

## Why war crimes trials are worth the effort

5 October 2015

A four year trial in Stuttgart costing millions of euro and a court that, on issuing its oral judgment, complains that German law is not set up to deal with such crimes: This is the “FDLR trial” held before the Higher Regional Court of Stuttgart, the trial of two Rwandans accused of carrying out grave crimes in Eastern Congo. The Court found that they were the political leaders of one of the many militias in Eastern Congo committing murder and rape, and had commanded the *forces démocratiques de libération du Rwanda* (FDLR) via satellite phones, text message and email. The Court sentenced the first defendant to thirteen years in prison for aiding war crimes and leadership in a foreign terrorist organization and the second man to eight years’ imprisonment. Much of the debate on the case centers around two questions that are banal and yet also fair: Was it worth it? And why in the world does a German court have to deal with war crimes in distant Congo?

Germany was one of the driving forces behind the establishment of the International Criminal Court in The Hague in 2002 and is a strong supporter of the global prosecution of crimes against international law. It’s not just about atonement or revenge for the worst crimes imaginable. Backing international criminal law is more about recognizing that a peaceful, democratic and socially just society can only be achieved if affected societies make serious efforts to address the consequences and effects of dictators and mass crimes.

That’s why Germany did more than just support the Hague Court and also went further, establishing its own Code of Crimes against International Law in July 2002. This was done to live up to the promise to collaborate and undertake specialized work with other authorities to counter this kind of macro-criminality. For the first years the law never found any application. Then came the present case, which the German prosecutors had to deal with anyway since the culprits were acting from within Germany. It would, of course, have been good if the German authorities had managed to prevent their actions early on.

Lengthy proceedings for crimes with a foreign element are common in Germany; the trials of drug and stolen car dealers often go on for years, presenting great difficulties when it comes to collecting evidence in Bulgaria, Belarus and Turkey. It seems that German prosecutors and judges as well as the wider public have accepted these kinds of cases – which is odd since they are generally a lot less serious than cases concerning crimes against international law, such as crimes against humanity and war crimes which the international community (and, as a result, Germany) have classified as crimes against the global community of the gravest order.

After the successful introduction of the legislation, there was a need for a well thought-out practice of investigations and court procedure that would meet German criminal procedure standards. Nobody is claiming this will be easy. But should victims of Congolese massacres and women who’ve been raped really count for less in the German court system than car insurance companies facing big financial losses? A polemic approach, I know. To put it a more pragmatic way: the 390 days of proceedings in the FDLR trial bring up a whole range of problems: victims of rape with no real access to justice and hearsay evidence in the context of one of the world’s longest lasting and biggest armed conflicts. There is no perfect, conclusive,

comprehensive response to crimes of the dimension seen in the Civil War in the African Great lakes region. But doing nothing would be the worst possible option. Even if the recent trial seems like a small gesture, and even if there are many obstacles, it is still a path worth pursuing.

This is important with regard, for instance, to Syria: German prosecutors should continue to collect witness testimony for potential future cases. This would send an important signal to Syria and beyond: war criminals should not get to enjoy impunity and freedom of movement here in Europe.