



On August 4, 1995, Croatian troops launched Operation Storm, a military action to gain control of the land occupied by Serb forces. The operation displaced some 200,000 Serbs from Croatia's Krajina region, but concluded the Croatian war, which started in 1991. Serbian public opinion has long maintained that this event constitutes genocide, and Storm became symbolic in Serbian politics, being held up as an emblem of perceived injustices against Serbs.

A man reacts during a live transmission from the UN court during the trial of Croatian commander, Gen. Ante Gotovina, in Zagreb, Croatia.



ON APRIL 15, 2011, THE INTERNATIONAL Criminal Tribunal for the Former Yugoslavia (ICTY) delivered its judgement on the 'Gotovina et al' case, concluding a trial of three generals in charge of Operation Storm.

In Croatia, there was hope for a lenient sentence or an acquittal, since the generals in questions – Ante Gotovina, Mladen Markac and Ivan Cermak – are figures of esteem in some circles, where most of the wartime operations are also seen as acts of self-defence. In Serbia, there was also an anticipation of acquittal, since the public opinion, shaped by deeply politicised anti-ICTY rhetoric, believes that the court is an anti-Serb institution, which hands down large sentences only to Serbs, whilst acquitting other nationals.

Therefore, surprise ensued when the ICTY sentenced Gotovina to 24 years imprisonment, and Markac, former Commander of the Special Police of the Ministry of the

Interior, to eighteen years incarceration. Ivan Cermak, the Assistant Minister of Defence in the Croatian Government (1991-1993), was acquitted. The judgement finds, inter alia, that Gotovina and Markac “participated in a joint criminal enterprise, the common purpose of which was the permanent removal of the Serb population from the Krajina region of Croatia by force, fear or threat of force”.

The judgement also found that Franjo Tudjman, then president of Croatia, was “a key member of the joint criminal enterprise” who intended to “repopulate the Krajina with Croats, and ensured that his ideas in this respect were transformed into policy”. Beyond Tudjman, the judgement also reached the very top of the Croatian ruling elite at the time – it also found that then-Minister of Defence Gojko Susak, Chief of Staff Zvonimir Cervenko and “others in the political and military leadership” were also a part of this “joint criminal enterprise”.

This judgement was significant for transitional justice in the Balkans in several ways. First of all, it implicated the Croatian ruling elite, naming specifically its role in expulsions and other crimes committed. The ICTY has had some success in rounding up high ranking politicians and leaders such as former leader of Bosnian Serbs Radovan Karadzic and Serbian president Slobodan Milosevic, but for the most part, it tends to prosecute the intermediaries who carried out orders, rather than order givers.

Significant also were the reactions of key regional leaders. The official Croatian response, expressed by Croatian Prime Minister Jadranka Kosor and President Ivo Josipovic, was of shock, but remained calm and diplomatic. Kosor found the “joint criminal enterprise” label “unacceptable” whilst Josipovic added that this judgement does not question the legitimacy of the war. The Serbian response – both official and unofficial – was surprisingly muted, with President Boris Tadic warning Serbian citizens not to celebrate this sentencing. Speaking on the Radio Television Serbia (RTS), Bruno Vekaric, the Deputy Prosecutor for War Crimes in Serbia, added that this sentencing might start a confrontation with the past in Croatia.

Finally, and perhaps most significantly for Serbia, the wording of judgement gives a clear and unequivocal legal articulation to Serb persecution in Croatia. It is significant in the context of the Serbian debate on war crimes. Serbian media, public opinion and large sections of the right-leaning political elite have always maintained several points about the 1990s: that the ICTY had a particular agenda and prosecuted only Serbs whilst ‘someone’ was always working to suppress the extent of crimes committed against the Serbs in the 1990s. This line of reasoning also contributed to the narrative which looked for a declaration of the others’ guilt, before any such declaration can be expressed by Serbia. Key figures in Serbian politics who advocate cooperation with the ICTY, such as Boris Tadic, have to contend with this kind of ideological obstructionism in order to implement their policies.

But, the subdued reactions of Serbian leaders may also be explained in another way: the conclusion of the Gotovina case sits very uncomfortably alongside Serbia’s own failure to find, arrest and transfer to the ICTY the two remaining fugitives,

Ratko Mladic and Goran Hadzic, who are wanted by the tribunal for war crimes. Mladic, who has now been arrested in Serbia but was still a fugitive at the time of the Gotovina arrest, is indicted for the Srebrenica massacre of 1995, and has been missing since approximately 2001. Hadzic, indicted for war crimes in Croatia, has been missing since 2004 and at the time of writing there have been no indications of his arrest. Gotovina, who was also on the run for a number of years, was located in 2005 in Spain and transferred by the Croatian government to the tribunal. Mladic, much like Gotovina, is also seen by some forty percent of the Serbian population as a war hero, according to poll results publicised by Rasim Ljajic, the Serbian Minister for Labour and Social Policy and head of the National Council for Cooperation with the ICTY on May 15. The poll also indicates that 51 percent of the population is against the handover of Mladic, whilst 78 percent would not give information about him and claim the more than fourteen million dollar reward.


Based on very similar poll results throughout the 1990s and 2000s, most observers, such as non-governmental organisations (NGOs) and academics, have interpreted this inability to locate Mladic and Hadzic as Serbia's failure to confront the past. However, these figures of support for Mladic are in fact, not about Mladic at all. Rather, they tend to be about perceptions of injustice and misunderstood work of the Tribunal. In the popular, political and media discourses, non-cooperation with the tribunal has always been bolstered by the perceptions of the ICTY as a biased institution, which according to the poll 53 percent of the population believe. This propagated the belief that 'our generals' should not face trial until 'their generals' do the same. And now, one of 'their generals' has. Despite being just one out of the ICTY's 125 concluded cases, the Gotovina sentencing is the first sentence of such magnitude for Serbia.

That Serbia is lagging behind Croatia in ICTY cooperation was highlighted even more clearly during the May 2011 visit of Serge Brammertz, chief prosecutor of the ICTY, who produced a rather damning statement: Serbia is not doing enough to find the fugitives. Now, it has at last captured Mladic, but not before the search for him had gone on for so long that it became rather embarrassing for the current government. Brammertz's sentiment has been expressed also by his predecessors and repeated with some frequency ever since the fall of Milosevic, and particularly ever since Serbia's European Union (EU) integration prospects became linked to its full cooperation with the ICTY. However, recently things had started to look up. Brammertz's previous reports had been a shade more positive, and there has been general agreement that the hunt for Mladic and Hadzic had seen vast improvements since 2008, owing in part to a new, pro-European government, replaced security staff and new operations in the hunt for the fugitives. However, Brammertz's most recent statement, also comes at a very bad time for Serbia since, at the beginning of 2011 it submitted its EU membership questionnaire to Brussels. Ever since then, the promise of membership has been a constant background noise in Serbia, with the ruling coalition promising its electorate that candidacy status will be gained by the end of 2011. The arrest of Mladic is likely to speed up Serbia's EU candidacy proceedings but this, of course, is an extremely long and drawn out process,

unlikely to yield any immediately obvious results or changes.

Moreover, Brammertz's reprimand of Serbian authorities only weeks before the arrest of Mladic, will require the government to reflect very seriously on why the Mladic search took so long, and why in the end, he was found to be living in Serbia, something that the government has always denied. Over the years, the hunt for Mladic had become expensive and embarrassing. Until recently, it has been stated that some ten thousand operatives were working on the case every day without many visible results. Earlier this year, Rasim Ljajic, helpfully reminded us that daily expenditure for the Mladic hunt is between 21,000 and 42,000 dollars. Now, the Serbian public is likely to start demanding answers: who was protecting Mladic all these years? The questions of complicity, on part of certain individuals in the army or other security agencies, is likely to become a serious topic of debate. On the other hand, Mladic's arrest is of huge significance to all the victims of the Bosnian war. It is likely to provide as a catalyst for normalising Serbia-Bosnia relations since the absence of Mladic was a key point of contention between the two countries.

With regards to the Gotovina judgement, however, it may be too late for not create a war crimes rapprochement between Croatia and Serbia, who still have pending genocide cases against each other at the International Court of Justice (Serbia's is a counter-suit to Croatia's case). It is, on the other hand, likely to change Serbia's perception of itself as the permanently discriminated-against state, and it may finally start dispelling some long-standing conspiracy theories about the cover-ups of atrocities committed against the Serbs. This change of perception will go a long way to contributing to a much more reasoned debate on war crimes of the 1990s.

That reasoned debate will most likely not be led by the governments of the former Yugoslav republics, who have proven with their accusations and counter-accusations that they are not capable of opening a dialogue on war crimes that is satisfactory to victims of the wars and the general public. Events such as the arrest of Mladic and the sentencing of Gotovina are also outside of that debate – for most victims who have gone through the conflicts in the Balkans, the suffering of the past and the reconciliation that eventually needs to follow is much more complicated than a set of legislative procedures which inevitably become politicised. Frustrated by the politicisation of the past, and the failure to establish basic facts about the wars – such as the numbers of the dead and the missing – a coalition of 1500 regional NGOs started collecting signatures in late April for the establishment of a Balkan truth and reconciliation commission. This initiative, Recom, aims for one million signatories and has already gathered some 750,000. If successful, the commission would be the first victim-centred and region-wide attempt at addressing the injustices of the past, outside of the political context. An initiative of that kind would be most welcome in a region where figures such as Gotovina and Mladic have come to symbolise frustrations over the unrecognised crimes and other perceived injustices. 

JELENA OBRADOVIC-WOCHNIK is a Lecturer in Politics and International Relations at Aston University.

