



**Launch of EU Military operation in Bosnia-Herzegovina  
(Operation 'ALTHEA'-EUFOR)**

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## **Background briefing**

On the occasion of the launch of EUFOR Operation Althea and of the deployment in Bosnia-Herzegovina of the largest European Union (EU)-led military operation so far, Amnesty International reiterates its call on the EU to ensure that, when taking over from forces led by the North Atlantic Treaty Organisation (NATO), the shortcomings of the Stabilisation Force (SFOR) in terms of respect for human rights will be fully addressed.

When on 2 July 2004 the Council of Ministers adopted its Joint Action on Operation ALTHEA, Amnesty International pointed the Council to its concerns, repeatedly raised with NATO and individual governments contributing troops, about instances where SFOR has failed to adhere to international human rights law and standards, including unlawful and arbitrary arrests and allegations of ill-treatment of detainees by members of SFOR. ([see press release](#))

Amnesty International called on the EU to abide by international human rights law and to ensure that its standards are fully applied in EUFOR operations. The EU needs to signal the importance it attaches to ensuring the highest standards of behaviour of troops on foreign soil, and that it will provide for real accountability for its presence in Bosnia-Herzegovina. In particular, Amnesty International called on the EU to ensure that EUFOR will:

- actively seek those indicted by the International Criminal Tribunal for the former Yugoslavia (Tribunal) for genocide, war crimes and crimes against humanity, coordinating its activities with remaining NATO forces in Bosnia-Herzegovina where appropriate, with a view to arresting the suspects and transferring them to the Tribunal's custody;
- immediately turn over to the competent authorities of Bosnia-Herzegovina all individuals detained by EUFOR, for whom no arrest warrant was issued by the Tribunal;
- discontinue SFOR's current practice of arbitrary detention;
- adopt a zero-tolerance policy towards any form of sexual abuse and exploitation, including prohibiting through disciplinary and criminal sanctions, the use of women and girls trafficked into forced prostitution;
- ensure reparation, including paying appropriate compensation, to victims of human rights violations committed by its personnel.

## **Questions of concern remain unanswered**

On 2 November 2004, Amnesty International wrote to the President-in-office of the Council of the European Union, Dutch Foreign Minister Bernard Bot, with the request to clarify 15 specific questions related to the mandate of the mission, including on the coordination of EUFOR with NATO and US forces remaining in Bosnia and Herzegovina regarding the apprehension of suspects indicted by the International Criminal Tribunal for the Former Yugoslavia (Tribunal). Amnesty International is awaiting a reply to this letter.

During the European Parliament's debate on EUFOR on 16 November 2004, Members of the EP raised several of these questions in the debate with the

representative of the Dutch Presidency, Minister for European Affairs Mr. Atzo Nicolaï. In particular MEPs sought clarification on:

- whether EUFOR would commit to a zero-tolerance policy on trafficking and sexual abuse;
- whether the human rights ombudsman of Bosnia and Herzegovina would have competence over EUFOR;
- what accountability mechanisms had been established in the event of transgressions by EUFOR personnel; and
- how the activities of the mission will be coordinated with the EU Police Mission in Bosnia and Herzegovina.

*(None of the questions were answered in the Presidency's response.)*

### **EUFOR must avoid SFOR mistakes**

According to Article 6 of the Council Joint Action of 12 July 2004, political control and strategic direction will be the responsibility of the Political and Security Committee (PSC). The PSC will have powers to amend the planning documents, including the Operation Plan, the Chain of Command and the Rules of Engagement. However, Article 13[2] states that "[t]he entire chain of command shall remain under the political control and strategic direction of the EU throughout the EU military operation, *after consultation between the EU and NATO*" (emphasis added).

Amnesty International believes that SFOR's failures in upholding human rights standards were partly due to a lack of adequate civilian oversight and monitoring. Therefore, Amnesty International urges the EU to establish a centralized system of civilian control over EUFOR. Amnesty International has also requested the EU to clarify the relationship between EUFOR and the remaining NATO forces regarding responsibility for the tasks of apprehending suspects indicted by the International Criminal Tribunal for the Former Yugoslavia (Tribunal), and of combating "terrorism" and organized crime.

### **EUFOR personnel must be fully accountable**

EUFOR will be the main legal successor of NATO-led SFOR. On 22 November, the UN Security Council unanimously approved an initial 12-month mandate for the establishment of EUFOR in Bosnia and Herzegovina. Security Council Resolution 1575 grants EUFOR full authority under the General Framework Agreement for Peace (GFAP).

Appendix B to Annex 1A to of the GFAP, regulating the status of NATO and its personnel, provides in Article 2 that "[t]he provisions of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 concerning experts on mission shall apply mutatis mutandis to NATO personnel involved in the Operation, except as otherwise provided for in the present agreement". Article 7 stipulates that NATO military personnel under all circumstances and at all times shall be subject to the exclusive jurisdiction of their respective national elements in respect of any criminal or disciplinary offences which may be committed by them in Bosnia-Herzegovina. Moreover, the Concept for the European Union (EU) Military Operation in Bosnia and Herzegovina (BiH) - Operation ALTHEA (Concept for Operation

ALTHEA), adopted by the Council on 29 September 2004, states that "[p]ersonnel matters encompassing terms and conditions of service, discipline and morale remain a national responsibility" (p. 23).

Amnesty International considers it essential that centralized and transparent procedures are established whereby allegations of human rights violations by EUFOR members are thoroughly and impartially investigated and criminal proceedings and disciplinary procedures are initiated against EUFOR members who are reasonably suspected of having committed human rights violations. Moreover, the EU should ensure that victims of human rights violations committed by EUFOR personnel are granted access to reparation, including appropriate compensation. In this context Amnesty International considers that the Human Rights Ombudsman of Bosnia and Herzegovina should be granted jurisdiction over EUFOR activities and should be allowed to investigate complaints of human rights violations allegedly committed by EUFOR members.

The Concept for Operation ALTHEA states that "[a]n aide-memoire will provide guidance to commanders on the standard of behaviour, gender issues and human trafficking" (p. 16). Amnesty International reiterates its call on the EU to provide comprehensive and consistent training in international human rights standards, as well as in the relevant domestic law, to EUFOR personnel at all levels.

With regard in particular to human trafficking, Amnesty International urges the EU to ensure that EUFOR will adopt a zero-tolerance policy towards any form of sexual abuse and exploitation. It holds that both participation in trafficking and the use of women and girls trafficked into forced prostitution should be prohibited. To this end, the EU should adopt detailed guidelines on human trafficking and provide specific training ensuring that all EUFOR personnel are made aware of the range of human rights abuses to which trafficked women and girls are subjected and of the criminal nature of these abuses.

### **EUFOR must actively seek and arrest war crime suspects**

The Concept for Operation ALTHEA lists as one of the key supporting tasks of EUFOR to provide support to the Tribunal and relevant authorities, including the detention of persons indicted for war crimes (p. 7). Amnesty International urges the EU to ensure that EUFOR will actively seek those indicted by the Tribunal coordinating where appropriate its activities with NATO forces in Bosnia and Herzegovina, as well as with local authorities, with a view to arresting the suspects and transferring them to the Tribunal's custody. EUFOR's efforts in this respect will be of particular importance in view of the envisaged closure of the Tribunal in 2010 and of the fact that 20 suspects indicted by the Tribunal remain currently at large.

### **No arbitrary detentions by EUFOR**

Amnesty International believes that EUFOR must discontinue SFOR's practice of arbitrary detention. Both domestic law and international standards provide that persons may only be deprived of their liberty in accordance with a procedure prescribed by law. Those indicted by the Tribunal, if arrested by EUFOR, should be transferred to the Tribunal's custody as soon as is reasonably possible. Other individuals, who may be apprehended by EUFOR in the course of its operations,

should be immediately handed over to the authorities of Bosnia-Herzegovina and taken before a judge to determine the legality of their detention.

While EUFOR should conduct its operations with the clear objective of searching for and arrest persons indicted by the Tribunal, Amnesty International does not believe that, under the provisions of the GFAP, peacekeeping forces are allowed to detain persons where this has not been ordered by a national or international arrest warrant. Amnesty International has repeatedly expressed concern at SFOR's practice of arbitrarily detaining individuals who are suspected of being "members of support networks of persons indicted for war crimes" or of being involved in hostile activities against NATO and its member states, but who have not been charged with any recognizable criminal offence. Individuals detained by SFOR were in some cases held for several weeks, in clear contravention of Article 5 of the European Convention for Human Rights and Article 9 of the International Covenant on Civil and Political Rights in that they have not been deprived of their liberty in accordance with procedures prescribed by applicable law, including the right to judicial scrutiny of their detention, and the right to *habeas corpus*.

Amnesty International has also raised its concerns about the failure of NATO troops in Bosnia-Herzegovina to abide by court decisions regarding detainees. For example, SFOR forces participated in the unlawful transfer of six men to Camp X-Ray at Guantánamo Bay in Cuba in 2002, despite an order for their release from detention by the Bosnian Federation Supreme Court, and provisional measures by the Human Rights Chamber of Bosnia-Herzegovina to prevent the deportation, extradition or expulsion of four of the men.

***For further comment/background and interviews:***

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