

## **Is Space for Denial Shrinking in Serbia?**

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International law professor analyses Hague tribunal's impact in Serbia.

The attitude of people in Serbia to the Hague war crimes tribunal has improved markedly since the Slobodan Milosevic era, but cooperation over the arrest of suspects is still marred by political pressure, and not everyone accepts that the verdicts the court hands down are fair.

These findings come from a study presented in Belgrade this week by Diane Orentlicher, professor of international law at the American University in Washington.

Belgrade's improved relationship with the tribunal, she said, has to be set against Serbia's failure to arrest the Bosnian Serb leaders Ratko Mladic and Radovan Karadzic, who are still at large years after they were indicted for crimes committed during the 1992-95 Bosnian war.

"Serbia is known to have provided shelter to both men and is believed to be providing protection to Mladic – a continuing violation of the Convention on the Prevention and Punishment of the Crime of Genocide," said the study, called "Shrinking the Space for Denial: The Impact of the ICTY in Serbia".

Serbian public reaction when suspects are sent to The Hague – even when they have surrendered voluntarily – can often be stormy. Orentlicher explained that this was partly because many of the individuals concerned enjoyed a degree of personal popularity. Another reason, she said, was that a large percentage of the public are hard-line nationalists who oppose trying Serbs for war crimes. The security services, resistant to change and operating beyond democratic control, also present obstacles.

The fact that wartime Bosnian Serb Army chief Ratko Mladic is still believed to be sheltered in Serbia is both a "barometer of democratic maturity" for the country and an impediment to integration into the global community, wrote Orentlicher.

"But at least among the intelligentsia in Serbia, even critical observers have been struck by the tribunal's scrupulous regard for fair process," said the report. "In the future, this may enable tribunal judgements to provide a solid foundation for broader public acceptance of facts that are still contested."

Serbs who support the tribunal believe that the prosecution of former Yugoslav president Slobodan Milosevic, in particular, was crucial to easing Serbia's transition to democracy. They think an important benchmark of the tribunal's success is its ability to educate the Serbian public about wartime atrocities, especially those committed by their political leaders.

According to prosecutors, Milosevic – who died before his trial could be completed – was at the centre of violence in Bosnia, Croatia and Kosovo during the Nineties.

Orentlicher noted a "modest increase" in the Serbian public's acceptance of the basic facts underlying key episodes involving Serb perpetrators.

The tribunal's work in Serbia is made harder because – aside from Kosovo – the country did not itself experience the kind of conflict that gave rise to tribunal prosecutions. Although two-thirds of the individuals indicted by the tribunal have been ethnic Serbs, only a small fraction were actually from Serbia.

Serbia's new western-leaning government is promising full cooperation with the tribunal, but officials have also stressed that the tribunal should ensure that all suspects face justice – a reflection of the view that non-Serbs have tended to get off lightly in Hague trials.

At the presentation of Orentlicher's book, Serbian justice minister Snezana Malovic said, "We will insist on equal treatment for all crimes. Some messages from the tribunal have worried us. They suggest that politics is stronger than justice for victims. If criminals became politicians, what would the institutions that they lead look like?"

Serbian war crimes prosecutor Vladimir Vukcevic, who also participated in the event, pointed in particular to the acquittals of Kosovo Liberation Army commander Ramus Haradinaj and the Bosnian army commander in Srebrenica, Naser Oric, who are Albanian and Bosniak, respectively.

The Oric case, said Vukcevic, established that "there were crimes, victims, but no punishment. As a prosecutor, I accept this situation with difficulty."

Oric was given a two-year sentence in June 2006, but last week was acquitted of all charges on appeal. In her book, Orentlicher noted that the Oric trial was not the first in which Bosniaks got mild sentences. Two other Bosnian army commanders, Enver Hadzihasanovic and Amir Kubura, received three-and-a-half and two years, respectively.

In the Haradinaj case, Orentlicher said the degree of Serbian dissatisfaction with the way the trial was handled was "difficult to exaggerate".

The tribunal's reputation in Serbia has also been tarnished by the extraordinarily long periods that some indictees have had to wait for trial. Bosnian Serb leader Momcilo Krajisnik waited almost four years, the trial of nationalist leader Vojislav Seselj began more than four-and-a-half years after his surrender, while former Serbian president Milan Milutinovic waited three-and-a-half years.

Natasa Kandic, director of the Humanitarian Law Fund who gave a speech at the presentation of Orentlicher's book, said a crucial problem was that the different societies in the former Yugoslavia had their own divergent versions of the truth.

For example, just as Serbs cannot understand how Haradinaj and Oric were acquitted, the Croatian public were unable to accept the verdicts handed down to former Yugoslav army officers Veselin Sljivancanin and Miroslav Radic for crimes committed in Vukovar in 1992. While the tribunal sentenced the third man accused in the case, Mile Mrksic, to 20 years in prison last September, Sljivancanin got five years and Radic was acquitted.

"Because of these different truths, it is very important to establish a regional commission to establish the facts," concluded Kandic.

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