

EXTERNAL (for general distribution)

AI Index: EUR 63/08/93

Distr: UA/SC

30 March 1993

Further information on EXTRA 32/93 (EUR 63/07/93, 19 March 1993) - Fear of death penalty

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BOSNIA-HERZEGOVINA: Borislav Herak, 22  
Sretko Damjanovi\_, 31

Borislav Herak and Sretko Damjanovi\_, two Serbs, were sentenced to death by a military court in Sarajevo on 30 March 1993 on charges of genocide, rape and looting.

Borislav Herak, who earlier in the trial had said he wished to be punished by the death penalty, admitted to raping 16 Muslim women and killing 11 of them. On 30 March he reportedly told the court he deserved the death penalty. However, his co-defendant, Sretko Damjanovi\_, has denied the charges against him and claims that he was forced to make a false confession by guards who beat him in prison following his arrest in November 1992. A court-appointed doctor instructed by the court to examine him during the trial reportedly concluded that he bore scars consistent with these allegations. Sretko Damjanovi\_ has said that he will appeal against his sentence.

At the trial psychiatric experts reportedly testified that Sretko Damjanovi\_ was sane and responsible for his actions but concluded that Borislav Herak's mental state was one of diminished responsibility. Borislav Herak's lawyer argued that the court-appointed psychiatrists had not proved that his client was able to control his actions.

According to press reports, the main evidence has been supplied by Borislav Herak's testimony which incriminated both himself and Sretko Damjanovi\_; corroborating evidence has apparently been meagre. His lawyer argued that Borislav Herak could not be convicted, under Bosnian law, solely on the basis of his own testimony. Sretko Damjanovi\_'s lawyer pointed to inconsistencies in Borislav Herak's testimony and concluded that he had made it up. Both lawyers reportedly disputed the court's jurisdiction with regard to charges of genocide, questioning whether the government of Bosnia-Herzegovina was a signatory to the Geneva Conventions. They argued that if the Geneva Conventions applied in Bosnia-Herzegovina, their clients should have been treated and tried as prisoners of war. The court rejected these arguments.

**RECOMMENDED ACTION:** Please send faxes/express and airmail letters either in English, French, German or in your own language:

- recognizing the extraordinary gravity of the crimes of which Borislav Herak

and Sretko Damjanovi\_ have been convicted;

- recalling that Amnesty International has repeatedly condemned gross human rights abuses perpetrated in the context of the conflict in Bosnia-Herzegovina, in particular deliberate and arbitrary killings of civilians and disarmed or wounded combatants, arbitrary arrest and detention of civilians and the torture and ill-treatment, including rape, of detainees;

- recalling that Amnesty International has repeatedly urged that those responsible for these human rights abuses be brought to justice;

**Page 2 of EXTRA 32/93**

- expressing concern that Borislav Herak and Sretko Damjanovi\_ have been sentenced to death by a military court in Sarajevo on 30 March 1993;

- explaining Amnesty International's unconditional opposition to the death penalty in all cases, as a violation of the right to life and the right not to be subjected to cruel, inhuman and degrading punishment;

- urging that if either or both of these death sentences are upheld on appeal the President exercise his authority to grant clemency and commute the sentences.

#### **APPEALS TO**

His Excellency Mr Alija Izetbegovi\_  
President of the Republic of Bosnia-Herzegovina  
c/o H.E. Mr Muhamed Sacirbey  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative to the United Nations  
Permanent Mission of the Republic of Bosnia-Herzegovina  
1345 Avenue of the Americas  
43rd floor  
New York, N.Y.10105  
USA

**Faxes: + 1 212 8675416**

[Please note that because of the difficulty of sending communications to Bosnia-Herzegovina, Amnesty International is making an EXCEPTION in this particular case in asking its members to write/fax c/o a government's UN representative]

Letters may also be sent to the Mr Alija Izetbegovi\_ at the Bosnian Government's offices in Croatia:

His Excellency Mr Alija Izetbegovi\_  
Predsjednik Republike Bosne i Hercegovine  
Privremeni Ured Republike Bosne i Hercegovine  
Savska 41  
41000 Zagreb  
Croatia

**COPIES OF YOUR APPEALS TO:** diplomatic representatives of the government of Bosnia-Herzegovina accredited to your country

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat,  
or your section office if sending appeals after 12 May 1993.