

OHR-ICTY Working Group on Development of BiH Capacity for War-crimes trials Successfully Completed

Today, Friday 21 February 2003, in The Hague, the President of the International Criminal Tribunal of the former Yugoslavia (ICTY), Judge Claude Jorda, and the OHR Senior Deputy High Representative and Head of the Rule of Law Pillar, Ambassador Bernard Fassier, signed Joint Conclusions on the development of war-crimes trial capacities in Bosnia and Herzegovina (BiH).

This two-day conference successfully concluded the Sarajevo working-group meeting held in January this year.

Focusing on the necessary financial requirements involved in developing BiH's own capacity in investigating and trying war-crimes cases, the meeting was designed to give the international community a clear basis jointly agreed by ICTY and OHR from which to determine the best way forward. In March the OHR will organise an information meeting in Sarajevo to present the OHR-ICTY joint project to interested Embassies and International Organisations in BiH. The OHR and the ICTY will also jointly present their Conclusions at the next meeting of the Peace Implementation Council in Brussels, planned for 28 March 2003, and to the United Nations Security Council, at the first possible opportunity.

Today's Joint Conclusions will be included in the on-going discussions between the OHR and the BiH authorities on the development of the Court of Bosnia and Herzegovina and the BiH Prosecutors Office.

JOINT CONCLUSIONS

The OHR-ICTY working group considered the institutional and legal framework, the technical and logistical requirements, the type and number of cases and the possible financial burden of developing BiH's capabilities in this regard. The working group's Conclusions show:

- A specialised, three-panel chamber within the newly established Court of Bosnia and Herzegovina, is, in the first phase, the most appropriate institution in BiH to try war crimes cases. This Chamber will be an institution of Bosnia and Herzegovina operating under the laws of the state. Nevertheless, for an initial period there should be a temporary international component in its judiciary and court management.
- The Prosecutor's Office of BiH must include a War Crimes Department with a temporary international component. In addition, due to problems remaining in BiH, there must be effective support for the investigation of war crimes and the apprehension of suspects.
- The specialised War Crimes Chamber within the Court of BiH will have jurisdiction over three types of war crimes: those cases deferred by ICTY in accordance with Rule 11 *bis* of the Rules of Procedure and Evidence (approximately 15 accused); those cases deferred by the ICTY Prosecutor's office, for which Indictments have not yet been issued (approximately 45 suspects); and those "Rules of the Road" cases before domestic courts, which due to their sensitivity should be tried at the State Court level.
- BiH Laws shall apply. The ICTY experience will also be referred to in the development of specific rules of procedure for the specialised War Crimes Chamber of the Court of BiH, and in the review of the Criminal Procedure Code of BiH.
- The establishment of the specialised War Crimes Chamber of the Court of BiH requires the renovation of additional facilities as well as adequate security

measures.

- The creation of state level detention facilities is a pre-condition not only for the work of the future specialised War Crimes Chamber of the Court of BiH, but for the work of its other chambers as well.
- A witness protection program and a program to provide security for judges and prosecutors must be developed.

Both the OHR and the ICTY recognise that an effective war crimes trial capability within BiH is an essential part of the establishment of the rule of law and fundamental to the reconciliation process, creating necessary conditions to secure a lasting peace in BiH.