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Montenegro: Trafficked woman sentenced while perpetrators stay free

Amnesty International is shocked by the conviction last Friday of S.C., a Moldovan woman who was trafficked to Montenegro in 1999. She was sentenced – in her absence – by the High Court in Podgorica to one year’s imprisonment, for making false statements (Article 389, Montenegro Criminal Code) when alleging in 2002-2003 that the then Deputy State Prosecutor and others had been involved in her trafficking. An international warrant has been issued for her arrest. Friday’s decision followed an appeal against the suspended sentence imposed by the Basic Court earlier this year.

Amnesty International, on the basis of information made available from 2002-2005, had concluded that S.C. was the victim of serious human rights violations and abuses. The organization is now calling for her conviction to be overturned and the international arrest warrant to be rescinded. More than 10 years after S.C.’s ordeal, hopefully having rebuilt her life, Amnesty International considers that this prosecution should never have been brought and serves only to re-victimize S.C.

The organization notes that, in an interview in a daily newspaper in mid-November, in which S.C.’s full name was made public, the former Deputy State Prosecutor stated, “I did not claim that she lied but that I don’t know her ... [A]nd maybe I do know her but I need to see her first.” He also provided information on her whereabouts, and announced his intention to take out a private prosecution against others associated with the investigation into S.C.’s allegations, including police officers, S.C.’s former lawyer and the then head of the Women’s Safe House.

Amnesty International believes that authorities in Montenegro, instead of prosecuting S.C. for the allegations she made, should have ensured her rights as a victim of trafficking, including the right to assistance and support and compensation for harm suffered, as set out in the Council of Europe Convention on Action against Trafficking in Human Beings, to which Montenegro is a party.

The prosecution of S.C. arose from a complaint against her, originally made in 2003, by the then Deputy State Prosecutor and another suspect in the original investigation, in which S.C. was the sole prosecution witness. Both men were arrested in December 2002, along with two others, on suspicion of being involved in trafficking women for the purposes of sexual exploitation. Following the hearing of S.C.’s testimony and the questioning of the suspects by an investigative judge, the case against the four men was sent to the State Prosecutor, but was dropped in May 2003 by the Prosecutor’s Office, ostensibly for lack of evidence.

S. C. was trafficked into Montenegro in 1999 and forced into sexual exploitation until November 2002, when she found shelter in the Women’s Safe House in the capital Podgorica. She had suffered horrendous physical and sexual abuse for over three years resulting in severe injuries including seven broken bones, internal injuries so that she could not sit down without pain, scars from handcuffs, cigarette burns on her genitals, and bruises in her mouth. She alleged that Montenegrin politicians, judges, police and civil servants had tortured and raped her and other East European women who like her had been forcibly trafficked to Montenegro.

On the basis of an examination of her case at that time, Amnesty International considered that the treatment she had been subjected to amounted to torture.

Since before November 2002 – when S.C.'s testimony was publicly reported – the Montenegrin authorities have been bound by domestic and international law; these include the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Protocol), to which Montenegro (then part of the state of Serbia and Montenegro) had been a party since 2001. The authorities were therefore obliged to bring the perpetrators to justice, and to ensure that S.C. was afforded support as a victim and provided with compensation for damage she had suffered, as stipulated in Article 6 (6) of the Protocol.

Background

On 16 May 2003 the Organization for Security and Cooperation in Europe (OSCE) called for the investigation against the four alleged suspects to be re-opened. Further, under pressure from the OSCE and the Council of Europe, the Montenegrin government agreed to an inspection by independent experts into the conduct of the investigation into S.C.'s allegations, and an assessment of whether it had been conducted in accordance with national and international standards. In September 2003 the OSCE and Council of Europe submitted the experts' report to the government. Although this report was not officially made public in its entirety, both the OSCE and the Council of Europe announced that there had been serious shortcomings by both the police and the judicial authorities in handling the case, and found that the decision of the Public Prosecutor to dismiss the case was "highly unusual" at that stage of the procedure. The OSCE and Council of Europe urged that there be an independent inquiry into these shortcomings.

The government instead appointed a Commission to investigate the actions of the police and the judicial authorities during the investigation into S.C.'s allegations. The government-appointed commission's investigation was completed in November 2004, and concluded that a "minor case was transformed into a case which provoked serious consequences and great damage to institutions and persons in political life, the judiciary and the state in general."

At the time the OSCE publicly expressed its dissatisfaction with the Commission's findings in a statement by the then Head of the OSCE Mission to Serbia and Montenegro, Ambassador Maurizio Massari: "The findings of the Commission do not respond to the issues of the general functioning of the police and judicial system raised in the joint OSCE-Council of Europe report. Human trafficking is a serious human rights violation. National authorities are therefore obliged to treat such persons as victims, not as criminals....The way the report deals with the character of the Moldovan citizen is not helpful in efforts to address and combat such forms of organized crime in Montenegro."

Amnesty International, in a letter to the Montenegrin government in January 2005 expressed its concerns that the government-appointed commission had failed to acknowledge S.C. as a victim of trafficking; had portrayed her as a "prostitute" with "criminal tendencies" rather than as a victim of serious human rights violations; and had made other derogatory references to her character. The organization concluded that the Commission's report gave rise once again to suspicions of an attempt to cover up apparent official complicity in the trafficking of women and girls for sexual exploitation.

Amnesty International further urged the Montenegrin authorities to re-open the case against the individuals she had alleged had been involved in her trafficking, and fulfil their duties under domestic and international law to investigate her allegations fully and, if sufficient evidence was found, to ensure that the perpetrators were brought to justice, and that S.C. was provided with reparation, including compensation for the harm she had suffered.

For further information, see *Serbia and Montenegro: Shameful investigation into sex-trafficking case*, PRESS RELEASE, AI Index: EUR 70/001/2005 (Public), News Service No: 024, 1 February 2005.

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