

Acquittal of Miodrag Andric

Following the acquittal on 17 March 1999, of Miodrag Andric, who was being retried for war crimes against the civilian population, the Office of the High Representative would like to express its recognition of the fairness with which the proceedings were conducted and the progress achieved in the field of inter-entity judicial cooperation.

The original trial of Mr. Andric took place at the end of 1996 and throughout 1997 and resulted in his conviction and sentence to twenty years imprisonment on 22 August 1997, for war crimes against the civilian population, specifically the killing of three civilians from the Rogatica area in June 1992. The conviction was largely based on the unchallenged testimonies of two eye-witnesses as the defence was unable to accurately and completely present its case due to the rejection of an essential request to hold a re-enactment of the crime in order to test the testimonies of the two eye-witnesses. The rejection by the Court was based on Article 239 (2) of the Criminal Procedure Code at the time which stated that "the re-enactment could not be done in such a manner as not to violate public peace, order and morality or endanger human life or health".

An appeal was filed with the Federation Supreme Court, which annulled the first instance verdict and ordered that a retrial should take place on the basis that there were significant discrepancies in the evidence collected and examined at the first instance trial. The retrial commenced on 28 April 1998 and shortly afterwards, on 20 May 1998, a Memorandum of Understanding on Inter-Entity Judicial Cooperation was signed by the Ministers of Justice in both Entities. The Memorandum of Understanding is designed as an interim measure to facilitate cross-Entity legal procedures, including the hearing of witnesses in the other Entity and the staging of re-enactments. Based on the Memorandum, the Sarajevo Cantonal

Court was able to accept the defence motion to carry out a re-enactment in the Republika Srpska and also to hear essential witnesses proposed by the defence in Rogatica, with the consent of the President of the Rogatica Basic Court. A second re-enactment also took place, at the request of the Sarajevo Cantonal Prosecutor's Office for further clarification.

The procedure in the retrial was exemplary in its compliance with international standards and the European Convention on Human Rights and represents an important step forward in inter-entity judicial co-operation and the establishment of the Rule of Law in Bosnia and Herzegovina.