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Croatia: Victims and witnesses in war crimes trials must be adequately protected

Reports of continuing intimidation and harassment of victims and witnesses at the trial of eight former military police officers accused of war crimes in the Lora military prison, raises serious concerns about the ability of Croatia to fulfil its obligations under international law to bring to justice those responsible for the worst possible crimes.

Amnesty International is concerned that the failure of the authorities to protect witnesses and victims could not only seriously compromise this prosecution, but ultimately deny the victims of these violations their right to justice. The failure to protect is in marked contrast to the victims and witness protection program of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and normal national protection programs in drug-trafficking and other serious ordinary crime cases.

"This trial will test Croatia's ability to effectively conduct domestic war crimes prosecutions in a manner consistent with the duty to bring to justice those responsible for such crimes," Amnesty International said.

Since this trial opened on 10 June at Split County Court, most of the 14 prosecution witnesses heard by the court have retracted the detailed statements they made during the criminal investigation into human rights violations in Lora prison. Many of them are themselves former detainees who suffered human rights violations, or former prison guards.

Five witnesses, now living in the Federal Republic of Yugoslavia, failed to come to the court on 18 June, possibly as a reaction to reports about previous intimidation of witnesses, despite claims by the presiding judge in the case who claimed that due precautions had been taken to facilitate their travel and security.

Some witnesses have stated publicly that they retracted their statements after receiving continuous threats since investigative proceedings opened in September 2001. A key prosecution witness, a former military police officer, who repeatedly spoke out publicly about the human rights abuses in the prison, has reportedly been subjected to such serious threats to himself and his family that he has gone into hiding. Although this witness has apparently been under police protection for two years now, information about his whereabouts was reportedly recently leaked. Amnesty International understands that an internal investigation is currently ongoing into possible involvement of the local police in this leak.

Neither the presiding judge nor the court police appear to have made any serious attempts to

maintain order in the court, where an estimated 80-strong group of supporters of the accused continuously disrupt proceedings. The authorities need to consider the special protection needs of victims and witnesses who may be re-traumatized by this combination of events.

"If Croatia wants to show that it is willing and able to conduct war crime trials it must effectively protect victims and witnesses from intimidation and harassment," said Amnesty International.

The issue of victims and witness protection needs to be urgently addressed in the wider context of a comprehensive review of the Croatian criminal justice system. Although such a review has been announced for several years now, few concrete measures have been taken so far to ensure that the Croatian judiciary is capable of investigating and trying such complex and sensitive cases.

Recognizing the challenging nature of this task for the domestic police system and the steps which have already been taken, Amnesty International called on the international community to support the Croatian police and criminal justice system in establishing an effective witness protection and support scheme. Wherever appropriate, mechanisms should also be considered for resettling vulnerable witnesses at risk of retribution in third countries.

In addition, members of local human rights organizations and journalists monitoring the trial have reportedly also been intimidated. One human rights activist, who was verbally abused and menaced by supporters of the accused, was apparently only able to leave the building under the protection of Organization for Security and Co-operation in Europe representatives.

Background

Following an investigation into the torture of scores of Serb and Montenegrin prisoners in Lora prison in 1992 and the murder of two prisoners, seven military police officers were arrested in 2001. The officers have been indicted for war crimes. An eighth defendant, the prison commander, has gone into hiding and is being tried *in absentia*. However, superior responsibility for human rights violations committed in this prison may extend to former political and military leaders in Croatia, who were aware of these crimes, but did not prevent or punish them.

Amnesty International understands that the public prosecutor today filed a motion to the Supreme Court for the case to be transferred to another court, as the Split County Court could not be considered to be impartial in this case due to the incessant pressure by supporters of the defendants. The trial has been postponed until further notice.

The systematic torture and ill-treatment of Lora detainees, an estimated 70 of whom subsequently "disappeared", was widely reported by both local and international organizations.

In October 2001 a witness, a former Lora prisoner, was reportedly attacked and threatened by a group of war veterans inside the court building and subsequently outside his apartment block. The father of another witness who had been threatened during the investigation complained to Split police in September 2001. In both cases virtually no action appears to have been taken.

The public prosecutor then dealing with the case reportedly also received threats. In December 2001 further concerns arose over undue interference in the judicial proceedings when the Split-Dalmatia County Prefect visited the suspects in prison and subsequently made statements to the media implying they were innocent.

The protection of victims and witnesses is a positive obligation on the state which is recognized under the European Convention for the Protection of Human Rights and Fundamental Freedoms. The European Court of Human Rights has in several cases held that states have a duty to ensure that the rights of victims and witnesses are adequately protected in criminal proceedings.

Under its Statute, the ICTY may re-try a person for acts constituting war crimes if "the national court proceedings were not impartial or independent, were designed to shield the accused from international criminal responsibility, or the case was not diligently prosecuted."

Public Document

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