

## ***ARTICLE, 5 October 2004***

### **War Crimes:**

#### **The legacy of the past and the country's present and future tasks.**

On this day, four years ago, the people of Serbia toppled the regime of Slobodan Milosevic that brought tremendous suffering and injustice to Serbia and its neighbors. Among the most painful legacies of these dark times, are the grave atrocities committed by Milosevic's regime in the name of the Serbian people. In order to cope with the legacy of the past every society and every nation first has to look to its own past and face the misdeeds done by its own people. This is crucial for national and regional reconciliation.

During hostilities in the former Yugoslavia, all combatants, especially those from the regular armed forces, and those who commanded them, were fully aware of the Geneva Conventions and international rules regulating the conduct of soldiers in armed conflict. They were also aware that these rules were binding as part of the legal system of former Yugoslavia. They even made them part of the military manuals. Individual fighters, including those in command positions, therefore bear the responsibility for atrocities committed. If those individuals are not brought to justice, either by the International Criminal Tribunal for the Former Yugoslavia (ICTY) or by domestic courts, the stigma of those atrocities will be placed on the entire nation.

It is not an act of weakness to deal with war crimes and the horrors of the past. On the contrary it is an act of courage and a demonstration of inner strength. It is the best way for Serbia and Montenegro to enter the family of European democracy with full self-confidence. War crimes are therefore not only about the past but also about the future. Europe is above all a community of values and principles. Among these, principles of justice and the rule of law stand above all. It is for that reason that the international community has made the arrest and extradition of war crime suspects to the ICTY a pre-condition for the full integration of Serbia and Montenegro into European and Euro-Atlantic institutions.

We respect the efforts by the governments of Serbia and Montenegro, including the extradition of Milosevic. But a number of outstanding indictments issued by the ICTY prosecutor still have not been executed by Serbian authorities and indictees remain at large. It is time for Serbia and Montenegro to "finish the job" in order to avoid that the destiny of some individuals continues to block the country's progress toward European integration.

Serbia must also prepare the local courts to try war criminals at home according to international standards. Serious efforts to build the capacity of its law enforcement, prosecutorial and judicial institutions to deal with war crimes have been made. Several war crimes trials have already been conducted before ordinary courts and in 2003, a special law on war crimes was adopted, establishing special institutions to deal with war crimes. The Belgrade District Court's War Crimes Chamber and the War Crimes Prosecutor's Office are already functioning and the first trial that is commonly known as the "Ovcara case" is currently under way. The OSCE Mission has been assisting in the building of the capacity of courts and judiciary in Serbia to deal with war crimes, and has helped in developing necessary legislation, including that on witness protection, which should help establishing the truth during the trials. We are closely monitoring these trials and investigations, and are ready to assist the state institutions in promoting regional cooperation and raising public awareness. The judiciary in Serbia is on the right track to reaching international standards but more needs to be done. In particular:

1. New legislation is urgently needed in areas such as witness protection and admissibility of evidence collected by foreign courts and the ICTY. Domestic courts should also agree on the application of the command responsibility, referring to the responsibility of individuals who held senior positions but failed to stop war crimes committed by people under their command even though they knew about these crimes or had a clear duty to know;
2. The judges and prosecutors requested to deal with war crimes need to be trained and supported in regularly updating their legal expertise;
3. A communication link needs to be established with the police, prosecutors and judicial authorities of Croatia and BiH for an efficient mechanism for the rapid exchange of available information, testimonies and evidence, as well as the protection of witnesses;
4. The public and society need to be better informed and educated about war crimes and country's recent history and to be actively engaged in the process of "dealing with the past".

My final message to the citizens of Serbia and Montenegro is the following: dealing with war crimes should not be seen as a burden or a punishment, but as an opportunity for Serbia Montenegro and all societies in the region to grow and mature, both morally and institutionally.