

EXTERNAL

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**UPDATE: HARUN HAD_I AND CO-DEFENDANTS PARDONED BY THE
PRESIDENT OF MONTENEGRO**

**Harun Had_i_, Erd_an Fetahovi_, Rifat Veskovi_,
Hakija Muratovi_, Isat Skenderovi_, Šefket Brkovi_ and Rizah Burnazovi_,
Rasim Šahman, Omer Omerovi_, Mevludin Kasumovi_, Umer Had_i_, Avdo Ciguljin,
Sabahet Spahi_, Ibrahim_iki_, Esad Omerovi_, Husein Smaki_, D_evad Begovi_,
Sead Bibuljica, Sead Pu_urica, Senad Pu_urica, Šefket Bošnjak**

This document presents additional information and concerns as an update to "The Federal Republic of Yugoslavia - Torture and Unfair Trial of Muslims in the Sand_ak Region" (AI INDEX: EUR 70/31/95)

On 19 December 1995 the above men, Muslims from the Sand_ak region of Montenegro, who had been convicted a year previously, were pardoned by the President of Montenegro. Seven of them who were in detention were released.

Harun Had_i_ and his 20 co-defendants had been arrested in early 1994. On 28 December 1994 they were convicted by the High Court of Bijelo Polje of "preparing to undermine the territorial integrity of the Federal Republic of Yugoslavia (FRY) by the use of force" under Articles 116 and 138 of the FRY Criminal Code. The defendants included local leaders of the *Stranka Demokratske Akcije* (SDA) the Party of Democratic Action, representing Muslims in Serbia and Montenegro, which is affiliated to the SDA in Bosnia-Herzegovina. They were accused of creating military and police units and of obtaining and distributing arms with the aim of establishing the Sand_ak region (which straddles areas of western Serbia and eastern Montenegro) as an independent state. They were sentenced to between two and seven years' imprisonment. Seven defendants remained in detention; the others, who received sentences of less than five years' imprisonment, were freed at the end of the trial, pending appeal to the Supreme Court of Montenegro.

Amnesty International was concerned about allegations that Harun Had_i_ and most, or all, of his co-defendants were subjected to torture or ill-treatment following their arrest and that they were forced to make self-incriminating statements. The organization was concerned that these allegations were not promptly and thoroughly investigated by the authorities. Amnesty International was further concerned that the defendants were denied a fair trial: the court, having failed to thoroughly investigate these allegations, based its conviction of the defendants very largely on the statements which had allegedly been extorted from them by torture and other coercion. Secondly, the defendants' access to their lawyers, and their lawyers' access to the full court files, was restricted in various ways, thus undermining their internationally guaranteed right to defence.

On 19 December 1995 the President of Montenegro pardoned 82 people, among them 50 people convicted of, or facing trial for, “politically-motivated” offences, - among them Harun Had_i_ and his 20 co-defendants. President Bulatovi_ stated that he had granted the pardons out of a desire to mark the importance of the “Dayton peace agreement” - the General Framework Agreements for Peace in Bosnia-Herzegovina. Harun Had_i_ and the six other defendants who were in detention were released the same day.

Amnesty International, having learned that the Supreme Court of Montenegro was due to review in second instance this case, had earlier (on 7 December) appealed to the President of Montenegro to ensure that the review be conducted promptly and that in accordance with international standards for fair trial, statements obtained by torture or other coercion be excluded as admissible evidence. Amnesty International also called for a prompt, thorough and impartial investigation into allegations that the defendants were tortured or otherwise ill-treated following arrest and for any police officer responsible for torture or ill-treatment to be brought to justice and victims granted adequate compensation.

Amnesty International’s present concern

Amnesty International warmly welcomes the pardon granted by the President of Montenegro. The organization remains concerned, however, by the failure of the authorities to investigate the allegations of torture made by the defendants in this case (see below).

Both national law and international human rights treaties which the FRY has recognized as legally binding (including the *United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*) prohibit torture and ill-treatment and exclude the use in court of statements made by the accused as a result of torture or ill-treatment as evidence against the accused.

Amnesty International accordingly calls on the authorities to order a prompt, thorough, independent and impartial investigation into allegations that Harun Had_i_ and his co-defendants were tortured or otherwise ill-treated following arrest and to bring any police officer responsible for their torture or ill-treatment to justice. The organization also urges the authorities to grant fair and adequate compensation to victims.

Amnesty International further urges the authorities to ensure that in all cases and all circumstances torture and ill-treatment are prohibited; that prompt, thorough, independent and impartial investigations are instituted into allegations of torture and ill-treatment; that coerced statements are excluded from court proceedings; that police officers responsible for acts of torture or ill-treatment are brought to justice and that victims are granted fair and adequate compensation.

Details about the alleged torture and ill-treatment, excerpted from pages 10 to 13 of Amnesty International's external paper - AI Index: EUR 70/31/95

Reported torture and ill-treatment and coerced statements

Most (possibly all), of the defendants alleged that after their arrest police or SDB officers [state security police] subjected them to torture, ill-treatment or threats in order to extort false confessions from them. The defendants complained especially about being beaten on the head and on the soles of their feet. At least three described being tortured with electric shocks. Many of them said that a hood was put over their heads when they were arrested and that they were driven away in an unknown direction. Several claimed that police officers had threatened to kill them and one described a mock execution. Some complained that police officers had threatened reprisals against members of their families.

Most of the defendants stated in court that they eventually made self-incriminating statements in order to end their ill-treatment, and repeated these statements when brought before the investigating judge out of fear of reprisals.

Five or six of the defendants told the court that after their arrest SDB officers told them they were being taken to prisons in Fo_a or _ajni_e (towns in Bosnian-Serb controlled areas in Bosnia-Herzegovina, just over the border with Montenegro). Some detainees said they had been told they were going to be handed over to Bosnian Serb paramilitary forces. Umer Had_i_ - a former public prosecutor - said he had recognized the prison in Fo_a. Amnesty International notes that all three defendants who described being tortured with electric shocks (Harun Had_i_, Umer Had_i_ and Ibrahim _iki_) stated they had been held in Fo_a.

The following is a brief summary of allegations of torture or other ill-treatment made by some of the defendants:

- (1) **Harun Had_i_** said he had been subjected to electric shocks and beatings; this had lasted for at least 48 hours. He was deprived of sleep for three consecutive nights.
- (2) **Rasim Šahman** said he had made his statement to the investigating judge after having been ill-treated and beaten.
- (3) **Erd_an Fetahovi_** said he was beaten and kicked by officers. "They took me away to be shot, as they said. Without warning they fired a couple of bullets over my head. They pushed a pistol into my mouth. One held me, another put a knife to my throat, and a third one ordered: `Kill him, kill him'". He alleged that the officers told him they had also arrested his wife and were "taking it in turns with her" in another room.
- (5) **Mevludin Kasumovi_** claimed to have been subjected to severe torture. "Immediately following my arrest terrible beatings and torture started. It was horrible. After all this torture and ill-treatment I started to think about making up some story. That was the story of my trip to Sarajevo. The inspectors [SDB officers] produced a written statement and told me to sign it. I told them I had not done any of those things [contained in the statement]. However, I signed the statement hoping the torture would stop. If they had asked me to confess to killing my father - who died of natural causes - I would have agreed. When I was brought before the investigating

judge I repeated what I had said earlier. I was afraid of beatings, of torture, I was also worrying about my family."

(6) **Rifat Veskovi_** said he was beaten immediately upon his arrest, and had been threatened with a pistol and with knives.

(7) **Hakija Muratovi_** said he was beaten after his arrest.

(9) **Umer Had_i_** said he had been driven to Fo_a and beaten on the way there. Police officers had told him they were going to shoot him. On the way the car stopped and the guards had wanted him to run away so they could kill him while escaping. They fired in the air and beat him when he tried to stay in the car. When they arrived in Fo_a, he was made to walk between two lines of policemen who beat him as he passed by and he had received a great number of blows. He was tortured with electric shocks, particularly on the genitals. He was tied to a radiator in such a way that he could neither stand up nor sit down. He claimed he had recognized some of the men who tortured him.

(10) **Šefket Brkovi_**: "On 31 January a group of men burst into my home. They grabbed me and tied my hands behind my back. My two children were sitting on the couch and were watching this brutal scene. That was the worst of all for me. They blindfolded me and threw me into a car. When they removed the blindfold, they said they had brought me to _ajni_e. They beat me with clubs and punched me. They beat me especially on the hands and the soles of my feet. When they beat me on the soles of my feet, it felt like they were beating my entrails out through my mouth. What surprised me most was that I survived those three days at all".

(12) **Rizah Burnazovi_** alleged that after his arrest he was taken in an unknown direction, about one and a half to two hours' drive away. They beat him with truncheons, kicked and punched him all over his body and his head. They deprived him of sleep for three days in a row.

(14) **Ibrahim_iki_** reportedly told his lawyer, Dragoslav Kljajevi_, that for three days following his arrest he had been subjected to severe physical and mental torture, including beatings and electric shocks to his head and genitals.

(15) **Esad Omerovi_** said he was beaten with truncheons and kicked by several officers.

(16) **Husein Smaki_** said he was beaten and otherwise ill-treated in Fo_a.

(11) **Avdo Ciguljin** stated that he counted 100 blows to the soles of his feet and 50 about his head. He also alleged that a stick or truncheon was forced into his anus and then into his mouth.

National and international legislation prohibiting torture and ill-treatment

Torture and ill-treatment are prohibited under Yugoslav law. Article 191 of the FRY Criminal Code punishes with up to three years' imprisonment officials who in the performance of their duties physically ill-treat, intimidate or insult another person. Article 65 of the Serbian Criminal Code provides for a sentence of up to five years' imprisonment if the ill-treatment is intended to extract a confession (or up to 15 years if the ill-treatment is very serious). Torture and ill-treatment are also prohibited under the *United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and the *International Covenant on Civil and*

Political Rights which were ratified by the Socialist Federal Republic of Yugoslavia (to which the FRY claims to be the successor state).

Failure of the court to conduct prompt, thorough, independent and impartial investigations into allegations of torture, ill-treatment and coercion in obtaining statements and use of these statements in trial proceedings

Amnesty International is concerned that the court apparently failed to conduct a prompt, thorough, independent and impartial investigation into the complaints by defendants of torture, ill-treatment and coercion in obtaining statements from them. Under Article 12 of the *United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, the authorities are obliged to "proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed..."

However, although most, or all, of the defendants in this case claimed they had been tortured or ill-treated following arrest, the authorities appear to have done very little to investigate these allegations. The information available to Amnesty International indicates that in February 1994 a number of the defendants were medically examined, but that due to the time that had elapsed since the alleged ill-treatment, these examinations could not confirm or refute the allegations of ill-treatment.