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Kosovo: Report on investigations into KLA must lead to prosecutions for crimes against humanity

Amnesty International welcomes yesterday's report on investigations by Clint Williamson, Chief Prosecutor of Special Investigative Task Force (SITF), into allegations that senior Kosovo Liberation Army officials committed serious crimes under international law against civilians after the conflict ended in June 1999.

According to the Chief Prosecutor these investigations will lead to the indictment of some former leaders of the Kosovo Liberation Army (KLA) for the unlawful killings, abductions, sexual violence and other forms of inhumane treatment of Kosovo Serbs and Roma, as well as ethnic Albanians believed to oppose the KLA, and for their unlawful detention in Kosovo and Albania in 1999.

This is hopefully a step towards justice for the families of up to 400 Kosovo Serbs, Roma and others believed to have been abducted, and subsequently transferred to Albania, where they are alleged to have been killed.

Amnesty International notes that the Chief Prosecutor has been unable to issue indictments against the as-yet unnamed suspects, as the specialized court being established outside Kosovo to try suspects in the SITF investigation, will reportedly not open until 2015.

Amnesty International therefore urges the EU and its member states to ensure without further delay that the legal instruments required to operationalise the proposed Court are agreed and finalised; and that adequate human, financial, technological and other resources are immediately made available to the Court.

The organization also urges the Assembly and Government of Kosovo to continue their cooperation with the SITF, and ensure that all legislative and other measures required within Kosovo are put into place to allow the Court to be established and function adequately.

Amnesty International particularly welcomes the prosecutor's recognition of the widespread and systematic nature of the crimes and his indication that the indictments will characterise these as crimes against humanity.

The organization is, however, concerned that the gap between today's announcement and the opening of the court may provide some potential suspects with an opportunity to evade justice.

The Kosovo authorities must support the Court, and the European Union must then ensure that it is established in practice. Any delays in this process may well lead to impunity and the further intimidation of potential witnesses

Amnesty International notes that the SITF has faced several barriers to its investigations, including a “climate of intimidation”. The organization has repeatedly criticized the political interference in the course of justice which has encouraged such a climate of impunity.

The organization also notes that the chronic failure to provide adequate witness protection in Kosovo, has further limited the SITF’s investigation, and has for years constituted a fundamental barrier to the investigation and prosecution of crimes under international law. The organization notes with regret that hearings of witnesses will have to take place outside Kosovo in order to ensure that witnesses are protected.

However, the organization believes that it is essential that justice be seen to be done within Kosovo to strengthen the rule of law. The establishment of a court outside Kosovo clearly points to the failure since 1999 of the international community, including the UN Interim Administration Mission in Kosovo (UNMIK), the EU-led police and justice mission in Kosovo (EULEX), and EU member states, to provide the necessary resources needed to develop an effective and comprehensive witness protection programme within Kosovo.

Background

In December 2010, a report for the Parliamentary Assembly of the Council of Europe (PACE) by Swiss Senator Dick Marty alleged that Prime Minister Hashim Thaçi and other members of the KLA were involved in 1999 in the abduction, torture, ill-treatment and murder of Serb and Albanian civilians transferred to prison camps in Albania. The report asserted that in one of the camps, detainees were allegedly murdered and their organs removed for trafficking. The report was approved in December 2010 by the Legal Affairs and Human Rights Committee of the PACE, and adopted by the PACE on 25 January 2011.

The Special Investigative Task Force (SITF) was established in 2011 to follow up on the Marty report as the first comprehensive investigation in Kosovo into the abduction of missing Serbs.

Amnesty International has, for almost 15 years, urged the relevant authorities to investigate the widespread abductions of Serbs, Roma and members of minority communities in Kosovo in the immediate aftermath of the 1998-9 war. The organization considered the abductions which took place after June 1999 to be part of a widespread and systematic attack on a civilian population and as such should be tried as crimes against humanity.

Between 1999 and 2008, the UN Interim Administration Mission in Kosovo (UNMIK), and from 2009, the EU-led police and justice mission (EULEX), as well as Kosovo police and prosecutors in Kosovo had failed to bring to justice those responsible for the abduction and murder of hundreds of Kosovo Serbs, as well as Roma and members of other minority communities, also believed to have been abducted by the KLA, during and after the armed conflict.

For further information see, *Kosovo court important step, but questions about impunity gap linger*, 25 April 2014, <http://amnesty.org/en/library/info/EUR70/011/2014/en>

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