

Anger at Secrecy Surrounding Foca Rape Cases

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Lawyers and victims' supporters protest decision to bar public from two key trials. Lawyers, non-governmental organisations and representatives of victims have voiced anger over an unprecedented decision by Bosnia's War Crimes Chamber to close two key trials to the public.

The cases in question concern men accused of crimes against humanity, including mass rapes of Muslim women, in the Foca region of eastern Bosnia, in 1992 and 1993.

Radovan Stankovic was the first indictee to be transferred to Bosnia from the International Criminal Tribunal for the Former Yugoslavia, ICTY, in The Hague, as part of plans to wind down that court's activities over the next few years.

But Bosnia's state prosecutors requested the trials of Stankovic and Nedjo Samardzic be closed to the public.

The state prosecutors said the trials needed to be held in private in order to protect the identity and freedom of the female witnesses due to testify

about their ordeals.

But it has emerged that some witnesses actually asked for a public trial.

"One witness was only 14 at the time when she was raped, and she doesn't want to be a protected witness," said Mirsada Tabakovic, of the association Women Victims of War.

"She decided to face the criminal and to do this without any protection."

The state prosecutor's office also argued that the witnesses might reveal to the public names of alleged perpetrators of crimes who still had not been indicted.

The War Crimes Chamber accepted these arguments and decided to hold the trials in private.

But legal experts complained that the Chamber might have found other ways to protect the witnesses without recourse to such an extreme solution.

They told Justice Report, a new publication produced by the Balkan Investigative Reporting Network, that the moves would distance citizens from the access to truth and justice that they have long awaited.

The Research and Documentation Centre, IDC, a local non-governmental organisation, NGO, that monitors war crimes trials, also criticised the decision.

"Closing any trial to the public means preventing the public from getting timely information, which is of key importance for gaining confidence in the Court of Bosnia and Hercegovina," Mirsad Tokaca, director of IDC, told Justice Report.

"At this moment, building trust and confidence in judicial institutions is of key importance."

Tokaca said he hoped the IDC and other NGOs would still be able to attend the trials.

"Even after a decision to ban the media from the trial, it is still necessary for monitoring teams and representatives of the organisation working with the victims to be present," he explained.

"It was these very organisations that supplied the statements of witnesses and the witnesses themselves to the court."

The decision has caused particular shock because the ICTY has never fully closed a trial to the public since it started sessions in 1996.

"There is the possibility of holding a trial in a closed room when it involves rape victims," Aleksandra Milenov, ICTY spokesperson, explained.

"But these trials are only partly closed to public. A whole trial, definitely not."

Mirsada Tabakovic, of Women Victims of War, is equally unhappy with the chamber's action.

"We wanted to attend, believing that by doing so, we would give support to the women witnesses in the courtroom," Tabakovic told Justice Report. "It's easier for them when we are there."

Chris Stephen, who covered the ICTY as a journalist and is the author of *Judgement Day*, a book on the trial of Slobodan Milosevic, said he was perplexed.

"Justice must not only be done, but must be seen to be done," he said. "Openness is the only guarantee that judges are performing correctly, and it

can only be hindered if trials are carried out in secret.

"While witnesses, especially rape victims, are entitled to have their identities protected, a court needs to remember that it serves the people, not the other way around."

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