

The Trials of Bosnia's War Crimes Court

Author: [Merdijana Sadović](#)



When the Hague tribunal for former Yugoslavia closes its doors in a few years, the Bosnian war crimes chamber will continue to bring remaining suspects to justice.

The Sarajevo court has been praised by the international community, but, as **Merdijana Sadovic, IWPR's ICTY programme manager**, explains, it has had limited influence on the reconciliation process in Bosnia, where it has been largely dismissed as a biased and flawed institution by the local Serbs.

How do Bosnia's national groups view the Bosnian court?

Ever since the war crimes chamber of the Bosnian state court was established in 2005, Bosnian Serbs have had objections to its work. The Republika Srpska, RS, government, led by President Milorad Dodik, claim it has been used to prosecute mainly Serbs.

While the state court does not keep a record of the ethnicity of persons indicted for war crimes, the RS Centre for Investigating War Crimes, CIWC, claims that 70 per cent of all indictees have been Serbs, around 16.5 per cent Bosniaks (Bosnian Muslims), and 12.5 per cent Croats.

Croats also have complaints about the work of the war crimes chamber. The NGO Croatia Libertas claims that it's "under heavy influence of Bosniak politicians", arguing that the small number of convictions against Bosniaks is proof of that, "especially when compared to the number of convictions against Serbs and Croats and the draconian punishments they've received".

The Bosniaks, on the other hand, view the state court as an important means of confronting the past and bringing those responsible for war crimes to justice. They say that the high number of indictments and convictions against Serbs only reflects the fact that most of the crimes of the Bosnian 1992-95 war were committed by Serb forces and should not be seen as evidence that the court is an anti-Serb institution, as Dodik claims.

How does its record compare with the ICTY?

The International Criminal Tribunal for the Former Yugoslavia, ICTY, is an ad hoc tribunal set up in 1993 with a limited mandate. It was established to hand down verdicts for serious violations of international humanitarian law and for war crimes committed in former Yugoslavia in the Nineties and to prosecute those most responsible for those crimes. This court has indicted a total of 161 suspects; trials against 124 have been concluded, while proceedings against 37 are ongoing.

In the six years since it was established, the Bosnian war crimes chamber has convicted 112 persons; 26 cases against 55 individuals are ongoing, while ten cases pertaining to 16 suspects are awaiting appeal judgements. Seventeen trials ended with a plea agreements, after indictees pleaded guilty.

The ICTY is expected to complete all trials and appeals by 2014. The Bosnian court, on the other hand, does not have a time-limited mandate.

The ICTY is a very costly institution and, with a few exceptions, each trial lasts several years. The Bosnian war crimes chamber costs less and is much more efficient. But the main problem the latter faces is its huge workload. According to some estimates, there are around 10,000 war crimes suspects in Bosnia and it's very unlikely that the Sarajevo court - despite its efficiency - will ever be able to put on trial all those responsible for abuses.

Serbs and Croats don't think enough has been done by the ICTY and the state court to prosecute those responsible for crimes against members of their respective ethnic groups. Bosniaks, however, think justice is too slow and that only a very small number of those responsible for crimes committed against Bosniaks

have been put on trial.

Serbs, it has been said, are inclined to dispute judgements by the ICTY and the state court because they fear a large number of convictions against Serbs can ultimately raise questions about the legality of RS. Bosniaks have claimed all along that RS is the result of war crimes and that it should not be allowed to exist.

Serbs believe they would be treated more fairly if they were tried by the courts in RS. That is one of the reasons they've been insisting on dismantling the Bosnian state court and transferring its authority to entity courts.

Although Croats don't trust the ICTY or the Bosnian court much either, they have no alternative, since - unlike the Serbs - they don't possess their own entity within Bosnia and so there are no judicial institutions under their control.

Bosniaks haven't had any major complaints against the ICTY or the state court. However, they tend to trust the ICTY more because it has a better system of witness protection and is free of any local influences.

Has the Bosnian court made any contribution to reconciliation?

Both the ICTY and the Bosnian war crimes chamber have had very limited effect on the reconciliation processes in Bosnia and the wider region. While these courts have undoubtedly helped establish the facts of the wars in the Nineties through numerous witness testimonies and judgements rendered, they haven't had much influence on their acceptance by all the various nationalities in Bosnia. Serbs view both courts as anti-Serb political institutions - and, in most cases, refuse to accept their findings as the truth about the Bosnian war.

Notably, there have been very few guilty pleas in both courts, which could have significantly helped the reconciliation process in the whole region. Although some defendants who've pleaded guilty have expressed regret for crimes they've committed, these admissions rarely draw reactions from any of the main communities.

Has it been free of local political influence?

Due to Bosnia's very complex political situation and multi-ethnic nature, international judges and prosecutors have been employed by the Bosnian state court to ensure that proceedings are conducted professionally. So far, the work of the court itself and the office of the prosecutor has been praised by the international community and the ICTY alike. Many observers believe that the inability of the RS officials, led by Dodik, to exert political influence on this court is the main reason why they want to get rid of it, or at least to get rid of the international staff.

How has the Bosnian court been covered in the local press?

Proceedings at the Bosnian state court have been covered quite fairly in most media outlets in the Bosniak-Croat Federation, while they have been mainly ignored by the RS media. Media outlets in this entity usually provide reports on cases tried at the Bosnian court only when a trial starts or a verdict is being handed down, and they don't get into too many details of those cases. Only a handful of truly independent RS media outlets occasionally report on trials taking place at the war crimes chamber.

What sort of legacy will it leave behind?

There is no doubt that the Bosnian state court should carry on with its work, because when the ICTY closes down in a few years, it will be up to local war crimes courts in Bosnia, Serbia and Croatia to bring suspects to justice.

It is very unlikely that the work of all these courts will be fully appreciated by people who experienced the bloody wars of the Nineties, because for many of them it's still too soon to face up to the truth. However, the legacy of the Sarajevo chamber and other such courts in the region will be important for future generations and may help them understand better what was really going on in the Balkans at the end of the last century.

Location: [Bosnia and Herzegovina](#)

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