



Warsaw, 04 October 2010

Statement to the OSCE Review Conference

Working Session 4

Rule of law I

Protection and respect of Witnesses and Victims in War Crime Cases in Bosnia and Herzegovina

Distinguished Chair, Ambassadors, Sirs and Madams,

On behalf of the Norwegian Helsinki Committee, the Helsinki Committee for Human Rights in Bosnia and Herzegovina and the Helsinki Committee for Human Rights in Republika Srpska, BiH, I want to reiterate what we said last year. Bosnia and Herzegovina needs to deal efficiently with the many war crime cases which are still open 15 years after the war.

In this regard we have welcomed the adoption of the War Crimes Strategy by the Council of Ministers of BiH in December 2008. The strategy foresees that the most complex and top priority war crime cases will be prosecuted within 2015 and other war crimes cases within 2023.

However, we regret that the implementation of the Strategy has not been forceful or consistent enough so far. We call on the State of Bosnia and Herzegovina and both its entities to fully support the implementation of the Strategy. We especially call on those institutions that take part in the Supervisory Body established by the Strategy to take on the full responsibility to drive forward the implementation of the Strategy so that the full set of objectives can be reached in time.

The OSCE Mission to Bosnia and Herzegovina released a report earlier this year called "Witness Protection and Support in BiH Domestic War Crimes Trials". We warmly welcome the report, its focus and its recommendations. We are glad the report has been made publicly available, which is anyway a recommendable practice for all OSCE reporting in the human rights field. We understand that copies of the report are available on site.

The report highlights several concerns that we share:

- Allegations of threats against witnesses are not sufficiently investigated, which leads to impunity and can have disastrous effects as witnesses under pressure have changed their testimonies.
- Protective measures are not applied when needed or they are not applied in a consistent and co-ordinated manner to ensure effectiveness of protection. For instance judges do not consistently withhold names of protected witnesses and there are no known instances where a prosecutor or a defense counselor has been sanctioned for revealing the identity of a protected witness.
- Even if entity courts lack material and financial resources to implement some witness protection measures, they are rarely implementing such measures which are feasible within existing resources, such as the consistent use of pseudonyms. Entity courts have also not developed rules of procedure on witness protection, as they are obliged to.

- In entity courts, witnesses do not receive the support they need during trial, especially not psycho-social support as foreseen.

We appreciate that donor initiatives are underway to help against some of these problems and we call on all donors involved to take a holistic approach to entrench institutional capacity for witness support and protection and focus on long-term sustainable solutions, to ensure protection and support before, during and after trials.

We would like to stress the particularly difficult situation of victim- witnesses and the fact that it is not uncommon that some witnesses testified and gave statements more than four or five times about the same crime or incident. Given the severe strain of retraumatization as well as raising the risk of undermining protective measures, ways must be found to better respect the fundamental rights to life, liberty, security and privacy of this group. Prosecutors and courts must co-ordinate better and creative measures must be sought to avoid the present repetition of testimonies. Ideas such as holding joint hearings and building on previous written testimony and adjudication must be explored. This is both a political challenge and a challenge for the justice sector actors in Bosnia and Herzegovina. We call for urgent and concerted action in respect for those men and women whom we are asking to stand up for justice at personal risk and pain.

Thank you!