

ANALYSIS: Ethnic Point Scoring

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An assessment of current and likely convictions clearly shows that the tribunal has no ethnic bias.

A third of the population of Serbia believe "only Serbs" are being tried at The Hague, while two-thirds consider the tribunal "unjust and unnecessary", according to the latest local opinion polls.

In Croatia, similar polls conducted some time ago yielded similar results. This is hardly surprising given that since its foundation in 1993, the authorities in both countries have programmed their respective citizens to dismiss the court, on the grounds that it discriminates against them. But claiming that it prosecutes more suspects belonging to one ethnic group than another misses the point of the tribunal.

The court's primary function is to individualise responsibility for war crimes and to thereby ensure guilt is not collective. Neither Serbs nor Croats are tried in The Hague, but individuals charged with murder, torture, rape, the destruction of property, persecution and plunder.

Emphasising the ethnic origin of the indictee only serves to collectivise responsibility. The authorities in Zagreb and Belgrade have been keen to do this because by doing so they seek to protect themselves from their own responsibility for war crimes.

No doubt those convinced of the "truth" that "only Serbs" or "only Croats" are tried at the ICTY will refuse to acknowledge this.

But an assessment of current and likely convictions clearly shows that the tribunal has no ethnic bias.

In the ten trials completed so far, it was proven beyond reasonable doubt that 19 individuals participated in war crimes and crimes against humanity.

To date, all those convicted have been sentenced - 11 Bosnian Croats, five Bosnian Serbs, two Bosniaks, and one who could be qualified as a "Yugoslav". The "Yugoslav" is Drazen Erdemovic, a Bosnian Croat, who at various times served in all four armies during the war - the Yugoslav Peoples Army, JNA, the Croatian Defence Council, HVO, the Army of Bosnia-Herzegovina, ABH, and the Army of Republika Srpska, VRS.

Erdemovic ended his military career on July 16, 1995, when as a member of a VRS sabotage unit, he took part in the execution of over 1,000 detained Muslim men at Branjevo farm outside Srebrenica.

So far, the Bosnian Croats have a "commanding lead" over their nearest rivals, the Bosnian Serbs, in the table of convictions (11:5) and sentences (182 and 120 years respectively).

The two convicted Bosniaks received a total of 35 years imprisonment. Erdemovic's confession, sincere regret and cooperation with the prosecution, earned him a lighter sentence of 10 years, reduced to five on appeal.

But clearly this tally of the ethnicity and punishment of those convicted will shift significantly this year

when the on-going Srebrenica, Omarska and Keraterm camps and Foca prison trials end. Should the defendants in those trials be found guilty, then the Bosnian Serbs could top the prosecution and sentence table.

But even that will be only a running total as only a fifth of the envisaged trials will have been completed at The Hague this year. In 2001 and 2002 at least nine new trials involving 15 indictees (13 Bosnian Serbs and two Bosnian Croats) are due to start.

The defendants are either in detention at the UN prison or on provisional release until their trials get underway.

The number of accused in custody could significantly increase if Yugoslavia agrees to extradite a number of fugitives to The Hague. Such a move by Belgrade is anticipated "in preparation" for an international donor's conference scheduled to start on June 29.

There are currently 38 fugitives - 25 are named in public indictments and 13 in sealed indictments. Of the former, 15 are Bosnian Serbs, eight are Yugoslav citizens and two are Bosnian Croats.

The eight Yugoslav citizens include the so-called "Kosovo five", headed by former Yugoslav president Slobodan Milosevic, and three former Yugoslav Peoples Army officers known as the "Vukovar three".

The two Bosnian Croats are accused of crimes in the Lasva river valley in central Bosnia.

The ethnic make-up of the 13 fugitives on sealed indictments is unknown.

But it can be assumed that those included in the Srebrenica, Foca and Prijedor camps indictments are Bosnian Serb. Those in the Dubrovnik sealed indictment probably include Montenegrins, and there may be sealed indictments against Croats.

But even if you tally all these cases, you arrive at only a provisional figure for war crimes suspects.

At least 36 investigations into crimes committed since 1991 in Croatia, Bosnia and Kosovo are underway against at least 150 individuals from all ethnic groups - Serbs, Croats, Bosniaks, and Kosovo Albanians.

New investigations into crimes that have been or may be committed in Macedonia are not ruled out. The prosecutor has stated that she has the authority to prosecute those who commit crimes there, and warned both the Macedonian authorities and Albanian insurgents that Hague investigators are observing their conduct.

Only when the work of the tribunal is complete, all investigations finished and trials concluded, will a final assessment of the "ethnic balance" of those convicted by The Hague be possible. That is expected to take a further ten years.

By that time, some predict that at least 60 war crimes trials will have been completed. It is possible, even likely, that Serbs will dominate the table of ethnic origin of the convicts and years of imprisonment handed down.

But that will not be the result of an "anti-Serb bias" among Hague prosecutors and judges. It will be the inevitable result of Milosevic's crude "ratio of forces" political doctrine, according to which Serbs were right to do what they did because they were more numerous and better armed than any other participants in the war.

The flip side of this of course is that because they were more numerous and had more weapons, more of them were in a position to wreak havoc, and so more now find themselves subject to investigation by the tribunal.

In other words, Milosevic's "ratio of forces" in Croatia, Bosnia and Kosovo will in the end be reflected by an appropriate "ratio of forces" in The Hague.

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