



EXPLAINING THE POLITICS OF COMPLIANCE AND AD HOC JUSTICE IN SERBIA AND CROATIA

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Abstract

This thesis attempts to explain the erratic record of compliance with EU and US demands for ‘full cooperation’ with the International Criminal Tribunal for the former Yugoslavia (ICTY): where both Serbia and Croatia sometimes complied, regularly stalled and often resisted ICTY demands. Further, protracted delays and outright resistance was often exercised in the face of—or in spite of—EU membership conditionality as well as US financial assistance and sanctions. The period of assessment is post-2000, after the fall of both the Milosevic regime in Serbia and the Tudjman regime in Croatia. The key research questions are: How do we best explain the changing pattern of ICTY cooperation and compliance in Post-Milosevic Serbia and Post-Tudjman Croatia? How was it that governments sometimes complied, while at other times resisted cooperation with the ICTY?

The Serbian and Croatian cases provide a challenge for conventional IR assumptions regarding the practice of political influence (international theory), the meaning of political compliance (conceptualization) and the study of political action (methodology). Each of these theoretical dimensions is discussed in the opening chapters for the purpose of developing better analytical tools to study influence-making and compliance in international politics. Subsequently, the story of ICTY compliance in Serbia and Croatia is then explored in empirical chapters which identify political facets involved in the making of ICTY justice and ICTY compliance.

Chapter two starts the theoretical discussion by addressing the study of influence in international politics. After critiquing conventional approaches in IR and compliance theory, the Aristotelian notion of *phronesis* is proposed as a way to reconfigure scholarly understandings of influence practice in international politics. A phronetic approach is then presented which analyzes influence not via *a priori* and *ex ante* theory but rather through a multidimensional and temporal approach. To elaborate this conception, a triad of strategic calculation, identity politics and temporality is set out to approximate the varied factors which make the processual dynamics of influence complex in international politics.

Chapter three then discusses the importance of compliance conceptualization, where ‘compliance’ is argued to be a malleable and interpreted concept, a “conceptual variable”. A further triangular framework is presented which analyzes

'compliance' through the interaction of norm formulation, executing practices and status ascription. In this way, the politics of compliance conceptualization is likened to a 'language game,' where actors interpret and contest the meaning(s) of 'compliance' with reference to particular norm formulations and concrete political happenings. Finally, regarding methodological approach, the third chapter also discusses how the notion of *phronesis* can be used to inspire an inductive form of process tracing that traces the development of cases diachronically, as opposed to causally, to study the meaning(s) of 'compliance' by way of a *conceptual pathology*.

The empirical portion of the thesis (chapters four, five and six) examines the politics of ICTY 'cooperation' and 'compliance' in Post-Milosevic Serbia and Post-Tudjman Croatia. Chapter four surveys, first, the origins and function of the ICTY, to identify normative issues which have made the ICTY the subject of controversy. The role of great power politics is emphasized vis-à-vis the performance of ICTY justice, noting the significance this has had on the legitimacy of the ICTY and the need for a subsequent regime of political conditionality.

Separate country studies are then performed (chapters five and six) which analyze the history of ICTY conditionality and 'cooperation' in Serbia and Croatia. Particular extradition crises in each country are studied. Events before, during and after select crisis points are reconstructed, in a post-mortem fashion, to get a picture of how the politics of ICTY cooperation and compliance evolved in practice. The aim being twofold: (1) to reconstruct how varied factors of political influence (e.g. strategic calculation, identity politics and temporality) came together over time; and (2) to examine how the interpretation of 'compliance' evolved and was sometimes contested. The country studies rely upon printed sources, expert interviews and participant observation. The printed sources comprise the media archives of Serbian-language, Croatian-language and English-language news agencies, publications of governments and EU institutions, historical texts and biographies on the history of the ICTY, international treaties and statutes, court transcripts of the ICTY, as well as publications by non-governmental organizations and/or research institutions.

The findings of the empirical chapters reveal a complex sequence of events, influences and interpretations which frustrate *a priori* explanations (e.g. incentives trump) of Serbian and Croatian compliance. Further, an added conceptual dimension of compliance politics is brought to light vis-à-vis the struggle over compliance meaning(s), and the role authority played in the determination of ICTY 'cooperation'. Finally, it is observed that the general pattern of 'cooperation' with the ICTY was more stable once governments in Serbia and Croatia succeeded in framing ICTY compliance less as a matter of 'justice' and more as a 'patriotic sacrifice' necessary for the project of European integration.

Nikolas Milan Rajkovic completed, with distinction, his M.A. in International Relations and European Studies at the Central European University, Budapest, Hungary. He was given both the Outstanding Academic Achievement Award and the Academic Pro-Rector Award for the highest class standing in the Master programme. In 2008, Nikolas was nominated for the Wildenmann Prize of the European Consortium for Political Research, for the best academic paper given by a young scholar at the ECPR Joint Sessions.