

REGIONAL REPORT: Croatians Courts on Trial

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Can the Croatian judiciary be trusted with the prosecution of all Croat war crimes suspects?

Zagreb's demand to be allowed to prosecute all alleged Croat war criminals has focussed attention on whether its judiciary would be competent enough to conduct such trials.

The government issued its demand two weeks ago during a visit by the tribunal chief prosecutor Carla Del Ponte, who had consented to minor Hague indictees being tried by courts in the region.

The authorities' call comes amid local praise for the Croatian judiciary's handling of the trial of war crimes suspect General Mirko Norac, accused of killing Serbs in the Krajina region of the country.

Del Ponte said during her visit that she would consider Zagreb's request, but said little more. Her spokeswoman, Florence Hartman, speaking to IWPR this week, said the tribunal cannot just hand Croatian courts any cases until they prove they are able to conduct war crimes proceedings effectively.

Nonetheless, in Zagreb there's a growing belief that The Hague is set to agree to the government's request, which officials hoped would go some way to fending off opposition claims that the tribunal is anti-Croat.

Croats believe the local judiciary is capable of handling high-profile trials, citing NGO praise for the conduct of the Norac trial in Rijeka as evidence of its ability to undertake the task.

Norac is on trial along with four other members of the "Gospic group" - army officers accused of ordering or participating in summary executions of Serb civilians in the Krajina town, as it came under attack from Serb paramilitaries and the Yugoslav army in October 1991.

The trial, which started last summer, had attracted huge political opposition from the outset. Hardliners mounted huge protests against the indictment and the government, for seeking to try "heroes of the fatherland war". A rally in Split last year attracted some 150,000 people, who chanted, "We are all Mirko Norac".

The trial got off to a shaky start, with the defence counsel attempting to exclude first the judge, then the court president from the proceedings and demanding that the trial be moved from Rijeka to Gospic.

Another defendant, Tihomir Oreskovic, attempted to evade prosecution by claiming that he was suffering from diabetic problems. This aroused the wrath of Norac, who hit him in the courtroom.

The trial eventually got under way after the supreme court rejected the defence's request and right-wing protests began to subside.

Artillery commander Sinisa Glusic claimed in court that he could no longer remember either the killings or a fateful meeting between Norac and Oreskovic, in which he said they decided to have the Serbs killed.

But the tables were turned again when two prominent members of the execution squad testified, confirming that it had shot Serb civilians. Ivan Dasovic and Mile Kasumovic, then Gospic police chief and head of police intelligence respectively, both verified that Norac and Oreskovic had agreed to the killings.

But while there have been many positive developments in the Norac trial, there have also been some glaring shortcomings.

After one of the prosecution's protected witnesses, Milan Levar, was killed in autumn 2000, others such as Zdenko Bando, Zdenko Ropac and Tomislav Oreskovic were forced to testify from Germany. In addition, the judge has been threatened several times and the court has been the subject of a bomb scare.

Despite such problems, the Attorney-General, Mladen Bajic, and the president of the supreme court, Ivica Crnic, approve of proceedings in the Norac case and claim that state prosecutors are ready to take over responsibility for conducting other war crimes trials.

International law expert Dr Ivo Josipovic points out that The Hague is so overloaded with cases, that it will be unable to achieve its aim of completing all its trials by 2008 without the help of local courts.

But he acknowledges that they may not be up to the task, citing failings in other recent trials, such as the Bjelovar prosecution of ex-policemen accused of killing Serb army reservists, in which all the defendants were released after a key witness changed his testimony. One of the surviving Serbs was so scared of seeing the accused again that he could no longer remember what they looked like.

Josipovic says local trials of Hague indictees will also raise difficult judicial questions. Croatian laws would probably have to be adjusted to dovetail with tribunal statutes, or The Hague might even expect them to be applied directly.

He adds that were The Hague to allow Croatia to try not only minor but all its war crimes suspects, then it would have to consider doing the same in other regions of former Yugoslavia. In that case, the tribunal itself would become redundant.

Anto Nobile, who defended General Tihomir Blaskic in The Netherlands, believes pressure from the right might be too great to hold trials of very senior indictees in Croatia, but local courts would certainly be able to handle the prosecution of lower-ranking suspects.

However, he concedes that some local trials have been "nowhere near the expected standards", mentioning the 2001 trial of Croats accused of committing crimes against Serbs in the Split naval base of Lora, during which witnesses were actually attacked in the courtroom.

The chairman of the Croatian Helsinki Committee for Human Rights, Dr Zarko Puhovski, said he was initially sceptical about the Norac trial, but now believes that regardless of right-wing pressure, the case has progressed enough to serve as a positive example of the rule of law in Croatia.

But mindful of continuing public ambivalence towards the prosecution of Croat war crimes suspects, he adds, "It's good that we don't have a 12-member jury in Croatia like they do in Anglo-Saxon law, because you'd never get 12 people to agree on the guilt of Croat generals."

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