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BOSNIA-HERZEGOVINA: AMNESTY INTERNATIONAL URGES IFOR TO SEARCH FOR WAR CRIMINALS AND NOT TO ALLOW THE DESTRUCTION OF EVIDENCE

Amnesty International today expressed concern that the multinational Military Implementation Force (IFOR) is failing to search for and arrest persons suspected of genocide, other crimes against humanity and serious violations of humanitarian law.

“Half a century after the Nuremberg trial began, the international community must not allow those responsible for genocide to escape justice. There cannot be lasting peace in Bosnia-Herzegovina without justice,” the human rights organization said.

The refusal to search for persons who have been indicted by the International Criminal Tribunal for the former Yugoslavia (the Tribunal) for grave breaches of the Geneva Conventions is a clear violation of international law. All states contributing troops to IFOR are obligated under the Geneva Conventions “to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts,” the courts of another state or an international criminal court.

Since the first IFOR troops arrived in Bosnia-Herzegovina last year, spokespersons for IFOR and troop-contributing states have repeatedly stated that they would not search for persons indicted by the Tribunal, but would only arrest suspects if they encountered them.

The refusal violates troop-contributing states’ legal obligations to implement Security Council Resolution 827 of May 25, 1993 establishing the Tribunal. That resolution requires all states “to cooperate fully with the International Tribunal” and to “take any measures necessary” to implement the resolution, including compliance with Tribunal orders or requests for assistance.

The Tribunal has issued 12 indictments against 52 individuals. Only one person indicted, who was in German custody, has been transferred to the Hague. None of the warrants issued by the Tribunal has been served. Most of the individuals indicted are believed to have remained in the former Yugoslavia.

All the parties to the peace agreement are obligated under that agreement to cooperate fully with the Tribunal and IFOR is responsible for implementation of the agreement. However, the parties’ cooperation has been limited. In clear violation of the peace agreement, neither the Bosnian Serb authorities, the Croatian authorities, the Bosnian Croat authorities nor the Federal Republic of

Yugoslavia (Serbia and Montenegro) have transferred persons who have been indicted to the Tribunal.

Amnesty International is also calling for concrete commitments from IFOR that it will deploy guards at specific alleged grave sites whenever there is a risk that evidence will be destroyed.

States have given conflicting statements about whether they would protect Tribunal investigators or mass grave sites. On Thursday, 11 January, United States Secretary of Defence Perry said that IFOR troops would protect international investigators seeking evidence of crimes, but on Tuesday, 16 January, a US Defence Department spokesperson said IFOR commanders would not ensure freedom of movement for investigators until IFOR was in place and considered that it had the resources to do so.

On January 22, NATO Secretary General Javier Solana, was reported as stating that NATO would “prevent the destruction of evidence”, but he would not give details as to how. However, IFOR force commander Admiral Leighton Smith was also reported as stating that NATO would not guard specific sites, but would only provide security for teams investigating the grave sites when requested.

Although IFOR troops from the United Kingdom have provided temporary protection for at least one site which was threatened, the delay in providing freedom of movement to investigators and the US position that IFOR would not protect grave sites will impede the investigation of grave crimes and risk destruction of evidence.

The Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serb authorities have not allowed Tribunal investigators access for any reason, including access to grave sites. IFOR is obligated under the peace agreement to establish a durable cessation of hostilities, which includes ensuring that the parties “cooperate fully with any international personnel including investigators [...] including facilitating free and unimpeded access and movement and by providing such status as is necessary for the effective conduct of their tasks” (Annex I-A, Article II, para. 4).

On November 24, 1995, Tribunal President Cassese and Prosecutor Goldstone stated that they “trust the Agreement will be fully and rigorously implemented by all the Parties concerned” and that “NATO forces, as well as the competent authorities, will render appropriate assistance to the Tribunal’s officials to enable them to carry out their mission”. As of today, this has not yet occurred.

Amnesty International is calling upon IFOR and the parties to the agreement to fulfill their responsibilities under the Geneva Conventions, Security Council Resolution 827 and the peace agreement to carry out their law enforcement responsibilities to search for, arrest and transfer to the Tribunal all persons who have been indicted by the Tribunal. IFOR should immediately respond to requests by Tribunal investigators to have access to any place in Bosnia-Herzegovina and provide adequate security for all suspected grave sites, witnesses and other evidence. ENDS\