

### **An Important Strategic Decision of the Constitutional Court of BiH**

Sarajevo, April 3, 2018 – Non-governmental organization TRIAL International welcomes the decision of the Constitutional Court of BiH on the violation of the right to property and the right to a fair trial of victims of war crimes regarding the order to pay costs of Attorney's Offices in compensation proceedings.

**At a session held on March 22, 2018, the Constitutional Court of BiH adopted S.A.'s appeal against the decisions of the Supreme Court of Republika Srpska and Banja Luka District Court regarding the costs of the proceedings. The Constitutional Court found that ordering the victim of wartime rape to pay the costs of Republika Srpska Attorney's Office in a trial against this entity, aimed at achieving compensation for the harm she suffered was a disproportionate and excessive burden on the appellant. This was determined to be a violation of the right to property and the right to a fair trial as provided for in the Constitution of BiH and the European Convention on Human Rights and Fundamental Freedoms.**

S.A. was raped multiple times by the member of the Army of Republika Srpska in July of 1992. For the last eight years, TRIAL International has been providing free legal aid to the survivor which, in 2013, resulted in the conviction of the perpetrator before the Doboj District Court. After her compensation claim before the civil court in Banja Luka was rejected based on the statute of limitations and she was ordered to pay 3000 BAM of court fees, TRIAL International hired the lawyer Nedžla Šehić to represent her. This was a strategic case in protecting human rights of victims of war crimes and in March 2017 an appeal was submitted to the Constitutional Court of BiH resulting in the abovementioned decision.

*"This is a very significant step for the appellant, a victim of wartime sexual violence whom this decision directly relates to, as well as for other victims of war crimes who are in a similar situation. Now the responsibility lies with the ordinary courts in BiH, and we expect them to by implementing those standards finally take away the unacceptable and excessive burden from the victims of sexual*

*violence, former camp detainees and families of missing persons.*”, said Adrijana Hanušić Bećirović, Senior Legal Adviser at TRIAL International Office in BiH.

She noted that, for a long time now, the victims of war crimes in BiH have been faced with a problem of certain local courts imposing high court fees to the survivors who had initiated compensation claims in civil proceeding but had them dismissed based on statute of limitations. Unfortunately, this contributes to further retraumatization of victims of war, who are oftentimes marginalized and deeply traumatized from the war. They live in a constant fear of having to pay the fees, which can often lead to suicidal thoughts.

For a long time, TRIAL International has been carrying out a series of strategic activities addressing the systemic problem victims of war have been facing. This includes publishing a legal analysis of the implications the Judgment of the European Court of Human Rights in the case of Cindrić and Bešlić v. Croatia might have on the imposition of court fees in BiH, sending out a joint letter to solve this issue on behalf of more than 40 civil society organizations and victims' associations to all relevant institutions in BiH, and informing European and international bodies about the need to address this problem.