

High Representative Acts to Prevent War Criminals Absconding During Trial

The High Representative, Christian Schwarz-Schilling, yesterday amended provisions of the Criminal Procedure Code to extend the maximum duration of post-indictment detention from one year to three years for the most serious cases, including war crimes cases.

The High Representative issued this Decision following requests from the relevant BiH and international institutions including the BiH Justice Minister Slobodan Kovac.

The current one-year limitation on detention after confirmation of indictment is problematic because cases are often complex and cannot be completed within one year. As a result, defendants could be freed from detention during a trial, giving them the opportunity to flee to countries from which extradition to Bosnia and Herzegovina is not possible.

This procedural amendment is viewed by the International Criminal Tribunal for the former Yugoslavia (ICTY), the State Court, and non-governmental organisations working in the criminal justice sector as long overdue.

The High Representative has always made it clear that he is willing to use his Bonn Powers to ensure that Bosnia and Herzegovina cooperates fully with the ICTY. "Cooperation with the ICTY is an absolute priority," the High Representative said. "Nothing will be allowed to stand in the way of Bosnia and Herzegovina's progress on this issue."

Recognising efforts made by the Ministry of Justice to strengthen Bosnia and Herzegovina's ability to deal with war

crimes, and noting that the Parliament will resume its last session on 19 June, the High Representative called on Parliamentarians to push through ICTY-supported legislation that will allow electronic copies of ICTY documents to be used in trial proceedings in Bosnia and Herzegovina.

This legislation will make it easier to analyse and distribute documents received from the ICTY. The necessity for such legislation is clear: cases transferred from the ICTY can require the transfer of more than 60,000 documents. The transfer of documents in electronic form is common in the other states to which the ICTY transfers cases.

The High Representative also amended the BiH Criminal Procedure Code and the Law on Transfer of cases from the ICTY in the following ways:

- Extending the initial period of custody when an accused is transferred to Bosnia and Herzegovina from 24 to 48 hours, reflecting the need for sufficient time for defence and prosecution to prepare for the first custody hearing;
- Extending the maximum detention period during investigation from six months to one year, reflecting the need for additional time to prepare complex cases; and
- Providing for payment to defence counsel while the trial is ongoing, addressing the reluctance among defence attorneys to take on protracted cases and having to wait until the end of the trial for payment.