

Milosevic Trial Assurances

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Tribunal attempts to calm growing concerns over the possible fate of Slobodan Milosevic

The United Nations war crimes tribunal says it is seeking to reassure Serbia's neighbours that trying indicted war criminal Slobodan Milosevic in a Belgrade court is out of the question.

"Our position on this is absolutely clear," said Jim Landale, spokesman for the International Criminal Tribunal for Former Yugoslavia (ICTY). "We will insist that Milosevic and all those indicted by the tribunal be transferred to The Hague to stand trial on the charges against them."

Calls for trying Milosevic in Belgrade have gained widespread public support in Serbia and in some Western capitals but the prospect has provoked outrage among those in Bosnia, Croatia and Kosovo who see themselves as victims of his regime.

Landale said the ICTY sympathised with the objections being raised in Kosovo and in neighbouring states. "I think their confusion and concern over this issue is perfectly understandable," he told IWPR. "If they are being obliged to cooperate with the tribunal then they would expect other states to live up to such obligations."

Landale said the tribunal and the office of the prosecutor have emphasised in numerous public statements that there is no legal basis for allowing domestic courts in Serbia to stage a trial of Milosevic. "I would hope the public pronouncements by the tribunal and the prosecutor on extradition would assure them that our position is pretty solid on this issue," he said.

For 43-year-old Begija Dautovic, talk of prosecuting Milosevic in Belgrade is an insult to the memory of her loved ones who have been missing since her home town of Srebrenica fell to Serbian forces in 1995. "Milosevic should be tried in The Hague, where all war criminals should be," Dautovic said. "What is Milosevic's connection to Belgrade? They (Serbian forces) took ten and twelve year old children away from their mothers and killed them. And that can never be forgotten."

Newly-elected authorities in Belgrade, keen to placate public opinion, have vowed to put Milosevic in the dock in the Serbian capital for abuse of power. Commentators and politicians have spoken of the possibility of charging Milosevic with ordering assassinations, corruption or even war crimes.

But the ICTY, political leaders and human rights activists in the region say there is no legal basis for such a trial and that, even if there was, it would only aggravate ethnic and religious tensions in the Balkans.

Armed with a powerful mandate by the UN Security Council, the tribunal was established under Chapter Seven of the United Nations charter and has the right to assert its authority over any domestic court in former Yugoslavia on crimes committed after 1991. As Milosevic has been indicted by the tribunal, Serbia's constitutional provisions for extradition are irrelevant, Landale said.

Unlike other criminal tribunals being prepared for Sierra Leone, East Timor or Cambodia, the ICTY has no provision for trials conducted jointly with domestic authorities. It is legally "impossible" to try Milosevic for war crimes in a Serbian court and there is no room for negotiation on the matter because it would violate the ICTY's mandate, Landale said.

Human rights activists say a Belgrade trial could present practical problems as well. Prospective witnesses from Kosovo or elsewhere might be reluctant to testify in the Serbian capital and would inevitably question the impartiality of the domestic judiciary.

There are also grave concerns outside of Belgrade that trying Milosevic in a domestic court would undermine attempts to build post-war reconciliation in the Balkans and allow Serbian society to delude itself about the war's legacy.

"It would be very damaging for the stability and the development of the entire region if the people and the government of Serbia fail to recognise their responsibility for past deeds," said Naim Jerliu, vice-president of the Democratic League of Kosovo, the ethnic Albanian political party that won recent local elections in Kosovo. "Milosevic's extradition to The Hague would create a more positive climate in the region."

A trial in Belgrade would only feed resentment and old wounds, said Srdjan Dizdarevic, president of the Helsinki Committee in Bosnia-Herzegovina. "The element that underlies reconciliation lies in justice. It is wrong to assume that amnesty and forgiveness are the only preconditions of reconciliation, because the victims demand justice."

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