

Belgrade Furious at Hague Treatment of Minister

Author: [Rachel S.](#)

Outrage in Serbia over cross-examination of justice minister by tribunal prosecutors.

When Serbia's minister of justice, Zoran Stojkovic, entered the tribunal's courtroom on May 10 to promise that his country would guarantee the provisional release of Serbian indictees Jovica Stanisic and Franko Simatovic, he was asked to take an oath and testify.

Back in Serbia, the minister's treatment as a witness subject to cross-examination - unusual for a government representative in such circumstances - has caused a furore.

The local media has been filled with claims that prosecutors tricked Stojkovic into testifying, violated international law and humiliating Serbia.

But tribunal representatives deny these claims - and it appears that the prosecutor's office had little, if anything, to do with the minister's appearance.

"The defense applied for the justice minister to give guarantees on behalf of their clients," explained Jim Landale, the tribunal's spokesperson. "The presiding judge asked the parties whether they had any objections that [Stojkovic] appear as a defense witness. And there were none."

Such an understanding of tribunal procedures has been absent from most local accounts, which have brimming with outrage.

For example, Dusan Janjic, political analyst and coordinator of the non-governmental organisation Forum for Ethnic Relations, insisted that it was the prosecution that demanded Stojkovic appear as a witness and called the event a "diplomatic insult" to Serbia.

Other voices in Belgrade have, however, suggested that the incident should be blamed on the minister's inexperience with the court's procedure. "Minister Stojkovic...allowed himself to get manipulated by the prosecution," Goran Svilanovic, until recently, Serbia's foreign affairs minister, told IWPR.

"He went there as a representative of the government and he shouldn't have taken an oath and shouldn't have been allowed to be treated as a witness of the defence....I do not know what the motives of the prosecution were, but the inability of Minister Stojkovic to act resourcefully made a bad impression."

On the stand, Stojkovic stated confidently that if either of the two defendants - former Serbian state security chiefs accused of deporting and murdering non-Serbs - violated the rules of their provisional release, Serbia would arrest them.

But in an animated round of cross examination, prosecution attorney Dermot Groome pressed the minister to explain why the tribunal should believe his country's guarantees of cooperation, when there had been little evidence of this to date.

Stojkovic explained that cooperation with the tribunal was complicated because the country is still in an "interim situation", as the Council for Cooperation, the body charged with fulfilling the state's obligations to the tribunal, has yet to be set up.

Asked by presiding judge Patrick Robinson when this council would be established, Stojkovic said that this could not be determined by Serbia alone, but would have to be decided at State Union level.

Still, the minister insisted, Serbia could guarantee Stanisic and Simatovic's provisional release.

Aleksandar Simic, a legal advisor to Serbian president Vojislav Kostunica, expressed particular displeasure that the prosecution had asked what he described as provocative questions during the hearing.

In one particularly sensitive exchange, Groome enquired whether the release of Stanisic and Simatovic - both former high-ranking members of the elite Serbian interior minister unit the Red Berets - could intimidate witnesses thinking of coming forward.

Some Red Beret members have been implicated in the assassination of the Serbian prime minister Zoran Djindjic and, although their unit was disbanded last year, they appeared in a Belgrade court last month dressed in uniform, ostensibly to intimidate witnesses and court personnel.

"This is an opinion that I couldn't respond to," Stojkovic said, in answer to Groome's question.

Much of the talk surrounding Stojkovic's appearance has centered on how he was treated differently from other government officials in similar situations.

"Several state representatives from Serbia and Montenegro, Bosnia and Herzegovina and Croatia have already gone to The Hague in the same capacity. Not one of them was treated as a witness, because such an act would imply that a state was subject to cross-examination," said Simic.

Indeed, Miodrag Panceski, first secretary of the embassy of Serbia and Montenegro in The Hague, appeared in court to provide his government's guarantees in a provisional release hearing for Nikola Sainovic and Dragoljub Ojdanic in March 2003. At the time, Judge Richard May said explicitly, "We consider it inappropriate for a representative of the government to be cross-examined in these circumstances."

But when the time came for Stojkovic to be sworn in, no such concerns were raised either by the judges or the parties themselves.

Asked why he had not declined to take an oath - as his colleague from the Serbia and Montenegro embassy in The Hague, who also appeared at the provisional release hearing, had done - Stojkovic said he did not want an issue to be made of any such refusal.

"The whole atmosphere that had been created immediately before we appeared in The Hague was such that if I had refused to take an oath, that would have brought even worse consequences for us," he explained. "Such an act would be misinterpreted as contempt of court, and perhaps even annulled the whole purpose of our coming there. This game was actually devised to point out that the government in Belgrade does not wish to cooperate with The Hague. They were surprised when I agreed to give them the necessary information."

Regardless of where the blame is placed, it is clear that the already-rocky relations between the tribunal and Belgrade have not been helped by the incident.

Tribunal president Theodor Meron recently informed the UN Security Council that he believes Serbia is failing to cooperate with the tribunal, as it is required to do. He will likely discuss this claim further when he, along with the tribunal's chief prosecutor, Carla del Ponte, address the council on the issue of cooperation in the coming months.

Meron and Stojkovic met to discuss the issue the same day the justice minister appeared before the court.

But Stojkovic cancelled a similar meeting with Del Ponte, Florence Hartmann, the prosecutor's spokesperson, told IWPR.

"It was the first visit of a member of the new government to the tribunal," Hartmann explained. "He met the president but had no time to meet with the prosecutor.

"It is surprising that an official from a government which is to be denounced as a non-cooperating government before the Security Council is not taking pains to meet with the prosecutor who is dealing with cooperation issues."

Rachel S. Taylor is an IWPR editor in The Hague. Moma Ilic and Zoran Dojic, IWPR contributors in Belgrade, assisted with this report.

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