

# Helsinki bulletin



HELSINKI COMMITTEE  
FOR HUMAN RIGHTS IN SERBIA  
address: Kneza Miloša 4,  
Belgrade, Serbia  
tel/fax. +381-11-3349-170; 3349-167;  
e-mail: office@helsinki.org.rs  
http://www.helsinki.org.rs

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## RATKO MLADIĆ SEEN AS A HERO EVEN THOUGH PROCLAIMED GUILTY OF GENOCIDE

The long awaited verdict to Ratko Mladić, war commander of RS Army, now under life sentence, was somehow met with a sigh of relief: the sentence freed Serbia from the crime of joint criminal enterprise. Commentaries about it in the media were mostly focused on this fact. Along this line the *Kurir* daily runs a banner saying “Hypocrisy of The Hague Tribunal Laid Bare at the End of its Mandate.” In other words, after 24 years of “blackmailing and accusing” Serbia of being the main perpetrator of war in the Yugoslav territory, the Tribunal admitted that Serbia’s

authorities had not been involved in a joint criminal enterprise, which means that its ex-President Slobodan Milošević, and so Serbia too, have not been responsible for the war in Bosnia-Herzegovina. “Serbia is so amnestied of 24-year long demonization.”<sup>1</sup>

1 <http://www.kurir.rs/vesti/politika/2947965/hasko-licemerje-raskrinkano-na-samom-kraju-rada-kaznili-Reakcijapredsednika Srbijesrbe-sa-1200-godina-a-trubinal-konacno-priznao-da-srbija-i-milosevic-nisu-krivi>.

The verdict changed nothing in Serbia's stance about Ratko Mladić as a hero nor significantly influenced the narrative about the war in Bosnia. Namely, according to generally accepted argument Serbia has been at war; the Serbs in Bosnia were fighting a war of liberation, the war being started by Bosniak Muslims and their attack at an YPA column.

And in no way has this sentence changed the overall atmosphere of denial. Serbia has not distanced itself from Milošević's warring policy, let alone from its goals that are still vibrant at the public scene: above all the goal of unification with Republika Srpska. Revisionism and rehabilitation are at the agenda – not only rehabilitation of Milošević but of the entire war leadership. Obviously encouraged by such reverse trend, RS President Dodik draw Serbia's future map to reporters for Deutsche Welle before a sentence to Mladić was announced: the map showed RS and Kosovo North within Serbia's borders.<sup>2</sup>

Despite all the facts about crimes that have been committed and culminated in genocide, presented and confirmed at the 5-year trial to Ratko Mladić (and at many other trials) Serbia's elites continually marginalize and negate the scope of responsibility. Recent past, wars and crimes are being reinterpreted from a standpoint of a victim of injustice and in line with the narrative that the responsibility for Yugoslavia's disintegration and its blood outcome rests with other nations and their political and intellectual elites, and the international community.

The incumbent populist regime was freed from "the burden" of extradition of the accused for war crimes; for, the last among those, Ratko Mladić, hidden out in Serbia for 11 years, was extradited to the Tribunal in 2011 (during Boris Tadić's presidency). As some observers noted, today's President Aleksandar Vučić who has

2 <http://ba.n1info.com/a228032/Vijesti/Vijesti/Dodikova-mapa-Balkana.html>.

been presenting himself as a staunch supporter of Serbia's course s Europe, is unique model of a politician: a Euro-fanatic populist whose technology of rule is "absurdly makes a movement towards the EU possible in parallel with his tolerance to revisionism of the 1990s...that were Euro-phobic."<sup>3</sup>

He was the one to set the tone of state leadership's reactions to the verdict; he said that the country should not shed tears for the past but sweat of hard labor;" "Today is neither the day of joy nor sorrow,"<sup>4</sup> he said, adding "We must turn to the future rather than look into the past."<sup>5</sup> And yet, the media close to him and under his control responded with diametrically opposite messages. The latter mostly boiled down to Mladić's curses uttered during the trial and after it, "F...you, you liars!"<sup>6</sup> "I am sentenced by NATO," "The court of my people is more important than the one in The Hague" and "I'll fight as long as I live deny the lie about the Serbs at war."<sup>7</sup> The only paper that run a headline reflecting the sum and substance of the sentence – "Mladić Got a Life Sentence for Genocide in Srebrenica" was the *Blic* daily.

The Serbian Orthodox Church, an overt supporter of the warring policy of the 1990s, keeps to its position. This was mirrored once again in the commentary by its highest dignitary, Patriarch Irinej. The sentence to Mladić, he said, justifies that something like that can happen "because powerful bigwigs of the world are Devil's cohorts and we suffer consequences of their deeds."<sup>8</sup>

Statements the regime's coalition partners (Aleksandar Vulin, Marjan Rističević) and representatives of the right-wing (the Serbian Radical

3 Nedeljnik, November 16, 2017.

4 Prema, Politika 23. novembar 2016.

5 Ibid.

6 Alo, November 23, 2017.

7 Večernje novosti, November 23, 2017.

8 Alo, November 24, 2017

Party, Dveri, Democratic Party of Serbia) gave to the media and at the political scene were all about yet another “global powers’ injustice against the Serbs.” Official Russia shared this stance. Spokeswoman for the Foreign Ministry of Russia Maria Zaharova called the sentence to Mladić “a continuation of politicized and biased line evident from the very start of the Tribunal’s work.”<sup>9</sup> The Hague Tribunal, she said, acted along “one-sided, anti-Serb interpretations of tragic events...thus undermining reestablishment of mutual trust in the Balkans.”<sup>10</sup> Duma President Volodin asked the Committee for International Affairs to consider all the aspects of “the scandalous Hague sentence” and suggest concrete solutions for reaction to it. Russian media reported that Moscow will officially initiate debate of “the Mladić case” in the UN SC, the founder of the Tribunal.<sup>11</sup>

## REACTIONS TO THE SENTENCE

Almost unisonous comment about the sentence (with the exception of few non-governmental organizations and a handful of independent media) was that it (the sentence) was to be “expected.” The term “expected,” however, had nothing to do with serious crimes he had been accused of, but related to partiality of the Tribunal when it came to the Serbs standing trial.<sup>12</sup> The “proof” almost all the media presented for it was in statistical data, according to which the Serbs standing trial before the ICTY have been sentence to the total of almost 1,000 years in jail, while the Croats (10), Muslims (6) and Albanians (1) barely “collected” 166 years.

Lawyer Borivoje Borović believes that the ICTY just further put Serbian, Muslim and Croat

9 TV N1, November 23, 2017.

10 Ibid.

11 Pečat, December 1, 2017.

12 TV N1 newscast, November 22, 2017.

people at odds and that, after all these sentences, no one would be able to openly discuss the past. “Collective responsibility has never been attached to the Serbian people, but too many political, police and military leaders have been accused by it. The footnote in the verdict to Mladić does not imply that Milošević was freed from guilt but means that a wrong thesis about a collective criminal enterprise has permeated all the indictments by The Hague. Serbia got no satisfaction at all since practically the entire military and policy leadership has been sentenced,” he says.<sup>13</sup>

Serbian Premier Ana Brnabić followed in the President’s footsteps by insisting that the past should be left behind so as that “we could ensure a stable state at long last.”<sup>14</sup> However, to some other members of the government such as Aleksandar Vulin and Nenad Popović the “expected” verdict indicates that the ICTY “have made its decisions under political influence too often,” and was “just a political instrument established with the purpose to present the entire Serbian national as genocidal.”<sup>15</sup>

Leader of the Serbian Radical Party Vojislav Šešelj said that the sentence to Mladić was “political and against the Serbian people who had been at war, a somehow against Serbia itself, and mostly against Republika Srpska.”<sup>16</sup> Miloš Jovanović, the new president of the Democratic Party of Serbia (DSS) said that from a legal standpoint that was a sentence to one person but “from political that was a sentence to entire Serbian nation and RS.”<sup>17</sup>

13 <http://www.kurir.rs/vesti/politika/2947965/hasko-licemerje-raskrinkano-na-samom-kraju-rada-kaznili-srbe-sa-1200-godina-a-trubinal-konacno-priznao-da-srbija-i-milosevic-nisu-krivi>.

14 Politika, November 23, 2017.

15 Ibid.

16 Ibid.

17 Ibid.

The right-wing Dveri movement practically shared this view. On November 22 (the day the sentence was proclaimed) it tried to stage a protest at Belgrade's Republic Square. It turned out, however, that the movement had no potential for massive mobilization: its protest attracted no more than several tens of people.

The Liberal Democratic Party's (LDP) stance was quite different from those mentioned above. Its President Čedomir Jovanović said that the sentence to Mladić bound leaders of Serbia and RS alike to "inform their societies about the crimes committed and speak up about terrible hardships of Bosniaks during the war in Bosnia-Herzegovina."<sup>18</sup>

The Democratic Party of Serbia also differed from the rest. DS MP Aleksandra Jerkov said to her counterparts from the ruling party that one could not look towards the future without thoroughly "scrutinizing the past."<sup>19</sup> In its release DS called the sentence to Mladić was "a long awaited justice done and a precondition to reconciliation" and "cleared Serbia's name."<sup>20</sup>

## REACTIONS IN THE REGION AND WORLDWIDE

Croatia's government and officials called the sentence to Mladić "expected and appropriate" and said they hoped it would be at least a partial satisfaction to families of the victims. The government, however, released that it was not satisfied with the fact that the sentence had not confirmed involvement of Serbia's highest officials in "the overall criminal enterprise."<sup>21</sup> Croatia's President Kolinda Grabar-Kitanović said she hoped the sentence would at least

partially satisfy families of the killed, murdered, tortured and missing" at the time Mladić had been "a symbol of the war, brutality and genocidal plans." She added she was sorry that he had not stood trial for the crimes committed in Croatia, especially in Škabrnja.<sup>22</sup>

Denis Zvizdić, the president of the Council of Ministers of Bosnia-Herzegovina called the sentence yet another proof that war crimes would never pay anyone no matter how long criminals were in hiding or refusing to face up their responsibility.<sup>23</sup> Munira Subašić, the president of "Mothers of Srebrenica" association, said the sentence was "almost identical to the one ruled to Karadžić, except that the one to Mladić is for life." "We are definitely entitled to sue Serbia and RS for their involvement," she said adding that she would go on with her struggle for the truth and justice for the sake of victims.<sup>24</sup>

Commenting on the sentence member of B&H Presidency Bakir Izetbegović said he hoped it would have a sobering effect, adding that he believed that the silent majority of Bosnian Serbs did not identify themselves with Ratko Mladić and justify his deeds. "The past is behind us and should be invoked only if it could have an influence on a better future. Mladić is a criminal and a coward, because only cowards are killing and assaulting imprisoned women, children and civilians," he said.<sup>25</sup>

RS President Milorad Dodik said the "sentence does not come as a surprise, but will further convince the Serbian people in the General's

18 Danas, November 23, 2017.

19 TV N1 newscast, November 22, 2017.

20 Politika, November 23, 2017.

21 <http://rs.n1info.com/a343930/Svet/Region/Reakcije-na-presudu-Mladicu-u-Hrvatskoj.html>.

22 <http://rs.n1info.com/a343930/Svet/Region/Reakcije-na-presudu-Mladicu-u-Hrvatskoj.html>.

23 <http://www.021.rs/story/Info/Region-i-svet/176353/Reakcije-u-regionu-na-presudu-Mladicu.html>.

24 <http://mondo.rs/a1058976/Info/Ex-Yu/Presuda-Ratku-Mladicu-reakcije-u-Srebrenici.html>.

25 <http://www.novosti.rs/vesti/naslovna/dosije/aktuelno.292.html:697221-Izetbegovic-Mladic-je-zlocinac-i-kukavica-Hrvatska-nezadovoljna-je-nije-utvrdjeno-ucisce-Srbije>.

patriotism.” “He organized the RS Army under most adverse circumstances to save the Serbian people from genocide. This is a shameful blow in the face of Serbian victims. All that Mladić had asked for was that everyone sees the truth. No court can put him in the dock. Only history will give a final say about who he truly was. I am not sure whether any Serbian household believes at all in his guilt.”<sup>26</sup> President of RS Academy of Arts and Sciences Rajko Kuzmanović argued that a life sentence to Mladić was unfair and should be reversed after appeal.<sup>27</sup>

German government welcomed the life sentence to Mladić for genocide and crimes against humanity. The sentence, says the release, largely contributes to proceedings of awful crimes committed in the territory of ex-Yugoslavia in the 1990.<sup>28</sup> NATO Secretary General Jens Stoltenberg also welcomed it as a proof that the rule of law was functioning and that war criminals have to stand trial for their deeds.<sup>29</sup> Director of Amnesty International takes that the sentence is a major momentum for international justice and puts across a powerful message all over the world that impunity cannot and will not be tolerated.<sup>30</sup>

Department of State official said that the US supported the ICTY proceedings and sentences, would be remembering victims of the war in ex-Yugoslavia but also “appeal to countries and peoples in the region to refrain from fiery rhetoric and work together for a better future of the whole region.”<sup>31</sup> US representatives in Serbia also reacted to the sentence; Ambassador Kyle

26 <http://rs.n1info.com/a343934/Svet/Region/Dodik-o-presudi-Ratku-Mladicu.html>.

27 <http://www.6yka.com/novost/132043/reakcije-evo-sta-su-rekli-u-republici-srpskoj-na-presudu-ratku-mladicu>.

28 <http://www.blic.rs/vesti/politika/reakcije-iz-svetanemacka-i-nato-pozdravili-presudu-mladicu-plenkovicu-zao-sto-mu-se/0zy6z0s>.

29 Ibid.

30 Ibid.

31 <http://mondo.rs/a1059100/Info/Ex-Yu/Ratko-Mladic-presuda-SAD.html>.

Scott said justice had been done and the time was for all the countries to turn towards the future.<sup>32</sup>

## ICTY MANDATE COMES TO AN END

The sentence to Mladić practically put an end to almost three decades of ICTY proceedings. The court did have ups and downs but, as a whole, left a legacy against manipulation with the truth. Commenting on this, Ivan Jovanović, expert in international law, said, “No doubt that some people well deserved to be punished but were acquitted, but all those sentenced did deserve what they got.”<sup>33</sup>

Although the sentences to Radovan Karadžić and Ratko Mladić, along with other sentences, rounds off the picture of the war waged in B&H the fact remains that Serbia’s political and military leaders of the time, who staged the war in the first place, were freed from responsibility. That proved, said Foreign Minister Ivica Dačić that “Serbia has been accused unfairly all these years” which, as he put it, now stands for “a moral and legal satisfaction to our country.”<sup>34</sup> The Express daily reports under headline “No one Satisfied, Long Live Srpska,” “The sentence to Gen. Mladić left no one indifferent, but what matters the most is that Serbia is freed from any doubts about its role in Bosnia’s hardships and that it was recognized definitely that RS was not a genocidal creation.”<sup>35</sup>

In Serbia, the ICTY is almost generally perceived as a political court, which implies that policy has the upper hand over justice. It is argued besides that the (political) goal of its functioning was to “ earmark the Serbs involved in a civil war that

32 Ibid. .

33 Danas, November 27, 2017.

34 Kurir, November 27, 2017.

35 Ekspres, November 24, 2017.

broke by the end of the second millennium as the only guilty parties of all the evil.”<sup>36</sup>

The ICTY’s “anti-Serb” aspect is not only “measured” by years of imprisonment the accused have been punished with but also by all the attempts at proving that sentences declared to political and military leaders were actually against the Serbian people, i.e. against Republika Srpska.<sup>37</sup> Russia’s Foreign Minister Sergey Lavrov’s stands are close to such interpretation. He said that the ICTY had proved its bias with the number of sentences to Serbs.<sup>38</sup>

Law Professor Milan Škulić of Belgrade University criticizes the ICTY for not “dealing with the war;” “Not a single war crime would have been committed in the former SFRY was it not for the war,” he argues.<sup>39</sup> Neither Serbia nor the Serbs from the other bank of the Drina River have set “the stage for a civil war.”<sup>40</sup>

It is also often argued that the Tribunal had not met its basic purpose as it failed to contribute to regional reconciliation. In other words, it was all about “a controversial court” at the very least.<sup>41</sup> It is being insinuated that “powerful players from the West are pulling strings in the Balkans so as to keep the dangerous hotbed of crisis in Bosnia and beyond; their bloody round dance has not ended yet and the sentence to the General is meant to add fuel to the fire of their bloody orgy.”<sup>42</sup>

Ivan Jovanović, expert in international law, thinks quite the contrary to the “mainstream.” As an international institution, the Tribunal functioned beyond all expectations. It was tasked with deciding on criminal responsibility while reconciliation rests on the shoulders of political elites in Serbia and the region, he explained.<sup>43</sup>

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36 Pečat. November 24, 2017.

37 “In the Mladić Case They Put Serbia at Trial,” runs a headline in Vecernje Novosti published on the eve of sentence declaration.

38 Informer, October 17, 2017.

39 Politika, November 28, 2017.

40 Ibid.

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41 Blic, November 25, 2017.

42 Pečat, December 1, 2017.

43 Danas, November 27, 2017.

## CONCLUSION AND RECOMMENDATIONS

Serbia's attitude towards the ICTY from the very start has been negative. State strategy has been after the Tribunal's obstruction and discrediting. Legal experts have been trying all the time to prove that proceedings by all the courts established by various international organizations were overstepping the bounds of their original purpose.

The attitude towards the Tribunal did not even change after ouster of Slobodan Milošević and formation of the so-called democratic governments, although the latter have extradited all the accused of war crimes. This fact in Serbia's public discourse never opened the issue of responsibility of those indicted. Actually, cooperation with the ICTY has been of "commercial character," just in the service of Serbia's movement towards the EU. Changes in international constellation (crisis in the EU, Brexit, presidential elections in the US, etc.) encouraged Serbia's elites to continue defaming the Tribunal in The Hague.

As evident by many reactions, the legal elite will harness all the power to further discredit the ICTY so that all those having served sentences ruled by it could be rehabilitated.

The sentence to Ratko Mladić (as well as those to Radovan Karadžić and others) is crucial for understanding the war in Bosnia-Herzegovina. The Trial Chamber has confirmed the facts presented to it, while the ICTY collected huge documentation that is of major importance to regional reconciliation. The experience has shown, however, that this process is most complex and painful, its outcome depending on specific circumstances and the pace of post-conflict transition, its character, political choices of major players and political will or of collective strength for taking the road towards political and moral renewal of their societies.

Given that Serbia's present-day elites demonstrate neither willingness nor political readiness for dealing with the recent past in a proper way, the focus has to be placed on younger generations and those to come so as to create a critical mass ready for coping with problem. Major role in this has to be played by non-governmental organizations and independent media engaged in anti-war and non-impunity from the outbreak of the war. In order to make their endeavor sustainable the Western international community has to be more dedicated in supporting them.

Regretfully, proceedings before the ICTY have not influenced post-war stabilization of Bosnia-Herzegovina. The Serbian side was the Dayton Accords-prize winner. Not even sentences given to the entire warring leadership of RS have influenced the course of Bosnia's development; and the latter will be stagnating unless some different policy benefiting of the country's integration is adopted. The Dayton Accords have to be revised, and Bosnia-Herzegovina rearranged on other foundations. This is a matter of morality not only for the region but for Europe as well.