

Milan Antonijević, Lawyers' Committee for Human Rights YUCOM

Each Victim's Fate Must Be Clarified

How controversial are the acquittals of Croatian generals, as well as those of Ramush Haradinaj and members of the UCK, from the legal perspective?

It is very difficult to view them in the same light. If you talk about the Croatian generals' verdict with people from the Hague Prosecution, you will see that there is great dissatisfaction. This means that there are some factors which point out that the verdict could have been different. That is the general impression. I think the uproar created around it in Serbia was too excessive but I am afraid that the region, too, has not remained immune to the euphoria that really did not have to be expressed the way it was.

On the other hand, the verdict concerning Kosovo and Ramush Haradinaj can be viewed in a different way. There is room there for a critical attitude towards the Prosecution itself. Based on everything it managed to gather during the entire process, the court had a clearer situation and did not have to make a significant legal departure in order to reach such a verdict. What is left for us is to make an effort to help put this whole situation in its legal framework and avoid speculations on whether the verdict should have been different or not... We are where we are, but this verdict is something that still has to be processed both by jurists and the public and especially by politicians who shouldn't use it to score political points. Not in Serbia and not in the countries in the region.

In what sense is there room for criticizing the work of the Prosecution regarding the Kosovo case?

We are talking about the amount of gathered evidence. There have been serious problems concerning witness protection which was pointed out during the process.

The material gathered by the Prosecution during the entire process was not enough for a conviction. That is a general assessment. The Prosecution didn't appear before the court with a sufficient amount of evidence.

What is the responsibility of Serbia in all of this, particularly when it comes to witnesses proposed by the state?

We are dealing here with the responsibility of all states but it should be stressed that the War Crimes Prosecution in Serbia could have found another way of gathering evidence. However, as there is currently an emerging hostility in Serbia against the domestic War Crimes Prosecution, especially in extremist circles, I believe that the Prosecution still needs support in order to come out with what they managed to gather. The emphasis must be on the trials in Serbia which can be described as satisfactory, at least when it comes to the Prosecution itself. I think there have been some improvements there and that the Prosecution deserves support. We are witnessing initiatives for some changes in the Prosecution itself, which would only deteriorate its work and amplify an overtone of retribution. It is not just their jurisdiction – it is also in the hands of the Hague Prosecution and some institutions outside of Serbia.

How wrong is the presentation of both verdicts as results of lobbying? To what extent does the acquittal – based on the "200 meters standard" and reached with a majority of just one vote – represent perhaps even the introduction of some new rules in the international law?

I hope we will never speak of conspiracy theories but this verdict will certainly be a turning point. There are many issues that are differently regulated in some areas of international law. We shall see how it will influence other ongoing processes in the ICTY and those that will take place before other courts with similar jurisdictions. There is sufficient material and it will be interesting for jurists to observe. And when it comes to lobbying, I don't believe it was crucial in this case, or at least I hope it wasn't.

What should Serbia, but other states, as well, do after such verdicts?

Croatia and all other countries in the region must take into account the fact that there are a vast number of victims and displaced persons in the former Yugoslavia. If there are no verdicts by the Tribunal, then there has to be a commitment of every individual country – I'm referring to Serbia, Croatia and Kosovo – to process all crimes. It's paradoxical that there are a large number of victims and several hundred thousand displaced people and no responsibility of people in military and

state structures. I think it would be of great benefit for future regional cooperation if each of these countries does its utmost in regard to these issues and starts thinking about this huge number of victims of a senseless war and about the satisfaction of justice. Each victim's fate must be clarified and there has to be a legal epilogue so that those crimes do not repeat and we don't have a new cycle of violence every 20, 30 or 40 years.

How much did the reactions in all three states speak of the opposite?

It is obvious that politicians are still too immature to absorb all those occurrences and refrain from using every possibility to enhance their influence in some domestic aspect. I believe that politicians who took part in the witch-hunt or celebration, both those on the Serbian side and others, have perhaps gained a few percents in potential votes but lost credibility – in the international community, as well as in the sense of failing to display a brand of seriousness which called for paying respect to victims who fell in this senseless conflict.

Do you think that perhaps the victims are the very group that should represent a starting point? Around that very time, several associations of victims' families from Serbia, Croatia and Bosnia and Herzegovina went to Potočari to pay their respects to the victims of genocide. That did not receive as much public attention as the reactions to the verdicts.

Yes. That is the case when in the region you have highly sensible representatives of organizations representing the rights of victims' families and who deal differently with the heritage of war and have a much more mature approach than the politicians. It remains to be seen whether the politicians will follow the mature behavior of the civic society and victims' associations. I'm not sure but unfortunately the current situation is still one in which the civic society is a few steps ahead of their respective politicians, those who are supposed to lead these countries and the entire region a little bit forward.

Interviewed by Dejan Kožul
Translated by Milan Bogdanović