

European Voice

09.12.2010 / 04:24 CET

Under pressure to deliver justice

By Toby Vogel

Three books examine the complex system of war-crimes tribunals in the Balkans and further afield.

Last June, the European Union's member states decided to proceed with ratification of a crucial pre-accession agreement with Serbia; MEPs on the foreign affairs committee backed the move last week, with a plenary vote expected next month. In October, the member states decided to refer Serbia's application to join the EU to the European Commission for an assessment, a precondition for the opening of accession talks. Three recent books suggest that relaxing the international pressure on Belgrade may not be the best way of promoting the arrest of Ratko Mladić, the Bosnian Serb wartime commander who has been indicted for genocide.

Two ad-hoc tribunals have been set up by the United Nations - both in The Hague - to deal with the criminal responsibility for the genocides in the former Yugoslavia and in Rwanda in the 1990s. Both tribunals are set to close in the coming years, but they have had a lasting effect on international jurisprudence.

Also as a result of these genocides, the international community has set up a permanent institution outside the UN framework, the International Criminal Court (ICC), which is designed to deal with the most egregious war crimes in cases where the concerned governments fail to act. Local courts in the Balkans and in Rwanda have taken on cases, and created structures to deal with them, in ways that would have been impossible without the guidance from the international tribunals.

International courts face two specific challenges that domestic courts do not normally encounter: legitimacy and enforcement. The ICC and the tribunals for Yugoslavia (ICTY) and Rwanda (ICTR) dealt with the first challenge by trying to be "truly independent and fully international in origin and operation". This is part of their attempt, as Victor Peskin explains in his "International justice in Rwanda and the Balkans", to set themselves apart from the victors' justice meted out by the Allies after the Second World War.

Web of influence

For enforcement, these courts inevitably rely on state co-operation from interested outside governments, from the states on whose territory crimes were committed, or indeed from the states in whose name they were committed. That, Peskin points out in his scholarly yet readable account, has created a complex web of mutual influence between the tribunals and international and domestic actors.

International pressure is critical to success, Peskin considers. It was the threat by the United States to withhold assistance to Serbia that prompted successive governments to step up co-operation with The Hague. The EU's refusal to let Serbia advance in its bid to join the Union was another form of pressure.

From studying the cases of Rwanda, Croatia and Serbia, Peskin concludes that co-operation with international justice will rarely happen in the absence of "decisive international community intervention" - yet such outside intervention also has its limits, especially when powerful domestic forces are mobilised in opposition to the tribunals.

The most spectacular result of pressure on Serbia was the arrest and eventual transfer to The Hague of Slobodan Milošević, the first sitting head of state since the Nuremberg trials to be called before an international court to face justice for war crimes. But his trial was a fiasco, dragging on for four long years, delayed by a court decision to allow Milošević to represent himself, and by numerous absences owing to illness, only to end abruptly when the former Serbian strongman died in detention in March 2006.

Judith Armatta, a lawyer, reporter and human-rights campaigner, has written a detailed and thorough account of the trial that is certain to answer more questions than any lay reader is ever likely to have. As a record of the proceedings, and of the substance of Milošević's presumed crimes, "Twilight of impunity" is invaluable.

International justice in Rwanda and the Balkans: virtual trials and the struggle for state co-operation

By Victor Peskin (296 pages)
Cambridge University Press, €25

Twilight of impunity: the war crimes trial of Slobodan Milošević

By Judith Armatta (576 pages)
Duke University Press, €30

CATCHING KARADŽIĆ

Nick Hawton's "The quest for Radovan Karadžić" is a ground-level exposé of the almost complete cluelessness of the Western spy services that were in charge of hunting the Bosnian Serb wartime leader and indicted war criminal.

At a time when Bosnia and Herzegovina was under the control of tens of thousands of NATO troops (replaced in 2004 by EU peacekeepers whose numbers have now dropped to around 1,600), hundreds of intelligence operatives were unable to pinpoint Karadžić's whereabouts.

To make up for the failure, NATO and EU peacekeepers engaged in theatrical, pointless raids on the Karadžić family home in the ski resort of Pale, outside Sarajevo; there are some truly farcical scenes in this book, written by the BBC's correspondent in Bosnia and Serbia.

Karadžić was finally arrested in 2008 on a city bus in Belgrade, where he had been living under an assumed identity.

The quest for Radovan Karadžić

By Nick Hawton (240 pages)
Hutchinson, €15