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Bosnia and Herzegovina: From Dayton and beyond

The authorities of Bosnia and Herzegovina have yet to fully address the human rights legacy of the war, Amnesty International said on the eve of the 10th anniversary of the signing of the Dayton peace agreement.

Tens of thousands of people were killed and millions were driven from their homes in the war between 1992 and 1995 when the three major ethnic groups of today's Bosnia and Herzegovina, Bosniaks (Bosnian Muslims), Bosnian Serbs and Bosnian Croats, fought a bloody war.

"The wounds of the war may have closed but they have not yet healed. Only the political will and the commitment of the authorities of Bosnia and Herzegovina to bring to justice those responsible for war crimes, crimes against humanity and genocide committed during the war can make peace sustainable," Nicola Duckworth, Programme Director for Europe and Central Asia at Amnesty International, said.

Some of those responsible for these crimes have been prosecuted by the International Criminal Tribunal for the former Yugoslavia (Tribunal) which, under the terms laid down by the UN Security Council, is expected to complete all cases, including appeals, by 2010. A number of suspects indicted by the Tribunal have recently voluntarily surrendered and were transferred to the Hague. However, nine indicted suspects, including former Bosnian Serb leader Radovan Karadzic and former Bosnian Serb generals Ratko Mladic and Zdravko Tolimir, are still at large. So far not a single person indicted by the Tribunal has been arrested by the police in Republika Srpska.

The judiciary in Bosnia and Herzegovina have so far persistently failed to take steps to diligently prosecute all alleged perpetrators of war crimes and crimes against humanity. A War Crimes Chamber within the Bosnia and Herzegovina State Court became operational in March 2005, with the task of dealing with "sensitive" war crimes cases. However, there are concerns that the mechanisms for the transfer of evidence from the Tribunal to War Crimes Chamber are inadequate. It has yet to be demonstrated that the Tribunal's jurisprudence is fully applied in all proceedings before the War Crimes Chamber.

The majority of war crimes cases are to be tried by local courts in the two entities of Republika Srpska and the Federation of Bosnia and Herzegovina. However, these courts as a rule lack the resources, the capacity and, moreover, the political will to deal with such cases. Only in the last month have trials in Republika Srpska ended with the conviction of Bosnian Serb war criminals. In two separate cases in November and December, a court in Banja Luka found three former Bosnian Serb policemen and a former member of the Bosnian Serb army guilty of war crimes for murdering Bosniak civilians.

"Amnesty International welcomes these first verdicts as first steps to bring to justice those responsible for war crimes and crimes against humanity in Bosnia and Herzegovina. The authorities have a duty to deliver justice," Nicola Duckworth said.

The Dayton Agreement, and specifically its Annex 7 on refugees and displaced people, explicitly recognized the right to return as both a remedy to the human rights violations of unlawful transfers or deportations and as a means to reverse the effects of the "ethnic cleansing" of territories during the conflict. In the ten years after the end of the war, about half of the two million people displaced by the conflict have returned to their homes

Today the persistent and endemic problems minority returnees face in accessing education, health care, social services, pensions and, above all, employment remain powerful barriers to potential and sustainable returns.

"The authorities of Bosnia and Herzegovina have the responsibility to create the best conditions for the reintegration of displaced people in their pre-war communities. This means creating a secure environment free of ethnic discrimination in which returnees can enjoy fully their rights. Unless they can become truly reintegrated into their pre-war communities and secure an adequate standard of living, the right to return will remain an empty concept", Nicola Duckworth said.

"The widespread and ongoing discrimination against returnees, based on their ethnicity, is in many respects a continuation of war-time policies of 'ethnic cleansing'. It perpetuates the ethnic division of the country causing the unhealed rifts between communities to continue and be cemented by political and economic factors."

Amnesty International calls on the authorities in Bosnia and Herzegovina:

- to launch effective police and judicial investigations into all cases of war crimes and crimes against humanity in order to bring those responsible for such crimes to justice.
- to ensure that all forms of discrimination are eliminated so that people returning to their homes after the war can enjoy fully their economic and social rights.

Amnesty International calls on the international community:

- to ensure that the Tribunal's activities are extended beyond the originally envisaged deadline of 2010 until an effective action plan for ending impunity in the countries of the former Yugoslavia has been adopted and put into effect;
- to continue and redouble their efforts to fight discrimination in employment, and in access to other economic and social rights, in active partnership with the local authorities and businesses.

Background

The General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement) was signed on 14 December 1995 in Paris after having been initialled at a US Air Force base at Dayton, Ohio. It was signed by the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (now Serbia and Montenegro).

The agreement established two semi-autonomous entities in the country, the Federation of Bosnia and Herzegovina and the Republika Srpska. Since the end of the war, the international community has continued to exert significant influence over the political process in Bosnia and Herzegovina, as part of the civilian implementation of the Dayton Agreement, led by a High Representative with far-reaching powers. Approximately 6,500 troops of the European Union-led peacekeeping force EUFOR remain in the former Yugoslav republic.

Richard Holbrooke, a former US ambassador to the UN, who was credited with brokering the agreement, called it: "...probably the most successful peace agreement in the last quarter century anywhere in the

world...".

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