

Politicians Stymie Belgrade War Crimes Trials

Author: [Caroline Tosh](#)

Lack of political backing undermining efforts to prosecute war crimes in Serbia.

The failure of Serbian politicians to back war crimes prosecutions is severely hampering work at the Belgrade war crimes court, say observers.

Prosecutors, who are subject to frequent intimidation, complain they lack adequate funding, while rights groups say investigators are prevented from pursuing high-level suspects.

Since late 2003, when the War Crimes Chamber, WCC, opened within the Belgrade district court, it has completed six first-instance trials, while another eight involving 51 accused are ongoing or in the pre-trial phase.

All but two have been trials of Serbs accused of war crimes against non-Serbs.

The court was established partly to ensure that Belgrade has sufficient justice mechanisms to continue with war crimes prosecutions after the International Criminal Tribunal for the Former Yugoslavia, ICTY, closes its doors in 2010.

But a February 2008 report published by NGO the International Center for Transitional Justice, ICTJ, has highlighted a number of challenges facing the court.

Bogdan Ivanisevic, author of *Against the Current: War Crimes Prosecutions in Serbia*, said in the report that while proceedings against war crimes suspects in Serbia had made steady progress since the court was established, trials were taking place in a "very unfavourable political context".

Ivanisevic pointed out that attacks from powerful nationalist politicians opposed to war crimes prosecutions had weakened "the resolve and effectiveness" of the WCC, the Office of the War Crimes Prosecutor, OWCP, as well as the special war crimes investigation unit in the police.

Other findings were that the court had only been partially successful in creating conditions for witnesses to testify freely and truthfully; that relatively few trials had taken place, and that the court's work had barely altered public bias or indifference to war crimes.

LACK OF POLITICAL WILL AND PUBLIC SUPPORT

So far, observers and legal experts have largely praised war crimes investigators, prosecutors and judges at the fledgling chamber for their handling of trials.

Ivan Jovanovic, national legal adviser on war crimes at the OSCE mission to Serbia, who has been monitoring the work of the WCC and the OWCP since they started over four years ago, said that both had

made great strides.

“They’re on the right track for achieving the highest international standards in war crimes prosecutions,” he said.

Yet observers say that limited political support is cause for concern.

Ivana Ramic of the WCC said that, by and large, war crimes proceedings had political support in Serbia.

“..Nobody questions the necessity of the trials or asks if the war crimes really did happen,” she said.

However, Ivanisevic told IWPR that a lack of support from Serbian leaders was the greatest hurdle facing the WCC.

“There has been some political will and there have been cases tried but the numbers are low,” he explained.

“If there were a general will to investigate as many cases as humanly possible, the number would have been much higher.”

Bruno Vekaric, spokesman for the OWCP, agreed the government could do more to support prosecutions.

“The [authorities] could give us material help by raising our annual budget, and also by saying clearly that war crimes are crimes which must be punished, no matter who committed them,” he said.

“Our budget per year is 200 times lower than the [Hague] tribunal budget, but we prosecuted 116 persons over five years, while the tribunal prosecuted 161 in 15 years. It is quite clear that our finances have not been enough.”

Natasa Kandic of leading NGO the Humanitarian Law Centre, which helps represent victims in court, said, “The problem is Serbia doesn’t have politicians who will support war crimes trials and who will support the need for institutional reform – institutions that will be responsible for justice and past abuses.”

Whenever Prime Minister Vojislav Kostunica broaches the subject of war crimes, she added, he focuses on Serb victims alone.

Milan Antonijevic, executive director of the Yugoslav Law Committee, JUKOM, explained that politicians were reluctant to give their backing because of an ongoing public resistance to trials of Serbs.

“In political life in Serbia, the topic [of war crimes] is understood to be a theme which can lose you votes,”

he said. The consequence, he said, has been an almost complete silence about war crimes – especially in relation to alleged Serbian state involvement in crimes.

In Serbia, there's still a hangover of the fiercely nationalist political climate that dominated the era of late president Slobodan Milosevic. Many also feel that they have been unfairly singled out for international censure for their role in the Balkans wars and see domestic war crimes trials as "unpatriotic".

According to Antonijevic, those who have attempted to speak about war crimes in the past – including journalists, politicians, NGO workers, and media – have been physically and verbally attacked by members of the public.

A spokesperson from the OWCP confirmed that prosecutors were subject to constant threats from the public because of their work.

In the last few months, chief prosecutor Vladimir Vukcevic received a chilling letter threatening him with a bullet in the head. While the note appeared to come from the Serbian diaspora in Chicago, the envelope had a Belgrade postmark.

"The atmosphere for proceeding with war crimes in Serbia is very bad...yet, in spite of this, we continue to work very professionally on our cases," said the spokesperson.

OBSTRUCTION FROM RADICALS

Public hostility to war crimes trials is fuelled by constant attacks on the organs of the court from members of the Serbian Radical Party, SRS – the largest political party in the country led by Vojislav Seselj, currently on trial for war crimes in The Hague.

Although an opposition party, the radicals remain a powerful political force. Strongly opposed to the prosecution of Serbs for war crimes, they are also furious at the OWCP for helping ICTY prosecutors conducting the Seselj case.

"The SRS has been well-known for its slamming of the justice operators, especially the war crimes prosecutor himself," said Jovanovic.

"For that, they're using parliament as a stage – openly threatening and slamming the prosecutor and his team, even from the parliament speaker's booth."

One reason why the SRS attacks the court may be because their volunteers or ex-party members are often among the accused, he said.

Kandic noted that the SRS had a particularly strong influence on the police, "There is a sense that they have very good relations with the Serbian Radical Party, that there is no climate in the institution of the police, [or among] individual policemen, [that] they feel as if they are obliged to give information to support war crimes trials," she said.

Although by law, all Serbian institutions are bound to cooperate with prosecutors, there are rumours that the authorities have kept certain documents out of their reach.

While ICTY prosecutors have at times used EU membership as a way of securing support from Belgrade, their Serbian counterparts have no such leverage.

Director of the International Bar Association Mark Ellis – who helped Serb officials create the WCC – pointed out that eliciting the cooperation of the ministry of the interior was always going to be tricky, as Serbian paramilitary units operating during the Balkans wars often involved police members themselves.

SUPREME COURT OVERTURNS VERDICTS

There are also concerns among rights groups that the political influence of the radicals extends to the upper echelons of the Serbian judiciary.

On more than one occasion, the Supreme Court has overturned convictions passed by judges at the WCC, prompting accusations from rights groups that its actions were politically motivated.

The most controversial instance of this came in late 2006, when the Supreme Court quashed verdicts related to the Ovchara case, in which 200 non-Serbs were taken from a hospital in Vukovar, Croatia, and executed at a nearby pig farm.

In 2005, 14 former paramilitaries and Yugoslav soldiers were found guilty of the murders, while two were acquitted.

The Supreme Court said in its decision to order a retrial – which began in March last year – that there had been "incomplete facts" and a "misapplication of substantive law" in the original proceedings.

Ivanisevic said the decision of the Supreme Court to overturn convictions in the Ovchara trial – which was the biggest at the court so far – had undermined the WCC.

“And at the end of the first-instance trial, all assessments were that the case was handled properly, and ... so even the family members of the victims from other parts of the former Yugoslavia, in this case from Croatia, were satisfied and this was a boost to the court for the prosecutor,” he said.

“[But] the decision of the Supreme Court to quash the sentences came as a cold shower and that’s why psychologically, it had a very negative effect.

“One of the important negative consequences was a decision of victims’ groups in Croatia not to attend the retrial – they were disappointed – and this has affected the credibility of the entire [court] structure.”

According to James Lyon of the International Crisis Group, the overturning of certain verdicts “certainly helped the forces who have opposed [war crimes trials and] certainly sent all the wrong signals”, undermining the court.

TRIALS LIMITED TO “TRIGGER MEN”

Critics of the OWPC say that, so far, no high-level suspects have been indicted at the WCC. Some even accuse prosecutors of protecting senior officials suspected of war crimes.

The individuals who have been tried in Serbia are, almost without exception, foot soldiers or superiors at a very low level in the hierarchy in the police and the army, observed Ivanisevic.

The effect of this, he suggested, was to counter the idea that crimes were due to official policy.

“If you only try low-level perpetrators – which has been the case in the Serbian WCC, with very few exceptions – then one can draw the conclusion from that that crimes were the result of isolated acts of individuals who acted on their own,” he said.

“Whereas if you try and convict people like Milosevic and a number of other officials [as has been done] in the Hague, then the conclusion one infers from that is that crimes were a matter of policy.”

Lyon said that prosecutors were being hampered in their investigations.

“The political forces from on high are preventing prosecutors and investigators from going up the chain of command,” he said.

“In other words, these war crimes trials are being limited only to the trigger men – the people who pulled the trigger – there’s no effort to go after those who gave them the order to pull the trigger.”

Some observers say officials are nervous that investigations could uncover evidence of Belgrade’s involvement in war crimes, while others point out that officials implicated in criminal activity could still be in positions of authority to this day.

Jovanovic noted that prosecutors faced major obstacles in finding witnesses to testify against top officials.

“You have to bear in mind that going up to high-ranking people has to be based on the information of the insider witness, usually in the police or the army,” he said.

“One of the main problems is that persons within the police are not often willing to testify against their own superiors or former comrades.”

IMPACT OF KOSOVO CRISIS

Meanwhile, the political crisis unravelling in Serbia following Kosovo's declaration of independence in February has resulted in an even more hostile environment for war crimes prosecutions.

The following month, Serbian president Boris Tadic dissolved parliament and called elections after his former coalition partner Prime Minister Kostunica – furious at European leaders' recognition of Kosovo's independence – turned away from European integration.

If non-nationalistic parties triumph at the May 11 parliamentary polls, it could result in a boost for war crimes prosecutions, while a win for the radicals could end support for the court altogether.

Anger in Serbia at the recent acquittal of former Kosovo prime minister Ramush Haradinaj on war crimes charges at the Hague tribunal has compounded problems, with some politicians calling for war crimes investigations to be frozen altogether in retaliation against the verdict.

Kandic said that in the fallout following Kosovo's declaration of independence, progress on war crimes prosecutions had all but ground to a halt.

"In February and March, [ethnic Albanian] families didn't like to come to monitor the trials – they felt fear to come to Serbia," she said.

She said there were also suspicions that prosecutors were failing to open cases in relation to crimes against non-Serbs in Kosovo where there was ample evidence to do so.

"[Prosecutors] are afraid to deal with crimes against Albanians... They always speak about the crimes against the Serbs...cases against the Serbs, and it's a consequence of the political situation here," she said.

But Vekaric dismissed these claims, saying that the prosecutor's office was unaffected by political pressure. He added that prosecutors were currently investigating several cases of alleged war crimes in Kosovo, and that new indictments were expected.

COURT MADE IMPORTANT STEPS FORWARD

In spite of the many obstacles facing war crimes prosecutions, most observers agree that investigators, prosecutors and judges at the Belgrade WCC have come a long way in the last five years.

A particular advance cited is the development of strong regional cooperation between war crimes courts in Bosnia, Croatia and Montenegro. Prosecutors from countries which less than two decades ago were locked in bitter conflicts now work side by side to conduct war crimes investigations and open trials.

Kandic noted that this regional cooperation had also allowed prosecutors of the former Yugoslav countries to overcome a constitutional ban on extraditing nationals to face war crimes charges.

“Prosecutors from Croatia and Serbia understood that they don’t have the constitutional ability to extradite, and they decided to give evidence to each other and to support [each other’s] war crimes trials,” she said.

According to Ellis, the court – along with the Hague tribunal – has the potential to persuade Serbs to begin accepting responsibility for their part in the wars.

War crimes trials could help challenge public perceptions of what went on during war, he said, citing the reaction in Serbia after footage of Scorpion paramilitaries killing six Bosniaks during the Srebrenica massacre was screened at the ICTY trial of Milosevic.

When Serbs saw this video, he said, their illusions about Milosevic collapsed. In 2007, four former Scorpion members received long prison sentence at the WCC for the killings – a verdict now pending appeal.

“Who would have thought that Serb paramilitary units would be convicted of war crimes against Muslims in Srebrenica in a Serbian court?” asked Ellis.

“To me, that’s extraordinary. It’s one of the real bright lights for the country.”

Caroline Tosh is an IWPR reporter in London. Aleksandar Roknic is an IWPR-trained journalist in Belgrade.

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