

REGIONAL REPORT - Serbia: 'Token' War Crimes Trial

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Jailing of former Yugoslav soldier for war crimes in Kosovo seen as sop to international donors

International pressure rather than the pursuit of justice is widely believed to have been behind a Serbian court's unprecedented sentencing of a Yugoslav army reservist for war crimes in Kosovo.

Ivan Nikolic had been acquitted of charges relating to the murder of two Kosovo Albanian civilians three years ago, but he was retried earlier this year and handed an eight-year prison sentence in July.

Many analysts say the authorities held a token trial to please the international community and do not believe that the case was adequately proven beyond a reasonable doubt.

The West has long encouraged Serbia to face up to crimes committed by its troops, and has made vital financial aid to the country conditional upon cooperation with the war crimes tribunal in The Hague.

The authorities are keen to demonstrate the competence of local courts to try war crimes cases, hoping that this will reduce pressure on Belgrade to extradite suspects.

The Prokuplje district court found Nikolic guilty of murdering brothers Ibrahim and Vlaznimi Emini, on May 24, 1999 during the war in Kosovo.

His defence will now file an appeal to the Supreme Court of Serbia with many independent legal observers describing the evidence - of which there was less than at his 1999 trial - as "unconvincing".

It also remains unclear why the earlier indictment against Nikolic, charging him with premeditated murder, was later changed to counts of war crimes.

It had been argued that Nikolic and his fellow-fighters had shot at the Emini brothers making it difficult to distinguish which bullets were the fatal ones.

In 1999, Nikolic had admitted firing the shots himself, but in 2002 denied having done so.

Lawyer Zoran Ateljevic, an independent observer at the trial, believes that "a judgement cannot be passed before all doubts concerning the murder weapon are eliminated".

Witnesses who in 1999 claimed that the defendant had bragged about personally having "killed two Albanians" had also unexpectedly changed their testimonies, insisting they could not remember what they had seen or heard.

Many see these inconsistencies as the result of the immense pressure from veteran soldiers associations who've staged public rallies against the retrial. Amid this hostile atmosphere, the judge, the prosecutor and witnesses have all received death threats.

Natasa Kandic, executive director of the Humanitarian Law Centre, who backed the retrial and the indictment being amended to include war crimes, did however express serious doubts about the fairness of the second hearing, especially the level of intimidation.

She also believes the court should have taken the defendant's youth as well as his courage during the Kosovo conflict into account in mitigation.

Rajko Danilovic, a Belgrade criminal lawyer, said that what the case has proved, yet again, is that there is no consensus in Serbia with regard to war crimes.

"If there had been a genuine attempt on our part to face up to the numerous war crimes committed by the Yugoslav army and Serb police, we would already have witnessed the surfacing of official documents relating to war crimes, which lay dormant in state archives," said Danilovic.

Public consensus, he said, is a prerequisite if proper war crimes investigations and trials are to take place here.

Svetlana Logar, a political analyst at the Belgrade-based Strategic Marketing Agency, agreed that attitude to war crimes remains an unresolved issue in Serbia.

She told IWPR that most people are simply too preoccupied with their own problems to do any soul-searching over war crimes - and that few believe the Serbs bear any responsibility for them anyway.

Following the Nikolic case, the authorities plan to try Yugoslav army reservists Sasa Cvijetan and Dejan Demirovic who are charged with the deaths of 19 civilians in Podujevo in 1999.

While the government tries to curry international favour with such trials, it has not seen fit to make a genuine attempt to convince people of the importance of coming to terms with the country's wartime record.

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