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“Bringing back images”:

*The Discursive Representation of Audiovisual
Documents in the Outreach Programme of the
International Criminal Tribunal for the former
Yugoslavia.*

Anastasia Kriachko

Master of Arts MIREES
Interdisciplinary Research and Studies on Eastern Europe

AWARDED MASTER THESIS

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Awarded Master thesis
in
A Film Journey Through Former Yugoslavia and its Demise

Supervisor Prof. Ana Devic

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FOREWORD

The International Master in Interdisciplinary Research and Studies on Eastern Europe (MIREES) was launched in 2004 at the School of Political Sciences-Forlì Campus in cooperation with Europe and the Balkans International Network (EBIN). In 2008 it developed as a second cycle degree program, which currently delivers a joint MA awarded by the four full partner Universities of Bologna, Vytautas Magnus at Kaunas, Corvinus of Budapest and St. Petersburg State University, together with the universities of Ljubljana and Zagreb. The program is carried out with the additional support of the associate partners, as the MIREES International Alumni Association (MAiA), the Institute of East-Central and Balkan Europe (IECOB) in Forlì, the NATO Centre of Excellence for Energy Security in Vilnius, and the Institute for Democracy 'Societas Civilis' - IDSCS - in Skopje, and more recently enjoys the cooperation with the Visegrad Fund.

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All members of the MIREES, MAiA and IECOB network congratulate the authors on their achievements.

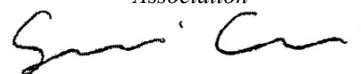
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List of abbreviations

ABiH	Army of the Bosnian Government
AV	Audiovisual
BBC	British Broadcasting Corporation
BCS	Bosnian/Croatian/Serbian
BIH	Bosnia and Herzegovina
BIRN	Balkan Investigating Reporting Network
CBS	Columbia Broadcasting System
EU	European Union
HINA	Hrvatska Izveštajna Novinska Agencija (English: Croatian News Agency)
HLC	Humanitarian Law Centre
HVO	Hrvatsko Vijeće Obran (English: Bosnian Croatian Army)
ICC	International Criminal Court
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for former Yugoslavia
ITN	Independent Television News
MICT	Mechanism for the International Criminal Tribunals
NATO	North Atlantic Treaty Organisation
NGO	Non Governmental Organisation
OSCE	Organisation for Security and Co-operation in Europe
OTP	Office of the Prosecutor
RECOM	Initiative for a Regional Truth Commission
RS	Republika Srpska (English: Serb Republic)
RTS	Radio Television of Serbia
SFRY	Socialist Federal Republic of Yugoslavia
TNT	Turner Network Television
UN	United Nations

Abstract

Audiovisual documents have become a pivotal part of every aspect of the International Criminal Tribunal for the former Yugoslavia daily work. Still, there is little information about how these audiovisual documents are used in order to justify the moral impact of the ICTY on citizens in the region. This thesis seeks to address this gap in the literature. Audiovisual documents promote a better understanding of the functionality of the institutions of transitional justice in the advancement of the rule of law. The use of these documents allows international tribunals not only to dispense justice, but also establish a historical record. Apart from analyzing the development of audiovisual documentation by the ICTY (through its Outreach Programme), this thesis traces the reactions of the general public in Serbia to the efforts of local non-governmental organisations and the ICTY itself to spread the knowledge about the work of transitional justice in the region through the use of audiovisual documents. The research does not seek to establish its own truth or confirm one of the multiple and conflicting truths surrounding the conflict and the break-up of Yugoslavia. Rather, it analyses the ways in which the past is represented by the ICTY in its documentaries, and displayed through public events, such as the conferences organised by the ICTY.

The thesis develops a unique theoretical approach inspired by the disciplines of transitional justice, media, and audiovisual studies. The theoretical approach emphasises the discursive representation of audiovisual documents produced and disseminated by the ICTY. Furthermore, it traces the visual images of the conflict in former Yugoslavia and the impact these images have had on the audience. This theoretical approach forms the basis of the method employed in this thesis, analytically separated in three parts. First, it investigates the actual narrative portrayed in the audiovisual documents, including all linguistic denotations and sentences that may create real-world effects. Second, the method identifies the context in which this narrative is conveyed, which is used by the filmmakers to create a specific effect. Third, the method allows for analysing the intertextuality of the audiovisual document, namely, the sequences of events that occur after the documentary is distributed to the public. This is done to establish the points of divergence and convergence between the audiences' and the documentaries' conceptualizations of truth about specific war crimes. Apart from relying on a range of secondary sources, I have conducted interviews with filmmakers and producers of the documentaries, as well as representatives of Serbian non-governmental organisations involved in publicising the activities of the ICTY locally.

The analysis conducted in this thesis reveals that the ICTY, through its Outreach Programme, has established itself as a conveyor of truth in the region, and Serbia, in particular. The truth about war crimes, presented as being proved "beyond reasonable doubt", is being continuously highlighted in the documentary film materials of the ICTY. The ICTY film

production reaches the audiences using the mainstreaming methods, similar to that of regular movies. The messages conveyed in the documentaries often clash with the hegemonic views on war crimes in Serbia, failing to make a significant impact on a wider section of the population. Nevertheless, I shall argue that these visual materials and the way they are presented have a potential of closing the gap between the currently competing discourses on war crimes in the region.

Keywords

Audiovisual documents, transitional justice, ICTY, Outreach Programme, Serbia.

*“...Images of terror—used responsibly—can foster a climate in which
terror is no longer tolerated.”*

Ashraf Rushdy, Exquisite Corps, 2000

*“We would like to contribute to the process of facing the truth, which is sometimes so
painful that people, consciously or perhaps unconsciously, avoid it [...]*
Will the eyes of the victims finally close when justice is done or t
hey will never close?”

Branko Todorović, Chairman Helsinki Committee
for Human Rights in Republika Srpska

Introduction

The study of images and the use of images as a tool that can have tremendous social, economic, and political consequences in particular, is now gaining momentum. Despite the introduction of audiovisual (AV) documents as a political and artistic instrument since the 19th century, and despite their profound effect on how we cognitively process the world ‘out there’, surprisingly little has been written on how these documents are to be studied in the social sciences. Recently, however, this has changed: a wide variety of approaches, having emerged as a result of the positivist debate around the concepts that were traditionally thought of as obsolete,¹ irrelevant and even containing the possibility of diminishing the social sciences in general, is now making a comeback. One area where images have had a major impact is the area of transitional justice.

Transitional justice addresses achieving justice during the transition from violence in the aftermath of massive human rights abuses. In order to deal with the war crimes of the conflict in the Balkans in the 1990s, the United Nations (UN) established a court of law in 1993 in The Hague, Netherlands.

The International Criminal Tribunal for the former Yugoslavia (hereafter referred as ICTY) was established to prosecute infringement of the Geneva Conventions, violations of the laws or customs of war, genocide, and crimes against humanity. Six years after the

1 The positivist debate originally started in the 1960s between the so-called critical rationalist (Popper) and the Frankfurt School (Habermas) on the state of science in German sociology. While related to the German debate, the positivist debate here revolves around the so-called great debate in International Relations after the 1990s on the epistemology of International Relations. Post-positivists, in a similar manner as Habermas, rejected the idea that social phenomena were to be studied as facts, essentially criticizing the ontological dualism, which the positivist scholars projected. While not unfamiliar in Political Science, the debate led to the creation of three new theories of International Relations: social constructivism, post-structuralism and feminism. Lene Hansen and David Campbell, who are cited in this thesis, belong to the latter two categories.

founding of the ICTY, the Outreach Programme was established in 1999. The Outreach Programme aims to inform the population about the work and achievements of the Tribunal.

Audiovisual documents in transitional justice promote a better understanding of the functionality of the institutions of transitional justice in the advancement of the rule of law. In the ICTY, the recordings of the testimonies of all 4,600 witnesses are part of the audiovisual collection. Interviews with suspects and experts, footage from mass grave exhumations and re-enacting of the past are all parts of visual imagery of the Yugoslav wars.

Audiovisual documents are a major part of the documentary funds circulated in transitional justice institutions. Audiovisuals represent a comprehensive account and concrete evidence of the court trials. With the use of these documents, international tribunals not only dispense justice, but also establish historical records (Steinberg, 2011). They are used as a tool in the struggle against public denials of war crimes, which became one of the biggest problems in the post-conflict former Yugoslavia. Audiovisual materials play the role of providing permanent proof of past events because, as time passes, there are fewer and fewer people who can provide personal testimony (Vukušić, 2013). The field of social research on audiovisual documents, apart from its practical archival function, is not well developed. There are European projects, such as Balkan's Memory which aim at consolidation of the audiovisual archives and media of the region through organising collaborative projects on preserving and promoting audiovisual heritage.² This results mainly in bureaucratic exercises (meetings, round tables, conferences) and can be used only instrumentally.

Through the images, the audience experiences the events of the past by means of 'audiovisual witnessing'. The audience has a feeling of greater control over events through imitative experience (Taussig, 1993). Sometimes experiencing through audiovisual documents is an opportunity to see more than one would in reality, where different conditions can significantly limit an observer's frame of view. For example, the participants of the events cannot see themselves and every aspect of their surroundings in the moment of event. In war torn regions such as the Balkans, holders of audiovisual documents possess the potential to influence societies that are unwilling to face the truth established by the judicial system.³ Serbia is one of these countries. The members of the Serbian political and intellectual elite directly opposed the founding of the ICTY as a legitimate institution of unbiased justice. Moreover, their perception of the truth seems at time incompatible with that of the Tribunal. Audiovisual documents may have the capacity to nudge general society towards the Tribunal's notion of truth if used properly. Many of the images became iconic and even world-famous and part of history by themselves rather than just an additional audiovisual recording.

From an analytical standpoint, it is absurd to view pictures and audiovisual documents as isolated objects that exist in a vacuum. Audiovisual documents have social value. Through their production, usage and distribution, audiovisual documents convince those directly affil-

2 For example the project Balkan's Memory (2012 - 2014), which was funded by the European Union. In reality the project focused on the practical issues and constituted only a first step, which showed the interest of participants to cooperate, but not in a sense of sharing the information and documents. Retrieved May 12, 2015, from: <http://www.copeam.org/activities/balkans-memory-preserving-and-promoting-audiovisual-heritage/>.

3 The word 'truth' in this thesis is not used as the objective fact, but rather as the subjective 'truth' that organisations, institutions and individual creates for themselves and thereby act upon. Whether this 'truth' is what has actually happened is less important.

iated with the justice system of the veracity of crimes. They become intersubjective elements open to society's interpretations. In other words, the key puzzle for practitioners and scholars alike is to understand the fluidity of audiovisual documents, how these documents' meaning can change from their initial production to the appropriation by the justice system, and, in the end, the general public's perception. To understand this, a sound theoretical approach must be developed which can holistically encompass both the effect that these audiovisual documents may have, and even more importantly, whether and how this potential effect is achieved.

Empirically, audiovisual documents are powerful evidence of the past, even more significantly when they concern times of conflict. Depending on their 'ownership' they can be misinterpreted or misused. It is often part of denial and ignorance of the events and atrocities of the past. These tendencies are still prominent in the countries in transition. In order to prevent misuse and misinterpretation, audiovisual documents should be studied, paying attention to the actors who use images, including individuals, states actors, the media, and institutions of justice. The difference between these stakeholders is that the status of 'owner' can give more authority and receive more trust from the audience. The case of the ICTY, which produces documentaries about the factual and legal findings of the Tribunal and informs the audience about its work, represents an illuminating example of interpretation of the audiovisual documents with the special purpose of conveying the truth. With this in mind, this thesis seeks to answer the following research questions:

The verdicts in the ICTY, although contested, sought to bring clarity and truth. How are audiovisual documents used by the ICTY in its Outreach Programme to disseminate the work of, and the truth established in, the Tribunal? How does the truth, established by the ICTY through its documentaries, clash with or change public opinion in post-conflict Serbia?

The ICTY Outreach Programme covers the whole territory of former Yugoslavia, nevertheless the task of this research is to trace the reaction of the Serbian general public to the efforts of local Non Governmental Organisations (NGOs) and the ICTY to spread the knowledge about the work of transitional justice in the region.

The research questions assume that audiovisual documents do not work in a vacuum, thus the analytical understanding of how audiovisual documents become an effective medium to diffuse the ICTY's message is a prerequisite for analysing and evaluating the effectiveness of developing an approach. Therefore this thesis develops a theoretical approach inspired by the disciplines of transitional justice, media studies and audiovisual studies. The theoretical approach investigates the discursive representation of the audiovisual documents produced and disseminated by the ICTY. It seeks to trace the image about the conflict in former Yugoslavia and the impact this image has on the intended audience. This theoretical approach forms the basis of the method employed in this thesis.

The method consists of three steps. First, the methodology allows for investigation of the actual narrative portrayed in the audiovisual documents, including all linguistic denotations and sentences that create a powerful effect. Second, the method involves identifying the context in which this narrative is conveyed. This involves analysing the narrative in light of the audiovisual instruments shown throughout the documentaries and used by the film-

makers to create a specific effect. Third, the method allows for analysing the intertextuality of the audiovisual document, namely the sequences of events that occur after the documentary is distributed to the public. This is done to establish points of divergence and convergence between the audiences' and the documentaries' notions of truth. Further elaboration of the method will come in a separate chapter.

Numerous and diverse audiovisual material covering the Balkan wars from 1990s to the 2000s is significant in its content. However, the material's accessibility has been limited, and it existed in a poorly developed informative context. Addressing this limitation, research includes multiple interviews and consultations, which were conducted with the representatives of NGOs in Serbia, legal experts working on the judicial aspect of transitional justice, specialists in audiovisual documents, and scholars whose work covers the issues of transitional justice.

The research does not seek to establish its own truth or prove one of the multiple-choice truths about the conflict and the break-up of Yugoslavia, but rather to analyse the way the past is represented by the ICTY in its documentaries. The thesis will unveil the relationship between the Tribunal and the wider audience. In order to have a better understanding of the film production of the Outreach Programme, all five existing documentaries were included in the analysis. The analysis of other activities of the Outreach Programme, such as the screenings of the documentaries and conferences is a part of the research conducted. The research will concentrate on the conferences called "Beyond reasonable doubt", organised by the ICTY together with the Humanitarian Law Centre (HLC), a non-governmental organisation based in Belgrade. An original feature of this research is the inclusion of the interviews with the members of the filmmaking crews. The timeframe of the research covers the period between the production of the first documentary "Justice at work",⁴ in 2001 and today (summer, 2015). The last documentary, "Crimes before the ICTY: Central Bosnia",⁵ was presented to the audience in 2015.

The analysis conducted in this thesis reveals the following findings: (1) The ICTY through its Outreach Programme has established itself as a conveyor of truth through historical linkages, spoken narrative, iconic images and narrative of success. (2) By distributing its message through audiovisual channels, the ICTY documentaries may achieve an effect comparable to the effects of popular mainstream cinema. (3) The message conveyed in the documentaries often clashes with mainstream views on war crimes in Serbia, failing to make an impact on a wider section of the population. (4) The ICTY fails to reach the segment of Serbia's society that these audiovisual documents could ideally reach. (5) The Outreach Programme has had some success in the sphere of information and education. The documentaries of the Outreach Programme have been recognized as an educational and training tool by institutions and universities in various countries.

The remainder of the thesis is organised as follows: The first section after the introduction (Chapter 1) will provide a literature review of existing research on the perception of the wars of the 1990s in the Balkans. The topic of transitional justice, with a focus on the ICTY and its Outreach Programme, in academic literature will be addressed in this chapter. As the

⁴ Retrieved 12 May, 2015, from: <http://www.icty.org/sid/9980>.

⁵ Trailer is available at the ICTY web site. Retrieved 12 May, 2015, from: <http://www.icty.org/sections/Outreach/Documentaries>.

research is based on the analysis of audiovisual documents, the existing studies on this topic will be outlined in the Chapter 1 as well. This sets the scope for the second part of the thesis (Chapter 2). Chapter 2 deals with developing a theoretical and methodological framework for the study of audiovisual documents in transitional justice and the broader discipline of the social sciences. Here the thesis draws upon recent developments in securitisation theory and speech act theory that show that social processes are reliant upon the spoken word as well as the context in which statements are uttered and the audience's reaction to that particular utterance. This theoretical approach is then applied to the cases of the ICTY and its Outreach Programme's documentaries. The methodological approach provides justification for the research design and the methods that were used to conduct the study, namely to analyse the transcripts from the conferences and documentaries.

In Chapter 3, the results of the research are presented, where it is shown how the Tribunal, through its documentaries and conferences, establishes itself as an authority, effectively becoming a 'conveyor of truth'. The presentation of facts is distributed through mainstreaming methods with the use of audiovisual techniques.⁶ This specific approach to the documentaries and their distribution has had a significant impact on the ICTY's, whereas in some cases, some segments of the public opposed the 'truth bearer'. The last section of Chapter 3 includes summaries of the interviews with the Outreach team, discussion of a selection of the documentaries, and analysis of the Outreach Programmes' conferences materials. The last section (Conclusions) provides a summary of the main findings and suggests further directions for research on this topic.

⁶ Mainstreaming method's here means creative and technical features used in films in order to make them simpler and more understandable for viewers.

Literature review

Systematic thinking about memories and dealing with the past is a well-developed area of knowledge. Considering the popularity of the topic of the Balkans among academics, the scope of the literature is very broad. Similarly well developed is the field of secondary sources on transitional justice and its institutions, which became a part of the narrative of international justice, especially since the 1990s. Much less attention has been paid to the impact of audiovisual documents on transitional justice, limited as it is by the studies on the role of media in wars. Therefore, conducting analysis on audiovisual documents in transitional justice is not a well-trodden path. However, scholars have implicitly touched upon themes that are related to the role of audiovisual documents in transitional justice and particularly in the ICTY by presenting visual evidence of the Balkan wars and the audience's perception of them. This review will trace the main development of studies dealing with transitional justice in the past and audiovisual documents being incorporated in the studies of international justice.

1.1 No one is forgotten, nothing is forgotten... How do scholars interpret the Balkans' way of dealing with the past?

This section of Chapter 1 will provide an overview of existing literature on the sensitive issues of dealing with the past. An extensive set of sources allows the thesis to define theoretical approaches and their implementation of the notion of collective memories, forms of denials, construction of memories and establishing a 'culture of lies'.

Historically, Russia has always been a role model for at least one country of the region: for Serbia. Serbia has existed as a state in the 20th century until 1919, and then again from 1991 to the present. Serbia's 'historical' love for Russia is a very loaded tool of cultural revisionism. This is why it is not a surprise that Serbian politicians reiterate the Russian state's strategy towards public memories, dealing with the past and taking responsibility for committed atrocities.

"No one is forgotten, nothing is forgotten" is a poem by Russian poet Olga Berggolts, which was written in 1959 for the memorial at the Piskarevskoye Cemetery in Saint Petersburg, Russia. Around 420,000 civilians and 50,000 soldiers died in Leningrad, as Saint Petersburg was known from 1924 to 1991, during the Second World War, and many are buried in Piskarevskoye Cemetery. Later the phrase became very popular and was used in different war memorial projects. At the same time, due to the instrumentalisation of historical

memories and the creation of a new Russian identity since Vladimir Putin became president, everything that related to the Second World War has acquired a different meaning.

The victory in the Second World War as well as other historical facts were completely reinterpreted and presented as one of the most uncontroversial contributions to world history (Dubin, 2004).⁷ According to the official version of the Second World War in Russia it is called the Great Patriotic War, the victor is the USSR, who liberated the occupied countries from fascism, while paying the price of millions of self-sacrificing Soviet soldiers. Russian Victory Day propaganda, updated in 2015, has been assigned the slogan, “remember everything and everyone”, now literally carried on the parades the portraits of those who participated in the war. But the showing of the soldiers’ faces does not assume responsibility for past events. Instead there is a denial of any miscalculation by Soviet politicians or guilt in mass deaths and the political repression that followed. This use of memories and reinterpreting historical facts by politicians in Russia shows how the sensitive issues of collective memories can be reinterpreted according to new political needs. The example of the Russian style of using propaganda to deal with the past show the tendencies of taking responsibility, reinterpreting facts, and admitting guilt can involve different actors: politicians, the media, intellectuals, artists and the wider public.

The notion of the ‘culture of lies’, proposed by Ugresic (1998), assumes that through the nationalist rewriting of the history of Yugoslavia the population was forced to forget their personal stories of life prior to the collapse of the state. People were convinced that each new lie would eventually become the truth, which in the future would give those who survived the moral right not to be ashamed. The inverse system of values, in which the lie becomes the truth, was accepted and even encouraged. Often the lie was introduced in the name of the homeland (Ugresic, 1998).

In confronting the past, the elites, the media and even the wider public in Serbia and other former Yugoslav states often behave controversially. Gordy (2013) defined two types of taking responsibility for events in the past: ‘forward-looking’ and ‘backward-looking’. If the first type presumes that the discussions of the past are efforts to develop a model of responsibility as active engagement, and backward looking considers responsibility as self-accusation. In this type, which has been spreading across the Balkans, the dominant political and media discourse protects national interests and points out ‘otherness’: the guilt of the other sides in past conflicts and their responsibility for crimes and political mistakes. Gordy’s research criticizes this position of denial, intentional forgetting and remembering non-existent issues, arguing rather in support of taking responsibility for the past and guilt. The rejection of crimes as a “part of national identity” is pointed out by various scholars (Campbell, 2002b; Gordy, 2013; Sabrina P. Ramet, 2007; Ugresic, 1998).

Gordy (2013) develops an overview of the actors’ motivations and forms of denial of war crimes in forming collective memories. Images of crimes can be used as provocations and declarations, denying or ‘celebrating crime’. Dealing with the past can be expressed in the different forms of denial or intentional avoidance of facts, e.g., when there is the need to deny that facts have been denied and to accuse accusers. The other type of denial is a ‘ritu-

⁷ Note: the translation of the literature and sources in Russian and further in Bosnian/Croatian/Serbian (BCS) was made by the author of the thesis.

al apology', when an official apology for crimes is an important condition for re-establishing relations, but can be provided without a real recognition of guilt in order to retain actual denial. The opposing sides try to justify crimes with references to the crimes of the 'other side' (label of *tu quoque*, meaning 'and you too'), or to take the position that 'not everything is known,' when the stakeholders claim that nothing is known with certainty. Campbell (2002b) points out that one of the most popular forms of historical denial about the collapse of Yugoslavia is historical revisionism. He uses, "denying the nature, extent and purpose of the violence in the Bosnian-Serbs' ethnic cleansing strategy" as an example (Campbell, 2002b, p. 164). He points to the denials of Serbian responsibility for "an ethnic-cleansing strategy that had perpetrated widespread suffering in Bosnia" by Serbian prominent intellectuals (Campbell, 2002b, p. 165).

One of the ideas that spread across the post-war Balkans was an insistence on forgetting or remembering only specific events or facts, meaning that people could be forced to forget or to remember, which could be done in administrative and cultural forms (Ugresic, 1998). Some people could do that of their own free will, such as those in Serbia who soon after the end of the Milošević regime changed their opinions and claimed that they had always been opponents of the regime and rejected their connection to those times (Gordy, 2013). Ashplant, Dawson, and Roper (2004) recognize that official narratives have the power to overwrite private memories without acknowledging the authors of these processes; as a result, monuments and memorials have been built over old memorials. Hegemonic cultural forces define public memory as embodied in sites and rituals of collective commemoration, and within national 'mythologies' or public 'legends'. Different state institutions are involved in constructing new versions of the national past and national identity, remaking national stories and symbols to create usable public memories for their purposes.

The politics of memory and commemoration of the war consists of different groups struggling to gain recognition of certain memories. The past, and especially wars, can be remembered through a variety of forms, ranging from public commemoration to personal testimonies of witnesses; from memories represented in films, performances, and novels to media covering the past; and from politicians' official statements about the past to legal investigations of war crimes. Ashplant et al. (2004) emphasize that in this process some particular memories can be established and emphasized, while others marginalized and forgotten.

The construction of memories through the establishment of rituals of national identification binds citizens to a collective national identity. A psychological framework often defines this process, as war memories and commemorations are held for expressing mourning, a human response to death and suffering. Ashplant et al. (2004) concede that the change from individual remembering to state commemoration is a transition from the personal to the cultural memory, two types of memory that are related. Shared or common memories can enter the public arena when they are expressed in a cultural or artistic form, or when they become a part of a political narrative.

J. Subotić (2009) emphasizes the importance of the conditionality of the EU accession process, which provoked the "Europeanization" of the discourse about the region's past. Obradovic-Wochnik (2013) recognizes that it takes place simultaneously with the absence of a competing discursive representation. To this extent, Serbia's declaration about

the war crimes in Srebrenica was issued to satisfy the EU. The declaration does not include the conditions of taking responsibilities for the genocide (Dragović-Soso, 2012; Petrovic, 2014). Obradovic-Wochnik (2013) specifies that neither in Serbia, Bosnia and Herzegovina (BiH), Croatia nor Kosovo were the international community's ideas of responsibility for war crimes implemented in public discourse or internal policy.

The survey by IPSOS in 2011 showed that the Serbian population is even less ready to face the past than in previous years: just twenty-two to thirty-two per cent in 2009 thought that "dealing with the warfare on the territory of former Socialist Federal Republic of Yugoslavia (SFRY) is important for the future" (Ipsos, 2009).⁸ Furthermore, around half of the respondents thought that it was not important, while thirty per cent would consider dealing with war crimes in order to prove to the international community that Serbs were not guilty (Ipsos, 2011, p.67). Further analysis will address the IPSOS research again.

The coverage of issues related to the Balkan wars in academia, the media and public memories tends to depend on the current economic and political situation. The same situation can be observed in the humanitarian sphere, where NGOs and international organisations in the Balkans focus their efforts on EU integration, collaboration with local governments and economic development. Nevertheless, Obradovic-Wochnik (2013) suggests that civil society and social movements in the Western Balkans still remain almost the only actors working on reconciliation and making connections between different societies, thus operating differently from local governments, especially on the question of dealing with the past.

This section of the literature review provided information about the forms of denial in the process of establishing collective memories. They included 'celebrating crimes', 'pure' denial or avoidance of facts, and 'ritual apology'. As the thesis previously stated, there are two types of taking responsibility for the events in the past: 'forward-looking' and 'backward-looking'. Official narratives can overwrite private memories even without naming the authors of the process, and can build new commemorative memorials over old ones. As a result, some memories are affirmed, while others are forgotten. The tendencies of dealing with the past in the Balkans contain a dominant political and media discourse: protecting national interests and underlining otherness. Moreover, scholars have demonstrated that the EU accession process, through the accompanying conditionality, provoked the "Europeanization" of the historical discourse in Serbia.

1.2. Transitional justice: the ICTY and its Outreach Programme

Having outlined an overview of the literature on the approaches to dealing with the past, the thesis will provide an analysis of secondary sources on transitional justice and its main institution: the International Criminal Tribunal for the Former Yugoslavia. Starting from the description of the "international justice industry", this section of the literature review will contin-

⁸ IPSOS is an independent market research company.

ue with the history and competences of the ICTY. Main critics of the Tribunal will also be presented in this chapter. The challenges the Tribunal used to have since its foundation and implemented pioneering methods (as the audiovisual production of the ICTY Outreach Programme) will be presented. Cooperation between the states of former Yugoslavia is an important part of the transitional justice narrative, as is historical linkage with the previous initiatives of transitional justice and the role of the ICTY in the process of reconciliation.

Since the 1990s, transitional justice has become the dominant narrative for the prosecution of crimes against humanity and violations of human rights. Though there are still doubts whether human rights initiatives and the institutions of transitional justice as Tribunals can change the world, they intend to «elaborate global conceptions of human rights and implement them in legal systems» (Meyer & Jepperson, 2000, p. 105). The whole “international justice industry” has been developed; it includes NGOs’ experts who specialize in ending conflicts and establishing transitional justice mechanisms to deal with the past (Jelena Subotić, 2009, p. 4). Sikkink and Walling (2007) state that it resulted in establishing (or in some cases considering the establishment of) mechanisms of transitional justice, most often trials and truth commissions, in more than half of states transitioning from violent conflict to peace for the last twenty years.

Discussing and establishing transitional justice mechanisms became a part of the discourse of conflict resolution and peacekeeping mediation in post-conflict states (Flournoy & Pan, 2002; Hamre & Sullivan, 2002; Newman, 2002; Jelena Subotić, 2009). Other scholars (Gordy, 2013; Kerr, 2007; Jelena Subotić, 2009) emphasise that the requirements for the establishment of transitional justice mechanisms have become a compulsory part of different agreements between EU and transitional states and part of integration conditions for joining the EU or North Atlantic Treaty Organisation (NATO) and is accompanied by international pressure. The EU accession, i.e., the conditionality tool in post-war ex-Yugoslav states, has led to a situation where these mechanisms have become intertwined with problems of political cooperation and political change (Del Ponte, 2009; Peskin, 2008; Jelena Subotić, 2009).

Verdeja (2009) proposes that the establishment of the Tribunal would serve as an attempt by the international community to redeem its guilt from doing little to prevent the wars in former Yugoslavia. Hagan (2003) and Vukušić (2013) support this idea that the evidence of atrocities and war crimes in Balkans presented by the media, were visual reminders of scenes from Second World War, and were among the factors that speeded up the establishment of the ICTY. The institution was set up by the UN (1993), which did not have the judicial power to do so, and the issue of the Tribunal’s legitimacy has been widely discussed (Dickson & Jokic, 2006; Johnstone, 2002; Laughland, 2007). The main objective of the ICTY was to bring to justice persons responsible for serious violations of international humanitarian law, such as, murder, enslavement, destruction of property, and torture. The perpetrators’ trials were intended to render justice to the victims, deter further crimes and contribute to the restoration of peace. The institution’s prerogative includes “the power to prosecute persons responsible for serious violations of humanitarian law committed in the territory of former Yugoslavia since 1991” (UN, 2009).

A chief Prosecutor was appointed only in July of 1994, and, since November of the same year, the Tribunal had indicted forty-six low and mid-level perpetrators, meaning soldiers,

camp commandants, and people from paramilitary units (Piacente, 2004; Schrag, 2004; Walhain, 2010). Given that the mandate of the Tribunal is to prosecute those responsible for war crimes, and to provide justice for victims, research has also evolved around the ICTY's limited resources and the insignificant support for the population of ex-Yugoslav states (Gordy, 2003; Hazan, 2004; Mahieu, 2007; Orentliher, 2010; J. Subotić, 2009; Vukušić, 2013).

Barria and Roper (2010) acknowledged that the reason for this distrust of the population for the ICTY may be due to the small amount of people who have been taken to trial in The Hague, as well as the fact that most of those prosecuted were politicians or high ranking members of the military. Thus, Verdeja (2009) notices that the limited amount of the prosecuted perpetrators is a reality for the trials, as only a certain amount of the indicted can be judged, which becomes a serious problem in the cases of mass atrocities that include many victims, such as genocide and crimes against humanity. As a result, those of high-rank who have been indicted are prosecuted, and it is not the limitation of legal norms, but the practical choice of the institution. Often trials in a search of a suitable solution choose to persecute the low-level functionaries, as sometimes it is easier to find victims or survivors who can identify the direct perpetrators (Kerr, 2007; Verdeja, 2009; Walhain, 2010). Piacente (2004) considered the initial indictment of low – and middle – ranked persons a necessary action in order to gain access to elites. Schrag (2004) mentions the need to prosecute mid-ranked perpetrators, but concedes that it was done without a proper prosecution strategy, and as too many mid-level criminals were charged in the Court, it “clogged up the system”. An important part of the Statute is that the ICTY covers individual criminal responsibility, and not collective one.

Walhain (2010) explains that the mission of the Tribunals enhances the international rule of law, providing historical records about war atrocities, restraining the onset of new crimes against humanity and supporting the process of reconciliation. Thus, Teitel (2014) explores an interdisciplinary approach based on different national and regional contexts. The very latest research focuses on normative and political issues concerning instruments, such as war crime tribunals, truth commissions, reparations, domestic or international trials (Corradetti, Eisikovits, & Rotondi, 2015). The latest, domestic courts are engaged in prosecuting human rights violation, challenging to face the past and re-establish the rule of law (Verdeja, 2009).

For more than twenty years of its existence, the International Criminal Tribunal for Former Yugoslavia has been criticised by both its opponents and supporters for not meeting the expectations (or for not managing to avoid them) of establishing justice in the region (Vukušić, 2013). Nevertheless, it was acknowledged by most scholars, that the ICTY played an important role as a mechanism of transitional justice, even though it had some limitations and could not be a tool for solving all the problems of the post-conflict societies (Barria & Roper, 2010; Stover & Weinstein, 2004).

A common scholarly view is that International Criminal Tribunals, “changed the world of international law” and “challenged widespread impunity for the worst crimes globally” (Vukušić, 2013, p. 623), aiming to provide justice and to the victims and reintegrate those who were indicted into society (Barria & Roper, 2010; Hazan, 2004; Orentliher, 2010). Thus, a limited attention was paid to the analysis of the Tribunal's strategies in cooperation with states and international actors. Hagan (2003) emphasises that the Tribunal was turned

into an effective institution due to the important role of the Tribunal officials and the ICTY's organisational dynamics. Thus, the latest research does not count the cases when the Tribunal's prosecutors failed to get cooperation from Serbian or Croatian authorities. The proper conditions for cooperation appeared in 1999 in Croatia with the death of the president Franjo Tuđman and with the removal of Slobodan Milošević in Serbia in 2000 (Petrovic, 2015).

The researches on the development of transitional justice underline historical linkage between the Nuremberg Trial and Tokyo War Crimes Trials, the ICTY and the ICTR (International Criminal Tribunal for Rwanda) (Hagan, 2003; Petrovic, 2011; Verdeja, 2009). The following development of transitional justice institutions had started in the 1970s-1980s in Southern Europe and Latin America, and got an extensive international recognition in 1990s in Eastern Europe. Verdeja (2009) asserts that initially the cases were locally perceived as national problems and not in need of international involvement, and the establishment of trials like the one in Nuremberg were considered inappropriate. This attitude changed with the rising interest of the international community in the atrocities that happened in Rwanda and former Yugoslavia. In this period the tendency of establishing truth and reconciliation commissions as an alternative to, or additional mechanism to trials in dealing with the atrocities of the past, gained a momentum (Hayner, 2001; Jelena Subotić, 2009).

Scholars describe the role of the ICTY as one of the main components of transitional justice on the territory of former Yugoslavia (Hazan, 2004; Scharf, 1997; P. R. Williams & Scharf, 2002). In order to advocate stable peace through reconciliation, criminal tribunals address hatreds and grievances, 'close the circle of violence,' and provide sort of a moral healing to the post conflict society (Elster, 2010; Staub, 2006). Furthermore, Nettelfield (2010) and Verdeja (2009) emphasise the role of the ICTY in the process of reconciliation, focusing, for example, on institutional developments, admitting that institutions of transitional justice through their activities have contributed to the development of democratization in the region. Meanwhile, Meernik (2005) notices that there is almost no evidence of the ICTY having an impact on reconstructing or constructing relations between groups of society.

The controversial verdicts of some cases (e.g., Gotovina, Perišić),^{9 10} or the 'legal reasoning' and 'prosecutorial strategy' of others were criticized a lot and got attention in public discourse in the countries of former Yugoslavia (Petrovic, 2015; Vukušić, 2013). Many scholars, representatives of NGOs and specialists from institutions of transitional justice, while evaluating the impact of the Tribunal, mention the lack of knowledge about the ICTY mandate and, judicial procedures among local population, and instrumentalisation of the cases by local politicians (Obradovic-Wochnik, 2013; Vukušić, 2013). Jelena Subotić (2009) asserts that local governments interpret the efforts of the Tribunal in the context of the nationalist ideology, presenting it as an illegitimate justice mechanism. The Tribunal was criticised for creating a distance between victims, witnesses, the places where atrocities happened, and the Hague Tribunal (Gow, Michalski, & Kerr, 2013; Vukušić, 2013). Expensive and long lasting trials sometimes ended with no result, as in the case of Slobodan Milošević, who died in the 2006 in The Hague, or the case of Vojislav Šešelj, who was provisionally re-

9 Case No IT-06-90 Prosecutor v. Gotovina et al., "Operation Storm". Retrieved May 23, 2015, from: <http://www.icty.org/cases/party/691/4>.

10 Case No IT-04-81 Prosecutor v. Perišić. Retrieved May 23, 2015, from: <http://www.icty.org/cases/party/757/4>.

leased for medical reasons in 2014 after almost twelve years of detention in the ICTY without a verdict (Gordy, 2013; Vukušić, 2013; Wald, 2001).¹¹

J. Subotić (2009) emphasised that compliance with the ICTY in the former Yugoslav states have been used to get international financial aid, instead of promoting justice and reconciliation. This practice could be a result of extended international pressure. According to Obradovic-Wochnik (2013), they could benefit more and accelerate the accession to the EU if they would start cooperation without delay. The following ideas and goals continue to clash: of the statehood and national identity, and the European integration (Spoerri & Freyberg-Inan, 2008). Many of the indicted war crimes' suspects are considered national heroes in their countries (Jovic, 2009; Schiff, 2008); in Croatia, Kosovo, and, to some extent, in Bosnia and Herzegovina, the wars were perceived as the liberating the nation and state-building (Obradovic-Wochnik, 2013).

International and domestic trials, fact-finding missions, official apologies, exchanging information paying reparations to victims (Lutz, 1989), public dialogue, lustration (Schwartz, 1994), the building of museums and memorials (Jelin, Rein, & Godoy-Anativia, 2003), state official apologies (Lind, 2008) are important in the process of overcoming the problems of the past. Hazan (2004) acknowledges that the meagre reputation of the ICTY in Yugoslav successor states – despite the 'Outreach Programme' and broadcasting of the ICTY's trials proceedings in the media – has become an obstacle for transmitting the norms of transitional justice to the public in the region. In responding to these conclusions, Gow, Michalski, et al. (2013) suggests that the impact of the ICTY should be connected with every day life of the post-war society, establishing a consensus about the historical record, and individual guilt (also see P. R. Williams & Scharf, 2002).

Within the transferring of existing cases and documents from the ICTY to the jurisdiction of The Mechanism for the International Criminal Tribunals (MICT),¹² there are more studies summarising the results of the ICTY's work (Obradovic-Wochnik, 2013; Petrovic, 2015; Vukušić, 2013). The Tribunal indicted 161 persons, out of which 147 cases have been completed, and fourteen are still in under proceedings. Among the concluded 161 proceedings, eighty were sentenced (more than a half (fifty-two) have served their sentence, while twenty five were transferred or will soon do transfer and three people died), in eighteen cases the indicted were acquitted, and in some cases the charges against indicted were withdrawn or were deceased (thirty-six).¹³

After more than two decades of this work, the ICTY can face new challenges: after having served their sentence, the convicted are returning to their home countries, where they are known as war criminals (and sometimes greeted as heroes), and the issue of the reintegration of war combatants in the context of living memories is very important. Among the indicted, there were Bosnian Serbs, Serbs from Serbia, Croatia, Kosovo; Bosnian Croats; Croats from Croatia, Bosniaks; Kosovar Albanians and despite the prevailing dominance of Serbian nationality, the Tribunal obviously has made a successful

11 Case No IT-03-67 Prosecutor v. Šešelj. Retrieved May 23, 2015, from: <http://www.icty.org/cases/party/774/4>.

12 The Mechanism for the International Criminal Tribunals was established by UN Security Council in 2010, the branch of ICTY started functioning in 2013. Retrieved May 28, 2015, from: <http://www.unmict.org/en>.

13 ICTY. Key Figures of the Cases. Retrieved June 08, 2015, from: <http://www.icty.org/sid/24>.

attempt to bring to justice the representatives of different sides of the conflict (S. P. Ramet, 2012 {Petrovic, 2015 #312}).

The Tribunal has contributed to the progress of the international law, in developing the definitions of genocide, war crimes, and crimes against humanity, in working on the identification of missing people, creating and collecting historical records, and managing work with victims and suspects (Verdeja, 2009; Vukušić, 2013). However, the problem of denial, and the connection with the population after all these years has not been set up, people still do not believe in the institution of transitional justice. Even if the Tribunal has not changed the master narratives about the war in 1990s in the region, it has succeeded in the institutionalisation of war crimes justice and in raising its professional level (Petrovic, 2015).

1.2.1 The Outreach Programme

“Without the investment in communication, international tribunals and other courts will have no impact whatsoever.”

Claudia Perdomo, Head of Outreach at the
International Criminal Court (ICC).¹⁴

The Outreach Programme of the ICTY was established in 1999 in order to raise the level of trust of the population in the ICTY and to promote greater transparency and public perception of the Tribunal. The fact that the Outreach Programme appeared too late to have a long-lasting effect, was underfunded and understaffed, has been intensively criticised (Clark, 2009b; Orentliher, 2010; Schiff, 2008; Wald, 2001), so that scholars did not pay much attention to its activities. Nevertheless, Petrovic (2011) asserts that the context of the early years of the ICTY, which remained the same as during the war until Milošević removal from power in 2000, did not dispose the population to accept the initiatives as the Outreach Programme of the ICTY.

The Outreach Programme was established to maintain the web site of the ICTY news updates, including information both in English and in Bosnian-Croatian-Serbian (BCS). The Outreach Programme aims at specific categories of the population. Thus, most of the activities are organised in educational institutions: schools, institutes, and universities, where they give seminars, workshops, and lectures. The Programme hosts delegations of students, NGOs, and journalists, organises conferences, opens archives, produces audiovisual materials.

The aim of the Programme is to promote greater transparency of the ICTY. The efforts of the Tribunal aim at making the “world of complex and lengthy trials more accessible for the average citizen” that does not have special knowledge about the law and does not have research skills (Vukušić, 2013, p. 633). Meanwhile, most of the population receive the information about the ICTY through the media, local politicians, and intellectual elite. Even if the Outreach Programme makes efforts to approach a larger audience through radio and tel-

14 Documentary Through Their Eyes – Witnesses to Justice premiered in The Hague. Retrieved May 01, 2015, from: <http://www.icty.org/sid/11525>.

evision broadcast, the level of knowledge about the legal procedures and the ICTY cases is very low among the population of the region. So, that answering the question if they have ever read any ICTY judgment, ninety-one per cent of Serbian respondents answered “no”. And more than half of Serbian respondents rarely (forty-one per cent) or never (nineteen per cent) followed the trials before the ICTY (Ipsos, 2011).

Scholars have evaluated the Outreach Programme similarly to their views on the ICTY itself. Thus, Vohran and Cina (2001) prioritise reconciliation as the main goal of the Programme. Amstutz (2005) and Akhavan (1998) assert that if all opposing parties of the conflict in former Yugoslavia would recognise all the decisions of the ICTY, this could contribute to reconciliation in the region.

Fletcher and Weinstein (2002) and Koskeniemi (2002) consider the Outreach Programme as a step to reconciliation, spreading among the population the ideas of responsibility, remorse, and culpability. The results of work of the ICTY and its Outreach Programme, however, depend on the master narrative about the wars in the involved countries. Knowing this, it was not surprising that the reaction to the establishment of the Outreach Programme among the Serbian population was negative (Hodžić, 2010; Schiff, 2008). Zacklin (2004) mentions that together with the ICTY, the Outreach Programme has been criticised for not being able to shorten the geographical distance between The Hague and the local communities.

Fletcher and Weinstein (2002), and Hodžić (2010) notice that the society is following the narrative of political leaders and media in region for different reason, one of them was the lack of the ICTY's initial outreach actions. Often the participants of the event of the past are not ready to admit their guilt or the guilt of their enemies. Most Serbs do not believe that in reality those crimes against non-Serbs, which became publicly known due to media coverage, have been committed. So that seventy six per cent of Serbs do not believe that trials of accused Serbs were fair and do not believe in what was established in judgments (Ipsos, 2011).

Petrovic (2011) points out the tendencies of victimisation in the region; support for war criminals in their homelands, where they often were considered heroes, along with the lasting popularity of the nationalist ideas. Thus, the Serbian population does not have any doubts (seventy six per cent of the population) that, for example, Croats committed crimes against Serbs and killed many of them during the operations Flash and Storm in 1995 (Ipsos, 2011). The late establishment of the Outreach Programme can be explained by the lack of need for such a programme, because in early years of the ICTY in the 1990s, there were a few cases, which have been completed, so there was not enough material to share and spread. While in 2000s new formats of activities, as workshops, conferences screenings were started and had enough support materials from the ICTY: documents from the court and investigative material.

The Outreach Programme aimed to “communicate the work and relevance of the Tribunal”, to arrange communication with the main institutions in former Yugoslavia (Petrovic, 2011). The Outreach Programme holds different conferences, round tables, and debates. Bridging the Gap was one of the most significant project of the ICTY Outreach Programme in Bosnia, which included series of conferences (2004-2005) in the places of the biggest mass atrocities: Srebrenica, Prijedor, Brčko, Foča and Konjic. The Tribunal presented the

results of its activities to the communities that were affected the most.¹⁵ Thus, The Conference on the Srebrenica genocide attracted more than 200 visitors; among them there were many international scholars from outside of the region.¹⁶

Initially the Outreach Programme opened its offices in Belgrade, Pristina, Sarajevo and Zagreb. Until now there remained only two offices, in Belgrade and in Sarajevo. Raising the visibility of the Tribunal's activity, the Outreach Programme created informative tools and space, the collection of documents (real and virtual), including audiovisual recordings. The collaboration with local NGOs was arranged in order to promote the Tribunal's documents to the public. Vukušić (2013) asserts that it is mostly international actors that use the ICTY documentation materials; most requests for the Tribunal's footage come from outside the region. Transparency of the ICTY's activity and extensive coverage of the trials has had sometimes an opposite effect. In some particular cases the indicted gained even more popularity among the population, being shown every day and blaming others in all the crimes. Thus, Milošević accused foreigners (meaning The Hague and the ICTY) in prosecuting him, while he was innocent, blaming the international community in creating an unfair tribunal with their own purposes. This opposite effect of broadcasting trials on national television caused the move to independent TV Channel B92 (Petrovic, 2011, 2015).

Aiming to bring transparency and visualisation of the work of transitional justice in the region, the Outreach Programme achieved some level of awareness by the local population about the atrocities during the wars in the 1990s. Nevertheless, the population of the former Yugoslavia and in the particular case of this thesis Serbia keep denying their crimes and blaming the enemy. And most of the population does not know which reaction they should have facing the past, so that they prefer to stay ignorant (Petrovic, 2011). Taking responsibilities for the events of the past is the part of the democratic society's values, which is not yet (a hundred per cent) the case of Serbia. Still the purpose to show justice 'to be done' has been partially achieved.

The proper functioning of the international norms in transitional justice could be reached if the local political conditions and the aftermath of international intervention would be considered by the international community. Cooperation with the Tribunal does not seem to be a relevant problem nowadays, as Croatia became a full member of the EU in 2013 and Serbia is a candidate state on its way to accession, having delivered to the ICTY Radovan Karadžić (2008), Ratko Mladić and Goran Hadžić (2011). Nevertheless, Obradović-Wochnik (2013) points out that cooperation with the Tribunal and the fact that the states did not want to cooperate with the institution, is still relevant in the context of the political situation in these countries. The difficulties in facing the past still appear; because the witnesses and participants (war veterans, minorities, refugees, missing people) still face the issues (legal, psychological, financial) link them with the events in the past. Jelena Subotić (2009) points out that transitional justice nowadays is a part of international norms, a model of state functioning, which can be punished in case of defaults; but the way the transitional states have adopted this new international norm differs a lot from the initial international expectations.

15 Bridging the Gap with local communities. Retrieved June 06, 2015, from: <http://www.icty.org/sections/Outreach/BridgingtheGapwithlocalcommunities>.

16 Bridging the gap between the ICTY and Communities in Bosnia and Herzegovina. Srebrenica, 21 May 2015. Retrieved June 17, 2015, from: http://www.icty.org/x/file/Outreach/Bridging_the_Gap/srebrenica_en.pdf.

Petrovic (2015) affirms an important result of the work of the ICTY in the region, that the local population, activists and NGOs consider Tribunal as a “political body”. And despite the efforts of the ICTY Outreach Programme to improve this image and to reinforce the role of the ICTY as a conveyer of truth, the institution has not managed to overcome this complicated situation.

The literature about transitional justice assumes that transitional justice has become the dominating narrative for prosecution of the crime against humanity and violations of human rights. Transitional justice aims to end war and conflicts and establish transitional justice mechanisms (trials and truth commissions) to deal with the past. Thus, the ICTY was established in 1993 in order to bring to justice those who responsible for violation of humanitarian law. During over two decade of its existence the Tribunal was criticized by both opponents and supporters. Important issues about establishing the ICTY’s legacy is the promotion of the linkages with the Nuremberg Trial and Tokyo War Crimes Trials. In 1999 The Outreach programme was established in order to promote grater transparency and public perception of the Tribunal.

1.3 Audiovisual documents in transitional justice

Audiovisual documents in transitional justice are first of all historical records, which can be used as a tool of dealing with the past, and within the specificity of this issue in the Balkan region, it refers also to dealing with denial, taking responsibility, fact-finding, lack of trust (Batt & Obradovic-Wochnik, 2009).

Footage of the Balkan wars has a special significance for documentation heritage. The aspect of media involvement in the wars in Balkans in 1990s has been widely discussed (Allen & Seaton, 1999; Jusic & Palmer, 2008; Kurspahić, 2003; Mihelj, 2011; Pejic, 1998; Popov, 2000; Price & Thompson, 2002; Slpašak, 1997). Different sides of the conflict have been accused in provoking the enemy to attack their positions in order to attract more media attention to the brutality and crimes of those enemies. Brock (1994) shows that the Bosnian Serbs asserted that international media were biased against them and proclaimed them as the main aggressor. While, according to Bell (1995), some of the representatives of international media confessed that Bosnian side got more attention. Walhain (2010) notices that the other reason for more active coverage of the atrocities made by Serbs in Bosnia was the presence of the Bosnian government in Sarajevo, as well as limited access of the media to the frontlines from the sides of Croatia and Serbia.

Video footage of different kinds includes professional journalistic reports and amateur ones: episodes from local TV stations, as well as the “statements made to the press after negotiations” (Vukušić, 2013, p. 626). Several hundreds of journalists worked in the Balkans to report about the war, if some of them stayed in relatively safety capitals (as Belgrade or Zagreb), others were on the ground reporting. The journalists who worked in more danger-

ous conditions had to get permissions to cross borders through checkpoints. Many of them did not have a lot of problems in the access to the territories and information, because politicians and military 'figures' were in need of spreading information about their activities to the world. Walhain (2010) finds out that later on several correspondents gave their evidence at the ICTY for twenty-four cases. Media representation of the Balkan wars in 1990s has become an important contribution in aftermath investigation and the work of the ICTY.

The Balkan wars have been a popular topic for film directors, journalists and documentary producers to make documentaries and TV-series: still every year there are a lot of TV-series and festival documentaries produced. Films made during the war are an important part of audiovisual heritage, because they represent documentary evidence of the Balkan wars.

War correspondent Jeremy Bowen made his documentary "Unfinished business" about the besieged Mostar, when he was there, covering news for the BBC. The footage showed street scenes with people hiding from the shooting, and doctors working hard in the hospital. In this documentary the journalist even claimed that he managed to film ethnic cleansing, but that episode contained only one dead body, so that the Defence team of the ICTY declared this statement as not being evidence. The documentary was part of his testimony at the trial on the case of Prlić and Naletilić and Martinović,¹⁷ it was used as the testimony of atrocity, but not as the testimony of the direct participation of the accused.¹⁸ In the Prlić et al. case, Bosnian Croat commanders were on trial for war crimes against Bosnian Muslims. While in the case Naletilić and Martinović were indicted for the ethnic cleansing in Mostar. But as Walhain (2010) claims, the Court preferred the testimony of Bowen fourteen years after the war to his words in the documentary.

Another example of the documentary, made during the war (1999) is the documentaries made by BBC journalist John Sweeney. In "Witness to murder" and "Prime Suspects" for Channel Four the journalist investigated the massacre on Kosovo Albanians in Mala Kruša. He testified at the trials of the ICTY and these documentaries were shown as evidence in the case of Šainović et al. and Đorđević about the crimes against Albanian in Kosovo.¹⁹ ²⁰ Interestingly, during the court proceedings, when these documentaries were presented as evidence, the defence team asked for limiting the dramatic part of the documentary (to watch it without sound), but the request was refused. While the prosecution was more interested in details and asked Sweeney about his investigations (Walhain, 2010).

The documentary, "War: We are all neighbours",²¹ filmed by Deborah Christie and the crew from Granada Television, together with Norwegian anthropologist Tone Bringa in a

17 Case No IT-04-74 Prosecutor v. Prlić et al. Retrieved May 23, 2015, from: <http://www.icty.org/cases/party/766/4>.

18 Case No. IT-98-34 Prosecutor v. Naletilić & Martinović. Retrieved May 23, 2015, from: <http://www.icty.org/cases/party/752/4>.

19 Case No IT-05-87-T Prosecutor v. Šainović et al., "Third Amended Joinder Indictment," ICTY Office of the Prosecution (21 June 2006). Retrieved May 23, 2015, from: http://www.icty.org/x/cases/milutinovic/ind/en/milutinovic_060621e.pdf.

20 Case No IT-05-87/1 Prosecutor v. Vlastimir Đorđević, "Fourth amended indictment," ICTY Office of the Prosecution (9 July 2008). Retrieved May 23, 2015, from: <http://www.icty.org/x/cases/djordjevic/ind/en/080602.pdf>.

21 TV Series "Disappearing World": Season 1, Episode 47, May 1993 (52 min), Director Debbie Christie, Author anthropologist Tone Bringa.

small village of Višnjica in BiH was used in the court in the case of General Blaškić.²² The documentary shows how the relationships between neighbours of different ethnicities in a mixed Bosniak-Croat village change over three weeks and the tragic final episode when Bosnian Croatian Army (Hrvatsko vijeće obran – HVO) arrives and neighbours do not try to save life of those, who used to be their friends. Together with the visual proof of attacks on civilian targets and robbery of their property, Christie's testimony was a proof of Blaškić's authority position in the army, because he was in charge of issuing her the permit to film in the area (Walhain, 2010).

The use of audiovisual documents in transitional justice and in the trials of the International Tribunal does not always have the direct connection to the indictee, but can be the evidence of the case, proving the fact of the crime itself, but not the guilt of the concrete person, using so-called joint criminal enterprise. This principle of hierarchical culpability contributes to the prosecution of mass crimes, considering the "systematic and collective nature of violations typical of modern warfare and genocide" (Verdeja, 2009, p. 100). It became even more complicated within the rise of the rank of the indicted, as they very often did not participate in direct commitment of the crime.

Among the most significant TV footage are the video reports from besieged Sarajevo (Gow, Kerr, & Pajic, 2013; Walhain, 2010). Martin Bell made some of them when he was working for BBC in Bosnia in 1994 and 1995. And when he testified later about what he witnessed in Sarajevo, his video reports were shown during his testimony in the case of Dragomir Milošević, convicted for the crimes committed in Sarajevo.²³

Journalist Van Lynden also was filming in Sarajevo, he testified at the Court, where his footage was shown. Walhain (2010) argues, that the context of the filming was more important for the court than the images themselves. Because the journalist was allowed to film Sarajevo from Pale, the capital of Bosnian Serbs, it became a proof of Karadžić's personal responsibility for the crimes.

Journalist Daniel Damon made a video in Kaonik prison, which was presented as evidence in the case of Zlatko Aleksovski, a prison commander. In this case the connection between the audiovisual document and the indicted Aleksovski was not obvious, as the video contained the images of the inhuman conditions of the camp and was included in the indictment, but did not show the indictee himself and could not prove his responsibility (Walhain, 2010).²⁴

TV footage made in Omarska and Trnopolje has been considered controversial; it has been criticized for possible staging the scene in order to mislead journalists (Campbell, 2002a; Gow, Michalski, et al., 2013; Vulliamy, 1994; Walhain, 2010). Britain's Independent Television News (ITN) and Channel 4 journalists Penny Marshall and Ian Williams filmed the video reports that became the most famous: "frame-grabbed" images from the video with a starving prisoner Fikret Alić were published on front pages of many newspapers, in-

22 Case No IT-95-14 Prosecutor v. Tihomir Blaškić, "Cristie 27/04/1998", 7841-7850. Retrieved May 26, 2015, from: <http://www.icty.org/x/cases/blaskic/trans/en/980427ed.htm>.

23 Case No IT-98-29/1 Prosecutor v. Dragomir Milošević, "Martin Bell video reports, Exhibit P609- P610, P612-P619," ICTY Trial Chamber (27 April 2007) (as cited in Walhain, 2010).

24 Case No IT-95-14/1 Prosecutor v. Zlatko Aleksovski, "Transcript of testimony Dan Damon " ICTY Trial Chamber (23 March 1998). Retrieved May 23, 2015, from: <http://www.icty.org/x/cases/aleksovski/trans/en/980323ed.htm>.

cluding *The Time Magazine* and *The Daily Mirror*.^{25 26} Images are often interpreted as the analogue of AV material of Holocaust (Hagan, 2003; Humphrey, 2003; Vukušić, 2013; Walhain, 2010) and became “the icon of Bosnian war” (Campbell, 2002a). The only war correspondent that testified in the ICTY about the camps was Vulliamy (1994), the prosecutor asked the journalist to verify recordings made by Marshal (she did not want to be a witness) and make a comment on the pictures. An important consequence of the publishing of those images was the involvement of the International Committee of the Red Cross (ICRC) in the work of the camps and further closure of the camps. Vukušić (2013) thinks that extensive public attention to these images also influenced the establishment of the ICTY itself. This fact and the wide public citation of those images became an issue in the discussions about the truthfulness of the visualized facts.

Another case of significant and disputable video was made by Zoran Petrović Piroćanac, who worked for the French *TF1*, and as an independent journalist in Vukovar and Sarajevo, and who was present at the fall of Srebrenica on the 12th of July, 1995 (Walhain, 2010). Images from Srebrenica were important, as they were used to identify people, who were later found in mass graves. Episodes with Ratko Mladić entering Srebrenica were later, in 1999, included in the documentary, “A cry from the grave”, directed by Leslie Woodhead and were used as evidence at the trial of General Krstić for the case connected to genocide in Srebrenica (Gow, Michalski, et al., 2013; Walhain, 2010).²⁷ Piroćanac refused to testify but then was subpoenaed and had to give testimony.²⁸ And still the testimony of Piroćanac is considered unreliable, considering the fact that the journalist was allowed to film in Srebrenica immediately after its fall (which could mean his embeddedness, as he was apparently close to the Bosnian Serb army): the footage he presented were edited and some parts were missing (Walhain, 2010).

Hagan (2003) acknowledges that video material had an important role for the investigations of atrocities in Foča. The interview with the commander of the Mujahedin Abdel Aziz, made by British journalist Andrew Hogg who was investigating the Mujahedin actions in Zenica, Bosnia,²⁹ was presented as evidence in the court. The recording itself was not a proof of participation in the conflict, but the fact that the journalist had to get the permission for the interview from the Army of the Bosnian Government (ABiH) was significant for proving the connection between the Mujahedins and the ABiH (Walhain, 2010).

Evidence for the cases of war in Kosovo also contained audiovisual documents. They were filmed by BBC journalist Jacky Rowland in Dubrava prison in Kosovo. According to Walhain (2010), Rowland later testified at the ICTY, as she had not just visual documents, containing the images of dead bodies, but she had also witnessed the prisoners in the camp, as she was among other media representatives who were invited by the Serb forces to vis-

25 *Time Magazine*, Vol. 140 No7, August 17, 1992.

26 *The Daily Mirror*, London, August 7, 1992.

27 Case No IT-98-33 Prosecutor v. Krstić, “Srebrenica -Drina Corps”. Retrieved May 23, 2015, from: <http://www.icty.org/cases/party/711/4>.

28 Case No IT-05-88-T Prosecutor v. Popović et al., “Decision on Prosecutions motion for issuance of a subpoena,” ICTY Trial Chamber (21 August 2007) Retrieved June 17, 2015, from: <http://www.icty.org/x/cases/popovic/tdec/en/070821.pdf>.

29 Case No.IT-01-47 Prosecutor v. Hadžihasanović & Kubura, “Central Bosnia” “Hogg 21/05/2004,” 7823-7830. Retrieved May 26, 2015, from: http://www.icty.org/x/cases/hadzihasanovic_kubura/trans/en/040521ED.htm.

it a camp.³⁰ These facts contribute to the idea that audiovisual documents, especially those, made by the journalists during the war, have a significant meaning for the investigation in transitional justice and for the further safeguarding the memories of the events of the past.

During the war, producer of UN TV Richard Lyntton worked in Croatia. His footage of burning village Grubori, the images of two killed old men and the interview with General Čermak (HVO), were included in the evidence in the case of General Gotovina.³¹ Some audiovisual materials of the Balkan wars became very significant evidence of the events, which influenced the inclination of the war. The so-called 'Scorpions tape' is an important example, when its public screening in the entire region in June 2005 provoked a massive reaction, since almost nobody could deny the atrocity: young Bosnian civilians were shot in front of the camera by the soldiers from the Serbian paramilitary troops "Scorpions". But even though Serbian society reacted very emotionally to the 'Scorpions tape', after the first shock, there was a new media uproar about the images being staged, arguably influencing the audiences to start denying the occurrence of the war crime. Petrovic (2014) points out that this tape 'created a link between legal, political and moral' sides of the case. It occurred as an important issue – because of the then upcoming anniversary of the genocide in Srebrenica, the attention was brought to Muslim victims, while Serbs were ignored (Batt & Obradovic-Wochnik, 2009; Vukušić, 2013).

The iconic images of the wars in former Yugoslavia became not just evidence in the Tribunal, but had an impact on the public opinion. Among the most influential images from the Balkan wars, are following: bombing of Vukovar and Dubrovnik (Vukušić, 2013); concentration camps in Bosnia (Campbell, 2002a; Humphrey, 2003; Vukušić, 2013; Vulliamy, 1994; Walhain, 2010); an explosion in the Markale market in Sarajevo (Humphrey, 2003; Vukušić, 2013); the destruction of the Old Bridge in Mostar (Vukušić, 2013); the expulsion of Albanians from Kosovo in 1999 (Vukušić, 2013); Ratko Mladić giving a merciful statement in Srebrenica after the fall of the city (Gow, Michalski, et al., 2013; Vukušić, 2013; Walhain, 2010); the shooting at the besieged Sarajevo (Gow, Michalski, et al., 2013; Vukušić, 2013; Walhain, 2010); operation Storm (Vukušić, 2013).

Audiovisual documents have been used by the ICTY at trials for different cases, by local courts, by public and media. AV can be used in future investigations if there will be a will of politicians and other authoritative figures, and not just the initiatives of NGOs, victims' organisations, academia and media. Thus, the important issue about audiovisual documents, used in transitional justice is the confidentiality (need to keep the security of witnesses) and the ethics of the images (as they often contain sensitive images of tortures, rape, murders, humiliation) (Vukušić, 2013). The documentaries produced by the ICTY Outreach Programme is a project which gives an extensive representation of the audiovisual documents, used by the ICTY and of the activities of the Tribunal itself (trials, investigations).

According to IPSOS' data, after more than twenty years of the existence of the ICTY and the work of its Outreach Programme, the citizens of Serbia say that they know what

30 Case No. IT-02-54 Prosecutor v. Slobodan Milošević, "Transcript of testimony Jacky Rowland," ICTY Trial Chamber (28 August 2002). Retrieved June 17, 2015, from: http://www.icty.org/x/cases/slobodan_milosevic/trans/en/020828IT.htm.

31 Case No. IT -06-90 Prosecutor v. Gotovina et al., "Lyntton 16/092008," 8784-8805. Retrieved May 26, 2015, from: <http://www.icty.org/x/cases/gotovina/trans/en/080916IT.htm>.

the Tribunal does (forty-one per cent), and a small part of the respondents acknowledge the work of the ICTY as useful (twelve per cent). More than a half (sixty-six per cent) of the respondents thought that the establishment of the Tribunal was not necessary. People in Serbia consider the cooperation with the ICTY even less necessary, than in early years of its work, so that almost half of the respondents (forty per cent in 2011 and thirty per cent in 2009) answered that cooperation did not bring anything to Serbia (Ipsos, 2009, 2011). Over time since 1996, the ICTY as a contributor to finding the truth about the war in the Balkans got more support, as eleven per cent of the respondents in 2011 (compared to six in 2009) confirmed this. Meanwhile, there is a big part of the population (forty-nine per cent), which believes that «real truth will never reach ordinary citizens» (Ipsos, 2011). These public opinion polls show that even within time Serbia's population has not recognized the importance and necessity of the Tribunal's work in the region.

Audiovisual documents are an important part of the documentary heritage of transitional justice, because they represent, first of all historical records used for establishing facts of the past. Images of the Balkan wars are a part of the evidence about the atrocities; they are used frequently by the institutions of transitional justice since World War II for investigations and judgements. A considerable part of these recordings have been filmed by journalists. Footage from the war could be used as evidence in the original or parts of the documentaries or TV reports. In some cases audiovisual documents do not have direct connections to the indictments, but contextually could prove the fact of the crime itself. Some of the images became iconic and could have influence the course of the war, attracting the attention of the international community and stimulated its activity in the region, or had an impact on public opinion, 'fighting' against the denials of the atrocities.

Theory & methodology

This thesis aims to analyse the way audiovisual documents are used in the system of transitional justice. After the literature review, the thesis will continue with the impact of audiovisual documents in the system of transitional justice. Chapter 2 is devoted to the theoretical and methodological approach to the analysis of audiovisual documents, especially to documentaries produced by the ICTY, as the official institution of transitional justice. First, the theoretical approach to the role of audiovisual documents in transitional justice will be provided. Second, the thesis will discuss discourse and intertextuality of audiovisual documents, which serve as a background for the working methodology. The methodological section is divided into two parts: research design and assessing reliability and validity. The first part will discuss a sample and data collection strategy and the features of qualitative method implemented in the research. Based on theoretical discussions, described in the previous sections, a three-step approach to the analysis of the Outreach documentaries will be presented. The fourth and the last section of the Chapter will provide the observation of the terms of reliability and validity of the research.

2. 1 Theory. Audiovisual documents in transitional justice

“For the United Nations, transitional justice is the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. Transitional justice processes and mechanisms are a critical component of the United Nations framework for strengthening the rule of law.”

Guidance Note of the Secretary – General:
United Nations Approach to Transitional Justice, 2010.

Transitional justice is a judicial phenomenon, which occurred in the 20th century and since then has been challenging the prosecution of the violation of human rights. The tendencies of increasing role of the international law include the spreading of the institutions of transitional justice (Abbott, Keohane, Moravcsik, Slaughter, & Snidal, 2000; Jelena Subotić, 2009). International attention to violations of human rights and war crimes is explained also by the changes in world of politics with including human rights norms to foreign policy and international relations. Within these changes, international organisations create special institutional designs of transitional justice models for the domestic level (Jelena Subotić,

2009). International organisations make all the frames for transitional justice instrumentalisation: rules, standards, establish principles (Boli & Thomas, 1999; Jelena Subotić, 2009).

Scholars, as Minow (1998) and Steinberg (2011) recognize reconciliation as a final goal of the transitional justice. Meanwhile, their opponents, as Fletcher and Weinstein (2002) argue that investigating the past will not bring reconciliation, but on the contrary will cause new social and political divisions. Jelena Subotić (2009) interprets expectations of transitional justice as a positive step in post-conflict states. First of all, conveying the truth about the past can help those, who witnessed atrocities and survived, to recover and to reconcile their former enemies. Revealing the truthful facts contributes to creating public memories, which leads to the process of reconciliation. The aim of justice is to bring peace for victims and end impunity, reinforce the rule of law and establish democratic values; violence should be replaced by mediation. The discussion (Mendez, 1997; Rotberg & Thompson, 2000; Zalaquett, 1992) on the difference between “truth-seeking” institutions (truth commissions) and “justice-seeking” models (trials and tribunals), has agreed upon at least in one issue that both forms are based on the same idea that transitional justice should be implemented in a transparent way.

The narrative of transitional justice through the courts’ evidence and investigations of truth commissions has important linkages with the notion of memories, which does not always mean a direct narrative about the past. Thus, Herman (1997) states that war memories, especially those which contain violence can become unavailable, because of traumatic experience: people avoid remembering in order not to experience pain again. Witnesses oppose rational or they associate negative experience with one object or person, meanwhile project positive emotions onto the other one. Witnesses can create “gaps or disturbances in normal patterns of integration of memory, self, and perception” (Kiramayer, 1994, p. 114), they hide their memories even from themselves and the testimonies are the result of selected pictures from the past. Narratives about the past are created on the individual level using existed ‘cultural repertoire of stories’ (Humphrey, 2003, p. 104).

Images as a part of the evidence determine what is detected and what needs to be interpreted; nevertheless images and sound cannot always directly influence the audience, as it does not always have the personal connection. Humphrey (2003) explores how audiovisuals establish a connection with the audience through visual and narrative metaphors, so that the audience recognizes things by referring them to a stored memory or images. Visualizing tools give a new perspective on imagining death: the audience gets the imagining power of decisions of death and life; images of violence can arouse outrage, sympathy, anxiety, aversion or indifference.

The images can be read within the historical memory of some events from the past, as the pictures of concentration camps in Bosnia are associated with the pictures from the Holocaust (Campbell, 2002b; Humphrey, 2003; Vukušić, 2013). Nevertheless, the image shouldn’t be considered on its own, without a context of feelings and attitudes of the creators, participants and the audience, as it can cause a reaction, that could not be imagined without existence of this image. A context is important for the identification of the event and the image appears as evidence which frames this event, thus the “contribution” of the image always “follows the naming of the event” (Susan Sontag, 1990, p. 17). It can evoke the chance to be influenced by the pictures within the corresponding political consciousness

(Susan Sontag, 1990). This approach shows the importance of the context of the images, when working with them as historical documents, evidence of the past.

Images of the Holocaust are an important part of collective memory of the 20th century. Audiovisual documents, which became the evidence of the internationally recognized genocide contributed to the global idea of not permitting this atrocity to be committed again. But in reality in the case of the concentration camps in Omarska and Trnopolje the issue of existing concentration camps nowadays was more discussed and international community took no direct actions.

And this is a dilemma, claims Campbell (2002b): the images of the camps in Omarska and Trnopolje should evoke a reaction, but there is no response and even more, it was thoroughly avoided. The explanation for this can be in the distinction of human memories, which use the past to substitute for the present, thus images of the present represent atrocities of the past and cannot generate the response in the present (Campbell, 2002b; Zelizer, 1998). The increasing spreading of images of atrocity showing the crimes of the past, do not evoke a sense of responsibility, but enlarge the distance between representation and responsibility because of the omnipresence of the pictures. This can reduce to the situation when actions with images (production, usage, exchange, publication) can replace the response to the crimes in reality (Campbell, 2002b; Zelizer, 1998). Campbell (2002b) emphasizes an importance of developing the forms, which will contribute to the process of responding and not forgetting. Analysing the images as a part of the documental heritage of the transitional justice, it is important to consider both the content and context of the images and the reactions to them, and the activities and events they evoked.

Increasing the visualising of events and the total accessibility to visualizing tools has turned audiovisual documents into an essential part of everyday life. Audiovisual materials in international law have become an “effective way of communicating very complex legal information and decisions to those outside of the legal community”.³² Since the first time audiovisual documents were used as evidence in the Belsen trial in September 1945,³³ and further on in the Nuremberg trials, which took place from November 1945 to October 1946,³⁴ it has become a permanent component of international criminal trials. Audiovisual evidence is used during trials and those very trials are filmed by the court and television in order to reach a wider audience. Recordings from the trials that are used as testimonies have been safeguarded in the archives of the ICTY as well as in NGOs, digital databases and TV-archives.

Audiovisual documents about the atrocities in the Balkan wars were collected systematically even before the ICTY started its work. In 1992 the UN Security Council established a commission of experts for investigating war crimes in the Balkans. The chief of the commission Cherif Bassiouni created a video archive for the commission. The collection contained recordings from Balkans, obtained from American and European TV companies. There were interviews with witnesses, testifying about detention centres, rape, torture, ethnic cleansing. The recordings in the database were described and time-coded according to

32 Finči, Senior Information Assistant at ICTY. Interview 02.07.2015 by Email.

33 Belsen trial was conducted by the Allied occupation forces against German nazists who worked at Auschwitz and Bergen-Belsen concentration camps.

34 The Nuremberg trials took place after World War II against German nazists, who participated in The Holocaust and other war crimes.

the events, locations, victims, perpetrators, witnesses, dates. The database contained around three hundred videotapes (Hagan, 2003). The collection is now available at the Open Society Archives (Hungary, Budapest).³⁵

Among audiovisual documents used by the ICTY are the AV recordings submitted as exhibits in court, they represent a significant part of the Tribunal's 94,000 exhibits; 2000 items are physical recordings and there is a considerable amount of digital AV documents.³⁶ An important part of the audiovisual documents in the Tribunal's work are the recordings produced or collected by the Office of the Prosecutor (OTP), which collects audiovisual documents as part of its investigation activities. The OTP collections include 9,396 video recordings (in total 10,853 hours) and 13,946 audio recordings (in total 12,160 hours). The Tribunal has made recordings for every session since 1994, interestingly, there are versions in different languages: English, French, BCS and the «floor language» have been recorded and preserved.³⁷ The collection of the video from the courtroom proceedings comprises nearly 116,000 physical recordings and 325,000 digital files (which are mostly the digitized versions of the original recordings).

According to the representative of the Outreach Programme Finčič, recordings do not represent official records of proceedings; nevertheless they can be used in the future by researchers. Meanwhile, the International Criminal Court recognized video recordings of trials as official documents, together with audio recordings and transcripts (ICC, 2002). The testimony recordings of testifying of all 4600 witnesses are the part of the audiovisual collection of the courtroom. Interviews with suspects and experts, footage from mass grave exhumations and re-enactments of the past; these are all parts of visual image of the Yugoslav war. Many of the images from the Balkan conflicts of 1990s became iconic and world famous, part of history by themselves, rather than additional audiovisual material. With the power of being recognized the images got the power of influencing on public opinion about the Tribunal and its intention to establish itself as a significant institution (Vukušić, 2013).

Often the Tribunal works with direct witness testimony, but frequently a *viva voce* (oral) or recorded testimony of a witness is used. For the ICTY, video recordings are a cost saving and in some cases an alternative and more secure option for interpersonal testimony and in situations when the witness only provides factual information. This type of testimony helps in the situations when there are problems with providing protection to the witness, or when he cannot travel to the place where the trial is held. Practices of audiovisual documents in the institutions of transitional justice are defined by special procedures, thus they are treated as follows: “to admit documents and video recordings and then decide what weight to give them in the context of the trial record as a whole” (Boas, Bischoff, Reid, & Taylor, 2011, p. 343, n. 36).

The International Court of Justice (ICJ) considers that audiovisual material can be used as evidence, if there is some additional information about the AV material, such as circum-

35 Open Society Archives. Fond 304: Records of the International Human Rights Law Institute Relating to the Conflict in the Former Yugoslavia. Retrieved June 01, 2015, from: <http://osaarchivum.org/db/fa/304.htm>.

36 The information about ICTY's document collections was obtained from the Mechanism Archives and Records Section of the Mechanism for International Criminal Tribunals. 12.06.2015

37 “floor language” – the language in which the proceedings take place.

stances and date of its creation, its availability to the public and location of the footage (ICJ, 2001). The material, which contains evidence, is at the same time a historical record of the institution of transitional justice. Statements of witnesses as a type of archival material of the Tribunal is represented by recordings of 'voices' of eyewitnesses, survivors, perpetrators, journalists, UN staff, diplomats, consultants, scholars, foreign observers. The original visual sources, which were made at the time when events took place, include reports of the army and police, media material (interviews, reports, official statements), as well as the reports of professional experts, as anthropologists, historians, DNA experts, ballistics experts. Survivor testimonies is a group of AV, which has a special meaning, as the audience can appeal to them as to someone's personal experience, because they have capacity to involve emotionally an audience into their stories of suffering and can make changes in human relationships, especially in the ethnically divided communities (Vukušić, 2013; Walhain, 2010).

The usage of audiovisual recordings during the trials and streaming from the courtroom via YouTube, Sense Agency or television, expresses a specific mission: "that justice should be done, but also that such justice should be seen to be done" (Gow, Michalski, et al., 2013, p. 2). Recordings are used for spreading a word about the Tribunal's procedures and approaching a wider audience.

Audiovisual documents were meant to contribute to shaping public relation towards transitional justice, letting the audience experience the work of transitional justice, to pierce denial and establish consensus. The ICTY achieved this just partially. In accordance with the 'ownership' of the audiovisual documents: either it is the prosecution, or the defence, or the witnesses, images have been interpreted and used to convey the truth of the 'owner', to represent 'his' interests. Meanwhile, it could have the opposite effect, as ordinary people do not feel a better connection to the work of institution, but rather distance from it. Video coverage of the trials of the Tribunal was started in 1994 in order to get rid of all misunderstandings of the Tribunal proceedings and to provide the material for outreach purposes (ICTY, 2000). In this case, if the distance between the audience and the ICTY has increased. Audiovisual documents presumably could wreck the mission of the ICTY.

Filming the trials contributed to the creation of a big group of recordings with Court sessions, which has been safeguarded in the archives in The Hague.³⁸ Among them only the footage from public sessions are available. Most of the AV documents are available in English and French; meanwhile, there is a big amount of the video in BCS and some in Albanian and Macedonian. Audiovisual documents provide visuality and simplicity to transitional justice. Video coverage of all the process in the ICTY was a new experience, which had different effect on the audience; nevertheless broadcasting the video from the trials in different languages was a significant turning point in ICTY's work with the population.

S. Sontag (2003) points to the tendency to use audiovisual documents in investigations of crimes of international law and collective memory of crimes. Audiovisual documents, such as archival video and photo, testimonies, footage from investigations (mass grave exhumations) images with re-enacting the events (i.e. sniper shot reconstructions), play an important role in the work of the ICTY, as well as in promoting worldwide the importance of their investigation. They are becoming more significant, being used in the breakthrough cas-

38 Archives of the International Criminal Tribunal. Retrieved June 20, 2015, from: <http://www.unmict.org/en/about/archives-international-criminal-tribunals>.

es of the ICTY, as the ones about sexual violence as a war crime. Thus, the practice of audiovisual documents by the ICTY in these cases can sometimes fail, as it happened to the female victims of sexual violence from Kosovo during the trial of Milošević. Radio Television of Serbia disclosed and revealed the pseudonyms of two Kosovar victims. This information was available only for prosecution, a court, victims and their lawyer and to Milošević with his two assistants. Answering to the accusation in this unfair action Milošević denied his guilt, but he asserted that he asked his assistants to look for the evidence of rape by soldiers and police, in order to prepare for his cross - examination (Armatta, 2010).

In the research about the legacy of the Tribunal, Vukušić (2013) emphasizes that in many cases the ICTY does not have the originals of the documents, instead, the copies are used. A part of documents was provided to the Tribunal by the governments of other countries and therefore some of them have been made confidential. Thus, the USA provided the material, which was used for the Srebrenica investigation; among those documents there were aerial images, pictures of the locations in Srebrenica, where the mass graves were found.

The document funds collected by the ICTY contain material which has never been used for different reasons: either it was recognised as falsified, or the documents were resent to local courts, or they were not used because the accused died before trial (Vukušić, 2013). The Tribunal's database contains some descriptive information that can help to allocate the AV, but there is no video itself in the databases. The audiovisual documents can be accessed through YouTube,³⁹ website of the ICTY,⁴⁰ Sense News Agency,⁴¹ and the Balkan Investigating Reporting Network (BIRN), which cover trials in The Hague, as well as the trials of local courts.⁴² Important contribution to the collecting and usage of audiovisual documents representing the evidence of Balkan wars in 1990-2000-s was made by NGOs, as the Initiative for a Regional Truth Commission (RECOM) project,⁴³ HLC,⁴⁴ Documenta and others.⁴⁵

Since its foundation in 1993 the ICTY has collected a huge collection of relevant documents. Furthermore, the conditions in the Tribunal were very well adopted for the usage of audiovisual material (Petrovic, 2014). In the past several years the documents of the Tribunal become even more unique and significant, because they provide evidence of the events, while there are less and less real witnesses of those times: some of them died, others cannot give evidence anymore.

Among all the archival materials, audiovisual documents are a big part of them. Apart from the significance of the content of the AV about the Balkan wars, an important issue is the access to those documents and their allocation. The ICTY continues its work within the residual MICT, sometimes they are even interchangeable, as the stuff is double hired by both organisations. Together they provide an access to the archives of the ICTY, preserve them and make efforts to popularize them through the Outreach Programme. Within the closure

39 ICTY YouTube Channel. Retrieved June 17, 2015, from: <https://www.youtube.com/user/ICTYtv>.

40 ICTY. Retrieved June 17, 2015, from: <http://www.icty.org/>.

41 Sense News Agency. Retrieved June 17, 2015, from: <http://www.sense-agency.com/home/home.4.html>.

42 Balkan Investigative Reporting Network. Retrieved June 17, 2015, from: <http://www.justice-report.com/en/page/home>.

43 RECOM initiative. Retrieved June 17, 2015, from: <http://www.recom.link/>.

44 Humanitarian Law Centre. Retrieved June 17, 2015, from: <http://www.hlc-rdc.org/?lang=de>.

45 Documenta, Centre for dealing with the past. Retrieved June 17, 2015, from: <http://www.documenta.hr/en/home.html>.

of the Tribunal a lot of attention was paid to the archives from different stakeholders, such as representatives of NGOs, local governments, legal experts, scholars, associations of victims, participants of wars, politicians, representatives of the Tribunal and others (Vukušić, 2013). The main issue of the location of the archives was solved at the end to the advantage of the residual Mechanism, with the location in The Hague. Thus, Mirko Klarin asserts that the location of the documents is not important,⁴⁶ because the copies of the documents are available in different organisations all over the region and through the Internet.⁴⁷

Transitional justice was established to prosecute violations of human rights, became a part of foreign policies and international relations. Conveying the truth of the past through the institutions of transitional justice potentially can contribute to the process of reconciliation. The issue of memories as a component of evidence of the past construct the link to the transitional justice. War memories can be avoided by witnesses or be selective or reflect a dominative historical narrative. Images as a part of the evidence can represent memories in a specific way and at the same time influence the audience.

The theoretical approach to the images in transitional justice and collective memories, presented in this section defines that audiovisuals should not be considered on its own, but contextually. The images of atrocities can sometimes be a visual representation of the events from the past, as it happened in the case of the detention camps in Bosnia, when the pictures from there evoked the direct association with the concentration camps of World War II. But the paradox is that in this situation the actions with image (e.g., public discussions, destroying the images, prohibition and censoring of the images) can substitute the actions of prosecuting the crime. A detailed overview of the audiovisual collections of the ICTY, the way they have been obtained and used is an important case of the representation of the audiovisual documents in transitional justice. Audiovisual documents are used actively by the ICTY, and depending on the 'ownership' of the documents can be interpreted differently.

2.2 Theory: The discourse and intertextuality of audiovisual documents

Audiovisual documents, and even more so images, are in general treated as static objects of referral (Westgeest, 2015). In essence, the image itself is barely more than light hitting fabric appearing as shades and colour for the human eye. In audiovisual documents, sound and motion are added, creating three layers for the senses. However, even audiovisual documents are often treated as objects portraying a specific meaning as they are conceived of as manifestations of the person that creates it. This thesis epistemologically conceives of audiovisual documents as subjective manifestations of the 'self' (being the creators of the audio-

⁴⁶ Mirko Klarin, the director of the SENSE News Agency based in ICTY in The Hague.

⁴⁷ M. Klarin, 'What are we actually to "inherit" from the Tribunal?' in RECOM Initiative! Voice 14-2013. Retrieved from: <http://www.zarekom.org/RECOM-Initiative-Voice/RECOM-Initiative-Voice -14-2013.en.html> (as cited in Vukušić, 2013, p. 634).

visual documents). The audience, effectively opening up for multiple interpretations, processes these self-images. In other words, audiovisual documents convey quite ambiguous statements, which start 'doing' something when people interpret them. Seeing the documents isolated makes little sense, but viewing the message they try to convey coupled with the context they emerge should paint a holistic picture of the documents' scope and effect. The remainder of this section elaborates on this holistic approach to audiovisual documents by highlighting the discursive and non-discursive elements of audiovisual documents and how these might be epistemologically conceived. This again creates a starting point for a working methodology.

2.2.1 The discursiveness of audiovisual documents

As opposed to photography, audiovisual documents have a distinct discursive side. Dialogues or the guiding narrative throughout the footage are direct utterances, which may be analysed as discursive acts. In this regard it is useful to visit securitisation theory and speech act theory. Securitisation theory is a theoretical approach where one looks at "what can do or speak security successfully, on what issues, under what conditions and with what effects" (Buzan, Wilde, & Wæver, 1998, p.27). Different issues, whether they be environmental, political social or military becomes a part of a "process of 'securitisation' in which the socially and politically successful 'speech act' of labelling an issue a 'security issue' removes it from the realm of normal day-to-day politics, casting it as an 'existential threat' calling for and justifying extreme measures" (M. C. Williams, 1998, p.435). Speech acts in this regard are utterances with performative action. John Austin separated between three types of speech acts: 1) locutionary acts, being the actual utterance and its ostensible meaning; 2) illocutionary acts, being the performative action of the speech and; 3) perlocutionary acts, which is the actual effect of the illocutionary act, also taking on the context of the utterance (Austin, 1962, p.101).

While the theme of this thesis is not securitisation of any topic, the actual process of conveying a discursive representation is common to all political institutions, including the ICTY. The direct discursiveness of the audiovisual documents can by this definition be categorized as illocutionary acts. The documentary, "The Death of Yugoslavia" illustrates this point. The BBC-documentary is opinionated, as documentaries should be, and starts with the very illustrative sentence: "This is the man whose embrace of nationalism is blamed for all the wars in Yugoslavia today: Slobodan Milošević". This sentence not only sets the premise for the rest documentary, it also 'does' something in that Milošević is effectively mainly to be blamed for the rise of nationalism. Analysing illocutionary speech acts through interpretive lenses allows for audiovisual documents to be studied discursively.

These speech acts in audiovisual documents are not only, however, direct utterances with performative action. The documents also have a perlocutionary force in that the context of which the utterance is made greatly matters. According to Austin, perlocution is "specific to the circumstances of issuance" and includes effects "that some particular situation may cause" (Austin, 1962, p.14-15; quoted in Balzacq, 2011, p.5). In the case of audiovisual

documents, this certainly implies that the surrounding effects of the spoken narrative should matter. These surrounding effects may include sounds, music, and motion picture accompanying the theme, but it can also refer to a spatial-temporal context in that audiovisual documents are produced and broadcasted. Most often we take this for granted. In court hearings in the ICTY for instance, the context of the witness testimony matters, because those particular utterances have no bearing without knowing the indictments of the accused, the relationship between the witness and the accused as well as the background of the accused.

In other cases, the context of the audiovisual documents are more implicit but still prevalent. In the *Death of Yugoslavia* for instance, vivid music is accompanying the documentary's scenes, highlighting a particular moment that the filmmakers want to emphasise. In addition, the *Death of Yugoslavia* was launched in the midst of the war in 1995, a couple of months after the Srebrenica genocide and after the ICTY had indicted twenty one Serbs for genocide. The documentary is thus a reflection of the time it was created, which to say the least, was a very complicated matter with many of the things we know now not publicly available.

Furthermore and as will be more detailed below, *who* creates the audiovisual documents matters a great deal. The ICTY's Outreach Programme is produced by the institution itself, which means that the programme will highlight the essential activities of the Tribunal. The narrative that is led in the documentary on Sexual violence by the ICTY is perceived as different than if a national NGO would create it, because the ICTY, in contrast to any other institution or people, has its particular mandate and thus solidifying its scope.

2.2.2 *The intertextuality of audiovisual documents*

Audiovisual documents are not born in a vacuum. As indicated above, the context in which utterances are made is sometimes even more crucial than the actual utterance itself. For understanding the data, which AV contain, it is important to look at complex realities of the past, as the documents don't give all the answers by themselves. In light of this, it is helpful to look at intertextuality as a framework for understanding how audiovisual documents are made.

The term intertextuality was coined by Julia Kristeva who envisioned it as "one or more *systems* of signs into another, accompanied by a new articulation of the enunciative and denonative position" (Kristeva, 1980, p.16). The term has broadened since Kristeva launched the concept, to mean links that are "forged through direct quotes, or they might be more implicit and come in the form of conceptual references such as 'security' or 'democracy' or through the text's location within a larger body of texts" (Hansen, 2011, p.54). As such, audiovisual documents can build on previous footage to convey a meaning, or it might build on preconceived notions of what is the 'truth'. The intertextuality is thus both context-based and discursive. However, intertextuality does not only stretch back in time. Seeing what happens after the audiovisual document is presented in some form is indeed also a perlocutionary force. Perlocutionary effects also includes the consequential effects or sequels following the utterance, "aimed at evoking the feelings, beliefs, thoughts or actions of the tar-

get audience” (Balzacq, 2011, p.5). In practical terms, this means looking at how the document is interpreted by its audience and further to analyse eventual points of divergence or convergence between the direct utterance and the response from the intended or unintended audience.

Again, this process of sequencing – looking at what happened before, during and after the production of the audiovisual document – also has its explicit and implicit sides. For instance, *The Death of Yugoslavia* gained its footage from a series of interviews, coupled with broadcasts from TV and movies. It merged this footage into a new truth conveyed in the movie. This new truth was presented as evidence in the criminal trials of, amongst others, Slobodan Milošević who had to comment on footage in the documentary. The documentary thus formed a part of the criminal proceedings, which then was conveyed through the ICTY’s Outreach Programme. Thus, one can often see a direct sequence of transformation from one media to another. As will be elaborated further upon later, however, these sequences can also take place in more implicit forms such as media reaction, individual statements and other audiovisual documents that draw upon the domination representation conveyed by the audiovisual document to either confirm or disprove its initial bearing of truth.

2.3 Methodological approach. Research design

This section will examine the impact of audiovisual documents in transitional justice; precisely analyse the ICTY’s Outreach Programme documentaries in the frames of their intertextuality and discursiveness. The three purposes of this part of the thesis are to provide a research design, and information about collected data strategies of the analysis of audiovisual documents and conferences. Qualitative method has been chosen as the most suitable in this kind of interdisciplinary research, having the questions of ‘how’ and ‘why’ in mind. In the third and last part the terms of reliability and validity of the research will be provided. This methodological approach allows different methods and sources to be used; nevertheless the special features of audiovisual documents furthered the use of second literature, archival research and interviews, which will be explained in the following sections.

This thesis employs a combination of historical process tracing, discursive methods, interviewing of representatives of the ICTY and moviemakers (not a strict survey, but the background information), research on the audiovisuals, representing the Balkan wars, and archival research. In applying this method, different sources were used, such as interpersonal interviews, public opinion surveys, media reports, archival documents, NGO reports, audiovisual documents and secondary literature. The thesis focuses on analysing the empirical data: structure of the material, original AV sources (for the documentaries), the tools the ICTY uses to convey its interpretation of the events of the past to the public.

As a sample for this research five documentaries, produced by the Outreach Programme of the ICTY were chosen. While six conferences “Beyond reasonable doubt” organised by the Tribunal together with HLC were chosen in order to have more information about the

perception of the Tribunal by the population. The Outreach documentaries were chosen for this research, as they are a representative example of audiovisual documents in transitional justice and a special and unique case when a justice institution initiates productions of the films. Meanwhile the analysis of the conferences is a supplementary part, which allows observing the activities of the Tribunal, including the usage of audiovisual tools in order to construct the legacy frames and establish the ICTY as a conveyor of truth.

This research seeks to find the way the Tribunal used audiovisual documents in its outreach documentaries and why it was done through an interpretative approach. With the theoretical discussion above in mind, it is possible to derive a three-step approach to the case of the ICTY's Outreach Programme documentaries, which will be analysed in the following Chapter (3). First, the actual narrative (i.e. the spoken word) in the audiovisual documents with all its distinct denotations and immediate action it creates should be studied. This implies following: transcribing the spoken narrative, constructing links and discrepancies between sentences and sequences in order to see what the filmmakers are trying to convey. Secondly, and heavily related to the first, is analysing the context in which the narrative is conveyed. This means analysing the narrative in light of the audiovisual instruments used throughout the movie, including the usage of music and footage, but also the use of tone and other techniques that the filmmakers use to achieve a particular perlocutionary effect. Lastly, analysing the intertextuality of the audiovisual document – being the sequences preceding the document and what happens after – is critical in order to establish points of divergence and convergence in relation to the audiences' interpretation of the document.

These three sections of analysis are intertwined, meaning it makes little sense to view them as separate phenomena of the audiovisual document. An utterance may for instance contain: 1) a distinct sentence of denotive meaning; 2) a complete set of perlocutionary surrounding effects and; a backlog of preceding sequences which either changes or modifies the initial meaning of that utterance. It is the mutual interaction between these three sections that makes the analysis of audiovisual documents intriguing. Different interpretations based on different sections will emerge due to different emphasis on different sectors. The subsequent analysis' aim is to decipher these emphasizes, and thus illustrating how the ICTY portrays itself through the Outreach Programme as well as the interpretation from the public.

Similar to the analyses of documentaries, the observation of conferences and screenings will be presented as a three-step approach. First of all, the actual narrative of the participants will be considered. Secondly, the context of the narrative is taken into account: the choice of the narrators, the selection of the shown audiovisual documents. And ultimately, the thesis focuses on the audience's perception, and the dialogue between witnesses and official representatives of the authorities, the Tribunal, and NGOs.

The sources for analyses were obtained from the websites of the HLC, the ICTY and the Organisation for Security and Co-operation in Europe (OSCE), where they provide an open access for the transcripts, press-releases, programmes of the conferences and press-clippings. Audiovisual documents, video and audio recording of the held conferences were an important part of the sources. One of the main aim of this analyses was to define the way the audience perceive the ICTY, and if possible to see their emotions, direct reaction, especially

considering the fact, that at most of the conferences the audiovisual material from the Balkan wars was shown. Part of the sources was in Bosnian/Croatian/Serbian and the author of the thesis did the translation of the documents personally. Another limitation of the sources was that the video and audio recording from the conferences were edited, so that the 'second edition' of material was obtained for the analyses, with the episodes, chosen by other people. In most of the cases it is the production company XY Films from Sarajevo (BiH).⁴⁸ The analysis of screenings of the documentaries has been done on the basis of the ICTY's reports and video from the screenings. A limited choice of the sources has been taken into consideration.

2.4 Assessing reliability and validity

The notion of reliability assumes the possibility to reiterate the research afterwards. Often it cannot be proceeded, because the conditions of qualitative studies are dynamic and constantly changing (Neuman, 2006). As regards to this qualitative study it can be conducted again, because the documentaries stay as constant objects, even if they can be edited and translated to other languages. But what would be different is a result of this type of the analysis; as for conducting this analysis the research should consider the discursiveness and intertextuality of the documentaries, which would change in other time, with other external conditions and a context.

Meanwhile, validity implies the extent to which the research reflects the reality and reveals the authenticity of the research (Neuman, 2006). Which, in the case of this research, should mean how does a received data match social reality. In the case of documentaries of the Programme, considering still working trials and the closure of the ICTY and maybe Outreach Programme,⁴⁹ the research appears to be valid and be a contribution to further studies of the representation of audiovisual documents in transitional justice.

Considering a specific issue of this interdisciplinary research and a qualitative methodological approach this thesis overcame challenges and managed to present a theoretical approach to analysis of the audiovisual documents in transitional justice. Nevertheless, the realization of this research project could be more valid and reliable. Chosen qualitative methodological approach was based mostly on the secondary literature, theoretical base. Thus, quantitative approach could give a more valid result. In this case for the supplying analysis there could be chosen not just regional conferences "Beyond reasonable doubt", but also global and regional legacy conferences. A wider choice of the conferences could give more information about the tools the ICTY use in order to establish itself as a conveyer of truth. Even if the research has a fundamental base of the secondary literature, still the part of the analyses of the Outreach Programme activities could be enriched with a comparison of oth-

48 XY Films is an independent film and television production company, founded in 2004. The company produces films about the impact of the ICTY and the legacy of war crimes in the Balkan war in 1990s.

49 According to the representatives of the ICTY, the decision about the Outreach Programme will be made in September 2015.

er examples from transitional justice: the ICC, the ICTR and other international courts and tribunals, as well as truth commissions.

The choice of the interviewees for this research is not accidental: it is stipulated by their first-hand experience with the ICTY, and the moviemaking process for the Outreach Programme. Even if these interviews represent a very valid source for this particular thesis, the quantitative approach and selection of more systematic interviews, could have made this research more reliable. Most of the interviews were conducted by email and respondents answered to the most of the questions. Meanwhile, interviews conducted by Skype and face-to-face with the representatives of the Tribunal included several questions and directions of the conversation. Thus, during the interviews, the informants were engaged in the topic and made impression of having a plan for their answers and even their monologues, notwithstanding asked questions.

The thesis discusses how the audiovisual documents were interpreted by the ICTY Outreach Programme in order to promote the work of the Tribunal and to establish the facts about the war in Balkans in 1990s. Considering the insufficient amount of researches about the Outreach Programme and moreover about the audiovisual documents in transitional justice this thesis serves as a contribution to the literature, devoted to the role of the Tribunal and the usage and interpretation of audiovisual documents in different disciplines.

This chapter has dealt with theoretical and methodological framework applied in the subsequent analysis of the thesis. First, it has situated the theoretical approach to the role of the audiovisual documents in the system of transitional justice. Subsequently, the chapter has devoted considerable space to describe the impact of the audiovisuals in the work of the ICTY. Next, it has explained discourse and intertextuality of the audiovisual documents, which was implemented as a background for the methodological approach. In the frames of methodological approach: a sample and data collecting strategy was presented. A three-step approach to the analysis of the Outreach documentaries was developed on the base of theoretical discussion. While concerns might be raised regarding the universality of this approach to the sampling strategy and the selection of qualitative methods of this particular research. Nevertheless, universality of the theoretical and consequently methodological approach might contribute to the interdisciplinary studies about audiovisual documents in international law, and precisely in transitional justice.

Analyses. Documentaries and conferences

“Serbia cannot change the past, but can change its attitude towards the past and in this way show the world its moral strength.”

Alexandra Milenov, ICTY in Serbia,
Conference “Beyond reasonable doubt: Prijedor”, 2006.

In this chapter, in order to answer the research questions, the thesis employs theoretical and methodological approach for the analysis of the documentaries of the ICTY Outreach Programme. This analysis is divided into three parts. First, the documentaries produced by the Tribunal will be analysed. Then it will be discussed how the ICTY through its documentaries establishes itself as an authority by reiterating the legitimacy of the institution, effectively establishing itself as a ‘conveyor of truth’. Then the research will show how this truth is further spread in the documentary’s message. The documentaries aim to inform a wider audience, but in practice, only educative features are implied and the wider audience narrows to the target audience, such as students, and young specialists. These documentaries are mostly spreading among universities and schools’ circles.

The second section of this chapter is devoted to the analysis of the conferences, organised by the Outreach Programme. The conferences are organised in order to discuss the atrocities of the Balkan wars in 1990-2000s, they target a wider audience, including witnesses and survivors. To define how the population reacts on the issues of dealing with the past and how it perceives activities of the Outreach Programme, the paper will provide the observations of the events and its media coverage. The choice is limited by the media, which have their electronic versions: newspapers (Danas, Dnevnik, Večernije Novosti, Blic, Glas Javnosti), TV stations (BBC Serbia, B92 and Radio Television of Serbia (RTS)).

Legacy conferences were not included in the research, because the main topics of those conferences, as legacy of the Tribunal, the achievements of its work, were covered in the documentaries and other activities of the Outreach Programme many times. While the series of conferences “Beyond reasonable doubt” give the opportunity to see the other side, victims, witnesses, to see their reaction and perception of the ICTY. They were organised together with the Humanitarian Law Centre and were devoted to the atrocities committed in Čelebići, Foča, Brčko, Prijedor and Srebrenica. The activities of the ICTY, that were analysed, took place in Serbia, the country where denial of war crimes is still a relevant topic, while the Global Legacy conferences took place twice in The Hague and several times in the region (Belgrade, Zagreb, Sarajevo).

In the third and the last part of the chapter the deliberate approach to movie making and presenting results of the work of the Tribunal at the conferences will be presented. The ac-

tivities of the Outreach Programme have impact on the audience, the Programme means to affect, which in some cases has resorted to clash with the 'truth bearer'. Significantly, this part includes interviews with the filmmakers, which were conducted by email, by Skype and face-to face. The thesis analyses the evolution in ideas brought in the documentaries. Starting with the films, which were produced when the Outreach Programme was not very active and concluding with the documentaries that have being produced now, when the programme is still in place. The analysis of interpretation of the historical facts in the documentaries and at the conferences will contribute to defining the dominative discourse and how it is represented in the audiovisual documents of the ICTY.

3.1 Documentaries of the Outreach Programme

"...it is very important to have, in addition to judgements, things like this documentary, since that is one of the ways to relate the facts about these events."

Ahmet Halilović, the Ambassador of BiH to the Netherlands, The screening of "Crimes before ICTY: Prijedor" in The Hague, 2013.⁵⁰

"It is necessary to show to people that they are not alone in their pain and that there were victims on all sides. Such films speak about what happened in a clear way and contribute to the healing process."

Dr. Kadrija Šabić-Haračić, The screening of "Crimes before the ICTY: Central Bosnia", 2015.⁵¹

Since the establishment of the ICTY's Outreach Programme in 1999 several documentaries were produced in order to promote information about the Tribunal's cases, its legal procedures, difficulties, the reaction of the local population to the transitional justice initiatives, challenges and achievements of the Tribunal.

The first documentary, "Justice at Work", was produced in 2001 with the support of United Kingdom Foreign and Commonwealth Office by the director Gert-Jan Gerlach. According to the film director the production of the documentary took a year, because different decision-makers within different departments of the ICTY were involved. The film opens the series of the documentaries and that is why it differs from following productions, mostly because it has less informative inserts, but includes episodes with the opinions of representatives of local governments, NGOs, young people from different countries of former Yugoslavia. As the film director of the documentary Gerlach remembers from that time: "The main contribution of the O.P. [Outreach Programme] was to inform the people in the former

⁵⁰ Outreach documentary screened for Bosnians living in the Netherlands. Retrieved June 18, 2015, from: <http://www.icty.org/sid/11323>.

⁵¹ Audience in Vitez left speechless by ICTY documentary. Retrieved April 15, 2016, from: <http://www.icty.org/en/outreach/activities/audience-vitez-left-speechless-icty-documentary>.

YU [Yugoslavia] about the work of the ICTY.⁵² With this in mind I made the doc [documentary] about the process of the work of the different departments within the ICTY.” The documentary covers issues starting from general notion of war crimes and legacy of the Tribunal and following with its complicated structure, the limits of its facilities (as lack of its own police forces), detailed investigation procedure, preparation of the indictments, detention procedures, the work of Registry office, work with witnesses. All these issues can be summarised as the challenges the Tribunal had and work it has done.

The documentary, “Sexual violence and the Triumph of Justice”, made in 2012, sets up the ICTY as an authority by emphasizing its legitimacy in establishing truth. The documentary attempts to convey the main activities of the Tribunal regarding sexual violence and to raise awareness and understanding of the crimes committed during the conflicts in the former Yugoslavia. Among numerous cases of transitional justice in post-war Yugoslav successor states, the issue of wartime sexual violence is of special significance, as the ICTY was one of the international justice institutions, which recognised sexual violence as a tool of war. The Tribunal played a historical role in implementing international conventions and treaties about the crimes, involving sexual violence (The Hague Convention of 1907, The Geneva Conventions of 1949). It has become the most important base for reports of systematic detention and rape of women, men and children and almost half of the accused have been found guilty in the crimes of sexual violence in the former Yugoslavia (ICTY, 2015). Due to the ICTR and the ICTY, gender crimes as rape and sexual enslavement were defined under customary law, and the rape as a form of torture and sexual enslavement were recognized as crimes against humanity.

The documentary, “Crimes before ICTY: Prijedor” focuses on the cases about the atrocities committed in Northwest Bosnia and Herzegovina. The investigation of the cases of detention camps for non-Serb civilians, which came out to the international public in 1992 due to nowadays famous video made by British journalists, led to the establishment of the Tribunal. The Outreach Programme released the documentary in 2013. Rich archival material, which was previously used as evidence and vivid storytelling, performed by the hosted narrator journalist Vulliamy, who testified at the Tribunal for those cases, as well as testimonies of the victims, recreated the story of investigation and prosecution of crimes in Prijedor. In the documentary indicted of low and high ranks denying the established crimes and those who admit their guilt contrasting with the victims and witnesses, telling their terrible stories.

In 2013 the Outreach Programme released the documentary “Through their Eyes: Witnesses to Justice”, which deals with a very sensitive issue, as it is made of the stories of five persons who survived the atrocities and who were brave enough to testify publicly at the trial and later took part in this documentary. The composition of the documentary emphasises the narrative of the life of civilians during the war and the role of those who suffered as a witness in the judicial process of transitional justice. The motivation of the witnesses in many respects is in line with the ICTY priorities concerning establishing the truth. As one of them, Minka Čehajić says in the documentary: “I still believe in justice, and I believe in truth, and I believe that this will all be cleared up.”

“Crimes before the ICTY: Central Bosnia” is the latest documentary, presented to public in 2014. The documentary focuses on the crimes committed during the Croat-Muslim

52 Interview with Gert-Jan Gerlach by Email (30.06.2015).

conflict in Central Bosnia in 1993-1994. The authors pay significant attention to the history of the Tribunal and its establishment, justifying its legacy through the linkage to the previous international court through the media. In one of the episodes with archival video, a BBC journalist explains his experiences in the aftermaths of atrocities, mentioning that in future there should be established a court of justice in The Hague to investigate war crimes. Continuing the line of other documentaries of the Outreach Programme, this film also contains informative episodes about the work of the ICTY, its results and challenges. In the documentary one can also find the answer to the critique about the legacy of the Tribunal and the lack of “flip-side” cases. The documentary shows how the legal framework was set up for practical purpose at the court - to receive evidence; the filmmakers presented the prosecution of the crimes committed at different sides of the conflict.

The documentaries of the Outreach Programme were screened in Serbia (Belgrade, Novi Sad, Kruševac, Vrnjačka, Banja, Leskovac), BiH (Sarajevo, Tuzla, Mostar, Prijedor, Vitez) and Croatia (Zagreb, Vukovar). The typical audience of the documentaries had dealt with sensitive issues in the recent past or was a representative of an NGO, academia, diplomacy, or a student from the university or a high school, a local judicial specialist, a journalist and to a lesser extent a local politician. The screenings of the documents were accompanied by the Q&A with the team, who created the documentaries. In some cases screenings were accompanied by the lectures about the ICTY's legacy and achievements.⁵³

The documentaries have been released on DVD and distributed to NGOs, universities, schools and victim organisations. With regards to the broadcasting of the documentaries, it has not been done in the same manner through the region. Thus, the documentary “Through Their Eyes: Witnesses to Justice” and “Crimes Before the ICTY: Prijedor” has been shown on the local TV in BiH in BIRN's TV Justice monthly programme. Apart from that it was screened on UNTV, which has a huge audience according to the ICTY web site.⁵⁴ The documentaries have been shown on different TV stations in BiH (in Goražde, in Tuzla) and some cable TV Channels in Serbia and Croatia. Nowadays the Tribunal negotiates with the state TV Channels in Serbia the broadcasting of the documentaries. Even if to consider that documentaries have a free access in the Internet and are distributed on DVD through the ICTY offices and Outreach events, television is still the most popular media in the region. All of the documentaries were originally released in English and BCS, but in order to reach a wider audience some of them were translated into French, Macedonian and Albanian.

The series of documentaries from the Outreach Programme are united by one purpose: providing transparency and explaining that the work of the ICTY has common features and uses common tools to achieve these goals. Visual realization, choice of the narrators, selection of the images (some of them have been included in different documentaries), spoken text, composition are all performed with the similar approach and will be analysed utilising the three-step approach established in the theory section.

⁵³ Latest Outreach documentary screened for Serbian students and human rights activists. Retrieved May 01, 2015, from: <http://www.icty.org/sid/11549>.

⁵⁴ UNTV has a world-wide reach of up to 300 million viewers on cable TV in the United States, via satellite in Europe and globally on their Internet Channel, UN web TV. Retrieved May 01, 2015, from: <http://www.icty.org/sid/11534>.

3.1.1 Establishing ICTY as a conveyer of truth

“Let us accept as truth, the things that were established beyond reasonable doubt in court proceedings. I think that should suffice for a start. I don’t have any problem with that.”

Željko Mejakić, Commander of the Omarska detention camp, sentenced by the BiH Court to 21 years’ of imprisonment, Interview in the documentary “Crimes before the ICTY: Prijedor”.

An audiovisual document can represent the ideas of the producers through spoken text, audio (music, intersound) and visual tools. The Outreach Programme of the ICTY uses in its documentaries a variety of visualizing methods. These include interviews, archival video and photo, video from trials, current video, re-enactment or explanatory inserts and video from the Tribunal archives. In addition, composition of the documentary plays a huge role in solidifying the way in which the message is presented. This includes how images have been edited and combined to each other in compliance with the visual and spoken narrative, current or/and archival images, length of shots, image content, as well as technical features as lightening, angle and camera actions.

The tendency to make a historical link with the previous international justice initiative is shown in all the documentaries. The link is established through the spoken word, visualized through contextual features as informative inserts with documents, archival video and photos, special visual and sound effects. The discursive line in the documentary “Justice at work” shows archival photo with The Hague Conventions of 1899 accompanied by a narrative about the importance of these initiatives.⁵⁵ The development of the ICTY is presented in the documentaries through different methods and tools.

Judge McDonald ‘answers’ to the critics of non-interference and lack of activities by the Tribunal by direct message: states, which under international law were obligated to cooperate, refused to do so and The Tribunal had no police force.⁵⁶ In “Crimes before the ICTY: Prijedor” Sophie Greve from the Commission of Experts (predecessor of the ICTY), claims that “the Serbian authorities did not want us to go” to Bosnia to make investigation. The explanatory inserts are always shown by camera zooming the picture with words in adopted document. In “Sexual violence and the triumph of justice” they show The Hague Conventions (1907), and even more specifically the article 46 of the Conventions. The document reads as follows on the screen: “...family honour and rights to be respected...” This statement about common values shows the status, assuming by the ICTY, its patronizing and protective role towards society. Another example of explanatory insert is the article 27 of 1949 Geneva Conventions, which is devoted to the issues of sexual violation:

55 Professor Antonio Cassese University of Florence Former ICTY President (1993-1997) in “Justice at work”.

56 McDonald, Gabrielle Kirk, judge, former ICTY President (1997-1999) in “Justice at work”.

“... Women shall be especially protected against any attack on their honour... Rape. Enforced prostitution. Indecent assault.” (Barsony, 2011)

The ICTY represents itself as a pioneer of classifying rape as a war crime. In the same documentary, the narrator explains ‘prosecutors’ permit approach’ of investigating crimes of sexual violence and indicting of those responsible. This allows the prosecution to use jurisprudence of the completed trials in the cases of high-level political and military leaders. In “Sexual violence”, the filmmakers create special context to present this achievement of the ICTY. They have visualised it in the form of a pyramid, constructed with the portraits of the accused. At the bottom of the pyramid there is a portrait of Predrag Banović, a guard at the Keraterm camp. On the top of the pyramid there is a portrait of Slobodan Milošević. In this episode the documentary frames the way the Tribunal is establishing its legitimacy for accusing not just ordinary people, but also the former heads of the states. The filmmakers of “Justice at work” included an episode about the indictment of Slobodan Milošević from the BBC news. The episode with the prosecution of high ranked indictee shows international awareness of the ICTY’s successful work. The filmmakers additionally illuminate the casual relationship between judicial progress of the present and means for the future development of transitional justice.

The narrator Morten Bergsmo introduces the importance of establishing the ICTY in the “Justice at work” through the spoken narrative.⁵⁷ Bergsmo justifies a demand in the establishment of the institution of the transitional justice, explaining the initiative of the international community of the investigations of the atrocities by the Commission of experts. In the same documentary, the narrative defines the establishment of the Tribunal “As a response to the terrorism inflicted to the people in the region”. This historical linkage is a part of speech of Madeleine Albright at the Security Council meeting in 1993. Inclusion of archival video with the Security Council in the documentary “Justice at work” shows the importance of the Tribunal, its wider role of making the historical records.

Quoting the text of Conventions shows the intertextuality and a historical link with other international justice initiatives. The similarity with the with previous international justice cooperation is made towards Nuremberg Trial and Tokyo War Crimes Trials in all the documentaries of the Outreach Programme. In “Sexual violence and the Triumph of Justice” the spoken text brings into focus that predecessors did not pay enough attention to the problem of sexual violence as a war crime:

“There were some grave injustices addressed at these tribunals: the charges for rape and sexual violence were barely touched upon.”

The link to the trials in Tokyo and Nuremberg serves for explaining the legacy of a “command responsibility”.⁵⁸ This historical injustice is addressed by the ICTY as it goes fur-

⁵⁷ Morten Bergsmo, a member of the UN Commission of Experts (Documentary “Justice at work”, 2001).

⁵⁸ Arbour, Louise, Justice of the Supreme Court of Canada, Former ICTY Prosecutor (1996-1999) in “Justice at work”.

ther and eventually establishes the truth. In the documentary “Justice at work” as well as in “Sexual violence” historical context is visualised with the archival video and photos of the previous international justice actions.

Image of the prisoners behind the barbed wire in Trnopolje camp, which became iconic and attracted the attention of the international community to the conflict in the Balkans, is used in the documentaries of the Outreach Programme intensively. In some cases, as in “Justice at work” these are used in order to make a link with the concentration camps of World War II. In the documentary, the Tribunal justifies its establishment through the severity of the war: “Unseen in Europe since World War II, recalling the world’s response, that it should never happen again”. And the visual part, which creates the special context, shows first the archival video with the prisoners of the concentration camps of 1940-s and then prisoners of the years 1990-s. While in the documentary “Crimes before the ICTY: Prijedor”, which devoted to the atrocity in detention camps, the archival video from the camps takes a central position. In the documentary the narrator, journalist Vulliamy, confirms that the images become popular, which contributes to the idea that sometimes the images can start to play an active role.

Specifying the role of the Tribunal as a legitimate institution of transitional justice, establishing its rule and truth about the events in former Yugoslavia, the filmmakers of the documentaries use the narrative of being the best and the first in its area of international justice. The narrator or interviewees in their speeches especially stress the words as: “the highest”, “the first” (“the first international Tribunal of its kind”,⁵⁹ “first time in the history of international criminal law”),⁶⁰ “important,” “legacy/legitimate” “pioneering efforts,” “success/successfully,” “extensive contribution,” “significant role,” “global effect,” “our humanity,” “long run,” “impact”. As former Deputy Prosecutor of ICTY (2004 – 2009) David Tolbert says in the documentary: “International humanitarian law for the most part was on paper, and not applied before this Tribunal was established.⁶¹ Today you can say that this Tribunal has a long record.” The rules, practiced by the ICTY, are the “highest international standards” judge Gabriele McDonald notices in “Sexual violence and the Triumph of Justice”.⁶²

Through the spoken narrative the documentaries confirm that the legacy of the Tribunal was given by the international community, as its “establishment demonstrates the consensus of the international community”.⁶³ The narrative furthermore emphasizes the role of the ICTY in facilitating the development of international law (“a ground breaking contribution to the legal understanding and definition of this crime”) by implementing new categories: “rape has been listed the first time in history of humanitarian law as a crime” [...] this was the first time sexual enslavement was recognized as a crime against humanity”.⁶⁴ The Tribunal conveys the truth, proving how successful its work was through the direct words, as “the path towards justice for victims of sexual violence has now been clearly set”, the Tribunal made an “extensive con-

59 “Justice at work”.

60 “Crimes before the ICTY: Prijedor”.

61 “Sexual violence and the Triumph of Justice”.

62 Gabriele McDonald, judge, ICTY President (1997-1999) in “Sexual violence and the Triumph of justice”.

63 “Justice at work”.

64 First citation was from the documentary “Crimes before the ICTY: Prijedor” (first quotation). Second citation was made by Benito, Elizabeth Odio, judge ICTY (1993-1995) in “Sexual violence and the Triumph of justice”.

tribution to the development of jurisprudence in this area. The Statute and rules of the ICTY have now been tested as legitimate and enforceable".⁶⁵ One of the dimensions of the direct spoken message in the documentaries is the issue of the Tribunal legacy, specifically its mandate. Making comment on this document, professor Cassese extends its mandate to the reconciliation, while "rule of law became the foundation for the lasting peace".⁶⁶

All these means are meant to solidify the role of the ICTY as the ultimate conveyor of truth. By reinforcing itself as an institution, which is pioneering, thorough and successful, the Tribunal creates a strong mandate for itself and a strong justification for its activities. The choice of the topics for the documentaries is based on the selected cases of the "major achievements", "particular significance" and "successful prosecution".⁶⁷ Through the documentaries, the Outreach Programme establishes a channel to inform about the ICTY's work, claiming "the people of former Yugoslavia will be heard through the Tribunal work" and "the local people will gain greater understanding" of the work of the ICTY. The Tribunal arranges these links with the local population and justifies the position of the important institution of international law, by affirming, that:

"...justice been rendered here, in The Hague will be copied in local courts and will be able at work on the same concepts and the same case law".⁶⁸

Apart from the contribution to justice in the region, the spoken narrative in "Justice at work" conveys the Tribunal as a provider of "peace and stability in the region", supporting the development of civil society and having made a "substantial contribution to establishing the standard of justice against the worst atrocities of mankind, against the backdrop of political resistance to accountability for violation for humanitarian law." The mission of the ICTY, is successfully expressed in the spoken narrative, i.e. in "Through their eyes: Witnesses to justice", as 'building evidence' and 'establishing facts'.

Many cases were transferred from The Hague to the local courts. In the documentary "Crimes before ICTY: Prijedor" the Tribunal confirms its legitimacy in the region, including interview with Meddžida Kreso, a president of the Court of BiH. The narrative underlines the Tribunal's importance:

"...it was the first in the region to adopt the practice of The Hague Tribunal in its decisions. This has immensely aided our councils in their work because they did not have to repeat the process of establishing certain facts which The Hague Tribunal had already confirmed".

In the documentaries of the Outreach Programme, the ICTY establishes itself as a successful legitimate institution of transitional justice, providing different numbers - results of

65 "Sexual violence and the Triumph of Justice".

66 "Justice at work".

67 Nenad Golčevski, ICTY Outreach Officer. "Outreach documentary on crimes in Central Bosnia premieres in Belgrade". Retrieved May 01, 2015, from: <http://www.icty.org/sid/11638>.

68 Jorda, Claude, judge, ICTY President (1999-2003) in "Justice at work".

its work. Thus, it had “testimonies from over 5000 witnesses. Over million pages of transcripts and tens of thousands of hours of courtroom video recordings remain as part of its legacy”.⁶⁹ The summing up of years gives a feeling that the results are enormous: “The Tribunal’s judges convicted fifteen persons to a total of 230 years of imprisonment for crimes in Prijedor. Four accused were transferred to the Court of BiH and sentenced to a total of ninety years.”⁷⁰ Similarly, “In the crimes before the ICTY: Central Bosnia” the summering information about years of imprisonment is announced: “...for crimes committed by both sides in Central Bosnia. The Tribunal judges convicted twelve people to 127 years of imprisonment”.

The Outreach Programme provides a clear message, which “...the facts about the crimes cannot and will not remain unseen. The success of the Tribunal proved that international criminal law can be a viable tool for bringing war criminals to justice and justice to victims around the world”.⁷¹ In the documentaries, the ICTY is establishing itself as a conveyor of truth through actual narrative, claiming in direct words success, importance, and legitimacy of its activities. Intertextuality is framing the historical link with the previous transitional justice initiatives showing the legitimacy of the ICTY. Audiovisual tools have been used to underline the narrative of the Outreach program that the facts established by the Tribunal beyond reasonable doubt should be presented to a wider audience.

3.1.2 ‘Mainstreaming’ transitional justice

“As the work of the Tribunal draws to a close it is important that its work be available in forms that are accessible to a wide range of audiences. The Outreach Programme’s documentary series is an important step towards ensuring that accessibility.”

Theodor Meron, Judge, ICTY President.⁷²

Audiovisual documents are used by the ICTY to make easier an understanding of judicial processes and construct a better connection between the public and the Tribunal (Gow, Michalski, et al., 2013). “There was a need - a necessity, really - for the Tribunal to do more: to actually communicate with the people of former Yugoslavia, living hundreds of miles away from the Tribunal that had been established for their benefit” (McDonald, 2004, p.569). Thus, the Outreach Programme was created in order to “realize the need and importance of communicating its activities to the people in the Balkans” (Barria & Roper, 2010, p.104). Some scholars (Bloxham, 2003; Delage, 2006; Douglas, 2005) acknowledge significant influence of audiovisual documents on framing collective memory.

The Outreach Programme used a ‘connective power’ of images to facilitate a better understanding of the work of the Tribunal. At the screening of the documentary “Through their

69 “Through Their Eyes: Witnesses to Justice”.

70 “Crimes before the ICTY: Prijedor”.

71 “Crimes before the ICTY: Prijedor”.

72 Outreach Programme documentary on crimes in Prijedor premieres in Novi Sad, Belgrade and Sarajevo. Retrieved June 18, 2015, from: <http://www.icty.org/sid/11277>.

Eyes: witnesses to Justice” Peter Finci pointed out: “This film will speak for the Tribunal”.⁷³ Documentaries, produced by the Outreach Programme make the gap between the ICTY and the population of former Yugoslavia closer through so called ‘mainstreaming methods’: creative and technical features, used in the films in order to make them simpler and more understandable for people.

Mainstreaming methods include different camera angles, shot types, composition, a selection of images and others. One of the strategies is the choice of storytellers: either witnesses, or judges and prosecutors, experts or perpetrators. The story can be told by invisible narrator reading text, or can be edited out of speeches of different participants. These stories combined with suitable video and sounds can make an intense affect. Another feature of mainstreaming justice is the way that they show indicted who either deny or admit guilt. The indictees are presented as bad characters, with no doubts in their reputation. The first of them is the group of the indicted who denied the accusations, sometimes in an absurd way and the second group of indicted, who admitted their guilt publicly. The other strategy of the mainstreaming in the documentaries of the ICTY is “context vs content” which means that in one case the factual context of the image is important: geographical area, personalities, events or atrocities. In the other case the visual content, as burning houses, villages, crying women, dead bodies, or UN vehicles is used without considering the factual context of the image and which facts do they cover at the moment of inclusion of the image.

“Context vs content” is a widespread method, used often on television, as the visual reliability is not always important for covering events or news, where the main obligation is set on the spoken narrative, information cause. The direct discursiveness of the audiovisuals combines spoken narrative and visualizing tools, effectively promoting performative action (illocutionary force). Thus, some episodes contain images, which do not connect directly to the narrative of the documentary, but at the same time give the direct association to the spoken text.

A typical way for using image without indicating their factual context is to select war-associated images as an exposition, thus they should contain burning houses, refugees, crying children, guns or shooting.⁷⁴ The same images were used as a visual support for covering the establishment of separate Bosnian Croat entity.⁷⁵ One of the most popular examples for these documentaries is the inclusion of the images of ITN report, filmed in 1992 in detention camps in Trnopolje in northern Bosnia. They have been used in “Sexual violence and the Triumph of Justice”, “Justice at work”, “Through their eyes: Witnesses to Justice” and in “Crimes before the ICTY: Prijedor” as the illustration to the atrocities during the Balkan wars without mentioning the context of the images. The other example is a famous picture of Serbian paramilitary force, Tigers, where the soldier is kicking a woman who is lying on the ground next to her killed husband.⁷⁶ Meanwhile, this image is accompanied by spoken text of judge Florence Mumba (ICTY Vice President in 1999-2001): “The women’s voice would never be heard by anybody”. Spoken and visual narrative avoids explanation of the

73 Premiere of Through their Eyes: witnesses to Justice”. Retrieved May 01, 2015, from: <https://www.youtube.com/watch?v=Ar3wIIFUIUQ>.

74 “Justice at work”.

75 “Crimes before the ICTY: Central Bosnia”.

76 “Sexual violence and the Triumph of Justice”.

context and content of the image, which became world-famous and was used for the indictment of the commander of Tigers, Arkan (Željko Ražnatović) by the ICTY (Haviv, 2009).

The documentary “Through Their Eyes: Witnesses to Justice” includes the images of besieged Sarajevo, made by the film director Pavel Pavlikovski for his documentary “Serbian epics”. The video was used as evidence at the trial and became the iconic images of the war in Balkans. The same contextual method was implemented to the video with Ratko Mladić entering Srebrenica after its fall with people hiding behind the UN vehicles in besieged Sarajevo, video with Muslims who survived escaping from Srebrenica through the forest, and the UN vehicle driving covered with refugees.⁷⁷ The Outreach Programme used this audiovisual document for visualising general wartime scenes, without mentioning its origin, context of its creation, without naming objects or persons from the image.

The images can give strong and direct associations; they can frame collective or public memory, and make working the ability to memorize events of the past through images (Zelizer, 1998). The Outreach Programme filmmakers used the images without naming facts, persons, to provoke reaction and emotions and not to show the concrete content. It is the part of a mainstreaming strategy. It reinforces the Tribunals’ position as a conveyor of truth. In “Justice at work”, they have included TV news (UN TV/ CNN Split) about Croatian criminals arrested and put into the detention. The TV episode is accompanied with the archival video of burning houses, tanks on the field, then arrests as answers of justice to the crimes.

Storytellers in the documentaries of the Outreach Programme are mostly the participants of the trials, with the small exception of external experts, politicians, and people from the region. The witnesses, who are testifying, can be protected differently: they can give evidence under pseudonym, they can testify with the distortion of voice or face, or both, or they can do it in the closed session.⁷⁸ Some of the witnesses appear on different video and in several documentaries, as, Ahmić Abdulah who was shown in “Through their eyes: Witnesses to Justice” and “Crimes before the ICTY: Central Bosnia”. In the footage from the courts, used for the documentaries, witnesses are filmed with a medium shot, in order to make the figure of the witness central, make the audience to focus on and to share emotions. Images of the court sessions are in full shots, which gives a general picture of the trial in order to make audience familiar with the process and to give the feeling of personal presence.

A compositional approach to show defendants during the court session makes them central figures of the image; very often camera is zooming them and taking close-ups. These techniques ‘help to demystify the trials’ (Gow, Michalski, et al., 2013, p.26), to make justice procedures more comprehensible for the audience. Intertextuality appears in the urge toward creating the links with the audience. The images with witnesses and their stories are selected in that way that they appear in the beginning of the documentary and furthermore take a central position in the narrative of the documentary. These selections increase the emotional exertion of the audience and make empathizing with victims easier. The images, which resonate with the personal life experience of the audience, are important during the trials of the Tribunal, as evidence and as a tool to reach a wider audience (Gow, Michalski, et al., 2013, p.5).

⁷⁷ “Through their eyes: Witnesses to Justice”.

⁷⁸ ICTY. Witnesses. Retrieved May 01, 2015, from: <http://www.icty.org/sid/158>.

Powerful and horrifying images of testimony of victims and witnesses are used in the documentaries as a direct evidence of the crimes. The most terrifying cases are chosen which conveys a strong message of severity. Spoken narrative is strengthening the truth established by the ICTY. For instance, the evidence of Grozdana Čećez who is talking about her case of sexual violence during the war illustrates the despicable acts of cruelty committed to her and others like her:

“I could not do anything. I was lying there and he was raping me. There was... I had no way of defending myself. I couldn't understand what was going on, what was happening to me. I was crying. I said: My God, what have I come to live through?”

Interestingly, the filmmakers combine different statuses of the narrators, as in “Crimes before the ICTY - Prijedor” Guardian journalist Ed Vulliamy tells a story about the atrocities for the documentary. He is a representative of media and a witness who testified at the Tribunal at the same time. Specific visual tools have been used to emphasize his role: he has been shot on the dark background; his figure is in the centre, lighted smoothly, which makes an accent of the narrator's role. The composition with the journalist as a narrator is made as follows: simultaneous image, music and the story told by the witness, the documentary closer to the audience, closer to reality, as it's not just the story, not just archival video, but a real man, a journalist, who is alive, sitting in front of you and telling about his impressions, so that you can analyse image, backing up on his words.

While in previous documentaries, i.e. “Justice at work” and “Sexual violence” there were separated lines: images (which could visualise the story directly-showing places, people, facts meaning in the documentary, or being just visual frames, pictures without context) and stories, which could be told by invisible narrator, or by the witness of the events, but it would be separated with the visual part. The video from the trial with Vulliamy as a witness also appeared in the documentary “Justice at work”. The inclusion of the recordings with Vulliamy shows positive example of consciousness, because not all the journalists were ready to testify at the court. Most of the narrators in the films are from the ICTY: presidents, judges, legal advisors, prosecutors, investigators, experts in pathology, coordinators. Inclusion of the insiders shows that the documentary is focused more on the internal sources and eager to convey its legacy and truth on its own.

The scenario of the documentaries resembles the one from mainstreaming movies. Thus the exposition can be as bright short videos in “Crimes before the ICTY: Prijedor”, where witnesses, victims and commenters give their statements. The way it is edited the documentary attracted attention, it creates emotional frames of the documentary: horror, suffering, tears, injustice, and empathy. Similar tendency of creating a visual emotional introduction for the documentary can be found in “Crimes before the ICTY: Central Bosnia”, where in the exposition, images are full of atmosphere of war: victims, murders, TV, politicians, burning buildings, soldiers with Croatian flag, images of dead bodies on the ground, UN forces, civilians... Video is accompanied by disturbing sounds.

In “Sexual violence and the Triumph of Justice” the audience can easily recognize a bad character in defendants, as they are filmed with camera zooming their figures, when

they openly deny their guilt, or even try to accuse witnesses back. Thus, Dragolub Kunarac, a commander of reconnaissance unit of the Bosnian Serb Army, who was convicted by the ICTY of torture, rape and enslavement, tried to claim that victims were in reality “willing participants”. Kunarac explains in the documentary:

“She didn’t apply force, any kind of force. And I asked by Her Honour the Judge whether she seduced me, in answer to her question I said that it wasn’t rape. She didn’t rape me in any way. But quite certainly, and I claim this, that for 10, 15, 20 minutes, she kissed me, she fondled me...”

Despite his plea, Kunarac is still found guilty, essentially solidifying the role of the ICTY as an institution is able to look beyond criminal’s lies. This reinforces the dominating narrative throughout the movie. The denial is a big part of the discourse of transitional justice in the Balkans. In the documentaries testimonies in the court of those who deny their responsibility can take different forms: “I am a rather not a bloody person and have a rather nasty tongue”,⁷⁹ “It turns out I was a reproduction bull in your indictment...but...I was forty years old at the time and I needed to have some normal relations”.⁸⁰ Special attention is paid to the case of high-ranked indict-ees, as Momčilo Krajišnik,⁸¹ a wartime speaker of the Assembly of Bosnian Serbs, who claimed that he “was not informed” about expulsion of the Muslims and that they “wanted to leave and they left voluntarily.”

Contrasting victims’ testimonies and impressive images of abuses, these denials sound even more terrible. The admission of responsibility in a very limited form is also the part of the discourse: “I deeply regret everything that happened in Keraterm while I was there...I contributed to the destruction of these lives”,⁸² “I am prepared to take my part of the responsibility for this crime before God and before men,”⁸³ “I am aware now that at the time I was a tool in the hands of others, and this I deeply regret...I express regret and remorse for all the acts, including my acts in situations... but I hope that I will be contributing to a new beginning.”⁸⁴ These acknowledgments obviously show the success in establishing justice in the region. In the “Crimes before the ICTY: Central Bosnia” statement of guilt is given by the commander of units

79 Zoran Žigić, prosecutor vs. Kvočka et al. (IT/98/30-01) “Omarska, Keraterm&Trnopolje Camps”. Retrieved June 22, 2015, from: <http://www.icty.org/cases/party/725/4>.

80 Mladko Radić prosecutor vs. Kvočka et al. (IT/98/30-01) “Omarska, Keraterm & Trnopolje Camps”. Retrieved June 22, 2015, from: <http://www.icty.org/cases/party/725/4>.

81 Krajišnik (IT-00-39) “Bosnia and Herzegovina”. Retrieved June 22, 2015, from: <http://www.icty.org/cases/party/709/4>.

82 Duško Sikirica, Prosecutor vs Sikirica et al. (IT/95/8) “Keraterm Camp”. Retrieved June 22, 2015, from: <http://www.icty.org/cases/party/775/4>.

83 Damir Došen, Prosecutor vs Sikirica et al. (IT/95/8) “Keraterm Camp”. Retrieved June 22, 2015, from: <http://www.icty.org/cases/party/775/4>.

84 Dragan Kolundžija, Prosecutor vs Sikirica et al. (IT/95/8) “Keraterm Camp”. Retrieved June 22, 2015, from: <http://www.icty.org/cases/party/775/4>.

of Bosnian Croat units Ivica Rajić,⁸⁵ who notices that the victims were “unnecessary” and they “deserve the truth and justice”.

But denial can appear not just from personalities, but also from the states, as it was shown in the documentary “crimes before the ICTY: Central Bosnia”, when the Croatian part did not want to submit some documents, such as war diaries, claiming that they do not exist. Later the Tribunal found the documents. In the documentaries this instance was visualised with the videos from trials.

Success of justice has been shown in “Crimes before the ICTY: Prijedor” with the sentence of the indictees for the crimes committed in Prijedor. It was visualised with the video from the court with the tense faces of the perpetrators combined with the images of the archival documents, which refer to the establishment of justice in the region.

This narrative primarily gathers inspiration from mainstream movies where bad characters eventually lose in the end, thus also further strengthen the iconic role of the ICTY as the institution of truth-finding. ‘Mainstreaming’ methods, used in the documentary to convey the truth include special techniques of visualizing objects, to emphasise the ‘bad’ or the ‘good’ in the characters. Direct words of the victims and perpetrators facilitate the emotional context of the narrative of the violations during the war. The structure of the documentary’s narrative has been made in accordance with the tendencies in mainstream cinema. Where they convey a simplistic and straightforward truth, making it easier for the audience to internalize the message.

3.1.3 Outreach: informing wider audience

The official mission of the documentaries of the Outreach Programme is to spread knowledge about judicial process of transitional justice, to explain the principles of work of the Tribunal, to make it more comprehensible for a wider audience. In the documentaries, there is an explanation about the work of the office of the prosecution, the process of investigation, indictment and others. These features have been widely used in the discourse of these films.

In the sense of giving explanation and spreading the word about the ICTY documentary “Justice at work” has an obvious priority before others. As this documentary was the first, created by the ICTY as an introduction of its work. The film explains in details the structure of the Tribunal: Judges Chamber, OTP and the Registry, Detention, directly visualizing the process, directions (where to go, which building to enter). Spoken narrative and visualized details simplify the work of those structures; make it closer to the audience. One of the instruments of informative purposes is a re-enactment, which let the authors of the documentary to visualize the moments which do not have any audiovisual documents as evidence, but which are important to be shown in order to make all the procedures transparent and also let audience to see moments it would never have the possibility to see. At least two types of re-enactments are worth mentioning. First of all, it is a re-enactment with the participation of the ICTY’s representatives, prosecutors and experts. As in “Justice in war” and

85 Rajić (IT-95-12) “Stupni Do”. Retrieved June 22, 2015, from: <http://www.icty.org/cases/party/772/4>.

in “Sexual violence” the authors used the scene of investigation process - interview with a witness on the field. Second, as in “Through Their Eyes: Witnesses to Justice” the re-enactment contains the scenes from the occurrence location with the participation of witness, who tells his version of the events.

The context of the detailed investigation process impresses by the combination of the visuality and spoken text, which make the process comprehensible and transparent and gives credence to the Tribunal’s activities. In the documentary “Justice at work” the process of discovery of suspected murder victims is explained by the investigator and all the steps have been visualized: work of the soldiers with dogs on discovering explosive devices, excavation in relatives’ presence. Even the episode with exhumation is presented quite openly: explanation in details of the process of identification. Meanwhile, visualized part in this episode makes an important impression of the openness of the Tribunal to the victims, witnesses, to the people from outside, who still does not believe in the ICTY’s loyalty. Explaining how the indictments which were publicized in the beginning, after 1997 were converted to secret indictments, discourse is presented by Carla del Ponte,⁸⁶ who talks about hardships the ICTY underwent. The narrative about the difficulties, accompany the process of the investigation of the crimes, presented by the ICTY staff in the “Crimes before the ICTY: Central Bosnia”.⁸⁷

UN detention facility was created inside a prison in the town Scheveningen, outside The Hague. Each unit is equipped with TV, shower, radio, outlet for a computer; there is also a gym, a medical facility, an outdoor recreation, craft classes and a room for conjugal visits (Hagan, 2003; Wald, 2001). The Tribunal’s detention has been called “resort like Scheveningen prison” (Gordy, 2013, p. 35) or at least “quite upscale” place (Wald, 2001, p. 97). The accused were regularly asked for any complaints about detention, most often they complained about an absence of Serbian TV Channels. While the wife of one of the detainees Milošević claimed that detention facilities were like “a death camp” (Wald, 2001, p. 97). The documentary “Justice at work” demonstrates through the spoken text and images the irrationality of the statements about bad conditions in the prison and rather confirms the description of the detention facilities as a resort place. Visual proof of the opposite contribute to the importance of the Outreach’s documentaries to show the images that sometimes cannot be interpreted more then what they show. The spoken narrative explains even more about advantages of Scheveningen, where detainees have the possibility to meet with ‘spiritual advisors’ either from the Serb Orthodox, or the Roman Catholic Church, or with Muslim imam; take an English course, or go to the library, or even to have sometimes typical Balkan food.⁸⁸

The ICTY Outreach program’s documentaries give the international law definitions. In the documentaries “Sexual violence: the Triumph of Justice” and “Justice at work” the notion of sexual violence, which occurred during the armed conflict, has been explained. Insistent spoken narrative is supported by impressive images of archival video and photo or more often with the testimony of the victim at the court.

In the documentary “Through their eyes: Witnesses to Justice” the system of working with the witnesses has been explained through the spoken narrative, re-enactment

86 Del Ponte, Carla ICTY Prosecutor (1999-2007).

87 Harmon, Mark (prosecutor); Leach, Simon (investigator) (“Crimes before the ICTY: Central Bosnia”).

88 Documentary “Justice at work”.

and archival videos. Witnesses tell their own stories, making the explanation of the system more comprehensible, as they use the language of the audience. Legal experts give additional explanations. The voice of witnesses let us understand their story and the reasons why they decided to testify: "After the war the investigators started coming here from The Hague looking for witnesses",⁸⁹ "All of this took me back to 1992, and that was horrific",⁹⁰ "It was not easy to answering all those questions, but I was telling the truth and did not let them confuse me",⁹¹ "I thought that this was my duty",⁹² "...a punishment must exist, as a sort of moral situation where the wider public is informed that what was done really wrong..." Spoken narrative of the legal representatives intersects with the words of witnesses: "If people didn't have brave and encourage to come forward, the place would not function at all... You really need eye witness testimony from those who are on the ground".⁹³

In the documentary "Crimes before the ICTY: Central Bosnia" authors provided an important explanation about flip-side cases and personal vs command responsibility for the crimes, as they were among the main critics about the court's decisions from the population of the region.⁹⁴

In order to make the message of documentaries more comprehensible the visual part has been enriched with maps, magazines, and documents. There are tendencies of strengthening visual shocking effect of the images, but also emphasising the interest of the media and international community in those atrocities. Within time the Outreach Programme develops its methods of making documentaries. So, that in latest the audience can see not just establishing of the ICTY as a conveyer of truth in the region, giving theoretical perspectives of transitional justice, but also a connection with present time. In the documentary "Crimes before the ICTY: Prijedor" they show the perpetrator in the prison and monument commemorating «Innocent Victims, citizens of Kozarac, 1992-1995». ⁹⁵ The thesis identifies these features of the Outreach documentaries as the attempts of the Tribunal to approach a wider audience, to make the films closer to everyday realities.

89 Ahmić, Abdulah, Ahmići, Bosnia and Herzegovina ("Through their eyes: Witnesses to Justice").

90 Čehajić, Minka, Sanski Most, Bosnia and Herzegovina ("Through their eyes: Witnesses to Justice").

91 Ahmić, Abdulah, Ahmići, Bosnia and Herzegovina ("Through their eyes: Witnesses to Justice").

92 Žunac, Mina, Zagreb, Croatia ("Through their eyes: Witnesses to Justice").

93 Morrison, Howard, judge ICTY ("Through their eyes: Witnesses to Justice").

94 Jarvis, Michelle, senior advisor, OTP ICTY ("Crimes before the ICTY: Central Bosnia").

95 Mejakić, Željko, Prosecutor vs Mejakić et al. (IT-02-65) "Omarska and Keraterm Camps". Retrieved June 22, 2015, from: <http://www.icty.org/cases/party/734/4>.

3.2 Series of Conferences “Beyond reasonable doubt”: Čelebići, Foča, Brčko, Prijedor, Srebrenica

The ICTY experienced public misunderstanding and often ignorance. In order to promote its legacy in the region, the Tribunal established offices on the ground and started to invite legal professionals to The Hague for seminars and conferences (Schiff, 2008). In order to investigate this tool of promotion and communication with the audience this study provides an analysis of the series of conferences “Beyond reasonable doubt”. Further, this section critically identifies and discusses how the ICTY conferences, similarly to its documentaries imply the truth on the base of legacy of the institution, supporting by local authorities, NGOs and international organisations. Reiterating the documentaries’ message, the conferences attempt to inform a wider audience about the Tribunal’s structure, principles of work, its achievements and challenges.

The possibility of the dialogue between the participants or at least a clear reaction of the audience on the event is an important part of the interpretation of the Outreach activities. Meanwhile it is worth discussion if the audience, presented at these events need to be convinced in the truthfulness of the facts, established by the ICTY. This thesis claims that the audience, apart from insignificant exceptions, does not need to be convinced that what happened in Čelebići, Foča, Brčko, Prijedor, Srebrenica was a war crime. The public already was aware of the crimes, as most part of it experienced it or, as judicial specialists participated in investigations or other judicial procedures relating to these atrocities. While those, who still deny or simply avoid public discussions of war crimes during Balkan wars in 1990s have not been reached.

The judgment of completed cases of the ICTY includes legal findings, which “apply elements of international criminal law, international humanitarian law (‘laws of war’), human rights law and general public law to relevant facts that judges have determined the prosecution proved beyond reasonable doubt. This bar - standard of proof beyond reasonable doubt - is necessarily high (DPKO, 2010, p. 16). The definition beyond reasonable doubt in the frames of international law is crucial in fighting with denials and rewriting history (Orentliher, 2008). The series of conferences with this title, devoted to the atrocities committed in particular places during the Balkan wars were held in the period from 2005 to 2008 in Belgrade. As Roderick W. Moore, the Deputy Ambassador of USA, mentioned at the conference “Beyond reasonable doubt: Srebrenica”: “It is fitting title for this conference. It is an indisputable fact that ten years ago the Serbian forces under the command of Ratko Mladić massacred almost 8000 Bosnians in the Srebrenica enclave”.

The conferences were supported by the OSCE Mission to Serbia, Fund for an Open Society, Council of Europe, Embassy of the Federal Republic of Germany, Embassy of the Kingdom of Denmark and the British Embassy in Serbia, Governments of the Netherlands and Finland. The support of the international community shows its interest in conveying ju-

dicial truth, establishing a particular truth seeking mechanism, establishing the facts of the past and by this to provide an impact in stability in post-war societies.

The choice of the place for holding conferences was not accidental; because organisers had a particular idea that Serbian public should know about the crimes “because they are committed in the name of Serbian people”.⁹⁶ Kandić at the conference about atrocities in Prijedor affirmed that “truth-telling through public testimonies of victims is one of the instruments” that society uses to deal with the past. In the case of Serbia when there is no political elite that understands the acceptance of established truth for the future. When there is a government that “denies the responsibility for the crimes of the previous regime, there is still a civil society “that constantly reminds the government that has to deal with the legacy of the past and to accept the responsibility, above all, to prevent the recurrence of crimes.” This official message is represented in the documents of the conference: press-releases, transcripts, official reports. But analysis and visual observation (video from the conferences) show that this mission was not completed.

The conference “Beyond reasonable doubt: Srebrenica” took place in June 2005. The event meant to discuss the measures taken by Serbian government in response to this evidence of war crimes (previously broadcasted video with Serbian paramilitary unit Scorpi- ons) to cooperate with the Tribunal. Among participants of the conference there was the association “Mothers of Srebrenica”, which testified about their experience when the atrocities in July 1995 were committed in Srebrenica. Remarkably, the official information sources (web sites) of the hosts of the conference did not mention that police organised special security measures to protect the event. Meanwhile, media paid attention to this fact and expressed it quite vividly: “strong security measures”, “a large number of gendarmerie” (BBS Serbia), “increased security measures” (RTS), “tight security was provided” (HINA, Croatia). The protection was organised because some right-wing organisations announced protests and physical confrontation with the participants of the conference (BBC Serbia, RTS, B92)”. Nevertheless, the conference proceeded without incident.

The next conference “Beyond reasonable doubt: Foča” was held in January 2006. The main discussion at the conference was about the prosecution of the crimes committed in Foča district in April 1992. Following the conception of these series of the conferences, the ‘voice’ of victims was presented. But in this case in the possible dialogue between victims and officials (authorities, representatives of international community, NGOs), the voice of the opponents sounded (the mayor of Foča), but unfortunately did not continue with a dialogue. An interesting detail of this event was the screening of the documentary of CBS “In plain sight”, which showed inaction of the international forces during the war in Balkans. This screening is unusual for the Outreach Programme activities, as in most of the cases the criticisms of the international community’s role during the war is avoided.

The main issues, local media emphasized about the conference was that Kandić urged Serbian authorities to determine their role in calling volunteers, who later committed crimes in Foča (Biševac, 2006; Blic, 2006). Another concern was about the words of German Ambassador to Serbia Andreas Zobel that Serbian government slowed down its cooperation with the ICTY: “time is running out of Serbia” (Blic, 2006; GlasJavnosti, 2006; Politika, 2006;

⁹⁶ Ruth Van Rhijn at the conference “Beyond reasonable doubt: Prijedor” (24.06.2006).

VečernijeNovosti, 2006). The latest issue, process of Serbia's integration to the European Union, is one of dominant narratives in the history of cooperation Serbian authorities with the Tribunal. It was claimed that the support from the European Union and international community became an important motivation for Serbian politicians to cooperate with the ICTY.

The second conference of 2006 took place in June, dedicated to the atrocities in Prijedor. The significant attention in the discussion was given to the video of Turner Network Television (TNT) with Omarska and Trnopolje concentration camps, which became an evidence of organised crime in that area and attracted sufficient attention from the international community. The conference "Beyond reasonable doubt: Čelebići" was held in February 2007 to mark the crimes committed in the Čelebići camp in Konjic in 1992. The conference about the atrocities in Brčko district took place in September of 2008. The conference addressed the crimes committed in north-eastern town of Brčko during the war conflict in Bosnia and Herzegovina. Around 200 participants attended the event, including youth groups, journalists, regional judicial specialists, The Union of camp prisoners of BiH, The Association of the detainees of Brčko District, representatives of OSCE. Snežana Filipović from Documentation centre Sarajevo presented its project "Population losses in BiH 1992-1995-Brčko".

Further on the section will provide short overview of a three-phases analysis of the events, reiterating the Outreach documentaries mission to establish the ICTY as a conveyor of truth, to inform a wider audience and establish dialogue about the wartimes. This approach is based on the theoretical and methodological approach to the analysis of the Outreach documentaries, which creates the dichotomy of what is wrong and what is right. A clear message of the Outreach Programme is that their documentaries are 'right', because the Tribunal presented an evidence of established facts. Conferences reiterated this message, when the director of the HLC, Nataša Kandić, pointed out that not only the rule of law should be established, but also other non - legal instruments, focused on establishing facts should be used, and it should be recorded.⁹⁷

3.2.1 Conferences reiterate the documentaries' mission. Establishing ICTY as a conveyor of truth

The series of the conferences "Beyond reasonable doubt" is a continuation of the conferences "Bridging the gap", which were held in BiH in 2004-2005. The series of the conferences in Bosnia were one of the first efforts to promote directly work of the Tribunal to local communities and to show a new attitude of the ICTY towards affected areas, the task to inform about court's procedures and established facts has become an obligation (Nettelfield, 2010). The same purpose of bringing the work of the institution to the general public was appointed by the ICTY in Serbia. The structure of the conferences explained as follows: HLC organises public debate, the Tribunal present judgment in connection with particular cases and victims share their own experience of the cases.

⁹⁷ "Beyond reasonable doubt: Foča" (28.01.2006).

The notion of the Tribunal as a conveyor of truth has been addressed through the explanation of its transparency, for example, in comparison with the local trials: "it's impossible to know anything what is happening at the trial. While the picture of the ICTY is quite clear".⁹⁸ The institution frames its legitimacy, according to its mandate; the Tribunal can prosecute only a small percentage of crimes, while all others were to be brought before the local courts.⁹⁹ Nevertheless, in the spoken narrative (representatives of HLC) the participants of the conference consider the responsibility of the local courts in the countries of former Yugoslavia is to "establish the truth about the crimes that were committed" after the closure of the ICTY.¹⁰⁰

At the conferences the message of the Outreach documentaries about the legacy of the ICTY to convey the truth has been reinforced through the spoken narrative. The representatives' narrative is dominated by the vocabulary, similar to the documentaries, representing the institution as being "the first" (meaning "first multi accused trial", "first international trial"),¹⁰¹ "facts established by the Tribunal, become definitive historical source".¹⁰² Significantly, the ICTY at these conferences conveys its legitimacy and the role of transitional justice with the help of other organisations. Director of Humanitarian Law Centre, Nataša Kandić says, that the prosecution of war crimes is one of the best mechanisms to successfully establish the process of facing the past,¹⁰³ "judicial truth, that we all need to know, is a truth, that should not be checked up, it is the truth which must be accepted and cannot be interpreted".¹⁰⁴

Talking about the impact of The Tribunal on "establishing the facts and punishing the criminals", participants of the conference confess: "the general public in the region should be familiar with what is set out at the trial that the true voices of the victims and not to remain closed in the courtroom".¹⁰⁵ Audiovisual material has been used in order to visualize the work of the Tribunal and to support spoken narrative. Recording with the court on Kunarac was shown at the conference about Foča case, providing the proof of the effective work of the ICTY, when it was established beyond reasonable doubt that Serbian troops committed "ethnic cleansings" of Muslim population in Foča area. The power of images to provide understandable information has been used for reiterating the message that what comes from the Tribunal is a truth "without reasonable doubt", when Kandić declared: "Today we have a perfect opportunity through videos and comments of representatives of the ICTY gain insight into the court, to know the truth about the events, which were the subjects of the trials".¹⁰⁶

The Outreach Programme reiterates the message implemented in its documentaries and provides the linkages with the previous initiatives of international justice, courts in To-

98 "Beyond reasonable doubt: Brčko" (05.09.2008).

99 Uertz-Retzlaff, Hildegard, higher prosecuting attorney ICTY at the conference "Beyond reasonable doubt: Foča" (28.01.2006).

100 "Beyond reasonable doubt: Čelebići" (24.02.2007).

101 Milenov, Aleksandra, ICTY in Serbia at the conference "Beyond reasonable doubt: Čelebići" (24.02.2007).

102 Myers, Micah, lawyer, associate of the Appeals Chamber of the ICTY at the conference "Beyond reasonable doubt: Prijedor" (24.06.2006).

103 "Beyond reasonable doubt: Čelebići" (24.02.2007).

104 "Beyond reasonable doubt: Foča" (28.01.2006).

105 Ambassador Hans Ola Urstad, Head of OSCE Mission in Serbia at the conference "Beyond reasonable doubt: Čelebići" (24.02.2007).

106 "Beyond reasonable doubt: Prijedor" (24.06.2006).

kyo and Nuremberg. But there is a significant difference in the way audiovisual material and other tools can influence on the audience in the real time regime during the conference and through the recorded edited films. So that in the documentaries statements about the triumph of international justice sound significantly, while at the conferences, the participants, most of whom are witnesses, impress the willing to be recognized, to fight with impunity nowadays. Thus, one of the witnesses, Teufik Kulašić, at the conference about atrocities in Prijedor said that he did not accept the excuse of the Tribunal that “after Second World War it took sixty or hundred years to find the criminals. Here we knew who are they right at the same moment the crime was committed.”

The ICTY establishes links with the past in order to acknowledge its legacy as an institution of transitional justice in the region. But within the closure of the Tribunal its mission should be undertaken by the regional authorities and local societies. The narrative of its conferences almost does not mention the perspectives for the future; nevertheless it has been presented by other participants. Hence, the representative of the Council of Europe emphasized the importance of the role of future generations in the process, as “the initiatives are not facing the past, but the future. Dealing with the past is the first and most significant condition to live well and to build a stable future... to re-establish sincere relations between countries in the region”.¹⁰⁷ Roderick W. Moore, the Deputy Ambassador of USA acknowledged in his speech: “Let us look forward to the future, while not forgetting the victims of the past”.

The fact that statements about the legacy of the ICTY come from Kandić leaves more chances to the Tribunal to gain the trust of the audience, because witnesses and victims have arrived at the event thanks to and because of her. And her opinion is significant for witnesses, as one of them, Fadil Bidnjo, asserted that he had concerns of going to Belgrade to the conference, he did think about contributing to establishing justice and fairness, he wanted to support the director of the HLC Nataša Kandić and to tell his story to people in Serbia, to those who was listening.¹⁰⁸ But it is a discussible question if the purposes of the organisations and guests - witnesses were reached, because most of the conferences were attended not very actively, and among those who came there were witnesses, judicial specialists, representatives of NGOs, and some of a general public.

Summarizing this section, a few issues can be noted. First, the ICTY establishes itself as a conveyer of truth reiterating the tools similar to the ones, used in the Outreach documentaries: spoken narrative of being the best and the first; establishing links with other international initiatives; using a power of images to influence the audience. The specific features of the conferences are the usage of the authority and good reputation among witnesses of partner- organisations of the conferences, in this case - director of the HLC Nataša Kandić.

¹⁰⁷ Huber, Denis, Head of the Mission of the Council of Europe in Serbia Denis Huber at “Beyond reasonable doubt: Čelebići” (24.02.2007).

¹⁰⁸ “Beyond reasonable doubt: Foča” (28.01.2006).

3.2.2 Conferences reiterate the documentaries' mission. Outreach: informing wider audience

The promotion of the information about the ICTY's work through different channels and tools, documentaries and conferences, is one of the main official tasks of the Tribunal's outreach. This mission of the Outreach Programme to inform about the court's procedures has become the most successful, the one which almost does not rise censure. Documentaries about transitional justice in its educative frames especially became the major breakthrough and eternal ground for the Outreach team to talk about their achievements.

"...To promote judicial truth and voice of victims of war crimes..." This is how the representatives of the ICTY and the HLC define the aim of the conferences in the texts published on their web sites, press releases and addressing to public at the conferences. Through all the conferences the representatives of Registry, Prosecution, Trial Chamber, Appeals Chamber, Victims and Witnesses Section, Outreach Programme have been presenting the work procedures of the Tribunal. The audience had a chance to listen to investigators, lawyers, analytics, trial attorneys, officers, deputy chiefs and secretaries. Conferences reiterate the message of the documentaries to inform a wider audience about the work of the ICTY: the detailed information about investigations, work with prosecutors on the ground, locations, arrests, pre-trial procedures and the role of defence was provided to the audience. Providing information about the early stage of investigation process Laurel Baig (Prosecution, ICTY) explained that the early stage started late only four years after the establishment of the institution. Baig justified the delay by the absence of access to the area until October 1996, when the UN Commission of experts arrived to the district Brčko in BiH.

One of the tools used at the Conference is informative inserts, similar to those, used in the Outreach documentaries. At the conference, devoted to the atrocities in Čelebići the statistics about the ethnic composition of the population in the Konjic municipality was presented. Numbers is an important evidence of the aftermaths of the atrocities, especially for those who experienced it, as it is a very representative factor of the scale of the atrocities. The process of investigation and prosecution of some particular cases was presented at the conferences similarly to the documentaries. One of the methods, implemented by the ICTY in the documentaries and conferences to show the efficiency of its work is to present completed cases, the cases with a considerable amount of accused,¹⁰⁹ cases with the indictees pleaded guilty.¹¹⁰

The work with audiovisual documents is an important part of the Tribunal's work. From the very beginning for investigation team of the Tribunal main objectives were to obtain "video and still photograph evidence to make sketches, maps".¹¹¹ At the conference

109 Conference "Beyond reasonable doubt: Prijedor": for crimes committed in Prijedor thirty perpetrators were accused.

110 Conference "Beyond reasonable doubt: Prijedor". Nick Koumjian, former trial attorney, has given a comment on the process against six defendants, who pleaded guilty to crimes committed in Prijedor. One of them was Biljana Plavšić, a member of the Presidency of the Republic of Serbian and the Supreme Command, who was serving a sentence of eleven years at the moment the conference took place.

111 Baig, Laurel, lawyer, Prosecution ICTY.

“Beyond reasonable doubt: Brčko” investigator Laurel Baig presented the working flow of the audiovisuals in the judicial process: 1. Commission of experts collected recordings before they went to investigate on the ground. 2. They collected AV material on the place and filmed a lot by themselves. 3. They used collected audiovisual documents at the trials and the trials themselves were filmed. 4. At the Conference in Belgrade they showed the images from all the previous stages. And the conference was filmed. Important factors of circulation of the images in the judicial process are selection, interpretation and the context when and where they have been shown. The Outreach Programme has taken advantages on the power of images and used them in the documentaries and conferences.

Among the informative tools presented at the conferences, audiovisual documents played an important role, as many of the presentations of the cases were supplemented with images. All the participants have acknowledged the significance of the audiovisual documents as a part of the court’s evidence. Thus, Roderick W. Moore, the Deputy Ambassador of USA mentioned that the videotape with the Scorpions unit killing six young Bosnian men “should remove all doubt any reasonable man could have on the extent and brutality of the massacre.”¹¹² Moore expressed an important idea, addressing the significance of the images, that “these images of ethnic cleansing in its most brutal form will cause Serbs throughout this country to openly confront the past and will stimulate authorities in Serbia to bring the criminal to justice.” These images, as well as many others, which talk about atrocities cause resonance when they are showed to international community, to the audience at the conferences and those who ‘intend’ to listen about war crimes. For a wider audience, however, even direct visual proof leave the space for hesitation and denial (see the discussion in Chapter 1 ‘Literature review’. 1.3 Audiovisual documents in transitional justice). Video from the conferences is visual evidence about the power of images on the audience. The screenings at the conference video from the camps in Omarska and Trnopolje,¹¹³ which became important evidence at the trials and multiple times was cited visually and textually, provoked strong emotional reaction from the audience.

Conferences actively realize one of the main functions of the ICTY Outreach Programme, namely to inform general audience about the Tribunal’s work: judicial procedures, results and achievements. The specific feature of these types of activities is that these events are attended either by the judicial professionals, or by the witnesses and victims of the atrocities. The attendants are either already aware of all these procedures, or not much interested in the process, but more in the results of the Tribunal’s work. Conferences reiterate the message, the documentaries try to inform a wider audience about the work of the institution through different channels and tools, but achieve the goals within a lesser scale due to its rather narrow audience.

3.2.3 Establishing dialogue about wartime

Conferences, in contrast to the documentaries, leave space for the discussion and considering the outreach aims of the events, also to carry on the dialogue: between witnesses,

112 “Beyond reasonable doubt: Srebrenica” (11.06.2005).

113 “Beyond reasonable doubt: Prijedor” (24.06.2006).

institutions, organisations, authorities. Hence, the discussions often stay out of the frames of transcripts and video from the conferences and rarely direct dialogue take place. The international community attempts to be involved. Head of the Mission of the Council of Europe in Serbia Denis Huber addressed his expectations of Serbia “to do everything to meet its international obligations, of which the most important is full cooperation with the ICTY... and to raise awareness of society about the importance of dealing with the past”.¹¹⁴

Meanwhile, the conferences, organised “in the absence of official initiatives to detect and truth-telling about the past” show the attitude of official authorities towards the Tribunal’s work and in general to the recent war past.¹¹⁵ HLC invited for the conference “Beyond reasonable doubt: Srebrenica” Prime Minister and President of Serbia, but none of them accepted the invitation, referring to other obligations. Additionally, only few MPs of 100 invited attended the Conference. The ICTY defined absence of the dialogue with the local authorities as a “the practice of ignoring”.¹¹⁶

Roderick W. Moore has expressed his concerns about a “sense of denial” of the crimes committed by Serbs”, which is spread in Serbia. The Deputy Ambassador of USA mentioned an example of the attempts of Serbian students to justify the crimes committed in Srebrenica, at the conferences organised at the Faculty of Law in Belgrade University. An American diplomat gave in his speech an answer to multiple discussions, which take place in official and unofficial war narrative in Serbia. He mentioned recognition of the fact that during the war in 1990-s there were “many Serbian war crime victims: in Croatia, Bosnia, Kosovo”. But the fact that the victims were on all sides “does not justify many crimes committed by Serbs or excuse the perpetrators of these crimes from punishment.” He also pointed out that “many people have reacted defensively”, that “Serbs are not condemned collectively for the crimes, committed by individuals”. Diplomat confirmed that he is totally agreed with this, answering by this to the concerns of Serbian society.

Ruth Van Rhijn from the OSCE Mission to Serbia supported this idea, that the aim of the conference is “dealing with the past”, but “such a process has to be undertaken by all social forces and institutions”.¹¹⁷ Even though there were exceptions of the ignorant attitude from the regional, and especially Serbian authorities, as at the conference “Beyond reasonable doubt: Čelebići”, where Serbian politician Ivana Dulić-Marković took part. It could not be count because Dulić-Marković publicly showed her attitude about the war past not as a politician, but on her own behalf. She was almost crying during her speech and talking about a need to discover the truth, which would contribute to facing the past. It is important to consider the context of the speech, as it was given after the screening of the video with war scenes, which strengthened the emotional pressure and drew tears from the speaker and the audience.

Nevertheless, potentially a dialogue with authorities could take place. At the conference about Foča the mayor of the city Zdravko Krsmanović noticed in his speech that the situation in Foča changes: they celebrated the 9th of May as a Day of Victory over fascism, everybody lives in safety and everybody is welcomed, especially former citizens of Foča. But there were no

114 “Beyond reasonable doubt: Čelebići” (24.02.2007).

115 “Beyond reasonable doubt: Brčko” (05.09.2008).

116 Milenov, Alexandra, ICTY in Serbia at the conference “Beyond reasonable doubt: Prijedor” (24.06.2006).

117 “Beyond reasonable doubt: Srebrenica” (11.06.2005).

words about the atrocities of 1990s and there was no dialogue, as right after his speech mayor left the conference. During their presentations witnesses expressed regret, that mayor did not stay to have a discussion about the real situation in Foča. Serbian “Dnevnik” presented Krsmanović speech in a very positive way: “from Foča now sends the best message for the whole state on the desire for cooperation, dialogue, common life, trust” (Dnevnik, 2006). Meanwhile “Danas” has mentioned that the words of mayor about “the former citizens of Foča” who are welcomed in the city offended victims, who were against to be called “former” (Biševac, 2006).

A significant part of each conference was assigned to the voice of witnesses and victims. In the audiovisual materials and the transcripts of the conferences, considering that they were edited, there was almost no direct dialogue between witnesses and organisations or authorities. But even in the cases when it was possible to carry on a dialogue, sensitive issues often overlapped rational discussion and the established facts were harder to be promoted and presented as historical facts. Teofik Kulašić at the conference about the atrocities in Prijedor noticed: “I expected that at this conference there will be a little more conversation about how we are trying now to live here where we actually experienced everything...” Some of the witnesses presented their personal stories at the conference and noticed that they have already done it earlier at the Tribunal. And significantly they considered their participation as a contribution to conveying the truth. Thus, Džafer Deronjić at the conference about Brčko said, “I am not afraid of the truth”. Spoken narrative at the conference about the genocide in Srebrenica expresses real attitude of the witnesses towards transitional justice: “I will never forgive criminals” (Kada Hotić); “I’m unsatisfied with the prosecution in The Hague”, “this is a great injustice” (Hiba Mehmetović).

At most of the conferences participants were very emotional when the conversation touched upon personal stories. At the conference about the atrocities in Brčko the representatives of the Association of Detainees of Brčko District marked out the importance of the right of the detainees to be recognized and to be heard. Nikola Ristić, a former detainee from the Camp Gornij Rahić in BiH wanted to present documents, containing information about the numbers of people who was killed in the camps and he wanted them to be included into the report about the losses of population in Brčko in 1992-1995, which was also presented at this conference. The request of Ristić entailed an emotional discussion, when the representative of Documentation Centre Sarajevo Snežana Filipović and the director of HLC expressed their concerns about the reliability of the request. Meanwhile, Šaćir Srebrenica, a president of the Association of Detainees of Brčko District, proposed to discuss those documents and to check all the names of murdered people, after the conference. This episode is an example of the situations when the dialogue could take place at the conference, but it was gently moved out of the frames of the conference.

And in small extracts, which were not cut out from the video or audio recordings from the conference, the real discussions could be heard. As at the conference “Beyond reasonable doubt: Čelebići” during the break one of the victims was shouting, “It is not truth! You do not know what we have passed through. Nobody knows. Nobody knows in Serbia. Nobody knows in Bosnia. I’ve passed through all this.”

The real attitude of the witnesses towards the conference expressed also during the break, when one of the victims was shouting to Kandić: “Why do you invite us if you do

not give us the right to tell the truth?" The fact that conferences were organised in Belgrade, where the tensions of denial of war crimes in 1990-s were still strong, made negative emotions unavoidable. So that when at the conference, devoted to the atrocities in Čelebići, Zora Kuljanin from Croatia was telling her story, the person from the audience started to shout swear words about her, calling her "ustaška", "the representative of ustaši", "you should be a victim"! After that this person was made to leave the room.

In many respects the attitude of witnesses towards transitional justice is not positive, as without seeing the prosecution of the crimes committed in their particular cases, particular villages and towns (especially when the perpetrators still live there), they are not ready to believe in the "triumph of justice" on a global scale.¹¹⁸ As Mile Kuljanin said: "I do not believe in this kind of justice. For instance, twenty people from my village were murdered without anybody from the municipality of Konjic having been charged let alone processed in The Hague. In spite of the fact that we who survived made statements" (HLC, 2007).

Audiovisual documents shown at the conferences can be interpreted as a part of the dialogue. At the conference "Beyond reasonable doubt: Foča" a TV report "In plain sight" was screened.¹¹⁹ It was devoted to the investigations journalist made in Foča, when the district used to be a part of the zone of responsibility of NATO troops. The documentary demonstrates 'obvious' case when the troops are inactive and do not attempt to search for the wanted criminals, who feel in Foča in safety. The inclusion of this TV film into the programme of the conference shows the readiness of the ICTY to discuss the role of international community in the war and the readiness to have a dialogue with local communities, which experienced it on the ground. The screening of the documentary was accompanied by the video from the trial of Kumarac and other indictees, who denied that they committed crimes.

Denis Huber, Head of the Mission of the Council of Europe in Serbia at the conference "Beyond reasonable doubt: Čelebići" said that initiatives like this encourage the process of dealing with the past, and they are significant for the countries of the region, because they "provide a chance to get through the presentation of the facts underlying the judgment rendered by the ICTY and the testimony of the victims", conferences became an open space to talk about their experiences "to establish indisputable facts about common past". This opinion reiterates the Outreach aims and intentions, but the absence of a dialogue shows that even if the open space for the discussion about war time has been open, the will to do it from some parts of the societies did not appear.

118 By the "triumph of justice" the thesis understands that justice has been brought by the Tribunal. The phrase from the ICTY Outreach Programme documentary "Sexual Violence and the Triumph of Justice".

119 "In plain sight", CBS. Producer Randall Joyce, editor Mary Allieri.

3.3 Clashes of truth: the Outreach Programme and its audience

"You cannot talk about the truth...I know what happened!"

Nikola Ristić, Former detainee of the Camp Gornji Rahić in BiH,
Conference "Beyond reasonable doubt: Brčko", 1992

This section will show how the facts established by the ICTY have been appropriated by the institution and conveyed as universal truth, but they are still in contradiction with the truth interpretations conveyed by the society in the region, media, and scholars. The first part of the section will include comparative reference about the Outreach Programme based on the interviews with the ICTY team (present and former). And will continue with the presentation of some cases observed through the prism of their interpretation by the Tribunal, NGOs, witnesses and the rest of the society.

The Outreach Programme was established in order to change the situation when each country of former Yugoslavia is "locked in its own sense of victimhood" (Barria & Roper, 2010, p.90) and continues to deny the crimes committed during the wars. Multiple truths refer to the collective memories about past events and to the current situation in the region. The extent to which opposed parties share the past appears from politicians, other influential persons, media, as well as songs, films and books. Meanwhile, the organisations, as HLC work on "completing truth from the perspective of the victims",¹²⁰ with the help of truth commissions, historical commissions and victims' commissions, which contribute to war crime trials. In the opinion of Mirsad Tokača "truth-seeking initiatives should not be seeking to establish a unitary "truth", the latest he considered to be the purpose of courts (Simić & Volčič, 2012, p. 132).¹²¹

3.3.1 Outreach Programme's filmmakers about the documentaries

A literature review showed a lack of the studies about the Outreach Programme of the ICTY. It was one of the reasons to include to this thesis interviews with the people who work or used to work for the Outreach documentaries: Coulson,¹²² Finci,¹²³ Gerlach,¹²⁴ and ICTY offices in the region.¹²⁵

Talking about their general view on the Tribunal in Balkans respondents of the interviews for this thesis asserted that they were aware about a negative opinion about the ICTY in the re-

120 Kandić, Nataša, director of HLC at the conference "Beyond reasonable doubt: Čelebići" (24. 02.2007).

121 Mirsad Tokača, director of Documentation Centre in Sarajevo.

122 Steve Coulson, Video Producer, United Nations ICTY and MICT.

123 Petar Finci, Senior Information Assistant at UN International Criminal Tribunal for the former Yugoslavia.

124 Gert-Jan Gerlach, Independent Film and broadcast media Professional, former Coordinator of audiovisual productions, director, ICTY.

125 The interviews were given in the period of March-June 2015 by email, Skype, and in person. The interviews were not systematic, that is why the names of representatives of ICTY are not mentioned, which was discussed with them.

gion: that it was perceived as “too little and too late”, that each ethnicity thought that “international community should have intervened on their behalf or intervened sooner” (S. Coulson, personal communication, June 23, 2015). The respondents reiterated another crucial point in clashes of the conveyed truths: “From the ethnic Serbian community, there is the perception that our investigations and prosecutions have singled out the Serbian people for punishment and ignored the crimes perpetrated against them”, while “there is a perception amongst Croats and Bosniaks that our sentences have been too lenient” (S. Coulson, personal communication, June 23, 2015).

The same problems, which were had to be solved within the establishment of the Outreach Programme, are still relevant. Based on the conferences, workshops they consider that society in the region is ready to face the past, but within the time when it will be more integrated into European community. Because now as they trace the statements politicians make as it goes directly to media narrative and influences on people’s opinion, which keeps tensions alive. Regional NGOs take an important role in this process, they support the Tribunal and often have an important impact on the promotion of justice about the war times on the ground. It has been admitted that if before there were thousands of NGOs working with the ICTY, now there are few of them, as the Helsinki Committee for Human Rights, the BIRN, the RECOM, the HLC, which is explained by the changes in civil society’s priorities.

The Tribunal in the region still needs cooperation with the governments, politicians and educational system. In Serbia the Ministry of education refused to give them a permission to give lectures at high schools, justifying the refusal by the sensitivity of the topic. Talking about the perspectives in the region, the respondents noticed that offices remain in a limited capacity, provisionally for two more years. But all the collected documents will be available and are important for protecting legacy of the institution.

The Outreach Programme succeeded (in opinion of all the respondents) more in education projects; it has given the students opportunity to learn first hand. And universities are interested in the collaboration, as they open discussions; invite the ICTY team to give lectures. According to Coulson, the main contribution of the Outreach Programme has been “to help to reinforce the historical and judicial facts of what really happened in the conflict” (S. Coulson, personal communication, June 23, 2015). So, that Outreach moviemakers define the reliability of the facts established by the ICTY as the dominative narrative in their work. Film director Coulson continues this idea: “...we have provided unbiased information to allow those who seek reconciliation to first understand the truth of what really occurred” (S. Coulson, personal communication, June 23, 2015).

In order to understand if the Outreach Programme succeeded to reach its goals it is interesting to know the target audience defined by the Programme. According to the respondents of the interviews for this thesis, among the audience there have been victim groups, students, NGOs, academic and judicial representatives. The documentaries have been often screened to the groups visiting The Hague, “so that thousands of people, mostly students, get their basic knowledge about institution from our films” (P. Finci, personal communication, May 15, 2015). Film director Gerlach explained “it had to address both law-students and lay people, so it had to be both low level informing and also contain topics which are interesting to lawyers” (G-J. Gerlach, personal communication, June 30, 2015). Does this audience need to be convinced about the legacy of the ICTY? Or the priority is the informing about the work.

According to Finci, the target audience of the documentaries can be divided into two parts (P. Finci, personal communication, May 15, 2015). First of them includes victims, their families and extended communities, in which “the perpetrators of crimes often live side by side with the victims”. It is important to communicate with people in the former Yugoslavia, to “leave a record of the ICTY work for the affected communities”, the aim is to leave a record for future generations, which they will be able to refer to and make a decision about the “relevance of the ICTY’s legacy for their lives”. The second group is the students and researchers. Interestingly, Coulson, who is now working as a film director at the Outreach Programme, also divided the audience into two groups, where the first one is the same: citizens of the former Yugoslavia, while the second one is “international diplomatic and NGO community” (S. Coulson, personal communication, June 23, 2015).

Respondents define documentaries as an important component of the programme and one of the most successful. Regarding the closure of the Tribunal (the last judgment will take place in 2017), the decision about the continuation of the Outreach Programme will be made in December 2015. So that till the end of the year Outreach Programme plans to produce more documentaries.

Respondents emphasized that the documentaries have been translated into different languages and have been used intensively abroad as an educational tool for International law, the documentaries were sent to Argentina (documentary “Sexual violence and the Triumph of Justice” is used as a teaching tool for future police investigators), USA (military academy), Great Britain and Netherlands (documentaries are used for genocide studies). Significantly, Finci pointed out: “we have only very occasionally received a critical comment and that was usually related to a minor perceived mistake in the film (P. Finci, personal communication, May 15, 2015). Overall, based on the reactions of our audiences, I feel that Outreach produced documentaries are one of the best ways to promote the work and legacy of the ICTY in the former Yugoslavia and internationally”. Coulson refers to the reaction to the documentaries after the screenings, when audience “thanks and praise for” the “efforts to bring these painful stories to life”. Victims and witnesses comment the documentaries and say that it was the first time they have heard their stories “properly and fairly told”, as well as they appreciate “efforts to tell both sides of the story” (S. Coulson, personal communication, June 23, 2015).

According to Finci, the purpose of the Outreach Programme is to leave “a documentary record about what the ICTY had done in its more than two decades of work” in order “to contribute to the fight against denial of crimes, as well as informing the public about what happened in the former Yugoslavia in the 1990-s and what was the judicial epilogue of these events” (P. Finci, personal communication, May 15, 2015). Question about the task and difficulties moviemakers experienced was perceived differently depending on the fact if they are present of former Outreach employees. The main aim of the documentary project is “to provide an audience with an overview of the ICTY’s work and achievements” (P. Finci, personal communication, May 15, 2015).

Gerlach described the creation of the first documentary: “I initiated the idea of the documentary, which was later adopted by the OP, which changed the initial script quite drastically, but helped my work as a filmmaker as well as not every scene had to be discussed for by a panel of lawyers and I just had to discuss the work with the Outreach staff”. The first documentary of the Outreach Programme was pioneering with AV materials and yet it was “a process of tri-

al and error” (G-J. Gerlach, personal communication, June 30, 2015). Audiovisual documents for the evidence were edited in advance and were not “totally original” and were selected the most effective ones; the crew had to make video-edits for both prosecution and defence councils. Gerlach noticed that visual part and film style were totally free (G-J. Gerlach, personal communication, June 30, 2015). Within time the crew had more experience with the documentaries. They start working on new documentaries with reading judgments (the Trial Chamber or Appeals Chamber judgment). The narrative was based on factual and legal findings.

Outreach team relied on the truth the ICTY conveyed on the base of the established facts. As Finci said “we rely on judgments in our choice of incidents to include, the testimony we use to relate the incidents and the evidence we use to illustrate the story” (P. Finci, personal communication, May 15, 2015). Finci and Coulson affirmed that this approach of filmmaking has “its artistic and documentary limitations, but we believe that we can in this way leave a record of, so to speak, the Tribunal in its own words”. The analysis of the documentaries made in the previous chapters showed that the Tribunal did spoke in its own words, but also considering editing effects, scenario, spoken narrative of storytellers and narrator, composition - all these tools gave more emotional and additional meaning, leaving the space for interpretation.

But difficulties for the present moviemakers are all about financing. Finci explained that Outreach Programme is financed from donations, mostly from “EU agencies”. He acknowledged the team had received travelling funds only for one of the documentaries, while the rest “were on produced no budget, with generous assistance of our friends and colleagues in the former Yugoslavia or here, in The Hague” (P. Finci, personal communication, May 15, 2015). These limitations sometimes resulted in creative decisions: for example, the music for all the documentaries has been made free of charge by Mišel Đuričić, who works for the other department of the ICTY. Meanwhile the narrator for all the documentaries in BCS was Faida Rahmanović, a journalist from the SENSE News agency, who also did this work for free.

Film director Coulson refers to another challenge of technicality, when it was hard to integrate “badly managed and archived, poor quality video into a contemporary high definition film”. As it was discussed in the previous sections, the technical part of the documentaries did not contain special effects. Thus, Coulson explained that working, for example, with the images of witnesses, who requested face and pseudonym protection from the court, moviemakers did not add any distortion affects themselves, but they preliminary asked their permission to use their court testimonies in the films (S. Coulson, personal communication, June 23, 2015). For the crew that has already left the Outreach Programme the difficulties were concentrated in the censorship of the ICTY, which became a reason why documentary “lost a bit of its credibility as negative reactions were filtered out”. Gerlach added in his interview about the first Outreach documentary that he would add “a critical reflective influence in the film in order to make it a true documentary and not a documentary length information film” (G-J. Gerlach, personal communication, June 30, 2015).

General awareness about the critics of the ICTY and the lack of cooperation with the local governments, politicians and educational system confirm the overall tendencies in the literature about the Tribunal. The perspectives of the Tribunal and the Outreach Programme are focused on the safeguarding archival documents and the access

to them; the same idea is about documentaries, which are “important for protecting legacy of the institution”. The most successful part of the Outreach work is its educational project, as different activities, including conferences and documentaries were recognized not only in the region, but also internationally.

A target audience of the films is victim groups, students, NGOs, academic and judicial representatives, interestingly, one of the film directors added as international diplomatic community. In the documentaries of the Outreach Programme they promote the dominant narrative of the ICTY as a conveyor of truth. Thus, the moviemakers who do not work for the Tribunal anymore acknowledge that the documentaries lack of the critics. The films are seen by the witnesses and victims as the recognition of their experience, their sufferings. Producing documentaries, the Programme experiences financial and technical difficulties. While the former Outreach employees admit the challenges to adjust the process, especially the script with different decision makers, parts of the Tribunal, which slows down the process and limits the originality of the footage edited as evidence. A narrative of the films is based on factual and legal findings, which limits the creativity, but helps to approach more objective representation of a judicial process.

3.3.2 Clashes of truth. The involvement of the Outreach Programme

The Outreach Programme represented facts, established by the ICTY “beyond reasonable doubt” in its activities including conferences and documentaries. Judicial truth, conveyed by the Tribunal as the universal and the one, which does not need a check, nevertheless find contradiction in different narratives in the region. This section presents selected cases of the clashes of truth about the facts, interpreted by the Outreach Programme and the society in the region.

The responsibilities for the crimes on different levels should be undertaken by all the sides. Since the indictments were brought against different sides of the conflict, “people from every group can point to prosecutions of their own heroes - and this grates seriously than is compensated by prosecution of the enemy” (Schiff, 2008, p. 63). Roderick W. Moore also mentioned the tendency when Serbian society has denied the war crimes and instead has recognised those who are responsible for organised crimes as “their heroes” (e.g. Ratko Mladić).¹²⁶ Covering the conferences, organised by the ICTY and the HLC, media mentioned the activation of the Mladić’s supporters, who made graffiti with the nationalist messages, like “Serbian hero Ratko Mladić”, “Scorpions Serbian heroes”, “Knife, Wire, Srebrenica”; police conducted an investigation, which apparently did not give any results (B92, 2005a; Gec, 2005). Even if the officials from the Tribunal and diplomats assert that they recognize that the crimes were committed from all sides and media reports about it, they are still accused in “anti-Serbian” mission.

Thus, Serbian daily newspaper “Glas Javnosti” published a comment on the conference about Srebrenica by Slavko Jovičić,¹²⁷ Vice President of the Coordination Centre of

¹²⁶ “Beyond reasonable doubts: Srebrenica”.

¹²⁷ Srebrenica beyond reasonable doubt. June 11, 2005. Conference clippings. Retrieved May 01, 2015, from: [http://](http://www.pecob.eu)

eleven NGOs from the Republika Srpska (RS). Jovičić emphasised that the conference was organised in an anti-Serb way: no representatives of the Republika Srpska were invited; who could say that atrocities would not be limited only by Srebrenica. He recognised the crimes, committed by Serbs, but others should not forget about the crimes committed against Serbs and not to talk about the size of a crime. He evaluated the events like that conference as a failure, with a selective access for the audience, where fabricated lies were declared and no truth sounded there. But media discourse about it varies a lot. The News Company B92 published in the subtitle to the article about the conference: "Serbian collectively, morally and politically responsible for the burden of the crime in Srebrenica".¹²⁸

Universality of dilemma of dealing with the past was acknowledged by Ruth van Rhijn. According to her not only Serbia or other countries from the region should face the past, but also her native country Netherlands should be involved in the process of dealing with the past and ask more questions about the role of its peacekeeping troops during the war in BiH.¹²⁹

Genocide in Srebrenica received probably the most active attention from media, an international community and local societies in the region. Many years after, several perpetrators have been accused, multiple investigations have been conducted, after facts have been established by the ICTY and recognized even by the Serbian government. It is still an issue of clashes of the truths. In 2005 at the conference "Beyond reasonable doubt: Srebrenica" Ruth van Rhijn admitted that Serbia should take responsibility for the atrocities committed "in its name",¹³⁰ also by the high ranked authorities. But Boris Tadić who was at that time a president of Serbia, giving a comment about the Scorpions video, acknowledged that the state authorities of nowadays are not responsible for those murders, as it was another political power that inspired murders.¹³¹

The Outreach Programme defines its crucial tools in fighting with denials of war crimes in order to assist the population of the region in dealing with the past. First of all, meaning facts, established by the ICTY, second, the admissions of guilt by the accused.¹³² The most progressive in the admission of guilt was the case of Biljana Plavšić. Plavšić, who used to be a president of RS was accused for crimes against civilians: Bosnian Muslims, Bosnian Croats and other non-Serbian civilians in 37 municipalities in BiH (DPKO, 2010). In addition she was charged for 'ethnic cleansing' campaign, which included sexual violence. She was also the only woman who was indicted by the Tribunal for war crimes, and the only indicted who admitted and publicly regretted the crimes committed. As a result the sentence was decreased, as the prosecution took away the genocide charges. Plavšić was sentenced to 11 years.

www.hlc-rdc.org/images/stories/Outreach/Kazivanje_istine/Srebrenica_1992/Conference_Clipings.pdf.

128 "Potrebno suočenje sa Srebrenicom". Retrieved May 01, 2015, from: http://www.b92.net/info/vesti/index.php?yyyy=2005&mm=06&dd=12&nav_id=170394.

129 Conference "Srebrenica-Beyond Reasonable Doubt" 11.06.2005. Belgrade (Serbia). Transcript of the speech retrieved June 29, 2015, from: <http://www.osce.org/serbia/15656?download=true>.

130 Ruth van Rhijn, Head of the Human Rights/Rule of Law Department OSCE Mission to Serbia and Montenegro. Transcript of the speech retrieved June 29, 2015, from: <http://www.osce.org/serbia/15656?download=true>.

131 "Potrebno suočenje sa Srebrenicom". Retrieved May 01, 2015, from: http://www.b92.net/info/vesti/index.php?yyyy=2005&mm=06&dd=12&nav_id=170394.

132 Nerma Jelačić, Head of Outreach. "Audience left speechless by ICTY documentary". Retrieved May 01, 2015, from: <http://www.icty.org/sid/11078>.

But after several years, however, whilst still being in the prison, Plavšić retracted her confession and said that she pleaded guilty because she tried the remaining charges against her to be dismissed first in the interview to the television of Republika Srpska in 2005 (B92, 2005b), in 2009 to Swedish newspaper (Goldberg, 2009). In 2005 she published her memoirs stating that she acknowledged crimes in order to deal with the Tribunal prosecution, to receive a low sentence and to get an early release (Subotic, 2012, p.55). Plavšić's state of remorse, shown in the documentaries "Sexual violence and the Triumph of justice" and "Crimes before the ICTY: Prijedor" is very general, without any direct apologies to the victims or the listing of committed crimes, as she just accepts "the fact that many thousands of innocent people were the victims of an organised, systematic effort remove Muslims and Croats from the territory claimed by Serbs" (ICTY, 2002). As the former prosecutor of the ICTY Carla Del Ponte (2009, p.161) mentioned in her memoirs: "I listened to her admissions in horror, knowing she was saying nothing."

Plavšić cultivates the image of herself as "a lady biogeneticist who, by error of history or plain bad luck, found herself accused of genocide" (Subotic, 2012, p.42). She mentioned that she "easily convinced herself, that it was a matter of survival." Thus, the documentaries find themselves in a clash of truth both with Plavšić herself, but also with what happened in the aftermath of the case. No actual remorse was shown from Plavšić's side, thus making it debatable whether justice was served.

The documentaries, however, present this case as open and shut, and thus showcasing it as a real proof that justice may actually triumph. The reliability of the triumph of justice was concerning the case of Biljana Plavšić was questioned at the conference "Beyond reasonable doubt: Brčko". An unrecognised person from the audience declared that he did not accept the sentences, condemned by the Tribunal, calling them "pathetic", considering the seriousness of the war crimes and the condemned prosecution and the possibility to reduce a sentence. He paid a special attention to the sentence of Plavšić, admitting that she pleaded guilty "very pathetically" and after a while she announced on TV, "everything she had done, she would do again the same" and he wondered if after all she can even be released earlier, after five-six years?" At the conference the answer on this statement was very general and did not contain any direct reaction on the question of this case of the triumph of justice. As the representative of the Registry of ICTY Matias Helman made a remark about "victims, who are never satisfied with the verdicts", early parole are assigned after two thirds of the term and depending on the rules of the country, where the indicted person has been imprisoned. Giving a comment about Biljana Plavšić, Helman added, "we can not comment a lot. She is still in prison..." and she could ask for early release according to Swiss law, meanwhile the decision did not depend on the Tribunal.

Equally important is the case of Duško Tadić, Serbian politician from Bosnia and Herzegovina, who was a member of the paramilitary forces, which attacked the district of Prijedor. The case of Dusko Tadić was included in many documentaries ("Sexual violence and the Triumph of Justice", "Crimes before the ICTY: Prijedor", etc.): video from the court, judges' comments, witnesses' testimony, archival video, and the testimony of Dusko Tadić. Visual narrative looks like a complete story: crime, investigation, indictment, and punishment. This case is recognized (Barria & Roper, 2010) as an important for the transitional jus-

tice, as it is mentioned in the spoken narrative of the documentary as the “first war crime to be conducted by International court since World War Two”.

The case of Dusko Tadić is important, as it became an example of interpreting by the ICTY an individual criminal responsibility. It was not proven that Tadić himself had committed sexual violence, but interpreting his actions, the Tribunal found involvement in sexual violence sufficient for claiming him responsible for these crimes (Park, 2007). It was also “the first trial to include charges of sexual violence in the form of sexual mutilation” and still had a controversial perception of the population. Thus, after the triumph of justice, after Tadić was sentenced for imprisonment, Serbian population in Prijedor continued to deny that the crimes have been committed there (Barria & Roper, 2010; Clark, 2009a). This case was a cause for establishing the Outreach Programme, because the ICTY authorities realized that “Serbs did not care about findings of the Tadić case”, as they considered the Tribunal to serve as a tool of Muslims against the Serbs (Schiff, 2008, p. 62).

The official message from the ICTY and the international community declares that reconciliation is possible in the region in the documentaries and at the conferences. Still different opinions appear, as at the conference, devoted to the atrocities committed in Čelebici, one of the witnesses after the end of the conferences claimed:

“Today they say let us live together! But there is no ‘life together’. One part lives on one side, other lives on the other side. Other nationalities suffered as much as we did. But ‘to live together’ would be another camp for me.”

Dr Hasan Balić from Foča mentioned at the conference, that two kinds of the truth exist, while one of them is established by the Tribunal and should be determined by the national court; the second truth should be found in the society and discussed at the events like these conferences and out of the frames of the official events.

These single cases fit in broader clashes of representations in the discourse on the ICTY and ‘truth’. Although the Tribunal has struggled with Croatia as, the hardest opposition against the Tribunal has come from Serbia. Since the end of Milošević’s era in 2000, Serbia has almost continuously challenged the authority of the ICTY, often blaming the biased approach by the Tribunal for mainly indicting Serb leaders (Golcevski, Endelhardt, & Boomgaarden, 2013). This discourse is not only elite led, but has solid backing in the media and the general society as well. These narrower and broader clashes of truths will continue to mark the overall discourse on the ICTY.

The Tribunal has a demanding task; it needs to justify its practice whilst still maintaining good relations with the states under their jurisdiction. Thus the balance between upholding its mandate and conveying its notion of truth on the one side, and being a force for reconciliation and neutralism on the other is an extremely demanding task. This documentary is an attempt to reach this balance, and despite minor inconsistencies (e.g. the Plavšić case), this goal is generally achieved. The Outreach Programme is an important institution of transitional justice and plays a significant role in the post conflict countries of former Yugoslavia. Nevertheless, the tasks over judicial procedures, meaning outreach, fighting with denials of war crimes, facing the past meet barriers and not always reach a wider audience. The audience, which does not consider the facts, established by the ICTY a priori as truth.

Conclusions

The practical utilization of the audiovisual documents involves images used against the violation of human rights. AV documents are used for human rights activism to advocate the interests of the audience; even a special guide has been created.¹³³ Scholars investigate the role of images in peace and justice,¹³⁴ securitization of the images,¹³⁵ influence of images on the global perception of violation of human rights,¹³⁶ and regional memories projects.¹³⁷⁻¹³⁸ International humanitarian organisations and NGOs as well as the justice institutions use audiovisual recordings for investigations and evidence. By analysing the discursive representation of audiovisual documents in the ICTY and utilising the primary sources (documentaries of the Outreach Programme) opened up for constructing a theoretical and methodological approach for analysing of the audiovisual documents in transitional justice. Even if combining the disciplines as international law, media studies and history may sound too broad, the results of this investigation shows that theoretical and methodological approaches can be implemented for further research of the impact of audiovisual documents in different academic fields.

Based on the analysis of the literature on the topic, the qualitative analysis of the primary sources, documentaries of the Outreach Programme of the ICTY and supplementary analysis of the conferences and interviews, this thesis contributes to the studies about the role of audiovisual documents in the disciplines as international law, peace building studies and security studies. This concluding section gives an overview of the outline and the main findings of the thesis. After the answer to the initial research question, the theoretical and methodological implications of the investigations will be presented. The research questions were the following:

How are audiovisual documents used by the ICTY in its Outreach Programme to disseminate the work of, and the truth established in, the Tribunal? How does the truth, established by the ICTY through its documentaries, clash with public opinion in Serbia?

133 A movement WITNESS and its "Activists' Guide to Archiving Video". Retrieved May 12, 2015, from: <http://archive-guide.witness.org/who>.

134 Project "Pictures of Peace and Justice Documentation". Retrieved May 12, 2015, from: <http://projects.beyond-text.ac.uk/sg-james-gow/index.php?i=43&p=Pictures%20of%20Peace%20and%20Justice%20Documentation,%20Evidence%20and%20Impact%20of%20Visual%20Material%20in%20International%20War%20Crimes%20Prosecution>.

135 Project "Images and International Security." Retrieved May 12, 2015, from: <http://images.ku.dk/>.

136 Cinema for Peace Foundation. Retrieved June 17, 2015, from: <http://cinemaforpeace.ba/en>.

137 Oral history in Bosnia and Herzegovina. Unveiling Personal memories on War and Detention. Retrieved June 17, 2015, from: <http://www.bosnianmemories.org/>.

138 Croatian memories. Unveiling Personal memories on War and Detention. Retrieved June 17, 2015, from: <http://www.croatianmemories.org>.

The ICTY with its Outreach Programme is one of the first institutions of transitional justice that produces documentaries. As a result, most of the methods and tools of filmmaking were tested by the Programme. First of all, the ICTY through the documentaries of the Outreach Programme establishes itself as conveyor of truth. Different audio and visual tools have been applied, as well as the methods like providing historical linkages to the previous international justice initiatives and legal documents of international law. The documentaries contain iconic, internationally recognized images and not only attract attention, but also tell the story of international community's awareness behind these images. The Tribunal establishes itself as a successful legitimate institution through the spoken narrative and achievements of the ICTY's courts in numbers.

Second, the Outreach Programme attempts to reach the masses by using mainstreaming methods. Among its mainstreaming methods thesis has marked out following: specific selection of storytellers, the correlation between context and content of the images, as well as the selection of the most effective images and scenario, which resembles mainstream movies.

Third, the factual findings conveying by the ICTY as a judicial truth often clashes with the public opinion in Serbia. Broader clashes of representations in the discourse on the Tribunal and 'truth' result in failing to make an impact on oppositional group of population. The tendencies of denial and ignorance of the atrocities are still relevant. The case of Biljana Plavšić, which was included in several documentaries, showed the puzzle of transitional justice in the region. When Plavšić, who pleaded guilty, after a while announced publicly that she did it on purpose in order to mitigate sentence, representatives of the ICTY claim they cannot comment this particular case of triumph of justice.

Fourth, the Tribunal failed to reach to the part of Serbian society, which the documentary perhaps was most needed. The audience at the screening of the movies are often those who do not need to be convinced in the reliability of the truth conveyed by the Tribunal. While, a big part of Serbian audiences constantly challenges the ICTY, blaming the Tribunal in the biased attitude towards Serbs and Serbian media are not eager to broadcast documentaries, even if this perspective is still feasible.

And lastly, the Outreach Programme through its documentaries reached its aims to educate and inform about the work and achievements of the ICTY. Films have been used for the lectures of international law by different universities and institutions and for trainings in the police schools in different countries.

The ICTY portrays itself as a conveyor of truth in the documentaries of the Outreach Programme through the presentation of factual and legal findings of the Tribunal. The universal truth, presented in judicial terms as proved "beyond reasonable doubt", has been visualized in the films. The official aims to inform the audience about the work and achievements of the Tribunal have been partially achieved and resulted in the process of establishing a legacy of the institution and establishing its universal truth. Additionally, the images, which "have been brought back", have important impact on the way the society faces the past. They reiterate the video of atrocities and sufferings, giving a chance for victims to be recognized and to overcome tendencies of denial. And this is a crucial moment, when the truth conveyed by the ICTY and the truth, 'holding' by the society clashes, leaving the space for further studies on overcoming existent narratives of denial the atrocities of the past.

This thesis has developed a theoretical approach to the notion of audiovisual documents in transitional justice, which is based equally on discursiveness and intertextuality of audiovisual documents. This holistic approach focuses as much on the spoken word as it does on the context of the narrative along with the intertextuality that precedes or follows audiovisual documents. The theoretical approach has been applied to the case of the Outreach documentaries. The approach has the advantages of drawing a holistic picture of various audiovisual materials, thus enabling an understanding of the purpose behind, the production of, and the reception of the audiovisual documents. Supplementary analysis of the conferences organised by the ICTY contributed to the research of the audiovisual documents with the opportunity to make sampling overviews of the perception by the audience the facts established and promoted by the Tribunal. The analysis has shown that the documentaries of the Outreach Programme provide a functional and useful mechanism, used for establishing the judicial truth and the historical facts by mainstreaming its message through the usage of audiovisual techniques.

The analysis of the selected documentaries, as well as second literature and additional sources such as conferences “Beyond reasonable doubt” and interviews with the moviemakers of the documentaries presents the audiovisual heritage from the Balkan wars of 1990-s and the way it was appropriated by different stakeholders. Audiovisual documents are a powerful evidence of the events, especially from the war times and depending on its ‘ownership’ they can be interpreted and misused. That is why it is so important to study the audiovisual documents further.

In the competition for the truth images can make a significant contribution in closing the gap between competing discourses. It is doubtful whether the ICTY has managed to do this in its documentaries. The broader discourse on the Tribunal in the cooperating countries still seems too strong to be overthrown by the ICTY narrative. However, documentaries represent an extremely vivid piece of legal information, containing audiovisual material, which is hard to interpret in any other way than the way of the ICTY. Although in some cases the full story behind the pictures is excluded, this only reinforces a dominating narrative from the Tribunal, which is destined to repeatedly clash with opposing narratives.

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Anastasia Kriachko is a MIREES-graduate of the Faculty of Political Science of Bologna University (Forlì). She previously holds an MA in history and archives, which she received in the Russian State University for the Humanities in Moscow. Her academic interest mainly focuses on the historical and political interpretation of audiovisual culture. Anastasia's current research on the role of audiovisual images in the ICTY was presented in New York at the 2015 World Convention for the Association for the study of Nationalities and in a seminar related to the University of Copenhagen's project Images and International Security. Anastasia's previous publications were devoted to the audiovisual archives and the history of media. She has also given seminars about audiovisual archives at the Lebanese University in Beirut. Her professional experience is situated around work in media, television archives, radio journalism and records management. Working with archival documents, Anastasia has been involved in documentary projects about post-Soviet Russia, particularly about perestroika. She also had an internship in the National archives of France and Russia and participated in archival school in Italy.

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Luciana Moretti is responsible for the management of PECO B, the Portal on Central-Eastern and Balkan Europe, and the head of the Scientific Library section. You can contact her for proposals and submission of scientific contributions for the Scientific Library, Newsletter, Published and web resources and all general request for IECOB. All inquiries regarding the submission of papers, articles, and research to PECO B for publication in the Scientific Library, Newsletter, or the Published and Web Resources section should be directed to Ms Moretti at luciana.moretti@unibo.it. Ms Moretti also addresses general inquiries regarding IECOB, the Institute for Central-Eastern and Balkan Europe.

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Andrew Troska is an editor and translator for PECO B. Mr Troska updates English-language content and translates past articles, primarily from Italian into English. Requests for translation (between English and Italian) or editing (for English grammar, syntax, and diction) of works to be published on PECO B can be directed to him at andy.troska@pecob.eu.

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