

Serbia Acquitted of Genocide

Author: IWPR

ICJ ruling on Bosnia's long-running genocide lawsuit against Serbia and Montenegro causes a storm in the Balkans.

The International Court of Justice, ICJ, cleared Serbia of genocide charges in a historic decision announced in The Hague today, February 26, 14 years after the case was first launched in the middle of Bosnia's 1992-95 war.

The judges' decision, read by court president Judge Rosalyn Higgins exactly one year after proceedings began, sparked reactions in the Balkans ranging from disbelief and utter disappointment in Bosnia to relief in Serbia.

The ICJ judges found by 13 votes to two that "Serbia has not committed genocide through its organs or persons whose acts engage its responsibility under customary international law, in violation of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide".

They also found that "Serbia has not conspired to commit genocide, nor incited the commission of genocide" and acquitted Serbia on charges that it was "complicit in genocide".

However, the UN's highest court ruled that Serbia did not use its influence to prevent the genocide of Bosnian Muslims in Srebrenica in July 1995.

They also found that its leaders failed to comply with international obligations to punish those who carried out that massacre, namely Bosnian Serb general Ratko Mladic. Mladic, who was indicted in 1995 for genocide, together with Bosnian Serb wartime president Radovan Karadzic, is believed to have been hiding in Serbia for years.

"[The court] decides that Serbia shall immediately take effective steps to ensure full compliance with its obligation under the [Genocide convention] to punish acts of genocide ... and to transfer individuals accused of genocide or any of those other acts for trial by the International Criminal Tribunal for the former Yugoslavia, and to co-operate fully with that tribunal," reads the judgment.

Bosnia, the first country ever to bring a genocide charge against another, filed this case in 1993 but had to wait until last February to finally bring it to court. It had hoped to secure international legal acknowledgment of atrocities allegedly committed by Serbia's leadership during the conflict.

At the end of the proceedings in May, Sarajevo lawyers demanded that Serbia and Montenegro be found guilty of genocide in Bosnia, or alternatively for aiding and abetting genocide committed by individuals, groups and entities.

In an interview he gave to the Sarajevo daily Avaz a day before the verdict was announced, the head of the Bosnian team Sakib Softic said that the minimum satisfactory result for the Bosnian side would be an ICJ ruling that Serbia and Montenegro were participants in committing genocide.

“Everything less than that would be a very bad compromise,” said Softic.

Bosnian Muslims, who were watching the judgment at public screenings organised in cafes and theaters in Sarajevo and other cities throughout Bosnia, didn't hide their disappointment.

They feel that the highest UN court has let them down - not only because it failed to establish that Serbia was responsible for the genocide in Bosnia, but also that genocide was not confirmed anywhere but Srebrenica. In Prijedor, for example, thousands of Bosnian Muslims were killed in Serb-run prison camps in 1992.

Because Serbia was acquitted of genocide charges, it will not have to pay billions of US dollars in war reparations to Bosnian citizens.

Bosnian Serbs, on the other hand, reacted with relief at the outcome of the case that they had repeatedly asked the ICJ to reject.

In the days preceding the judgment, tensions between the two Bosnian entities - the Muslim-Croat Federation and Republika Srpska, RS - visibly increased. RS prime minister Milorad Dodik said to the local media that he would not “accept the ICJ judgment ... [or] implement it either”.

Serbs have claimed for years that the genocide lawsuit was illegal, because it was launched only by Bosnian Muslims and never represented the position of the majority of Bosnian Serbs.

Analysts say one of the main reasons why Bosnian Serbs opposed the lawsuit - although they too would have been entitled to war reparations had the ruling been in Bosnia's favour - was that they felt it would jeopardise the very existence of RS and could lead to the conclusion it was founded on genocide.

However, some findings in the judgment were very uncomfortable for the RS government - particularly those relating to Srebrenica.

On hearing the part of the verdict in which ICJ judges confirmed that genocide was committed there by Bosnian Serb forces, Dodik said, “I think that genocide has not been committed in Srebrenica and that there was no plan to do it.”

Although he admitted “a horrific crime has been committed” in this eastern Bosnian enclave, he rejected “any responsibility on the part of the RS institutions” and said “individuals, not the entire people, should answer for that crime”.

Commenting on the judgment, the president of RS Milan Jelic said it was “expected and it gives us hope that the whole region will enter the path of prosperity and stabilisation”.

“We have to leave the war rhetoric behind us and move forward,” he added.

Serbia's president Boris Tadic said the ICJ ruling is "very important because it established Serbia was not responsible for genocide in Bosnia". Prime Minister Vojislav Kostunica added that Serbia will do "everything it can" to bring those who are responsible to justice.

Some observers say the ICJ ruling only confirmed what the International Criminal Court for the Former Yugoslavia, ICTY, found in its own judgments - that genocide was committed in Srebrenica and that those responsible were Bosnian Serb forces, led by General Ratko Mladic.

They also say the ICJ's decision was primarily political, because any other would have seriously jeopardised relations between Bosnia and Serbia and made the existing gap between Bosnian Serbs and Muslims even deeper.

Analysts say that this way some sort of a status quo is maintained.

Serbia will not be marked as a genocidal state, its citizens will not have to carry the burden of paying heavy war reparations to Bosnians for years, even decades, and its future in the European Union will be more attainable.

Although disappointed, Bosnian Muslims can at least say that the ICJ recognised the severity of the crimes committed against them and clearly blamed the Bosnian Serb wartime leadership for them.

Merdijana Sadovic is IWPR's project manager in The Hague.

Location: [Balkans](#)
[Macedonia](#)
[Albania](#)
[Serbia](#)

Focus: [International Criminal Tribunal for the former Yugoslavia](#)

Source URL: <https://iwpr.net/global-voices/serbia-acquitted-genocide>