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Bosnia-Herzegovina: Abolition of Human Rights Chamber leaves citizens unprotected

The proposal to disband Bosnia-Herzegovina's Human Rights Chamber and transfer its caseload to the Constitutional Court would be a serious blow to human rights protection in that country, Amnesty International declared today.

"This decision would be premature given the precarious state of the judiciary which is still undergoing comprehensive reform."

On 12 June, Paddy Ashdown (High Representative for Bosnia and Herzegovina) will present a proposal that would disband the Chamber on 31 December 2003.

"It is highly questionable whether the Constitutional Court -- which has not functioned for over a year due to problems in appointing judges -- would offer the same level of protection."

"The Human Rights Chamber plays a crucial role in redressing human rights abuses in Bosnia-Herzegovina -- it stands as a model internationally," the organization said.

The Chamber consists of a panel of domestic and international jurists and has jurisdiction to address cases of human rights violations. Its decisions are binding. The Chamber has some 10,000 cases currently pending, and an average of 200 new cases are received each month.

"Given the legacy of unresolved human rights issues in the country eight years after the end of hostilities, many of the individual applications concern violations and abuses rooted in the war-time period, which the local courts and administrative bodies have been unable or unwilling to address," Amnesty International said.

While the bulk of the Chamber's caseload has consisted of human rights violations related to property, it has also issued ground-breaking decisions on cases of unresolved "disappearances", in which the relatives of the "disappeared" were denied information on their fate and whereabouts, unfair proceedings in trials of war-related crimes. The Court has also dealt with an increasing number of cases of employment discrimination.

"This unique mandate of the Chamber has enabled it to consider issues relating to human rights violations specific to the context of Bosnia-Herzegovina, where discrimination in the enjoyment of many human rights has been widespread and access to justice minimal", Amnesty International said. "The

continuing and rising number of applications being submitted to the Chamber indicates that for people in Bosnia-Herzegovina, the Chamber is acting as a last and possibly only avenue of justice".

If the Chamber is disbanded, thousands of Bosnians may try to find redress through the European Court for Human Rights, which will not be able to review their cases for many years if at all. The European Court is already unable to deal with its current caseload in a timely manner and the Council of Europe is in the process of implementing proposals recently adopted by the Committee of Ministers, which would cut off redress currently available to applicants.

Amnesty International urges the international community's decision makers to comply with the Dayton Peace Agreement and the Constitution which call for the international components of the Chamber to be replaced by people appointed by the President of Bosnia-Herzegovina.

Background

On 12 June the High Representative for Bosnia and Herzegovina, Paddy Ashdown will present a proposal expanding on the provisions of the Dayton Peace Agreement regarding the Chamber to the Peace Implementation Council (PIC). The PIC is an intergovernmental body consisting of over 55 countries and agencies, which monitors progress in the implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton peace Agreement). It is envisaged that the PIC will endorse the proposal, which reportedly provides that the Chamber will stop receiving new application by the end of July, will cease to function at the end of this year and that its caseload be transferred to the Constitutional Court.

The Human Rights Chamber was created under the Dayton Peace Agreement as part of the Human Rights Commission for Bosnia and Herzegovina. It has jurisdiction to address cases of violations of the European Convention on Human Rights and Fundamental Freedoms and violations of a range of other human rights treaties. The Dayton Peace Agreement provided that five years after the signing of the Agreement, responsibility for the continued operation of the Commission, including the Chamber, would transfer from the parties to the Agreement to Bosnian institutions (Annex 6, Article 15). On 5 June, the Chamber issued an Opinion, in which it challenged the proposal by the Office of the High Representative, arguing that the suggested disbanding of the Chamber and transfer of cases to the Constitutional Court would violate the Dayton Peace Agreement and the Bosnian Constitution.

Public Document

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