

INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA AND COMING TO TERMS WITH THE PAST IN THE AFFECTED COUNTRIES

Henri Bohnet / Anja Czymmeck / Michael A. Lange / Sabina Wölkner

The break-up of Yugoslavia in the period from 1991 to 1999 was characterised by bloody wars, which made the former brother nations of Tito's multinational state into bitter enemies. To the present day, the aftermath of the conflicts still affects democratic development in the majority of the Yugoslav successor states and the relationships between them. Genocide, expulsions, killings and destruction: the understanding that each nation has of the causes and the instigators of the conflicts and of the individual war crimes frequently differs greatly from that of its neighbours. In many cases, their own role in the war is glorified and their activities are justified as representing a necessary war of liberation to gain national independence. In this view of the past, Bosniaks, Croats and Serbs see themselves as victors and victims in equal measure. That makes it difficult to hold a self-critical dialogue about the events of the war. One female journalist put it succinctly: "We all want reconciliation, but nobody wants to accept responsibility!"¹

Against this backdrop, efforts to investigate and address their own crimes are meeting with great resistance on the part of the population. Membership in the European Union is an aim all the states of the former Yugoslavia are striving for – which has only become reality for Slovenia up to date



Henri Bohnet is Resident Representative of the KAS in Belgrade.



Anja Czymmeck is Resident Representative of the KAS in Skopje.



Dr. Michael A. Lange is Resident Representative of the KAS in Zagreb.



Sabina Wölkner is Resident Representative of the KAS in Sarajevo.

1 | Duška Jurišić, Editor in Chief at the weekly magazine *Dani*, during a discussion on *Deutsche Welle* about religions in Bosnia and Herzegovina, Sarajevo, Oct 2011.

and is expected to take place for Croatia in July this year. This can only be achieved through regional reconciliation on the basis of comprehensive efforts to address the past. Reason being, good neighbourly relations represent one of the membership criteria.

It must be borne in mind that full cooperation of the Yugoslav successor states with the International Criminal Tribunal for the Former Yugoslavia (ICTY) is a prerequisite to EU membership for all former warring parties. Twenty years after the establishment of the ICTY in The Hague, there is no doubt about the central role the Tribunal plays in prosecuting the most notorious war

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criminals and in documenting war crimes for the purpose of establishing an independent representation of the causes of the wars, the sequence of events and ultimately facilitating a historiography that is as objective as possible. With it being the first international tribunal after the war crime trials in Nuremberg and Tokyo following the Second World War, the ICTY's work has paved the way for other regional and international criminal courts to be established.

Since the extradition to The Hague in 2011 of the accused Ratko Mladić and Goran Hadžić, who had been on the run for many years, the focus in the Western Balkans has moved to the trials themselves and lately to the recent and impending verdicts.² The latest acquittals of the Croatian generals Ante Gotovina and Mladen Markač, of the Serb former Chief of the General Staff of the Yugoslav Army, Momčilo Perišić, as well as of the Kosovan Ramush Haradinaj last autumn, have once again illustrated the impact of the decisions made in The Hague on politics and public debate in the countries of the former Yugoslavia. The question of the work required to come to terms with the past in each country and of regional reconciliation appears more current than ever.

2 | Cf. Table 1, Prosecutions of the ICTY (at the end of this article).

COMING TO TERMS WITH THE PAST IN CROATIA

After the closure of the Office of the Prosecutor of the ICTY in 2010, the ICTY field office in the Croatian capital of Zagreb (and in Priština) also closed its doors recently, on 31 December 2012. This occurred in the course of the preparations to conclude the activities of the ICTY and in line with the expiry of the corresponding United Nations mandate. Now, only the ICTY offices in Belgrade and Sarajevo will remain in existence until the end of December 2014.³ The closure of the office in Croatia, and thereby the end of an important “phase of coming to terms with the past”, has come just in time before the country is due to join the European Union, an event scheduled for 1 July 2013. In connection with the activities of the ICTY, the country had been accused for a number of years of having “never completely got rid of the legacy of the Tuđman era”⁴. The relationship between Croatia and the ICTY covers a long and varied history, which began in May 1993 with the establishment of the Tribunal in accordance with Resolution 827 of the UN Security Council and has now concluded with the closure of the last field office.

From Croatian view the end of an important “phase of coming to terms with the past” comes just in time before joining the EU on 1 July 2013.

Croatia and the ICTY

For many years, Croatia was considered to be a Yugoslav successor state that, to a large degree, refused to cooperate with the ICTY. This frequently voiced accusation was mainly based on the demonstrably unsatisfactory cooperation with the Tribunal during the Tuđman era (1996–1999), which continued for some time during the subsequent government period of Iвица Račan (2000–2003).⁵ On 19 April 1996, the Croatian Parliament had approved

3 | “ICTY closes its field office in Croatia and Kosovo”, Zagreb, 31 Dec 2012 (Hina).

4 | Karl-Peter Schwarz, “Freispruch in Den Haag: Entlastung und Erleichterung”, *Frankfurter Allgemeine Zeitung*, 16 Nov 2012, <http://faz.net/aktuell/politik/-11962945.html> (accessed 12 Mar 2013).

5 | In the following text, reference is made to the detailed description of the relationship between Croatia and the ICTY: Vjeran Pavlakovic, “Better the Grave than a Slave: Croatia and the International Criminal Tribunal for the former Yugoslavia”, in: Sabrina P. Ramet, Konrad Clewing and Reneo Lukic, “Croatia since independence”, *Südosteuropa Arbeiten*, No. 131, 447–477, here 451 et sqq.

A resolution from 5 March 1999 stated that pertinent military operations on Croatian territory did not represent war crimes but defensive actions to liberate occupied areas and that these fell under Croatian jurisdiction, if any.

a bill that wrote cooperation with the ICTY into constitutional law in the belief that the Tribunal would predominantly prosecute war crimes committed by Serbs. However, on 5 March 1999, this was followed by a resolution, which stated that pertinent military operations on Croatian territory did not represent war crimes but defensive actions to liberate occupied areas and that these fell under Croatian jurisdiction, if any. Due to this stance, there had been only one trial of a Croatian citizen at a Croatian court by the end of the Tuđman era, while guilty verdicts had been handed down against around 400 Serbs (some in absentia) on account of war crimes.

The ICTY had hoped that the new Prime Minister Račan would bring about change and facilitate more comprehensive investigation work, and the new government coalition also immediately expressed willingness to hand the prosecution of war criminals in Croatia over to the ICTY. But it soon became clear to the new government that the majority of the Croatian public disapproved of such cooperation. After the sentencing of the so-called Gospic Group around Mirko Norac, who had been the youngest Croatian general at the time, this attitude culminated in enraged protestors holding large-scale demonstrations. Over 150,000 Croatians protested against the sentencing of these “war heroes” in Split and condemned head of government Račan, who had made serious efforts to improve cooperation with the ICTY, as a “traitor” and “unpatriotic fellow”.

The antipathy of the Croatian people toward the ITCY reached a crescendo with the ultimately fruitless prosecution of former General Janko Bobetko, Chief of Staff for the “Medak Operation”, which even made tempers flare in the Croatian Parliament. A large majority (70 per cent of respondents) expressed their opposition to Bobetko’s extradition.⁶ “The crisis came to end on 29 April 2003 when Bobetko died without ever seeing his indictment. Bobetko’s death, along with the February demonstrations in Split over the Norac Case, represented two key moments in Croatia’s relations with The Hague.”⁷ After President Tuđman and

6 | Ibid., 457.

7 | Ibid.

Defence Minister Susak, Chief of Staff Bobetko was now the last Croatian military leader sharing chief responsibility who had escaped the grasp of the ICTY “by natural means”.

Carla Del Ponte, Chief Prosecutor of the ICTY, was interested in bringing everyone who bore responsibility to court regardless of his ethnicity. Still, there was an increasing impression among Serbs that the Tribunal was a purely anti-Serb institution.⁸ This is the reason why the case of the Croatian General Gotovina suddenly acquired particular importance.⁹



Chief Prosecutor Carla Del Ponte was interested in bringing everyone who bore responsibility to court regardless of his ethnicity. | Source: © ICTY.

When the former Croatian government under Račan no longer responded with the required commitment to Del Ponte’s efforts in the aftermath of the experience made in Split, yet was simultaneously accused by the opposition of surrendering Croatia’s greatest war hero to the ICTY, there was nothing it could do to prevent Račan’s electoral defeat in the autumn of 2003, which had already been on the cards. There was an early change in government after he had been in his position for just three years.¹⁰ The ICTY also remained a continuous “complication in domestic politics” for the successor government under Ivo Sanader.¹¹

8 | Ibid., 458.

9 | Ibid.

10 | Ibid., 453 et seq.

11 | Ibid., “The Sanader era 2004-present”, 461-464.

Sanader's ultimate aim was to cooperate with the ICTY, while at the same time countering attempts to "falsify history", for instance by frequently calling the ICTY's presentation of the case into question, often using dubious sources.

Verdicts against Former Generals Gotovina and Markač

After former Croatian general Ante Gotovina, who had been on the run since being indicted in 2001, had been arrested and subsequently convicted, relations between Croatia and the ICTY improved further. The Tribunal cleared the way for Croatia to begin membership negotiations with the European Union.¹² Once General Markač had also surrendered

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to the authorities and had been handed over to the ICTY, the Tribunal pronounced the trial verdicts against the two generals Gotovina and Markač after lengthy negotiations, sentencing them to 24 and 18 years' imprisonment respectively. The two had commanded "Operation Storm" in 1995, during the course of which over 200,000 Serbs from Krajina had to leave the area and over 1,700 were killed. There was a great deal of disappointment about the two verdicts among the Croatian public, but it did not trigger major demonstrations. The Croatians placed their hope in the appeal, which was scheduled to start immediately.

On 16 November 2012, the ICTY's appeals chamber converted the verdicts into "acquittals due to lack of evidence" by a narrow majority of three of the five voting judges. The judges argued it had not been proven that the flight or exodus of the Serbs at the end of the war in Croatia (1991-1995) had been due to an "organised campaign of expulsion", which Generals Gotovina and Markač had been accused of. In the justification of their appeal ruling, the

12 | The start of membership negotiations, which had originally been planned for March 2005, had to be postponed until October, by which time Carla Del Ponte had expressed her satisfaction with the cooperation of the Croatian government in the case of Gotovina. Leading EU politicians once again called on Croatia's neighbouring countries to engage in comprehensive cooperation with the ICTY and hoped that there would be progress in the reconciliation process in the Balkans. Cf. "Kroate Gotovina auf den Kanaren verhaftet", *Frankfurter Allgemeine Zeitung*, 8 Dec 2005, <http://faz.net/aktuell/politik/-1281323.html> (accessed 12 Mar 2013).

judges further explained that the verdicts in the original trial had been based on the assumption that it was reasonable to consider all artillery hits at a distance of over 200 metres from legitimate military targets “targeted attacks on civilians”. That was an unjustified assumption. In addition, the trial court had incorrectly assumed that there had been “a joint criminal enterprise, the common purpose of which was the forcible and permanent removal of the Serb population from the Krajina region”.¹³ The present court was not able to follow this reasoning and therefore acquitted the defendants of all these charges.

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Croatian Reactions to the ICTY Verdicts

In Croatia, the acquittals were followed on an enormous screen by thousands of citizens assembled on the central square of the capital Zagreb and greeted with enthusiastic cheering. There were similar scenes of jubilation at such events in other Croatian towns, including Pakoštane and Đurđevac, the hometowns of the two defendants. Hundreds of Croatian veterans, who had appeared in their uniforms, had tears in their eyes when Gotovina spoke to them on Jelačić Square in Zagreb on the actual evening of the day the verdicts were pronounced.¹⁴ Croatian politicians celebrated the generals’ acquittal as a “victory for Croatia”, including the Croatian Defence Minister Ante Kotromanić, who said the truth had finally won.¹⁵

On the very same day the verdicts had been pronounced, Gotovina and Markač were in fact met at Zagreb Airport by Prime Minister Zoran Milanović and Speaker of the Parliament Josip Leko, and welcomed home that evening at a reception hosted by President Ivo Josipović. Milanović seized the opportunity to thank Gotovina and Markač for what they had taken on in defence of an independent

13 | Cf. “Jubel in Kroatien über Freispruch der Generäle Gotovina und Markač”, *Frankfurter Allgemeine Zeitung*, 17 Nov 2012, <http://onleihe.de/static/content/faz/20121117/F121117/vF121117.pdf> (accessed 12 Mar 2013).

14 | Cf. Nina Brnada, “Ante Gotovina: Der Held, der keiner sein will”, *Der Standard*, 26 Nov 2012.

15 | Cf. “Pobijedila je istina, idem po generale Vladinim avionom”, *Večernji list*, 16 Nov 2012, <http://vecernji.hr/komentar/475953> (accessed 12 Mar 2013).

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Croatia.¹⁶ At an extraordinary press conference, he stressed that it had taken 17 long years, after all, to bring these difficult proceedings to a close. Even though the judges'

decision had not been unanimous, which only demonstrated how close the truth and untruth were to each other, the two generals were now "innocent" people. But the verdict did not mean the war had not been bloody or that no mistakes were made.¹⁷ The acquittal thus did not change the fact that there was also a need in Croatia to make intensive efforts to address the war crimes committed by Croats.¹⁸

The Speaker of the Parliament Leko described the day the verdicts were announced as a "great day for Croatia". The verdict was proof of the fact that Croatia had conducted a justified defensive war according to the rules of international law.¹⁹ Visibly relieved, President Josipović finally commented on the "just verdict" of the Tribunal in a television address, adding that the court had recognised that the defendants bore no personal responsibility for the civilian victims of "Operation Storm".²⁰

Reactions of the Serbs Living in Croatia to the ICTY Verdicts

The most important political representative of the Serb minority in Croatia, the Member of Parliament and Chairman of the Foreign Affairs Committee of the Croatian Parliament (Sabor), Milorad Pupovac, on the other hand, commented in his speech in Parliament that the acquittals might be a great day for Croatia, but if the generals were not culpable, one had to be allowed to ask who should be called to account for the war crimes perpetrated in Krajina, which were beyond doubt.²¹ To Serbs, taking back Krajina

16 | Cf. "Premijer Milanović: 'Pao nam je kamen sa srca! Gotovini i Markaču hvala što su toliko izdržali za Hrvatsku'", Jutarnji list – Portal Jutarnji hr, 16 Nov 2012, <http://jutarnji.hr/1066731> (accessed 12 Mar 2013).

17 | Ibid.

18 | Cf. n. 13.

19 | Cf. "Leko: ovo je priznanje da smo vodili pravedan, obrambeni rat", 24 sata, 16 Nov 2012, <http://24sata.hr/politika/-289758> (accessed 12 Mar 2013).

20 | Cf. n. 13.

21 | Cf. Interview with Milorad Pupovac, "Ich habe 20 Jahre an das andere Kroatien geglaubt", *Der Standard*, 24 Nov 2012, <http://derstandard.at/1353207154088> (accessed 13 Mar 2013).

by military means continues to represent a “criminal” operation; to Croats, on the other hand, it represents the successful reconquest and liberation of Croatian territory. Pupovac criticised both views as being too one-sided, which meant that there was a need to keep working with Croats and Serbs to address these dark aspects of the war and to continue collaboration in this area.²²

In Pupovac’s opinion it was regrettable that there were a sizable number of Croatians who interpreted the Tribunal’s verdict not as freedom for two individuals, but generally as “freedom from guilt” and as a victory of the type of politics that Croatia had been trying to distance itself from since 2000.²³ In a subsequent testimony, Pupovac specified his statements saying that although the ICTY had acquitted the two generals with respect to the charges contained in the indictment, it had not clarified who did bear political responsibility for the war crimes and what a sustainable solution to the problem of the Serb minority in Croatia should look like.

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On the question as to how the Serb community in Croatia was intending to deal with the verdict, Pupovac said: “It is not the worst that they have experienced. After having been driven away and stigmatised and losing their jobs, the question for them is not whether they are satisfied or not, but whether they can be free from fear.” And he added: “If we now join the EU with the dominant logic that the ‘war is over’ and that the issue of war crimes has therefore been dealt with, a new canon is being established.”²⁴ This was why the Serbs would continue to take the current Croatian government at its word when it said it wanted to preserve the rights of the Serb minority and why they would also check this on the basis of the government’s attitude towards the right to bilingual road signs in areas such as the town of Vukovar where Serbs make up over a third of the population, a right which is enshrined in the Croatian constitution.

22 | Cf. Marina Karlović Sabolić, “Milorad Pupovac: Hrvatsko pravosuđe riskira da bude sudionik u zločinu”, *Slobodna Dalmacija*, 8 Dec 2012, <http://urednik.slobodnadalmacija.hr/Spektar/tabid/94/articleType/ArticleView/articleId/196042/Default.aspx> (accessed 13 Mar 2013).

23 | Cf. n. 21.

24 | Ibid.

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Be that as it may, it remains in the interests of the Serb minority in Croatia for bilateral relations between Zagreb and Belgrade to improve again after having suffered badly through the arguments put forward by both sides subsequent to the announcement of the ICTY verdicts. According to Pupovac, especially the first visit by a Croatian Prime Minister to Belgrade since March 2009 provided some cause for hope. This visit would also bring about noticeable improvements in the standing of the respective minorities in the neighbouring country.²⁵

COMING TO TERMS WITH THE PAST IN SERBIA

Since the beginning of its work twenty years ago, the International Criminal Tribunal for the Former Yugoslavia has had difficulty being accepted by the Serbian public. The acquittals of Gotovina, Markač and Haradinaj hardened the impression in the country that the court was established with a bias "against Serbia". This was the conclusion voiced by Serbia's President Nikolić in a public response to the acquittal of the Croatian generals.²⁶ The great disappointment in Serbia about the acquittals and the jubilation in Zagreb and Priština illustrate how deep the divides between the former brother countries still are. Each country has its own interpretation of its role during the Yugoslav wars and of the roles played by the others.²⁷

25 | "Milanović i Dačić u Beogradu: odnose odlediti, resetirati i početi ispočetka", *Novilist*, 16 Jan 2013, <http://tinyurl.com/b54bz3v> (accessed 13 Mar 2013).

26 | See Florian Bieber, "Hague Verdicts Don't 'Justify' Croatia's, Kosovo's, Wars", *BalkanInsight*, 29 Nov 2012, <http://balkaninsight.com/en/article/hague-verdicts-don-t-justify-croatia-s-kosovo-s-wars> (accessed 19 Mar 2013).

27 | The fact that these are still fuelling conflict today is illustrated by the dispute about a memorial for Albanian rebels in the Presevo Valley in southern Serbia. The rebels were classed as terrorists by the Serbian authorities, the memorial was declared illegal and removed in January, which elicited large-scale protests among the local population. One of the consequences was the destruction of hundreds of Serb graves in Kosovo. For further details see Marija Ristić, "Serbia Removes Albanian Guerrilla Monument", *BalkanInsight*, 20 Jan 2013, <http://balkaninsight.com/en/article/serbia-removes-albanian-guerrilla-monument> (accessed 13 Mar 2013).

What is needed is a stronger focus on the war crime victims, of whatever nationality, and continuing efforts to determine the identity of those who were responsible for the crimes. And particularly in Serbia, addressing its own past and accepting the central role that the Milošević regime played in the wars is more essential now than ever.

EU Integration as an Incentive

Good neighbourly relations between the states of the Western Balkans are of central significance to their integration into the EU. This membership criterion is currently of critical importance in Serbia, as the next step on its way to joining the EU depends upon it:

the start of membership negotiations. Belgrade's relations with the ex-Yugoslav neighbouring countries are still characterised to a large extent by a skewed view of its own past, which makes a proper evaluation of present-day political reality difficult. The refusal to recognise Kosovan independence, the political support of Serb minorities, which is viewed as disproportionate by Sarajevo and Podgorica, and interference in Bosnia-Herzegovina and Montenegro, as well as the continuing distrust shown towards Croatia – in the eyes of many people outside Serbia is all a result of Serbia's refusal to acknowledge its role in the wars of the nineties. When one looks at the political leaders, who currently hold power in Belgrade and who, like the President, the Prime Minister and his Deputy, began their political career under Milošević, a normalisation of the relations between Serbia and its neighbours does indeed appear problematic.

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Ratko Mladić (left) and Radovan Karadžić in Pale, 1993: The surrender of the defendants was a precondition for the opening of EU accession talks. | Source: © Stringer / epa / picture alliance.

Be that as it may, there are some indications that the Belgrade leadership, that was elected to office last summer, has recognised the need for improved political contacts with the immediate neighbours and intends to win back ground lost by its predecessors. Berlin in particular made it clear to Belgrade from the beginning where it should focus on in its foreign affairs activities. The more concrete the membership perspective becomes for Belgrade, the more important the Copenhagen criterion of good neighbourly relations becomes for the assessment of the progress made by the largest state in the Western Balkans in terms of democratisation and reform. Belgrade hopes to be given a date for the start of the membership negotiations by the end of this year. Serbia will be required not only to implement internal reforms, but also to find a peaceable way of interacting with Kosovo, which declared independence five years ago. To this end, Belgrade and Priština have been conducting a technical dialogue with EU support since 2011, which was extended to the political level with the meetings between the Prime Ministers of the two countries last autumn. Political dialogue is necessary to build trust and to find a sustainable solution for Northern Kosovo, where a Serb-dominated population lives outside the direct influence of the Kosovan state authority.

Without regular political exchanges between the former warring parties, i.e. not only with Priština but also with Zagreb and Sarajevo, it is hard to see how the necessary conditions can be created for good neighbourly relations, which would hopefully not only prevent the integration of unresolved problems into the EU (such as the case of the divided Cyprus, for instance), but also further regional reconciliation and thereby political stability in the Western Balkans. The Serbian Prime Minister Dačić thinks that these have been hampered as a result of the latest acquittals by the ICTY. In his opinion, the acquittals have also discredited the reputation of the court in Serbia and put Belgrade's cooperation with The Hague into question.²⁸ However, after the public outrage over the holiday period at the turn of the century had calmed down, Belgrade appeared to continue its activities on both the technical and political level pragmatically and constructively. The dialogue with Priština resumed in mid-January at both levels; shortly beforehand, the first visit by the Croatian Prime Minister to Belgrade was conducted in a professional and goal-oriented manner.

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Social Environment Hinders Efforts to Come to Terms with the Past

But will the continuation of the Serbian matter-of-fact neighbourhood policy bring about a similar matter-of-fact assessment of the country's own past? Comprehensive efforts to address the past are, after all, not an explicitly formulated membership criterion. In actual fact, against the backdrop of the great disappointment about the acquittals among large parts of the public and the accompanying perception of a court that is biased against Serbia, the conditions for addressing the war crimes of their own side and establishing historic facts have become considerably more difficult in Serbia. The activities of the forces in civil society, which have been working in Serbia alongside the ICTY's activities for years and which promote an honest approach to the wars and its victims, are met with increasing resistance and bewilderment. The most important state institution for addressing the war crimes issue, the War

28 | See Vladan Marjanović et al., *V.I.P. Daily News Report*, V.I.P. News Services, 20 Nov 2012.

Crimes Prosecutor's Office of Serbia and its public prosecutor, are also encountering greater obstacles to making progress with criminal prosecutions in the country within this toxic environment.

Why – as many people are asking – should Serbia punish perpetrators for crimes committed during the wars when the others escape punishment in spite of clearly documented crimes against Serbs? The following questions were posed by the Serbian Deputy Prime Minister Vučić at a discussion of the latest ICTY progress report to the UN Security Council with respect to the latest acquittals: "Do Serbs actually also have a right to justice? Who is responsible for the numerous killings of Serb civilians in Croatia? If Gotovina and Markač aren't guilty, then who is? The Tribunal has left this question unanswered. Since its inception, it has convicted a number of former Serbian political and military leaders on account of war crimes. At the same time, it has failed to convict a single high-ranking official from Croatia or Bosnia, and it has also failed to convict a single Albanian official for crimes against humanity."²⁹ Vučić's speech demonstrated the tendency on the Serbian side to extend the responsibility for the wars and the committed crimes to the other warring parties. To date, there has been no explicit recognition of Serbia's central role under Milošević's leadership and of the crimes perpetrated in his name, which is also illustrated by the fact that the majority of the people indicted by the ICTY are Serbs.³⁰

There is a tendency on the Serbian side to extend the responsibility for the wars to the other warring parties. There has been no explicit recognition of Serbia's central role under Milošević.

Insufficient Attention Paid to the Victims of the Conflicts

It seems that the reactions to the acquittals not only in Serbia but also in Croatia and in Kosovo indicate that the

29 | United Nations Security Council, 6880th meeting, 5 Dec 2012, http://un.org/ga/search/view_doc.asp?symbol=S/PV.6880 (accessed 13 Mar 2013).

30 | The historian Holm Sundhausen provides the following figures for the overall 161 defendants at the ICTY: 66 Bosnian Serbs, 26 Serbs, 19 Bosnian Croats, 11 Croats, 9 Bosniaks, 6 Kosovo Albanians, 4 Croatian Serbs, 3 Montenegrin Serbs, 2 Albanians and 2 Macedonians as well as 13 other defendants whose provenance is not clearly identified. Cf. Holm Sundhausen, *Jugoslawien und seine Nachfolgestaaten 1943-2011*, Böhlau Verlag, 2012, 422.

search for justice has pushed the acknowledgement of the war crime victims into the background, at least temporarily. From the Serbian viewpoint this applies particularly to the most significant crime against ethnic Serbs committed during the wars: "Operation Storm". Now that generals Gotovina and Markač have been acquitted, the victims associations are renewing their demands for the search for and conviction of those responsible. The Serbian Justice Minister recently made a point of touching on these demands during a visit to the ICTY Chief Prosecutor Serge Brammertz in The Hague. "All the victims of Serb nationality [...] in the territories of the Republic of Croatia and of Kosovo have been left without the conviction of those responsible for the crimes perpetrated against them."³¹ In his latest report to the UN Security Council, in which he commented on the court proceedings against Gotovina, Markač and Haradinaj, Brammertz stated that "there can be no doubt that serious crimes were documented in the course of the proceedings. The victims of those crimes have the right to justice. Therefore, I encourage the national authorities in the region to continue the fight against impunity within their jurisdictions."³²

ICTY Chief Prosecutor Serge Brammertz stated that the victims had the right to justice. He encouraged the national authorities in the region to continue the fight against impunity within their jurisdictions.

As all sought war criminals have now been surrendered to The Hague, the majority of the trials have already been concluded and the last on-going trials, particularly the ones of Karadžić and Mladić, are progressing, the Tribunal wishes to implement the "completion strategy" for its work envisaged by the UN mandate. One more reason why it is becoming increasingly important for the national war crimes offices in the region to deal with outstanding issues with the focus on the victims, particularly those that were affected by "Operation Storm". The Serbian office has been working on this task for ten years, and its efforts have been monitored with a critical eye by domestic human rights organisations. These welcome the prosecution and conviction of war criminals on home soil, but criticise the slow progress of the investigations and trials, particularly

31 | See "Tribunal Delimično Svestan Odgovornosti", Serbian Ministry of Justice, 17 Jan 2013, <http://www.mpravde.gov.rs/cr/news/vesti/tribunal-delimicno-svestan-odgovornosti.html> (accessed 13 Mar 2013).

32 | N. 29.

those involving high-ranking military personnel. They also complain about deficiencies with respect to witness protection, which plays a vital role for the successful outcome of criminal proceedings.³³

Serbia's Contribution to Criminal Prosecutions and Coming to Terms with the Past

President Nikolić, Prime Minister Dačić and Deputy Prime Minister Vučić, leader of the largest government party, used to be high-ranking followers of Milošević. None of them has ever publically shown remorse for their services rendered to the former regime. Nikolić's statements made shortly after he took office, asserting that the Croatian town of Vukovar, the location of numerous war crimes, was a Serb town and that the killing of the Bosniak population in Srebrenica had not amounted to genocide, have further had a long-lasting detrimental impact on Belgrade's relations with Croatia and Bosnia. To this day, the Croatian President Josipović refuses to meet with his Serbian counterpart until he withdraws his statements.

In spite of all this, there are some encouraging signs. Deputy Prime Minister Vučić has affirmed several times that Serbia would fulfil its international obligations and therefore also continue its cooperation with the ICTY. In addition to the extradition of Mladić and Hadžić under Nikolić's predecessor, this includes the uncovering of the networks that had protected them for years, but also the punishment of crimes at a national level. In this context, the Deputy Public Prosecutor for War Crimes in Serbia described the cooperation and regular exchange of information with his Croatian and other colleagues as very good and important in a recent public debate.³⁴ A protocol between Serbia and Bosnia is due to enter into force soon, which is intended to facilitate the exchange of evidence for war crimes and make it

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33 | See Humanitarian Law Center, "Report on war crime trials in Serbia in 2012", 18 Jan 2013, <http://www.hlc-rdc.org/?p=22309&lang=de> (accessed 13 Mar 2013).

34 | See the event report on the debate: "Debata o suđenjima za ratne zločine u Srbiji u 2012. Godini", Medija Centar Beograd, 17 Jan 2013, <http://www.mc.rs/debata-o-sudjenjima-za-ratne-zlocine-u.4.html?eventId=8831> (accessed 13 Mar 2013).

unnecessary for parallel investigations to be carried out in both countries. In addition, the visit by the Croatian Prime Minister to Belgrade in January attracted great interest from the Serbian public. According to media reports, topics covered at the meeting included the work with the ICTY and mutual accusations of genocide at the Tribunal.

Central Role Played by Civil Society

Non-government organisations and human rights activists in Serbia are continuing to publicly push for efforts to address the past and for recognition of the role Serbia played during the Yugoslav wars. With their numerous annual meetings at a variety of levels, they are far ahead of the politicians and are already providing important impulses for regional reconciliation. The head of the local Helsinki Committee points to the way Germany dealt with its past as a model for the region. She also interprets the latest verdicts as an opportunity for Serbia to finally abandon the incorrect idea of the Yugoslav wars, according to which all warring parties were equal and bore the same degree of responsibility for the break-up of Yugoslavia and for the crimes that were perpetrated in the process. She believes that this incorrect interpretation makes reconciliation with neighbours impossible, but that particularly the nationalists, who have just come back into government, could start speaking differently about the past.³⁵ After all, they cannot be accused of a lack of patriotism.

The head of the local Helsinki Committee believes that incorrect interpretation of history makes reconciliation with the neighbours impossible. Particularly nationalists could start speaking differently about the past.

Other human rights activists in Serbia stress the need to uncover the truth about the fate of all the war victims, if possible, in collaboration with the neighbouring countries and their victims organisations, documentation centres and media representatives. In their eyes this is one of the most important tasks not just of the politicians but also of civil society. For many Serbian human rights defenders, the work of the ICTY in documenting crimes, collecting witness statements and determining the sequence of events during the wars as objectively as possible also plays a significant

35 | Cf. interview with Sonja Biserko: Dejan Kožul, "An Opportunity to End the Vicious Cycle of War", Heinrich Böll Stiftung, 24 Dec 2012, http://rs.boell.org/downloads/sonja_biserko_-_english.pdf (accessed 13 Mar 2013).

role. This is the only way to make progress in coming to terms with the past in Serbia and in the region and to allow a largely objective historiography of the break-up of Yugoslavia to be written.

Looking to the future, it is up to the younger generation – and this is evidenced by numerous initiatives from abroad but also from Serbia – to exercise tolerance towards neighbours and thereby smooth the path for regional reconciliation. An increase in interactions through seminars, academic and school exchanges and further regional projects are helping break down mistrust and promote acceptance of different opinions. But without comprehensive education and information initiatives for young people in the Western Balkans, for instance with the aid of classroom materials prepared by a bi- or trilateral historians commission, there will be room for contradicting and competing interpretations of history. This would continue to give nationalists the opportunity to play down the country's responsibility for its own past.

Without comprehensive education for the young people in the Western Balkans, there will be room for competing interpretations of history. This would give nationalists the opportunity to play down the country's responsibility.

THE TRIALS AT THE INTERNATIONAL TRIBUNAL FROM THE VIEWPOINTS OF MACEDONIA AND KOSOVO

The decisions of the ICTY in The Hague have caused both jubilation as well as horror in Macedonia and Kosovo depending on people's different viewpoints, which are sometimes difficult to comprehend for Western observers. These reactions show that both countries are still caught in the grip of the past and that old wounds remain far from being healed.

The ICTY Cases from Macedonia

The International Criminal Tribunal for the Former Yugoslavia has so far held two trials against Macedonian citizens: against Ljube Boškoski, the former Macedonian Interior Minister, and against Johan Tarčulovski, former police officer in the President's Security Unit in the Interior Ministry. The two men are the only Macedonians involved in the armed conflict of 2001 who have been brought before the Tribunal. The charges against them must be seen in light of years of political tensions between the ethnic

Albanian minority and the Macedonians, which culminated in an armed conflict in 2001. During that time, there were frequent armed skirmishes between the Albanian National Liberation Army NLA (UÇK) and the Macedonian National Army.

The attack on Ljuboten on 12 August 2001, a village north of the capital Skopje with a majority ethnic Albanian population, was the last confrontation before the Ohrid Framework Agreement, which was signed a day later and brought a negotiated end to hostilities.³⁶ During the police attack, seven men of ethnic Albanian extraction were killed and over 100 unarmed civilians arrested. Numerous houses were set ablaze, shot at and damaged. After an investigation of the events in the village, The Hague brought charges against Boškoski and Tarčulovski in 2005. As the Interior Minister, Boškoski was responsible for the police and thus bore overall responsibility for the operation. The prosecution worked on the assumption that he knew about the illegal activities of the police during the attack on the village or that he should have at least known. The bill of indictment included the suspicion that

Boškoski himself had visited Ljuboten and met the police units, which were headed by Tarčulovski at the time. The public prosecutor accused the former Interior Minister of having done nothing to investigate the events and punish the perpetrators. Tarčulovski was accused by the Tribunal of having planned and organised the illegal attack on Ljuboten. It was assumed that he had convinced the army and police chiefs in the Ljuboten area to support the attack and that he had ordered a reserve police unit to be armed, coordinated this activity and then personally overseen the attack.

The public prosecutor accused Tarčulovski of having convinced the army and police chiefs in the Ljuboten area to support the attack and that he had then personally overseen the attack.

36 | Cf. ICTY, "Boškoski & Tarčulovski", Case Information Sheet, http://icty.org/x/cases/boskoski_Tarčulovski/cis/en/cis_boskoski_Tarčulovski_en.pdf (accessed 25 Mar 2013); cf. Anja Czymmeck, "Zehn Jahre Ohrider Rahmenabkommen", KAS Länderbericht, 12 Aug 2011, http://kas.de/wf/doc/kas_23618-1522-1-30.pdf (accessed 13 Mar 2013); Anja Czymmeck and Kristina Viciska, "A Model for Future Multi-Ethnic Coexistence? Macedonia 10 Years After the Ohrid Framework Agreement", *KAS International Reports*, Nov 2011, 72, <http://kas.de/wf/en/33.29404> (accessed 13 Mar 2013).

The trial against the two Macedonians started on 16 April 2007 and lasted a year. On 10 July 2008, Boškoski was acquitted of all charges, but Tarčulovski was given a twelve-year prison sentence.³⁷ The trials in The Hague had attracted a great deal of public interest in Macedonia, because it was the first time Macedonians were brought to court. Interior Minister Gordana Jankulovska and Justice Minister Mihajlo Manevski attended court personally on the days the verdicts were announced in The Hague. Their presence was to signal to the international community that the Macedonian government would not forget those who, in its opinion, had defended the country and its citizens in the armed conflict. On his arrival at Skopje Airport, the acquitted Boškoski was welcomed by thousands of citizens and followers of the VMRO-DPMNE party, which he belonged to at the time, including head of government Nikola Gruevski.

The four “Hague cases” in Macedonia. They relate to war crime charges against commanding officers and members of the UÇK, which operated in Macedonia in 2001.

To date, the “Ljuboten case” is the only one from Macedonia that has been dealt with in The Hague, and Johan Tarčulovski is the only Macedonian citizen in prison due to an ICTY conviction. There have been four further cases with a link to Macedonia, which are referred to as “Hague cases” in Macedonia. They relate to war crime charges – abduction, abuse, ill-treatment and killing – against commanding officers and members of the Albanian Liberation Army ANA (UÇK), which operated in Macedonia in 2001 during the armed conflict. In 2008, Chief Prosecutor Del Ponte handed these cases back to the Macedonian Public Prosecutor’s Office in fulfillment of request thereof by Macedonia.³⁸ In 2011, the Macedonian Parliament, in which the government coalition comprising VMRO-DPMNE and the Albanian party DUI had a majority, decided that these cases fell under an amnesty law. This was a course of action that had been pushed for particularly by the Albanian coalition partner, because numerous former members and commanding officers of the Liberation Army are now DUI Members of Parliament, notably their leader Ali Ahmeti. There was also

37 | “Бошковски и Тарчуловски” (Boškoski and Tarčulovski), Akademik, <http://akademik.mk/trial/Boškoski-i-tarchulovski> (accessed 13 Mar 2013).

38 | “The Former Yugoslav Republic of Macedonia Requested to Defer Five Cases to the Competence of the International Tribunal”, ICTY, 7 Oct 2002, <http://icty.org/sid/8069> (accessed 13 Mar 2013).

unofficial speculation about the idea that the DUI had made it a condition of entering into a coalition with the VMRO-DPMNE that such an amnesty law would be approved, which would then stop the trials.

The degree to which Macedonian politics is dominated by these conflicts is illustrated in the current discussions on what is referred to as defenders bill. The DUI is strongly advocating that the status of the former members of the Liberation Army should be clarified in the legislation and that they should be awarded pensions, special insurances and privileges as war veterans like the members of the Macedonian National Army. The dispute about this bill is threatening to break up the government coalition. It has still not been resolved because the bill has still not gone through.

In October 2012, the family members of the victims of the “Hague cases” demanded a constitutional examination of the amnesty law, but the Macedonian Constitutional Court rejected a further examination, which meant that amnesty remained in force.³⁹ Even as

The Macedonian Constitutional Court rejected a further examination of the amnesty law that family members of the victims had asked for, which meant that the amnesty remained in force.

it was being approved by the government coalition, the law triggered heated reactions and political upheaval. The opposition Social Democrats spoke out against it. In agreement with a large proportion of the Macedonian experts, they argued that such a decision on court cases should not be taken in Parliament, but should be dealt with in regular court proceedings. In September 2011, Amnesty International called upon the Macedonian government to rethink the matter: “The parliament’s decision is clearly inconsistent with international law and will leave the victims and their relatives without access to justice.”⁴⁰

39 | Republic of Macedonia, Constitutional Court, Adjudication No. 158-2011-0-0, 31 Oct 2012, <http://www.constitutionalcourt.mk/domino/WEBSUD.nsf> (accessed 13 Mar 2013); cf. also Sinisa Jakov Marusic and Sase Dimovski, “Macedonian Court Rejects Review of War Crimes Amnesty”, *BalkanInsight*, 31 Oct 2012, <http://balkaninsight.com/mk/article/macedonian-court-rejects-review-of-war-crimes-amnesty> (accessed 13 Mar 2013).

40 | Amnesty International, “Macedonia: Time to deliver justice to the victims of war crimes”, press release PRE01/435/2011, 1 Sep 2011, <http://amnesty.org/en/for-media/press-releases/macedonia-time-deliver-justice-victims-war-crimes-2011-09-01> (accessed 13 Mar 2013).

The events and discussions relating to the "Hague cases" and the amnesty law also illustrate the ethnic tensions and divisions in Macedonia. The ethnic Albanian population as well as all Albanian parties have welcomed the decision of the ICTY and the amnesty granted subsequent to the transfer of the defendants. The ethnic Macedonian majority, on the other hand, strongly criticised the decision. It views the amnesty for the defendants in the Hague cases as a capitulation on the part of Macedonia and as a politically motivated reconciliation that was imposed on the country. This view was demonstrated clearly once more at the end

Many Macedonians had complained that a Macedonian had been convicted as a war criminal alongside Serbs although the country had extracted itself from former Yugoslavia without bloodshed.

of 2012 when not only the Croatian generals Gotovina and Markač were acquitted by the ICTY, but so was the former commander of the UÇK and Kosovan Prime Minister Ramush Haradinaj. Many Macedonians had considered the guilty verdict that the acquittal reversed as unjust. They had complained that a Macedonian had been convicted as a war criminal alongside Serbs although Macedonia had been the only country that had extracted itself from the former Yugoslavia without bloodshed. With opinions such as this, any evidence that the court may have does not appear to be of any importance; instead, people work on the basis of a kind of "national proportionality", which indicates a peculiar understanding of jurisdiction on the part of the Macedonian side.

Addressing the events of the past and dealing with the resulting findings are and will remain extremely difficult issues in Macedonia. This is not only evidenced by the cases described here but also by the discussions about the Lustration Law, which is to regulate access to public office for people who collaborated with the secret service in the Communist era. In July, a new bill was pushed hastily through Parliament, without giving the parliamentary committees and groups sufficient time for consultation and discussion and without consulting civil society representatives on the bill. For this reason, the law continues to draw criticism, and the government is being accused of merely seeking to remove undesirable political opponents from public life using the new regulations. Once again, there is no common denominator in this area that could help bridge the divide between the ethnic groups or contribute to improving political culture. Johan Tarčulovski, who was

sentenced to 12 years prison, was recently released after having served two third – eight years – of his sentence and was welcomed in Macedonia by the Prime minister and enthusiastic supporters.⁴¹

The ICTY Cases from Kosovo

The reaction of the UN war crimes tribunal to the war in Kosovo during the years 1998 and 1999 began while there was still intensive fighting in Kosovo. On 24 May 1999, a judge confirmed the charges against Slobodan Milošević. It was the first indictment of a President in office at an international court. After the intervention by NATO troops in Kosovo in June 1999, the territory became subject to a comprehensive investigation in connection with war crimes in Southeast Europe. During the following months, forensic teams from over ten countries exhumed bodies at various locations, where Serbs were said to have killed Kosovo Albanians. During the following four years, the court charged Serbs with extensive war crimes perpetrated in Kosovo in 1999⁴² as well as six Albanians with crimes against Serbs and against Albanians who had collaborated with the Serbs.

Until 2003, the court charged Serbs with extensive war crimes perpetrated in Kosovo in 1999 as well as six Albanians with crimes against Serbs and against Albanians who had collaborated with the Serbs.

The first members of the Albanian Liberation Army UÇK, who were indicted, comprised the group of Haradin Balaj, Isak Musliu and the well-known UÇK commander and leading politician of the present PDK party, Fatmir Limaj. They were accused of having imprisoned people illegally and of having tortured and executed Albanians who collaborated with the Serbian military as well as Serb and Albanian civilians.⁴³ The arrest of the defendants in March 2003⁴⁴ caused a great deal of discussion and complaints in

41 | Sinisa Jakov Marusic, "Macedonia Stages Hero's Welcome for Tarculovski", *BalkanInsight*, 11 Apr 2013, <http://balkaninsight.com/en/article/macedonia-thorws-hero-s-welcome-for-tarculovski> (accessed 18 Apr 2013).

42 | ICTY, litigation No. IT-03-66-T, verdict on Fatmir Limaj, Isak Musliu and Haradin Bala, 30 Nov 2005, <http://icty.org/x/cases/limaj/tjug/en/lim-tj051130-e.pdf> (accessed 19 Mar 2013).

43 | "Fatmir Limaj del në gjyqin e Hagës", *BBC Albanian*, 4 Mar 2003, http://bbc.co.uk/albanian/news/2003/03/030304_limajhague.shtml (accessed 13 Mar 2013).

44 | N. 42.

Kosovo. People interpreted the arrests as an attempt by the ICTY to offset the crimes perpetrated by the Serbian and Kosovan sides against one another to avoid convicting Serbs of war crimes. The hearings relating to this group were based mainly on statements made by witnesses who were involved with the prison in Llapushnik, Kosovo. There was suspicion that numerous Serbs and Albanians had been ill-treated and killed in the period between 1998/1999.

On 30 November 2005, the ICTY sentenced Haradin Balaj, who had been a warden at the Llapushnik prison, to a 12-year jail term on account of abuse, torture and murder. Isak Musliu and Fatmir Limaj, on the other hand, were acquitted. There was not sufficient evidence that could be brought before the court that would have proved the involvement of the two men in the abuse that took place at the prison.⁴⁵ The acquittals met with a positive response in Kosovo. In the eyes of the Kosovans, it proved that the war of the Kosovo Albanians had represented a war of liberation, which was not based on an organised campaign to torture and kill Serbs and Albanians. This opinion was also voiced by former President Ibrahim Rugova, Prime Minister Bajram Kosumi and Hashim Thaçi, leader of the Democratic Party of Kosovo (PDK).⁴⁶

Serbian politicians complained that the ICTY's decision was a bad signal for the Serbs living in Kosovo. International representatives in Priština and UNMIK stated that the ICTY decision had to be respected.

The people who were dissatisfied with the ICTY verdict were the Serbs living in Serbia and in Kosovo. Serbian politicians complained that the decision was a bad signal for the Serbs living in Kosovo.⁴⁷ International

embassy representatives in Priština and the UN mission UNMIK went to the public with a joint declaration, which stated that the ICTY decision had to be respected and that all Kosovo citizens were called upon to respond to it with circumspection.⁴⁸ In the meantime, the ICTY decided on 31

45 | The Hague Justice Portal, "Limaj, Fatmir", <http://haguejusticeportal.net/index.php?id=6114> (accessed 13 Mar 2013).

46 | Media House Kosova, "Përshëndetet lirim i Limajt dhe Musliut", *Rugova Update*, 1 Dec 2005, <http://rugovaupdate.blogspot.com/2005/12/prshndetet-lirimi-i-limajt-dhe-musliut.html> (accessed 13 Mar 2013).

47 | "Bogdanoviq: Lirimi i Limajt 'skandaloz'", *Radio Europa e Lirë*, 2 May 2012, <http://www.evropaelire.org/archive/news/2012/0502/704/704.html?id=24567843> (accessed 13 Mar 2013).

48 | "UN court acquits top Kosovo rebel", *BBC News*, 30 Nov 2005, <http://news.bbc.co.uk/2/hi/4485658.stm> (accessed 13 Mar 2013).

December 2012 to release Haradin Balaj two years early for good behaviour after 11 years in prison in response to a request by the defence.

Further persons indicted by the ICTY include the former Prime Minister and leader of the party Alliance for the Future of Kosovo (AAK), Ramush Haradinaj, and the so-called Dukagjini Group, consisting of Haradinaj's comrades-in-arms Lahi Brahimaj and Idriz Balaj. They were charged in March 2005.⁴⁹ Haradinaj was accused of having been responsible for the abuse and killing of people in the war zone of Dukagjini in his role as leader of the UÇK. There had already been rumours about an indictment shortly after the Kosovo elections in 2004. At that time, the Democratic League of Kosovo (LDK) was considering entering into coalition with the AAK, which would then elect Haradinaj Prime Minister of the country. Numerous newspapers reported at the time that President Rugova was under enormous international pressure not to enter into this coalition as an indictment of Haradinaj was to be made public in the near future. Many also advised Haradinaj against joining the government as his indictment was thought to be forthcoming. In spite of this, the two politicians agreed to form a coalition, which then proceeded to elect Haradinaj head of government.

When the indictment was then pronounced as expected, it came at an emotionally very critical time, just one year after the bloody confrontations between Serbs and Albanians around the town of Graçanica in March 2004.

The indictment came at an emotionally very critical time, just one year after the bloody confrontations between Serbs and Albanians. 18 Kosovan citizens from all ethnic groups were killed.

18 Kosovan citizens from all ethnic groups were killed in the process. Many people were driven away, their homes were destroyed, as were cultural and religious facilities. Many feared that this type of escalation could happen again all too easily.⁵⁰ On 8 March 2005, Haradinaj resigned as Prime Minister and announced his voluntary transfer to

49 | ICTY, "Haradinaj et al. The Prosecutor v. Ramush Haradinaj, Idriz Balaj & Lahi Brahimaj", Case Information Sheet, http://icty.org/x/cases/haradinaj/cis/en/cis_haradinaj_al_en.pdf (accessed 13 Mar 2013).

50 | International Crisis Group (ICG), "Kosovo after Haradinaj", *Europe Report*, No. 163, 26 May 2005, 1, http://crisisgroup.org/~media/Files/europe/163_kosovo_after_haradinaj.pdf (accessed 13 Mar 2013).

The Hague. He implied that he considered it an obligation under international law and a mission to protect the purity of the war of liberation fought by the UÇK.⁵¹ The impact of this conduct was important for the internal stability of Kosovo, but Haradinaj's action was also welcomed at an international level.⁵²

During the trial, the defence produced a number of witnesses, who were to refute maltreatment and murders in the war zone of Dukagjini. The trial was accompanied by mutual accusations of witness intimidation, which could not be proved, however. On 3 April 2008, the Tribunal acquitted Haradinaj and his UÇK comrade-in-arms Idriz Balaj due to lack of evidence; Lahi Brahimaj, on the other hand, was sentenced to six years in prison on account of torture.⁵³ In 2010, the trial was reopened with the justification that some witnesses, whose testimony might be crucial, had not been heard.⁵⁴ The resumption triggered a strong response in Kosovo as it was interpreted as being purely political and as people thought that the Chief Prosecutor Del Ponte appeared to show a tendency to hold both sides, Serbs and Kosovans, equally responsible.

The resumption of the process in 2010 triggered a strong response in Kosovo. People thought that the Chief Prosecutor Del Ponte appeared to show a tendency to hold both sides, Serbs and Kosovans, equally responsible.

The resumption of the trial against Haradinaj, Balaj and Brahimaj proved to be a lengthy affair. It was not until 29 November 2012 that the ICTY came to a decision, acquitting the defendants due to lack of evidence.⁵⁵ The Tribunal still assumed that the UÇK had kidnapped, tortured and murdered Serbs, Albanians and Roma in the war, but it had proved impossible to find witnesses that were prepared to make statements in Kosovo, a country characterised by a strong clan and family structure. The acquittals were greeted with jubilant celebrations in Kosovo. Thousands of the country's citizens mobbed the central square in Priština, where the announcement of the verdicts was being broad-

51 | Ibid., 2.

52 | Lundrim Aliu, "Kosovo Prime Minister Resigns to Face War Crimes Charges at The Hague", *Southeast European Times*, Priština, 9 Mar 2005, http://setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2005/03/09/feature-01 (accessed 13 Mar 2013).

53 | N. 49.

54 | Ibid.

55 | Ibid.

casted live by Kosovan television. Haradinaj received a hero's welcome on his return to Kosovo. He said that he was now ready to play an active part in Kosovan politics once more. Prime Minister Taçi assessed the verdict as conclusive proof of a cleanly conducted war of liberation by the Kosovars.⁵⁶ On the Serbian side, the acquittal was interpreted as a blow against Serbia. President Nikolić expressed doubts about the reliability of the verdict and voiced the opinion that the UN Tribunal had been established to "convict the Serb people" – an opinion shared by many Serbian politicians.⁵⁷

The ICTY cases in Kosovo illustrate how strong the power of established politicians with firm roots in the country is and that there is always a great deal of fear and trepidation involved in coming forward as a witness against former UÇK functionaries. This situation is not likely to change in the future, which means that many perpetrators will remain unidentified.

RECONCILIATION IN BOSNIA AND HERZEGOVINA – ONE STEP FORWARD, TWO STEPS BACK

In Bosnia and Herzegovina (B&H), there are numerous reconciliation initiatives. However, nearly eighteen years after the end of the war, the results of the efforts are meagre. There is still not much effort being made in addressing the war and the events of the past openly. This failure means that the ethnocentric views of history and concepts of the enemy are being cemented in people's minds. The problem is the failure of politicians to act. While the country's parties do not mind the national divides, because they help them to mobilise their voters, the regional initiatives do not get to the root of the problem. And there are also limits to what international justice can accomplish. The trials and verdicts

While the country's parties do not mind the national divides, because they help them to mobilise their voters, the regional initiatives do not get to the root of the problem. And there are also limits to what international justice can do.

56 | "Taçi welcomes the verdict for release of Ramush Haradinaj and his comrades-in-arms", Kosovapress, 29 Nov 2012, <http://kosovapress.com/?cid=2,86,156417> (accessed 13 Mar 2013).

57 | "Verdict unjust, political, say Serbian officials", News Agency B92, 29 Nov 2012, http://b92.net/eng/news/politics-article.php?yyyy=2012&mm=11&dd=29&nav_id=83397 (accessed 13 Mar 2013).

of the ICTY did not help to develop a joint understanding of history in B&H. In spite of this, there may be opportunities for a reconciliation process in view of the changes taking place in society. The desire for mutual understanding is increasing among the people. Nationalism is losing some of its impact.

A Society Torn Apart

Because of the war, which lasted four years, Bosnia-Herzegovina has lost a considerable proportion of its former population. Beforehand, some 4.4 million people lived in B&H according to the 1991 census. 44 per cent of these were Muslim Bosniaks, 31 per cent Serbs and 17 per cent Croats. Approximately 100,000 people lost their lives in the fighting and half of the population was driven out. Around 7,500 people are living in refugee camps.⁵⁸ For many, the war is therefore still part of everyday reality, even after all these years.

The country's society has been torn apart. In spite of attempts to make it possible for people to return to their home localities, the composition of the population has changed irrevocably through war, people fleeing and being driven out. It is true that different ethnic groups continue to live together in many places. But before the war the composition was far more heterogeneous. The number of mono-ethnic communities has increased.⁵⁹

Internally displaced persons mainly migrated to the country's larger cities. Many of them remained there. Those who have returned to their often rural home areas are fighting catastrophic economic conditions there. Although the situation is difficult everywhere in Bosnia and Herzegovina, the unemployment rate tends to be much higher away from the

58 | Over half the population were driven from their homes towns and villages. Some 1.2 million of these fled abroad. According to estimates, around 800,000 citizens stayed there. After the war, approx. one million people returned to their former home towns and villages. 50 per cent of these were "minority returnees", i.e. returnees, who are now part of the minority in their home community.

59 | For instance Mostar: 1991, 126,000 inhabitants, of these: 35 per cent Bosniaks, 34 per cent Croats, 19 per cent Serbs, today: 111,000 inhabitants, of these 47 per cent Bosniaks, 48 per cent Croats, 3 per cent Serbs (estimates by the daily newspaper *Oslobodjenje*).

large urban centres.⁶⁰ The returnees are particularly badly affected by unemployment. It is all the more difficult for them to find a job because they see themselves confronted with a different ethnic mix within the community, in which they now often represent a minority. Discrimination is rife.

The splits in society are also reflected in the administrative structure of the country. Bosnia and Herzegovina is divided into two entities, the Federation of B&H with around 2.3 million inhabitants, mainly Croats and Bosniaks, and the Republika Srpska (RS) with around 1.4 inhabitants, of which Serbs in effect constitute the majority. In addition, there is the District of Brčko with 75,000 inhabitants, which was under the direct supervision of the international community until recently.⁶¹ At the same time, supervision of Bosnia and Herzegovina continues in the form of the High Representative (HR).⁶² Large sections of the former Serb

60 | There are different figures on unemployment in B&H. The Foreign Investors Council assumed around 43 per cent in 2011. See: Foreign Investors Council BiH, "Macroeconomic Overview", <http://fic.ba/macro.html> (accessed 13 Mar 2013). But according to the ILO definition, the figure was only around 28 per cent. The latter figure takes into account the widespread black market labour. The figures come from the Agency for Statistics BiH, <http://bhas.ba/index.php?lang=en> (accessed 13 Mar 2013). In 2010, the unemployment rate in Maglaj, a town of average size in Central Bosnia, was around 63 per cent, in Srebrenica, Eastern Bosnia, it was 48.05 per cent. However, once again one must assume that the figures would be lower if you took the black economy into account. In central Sarajevo, on the other hand, only around 16 per cent were registered unemployed. For Maglaj, Srebrenica and Sarajavo Centar, see the figures in: Moje Mjesto, Analitika, Centar za druzstveni istrazivanje, <http://mojemjesto.ba/en> (accessed 13 Mar 2013).

61 | The supervision of Brčko was suspended on 31 Aug 2012. "Brčko Supervisor Roderick Moore Suspends Functions", OHR Press Office, 31 Aug 2012, http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=47427 (accessed 13 Mar 2013).

62 | The Office of the High Representative was established in 1995 with Resolution 1031 of the UN Security Council and is responsible for the implementation of the civilian aspects of the Dayton Peace Agreement. The current High Representative is the Austrian diplomat Valentin Inzko. The HR has far-reaching powers. In the event of violations of the Dayton Peace Agreement, he can enforce decisions and – if necessary – even remove people from their posts. He reports only to the Peace Implementation Council and not to the government of Bosnia-Herzegovina. The international community has been pressing for several years for the OHR to be closed and for Bosnia-Herzegovina to be released into sovereignty. However, the requisite conditions (5 plus 2) have not yet been met.

population from the areas of the Federation of B&H now live in Banja Luka, the largest town of Republika Srpska. Bosniaks and Croats, on the other hand, who fled from the territory of what is now the RS, have settled in the urban centres of the Federation.⁶³

The Limits of Criminal Justice

The court proceedings in The Hague are of great significance for Bosnia and Herzegovina as it was on the country's territory that the worst crimes were committed. The list is topped by the genocide in Srebrenica, Eastern Bosnia, on the territory of what is now the Republika Srpska.

To cover up the murders, the military units exhumed the bodies after the massacre and put them back in the ground at various locations around Srebrenica. This made the identification of the victims more difficult.

In July 1995, Serb troops under the command of the former general of the RS armed forces, Ratko Mladić, murdered around 8,000 Bosniak men and adolescents. It is not only the large number of victims that makes this crime one of the worst in the second half of the 20th century. It also stands out because of its cruelty. To cover up the murders, the military units exhumed the bodies after the massacre and put them back in the ground at various locations around Srebrenica. This made the identification of the victims more difficult. Many of the bereaved are still waiting for the opportunity to bury their murdered family members or friends.⁶⁴

63 | This includes in particular Sarajevo, Mostar and Tuzla. But many others fled abroad and stayed there.

64 | In 2012, 520 newly identified victims were buried. A similar number is expected for 2013. On the background to this see: Sabina Wölkner and Ivana Marić, "15 Jahre Srebrenica – Zeit für Versöhnung?", KAS Länderbericht, 19 Jul 2010, http://kas.de/wf/doc/kas_20155-1522-1-30.pdf (accessed 13 Mar 2013).

65 | A survey carried out by the Bosniak newspaper *Dnevni Avaz* showed that approx. 47 per cent of the respondents had been surprised by the arrest. But just under 50 per cent had expected it. Less than 3 per cent stated that they had no opinion on the matter, in: *Dnevni Avaz*, 27 May 2011, 3.



The genocide in Srebrenica in July 1995 is known as the most serious war crime in Europe since the end of the Second World War. In July 1996 the ICTY for the first time instructed to open one of the mass graves. | Source: © ICTY.

Mladić's arrest in Serbia in May 2011 was a sensation for the people in Bosnia and Herzegovina. Quite a number of them had given up hope that it would ever happen.⁶⁵ However, for the victims' family members, the ICTY trial against him does not bring much comfort. It won't bring the dead back to life. But many people are convinced that Mladić will receive his just punishment. Senida Karović, the Chair of the Union of Civilian Victims of War in Sarajevo Canton, declared: "The pain is so strong that I shall never experience total satisfaction. But what is needed is the moral satisfaction that the person who has perpetrated evil against innocent citizens from Bosnia and Herzegovina is finally being called to account."⁶⁶ The Bosniak politician Sadik Ahmetović, who comes from Srebrenica, added: "The arrest brings satisfaction. It shows that the truth will come out eventually, albeit slowly."⁶⁷ But not all politicians in Bosnia and Herzegovina are celebrating this event. The reactions of the Bosnian Serbs were much cooler. A statement by the Serb Presidency Member Nebojša Radmanović merely said that Serbia had fulfilled an international condition with the arrest.⁶⁸ And the President of the Republika Srpska, Milorad Dodik, announced that he would not be

66 | Žana Kovačević, "BiH: Hapšenje Mladića satisfakcija za sve žrtve", *Radio Slobodna Evropa*, 26 May 2011, http://slobodnaevropa.org/content/bih_hpsenje_satisfakcija_za_sve_zrtve/24205952.html (accessed 13 May 2013).

67 | Ibid.

68 | Ibid.

congratulating Serbia's President Tadić on the event, and he added: "The arrest will not jeopardise the stability of the Republika Srpska."⁶⁹ The RS President and Chairman of the "Alliance of Independent Social Democrats" (SNSD) does not acknowledge the genocide in Srebrenica. He denies it regularly, often in the run-up to elections.⁷⁰ This pleases the Serb nationalists and provokes the Bosniaks. Dodik and his political entourage believe that it helps them to score with the voters. Surveys show that many Serbs reject Mladić's extradition. Over half of them accuse the ICTY of being biased.⁷¹ And this situation is not helped by the fact that Chief Prosecutor Brammertz declared Mladić's arrest an important day for international truth.⁷²

In order not to upset the voters, Bosnian Serb politicians avoid talking about the charges against the ex-general in public. They explain that the extradition was necessary in order not to jeopardise Serbia's path to join the EU.

Many Serbs think that they are being pilloried unfairly. The acquittals of the Croatian generals Gotovina and Markač strengthen this perception.⁷³ In order not to upset the voters, Bosnian Serb politicians therefore avoid talking about the charges against the ex-general in public. They explain that the extradition was necessary in order not to jeopardise Serbia's path to join the EU.⁷⁴ But even this is one step too far for some. Mladen Bosić, Chairman of the "Serbian Democratic Party", the party that Karadžić once led, accuses Serbia of bending its

69 | "Mladićevo hapšenje neće se odraziti na mir i stabilnost u RS-a", *Klix vijesti*, 26 May 2011, <http://klix.ba/vijesti/bih/110526085> (accessed 13 Mar 2013); "Dodik: Nisam Tadiću čestitao hapšenje Mladića", *Klix vijesti*, 2 Jun 2011, <http://klix.ba/vijesti/bih/110602002> (accessed 13 Mar 2013).

70 | Sabina Wölkner, "Lokalwahlen in Bosnien und Herzegowina: Ist der Nationalismus auf dem Rückzug?", *KAS Länderbericht*, 9 Oct 2012, http://kas.de/wf/doc/kas_32356-1522-1-30.pdf (accessed 13 Mar 2013); "Dodik ponovio u Srebrenici: Ovdje nije bilo genocida!", *Vijesti*, 24 Sep 2012, <http://vijesti.ba/vijesti/bih/107068-.html> (accessed 13 Mar 2013).

71 | According to a survey, 34 per cent support the arrest, 40 per cent believe that Mladić is a war hero. 53 per cent accuse the ICTY of bias. "Limited Support for Mladic Arrest: Poll", *Bosnia Daily*, 17 May 2011, 11.

72 | Mirjana Rakela, "Brammertz: Važan dan za međunarodnu pravdu", *Radio Slobodna Evropa*, 26 May 2011, <http://slobodnaevropa.org/content/brammertz/24205937.html> (accessed 13 Mar 2013).

73 | See also the sections about Croatia and Serbia in this article.

74 | Srđan Janković, "Konačno suočavanje Srbije sa haškim obavezama", *Radio Slobodna Evropa*, 26 May 2011, <http://slobodnaevropa.org/content/crna/24206134.html> (accessed 13 Mar 2013).

will to the demands of the West without getting anything in return.⁷⁵ To avoid coming across as a traitor to his country, Dodik's Prime Minister Aleksandar Džombić, announced that the RS government would make available the funds for Mladić's defence.⁷⁶ This did not happen in the end. But Džombić had actually pursued a different objective with his action. He was appealing to the Serb population and intended to confirm its ethnocentric image of history. In this image, the Bosnian Serbs see themselves as victims of war like the other ethnic groups do; there is no sign of a self-critical examination of the past.



The RS President Milorad Dodik regularly denies the genocide in Srebrenica, often in the run-up to elections. | Source: servis DS / flickr (CC BY).

While the trial against Mladić is taking place, Radovan Karadžić, RS President during the war, currently also has to account for his actions before the judges in The Hague. Like Mladić, he is accused of the most serious war crimes and human rights violations. Furthermore, ex-general Zdravko Tolimir, who was known as Mladić's "right-hand man", recently received a life sentence for his crucial involvement in the planning and implementation of the Srebrenica

75 | Eldin Hadžović and Dražen Remiković, "Mladić Divides Bosnia Once Again", Birn, <http://bim.ba/en/271/10/32562/?tpl=30> (accessed 13 Mar 2013).

76 | Aleksandar Dzombic, "Izdvojiti cemo novac za odbranu Mladica", *Mojevijesti*, 2 Jun 2011, <http://mojevijesti.ba/novost/85127> (accessed 13 Mar 2013).

Massacre.⁷⁷ These trials and verdicts are considered important achievements as they are bringing to light facts about the war crimes committed and are holding the perpetrators to account.⁷⁸ The services that the ICTY is rendering in this respect are undisputed. However, the reactions seen in Bosnia and Herzegovina illustrate the limits of international justice. The Tribunal has not succeeded in initiating a self-critical examination of the war in Bosnia and Herzegovina.⁷⁹

Srebrenica survivor Hasan Nuhanović thinks that the international community has never allowed any investigation of its own failure in the war-torn areas to be conducted or accepted any responsibility for it.

Not everyone thinks that this is exclusively a result of the lack of interest by the local population, such as the Bosnian Serbs. According to Srebrenica survivor Hasan Nuhanović, the international community also bears some

responsibility for this development. He thinks that it applies double standards and that it has never allowed any investigation of its own failure in the war-torn areas to be conducted or accepted any responsibility for it.⁸⁰ Nuhanović considers this scandalous. He lost his parents and brother in Srebrenica. Last year, he went to a Dutch court and charged the Dutch Blue Helmets with responsibility for the death of his family members. And the court did indeed hold the Netherlands responsible for the victims' death.⁸¹ This victory serves as a sign of hope for other bereaved families. They too want to bring charges.⁸²

77 | "Ex-General Tolimir zur lebenslanger Haft verurteilt", *Zeit Online*, 12 Dec 2012, <http://zeit.de/politik/ausland/2012-12/kriegsverbrechen-gerichtshof-zdravko-tolimir-urteil> (accessed 13 Mar 2013).

78 | A list of the reasons can be found in: Martina Fischer, "Friedens- und Versöhnungsprozess im westlichen Balkan – Von den Schwierigkeiten des Umgangs mit gewaltsamer Vergangenheit", Berghof Working Paper, No. 4, http://berghof-conflictresearch.org/documents/publications/wp4d_mf_znf.pdf (accessed 13 Mar 2013).

79 | *Ibid.*, 6 et seq.

80 | Nuhanovic examines the accusations in his book *Under The UN Flag: The International Community and the Srebrenica Genocide*, Sarajevo, 2007.

81 | Amnesty International, "Court rules Netherlands responsible for three Srebrenica deaths", 5 Jul 2011, <http://amnesty.org/en/news-and-updates/court-rules-netherlands-responsible-three-srebrenica-deaths-2011-07-05> (accessed 13 Mar 2013).

82 | Adelheid Wölfl, "Folgenschweres Srebrenica-Urteil", *Der Standard*, 6 Jul 2012, <http://derstandard.at/1308680581653/Folgenschweres-Srebrenica-Urteil> (accessed 13 Mar 2013).

Half-Hearted Policies

The pressure exerted on the international community by civil society is no doubt increasing.⁸³ Besides Hasan Nuhanović, the Berlin artist Phillip Ruch criticised the United Nations for not being prepared to face up to its responsibility. He used his “Column of Shame” erected in front of the Brandenburg Gate to condemn the failure of the UN to prevent the massacre in Srebrenica. The memorial was cheered by the Bosniaks.⁸⁴ But however important this discussion is for assessing the international crisis intervention in the former Yugoslavia, it cannot replace the efforts that need to be made by the ethnic groups in Bosnia and Herzegovina to come to terms with the events during the wars. The contribution by the country’s politicians is not sufficient. Although there is no lack of initiatives, some of which are conducted at the highest political level, these have not gone beyond general declarations of intent so far. The Istanbul Declaration, for instance, which was introduced with great fanfare, soon disappeared from the public scene.

The Istanbul Declaration, which was introduced with great fanfare after negotiations between Serbs and Bosniaks, soon disappeared from the public scene.

That is hardly surprising as the Declaration, which was initiated by Turkish President Abdullah Gül and signed jointly with Serbian President Boris Tadić and Bosniak Presidency Member Haris Silajdžić on 24 April 2010, only contained vague objectives. Those involved stressed that they would “take all the necessary steps to secure peace, stability and prosperity in the region”.⁸⁵ But what these steps would entail remained open. In spite of the anodyne nature of the Declaration, it prompted harsh criticism from

83 | Heather McRobie is one of the people putting forward this demand, “What stands in the way of Bosnia reconciliation”, *The Guardian*, 21 Jun 2010, <http://guardian.co.uk/commentisfree/2010/jun/21/bosnia-still-waits-reconciliation> (accessed 13 Mar 2013).

84 | Ruch erected a mound of 16,744 shoes that he had collected in Bosnia-Herzegovina. Above it he put a sign showing the abbreviation for the United Nations. The shoes represented the Srebrenica victims. Cf. Philipp Lichterbeck, “16.744 Schuhe”, *Der Tagesspiegel*, 8 Jul 2010, <http://tagesspiegel.de/kultur/1877478.html> (accessed 13 Mar 2013).

85 | Igor Jovanovic, “New Beginnings in the Balkans?”, International Relations and Security Network (ISN), ETH Zurich, 21 May 2010, <http://isn.ethz.ch/isn/Digital-Library/Articles/Detail/?id=116496> (accessed 13 Mar 2013).

Serb Presidency Member Radmanović, who said that it was unnecessary and would not contribute to stability in Bosnia and Herzegovina.⁸⁶ He accused Silajdžić of having exceeded his authority by signing the Declaration. What was needed was to come to agreements through mutual consultation.⁸⁷ This argument reveals the intention of his frontal attack, which had little to do with the actual content of the agreement. Instead, it demonstrates the on-going conflict that has been simmering for years between Bosniak politicians such as Silajdžić and the Bosnian Serb representatives such as Radmanović. While the majority of the Bosniaks promote the strengthening of the national state, the Serbs want a decentralised state structure, in which the Republika Srpska can enhance its autonomy. The Croats' position is somewhere in the middle. Leading Croat politicians are, however, moving towards the "Serb way of thinking" and increasingly demanding a federal unit of their own, in which Croats represent the majority.⁸⁸

Bosniaks promote the strengthening of the national state, the Serbs want a decentralised state structure, in which the Republika Srpska can enhance its autonomy. The Croats' position is somewhere in the middle.

Radmanović interpreted the signing of the agreement as an attack on the "national interest" of the Serbs in Bosnia and Herzegovina, specifically on the autonomy of the Republika Srpska. The leader of his party, RS President Dodik, argued in a similar vein. Radmanović's criticism of the Turkish initiative was partly motivated by election tactics and was intended to elicit support for himself and Dodik's SNSD during the upcoming parliamentary and presidential elections in October. This suspicion was confirmed by the fact that Radmanović suddenly did not have any objections to follow-on meetings. Such as the meeting in Karadžorđevo, one year on from Istanbul, at the invitation of Serbian President Tadić, at which Turkish President Gül was also present. Radmanović arrived in the company of the Croat Presidency Member Željko Komšić.

86 | "Nebojša Radmanović: Deklaracija nepotrebna", Blic online, 26 Apr 2010, <http://srb.time.mk/read/f6129acac5/a2be1d2e51/index.html> (accessed 13 Mar 2013).

87 | "Radmanović: Silajdžić krši Ustav BiH!", Vesti online, 25 Apr 2010, <http://vesti-online.com/Vesti/Ex-YU/47841/Radmanovic-Silajdzic-krsi-Ustav-BiH> (accessed 13 Mar 2013).

88 | Cf. "Čović: Zalagat ćemo se za treći entitet i Mostar kao stolni grad", Hercegovina.info, 26 Aug 2011, <http://hercegovina.info/vijesti/vijesti/politika/covic-zalagat-cemo-se-za-treci-entitet-i-mostar-kao-stolni-grad> (accessed 13 Mar 2013).

He had previously retained his office during the elections by a narrow margin, and the SNSD had attracted the largest number of votes. There were, however, changes on the Bosniak side. Silajdžić was replaced by Bakir Izetbegović, who had won against the incumbent in the presidential elections.

But in Karađorđevo, the results lagged behind expectations once again.⁸⁹ The background to the difficulties was the planned referendum in the Republika Srpska. Dodik was keen to hold a plebiscite with the aim of undermining the legitimisation of the central state criminal court and public prosecutor's office.⁹⁰ This was a demand that the international community rejected.⁹¹ Dodik's intention to hold the referendum overshadowed the discussions in Karađorđevo and pushed the actual agenda topics into the background. Serbia's controversial extradition requests were discussed, prompted by the arrest of Ejup Ganić, a Presidency Member of the Republic of B&H during the war, and of the former military commander of Sarajevo, Jovan Divjak; the events had had a substantial negative effect on relations between Serbia and Bosnia-Herzegovina.⁹²

89 | "Leaders of Serbia, Bosnia, Turkey discuss cooperation in Karadjordjevo", Daily tPortal.hr, 26 Apr 2011, <http://daily.tportal.hr/124532/Leaders-of-Serbia-Bosnia-Turkey-discuss-cooperation-in-Karadjordjevo.html> (accessed 13 Mar 2013).

90 | Ian Traynor, "Bosnia in worst crisis since war as Serb leader calls referendum", *The Guardian*, 28 Apr 2011, <http://guardian.co.uk/world/2011/apr/28/bosnia-crisis-serb-leader-referendum> (accessed 13 Mar 2013).

91 | An intervention by the EU made it possible to dissuade Dodik from pursuing this idea. The High Representative of the Union for Foreign Affairs and Security Policy, Lady Ashton, offered him an "EU-led structured dialogue on justice" if he gave up his plans for a referendum. See also "Fulfilling the Promise of the Structured Dialogue", BiH Dayton Project, 8 Mar 2012, <http://bihdaytonproject.com/?p=1155> (accessed 13 Mar 2013).

92 | Serbia accused both of war crimes against JNA soldiers in the so-called "Dobrovoljacka Street incident". On the background see: Sabina Wölkner, "Ambivalente Versöhnung: Belgrad, Srebrenica und der Fall Ejup Ganic", KAS Länderbericht, 22 Apr 2010, http://kas.de/wf/doc/kas_19423-1522-1-30.pdf (accessed 13 Mar 2013); regarding the Divjak case: Adelheid Wölfl, "Österreich hat Fehler gemacht", 15 Jun 2011, Interview with Jovan Divjak, *Der Standard*, <http://derstandard.at/1310511388117> (accessed 13 Mar 2013); "Court sets ex-Bosnian leader free", *CNN*, 27 Jul 2010, <http://cnn.com/2010/WORLD/europe/07/27/england.bosnian.extradition> (accessed 13 Mar 2013).

However, the heads of state did not succeed in resolving the issues, although the location seemed ideal for setting a new course in the tri-lateral relations. Many years previously, on 25 March 1991, Croatia's President Franjo Tuđman and the Serbian President Milošević had held talks in Karađorđevo about the crisis in Yugoslavia. It is said that it was also there that the splitting of Bosnia and Herzegovina between the two countries had been agreed.⁹³

The meeting of the heads of state had offered an opportunity to dispel the dark legacy of Karađorđevo in the heads of many people. There had been hope for a chance "to finally address and put to rest the evil ghosts and vampires of the past".⁹⁴ This hope remained unfulfilled. The issue was not put to rest, partly because this was not what Serbia and Croatia were focusing on. EU-related questions of regional cooperation were more important to the two countries.⁹⁵

The participants of the third meeting in February 2012 near Sarajevo had actually agreed to come to a consensus on the issue of prosecuting war criminals. But this came to nothing.

There were no tangible results from the third meeting either, which took place in Bosnia and Herzegovina in February 2012 on Mt. Jahorina near Sarajevo. This meeting was also attended by the Croatian President Ivo Josipović. The participants had actually agreed to come to a consensus on the issue of prosecuting war criminals. But this came to nothing. Presidency Member Komšić rejected the proposal by Croatia's President Josipović to bring the accused to court in their current country of residence. In Komšić's opinion, they should be prosecuted where they committed their crimes. In most cases this would mean Bosnia and Herzegovina.⁹⁶ Komšić's motivation was clear. He wanted to prevent war criminals who had fled to Serbia or Croatia from potentially being given lesser sentences

93 | Cf. ICTY, "Testimony of Stjepan Mesić from a transcript of the Milošević trial", 2 Oct 2002, http://icty.org/x/cases/slobodan_milosevic/trans/en/021002ED.htm (accessed 13 Mar 2013).

94 | "Komšić: Samit u Karađorđevu obračun s duhovima prošlosti", *vijesti.rs*, 26 Apr 2011, <http://www.vesti.rs/Vesti/komsic-samit-u-karadjordjevu-obraacun-s-duhovima-proslosti.html> (accessed 19 Mar 2013).

95 | Including the battle against money laundering and international crime as well as trade issues in the context of Croatia joining the EU. "Jahorina: Završen samit Srbije", *Hrvatske and BiH, Nova Srpska Politicka Misao*, 3 Feb 2012, <http://mail.nspm.rs/hronika/jahorina-završen-samit-srbije-hrvatske-i-bih.html> (accessed 13 Mar 2013).

96 | *Ibid.*

there, or, as happened in the case of Ganić and Divjak, citizens from Bosnia and Herzegovina having to be extradited to Serbia on the basis of disputed extradition requests. Radmanović thought otherwise. This meant that the Presidency of Bosnia and Herzegovina could not make a valid decision. The only support for Josipović's initiative came from Serbia's President Tadić. The reason that an agreement was subsequently made after all, on 31 January 2013, was due to the fact that the Public Prosecutors from Bosnia-Herzegovina and Serbia had declared the agreement a technical matter under pressure from the international community. This meant that it no longer required the approval of the Presidency. Bosniak victims' associations responded unfavourably to this decision.⁹⁷

The meagre results from the meetings illustrate that they are rather symbolic in character. That is not likely to change greatly in the near future either; in fact, the impact of future meetings may even diminish. One of the reasons is a statement by Tadić's successor Tomislav Nikolić, with which he affronted his counterparts in the neighbouring countries. Nikolić expressed the worry that "Bosnia and Herzegovina is breaking up in front of our eyes".⁹⁸ This expression of concern did not go down well with the Bosniak politicians. The Bosniak Presidency Member Izetbegović promptly cancelled his attendance at Nikolić's inauguration.⁹⁹ And the series of meetings initiated in Istanbul has also been suspended. Matters have actually calmed down somewhat since then. There are even indications of a rapprochement.¹⁰⁰

97 | For instance Murat Tahirovic, President of the organisation "Victims and Witnesses of Genocide in Srebrenica", in *Bosnia Daily*, 1 Feb 2012, 6.

98 | "Izetbegovic pisao Nikolicu: BiH nece nestati", *Nezavisne novine*, 23 Oct 2012, <http://www.nezavisne.com/novosti/bih/Izetbegovic-pisao-Nikolicu-BiH-nece-nestati-164267.html> (accessed 13 Mar 2013).

99 | "Nakon Josipovića, i Izetbegović i Türk objavili da neće na Nikolićevu inauguraciju", *Hrvatska riječ*, 7 Jul 2012, <http://hrvatska-rijec.com/2012/06/nakon-josipovica> (accessed 13 Mar 2013).

100 | The "Croatian Democratic Union" (HDZ BiH) and the "Croatian Democratic Union 1990" (HDZ 1990) claim to represent the interests of Croats in Bosnia and Herzegovina. The Bosnian "Party of Democratic Action" (SDA) sees itself as a bulwark for the "protection of the Bosniaks". The Bosnian Serb parties are fighting to enforce the "interests of the Serbs". Only the "Social Democratic Party" (SDP) appears to be an exception. It sees itself as a multi-ethnic party. But its members are predominantly Bosniaks.

But the foundations are still rather fragile. After all, the meetings had shown that in view of diametrically opposed positions, compromise is frequently unachievable. In many instances, it was Bosnia and Herzegovina that was the stumbling block, as its Presidency was not able to come to a decision due to the different points of view about the events of the war.

Nationalism and the Desire for a Rapprochement

The conflicts between the Members of the Presidency have their roots in domestic politics, in the day-to-day party-political wrangling in Bosnia and Herzegovina. The so-called "national interest" is at the centre. This is the crucial point of reference for the policy approach taken by the political forces, each of which sees itself as the protector of "its" group of the population.¹⁰¹ To get ahead in the struggle for power, these "national interests" are also frequently talked up for political reasons. The debate is therefore characterised by nationalist rhetoric, which usually intensifies in the run-up to elections. In 2006, Haris Silajdžić's Party for Bosnia and Herzegovina (SBiH) went into the race with the slogan "100 per cent Bosnia and Herzegovina" and occasionally openly demanded the dissolution of the Republika Srpska. Although this generated some radicalisation on the Serb side, this stance went down well with the Bosniaks. Silajdžić came through in the race for the Bosniak Presidency post.¹⁰² This example shows that it is still possible for political actors to use nationalism as a tool in the struggle for power in divided societies such as Bosnia and Herzegovina. Many have therefore fallen in with the habit of repeatedly making references to "national

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102 | Christina Catherine Krause and Ivana Marić, "Analyse der allgemeinen Wahlen in Bosnien und Herzegowina am 1. Oktober 2006", KAS Länderbericht, 9 Oct 2006, http://kas.de/db_files/dokumente/laenderberichte/7_dokument_dok_pdf_9319_1.pdf (accessed 13 Mar 2013).

interests".¹⁰³ This explains why reconciliation initiatives rarely seem to have any impact in politics. The desire to overcome the differences is modest as these are precisely what keeps the political actors in power. This political approach is encouraged by the fact that the state is structured along ethnic lines, which virtually provokes conflicts based on "national interests".

However, there have been some indications since the parliamentary and presidential elections in 2010 that the influence of nationalism is lessening. Silajdžić was the first to be affected by this. He was the one among the Bosniak candidates who played the national card most strongly. But this time, it did not convince the Bosniaks and they elected the more moderately acting Bakir Izetbegović. There was also some differentiation taking place in the political spectrum. Since the foundation of the "Alliance for a Better Future of BiH" (SBBBiH), no Bosniak party could claim any longer that it was the only one to represent the interests of "its" ethnic group.¹⁰⁴ And this had consequences. Other topics, such as the economy, came to the fore and so did therefore the question as to what the parties were offering to overcome the problems.¹⁰⁵

Some indications suggest that the influence of nationalism is lessening. The SBiH played the national card most strongly. But the Bosniaks elected the more moderately acting Bakir Izetbegović.

There are also signs of a turnaround in the Serb party landscape. Dodik's hopes to attract sufficient votes during last year's local elections with the usual nationalist bombast, were not fulfilled. His party suffered high losses.¹⁰⁶ Instead of the danger to the Republika Srpska from "Sarajevo's centralists" evoked by Dodik, the election campaign was dominated by topics of domestic politics such as economic development, expansion of the infrastructure and reducing

103 | Bodo Weber, "Plötzlich ist wieder von "Krieg" die Rede", *Zeit Online*, 20 Oct 2009, <http://zeit.de/2009/45/oped-Bosnien-Politik> (accessed 13 Mar 2013).

104 | The party was voted into government straightaway. Cf. Sabina Wölkner, Ivana Marić and Sabrina Isic, "Neuer Wein in alten Schläuchen? Bosnien und Herzegowina hat gewählt", KAS Länderbericht, 6 Oct 2010, http://kas.de/wf/doc/kas_20748-1522-1-30.pdf (accessed 13 Mar 2013).

105 | This was the reason why Radončić had concentrated on economic issues in his election campaign. Ibid.

106 | Wölkner, n. 70.

unemployment. The fight against corruption also played a role. Voters did not think that Dodik's SNSD had convincing answers to these questions.¹⁰⁷

The changes in voting behaviour are going hand in hand with a rise in the levels of trust between the ethnic groups. A recent survey by the Gallup Balkan Monitor confirms the shift. While 51 per cent of Bosniaks stated in 2006 to have a great deal or some trust in Serbs or Croats, the figure had risen to 60 per cent by 2010. A similar development was found for the Croats. In 2006, around half of the Croatian respondents felt that they could trust Serbs or Bosniaks. In 2010, this feeling applied to 73 per cent (Serbs) and 63 per cent (Bosniaks). And for Serbs as well the figure rose from around 50 per cent to 67 per cent (Croats) and 62 per cent (Bosniaks).¹⁰⁸

These positive changes in the population may exert pressure on the politicians and encourage them to enter into more cross-ethnic compromises in their decision-making.

Ethnic identity is still important to the country's inhabitants. 68 per cent of the Serbs, 48 per cent of the Croats and 50 per cent of the Bosniaks confirmed that they identified strongly or very strongly with their nationality.

But it does not mean that nationalism will disappear from the political scene in Bosnia and Herzegovina. As long as there is no reform of the state structures, the fight for the "national interests" will remain pivotal for the parties. Ethnic identity is also still important to the country's inhabitants. 68 per cent of the Serbs, 48 per cent of the Croats and 50 per cent of the Bosniaks confirmed that they identified strongly or very strongly with their nationality. But thanks to the newfound trust among the population, there might be fewer nationalist excesses in politics. The reason is simple: they will no longer be of great benefit to the political actors.

Whether this shift will also open a window for reconciliation is not clear. Although a recent study about reconciliation and trust in Bosnia and Herzegovina has shown that the desire for reconciliation has risen amongst the respondents

107 | The SNSD only came first in 18 localities. It had been as many as 41 in the previous elections. Ibid.

108 | "Focus on Bosnia and Herzegovina", *Gallup Balkan Monitor*, Nov 2010, 4 et seq., http://balkan-monitor.eu/files/Gallup_Balkan_Monitor-Focus_On_Bosnia_and_Herzegovina.pdf (accessed 13 Mar 2013).

who had classed themselves religious,¹⁰⁹ such an attitude does not automatically entail the desire to address the past and possibly even accept some responsibility for it.¹¹⁰ The majority of the respondents have reservations about initiatives focusing on the past. To them it seems more important to further mutual understanding, peace and trust. The responses were not significantly influenced by level of education, gender or age. Only religion proved to be a relevant factor.¹¹¹ Nor did the responses vary greatly between Bosniaks, Serbs and Croats. A glimmer of hope therefore remains that society in Bosnia and Herzegovina will grow to become whole again. But there is still a long way to go where coming to terms with the past is concerned.

Hope Lies with Civil Society

After nearly eighteen years since the end of the war, reconciliation in Bosnia and Herzegovina is still in its infancy. This is due to a lack of willingness to engage in a self-critical analysis of the events of the war. While local politicians are not interested because they benefit from the national differences in terms of political power, the population has different ideas about reconciliation. Many think that confronting the past is not very helpful in encouraging the development of trust between the ethnic groups. Neither did the ICTY succeed in strengthening the desire for addressing the past with its trials and verdicts. This is illustrated by the reactions of the Bosnian Serbs to Ratko Mladić's arrest. They underline the limits of the impact that international justice can have in encouraging the process of reconciliation.

The ICTY did not succeed in strengthening the desire for addressing the past with its verdicts. The reactions of the Bosnian Serbs to Mladić's arrest underline the limits of the impact that international justice can have.

109 | The respondents who classed religion as important were more positively inclined towards reconciliation initiatives. See George Wilkes et al., *Pomirenje i izgradnja povjerenja u Bosni i Hercegovini. Ispitivanje javnih stavova u četiri grada i regiona Banja Luka, Bugojno, Mostar i Sarajevo*, Centar za empirijska istraživanja religije u BiH, Sarajevo, i Project on Religion and Ethics in the Making of War and Peace, The University of Edinburgh, Sarajevo, 2012.

110 | Ibid., 11.

111 | Ibid., 15 et seq.

The hope therefore has to be that civil society will set this process going by its initiatives. But the international community must also play its part by encouraging the politicians to provide greater support to civil society initiatives. There is a danger, however, that these efforts will once again remain largely ineffectual for as long as there are no reforms of the state structures that would eliminate the causes of nationalism in Bosnia and Herzegovina. At the same time, it will be important to stimulate economic development, to help displaced people who have returned to their home communities to reintegrate with society there, but also to encourage greater diversity in the new, rather monoethnic communities in the country.

CONCLUSION

Reconciliation is considered to be the key to overcoming hostilities. It guards against further violence and is therefore a prerequisite to peace.¹¹² However, it is not clear which type of reconciliation will have the desired effect. Nor

under which conditions it can contribute to peace building and conflict transformation.¹¹³

To initiate a reconciliation process some favour a top-down approach. Others stress the relevance of bottom-up initiatives, which emerge from the level of civil society.

The only thing everyone agrees on is that it is a complex concept, which demands a great deal from all those involved. Victims have to forgive oppressors. The perpetrators of crimes have to admit their guilt.¹¹⁴ There are a number of approaches to initiating a reconciliation process. While some favour a top-down approach, others stress the relevance of bottom-up initiatives, which emerge from the level of civil society.¹¹⁵ Criminal justice is also a means to further reconciliation. The International Criminal Tribunal for the Former Yugoslavia represents an impressive example.

112 | Fischer, n. 78.

113 | Ibid.

114 | Quoted according to Chip Hauss, Director of Search for Common Ground and professor of conflict resolution, in: Cate Malek, "Reconciliation in Bosnia", 2003-2012 The Beyond Intractability Project, The Conflict Information Consortium, University of Colorado, Jul 2005, <http://beyondintractability.org/casestudy/malek-reconciliation> (accessed 13 Mar 2013).

115 | Fischer, n. 78.

Twenty years after the ICTY was set up, the Tribunal is still playing an important role for the democratic development of the societies that have emerged from the former Yugoslavia and for shaping the relationships between them. Without the ICTY and its verdicts and, more importantly, without its documentation of war crimes, hardly any of the prerequisites would be in place to allow the people in the individual countries to come to terms with their own past. The fact that the efforts in this direction are still in their infancy in most of the states, as described above, is frequently a consequence of the political and social survival of the elites from the war periods, and their lack of interest in examining their own past. Initiatives for the determination of historic facts and for regional reconciliation are therefore usually initiated by a few courageous civil society organisations with support from some Western countries. To date, activities on the part of the state have rarely gone beyond the cooperation with the ICTY required in the course of European integration. But as the example of the Franco-German and German-Polish examples have shown, bilateral historians' commissions can perform important work not just for eradicating obsolete images of the enemy, but also for preparing urgently needed materials for history lessons in schools, which are based on the facts determined by the Tribunal.

Measures such as these will allow future generations to address the events of the recent past in order to overcome images of the enemy and stereotypes. That will also be one of the positive things coming out of the war crime trials in The Hague. Even though the generation of politicians active today lack both the ability and the will to address the past – because they cannot forgive, because they were involved themselves, or because they want to exploit the hostile mood for political gain – the facts documented in The Hague will allow future generations to do what their parents have failed to do and engage with one another in a positive spirit.

Table 1
Prosecutions of the ICTY

| Date | Defendants | Case | Ethnicity | Verdict (duration of sentence) |
|-------------|---|---------------|---------------------------|---|
| 29 Nov 1996 | Dražen Erdemović | Pilica Farm | Bosnian Croat | Imprisonment (10 years) |
| 7 May 1997 | Duško Tadić | Prijedor | Bosnian Serb | Found guilty on 11 counts and not guilty on 9 counts, sentencing rendered later |
| 14 Jul 1997 | Duško Tadić | Prijedor | Bosnian Serb | Imprisonment (20 years) |
| 7 Oct 1997 | Dražen Erdemović | Pilica Farm | Bosnian Croat | Ruled that the guilty plea was not informed and a new plea should be entered |
| 5 Mar 1998 | Dražen Erdemović | Pilica Farm | Bosnian Croat | Imprisonment (5 years) |
| 16 Nov 1998 | <ul style="list-style-type: none"> • Zdravko Mucić • Hazim Delić • Esad Landžo • Zejnil Delalić | Čelebići Camp | Bosnian Croats / Bosniaks | <ul style="list-style-type: none"> • Zdravko Mucić: imprisonment (7 years) • Hazim Delić: imprisonment (20 years) • Esad Landžo: imprisonment (15 years) • Zejnil Delalić: acquittal |
| 10 Dec 1998 | Anto Furundžija | Lašva Valley | Bosnian Croat | Imprisonment (10 years) |
| 25 Jun 1999 | Zlatko Aleksovski | Lašva Valley | Bosnian Croat | Imprisonment (2.5 years) |
| 15 Jul 1999 | Duško Tadić | Prijedor | Bosnian Serb | Imprisonment (20 years) |
| 11 Nov 1999 | Duško Tadić | Prijedor | Bosnian Serb | Found guilty of 9 additional counts |
| 14 Dec 1999 | Goran Jelisić | Brčko | Bosnian Serb | Imprisonment (40 years) |
| 14 Jan 2000 | <ul style="list-style-type: none"> • Drago Josipović • Vladimir Šantić • Zoran Kupreškić • Mirjan Kupreškić • Vlatko Kupreškić • Dragan Papić | Lašva Valley | Bosnian Croats | <ul style="list-style-type: none"> • Drago Josipović: imprisonment (15 years) • Vladimir Šantić: imprisonment (25 years) • Zoran Kupreškić: imprisonment (10 years) • Mirjan Kupreškić: imprisonment (8 years) • Vlatko Kupreškić: imprisonment (6 years) • Dragan Papić: acquittal |
| 26 Jan 2000 | Duško Tadić | Prijedor | Bosnian Serb | Imprisonment (20 years) |

| Date | Defendants | Case | Ethnicity | Verdict (duration of sentence) |
|-------------|---|------------------------|---------------------------|--|
| 3 Mar 2000 | Tihomir Blaškić | Lašva Valley | Bosnian Croat | Imprisonment (45 years) |
| 24 Mar 2000 | Zlatko Aleksovski | Lašva Valley | Bosnian Croat | Imprisonment (7 years) |
| 21 Jul 2000 | Anto Furundžija | Lašva Valley | Bosnian Croat | Imprisonment (10 years) |
| 20 Feb 2001 | <ul style="list-style-type: none"> ▪ Zdravko Mucić ▪ Hazim Delić ▪ Esad Landžo ▪ Zejnil Delalić | Čelebići Camp | Bosnian Croats / Bosniaks | <ul style="list-style-type: none"> ▪ Zdravko Mucić: sentencing remitted to Trial Chamber for possible adjustment ▪ Hazim Delić: sentencing remitted to Trial Chamber for possible adjustment ▪ Esad Landžo: sentencing remitted to Trial Chamber for possible adjustment ▪ Zejnil Delalić: acquittal |
| 22 Feb 2001 | <ul style="list-style-type: none"> ▪ Dragoljub Kunarac ▪ Radomir Kovač ▪ Zoran Vuković | Foča | Bosnian Serbs | <ul style="list-style-type: none"> ▪ Dragoljub Kunarac: imprisonment (28 years) ▪ Radomir Kovač: imprisonment (20 years) ▪ Zoran Vuković: imprisonment (12 years) |
| 26 Feb 2001 | <ul style="list-style-type: none"> ▪ Dario Kordić ▪ Mario Čerkez | Lašva Valley | Bosnian Croats | <ul style="list-style-type: none"> ▪ Dario Kordić: imprisonment (25 years) ▪ Mario Čerkez: imprisonment (15 years) |
| 5 Jul 2001 | Goran Jelisić | Brčko | Bosnian Serb | Imprisonment (40 years) |
| 31 Jul 2001 | Stevan Todorović | Bosanski Šamac | Bosnian Serb | Imprisonment (10 years) |
| 2 Aug 2001 | Radislav Krstić | Srebrenica-Drina Corps | Bosnian Serb | Imprisonment (46 years) |
| 9 Oct 2001 | <ul style="list-style-type: none"> ▪ Zdravko Mucić ▪ Hazim Delić ▪ Esad Landžo ▪ Zejnil Delalić | Čelebići Camp | Bosnian Croats / Bosniaks | <ul style="list-style-type: none"> ▪ Zdravko Mucić: imprisonment (9 years) ▪ Hazim Delić: imprisonment (18 years) ▪ Esad Landžo: imprisonment (15 years) ▪ Zejnil Delalić: acquittal |

| Date | Defendants | Case | Ethnicity | Verdict (duration of sentence) |
|-------------|---|------------------------------------|------------------|---|
| 23 Oct 2001 | <ul style="list-style-type: none"> ▪ Drago Josipović ▪ Vladimir Šantić ▪ Zoran Kupreškić ▪ Mirjan Kupreškić ▪ Vlatko Kupreškić ▪ Dragan Papić | Lašva Valley | Bosnian Croats | <ul style="list-style-type: none"> ▪ Drago Josipović: imprisonment (12 years) ▪ Vladimir Šantić: imprisonment (18 years) ▪ Zoran Kupreškić: acquittal ▪ Mirjan Kupreškić: acquittal ▪ Vlatko Kupreškić: acquittal ▪ Dragan Papić: acquittal |
| 2 Nov 2001 | <ul style="list-style-type: none"> ▪ Miroslav Kvočka ▪ Dragoljub Prcač ▪ Milojica Kos ▪ Mlađo Radić ▪ Zoran Žigić | Omarska, Keraterm, Trnopolje Camps | Bosnian Serbs | <ul style="list-style-type: none"> ▪ Miroslav Kvočka: imprisonment (7 years) ▪ Dragoljub Prcač: imprisonment (5 years) ▪ Milojica Kos: imprisonment (6 years) ▪ Mlađo Radić: imprisonment (20 years) ▪ Zoran Žigić: imprisonment (25 years) |
| 13 Nov 2001 | <ul style="list-style-type: none"> ▪ Duško Sikirica ▪ Damir Došen ▪ Dragan Koundžija | Keraterm Camp | Bosnian Serbs | <ul style="list-style-type: none"> ▪ Duško Sikirica: imprisonment (15 years) ▪ Damir Došen: imprisonment (5 years) ▪ Dragan Koundžija: imprisonment (3 years) |
| 15 Mar 2002 | Milorad Krnojelac | Foča | Bosnian Serb | Imprisonment (7.5 years) |
| 12 Jun 2002 | <ul style="list-style-type: none"> ▪ Dragoljub Kunarac ▪ Radimir Kovač ▪ Zoran Vuković | Foča | Bosnian Serbs | <ul style="list-style-type: none"> ▪ Dragoljub Kunarac: imprisonment (28 years) ▪ Radimir Kovač: imprisonment (20 years) ▪ Zoran Vuković: imprisonment (12 years) |
| 17 Oct 2002 | Milan Simić | Bosanski Šamac | Serb | Imprisonment (5 years) |
| 29 Nov 2002 | Mitar Vasiljević | Višegrad | Bosnian Serb | Imprisonment (20 years) |
| 27 Feb 2003 | Biljana Plavšić | Bosnia and Herzegovina | Bosnische Serb | Imprisonment (11 years) |
| 31 Mar 2003 | <ul style="list-style-type: none"> ▪ Mladen Naletilić ▪ Vinko Martinović | Tuta and Štela | Bosnian Croats | <ul style="list-style-type: none"> ▪ Mladen Naletilić: imprisonment (20 years) ▪ Vinko Martinović: imprisonment (18 years) |

| Date | Defendants | Case | Ethnicity | Verdict (duration of sentence) |
|-------------|---|------------------------|---------------------------|--|
| 8 Apr 2003 | <ul style="list-style-type: none"> ▪ Zdravko Mucić ▪ Hazim Delić ▪ Esad Landžo ▪ Zejnil Delalić | Čelebići Camp | Bosnian Croats / Bosniaks | <ul style="list-style-type: none"> ▪ Zdravko Mucić: imprisonment (9 years) ▪ Hazim Delić: imprisonment (18 years) ▪ Esad Landžo: imprisonment (15 years) ▪ Zejnil Delalić: acquittal |
| 31 Jul 2003 | Milomir Stakić | Prijedor | Bosnian Serb | Life imprisonment |
| 17 Sep 2003 | Milorad Krnojelac | Foča | Bosnian Serb | Imprisonment (15 years) |
| 17 Oct 2003 | <ul style="list-style-type: none"> ▪ Blagoje Simić ▪ Miroslav Tadić ▪ Simo Zarić | Bosanski Šamac | Serbs / Bosnian Serbs | <ul style="list-style-type: none"> ▪ Blagoje Simić: imprisonment (17 years) ▪ Miroslav Tadić: imprisonment (8 years) ▪ Simo Zarić: imprisonment (6 years) |
| 28 Oct 2003 | Predrag Banović | | Bosnian Serb | Imprisonment (8 years) |
| 2 Dec 2003 | Momir Nikolić | Srebrenica | Bosnian Serb | Imprisonment (27 years) |
| 5 Dec 2003 | Stanislav Galić | | Bosnian Serb | Imprisonment (20 years) |
| 10 Dec 2003 | Dragan Obrenović | Srebrenica | Bosnian Serb | Imprisonment (17 years) |
| 18 Dec 2003 | Dragan Nikolić | | Bosnian Serb | Imprisonment (23 years) |
| 25 Feb 2004 | Mitar Vasiljević | Višegrad | Bosnian Serb | Imprisonment (15 years) |
| 11 Mar 2004 | Ranko Češić | Brčko | Bosnian Serb | Imprisonment (18 years) |
| 18 Mar 2004 | Miodrag Jokić | Dubrovnik | Serb | Imprisonment (7 years) |
| 30 Mar 2004 | Miroslav Deronjić | Glogova | Bosnian Serb | Imprisonment (10 years) |
| 31 Mar 2004 | Darko Mrđa | Vlašić Mountain | Bosnian Serb | Imprisonment (17 years) |
| 19 Apr 2004 | Radislav Krstić | Srebrenica-Drina Corps | Bosnian Serb | Imprisonment (35 years) |
| 29 Jun 2004 | Milan Babić | RSK | Croatian Serb | Imprisonment (13 years) |
| 29 Jul 2004 | Tihomir Blaškić | Lašva Valley | Bosnian Croat | Imprisonment (9 years) |
| 1 Sep 2004 | Radoslav Brđanin | Krajina | Bosnian Serb | Imprisonment (32 years) |
| 17 Dec 2004 | <ul style="list-style-type: none"> ▪ Dario Kordić ▪ Mario Čerkez | Lašva Valley | Bosnian Croats | <ul style="list-style-type: none"> ▪ Dario Kordić: imprisonment (25 years) ▪ Mario Čerkez: imprisonment (6 years) |

| Date | Defendants | Case | Ethnicity | Verdict (duration of sentence) |
|-------------|--|------------------------------------|------------------|--|
| 17 Jan 2005 | <ul style="list-style-type: none"> • Vidoje Blagojević • Dragan Jokić | | Bosnian Serbs | <ul style="list-style-type: none"> • Vidoje Blagojević: imprisonment (18 years) • Dragan Jokić: imprisonment (9 years) |
| 31 Jan 2005 | Pavle Strugar | Dubrovnik | Montenegrin | Imprisonment (8 years) |
| 4 Feb 2005 | Dragan Nikolić | | Bosnian Serb | Imprisonment (20 years) |
| 28 Feb 2005 | <ul style="list-style-type: none"> • Miroslav Kvočka • Dragoljub Prcać • Milojica Kos • Mlađo Radić • Zoran Žigić | Omarska, Keraterm, Trnopolje Camps | Bosnian Serbs | <ul style="list-style-type: none"> • Miroslav Kvočka: imprisonment (7 years) • Dragoljub Prcać: imprisonment (5 years) • Milojica Kos: imprisonment (6 years) • Mlađo Radić: imprisonment (20 years) • Zoran Žigić: imprisonment (25 years) |
| 18 Jul 2005 | Milan Babić | RSK | Croatian Serb | Imprisonment (13 years) |
| 20 Jul 2005 | Miroslav Deronjić | Glogova | Bosnian Serb | Imprisonment (10 years) |
| 30 Aug 2005 | Miodrag Jokić | Dubrovnik | Serb | Imprisonment (7 years) |
| 16 Nov 2005 | Sefer Halilović | Grabovica-Uzdol | Bosniak | Acquittal |
| 30 Nov 2005 | <ul style="list-style-type: none"> • Fatmir Limaj • Isak Musliu • Haradin Bala | | Kosovo Albanians | <ul style="list-style-type: none"> • Fatmir Limaj: acquittal • Isak Musliu: acquittal • Haradin Bala: imprisonment (13 years) |
| 7 Dec 2005 | Miroslav Bralo | Lašva Valley | Bosnian Croat | Imprisonment (20 years) |
| 8 Mar 2006 | Momir Nikolić | Srebrenica | Bosnian Serb | Imprisonment (20 years) |
| 15 Mar 2006 | <ul style="list-style-type: none"> • Enver Hadžihasanović • Amir Kubura | Central Bosnia | Bosniaks | <ul style="list-style-type: none"> • Enver Hadžihasanović: imprisonment (5 years) • Amir Kubura: imprisonment (2.5 years) |
| 22 Mar 2006 | Milimir Stakić | Prijedor | Bosnian Serb | Imprisonment (40 years) |
| 3 May 2006 | <ul style="list-style-type: none"> • Mladen Naletilić • Vinko Martinović | Tuta and Štela | Bosnian Croats | <ul style="list-style-type: none"> • Mladen Naletilić: imprisonment (20 years) • Vinko Martinović: imprisonment (18 years) |
| 8 May 2006 | Ivica Rajić | Stupni Do | Bosnian Croat | Imprisonment (12 years) |
| 30 Jun 2006 | Naser Orić | | Bosniak | Imprisonment (2 years) |

| Date | Defendants | Case | Ethnicity | Verdict (duration of sentence) |
|-------------|---|------------------------|------------------------|--|
| 27 Sep 2006 | Momčilo Krajišnik | Bosnia and Herzegovina | | Imprisonment (27 years) |
| 28 Nov 2006 | <ul style="list-style-type: none"> ▪ Blagoje Simić ▪ Miroslav Tadić ▪ Simo Zarić | Bosanski Šamac | Serbs / Bosnian Serbs | <ul style="list-style-type: none"> ▪ Blagoje Simić: imprisonment (15 years) ▪ Miroslav Tadić: imprisonment (8 years) ▪ Simo Zarić: imprisonment (6 years) |
| 30 Nov 2006 | Stanislav Galić | | Bosnian Serb | Life imprisonment |
| 2 Apr 2007 | Miroslav Bralo | Lašva Valley | Bosnian Croat | Imprisonment (20 years) |
| 3 Apr 2007 | Radoslav Brđanin | Krajina | Bosnian Serb | Imprisonment (30 years) |
| 4 Apr 2007 | Dragan Zelenović | Foča | Bosnian Serb | Imprisonment (15 years) |
| 9 May 2007 | <ul style="list-style-type: none"> ▪ Vidoje Blagojević ▪ Dragan Jokić | | Bosnian Serbs | <ul style="list-style-type: none"> ▪ Vidoje Blagojević: imprisonment (15 years) ▪ Dragan Jokić: imprisonment (9 years) |
| 12 Jun 2007 | Milan Martić | RSK | Croatian Serb | Imprisonment (35 years) |
| 27 Sep 2007 | <ul style="list-style-type: none"> ▪ Fatmir Limaj ▪ Isak Musliu ▪ Haradin Bala | | Kosovo Albanians | <ul style="list-style-type: none"> ▪ Fatmir Limaj: acquittal ▪ Isak Musliu: acquittal ▪ Haradin Bala: imprisonment (13 years) |
| 27 Sep 2007 | <ul style="list-style-type: none"> ▪ Mile Mrkšić ▪ Miroslav Radić ▪ Veselin Šljivančanin | Vukovar Hospital | Croatian Serbs / Serbs | <ul style="list-style-type: none"> ▪ Mile Mrkšić: imprisonment (20 years) ▪ Miroslav Radić: acquittal ▪ Veselin Šljivančanin: imprisonment (5 years) |
| 16 Oct 2007 | Sefer Halilović | Grabovica-Uzdol | Bosniak | Acquittal |
| 31 Oct 2007 | Dragan Zelenović | Foča | Bosnian Serb | Imprisonment (15 years) |
| 12 Dec 2007 | Dragomir Milošević | Sarajevo | Bosnian Serb | Imprisonment (33 years) |
| 3 Apr 2008 | <ul style="list-style-type: none"> ▪ Ramush Haradinaj ▪ Idriz Balaj ▪ Lahi Brahimaj | | Kosovo Albanians | <ul style="list-style-type: none"> ▪ Ramush Haradinaj: acquittal ▪ Idriz Balaj: acquittal ▪ Lahi Brahimaj: imprisonment (6 years) |
| 22 Apr 2008 | <ul style="list-style-type: none"> ▪ Enver Hadžihasanović ▪ Amir Kubura | Central Bosnia | Bosniaks | <ul style="list-style-type: none"> ▪ Enver Hadžihasanović: imprisonment (3.5 years) ▪ Amir Kubura: imprisonment (2 years) |

| Date | Defendants | Case | Ethnicity | Verdict (duration of sentence) |
|-------------|---|------------------|-----------------------------|---|
| 3 Jul 2008 | Naser Orić | | Bosniak | Acquittal |
| 10 Jul 2008 | <ul style="list-style-type: none"> ▪ Ljube Boškosi ▪ Johan Tarčulovski | | Macedonians | <ul style="list-style-type: none"> ▪ Ljube Boškosi: acquittal ▪ Johan Tarčulovski: imprisonment (12 years) |
| 17 Jul 2008 | Pavle Strugar | Dubrovnik | Montenegrin | Imprisonment (7.5 years) |
| 15 Sep 2008 | Rasim Delić | | Bosniak | Imprisonment (3 years) |
| 8 Oct 2008 | Milan Martić | RSK | Croatian Serb | Imprisonment (35 years) |
| 26 Feb 2009 | <ul style="list-style-type: none"> ▪ Milan Milutinović ▪ Nikola Šainović ▪ Dragoljub Ojdanić ▪ Nebojša Pavković ▪ Vladimir Lazarević ▪ Sreten Lukić | | Serbs | <ul style="list-style-type: none"> ▪ Milan Milutinović: acquittal ▪ Nikola Šainović: imprisonment (22 years) ▪ Dragoljub Ojdanić: imprisonment (15 years) ▪ Nebojša Pavković: imprisonment (22 years) ▪ Vladimir Lazarević: imprisonment (15 years) ▪ Sreten Lukić: imprisonment (22 years) |
| 17 Mar 2009 | Momčilo Krajisnik | | Bosnian Serb | Imprisonment (20 years) |
| 5 May 2009 | <ul style="list-style-type: none"> ▪ Mile Mrkšić ▪ Veselin Šljivančanin | Vukovar Hospital | Croatian Serb / Montenegrin | <ul style="list-style-type: none"> ▪ Mile Mrkšić: imprisonment (20 years) ▪ Veselin Šljivančanin: imprisonment (17 years) |
| 20 Jul 2009 | <ul style="list-style-type: none"> ▪ Milan Lukić ▪ Sredoje Lukić | Višegrad | Bosnian Serbs | <ul style="list-style-type: none"> ▪ Milan Lukić: Life imprisonment ▪ Sredoje Lukić: imprisonment (30 years) |
| 12 Nov 2009 | Dragomir Milošević | Sarajevo | Bosnian Serb | Imprisonment (29 years) |
| 19 May 2010 | <ul style="list-style-type: none"> ▪ Ljube Boškosi ▪ Johan Tarčulovski | | Macedonians | <ul style="list-style-type: none"> ▪ Ljube Boškosi: acquittal ▪ Johan Tarčulovski: imprisonment (12 years) |
| 10 Jun 2010 | <ul style="list-style-type: none"> ▪ Vujadin Popović ▪ Ljubiša Beara ▪ Drago Nikolić ▪ Ljubomir Borovčanin ▪ Radivoje Miletić ▪ Milan Gvero ▪ Vinko Pandurević | Srebrenica | Bosnian Serbs | <ul style="list-style-type: none"> ▪ Vujadin Popović: Life imprisonment ▪ Ljubiša Beara: Life imprisonment ▪ Drago Nikolić: imprisonment (35 years) ▪ Ljubomir Borovčanin: imprisonment (17 years) ▪ Radivoje Miletić: imprisonment (19 years) ▪ Milan Gvero: imprisonment (5 years) ▪ Vinko Pandurević: imprisonment (13 years) |

| Date | Defendants | Case | Ethnicity | Verdict (duration of sentence) |
|-------------|--|-------------|------------------|---|
| 29 Jun 2010 | Rasim Delić | | Bosniak | Imprisonment (3 years) (accused † 16 Apr 2010) |
| 21 Jul 2010 | <ul style="list-style-type: none"> ▪ Ramush Haradinaj ▪ Idriz Balaj ▪ Lahi Brahimaj | | Kosovo Albanians | (Partial re-trial ordered for all) <ul style="list-style-type: none"> ▪ Lahi Brahimaj: sentence of imprisonment (6 years) affirmed |
| 8 Dec 2010 | Veselin Šljivančanin | | Montenegrin | Imprisonment (10 years) (review Judgement by the Appeals Chamber) |
| 23 Feb 2011 | Vlastimir Đorđević | | Serb | Imprisonment (27 years) |
| 15 Apr 2011 | <ul style="list-style-type: none"> ▪ Ante Gotovina ▪ Mladen Markač ▪ Ivan Čermak | | Croats | <ul style="list-style-type: none"> ▪ Ante Gotovina: imprisonment (24 years) ▪ Mladen Markač: imprisonment (18 years) ▪ Ivan Čermak: acquittal |
| 6 Sep 2011 | Momčilo Perišić | | Serb | Imprisonment (27 years) |
| 16 Nov 2012 | <ul style="list-style-type: none"> ▪ Ante Gotovina ▪ Mladen Markač | | Croats | <ul style="list-style-type: none"> ▪ Ante Gotovina: acquittal ▪ Mladen Markač: acquittal |
| 29 Nov 2012 | <ul style="list-style-type: none"> ▪ Ramush Haradinaj ▪ Idriz Balaj ▪ Lahi Brahimaj | | Kosovo Albanians | (Retrial on parts of the indictment) <ul style="list-style-type: none"> ▪ Ramush Haradinaj: acquittal ▪ Idriz Balaj: acquittal ▪ Lahi Brahimaj: acquittal |
| 4 Dec 2012 | <ul style="list-style-type: none"> • Milan Lukić • Sredoje Lukić | | Bosnian Serbs | <ul style="list-style-type: none"> • Milan Lukić: Life imprisonment • Sredoje Lukić: imprisonment (27 years) |
| 12 Dec 2012 | Zdravko Tolimir | | Bosnian Serb | Life imprisonment |
| 28 Feb 2013 | Momčilo Perišić | | Serb | Acquittal |

Source: ICTY, <http://icty.org/sid/10095> (accessed 18 Mar 2013), compiled by the editors.