

Interview

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CONFIDENCE IS THE KEY TO COOPERATION

Vladimir Vukcevic *War Crimes Prosecutor of the Republic of Serbia*



The main point is that crimes were committed in the territory of the former Yugoslavia, up to Dayton mainly in the territory of Croatia and Bosnia and Herzegovina, and after Dayton mainly in Kosovo. Without cooperation with the Croatian and Bosnian judiciary we cannot get valid evidence upon which we can build the cases.

Since July 2003, when the War Crimes Prosecutor's Office was established – which many both among the experts and the broader public saw as unnecessary – this institution has come from denial to approval and general support, which is confirmed also by recent opinion polls. It became clear, recently also said the President of the Supreme Court Vida Petrovic-Skero for *Pravda u tranziciji*, that prosecutors and judges who work in the building in the Ustanicka street "have demonstrated their competence and their resolve to reach the highest standards" in order to make possible trials in front of the domestic judiciary.

Vladimir Vukcevic, the first person of the Prosecutor's Office, recalls the times when the Assembly of Serbia assigned him War Crimes Prosecutor of Serbia.

- I was elected by parliamentary decision in July 2003, that was the session of the Assembly during which Kori Udovicki was also elected. I accepted this post at a moment when I was the first deputy of the Prosecutor of the Republic, which is in fact the main operative post of the prosecution in Serbia. I came to this post not due to party connections – I am not a member of any political party, according to law we also cannot be party members – but according to my previous work results. Until that time I had already been working on some known cases, for instance the indictment for Maka's group, which was later accepted also in the Special Prosecutor's Office for Organized Crime, after the Act on Organized Crime was passed. Here is also the indictment for the traffic accident in the Terazije Tunnel, when I managed to change the practice according to which such a criminal act could be a result of exclusively intentional fault, if the person is drunk when driving. I proved in this concrete case that the enormous speed was the reason to qualify the act as possible intention. I became prosecutor after working on the investigation in the case "Sjeverin" with the investigating judge Vucko Mircic, which resulted in one of the first indictments for war crimes upon which, after an excellently conducted trial, the council of Nata Mesarovic later on rendered the verdict.

When you were assigned, two years ago, the atmosphere in the society was not exactly in favor of establishing a specialized institution to deal with war crimes.

- At that time there was no political will and consensus for the prosecution of war crimes, that is for sure; the contrary was the case: there was resistance, the public opinion was still thinking that the Serbs were attacked, that we led a defensive war and that all those who took part in it were patriots. Here one cannot oversee also the huge campaign in the media and manipulations which accompanied all this, particularly the famous TV news at half past eight, in which only Serb victims were presented. The image that the Serbs have of themselves is that they are a chivalrous people and the majority of the people could not suppose that the war was waged in their name by a big number of criminals, organized by the authorities to kill and plunder. Hence, at the moment when I accepted this post I did so also because of the fact that the only alternative, if we do not want to organize trials, is The Hague Tribunal. This Tribunal conducts trials in Sierra Leone, in Rwanda, in countries which after all – without intention to underestimate anyone – are behind us. We are a European country in which there are able people, judges and prosecutors, prepared for such work, who by vocation are democrats, who saw what was going on. My first challenge was to form a team of prosecutors, in parallel to forming a team of judges which will grip on the most serious crimes and who will demonstrate to both The Hague and the international and domestic public, that we are capable and prepared to face the problem of war crimes.

Witnesses of events in Kosovo

More and more often there are even members of the regular police forces who are coming to us, they ask for certain anonymity and in fact they confess to us, they have the need to speak of what happened.

Some of them keep talking for hours, they want to disburden themselves, they do not want to be accomplices in committed crimes in which they did not participate. A big number among them is still having doubts whether or not to appear as witnesses. Some have agreed, and this helped us very much in the case Batajnica, so that we came to a number of our people who were there and who refused to take part in crimes, and who are testifying to this effect.

How did you choose the team of your deputies?

- I spent more than thirty years in the judiciary, in the prosecution, and I know the complete image of all the prosecutors' offices in Serbia, and all the deputy prosecutors. All my deputies today are persons whom I know, and the majority was also working with me, gave me support, and it was natural to find my deputies within this circle. The exception is Dusan Knezevic from Novi Sad (who is younger, the others are mostly of my age) who dealt with the case of the Vukovar crime in the court of Novi Sad and I was very pleased with the way he did that. He accepted the offer, and I assigned him.

Ovcara was the first case to be dealt with in the County Court's War Crimes Council. All the observers, domestic and international, as well as experts and participants in the proceedings, evaluated that the trial was conducted correctly and excellently. How many cases, apart from Ovcara and the trial for the crime in Zvornik, are in the War Crimes Prosecutors' Office?

In the case Ovcara a total of 21 persons stood trial, and up to now in this Prosecutor's Office we dealt with 46 persons, not including a certain number of military cases which we inherited after the military courts were abolished. Apart from Ovcara, we have the case Zvornik, which is the first case that was transferred to a national judiciary in the region. The Hague Tribunal transferred this case to us when investigation was going on in regard to three suspects for the crime in Zvornik, and after one year of investigation we identified seven perpetrators. Indictments were brought against them, and the trial against six of them has just started, because one accused passed away in the meantime. However, this is not the end and I want to stress: in none of our cases, not even for Ovcara, is the list of persons for which we are interested completed. By the very nature of the cases, a big number of persons are involved in these criminal acts and we keep getting new information and the list of those who were direct participants in war crimes is growing. In the case Scorpios we hold five suspects, and the sixth – whom we have also identified – is arrested in Croatia, and proceedings against him are conducted there, and the seventh is still at large. Apart from these cases, we have the case Batajnica: around 900 bodies which were transported to Serbia were found in Batajnica, and they are the consequence of crimes in Kosovo. In this case we have nine suspects, all of them were members of the police force. We have been working on this case from the very first day of the establishment of the Prosecutor's Office, and until now some 200 people were interrogated. We had also proceedings against Nebojsa Minic, who was arrested in Argentina, who in the meantime passed away there, but he was not the only one to take part in this crime, some other people around him were also involved.

Considering the time that elapsed since the crimes were committed – Ovcara, for instance, is a crime from the end of 1991, and Zvornik from 1992 – how do you collect relevant information and evidence and how much are you assisted by other organs, first of all the Ministry of Interior of Serbia?

- This is primarily our work, although I cannot say that the police do not help us. They have done an impeccable work every time that somebody had to be arrested, in the case Scorpios, and the case of the Zvornik group, and in the case Ovcara. However, I assess that they still do have big problems within their organization. Although it was planned that the department dealing with crimes gets a much better status within the Ministry of Interior, this did not happen. They have problems with premises and staff, the number of persons engaged is not sufficient, they are not even financially motivated. Apart from technical problems, there are also other, psychological ones, it is not easy to prosecute one's own colleagues for war crimes. In order to motivate the police for such a job, the state must provide the conditions. I personally am an optimist, recently I met with the Minister of Police, Dragan Jovic, and I think that we share the line of thinking, the way we identically see this problem. Everything that we then agreed upon was realized and I hope that in the near future everything planned for this department will also be realized.

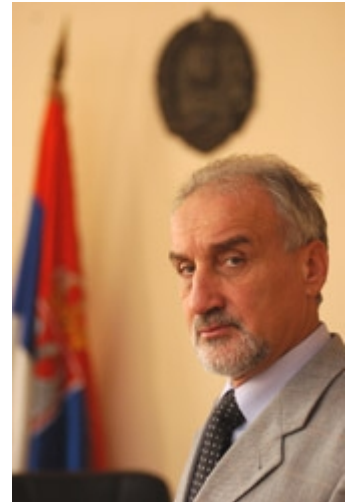
To what extent is the cooperation with non-governmental organizations of help to the Prosecutor's Office?

Their assistance is very important. I underline particularly the role of the Fund for Humanitarian Law and Natasa Kandic, which began to deal with the issue of war crimes at a time when there was no political will to prosecute crimes, and this Prosecutor's Office did also not exist. Non-governmental organizations gave support to the Prosecutor's Office from the moment it was established, which was certainly

important for dealing with these cases.

In a great number of cases the cooperation between the judiciaries of countries in the region is necessary.

- Regional cooperation is absolutely necessary. It is essential that the crimes were committed in the territory of the former Yugoslavia, until Dayton mainly in the territory of Croatia and Bosnia and Herzegovina, and after Dayton mainly in Kosovo. Without cooperation with the Croatian and Bosnian judiciaries we cannot collect valid evidence, upon which we can build the cases. Therefore we made certain steps and, with the crucial assistance of Minister Rasim Ljajic and his Ministry we have signed memoranda on cooperation. The agreement on cooperation of our prosecutor's offices with the Croatian State Attorney is already completely in function, we have constant communication with them. Their prosecutors were coming to us because of the "case Lora" and we gathered in our Prosecutor's Office all witnesses with whom they wanted to have talks. In fact, their prosecutors were interrogating these witnesses in our presence. The Ministry of Interior and the Ministry of Justice were helpful in the next phase, they provided for the complete logistics so that the state would back up the witnesses, its citizens, who went to testify on Lora in the County Court of Split. We are helping others, too, for the time being they help us less. Until now we were relying for help much more from the Hague Tribunal and UNMIK in Kosovo, with which the cooperation is also improving. As it is known, we as a state cannot act in Kosovo, but with them and The Hague Tribunal we made strategic breakthroughs, they enabled my deputies to go there and interrogate Albanians, witnesses to events which are interesting for our investigations. We are very much interested in cooperation with UNMIK, but at the same time we are asking to see – having in mind the pogrom on March 17 last year – what they have done, and we also ask for our more active participation in these trials. It is not necessary that we go there and represent the indictments, but we do ask that in Kosovo, too, those who are guilty for what happened and for the crimes over Serbs also stand trial.



How much is interstate legal cooperation hampered by the fact that although it is possible to use The Hague evidence, it is still not possible to use evidence collected by another state in the region? Are there talks held in this regard?

- This is a matter for the respective ministries. It would be good if it were possible to mutually use the collected evidence, but for the time being this is still impossible. It is of great help that changes of the law make it possible to use the evidence of The Hague Tribunal, in many cases this is of immense importance. When it comes to cooperation with Croatia, though, it has to be stressed that we have given our complete investigation material to their State Attorney for the Davidovic case and the Scorpions case, the film of the crime and all statements. It is up to them to make use of it, if they can, in the trial against Davidovic, but I see that they were very satisfied with what they got from us.

A few months ago the initiative to establish possibilities for mutual extradition of war crimes suspects and accused among the states of former Yugoslavia failed. What is your standpoint in this regard?

- This is the issue of citizenship, all modern states forbid by their regulations, most often by the Constitution, the extradition of their citizens to other states, and the relevant European convention which deals with this does also not allow for extradition. However, this is a problem which we must solve, for instance through transfer of cases. If, for instance, Croatian organs initiate proceedings against a Serb which is accused for war crime, and this Serb is in Serbia, they should give us all they have in this case, so that we can put him on trial here. For this we need certain mutual confidence, and I do not see why somebody should not have confidence in this Prosecutor's Office, if The Hague Tribunal does. Also, I will give to my colleague, State Prosecutor Mladen Bajic, all they should need, as I did for Davidovic, since the accused has dual citizenship. The example of Scorpions illustrates clearly this problem which is actually an artificial one: we have four of them on trial here, and they have only him, although there were even indications that Davidovic will come to Serbia and surrender to us, which did not happen. Through a transfer of the case this could be overcome, although in this regard there are certain procedural limitations, because if for a crime the possible sentence is more than ten years, the case cannot be transferred, so this case, too, must be solved accordingly. Hence, citizens cannot be extradited, but the case can be transferred.

Frameworks for justice

It is our obligation, both moral and professional, nowadays and in the future, to bring to justice professionally and conscientiously all those individuals who in the past war and in armed conflict have disgraced the reputation of their state and their people violating all rules of warfare, who made a mockery of humanity and the essential human right, the right to life, so that in legally conducted trials they would get adequate sentences. Thus we would offer the victims of these misdeeds at least a partial satisfaction, we would remove the feeling of guilt and condemnation from the people and the state as a collectivity, and we would demonstrate to the international community our ability for cooperation.

For all these there are both international and domestic legal frameworks, and I believe also political and public will. International legal frameworks for conducting war crime trials are: international conventions – Geneva Convention of 1949 with Additional Protocols, Convention for the Prevention and Punishment of the Crime of Genocide, Statute of the International Criminal Tribunal for former Yugoslavia and parts of the Rules of Proceedings and Evidence of the same body. Domestic legal frameworks consists of: Basic Criminal Code, Criminal Procedure Code, Constitutional Charter of Serbia and Montenegro (Art. 16), Act on Cooperation with the Hague Tribunal, certain military and police decrees and Act on the Organisation and Jurisdiction of State Bodies in Proceedings against Perpetrators of War Crimes.

The War Crime Prosecutor's Office, but also the Special Department of the County Court and the Special Prosecutor for Organized Crime, raise much public attention because of their salaries, which are bigger than the salaries in the rest of the judiciary. Still, the impression is – according to what the most recent opinion polls say – that your salaries are now less topical, and that the citizens are increasingly recognizing the need to face the past and to prosecute perpetrators of war crimes. Do you feel these changes in the Prosecutor's Office and in everyday work?

- Much has changed since we started our work. There are a big number of those who participated in events, particularly in regard to Kosovo, where we have witnesses of some events come to us. We, namely, cannot guarantee safety to these witnesses, this institute of witness protection has not yet been established and we cannot expose them, without their will, to such dangers. All this, however, shows that there had been a change in the conscience of the people.

And with regard to salaries: there was such outcry because of our salaries, and my salary is now the same as it was when I was elected, in July 2003. Neither I nor my deputies have ever asked any question in this regard, because we did not come here because of the salary, but because of the challenge. The main motive was to show that both the judges and prosecutors in Serbia are capable and prepared to face the fact that our citizens did commit crimes during the war and that we are ready to put the perpetrators on trial.

Tatjana Tagirov