standards of fair trial.

In view of the imminent publication of a report by a group of experts, commissioned by the High Representative, Amnesty International would like to bring to your attention a set of the organization's preliminary recommendations on this extremely important issue, which are set out in the attached memorandum. These recommendations address concerns which Amnesty International has identified previously while monitoring some domestic war crimes prosecutions, as well as the organizations comments on some of the measures proposed in a recent draft of the consultants' report, which was shared with Amnesty International. While in Bosnia-Herzegovina, our researcher was kindly given the opportunity to meet with the OHR consultants, and in addition she interviewed other relevant national and international officials on this issue. The recommendations set out in the memorandum reflect the outcome of these meetings and earlier research carried out by Amnesty International.

In the light of increasing interest in the international community about rebuilding national criminal justice systems in countries devastated by war as a complement to international courts, Amnesty International is urging that the High Representative support a major new effort to rebuild the criminal justice system in Bosnia-Herzegovina. Given the scale of the problem - tens of thousands of murders by thousands of perpetrators in the past decade - the response by the international community must be commensurate. A lasting peace in Bosnia-Herzegovina requires that sufficient resources be devoted to investigating and prosecuting those responsible for such horrific crimes. As long as this is not achieved, to paraphrase Judge Richard Goldstone, it will forever remain more likely that individuals will be prosecuted for bicycle theft but not for genocide.

As outlined in the attached memorandum, Amnesty International is calling for the international community to establish trial chambers and prosecution units with an international component and a multi-ethnic local staff, as well as public defenders and victim and witness units, throughout the national territory. This effort would, however, be merely a part of a broader effort to rebuild the national criminal justice system over the coming decade so that eventually the entire system can conduct effective and fair investigations and trials in all cases, without direct international participation.

Amnesty International greatly appreciates the chance to contribute to the efforts of the international community and the national authorities in this challenging task ahead. We are submitting this memorandum to you for your consideration and in the hope that you will be taking the points raised into consideration when engaging in the implementation of the proposed measures of the consultants' report, or alternatively in any further revisions of the report. Please be advised that we will be sending out a pack consisting of the Amnesty International publications referred to in the memorandum by courier mail.

Yours sincerely,

Irene Khan  
Secretary General