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Breaking the Circle of Impunity: Carla Del Ponte Ending the Cat-and-Mouse Game of International Justice

Christophe Solioz

The book *Madame Prosecutor* portrays Carle Del Ponte's life struggle against the culture of impunity and reveals her true mettle as a prosecutor. (Publishing of the English version 2009: Carla Del Ponte in collaboration with Chuck Sudetic: *Madame Prosecutor: Confrontation with Humanity's Worst Criminals and the Culture of Impunity*, New York: Other Press. Originally the book as first published in Italian in April 2008 as *La Caccia* by the Feltrinelli publishing house.) This memoir firstly highlights the complex interplay between justice and politics and, secondly, strongly denounces those who have been blocking the arrest of indicted war criminals and access to key documents and sensitive archives. Although a memoir, overall the tone of the book is quite objective. Nevertheless, based on a few highly selective extracts, most of the international press have presented the book inaccurately. Conceived as a review essay, this article attempts to provide an insight into the internal logic of the Del Ponte memoir, underlining Del Ponte's true personality, some decisive episodes and crucial issues of transitional justice.

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Summary

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■ The long-awaited arrest on 21 July 2008 of Radovan Karadžić – the former Bosnian Serb leader facing charges of genocide, crimes against humanity and war crimes – and his first appearance before the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague on 31 July 2008 prove in Carla Del Ponte's own eyes that her "political strategy was the correct one, and that everything depended on Belgrade's goodwill".¹ It also, of course, represents a pivotal development in Serbia's relationship with the ICTY. As with those of Slobodan Milošević and Ante Gotovina, the Karadžić case illustrates the centrality of state cooperation with the tribunal for the arrest and transfer of war crimes suspects. It turned out that the respective soft power of the European Union (EU) and the ICTY, combined with major changes in Serbian politics – particularly the political will of Boris Tadić to reconnect Serbia with the legacy of Zoran Đinđić – were instrumental in ending the impunity of key heads of states and war criminals.

Undoubtedly, Karadžić's trial represents a huge challenge for the ICTY. Up until now, the ICTY's results may be seen, on the one hand, as partly unconvincing: Milan Babić committed suicide in custody, prime suspect Slobodan Milošević died in Scheveningen after what was overall an unsatisfactory four-year trial, and the Kosovo Liberation Army commander Ramush Haradinaj was acquitted after the judges noted prosecution complaints of witness intimidation throughout the trial. But, on the other hand, the ICTY has obtained many significant results: From the tribunal's start in 1993 until the day of Del Ponte's departure at the end of 2007, the tribunal indicted 161 persons; Del Ponte signed 62 war crimes indictments; and between 1999 and mid-August 2007, 91 accused had been taken into custody. Beyond just the numbers, the achievements are undoubtedly significant: *firstly*, the ICTY gained international standing and legitimacy; *secondly*, it won its 'trials of cooperation' (this term is explained below) with the targeted states in the former Yugoslavia; and, *thirdly*, most war-crimes suspects were brought, if not to justice, then at least to court during Del Ponte's tenure. Here, she emphasises the fact that

1 *Carla Del Ponte*, 'J'ai côtoyé la souffrance encore vivante', »Le Temps«, 11 October 2008, p. 12 (trans. by C.S.).