

Sexual Enslavement in the War in Bosnia and Herzegovina and Its Links to the Contemporary Concept of Trafficking in Persons



Ivana Radovic

December, 2020

published by

BYRN

Table of contents

Introduction	3
Trafficking in human beings for the purpose of sexual exploitation	4
Trafficking in human beings for the purpose of sexual exploitation in Serbia	5
Conflict-related sexual exploitation	6
Sexual slavery in the war in Bosnia and Herzegovina	8
Common characterises of wartime sexual slavery cases	16
Involvement of war criminals in trafficking in human beings after the war	18
Conclusion	22

Introduction

Among the horrors and atrocities of any war, sexual violence has a specific role. Forbidden by international humanitarian law, sexual violence is a tactic and weapon of war affecting primarily women, in addition to violence and devastation that generally come with any war. As Gay J. McDougall, UN Special Rapporteur put it in her 1998 report:¹ “while the prosecutorial framework exists, and has existed since before the Second World War, there has been a troubling scarcity of prosecutions with respect to acts of sexual violence committed in armed conflict.” Before the Yugoslav wars of the 1990s, war-related sexual violence had been rather overlooked and rarely discussed outside feminist circles, as it seemed to be effectively irrelevant. The Yugoslav wars took place in Europe in the time of technological peak of traditional media, for which reason it was extensively reported on. Under such circumstances, sexual violence that occurred in the wars in former Yugoslavia drew large global attention. It coincided with the interest in and focus on sexual violence against women of the second-wave feminism, because feminists from the whole world worked hard on not letting sexual violence in these wars be neglected or side-lined. As a result, we now have interesting and rich practice of the International Criminal Tribunal for former Yugoslavia (ICTY) in prosecuting war-related sexual violence. Also there is the practice of domestic courts, plenty of documents, standards and guidelines on how to prosecute such cases, reducing as much as possible re-victimisation and re-traumatisation of victims.

In this paper, I am going to look into the practice of ICTY and courts in Bosnia and Herzegovina and Serbia with regard to the cases that are qualified or actually amount to sexual slavery in the war in Bosnia and Herzegovina. Many women were raped in the wars in Croatia and Kosovo as well, but cases of sexual slavery have not been officially documented there. This is because of the characteristics of warfare in these territories and the absence of “rape camps”. However, any repeated rape or gang rape within detention facilities and camps during war could be observed as a sort of sexual slavery as the captors and rapists are practically masters of life and death of their prisoners, or, as the Slavery Convention puts it, “[exercise] any or all of the powers attaching to the right of ownership”. The cases of sexual enslavement in the war in Bosnia and Herzegovina will be observed in the context of human trafficking for the purpose of sexual exploitation, since these two phenomena have many common characteristics, from their definition and manifestations, to judicial treatment and perpetrators’ defence. In the end, three cases of war criminals who were later convicted for human trafficking for sexual or labour exploitation in Serbia and Bosnia and Herzegovina will be presented.

¹ UN Sub-Commission on the Promotion and Protection of Human Rights, *Systematic rape, sexual slavery and slavery-like practices during armed conflict: final report / submitted by Gay J. McDougall, Special Rapporteur*, 22 June 1998, E/CN.4/Sub.2/1998/13, available at: <https://www.refworld.org/docid/3b00f44114.html> [accessed 6 November 2020]

Trafficking in human beings for the purpose of sexual exploitation

Trafficking in human beings is a widespread phenomenon today and is considered to be present in every country in the world. Its most prevailing form is trafficking for the purpose of sexual exploitation – popularly known as ‘sex trafficking’, with women constituting the majority of victims.² Although it is often discussed as a modern-day phenomenon, it actually drew global attention more than hundred years ago, when the International Agreement for the Suppression of the “White Slave Traffic”³ was adopted and subsequently modified and supplemented with another international instrument of the same title signed in 1910⁴, as well as the International Convention for the Suppression of Traffic in Women of Full Age adopted within the auspices of the League of Nations in 1933.⁵ These are the first international instruments which dealt with this issue and were passed in response to growing migration of people, including unaccompanied ‘white’ women, who were believed to have been deceived or forced into sex work against their will. The UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) of 1979 requires from its signatories to suppress trafficking in women and exploitation of prostitution of women.

With regard to Global North, trafficking in human beings for the purpose of sexual exploitation had not been considered a matter of greater concern until the end of the 20th century. The fall of the Berlin wall in 1989 brought deep and far reaching changes in the former Eastern Bloc. The collapse of the system made many people from East European countries try their luck in the West, part of the world previously closed to them they knew nothing about. Instead of stability, good jobs and generally better life, many women, especially young women, found themselves in forced prostitution or other situations of sexual exploitation, often in slavery-like conditions.

Such developments prompted international community to react and, as a result, in 2000 the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol or Trafficking Protocol)⁶ was adopted accompanying the UN Convention against Transnational Organised Crime. The negotiations of the Protocol started in 1998.⁷

The Palermo Protocol contains a contemporary and internationally binding definition of trafficking in human beings which, unlike the previous ones, is not reduced to sexual exploitation and women alone. It prohibits any form of exploitation, resulting from the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person. Such exploitation may include at a minimum forced prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. It is important that victim’s consent to the intended exploitation is irrelevant for qualifying some practice as human trafficking.

² UNODC Global Report on Trafficking in Persons 2018, United Nations Office for Drugs and Crime, United Nations, New York, 2018.

³ https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VII-8&chapter=7&clang=_en

⁴ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VII-9&chapter=7&clang=_en

⁵

https://ec.europa.eu/anti-trafficking/legislation-and-case-law-international-legislation-united-nations/1933-international-convention_en

⁶ <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

⁷ Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, *Travaux Préparatoires*, <https://www.unodc.org/unodc/en/treaties/CTOC/travaux-preparatoires.html>

Trafficking in human beings for the purpose of sexual exploitation in Serbia

As one of the signatories of the Palermo Protocol, Serbia criminalised trafficking in human beings in 2003. However, the building of anti-trafficking responses in Serbia seems to be slow and rather reactive to pressures from the international community.

Serbia, as a republic of former Yugoslavia, did not technically belong to the Eastern Bloc and the surge of trafficking in human beings in the whole ex-Yu region has different causes and origin. Namely, former Yugoslavia was not closed to the West and its citizens were not heading to the unknown. The system of former Yugoslavia collapsed as a result of wars that followed its disintegration. Although there was no actual war in the territory of Serbia, it was waged from Serbia, and brought economic and social collapse, huge poverty and unemployment, rise in organised crime and general instability, prompting many people to migrate. Since possibilities for regular migration were rather limited, prospective migrants had to resort to irregular channels.

On the other hand, and to much more visible extent, Serbia became a destination country for women recruited in Russia, Ukraine, Romania, Moldova, Bulgaria. Women from Eastern Europe were coming to Serbia to work or ended in Serbia although initially promised to go to West Europe. Some of them knowingly chose sex work and were deceived about the conditions, while others were after other kinds of employment. Although not recognised as human trafficking, it had not gone unnoticed, although sex work was not – and is still not – a legal activity in Serbia. It was not rare at that time to see newspaper headlines and stories about ‘Russian’ women working as ‘dancers’, in spite of having university education, at obscure facilities in the suburbs of Serbian towns, but this was not considered to be a problem, but a subject of jokes.⁸

Unfortunately, the fact of Serbia being both a country of origin and destination in terms of trafficking in human beings long before it was officially recognized is not documented or supported with more than anecdotal evidence. It was the 1990s, when prevention of sexual exploitation of women – or violence against women in general – was not among the state priorities. For this reason, it may seem that ‘sex trafficking’ came to Serbia with democratic changes of October 5, 2000, and not before. It is interesting that the events and developments before 2000 are quite rarely discussed or even mentioned when discussing trafficking in human beings in our region, neither in public nor in professional discourses. However, sexual exploitation of women, which amounts to sexual slavery, was quite widespread especially in Eastern Bosnia at the beginning of the war. This territory was under control of Bosnian Serbs who had political, material and all other kinds of support from Serbia, and for years Serbia sheltered war crimes suspects.

⁸ <https://vukailija.com/tri-crvene>. For details, please see: ASTRA, Human Trafficking in Serbia 2000-20110, ASTRA, Belgrade, 2011. <https://drive.google.com/file/d/1W34SUKf435hEAScK5aPTBXt5PFOyHmdO/view>

Conflict-related sexual exploitation

From ancient times, women were victims of sexual violence during the time of armed conflicts. Ranging from rape to sexual slavery, such sexual violence was implied and until quite recently, it did not attract much attention. From the Abduction of the Sabine Women, where actual enslavement was legitimised through marriages, to the Old Testament and other religious texts, enslavement – including sexual enslavement of women, has been present throughout history. Before the war in Bosnia and Herzegovina, the most infamous example of conflict-related sexual slavery was the system of ‘comfort stations’ in the territory under Japanese occupation during the Second World War.

Comfort women in Japan

Between 1932 and the end of the Second World War, the Japanese Imperial Army and the Japanese Government forced over 200.000 women into sexual slavery in the comfort camps throughout Asia. These women and girls were recruited from Korea, China, Indonesia, the Philippines and other countries under Japanese control. The idea behind the system of comfort station was to provide Japanese soldier with ‘sexual services’ and thus prevent rape and sexual violence during war campaigns which damage the reputation of the conquerors, as well as health and disease control. Comfort women were recruited in various ways. Like in classical human trafficking for the purpose of labour exploitation, some, especially at the beginning, were aware that they would engage in sex work, but were deceived about the conditions, but unable to leave. Others were tricked with offers of jobs unrelated to sex work, i.e. in factories, restaurants, nursing jobs, etc. Many women were abducted, or taken from their parents and communities under threats or blackmail.⁹ Japanese Prime Minister offered an apology only 50 years later.

The 1949 Fourth Geneva Convention¹⁰ provides that women shall be especially protected in particular against rape, enforced prostitution or any form of indecent assault, considered to be attacks on their honour. The 1977 Protocol¹¹ also states that women shall be the object of special respect and shall be protected in particular against rape, forced position and any form of indecent assault. The words “indecent” and “honour” disappeared from the definitions of this type of crimes in later international humanitarian law documents, although they should be kept in mind as a potential reason why conflict-related sexual violence is among the most denied war crimes.

UN Special Rapporteur Gay J. McDougall defined sexual slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised [definition of slavery from the 1926 Slavery Convention], including sexual access through rape or other forms of sexual violence. Slavery, combined with sexual violence, constitutes sexual slavery.”¹² She stresses that the status or condition of being enslaved is what differentiates sexual slavery from other crimes of sexual violence, such as rape.

⁹ Carmen M. Argibay, Sexual Slavery and the “Comfort Women” of the World War II, 21 Berkeley J. INT’L L 375 (2003).

¹⁰

<https://ihl-databases.icrc.org/ihl/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>

¹¹

<https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=5FB5CC7AD1C3AAF7C12563CD0051E08C>

¹² Ibid, p. 9.

The Roma Statute of the International Criminal Court,¹³ adopted in 1998, contains definitions of a series of crimes of sexual violence, including rape, enforced prostitution, forced pregnancy, enforced sterilization and sexual violence. As far as sexual slavery is concerned, it shall have the following elements:

1. The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty.
2. The perpetrator caused such a person or persons to engage in one or more acts of a sexual nature.
3. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
4. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

It is interesting that Roma Statute's definition of sexual slavery put emphasis on commercial aspects of sexual exploitation instead of on exploitation itself. Consequently, many cases that have been qualified as sexual slavery – based on the combination of legal elements of slavery and of sexual violence – in relation to the war in Bosnia and Herzegovina would not be recognised as such under the Roma Statute.

The Statute of the International Criminal Tribunal for Former Yugoslavia (ICTY)¹⁴ lists both rape and enslavement as crimes against humanity, but not sexual slavery. However, the ICTY managed to find grounds to prosecute it as a crime against humanity. Its landmark judgment *Kunarac et al.* is the first judgment to treat sexual enslavement and rape as crimes against humanity. In the absence of definition of sexual slavery in international criminal and humanitarian law at that time, the ICTY made reference to numerous international instruments, including the 1926 Slavery Convention, the 1956 Supplementary Convention on the Abolition of Slavery, CEDAW, the Convention on the Rights of the Child, and the above-mentioned international convention addressing trafficking in women in the past.

According to ICTY, factors of sexual enslavement include, among others:

- Control of someone's movement;
- Control of physical environment;
- Psychological control;
- Measures taken to prevent or deter escape;
- Force, threat of force or coercion;
- Duration;
- Assertion of exclusivity;
- Subjection to cruel treatment and abuse;
- Control of sexuality;
- Forced labour.

With exception of assertion of exclusivity, all these factors are also present in trafficking in human beings for the purpose of sexual exploitation. For human trafficking, it is not necessary to use and exploit exclusively the enslaved person, but to organise sexual exploitation of such person by others.¹⁵

¹³ Roma Statute, Elements of Crimes, <https://www.icc-cpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/0/ElementsOfCrimesEng.pdf>

¹⁴ https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf

¹⁵ Kunarac et al. judgment, ICTY IT-96-23 & 23/1.

Sexual slavery in the war in Bosnia and Herzegovina

There are various estimates on the number of women and girls who experienced some form of sexual violence during the war in Bosnia and Herzegovina 1992–1995, ranging from 20,000 to 50,000. In addition to rape, in terms of conflict-related sexual violence, the war in Bosnia and Herzegovina is also known for “rape camps” and other forms of sexual slavery which sometimes involved effectively forced marriages, as well as significantly less examined forced pregnancy.

The cases presented below are observed based on the judgments of the ICTY, Court of Bosnia and Herzegovina and the War Crimes Department of the Higher Court in Belgrade. Although local courts in Bosnia and Herzegovina processed wartime sexual violence, the cases of sex slavery have not been found. It should be borne in mind that they are not examined in legal terms or in terms of the characteristics of the proceedings, but the judgments served as a source of information about the phenomenon and manifestations of conflict-related sexual slavery. It is important to note that many actual cases have remained out of the reach of international or national judiciary for various reasons, especially those that ended up in marriage between the victim and the perpetrator.

International Criminal Tribunal for Former Yugoslavia

Since its establishment in 1993, the ICTY carried out intensive investigations and prosecution of wartime sexual violence. Until September 2016 (the ICTY was dissolved on December 31, 2017 with its remaining functions being transferred to the International Residual Mechanism for Criminal Tribunals), 78 individuals, or 48% of all the accused, had charges of sexual violence included in their indictments. As a result, 32 persons have been convicted for their individual responsibility for crimes of sexual violence, while four of them were additionally found guilty for failing to prevent or punish the perpetrators of these crimes. Five persons had their indictments withdrawn, nine died prior to the end of their trial or before their transfer to the Tribunal, while 14 persons were acquitted of sexual violence charges.¹⁶

Although sexual violence, i.e. rape, is recognised as crime against humanity in ICTY Statute, the ICTY established jurisprudence recognising that various forms of conflict-related sexual violence, including rape, could be prosecuted as torture, persecution, and other inhumane acts under the crimes against humanity provision, as well as under the provisions prescribing other criminal offences, such as grave breaches of the Geneva Conventions. The ICTY also established that conflict-related sexual violence crimes are punishable under both commission and omission criminal liability and that both indirect and direct conflict-related sexual violence perpetrators can be held accountable.¹⁷

As ICTY states: “In a number of landmark judgements, the Tribunal advanced the development of international justice in the realm of gender crimes by enabling the prosecution of sexual violence as a war crime, a crime against humanity and genocide. Ultimately, rape ceased to be perceived as the unrestrained sexual behaviour of individuals and was recognised as a powerful tool of war, used to intimidate, persecute and terrorise the enemy.”¹⁸

ICTY landmark cases with regard to wartime sexual violence are the following:¹⁹

¹⁶ <https://www.icty.org/en/features/crimes-sexual-violence/in-numbers>

¹⁷ Jasenka Ferizović and Gorana Mlinarević, “Applying International Experiences in National Prosecutions of Conflict-related Sexual Violence, A Case Study of Application of the ICTY Law, Findings and Practices in Prosecution before the Court of Bosnia and Herzegovina”, *Journal of International Justice*, 18 (2020), pp. 325-348.

¹⁸ <https://www.icty.org/en/features/crimes-sexual-violence/landmark-cases>

¹⁹ Ibid.

- **Dusko Tadic** (ICTY IT-94-1) – the first international war crimes trial involving charges of sexual violence and first-ever trial for sexual violence against men;
- **Mucic at al.** (Zdravko Mucic, Hazim Delic, Esad Landzo) (ICTY IT-96-21) – milestone in international justice by recognising rape as a form of torture; further, Mucic as the camp commander was found guilty of these and other crimes committed by his subordinates; this is the first judgment in which suffering of two women raped in order to obtain information from them and to punish them for not providing information had a discriminatory purpose, that is, it was inflicted on them because they were women;
- **Furundzija** (ICTY IT-95-17/1) – The first at the ICTY case concentrated entirely on charges of sexual violence;
- **Kunarac at al.** (Dragoljub Kunarac, Radomir Kovac, Zoran Vukovic) (ICTY IT-96-23 & 23/1) – also dealing entirely with charges of sexual violence, this is the first judgment to treat sexual enslavement and rape as crimes against humanity;
- **Radislav Krstic** (ICTY IT-98-33) – the first judgment to establish a link between rape and ethnic cleansing.

In addition, in order to respond to specific needs of sexual violence survivors and reduce their re-traumatisation to minimum, the ICTY developed a number of innovative procedures, including special guidelines for the presentation of evidence, protective measures for vulnerable witnesses, and professional support and counselling. This includes Rule 96 of the Rules of Procedure and Evidence, which, *inter alia*, provides that corroboration of the testimony of a victim of sexual violence is not required. Also, according to this rule, evidence concerning the prior sexual conduct of the victim will not be admitted as evidence. Further, it sets rules regarding the evidence of consent and in what way non-consent may be proven (“when the victim: a. has been subjected to or threatened with or has reason to fear violence, duress, detention or psychological oppression, or b. reasonably believed that if the victim did not submit, another might be so subjected, threatened or put in fear”, *Kunarac et al.*). It is interesting that such ICTY position elaborated in the judgment in the *Kunarac et al.* case is often quoted and elaborated in discussions about the concept of consent with regard to trafficking in human beings.²⁰

Putting aside some obvious shortcomings and mistakes, compared with earlier track-record of international criminal and humanitarian law, the ICTY’s legacy with regard to wartime sexual violence and procedural protection of survivors is really substantial and invaluable. Especially innovative victim-protection procedures should be adopted by national legislations worldwide when it comes to the crimes of rape and other forms of sexual violence, whose victims are traditionally and routinely exposed to institutional harassment and traumatisation when seeking justice.

²⁰ E.g. UNODC Issue Paper: The Concept of ‘Exploitation’ in Trafficking in Persons Protocol, Vienna 2015; UNODC Issue Paper: The Role of Consent in Trafficking in Persons Protocol, Vienna 2014, etc.

Special War Crimes Department was established within the **District Court in Belgrade** (since 2010 Higher Court) in 2003, alongside the **War Crimes Prosecutor's Office**, to try and prosecute criminal offences defined as crimes against humanity and other rights guaranteed by international law under the Criminal Code of Serbia, as well as grave violations of international humanitarian law committed on the territory of former Yugoslavia from January 1, 1991 as provided in the ICTY Statute.

Since 2003 until the end of 2019, the War Crimes Prosecutor's Office brought indictments in 76 war crime cases, indicting 198 persons. During this period, 70 persons were convicted for war crimes and 52 acquitted.²¹ Of all prosecuted cases, only ten involved sexual violence, alongside other crimes from the jurisdiction of this Prosecutor's Office, while the only indictment that deals entirely with sexual violence was raised in 2018.²²

Although not qualified that way, one judgment contains the elements of sexual slavery.

The **War Crimes Chamber of the Court of Bosnia and Herzegovina** was established in 2005. Until the end of April 2019, it prosecuted 210 cases, which account for 41% of all war crimes cases prosecuted by the entire Bosnia and Herzegovina judiciary in the period between 1995 and end of April 2019. As of December 2018, the Court of Bosnia and Herzegovina completed proceedings in 203 war crimes cases against 321 defendants; 75 of these cases, involving 96 defendants, included crimes of sexual violence – 61 defendants were accused of rape, 23 of rape and other forms of sexual violence, while 12 defendants were prosecuted for crimes of sexual violence which did not include rape.²³ Seven defendants were accused of the acts which were qualified as or amounted to sexual slavery.²⁴

The case of *Kunarac and others*²⁵ was the first ICTY conviction of rape and enslavement as crimes against humanity. The three accused – **Dragoljub Kunarac**, **Radomir Kovac** and **Zoran Vukovic** were part of the Bosnian Serb forces' campaign against Bosniak civilian population in the municipality of Foca in the spring of 1992. After the take-over of Foca, Serb forces started arresting the local Bosniak population from that area. While men were detained in the local prison, women and children were kept on various locations (Buk Bijela, Partizan Sports Hall, High School, Karaman's house etc.), where they were exposed to constant rape and from where they were occasionally taken by soldiers to other places, private houses and flats to be raped and sexually exploited and abused in the most horrifying ways. In addition to being treated like slaves, these women were kept in terrible living conditions, without sufficient food, exposed to beatings, threats, humiliation and degradation. Any men were allowed to enter places where women were kept and just do whatever they wanted with them. Some of the women were as young as 12 and 15. Since none of them exercised any control of their lives, they all can be considered to be in slave-like positions. Some of the women were additionally displaced from the collective facilities and kept detained for days or months in private houses and flats and raped on a regular basis by men who took them,

²¹ Humanitarian Law Centre, Report on War Crimes Trials in Serbia during 2019, <http://www.hlc-rdc.org/?p=37339&lang=de>

²² Humanitarian Law Centre, Policy Paper: Prosecution of Crimes of Sexual Violence during Armed Conflicts before the Courts of the Republic of Serbia, http://www.hlc-rdc.org/wp-content/uploads/2019/12/Policy_paper_Prosecution_of_Crimes_of_Sexual_Violence_during_Armed_Conflicts_before_the_Courts_of_the_Republic_of_Serbia.pdf

²³ Jasenka Ferizović and Gorana Mlinarević, "Applying International Experiences in National Prosecutions of Conflict-related Sexual Violence, A Case Study of Application of the ICTY Law, Findings and Practices in Prosecution before the Court of Bosnia and Herzegovina", *Journal of International Justice*, 18 (2020), pp. 325-348.

²⁴ Ibid.

²⁵ ICTY 96-23 & 23/1.

including the three accused, or to whom they rented them. The accused on occasions kept some women exclusively to themselves, pretending that they were in a relationship. While being detained in those smaller facilities, they were also forced to do the cooking, cleaning and other household chores.

Kunarac was sentenced to the imprisonment of 28 years, Kovac to 20 and Vukovic to the imprisonment of 12 years.

Kovac was also convicted for selling two women for 500 Deutschmarks each to two Montenegrin soldiers who took them to Montenegro, where they were sexually exploited and forced to work as waitresses. One of them managed to escape, while the other – 12 years old – has not been heard of ever since. He also sold another woman for 200 Deutschmarks to another soldier and, as ICTY found, *de facto* military policeman in Foca, **Dragan Zelenovic Zeljo**, prosecuted separately.

Like in many similar cases that will be presented in this paper, the defence attempted to present the incidents of rape and factual enslavement as voluntary intimate relationships. Kunarac's defence even claimed that one of the witnesses actually seduced him.

In addition to Kunarac, Kovac and Vukovic, several other men were convicted either by the ICTY or by the Court of Bosnia and Herzegovina for participating in the enslavement and rape of women in Foca. Even when they have not been charged with enslavement, the fact that they knowingly 'used' women who were in slavery-like position – or in the language of the judgments, raped them – would make them the perpetrators of trafficking in human beings.

Dragan Zelenovic²⁶ admitted to his crimes and was sentenced to the imprisonment of 15 years based on a plea agreement. He was convicted for torture and rape, as he raped or participated in the gang rape of a number of women and girls, including a 15-year-old girl, and tortured them. In addition to abusing Bosniak women detained in various locations in Foca, after the take-over of Foca and the first arrests, while interrogating Bosniak women about the hiding places and weapons, he threatened them with murder and sexual violence if they lied and actually gang-raped with other soldiers several women they suspected of lying.

In view of traditional consideration of mitigating circumstances in the cases of sexual violence by national courts, it is interesting that ICTY expressly stated that the fact that Zelenovic has a wife and a son does not constitute a mitigating factor for the crimes he committed and admitted.

Another man convicted, *inter alia*, for the enslavement and rape women and girls in Foca, including a 12-year-old, together with Dragoljub Kunarac, is **Gojko Jankovic**²⁷, Serb paramilitary leader. His case was transferred from ICTY to the Court of Bosnia and Herzegovina, which sentenced him to the imprisonment of 34 years. With regard to the enslavement charges, he was convicted for keeping two minor girls in slavery for the period of one year. These girls had no control over their lives or any freedom of choice, although technically they could leave, and Jankovic and his co-perpetrators exercised all powers of ownership over them. They raped the girls on a regular basis and forced them to do household chores. Jankovic and Kunarac also changed their names and called them by Serbian names. One of the victims said at the trial that she was raped approximately 150 times during the war. One of the ways of making the enslaved girls obedient and cooperative was a threat that they would be otherwise brought back to the collective detention centres, actually brothels, where they would be raped by an indefinite number of soldiers. Jankovic's defence claimed that the girls were there voluntarily and even begged to be permitted to stay there. Further, he claimed that he and the girl he had been raping for six months were actually in love.

²⁶ ICTY 96-23/2.

²⁷ Court of Bosnia and Herzegovina, X-KRŽ-05/161.

The first case the ICTY transferred to the Court of Bosnia and Herzegovina was the case of **Radovan Stankovic**²⁸, member of the Miljevina Battalion and another man who participated in the enslavement and rape of women and girls in Foca, together with Kunarac. He was sentenced to the imprisonment of 20 years. Stankovic refused to attend the trial and in 2007 managed to escape from the prison in Foca, but was arrested in 2012. He participated in the establishment of a detention facility for women called “Karaman’s House”, also known under the name “brothel”. At least nine women and girls were held there, the majority of whom underage, even children. Stankovic was in charge of “Karaman’s House” and he had a main role in ‘assigning’ particular girls to the soldiers. He was raping several detainees himself and forcing them to work in and outside the facility for a longer period of time, while insulting and beating them. He kept in particular one girl in detention on several locations, during which time he was raping her, alone or in presence of other persons; the girl was also forced to cook, clean and do the laundry. Once, Stankovic raped her underage sister in front of her. The defence claimed that victims’ statements were ‘manipulated’ and ‘prepared’, and that the witnesses gave such testimonies “for the reasons of personal, political or emotional nature”. In deciding on the sentence, the Court of Bosnia and Herzegovina took the fact that he has a wife and three underage children as mitigating factor, at the same time considering the number of women who were sexually abused and their age, including the fact that some of them were between 12 and 16 years old, as an aggravating factor.

Nedjo Samardzic²⁹ was also prosecuted before the Court of Bosnia and Herzegovina for sexual slavery and sexual violence against women and girls in Foca. He was finally convicted to the imprisonment of 24 years. Samardzic was convicted for keeping Bosniak women and girls enslaved in “Karaman’s House” in Miljevina, together with Radovan Stankovic, torturing, raping and forcing them to work, as well as making them available to other soldiers to rape them. Further, he kept one woman and sexually exploited her for his own purposes. Here also the court of first instance weighted the fact that Samardzic had a wife and two children as a mitigating factor, at the same time considering the age and minority of victims to be the aggravating factor.

The Court of Bosnia and Herzegovina, in trying the cases of wartime sexual violence, usually apply all the rules established by ICTY. Especially with regard to the cases of sexual violence and enslavement of women and girls in Foca, the Court of Bosnia and Herzegovina relies and makes references to the *Kunarac et al.* case. However, the first-instance court acquitted Samardzic for unlawful detention as crime against humanity. Namely, he was indicted of having two underage girls kept detained in a flat where he raped them repeatedly. One victim testified that they had keys to the flat and that Samardzic ‘lived’ with the other girl, which the Court found “to imply a community of two people without duress”. The Court of Appeal overturned this finding and convicted Samardzic of sexual slavery for these acts, stressing that the lack of residence or obvious and constant disagreement throughout the sexual slavery cannot be interpreted as a sign of consent.³⁰

Ratko Bundalo, Nedjo Zeljaja and Djordjislav Askraba³¹ were convicted before the Court of Bosnia and Herzegovina, as participants in a joint criminal enterprise, for planning, initiating, inciting, assisting and committing persecution of the entire Bosniak population from the municipality of Kalinovik and neighbouring municipalities. They were sentenced to the imprisonment of 22, 15 and 7 years respectively. In the territory of their responsibility, Bosniak women were systematically raped in the primary school in which they were detained. They were raped by various soldiers of the ‘Serb Armed Forces’ whom some of the policemen responsible for guarding the prisoners were allowing to enter the school and rape women, and sometimes even watching such rapes. The women were not raped only in the place of their detention, but were sometimes taken out to other private premises for that purpose. In August 1992, members of the

²⁸ Court of Bosnia and Herzegovina, X-KRŽ-05/70.

²⁹ Court of Bosnia and Herzegovina, X-KRŽ-05/49.

³⁰ Combating Impunity for Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress and Challenges. An analysis of criminal proceedings before the Court of Bosnia and Herzegovina between 2005 and 2013. OSCE Mission to Bosnia and Herzegovina, February 2014.

³¹ Court of Bosnia and Herzegovina, X-KRŽ-07/419.

Foca Tactical Group, including Kunarac, took at least seven women, mostly underage girls, from the school and transferred them to Miljevina and Foca. Two of them were kept in sexual slavery there for a longer period of time. The court of first instance found Bundalo and Zeljalja responsible for this, but in the appellate process, Bundalo was acquitted of responsibility for sexual enslavement, while Zeljaja's actions were qualified as unlawful detention and rape, but not sexual slavery.³²

In the case of **Krsto Savic and others**³³, Krsto Savic Kico, commander of the Trebinje Centre of Security Services, was charged with participation in a joint criminal enterprise on the part of Serb forces, which included sexual enslavement of women by unidentified members of paramilitary groups in Kalinovik. The Public Security Unit of Kalinovik was under his jurisdiction. The crime of sexual enslavement refers to the above-described events in the primary school in Kalinovik, where imprisoned women were brutally raped, and younger ones taken to Miljevina, Foca, the Pavlovac farm and a summerhouse in the neighbourhood of Mjehovina, where they were raped.

For this reason, Savic was found guilty of persecution through sexual slavery by the court of first instance. However, the appellate court found that he could not be considered responsible for this count, as there was no link between what he did and the offence. For the remaining offences (murders, deportation or forcible transfers, detaining, torture and other inhumane acts), he was sentenced to imprisonment of 17 years.

Skocic³⁴ – Members of Serb paramilitary group “Simo's Chetniks” were accused before the War Crime Department of the Higher Court in Belgrade for blowing up a mosque in the village of Skocic in Eastern Bosnia in July 1992, the murder of 27 local inhabitants of Roma nationality and torture and rape of three women, two of whom were 13 and 15 years old on several locations until January 1993. The girls were kept effectively enslaved; they were forced to cook, clean houses, wash soldiers' uniforms and do whatever they were told under the threat of murder. At the same time, they were severely beaten, raped and sexually humiliated (e.g. made to dance naked in front of the soldiers, or watch each other being raped). There were three other girls that were kept under similar conditions who had been captured earlier in the war. Three of these six women married their captors. In a repeated trial, **Tomislav Gavric**, **Zoran Alic** and **Zoran Djurdjevic** were sentenced to the imprisonment of eight, five and eight years respectively, and this only for rape and physical abuse as crimes against civilian population, while the court found that the prosecution failed to prove that the defendants were responsible for the murders and demolition of the mosque.

It is interesting that six accused were acquitted in the first instance judgment in the repeated proceedings. With regard to sexual slavery, the court did not take into consideration victims' age, the fact that they had no liberty to consent their situation and that they were factually enslaved.

“In connection with the circumstances that the victims prepared food, made pancakes and doughnuts occasionally and nobody prohibited them to eat that food, that they did laundry for other persons, whereby it is logical that under given conditions they certainly had to wash their own clothes, and that they took care of the hygiene of the houses in which they were also staying themselves, it is the view of this court that there is no proof that such activities caused serious mental suffering.”

Josip Tolic³⁵ was accused and sentenced for participating, as a member of the Croatian Defence Council, in inhumane treatment and murders of Serbian civilians in detention facilities in Odzaci and Bosanski

³² Combating Impunity for Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress and Challenges. An analysis of criminal proceedings before the Court of Bosnia and Herzegovina between 2005 and 2013. OSCE Mission to Bosnia and Herzegovina, February 2014.

³³ Court of Bosnia and Herzegovina, X-KRŽ-07/400.

³⁴ K-Po2 11/14 War Crimes Department of the Higher Court in Belgrade of 16 June 2015, Po2 5/15 War Crimes Department of the Belgrade Court of Appeal of 28 March 2018 (second-instance), Po2 1/18 15 War Crimes Department of the Belgrade Court of Appeal of 13 February 2018 (third-instance).

³⁵ Court of Bosnia and Herzegovina, S1 1 K 013929 13 Krž.

Brod where he was a guard in the period between May and November 1992, as well as for coercing unlawfully detained Serbian women into sex. He was sentenced to the imprisonment of ten years by the court of first instance.

In the context of this paper, Tolic was found guilty of taking several Serbian women from the facility in which they were detained in July 1992 and bringing them to the flats where they were raped. It was not a gang rape, but Tolic and two other men (Ante Golubovic and Jurica Bozic, currently indicted before the Court of Bosnia and Herzegovina) would take one woman each. The victim stated that Tolic had been persuading her to have sex with him, threatening that if she refused, he would have her raped by ten soldiers, after which she 'consented'. She and other women were also required to clean the apartment in which they were raped. He was also going out with her, taking her to cafes and restaurants, to the swimming pool etc. Simulation of romantic relationship is not rare in slavery-like relationships both in the time of peace and war. Thus, it is not surprising that, in his defence, Tolic claimed that they knew each other from before and that they resumed their relationship when the war started, since she called him for help and he actually helped her and her family by taking them to a safe place. He said that they were actually dating, "there was love between them, that [victim's name] meant a lot to him, they were very close and they were planning a future together".

Mitigating circumstances in his case included the fact that he did not have previous convictions, that he is a family man and a father of two, one of whom is underage, that he helped certain detainees and that he showed remorse for everything he had done.

Dragan Nikolic Jenki³⁶ was convicted on the basis of plea agreement and sentenced to the imprisonment of 20 years. As a commander of Susica camp, the main detention facility for Bosniak civilians in the Vlasenica area, from the beginning of June until the end of September 1992, Nikolic personally removed or facilitated the removal of female detainees from the Susica camp, knowing that these women would be raped and sexually abused. The women, including girls, were raped by camp guards, special forces, local soldiers and other men who were allowed to enter the camp, at various locations, including the locations where these women were taken to perform forced labour. They were also exposed to humiliating sexual threats. In addition to charges of aiding and abetting rape, Nikolic was also convicted for murders and torture against other detainees, and the ICTY found that the detainees were treated rather as slaves than as inmates under his supervision. Although he was not charged with sexual slavery, the fact that the women were detained and without any control over their lives and that they were sexually abused and exploited by various men during their detention, this can be treated as factual sexual slavery regardless of legal qualification.

Radivoje Soldo³⁷ concluded a plea agreement and was sentenced to the imprisonment of five years for a crime that amounts to sexual slavery. Namely, in the period between the end of June and end of July 1992, in the municipality of Konjic, he, as a member of so-called Red Berets of the Republika Srpska Army (VRS), raped a Bosniak woman whom he taken from the police station in Nevesenje, unlawfully detained her in a bungalow in the tourist camp occupied by VRS members, where he kept her locked and under guard. He was violently raping her for the period of one month; he also forced her to clean his and the bungalows of others, clean their uniforms and footwear. During this period, she was abused, humiliated and raped by VRS soldiers and soldiers from Serbia on their way from the frontlines. He told her that he would let her live only if she got baptised and changed her Bosniak name into Serbian name.

Predrag Kujundzic Predo³⁸ was sentenced to imprisonment of 17 years (initially 22) for committing, inciting and assisting murders, sexual slavery ("by the use of force, he established exclusive right of ownership of the victim, control of her movement, psychological control and control of her sexuality"), rape, grave deprivation of physical liberty, persecution of non-Serbian civilian population and other

³⁶ ICTY 94-2-9.

³⁷ Court of Bosnia and Herzegovina, S1 1 K 018201 15 Kri.

³⁸ Court of Bosnia and Herzegovina, X-KRŽ-07/442.

inhumane acts in the territory of Doboј municipality since the summer of 1992 until the autumn of 1993 in the capacity of the commander of paramilitary unit “Predo’s Wolves”.

With regard to charges for sexual slavery, he raped a 15-year old girl and told her that from that moment on she had to do whatever he told her, otherwise he would kill her mother and sister. He kept her in sexual slavery for six months, sexually exploiting and brutally raping her and torturing her physically and mentally in countless ways. She was not kept in detention, but lived with her family, and ‘Predo’ would take her from her home and bring her back whenever he wanted. He ordered her to read the statement on the Doboј Radio that Muslims were to blame for the war and that they killed her brother, calling on them to accept Orthodox Christianity. She was forced to wear Serb Army camouflage uniform with a red beret and necklace with a cross. Without her or her parents’ consent he officially changed her name and had her personal documents made with that name, and required her to use that name at all times. He raped her himself, but also let other people rape her or, as he put it “to have some fun with her”. It was not possible to determine whether persons who participated in raping and enslaving this girl have been prosecuted.

Defence claimed that their relationship was consensual and that he helped her obtain new documents at her request, and that whatever she accused him of, he did not do it but another man. Defence also requested forensic examination of Kujundzic’s sexual functions, claiming that he was not physically capable of committing the said crimes, but no dysfunction was found.

Further, defence tried to question victim’s credibility by stressing that soon after the war she started her music career, without showing signs of depression or trauma, although it is not very clear what this should mean – that sex slavery did not happen or that its consequences are not serious.

Mitigating circumstances in this case included the fact that he did not have previous convictions and that he has a family and three children.

Sasa Baricanin³⁹ was sentenced to the imprisonment of 18 years for inhumane treatment of unlawfully detained Bosniak civilians in Sarajevo in July 1992, together with Veselin Vlahovic Batko (sentenced to 42 years in prison for his crimes in Sarajevo), aimed at inflicting grave physical and psychological injuries, robbing and killing three Bosniak civilians, members of one family. Further, he raped one female member of that family, whom he kept forcefully locked in one flat in Grbavica, during which period he enabled one unidentified person to rape her, too. He acted as a member of the forces of the Serbian Republic of Bosnia and Herzegovina.

While the victim was locked in the flat, she was cleaning and doing housework in order to “avoid more rapes”. She also testified that he acted as if she was living there voluntarily and that they were a couple.

The defence questioned why the victim did not report it earlier and that he was wounded three times, due to which he was declared incapable of work. He admitted accessory to killing the three persons, but asked that this ‘mistake of his’ should not be qualified as crime against humanity. He claimed that he kept her locked for her own safety and that sexual intercourses were consensual, although, in addition to circumstances under which the victim had no real possibility to go away, he was always carrying weapons with him. During this period, the victim did not know that her family was killed.

³⁹ Court of Bosnia and Herzegovina, S1 1 K 004648 12 Krž.

Common characterises of wartime sexual slavery cases

All cases that are in this paper considered to amount to sexual slavery have several characteristics in common, many of which apply on cases of sexual violence in the war of Bosnia and Herzegovina in general.

First, it is not known that anybody initially confessed these crimes.

Second, sexual exploitation rarely went alone; in most cases, it was combined with the labour exploitation of sexually abused women, who were required to clean, cook, do the laundry etc.⁴⁰

Further, at the time of prosecution, the defence usually insisted on victims' consent and on the fact that sex was not forced.⁴¹ Some even claimed that they were in a relationship with the victim⁴², that they helped the victim⁴³, especially in one-on-one cases, where the perpetrators sexually exploited one woman on a regular basis for his own purposes. Kunarac even claimed that the victim seduced him. The extreme outcome of this sort of sexual exploitation are effectively forced marriages between the rapists and victims. This served as defence in cases that were prosecuted, that is, a proof of consent and voluntariness, although it is claimed that many cases of this type of sexual violence have never been prosecuted because of such marriages, as victims were not ready to testify.⁴⁴

Many Bosniak women were forced to "get baptised" or their names were formally or informally changed into Serbian names.⁴⁵

Although these cases involve the gross forms of sexual violence against women, wherever it was possible, the courts weighted the fact that the perpetrator is a married family man and father as mitigating circumstances.⁴⁶

The defence usually tries to question victims' credibility, among others, by presenting their alleged promiscuity in the period before or after the offence as a proof of consent to the sexual act.⁴⁷ Thanks to the practice of the ICTY, questions about victims' previous sexual life are treated as unacceptable and are not allowed, which was adopted by the Court of Bosnia and Herzegovina. However, some researchers⁴⁸ claim that judges in Bosnia and Herzegovina fail to consistently stop such questions. Moreover, questions about victims' sexual behaviour in their later life are not forbidden in Bosnia and Herzegovina, which is also used to undermine victims' credibility, but also perpetuate the stereotypes about and expectations

⁴⁰ E.g. Tolić, Baričanin, Soldo, Court of Bosnia and Herzegovina, Skočić, War Crimes Department of the Higher Court in Belgrade.

⁴¹ E.g. Tolić, Kujundžić, Court of Bosnia and Herzegovina, Skočić, War Crimes Department of the Higher Court in Belgrade.

⁴² E.g. Tolić, Janković, Court of Bosnia and Herzegovina, Skočić, War Crimes Department of the Higher Court in Belgrade.

⁴³ E.g. Tolić, Court of Bosnia and Herzegovina.

⁴⁴ E.g. Skočić, War Crimes Department of the Higher Court in Belgrade.

⁴⁵ E.g. Kujundžić, Janković, Court of Bosnia and Herzegovina, indirectly Kunarac, ICTY.

⁴⁶ E.g. Tolić, Kujundžić, Stanković, Court of Bosnia and Herzegovina.

⁴⁷ E.g. see: Clare McGlynn, Rape Trials and Sexual History Evidence: Reforming the Law on Third Party Evidence. *The Journal Of Criminal Law* 2017, Volume 1, Issue 85.
<https://journals.sagepub.com/doi/pdf/10.1177/0022018317728824>

⁴⁸ Kyle Delbyck, Mitovi o silovanju na suđenjima za ratno seksualno nasilje: prebacivanje tereta sa preživelih na počinitelje, *Trial International*, 2017.

from victims, that is, victims are expected to be “ideal victims”, to look and act certain ways, otherwise their suffering is not recognised.⁴⁹

The fact that the victim did not report the crime immediately after the event or at least immediately after the war, or that she did not say anything about her experience of sexual violence to her in-mates at the detention camp, is often used by defence to prove that what happened was not sexual violence.⁵⁰ When forced to admit that ‘contacts of sexual nature’ occurred between the perpetrator and the victim, they claim that it was not violent, but consensual, and that victim’s allegations result from her being manipulated by the prosecution – within the broader discourse of presenting war crimes prosecutions as a witch-hunt targeting perpetrator’s specific nation – or from her inherent evil.⁵¹

⁴⁹ E.g. Kujundžić, Court of Bosnia and Herzegovina.

⁵⁰ E.g., Baričanin, Court of Bosnia and Herzegovina.

⁵¹ E.g. Skočić, War Crimes Department of the Higher Court in Belgrade, Stanković, Court of Bosnia and Herzegovina.

Involvement of war criminals in trafficking in human beings after the war

There are a few cases that can be documented of the involvement of persons convicted or mentioned in relation to the war crimes in Bosnia and Herzegovina in trafficking in human beings. It is interesting that judgments for one crime do not mention convictions for the other, although courts as a rule list previous convictions in their judgments and their absence or presence weigh as mitigating or aggravating factor when deciding on the sentence.

Stanko Savanovic/Kojic

Stanko Savanovic called **Geza** was arrested in 2003 as a member of criminal gang of Milivoje Zarubica, nicknamed Puja, known at that time as “the Balkan Master of Human Trafficking” and subsequently sentenced by the court in Bologna to the imprisonment of 17 years which he never served.⁵² Zarubica and his accomplices were recruiting women, mostly from Moldova, tricking them by attractive job offers that did not involve sex work and, via Serbia, transferring them to Italy where they were forced into prostitution. For many, Serbia and not Italy was the actual final destination, while others were sexually exploited in Serbia during the transit period. In Serbia, Zarubica and his gang were never convicted for human trafficking because it was not criminalised at the time of the offence. Instead, after a lengthy process, members of this gang were sentenced to symbolic prison sentences for a variety of offences, including facilitation of prostitution, rape, documents forgery, deprivation of liberty.

Supreme Court of Serbia sentenced Savanovic in second instance to the imprisonment of five years⁵³. Together with another man, known under the name of Aleksandar Putnik, he was guarding and raping several girls awaiting their transfer to Italy in a flat in one Belgrade suburb. At some point, only one girl was left, and Savanovic and his accomplice raped her in the cruellest possible ways. After two weeks, the girl tried to escape through the window using bed sheets as a rope, but she fell and hurt herself severely. She managed to crawl to the street and ask for help. She still suffers consequences of spine injury sustained from jumping through the window. Aleksandar Putnik was at large at the time of Savanovic's conviction and separate proceedings were conducted against him

Savanovic denied all the charges, trying to explain, among other things, that he could not have raped anybody because of the injuries he sustained in the war that made him sexually incapacitated. The Court did not accept such defence.

Changing his family name from **Savanovic** to **Kojic**, in 2010 Geza found himself in detention in Bosnia and Herzegovina. In 2012, together with Franc Kos, Vlastimir Gorijan and Zoran Goronja, he was convicted before the Court of Bosnia and Herzegovina for **genocide in Srebrenica** and sentenced to the imprisonment of 43 years, subsequently reduced to 32 by the appellate court.⁵⁴

After the conquering of the town, it was not an easy task for Serbian forces to organise the killing of Srebrenica men and boys because many refused to take part in it. However, Savanovic was among those who took part in the killings.

⁵²

<https://www.astra.rs/serbian-boss-of-prostitutes-sentenced-to-17-years-of-imprisonment-zarubica-exploited-hundreds-of-women-now-on-the-run/>

⁵³ Vrhovni sud Srbije, KŽ 11656/04.

⁵⁴ S1 1 K 003372 10 Krž - Kos Franc i dr.

When listing previous convictions of Stanko Kojic/Savanovic in the judgment for genocide, the Court of Bosnia and Herzegovina only makes reference to the conviction for murder attempt in Bijeljina, but not the one from Serbia relating to human trafficking offences.

In his defence against the crime of genocide, Kojic pointed out to his difficult childhood and growing up in a family that suffered mental illnesses. He added that he was not aware of the rules of how prisoners of war should be treated because he never served the army. It is interesting that in the proceedings for human trafficking offences presented as facilitation of prostitution, rape and deprivation of liberty, the Supreme Court in Serbia weighted the fact that he was of poor health for which reason he was retired early as a mitigating circumstance when deciding about the sentence. His poor health was the reason for him not to attend all the sessions before the court of Bosnia and Herzegovina. It is also interesting that Kojic's counsel in his closing practically used the defence of "what they did to us", stressing that the attack on Srebrenica was a result of previous attacks on surrounding Serbian villages from Srebrenica. He also questioned the number and status of murder inhabitants of Srebrenica.

In 2014, Kojic was questioned about his **alleged involvement in the murder of journalist Milan Pantic**. Milan Pantic was a journalist working for the Vecernje novosti daily who particularly reported on crime scenes in Jagodina. He was killed on 11 June 2001 near his home and his murderers were never found. Nearly 20 years later, this case is still unresolved.⁵⁵

Sasa Lipovac

In 2010, **Sasa Lipovac** was arrested in Georgia on his way to Moscow based on the wanted notice from the Court of Bosnia and Herzegovina issued as early as in 2008. He was travelling back from Azerbaijan where he spent a couple of years as a part of the group involved in human trafficking for the purpose of labour exploitation at more or less state-sponsored construction sites. The victims of this exploitation were construction workers of various profiles, some 700 of them, mainly from Bosnia and Herzegovina, but also from Serbia and North Macedonia, employed by Dutch-Azerbaijani company SerbAz of ownership somewhat linked to high ranking Azerbaijani officials, as well as managed by Bosnian citizens Milan and Bozidar Vucenovic. The workers were engaged in the construction of the Exposition Centre near the airport, a shopping mall near the Central Bank, the Butu Palace, all in Baku, as well as the Olympic Centre in Mingachevir.⁵⁶

The workers had to hand over their documents upon arrival, allegedly for work permit procedures, but did not have them back until their departure; for the whole time, they worked illegally, on tourist visa, and such position made them vulnerable to threats of being reported to immigration authorities. The workers were accommodated in overcrowded collective accommodation facilities, 12 to 24 of them per room, with no hot or drinking water and insufficient number of bathrooms. Their freedom of movement was limited – not allowed to move from the accommodation – while guarded by uniformed guards.

The houses had very strict rules which violation implied serious fines, beatings or physical violence. They were fined for improperly made beds or the usage of toilets more than twice during working hours. Further, they were faced with physical violence, threats, relocation to other sites or other accommodation; sometimes, in cases of disobedience, which were increasing with deterioration of working and living conditions and non-payment of wages, they were placed in some sort of solitary confinements, where they were severely beaten.

⁵⁵ <http://www.politika.co.rs/sr/clanak/288469/Hronika/Novo-ime-u-istrazi-ubistva-novinara-Milana-Pantica#!>

⁵⁶ Information used for the SerbAz case are based on OCCRP series Slaves to Progress <https://www.occrp.org> and ASTRA – Anti Trafficking Action which provided support to the workers after their return to Serbia.

They had to work for 12 or more hours, without safety-at-work equipment and were not paid for overtime. They had to work also in the case of illness. There was no organised medical care; one worker died of heart attack, while two identified workers got sick and died as well.

The workers were not paid initially agreed wages; at first, they were receiving half the amount and in the last five months, they received nothing. They had no possibility to return home on their own, in particular having in mind their irregular migration status, lack of money and the fact that they were owed their wages which in case of early departure they would certainly not get.

When the story became public thanks to one local NGO and OSCE, the workers were quickly returned to the Balkans, having to sign before departure that the company fulfilled all obligations towards them and owed them nothing.

This is the largest case of human trafficking for the purpose of labour exploitation in the Balkans. After years of denying jurisdiction and trying to cover up the case – not least for its complexity and absence of co-operation from the Azerbaijani side, in 2014 the Court of Bosnia and Herzegovina confirmed the indictment against Bozo Vucenovic, Rade Ljubicic, Sasa Lipovac, Safet Turanovic, Rasim Turanovic, Nenad Tatic, Slavisa Kojic, Zoran Dmitrovic, Zoran Kalajdzic, Novak Ciric, Nedeljko Vucenovic and Miroslav Vucenovic for the offence of organised crime in connection with trafficking in human beings. In 2019, they were acquitted and the case is currently in the process of appeal.⁵⁷

Sasa Lipovac was a man close to director Bozo Vucenovic, responsible for receiving and accommodating workers. He was the one to take away workers' passports at arrival. The workers claimed that he was very cruel to them. Lipovac was also superior to the so-called janitors who managed accommodation facilities and took care of the discipline there, punishing workers and proposing punishments to Lipovac.

In February 2017, Lipovac concluded a plea agreement with the Prosecutor's Office, admitted his guilt and was sentenced to the imprisonment of one year and nine months.⁵⁸

Wanted notice against Lipovac was issued in 2008, when he failed to appear at the trial before the Supreme Court in Banja Luka in the second-instance proceedings relating to the war crime against Bosniak civilians in the village of Liskovac near Gradiska, for which Lipovac was initially acquitted in 2007. In 1993, Lipovac, together with four other persons came to Bosniak village of Liskovac in the night of August 1-2 and in a horrifying way killed three members of the Rizvanovic, wounded a four-year old and raped a twenty-year old woman multiple times; after that, they shot in head a woman and her son in another house. For these crimes, Lipovac was sentenced to the imprisonment of 10 years and six months.⁵⁹ His previous convictions were taken as aggravating circumstances. His youth at the time of the crime and the fact that he is married and a father of two children were considered to be mitigating circumstances.

S.K./Aleksandar Putnik

One of the victims of human trafficking for the purpose of labour exploitation in Azerbaijan, tortured among others by Sasa Lipovac, and identified as trafficked person in Serbia, was a man who presented himself as S.K. There was also a wanted notice issued against him from Serbia, but apparently nobody noticed as he travelled from Serbia to Bosnia to Azerbaijan. While receiving assistance as a victim of trafficking in Serbia, at the moment of applying at the police for humanitarian temporary residence to which foreign victims of trafficking are entitled, it was discovered – rather by accident – that S.K. was **Aleksandar Putnik**, a run-away co-perpetrator of Milivoje Zarubica and accomplice of Stanko Savanovic/

⁵⁷ Court of Bosnia and Herzegovina, S1 2 K 008235 20 KŽ - Vučenović Božo i dr.

⁵⁸ Court of Bosnia and Herzegovina, S1 2 K 024459 17 K.

⁵⁹ Supreme Court of Republika Srpska, 118-0- KŽk-07-000 004, 8 June 2010.

Kojic whose crimes were described at the beginning of this section. Born in Bugojno, this man used several names – pretty much a combination of Aleksandar, S., K. and Putnik.

S.K. has not been prosecuted for war crimes. However, the name like his was mentioned by Dzevad Doslic, witness in the Brdjanin case before the ICTY. As a former prisoner in the Warehouse of Territorial Defence in Donji Vakuf and the Vrbaspromet camp in the summer of 1992, Doslic mentioned S.K.'s name among the most brutal ones in beating and torturing Bosniak prisoners. It is interesting that S.K. did not serve compulsory military service because of "psychological problems".

Transcript of the trial of Radivoje Brdjanin before ICTY

26 February 2003

Q. Of all the soldiers which would come to this camp, who amongst them you thought were the most brutal that you recognised?

A. The most brutal man, I told you already, both in the first and the second camp, the most brutal men were those I had already enumerated. If you want me, I can tell you their names again.

Q. If you would be so kind to do so.

A. All those who were in the first camp, who I named as the most brutal were also in the second camp.

Q. So you saw them at both camps? That's the important point I want the Court to understand.

A. Yes, that's true.

Q. And amongst them was Svemir and Ilic, right?

A. Correct, yes. They are two separate men, Svemir is one man, Jordan Ilic is the second man. There is the third man Krivosija, there was also Vojo Ilic, then Balaban.

Conclusion

While numerous acts of sexual violence in the war in Bosnia and Herzegovina were prosecuted and punished, many were not. Some of the alleged perpetrators died before the end of the trial. Sometimes these incidents were dropped out of the indictments in order to focus on 'larger' crimes, as in the case of Milan Lukic. However, many names can be read in victims' testimonies and transcripts of the trials of men who were raping sexually enslaved women, but they have never been brought to justice.

Putting aside some obvious shortcomings and mistakes, compared with earlier track-record of international criminal and humanitarian law, the ICTY's legacy with regard to wartime sexual violence and procedural protection of survivors is really substantial and invaluable. Especially innovative victim-protection procedures should be adopted by national legislations worldwide when it comes to the crimes of rape and other forms of sexual violence, whose victims are traditionally and routinely exposed to institutional harassment and traumatising when seeking justice.

Perpetrators, but also official structures, deny, minimise or relativise the commission of sexual crimes in war, including where the magnitude of the crime could not simply pass unnoticed. Such crimes are seen as especially dishonourable and improper and do not fit into the heroic discourse. Still, before the arrival of the ICTY, none of these crimes were really condemned officially or prosecuted locally.

Although women and girls were principal victims of sexual violence in wars in Bosnia and Herzegovina, Croatia and Kosovo, many incidents of sexual violence against men and boys have been recorded, documented and prosecuted alongside other war crimes. However, sexual violence against men is still a taboo, both on the part of rapists and victims. This is because the emphasis is still on the part of "sexual" and not on "violence". The factor of abuse of person's sexuality in this sort of violence is important, because it is unnecessarily humiliating and damaging, but as long as it is primarily connected with sexual identity and sexual behaviour, and not with violence, victims will be ashamed to talk about it, to report it, to persist in their fight for justice, because their "contribution", "enjoyment", "consent" will be questioned.