

Cvjetan Court Ruling Controversy

Author: [Daniel Sunter](#)

Landmark case sent for re-trial raising further doubts about Serbia's ability to try war crimes.

Serbia's supreme court announced this week it had ordered the re-trial of a Serb police officer found guilty last year of executing Albanian civilians, among them children, during the 1999 war in Kosovo.

The decision, made public on January 12, prompted some observers in Belgrade to accuse the supreme court of being politically motivated in overruling the conviction and to warn that a wrong signal is being sent to victims and witnesses in any future war crimes trials.

But others said the country's highest court had little choice but to order a re-trial, considering numerous procedural breaches that were made in the early stages of the investigation.

During the Kosovo conflict Sasa Cvjetan was a member of the notorious Serbian special police called the `Scorpions`. He was convicted by a Belgrade court last spring to the maximum prison sentence of 20 years for his role in the killings of 14 members of an extended Albanian family in the town of Podujevo. The killings were said to have taken place after the beginning of the NATO bombardments in March 1999.

Cvjetan's was the first war crimes case to be tried in front of a Serbian civilian court, and was seen by many as a test of the country's readiness to try war crimes suspects.

Its importance was further heightened by the new Serbian prime minister Vojislav Kostunica's insistence that the Hague tribunal hand over some of its high-profile cases to Serbia, whose courts were in his opinion capable of handling them.

The Belgrade government is reluctant to apprehend any of the 20 or so Hague indictees that are assumed to be living in the republic and has made several half-hearted attempts to persuade some of them to turn themselves in.

But this week's supreme court decision has cast further doubts on Serbia's readiness to conduct war crimes trials, observers say, pointing out that Cvjetan's case is not the only one to be quashed.

Last September, the supreme court overruled a sentence in another war crimes case, which dealt with the fate of Muslim citizens of Serbia who were abducted and murdered while traveling on a Serbian train through a patch of Bosnian territory in 1992, with the alleged knowledge of the Belgrade authorities.

There is one war crimes trial currently taking place in a new special war crimes court in Belgrade, which is hearing the case of 17 Serb paramilitaries accused of crimes committed in the Croatian town of Vukovar in 1992.

Observers in Belgrade were divided last week on the message that the latest controversial supreme court decision is sending to this and other war crimes trials to follow.

Some think that the court's decision to overrule the verdict was legally sound, pointing at numerous irregularities in the early days of the trial.

Cvjetan's defense lawyer appealed his conviction on the grounds that his rights had been violated in the beginning of the investigation when he was questioned without a presence of a lawyer.

Cvjetan later insisted he confessed to the crime after being tortured by two investigative officers.

The investigation into the involvement of the Scorpion unit members into the murder of ethnic Albanian civilians in Podujevo started in 1999 during Slobodan Milosevic's rule, which is when the initial judicial irregularities also took place.

The inquiry was halted abruptly after the Milosevic regime was toppled in 2001, but continued subsequently. An OSCE report on the Serbian legislature published in November 2003 said, however, that some irregularities in the Cvjetan case continued even after the overthrow of Milosevic.

Notwithstanding the alleged failings of the case, many feel the supreme court's ruling sends the worst possible signal to both the victims and the witnesses in future war crimes trials.

"This kind of outcome is always concerning," a western diplomat closely following war crimes cases told IWPR. The diplomat said the court's decision was "probably politically motivated" and pointed out that this was "the second time in the last three months that a war crimes verdict has been overturned".

Natasa Kandic, the head of the Belgrade-based Humanitarian Law Centre, HLC, Serbia's leading non-government organisation monitoring war crimes trials, agreed that the fact that the Cvjetan verdict was the second of its kind to be overruled was "worrisome".

"I seriously doubt the verdict was overruled as a result of the supreme court's thorough analysis," Kandic told IWPR.

HLC was instrumental in bringing key witnesses to court in Cvjetan's case. Repeating the process, she said, would be highly complicated, as many of those who testified in the first trial had to overcome fears to do so.

Daniel Sunter is an IWPR contributor in Belgrade.

Location: [Serbia](#)
[Kosovo](#)

Source URL: <https://iwpr.net/global-voices/cvjetan-court-ruling-controversy>