

The Sjeverin Case - A Test for the Serbian Judiciary

The trial of Milan Lukić, Oliver Krsmanović, Dragutin Dragičević and Djordje Šević, who are accused of a war crime against the civilian population under Article 142 of the Criminal Code, opened before the Belgrade District Court on 20 January 2003. Lukić and Krsmanović are being tried in absentia. Known as the "Sjeverin Case" after the village that was home to the victims, the trial is generally seen as a test for the Serbian judiciary and its ability to see that justice is done.

According to the indictment, Krsmanović, Dragičević and Šević were members of the "Avengers," a Serb paramilitary group under the command of Lukić, during the armed conflict in Bosnia-Herzegovina. On 22 October 1992, they abducted 17 Muslim-Slavs, citizens of FR Yugoslavia, at Mioče on the border between Serbia and Bosnia-Herzegovina. The abductors halted a bus running between Priboj (Serbia) and Rudo (Bosnia), checked the identities of the passengers, took off 17, and transported them by truck to Višegrad in Bosnia. In that town, outside the Vilina Vlas Motel and in the presence of a large number of people, they searched the passengers before taking them into the motel where they physically abused them. Somewhat later, the passengers were led to the banks of the Drina River where the abuse continued until three of the defendants - Lukić, Krsmanović and Dragičević - fired at them with automatic rifles and then cut the throats of those who had survived the execution. The victims of this war crime were Mehmed Šebo, Zafer Hadžić, Medo Hadžić, Medredin Hodžić, Ramiz Begović, Derviš Softić, Medhad Softić, Mujo Alihodžić, Alija Manda, Sead Pecikoza, Mustafa Bajramović, Hajrudin Sajtarević, Esad Džahić, Sabahudin Djatović, Ramahudin Djatović, Ediz Gibović, and Melvid Koldžić, all from Priboj municipality in Serbia.

During the first week of the trial, only one of the two defendants in the courtroom was heard since the other exercised his right to remain silent. Djordje Šević admitted to taking part in the abduction but denied any involvement in the torture and killing of the passengers in Višegrad. He claimed he had no knowledge of the nature of the operation or the ethnicity of the victims.

Testifying as a witness, Miloje Udovičić said the abductors stopped him near the village of Štrpci and asked him to tow their truck, which had broken down. He said there were eight or nine masked men armed with automatic rifles in the group, some of whom had wrapped themselves in flags inscribed with the words "With Faith in God and Country." Udovičić's vehicle broke down, too, just outside of Bijelo Brdo, and the abductors decided to continue on their own. As they unfastened the tow line, they sang songs offensive to Muslims and, when he heard voices from inside the truck joining in, Udovičić realized that there were people inside. After unhooking their truck, the abductors drove to the top of Bijelo Brdo where they stopped and began shooting off their guns in celebration.

Dragana Djekić, a key witness, testified on the fourth day of the trial. Because of the importance of her testimony and her fear of possible reprisals, the public was removed from the courtroom when she took the stand. Since the law in Serbia and Montenegro envisages only limited witness protection measures, the panel of judges had to invoke Article 292 of the Criminal Procedure Code, which deals with disturbing the public tranquility and order in the courtroom, to clear the courtroom during her testimony. This amply illustrates the need for the introduction in national law of proper witness protection measures.

Several witnesses were heard in the next four days of the trial (17 March, 15, 16, and 18 April). They testified on the abduction itself and the events preceding and following it. Velisav Stojkanović, the driver of the bus from which the Muslims were taken, in entirety stood by the statement he gave the investigating judge on 19 April 2001 and in which he described the incident in detail. He told the court that 15 or 16 civilians were taken off the bus by six or seven uniformed men, who led them behind the Amfora Motel where a canvas-covered Zastava 615 truck was parked. Dragoslav Raković, also an eyewitness, said he had known most of the victims.

The most important witness at this stage of the trial was Milić Popović, the mayor of Priboj at the time. In his testimony, he spoke of his meetings with members of the FR Yugoslavia government commission and developments in Sjeverin following the abduction. The government commission, he said, was set up after the Muslims were abducted, and came to Priboj with Vladimir Matović, advisor to the then Yugoslav President Dobrica Ćosić, at its head. Momčilo Grubač, then Federal Minister for Human Rights, and his assistant Mahmut Memić were also on the delegation. The meeting was attended by Bosnian Serb military leader Ratko Mladić, who promised to do everything in his power to obtain the release of the abducted Muslims. After the meeting in Priboj, the delegation proceeded to Sjeverin where a large number of people had gathered, demanding that the return of the abducted civilians. They were addressed by Grubač, who pledged that the federal government would invest every effort for the abducted men to be returned to their homes, and said that the military and police presence would be stepped up to ensure better safety in Sjeverin. However, because of the poor relations at the time between the federal and Serbian governments, there were no Serbian police in Sjeverin that evening, and most of the inhabitants left somewhat later for Priboj. The commission, too, departed the village the same evening. The witness told the court the local population were concerned for their safety because of earlier incidents, including the murder of Ramo Berber in the center of Sjeverin in August 1992. He told the court he had never seen Milan Lukić or Oliver Krsmanović, and that he had heard the police presence in Sjeverin had been stepped up. He added that he had seen several men in black uniforms and carrying black flags inscribed with the words "Avengers of the Serb Nation" during the protest in the village.

Luka Dragičević, a retired Yugoslav Army officer, had been summoned as a witness but failed to appear in the courtroom. The Army informed the court that it did not have his address and referred it to the Military Social Security Fund. The judge presiding the panel told the parties that she had asked the new president of the state-union of Serbia and Montenegro to have the state commission's report on the abduction delivered to the court.

Positive developments

Compared to other war crimes trials before national courts, some positive developments are evident in this one. Because of the prosecutor's designation of the perpetrators as a paramilitary group, there was concern before the trial began that only they and not the political and military leaderships of Serbia and the Bosnian Serbs would be held responsible. However, with her perspicacious questions regarding the status of the perpetrators, the presiding judge established that they were not paramilitaries but members of the regular Bosnian Serb army. The court should in the further course of the trial hear other witnesses who could provide more information on the role played by the Bosnian Serb military and the Serbian authorities in this war crime. These should certainly include the police officers and investigating judges who, shortly after the abduction, arrested and questioned the prime suspect, dropped proceedings against him, and handed him over to the Bosnian Serb authorities.

There is far more material evidence, including photographs, in the Sjeverin case than the prosecution has been able to present in other similar trials before Serbian courts. Probably because of the fact that, in contrast to war crimes in Kosovo, the Serbian police were not directly involved in this one, the prosecution and the police worked more closely together during the investigatory proceedings than in other cases.

Problems

In spite of the defendant Šević telling the court that between 10 and 12 men were involved in the abduction and killing of the Sjeverin Muslims, only four have been indicted. Apart from Lukić and Krsmanović, to whom the court does not have access, the others have not been identified although, as indicated by the witness testimony, a more thorough investigation would have turned up this information.

Major problems noted with respect to this trial relate to witness protection and cooperation between states on extradition and legal aid. Witness protection is imperative where war crimes trials are concerned. National law, unfortunately, envisages only limited protection of witnesses through two generalized and brief legal provisions. The absence of adequate protection puts into question the disclosure of the full truth in these cases. The new law on war crimes trials whose enactment has been announced shortly should therefore envisage mechanisms providing appropriate protection for witnesses.

Cooperation between states is also essential for shedding light on the war crimes committed in the territory of former Yugoslavia. The matter is only formally regulated by the respective laws of Serbia and Montenegro and Bosnia-Herzegovina. The two countries have no bilateral agreement on legal aid, including extradition, and Bosnia-Herzegovina is not a party to multilateral treaties such as the European conventions on extradition and international legal aid in criminal matters. The results are evident in the Sjeverin case: both Milan Lukić and Oliver Krsmanović are known to be in the Serb entity of Bosnia-Herzegovina but their extradition cannot be sought as Bosnian law prohibits the extradition of citizens of that country. Therefore, there is an immediate need to create legal mechanisms that would make it possible for these and others accused of war criminals to be brought to justice, and to issue an international arrest warrant for Krsmanović to prevent his flight from Bosnia-Herzegovina.

Cooperation between states is necessary also with regard to witnesses. A number of people from Višegrad and environs were eyewitnesses of the torture and killing of the abducted Sjeverin Muslims. Since citizens of Bosnia-Herzegovina have no obligation to appear before courts in other countries, prosecutors in Serbia and Montenegro and Bosnia-Herzegovina should work together to make possible the examination of these eyewitnesses. To this end, the two countries should conclude a bilateral agreement and Bosnia-Herzegovina should also become a party to the European Convention on International Legal Aid in Criminal Matters.