

## **COMMENT: Hague Will Win Credibility Battle**

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The war crimes court's doggedness and consistency will eventually win over its most ardent critics.

Here's a prediction for 2003: Biljana Plavsic's confession of crimes against humanity will make no difference to the long-term credibility of The Hague war crimes court.

But fear not. Credibility for the tribunal will come, but from a source too often overlooked.

Anyone in The Hague's corridors on December 17 last year could be forgiven for thinking that Christmas had come early.

Here, at last, after nine years of trying, the tribunal had finally got one of the wartime Bosnian leaders to admit they did wrong. Plavsic's confession - the first ever by an ex-president - was celebrated by supporters of the court as a huge victory.

Firstly, because here was a former Serb leader acknowledging, at last, that Serbs had committed war crimes. And secondly, her admission was a show of support for the court itself. Surely, at last, ordinary Serbs would start to feel the same way.

However, in all these celebrations, a crucial point was missed - and a point that anyone familiar with police television shows could spot immediately. Sure, Plavsic confessed, but then again, so would anyone who had been put on trial and was facing a long sentence.

For the sceptics, Plavsic's confession proved nothing - except that, at 72 years of age, she wants to get her sentence commuted.

What were her real motives? Nobody can know for sure, but that is not the point. The point is that anyone who doubted the court before will doubt it again now - they will see the Plavsic "confession" as no more than a tired old lady trying to secure a more lenient punishment.

However, all is not lost, as the court is currently holding a far stronger weapon than plea-bargaining in its battle to win over the Serbs.

Its weapon is consistency, and it is easy to miss because it is not spectacular, and it does not come gift-wrapped for Christmas.

Day by day and week by week, prosecution teams build cases, defence lawyers try and chop them down, and the judges navigate through the thickets.

And think about this - when, in the history of the Balkans, has so much power been exercised with such fairness? Every single decision by this court, which has the authority to override any government or national body, must be tested in front of judges. Every decision must be provable, and must be consistent with laws drafted many years before.

In the Balkans, this is surely a first. Historically, power has more usually been exercised by warlords and strongmen.

And historically, the big decisions were taken in secret, in doors firmly closed to ordinary people. Yet with The Hague it is all out in the open. Decisions are made in public and adhere to a body of war crimes laws.

Nobody in The Hague is simply thrown into jail. Sentences come only after prosecutors have submitted mountains of evidence, defence lawyers have hammered at every crack and fissure, all under the glare of the TV cameras.

And this is what's really impressive about the tribunal. Yes, it is slow. Yes it can be boring. Yes, sometimes it is wrong. But every decision, and every mistake, is eventually held up to the scrutiny of laws, which The Hague itself cannot make, but can only enforce.

Opponents of The Hague continue to call it a "NATO court" because three of the five permanent members of the Security Council which set it up are alliance members.

In fact, it is nothing like NATO or any other international political institution - because it is consistent.

If the tribunal prosecutors find a crime, they investigate. If they find evidence, the judges indict. If a government refuses to hand over an indictee, whoever they may be, and whatever the excuse that is made, the judges and the prosecutors go after them.

Contrast this with NATO, or with the United Nations itself - one minute they threaten war, the next they do deals with dictators. In Bosnia, the UN would bomb Milosevic one minute, and shake his hand the next.

In the Balkans, the UN, NATO and the European Union lost respect not just because of their decisions, but also because of their inconsistency.

To her huge credit, Chief Prosecutor Carla Del Ponte - like Louise Arbour before her - refuses to strike deals to allow some suspects to stay free while others are arrested.

In fact, Arbour's template announced several years ago remains the watchword - The Hague's power stems not from having tanks or planes or paramilitary gangs or economic might, but from following laws.

Because everything it does must be tested by legal process, the tribunal has integrity.

And in the end, this integrity will be its salvation: Serbs, and many others across not just the Balkans but Rwanda too, may continue to hate the tribunal. But they will, in time, also come to respect both the consistency of its decisions and the fact that every move it makes can be traced back through evidence and arguments to laws agreed on by every civilised nation - including Serbia.

My prediction is that this realisation will come slowly - there will be no dramatic moments, no party hats and bells and whistles. But it will come.

Its bedrock is unspectacular: consistency, openness to scrutiny, and obedience to a set of rules, which it has no power to alter. They will not be enough to ensure the court is loved. But they will be enough to convince many people that it is fair.

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**Location:** Balkans  
Macedonia  
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