

AMNESTY INTERNATIONAL PRESS RELEASE

News Flash

AI Index: MDE 15/101/2002 (Public)
News Service No: 108
26 June 2002

Israel/Belgium: Dismay at Sharon case decision

Amnesty International is extremely dismayed at the decision by the Court of Appeal of Brussels that declared a complaint concerning the "Sharon" case inadmissible. The Court's decision was based on its analysis of Belgian law which concluded that no investigation can be opened in Belgium for war crimes, crimes against humanity or genocide unless the suspect is found in the country.

The complaint before the Belgian court concerned the killings of at least 900 Palestinian men, women and children in the Sabra and Shatila refugee camps in the suburbs of Beirut, Lebanon in September 1982.

"This restrictive interpretation of Belgian national law is inconsistent with international law," said Amnesty International.

The organization believes that the Belgian Parliament, in enacting the 1993 law providing for universal jurisdiction over war crimes, as well as in its 1999 amendment to that law extending its scope to crimes against humanity and genocide, intended to provide Belgian courts with the full extent of universal jurisdiction over these crimes permitted under international law.

In fact, the four Geneva Conventions of 1949 authorize Belgium to open an investigation for grave breaches of humanitarian law regardless of the location of the suspect and to seek the extradition of any person suspected of grave breaches with a view to exercising universal jurisdiction even if that person has never been in that country.

The next step in this case is an appeal to the Court of Cassation. If this unfortunate decision is upheld on appeal, Amnesty International will seek an amendment of the Belgian law to ensure that Belgium can continue to act on behalf of the international community in investigating and prosecuting the worst possible crimes in the world when states where the crime occurred have failed to fulfil their responsibilities under international law.

"The massacres of Sabra and Shatila refugee camps were war crimes and need to be fully and impartially investigated," said Amnesty International.

"International law to combat impunity must not be undermined, especially as the International Criminal Court will enter into force on 1 July."

Amnesty International is awaiting the full text of the judgement

Background

As the results of an Amnesty International study of national law in more than 125 countries published in September 2001 demonstrate, international law permits any state to exercise universal jurisdiction over war crimes, crimes against humanity, genocide, torture and, indeed, even ordinary crimes, and all but a handful of the national laws providing for universal jurisdiction do not contain any requirement that the suspects be present in the country in order for the police, prosecutors or investigating judges to open a criminal investigation.

The four Geneva Conventions of 1949 (Geneva Convention I, Art. 49; Geneva Convention II, Art. 50; Geneva Convention III, Art. 129; Geneva Convention IV, Art. 146) permit any state party to open an investigation of grave breaches and to request the extradition of suspects without any requirement that the suspects have ever entered territory subject to that state's jurisdiction, as long as they have sufficient information concerning the possible criminal responsibility of the suspect (*prima facie* evidence):

"The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article 50 (Convention I):

Each High Contracting Party shall be under the obligation 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. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a 'prima facie' case."

For more information, please see:

Universal jurisdiction: Belgian court has jurisdiction in *Sharon* case to investigate 1982 Sabra killings and Chatila killings: <http://www.amnesty.org/ai.nsf/index/ior530012002>
Amnesty International urges investigation of Ariel Sharon:
<http://www.amnesty.org/ai.nsf/index/mde150892001>

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