

My name is Selma Korjenic, and I am head of TRIAL International Program in Bosnia and Herzegovina (BiH) who is active in BiH since 2007, with aim to fight against impunity, to improve access to justice for victims of grave crimes and to ensure they obtain the redress.

### **National consultations on the UPR**

TRIAL International was not invited nor is aware of any kind of consultations organized by any governmental body in BiH in the process of drafting the National Report.

**This statement addresses the issues of** access to justice and reparations for wartime victims-with specific focus on sexual violence survivors and victims of torture.

The State Strategy for prosecution of war crimes, adopted by the BiH Council of Ministers (CoM) in 2008, provided an important strategic framework for war crimes prosecutions. The Prosecutor's Office of BiH and the Court of BiH have failed to meet the stated goal of prosecuting all the most complex cases by the end of 2015. In mid-2018, amendments to this Strategy have been agreed upon, providing for all war crimes cases to be resolved by 2023. The revised strategy was supposed to be considered by the CoM, which has not been done to date. Blocking the process of adoption of the Revised Strategy slows down the process of reallocation of cases between the state-level judiciary and lower instances and the strategic approach to processing war crimes.

Since 2015, courts across the country started awarding compensations to wartime sexual violence victims within criminal proceedings. However, victims are still unable to actually collect them. It is often the case that perpetrators who are obliged to pay compensation do not have the funds which they are required to pay, or are concealing them.

The stigmatization of wartime sexual violence victims within criminal proceedings is also noticeable.<sup>1</sup>

The sentencing policy for wartime sexual violence crimes is not at an adequate level in BiH.

In June 2018, RS NA adopted the Law on Protection of Victims of Torture. Adopted version of the Law still contains number of items which could prevent many victims from fully exercising their rights.<sup>2</sup>

In September 2018, the BiH MoJ formed a Working group composed of representatives of four levels of government with task to harmonize the text of the amendments to the Laws on Civil Procedure, with aim to ensure continued protection of victims' identity, who were referred from criminal proceedings to civil proceedings, to obtain compensation. Up until now the Working group has not finalised the amendments.

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<sup>1</sup> Thus, TRIAL International identified four myths about victims of sexual violence (mostly women) which manifested themselves during criminal proceedings: the myth of promiscuity, the myth of consent, the myth of credibility and the myth of shame.

<sup>2</sup> During the public consultations process, NGOs raised particular concerns regarding the several provisions of the Law. For example, Article 16 (3) limits the list of evidence establishing the fact on endured torture solely only to those issued by official institutions and bodies of RS, while Article 16 (7) stipulates that in the procedure for determining the status, the body conducting the procedure will also seek the opinion of the RS Union of Detainees of War / or the Association of Women Victims of War in RS, including other associations of civilian victims of war who have acquired the status of associations of public interest. In cases of some victims with current residence in RS, they only received documents issued exclusively by associations and bodies outside of this entity, meaning that such documents could be excluded as evidences, thus preventing them in exercising their rights.

Claims made by war crime victims against responsible entities and the state are dismissed with application of statute of limitations. Following the decision of the Constitutional Court of BiH in 2014, contrary to the relevant domestic and international standards. As result of this victims are also required to pay high court fees to entities which they have claimed against.

**Recommendations:**

- Without further delay, BiH must ensure that the State Strategy for prosecution of war crimes is duly adopted by the BiH Council of Ministers, in order to continue the process of prosecuting war crimes.
- BiH must ensure that the positive practice of awarding compensations within criminal proceedings is continued, especially putting additional efforts on the form of financial investigations and freezing of assets in order to increase the chances of payment by perpetrators.
- BiH must ensure setting up the state fund or provide a budget line from which would be possible to draw funds to be allocated to victims in cases where collection from the perpetrators is not possible.
- BiH must secure continuous education of judicial staff regarding stigmatization and stereotyping of wartime sexual violence victims.
- Suitable and harmonized application of criminal laws regarding the determination of the length of sentence in the cases of war crime of rape needs to be insured, and the negative trends which allow the perpetrators to receive amnesty and reduced sentences need to be stopped.
- Republics Srpska Government must take additional measures to ensure that wartime sexual violence victims have access to the rights guaranteed in the Law on Protection of Torture Victims without undue restrictions which would result in their claims being denied.
- BiH must secure that amendments to the Laws on Civil Proceedings are finalized and directed towards regular procedures for adoption at all levels of government.
- It is necessary for BiH to abandon the practice of statute of limitation application.
- BiH has to adopt measures which would exempt victims from paying court fees to the entities as soon as possible, in cases where their claims for damages were denied.