

**Commission on Security & Cooperation in Europe:
U.S. Helsinki Commission**

Helsinki on the Hill Podcast

“Seeking Justice in Serbia”

Guests:

**Illir Bytyqi, Kosovo War Victim;
Praveen Madhiraju, Lawyer for Mr. Bytyqi;
Robert Hand, Senior Policy Advisor, Commission for Security and
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Host:

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TIERSKY: Hello, and welcome back to Helsinki On the Hill, a series of conversations hosted by the United States Helsinki Commission on human rights and comprehensive security in Europe and beyond. I'm your host, Alex Tiersky. I'm a senior policy advisor on the Helsinki Commission staff. As you faithful listeners and followers already know, the Helsinki Commission's work is based on the premise that true peace and stability cannot exist without human rights, democracy, rule of law, and justice.

Today, folks, we are honored to have the presence of someone whose family has been subjected to a case where all of these issues really have come together, in which 20 years after a heinous crime justice still has not been served. Our featured guest is Ilir Bytyqi. He's a member of the family that has suffered a great tragedy, a family that continues to seek justice. Ilir joins us by phone today from Long Island. Ilir, thank you very much for being with us today.

BYTYQI: I'm glad to be here.

TIERSKY: Great.

BYTYQI: Thank you for having us.

TIERSKY: Of course.

Ilir, let's just start with the beginning here. Twenty years ago your family fell victim to a horrific act that took place in the broader context of the Kosovo conflict. Now, of course, our listeners will recall this conflict erupted some 20 years ago as Yugoslavia disintegrated. You had on one side an extremely nationalistic Serbian regime led by Slobodan Milosevic. On the other you had forces which emerged from an already restive population, mostly ethnic Albanian, who wanted Kosovo to be independent of Serbia.

Ilir, why don't we start by your telling us a little bit about your family's relationship to these issues as they were going on, and the conflict. In particular, three of your brothers, who – American citizens. They were living in Long Island at the time. They chose to travel to Kosovo to participate in the conflict, is that right?

BYTYQI: Yes. Yes. In the late '90s we started hearing about the war in Kosovo, what was happening in Kosovo. And we were devastated, seeing the images and our friends, you know, and family being expelled from homes, being murdered in their villages. It was – it was horrifying. But in the meanwhile, we had my parents – my mom, my sister, and my brother Fatos were in Kosovo at the time. And we were worried sick, you know what I mean, trying to find out, see what was going on with them, you know? There was no communication, no communication, it was cut off.

all of a sudden the American-Albanian community started gathering up in Yonkers, and – to go over and fight President Milosevic barbaric campaign and the ethnic cleansing. My brothers saw the opportunity and had a difficult – we sat down and a difficult conversation with our dad. We wanted to all go. But there was no fear, just determination as my brothers, you

know, we sat down, drew sticks. I got twice the end of the shortest stick. And then was decided these there are going over to fight.

And fast-forward, when they sent to go Albania, and to the war against Slobodan Milosevic's regime, and fast forwarding the war is over and my brothers stayed to rebuild Kosovo, you know, as humanitarians. And meanwhile, while my parents were – my mom, sister and brother Fatos were in Kosovo, the Roma family that they assisted helped my parents, you know? Helped my parents, you know, wish shopping, because my parents were Albanians. And I you were an Albanian, you know, police would stop you and ask you a thousand questions. And especially my brothers being members of the Kosovo Liberation Army, it was difficult.

my parents were treated very nice from the Roma family. They always took care of them, made sure that they had everything that they need. You know, they were – you know, no questions asked. Anything they needed, they were there to assist my family, you know what I mean?

TIERSKY: Sure, sure.

BYTYQI: And then when, my brothers were well-known that they were in the Kosovo Liberation Army. My parents had – my brother, mother and sister had to flee Kosovo to Albania because every family that had a member of a Kosovo – a member of the family into the Kosovo Liberation Army, the Serbs took revenge on their families – killed, executed a whole family.

after the war was over, my brothers, as I said, they stayed to do the humanitarian work. And they tried to return a favor to the Roma family, because after the war, you know, everybody was – nobody was safe, you know what I mean? Minorities, you know? My brothers decided to help, do a humanitarian deed, and tried to ferry family – Roma family to the border. But they were caught –

TIERSKY: OK, so they were essentially serving as protection for this Roma family to get through. It was kind of a fluid security situation

BYTYQI: Yeah. Yes, yes. And they were caught by the Serbian forces and never seen and never heard from. two years later they were found in a mass grave on the other side of Serbia and executed – brutally tortured and executed. And just thrown on top in the mass grave, which contained about 70 other – 75 human remains.

TIERSKY: This is clearly a great tragedy has befallen your family. Can you tell us a bit about how you know what happened to your three brothers? How have you found out this information about where they were taken?

BYTYQI: Well, my brother Fatos, at the time he was – he was in Kosovo after they were kidnapped and investigated it. And then there were – in 2001, at the time – I think he was the deputy chief of assistant – I think he was assistant minister of the government, Sreten Lukić, you

know, announced it live on TV that the three Americans – remains of the three American brothers were found in mass grave in Serbia, in Petrovo Selo, at the training camp.

TIERSKY: And you knew at that point that it was your brothers?

BYTYQI: Yes, we did. They identified – (inaudible) – the release – (coughs) – excuse me – the release paperwork.

TIERSKY: Ilir, let me ask you a question that's really at the center of what we're talking about here. What justice has come of this situation? What I mean to say is, what has your family sought in terms a remedy, if I could say, a legal remedy for this killing, this murder, this execution-style murder, the torture of your brothers? Has anyone gone to jail? Has anyone gone through a legal system that you would find acceptable?

BYTYQI: No. No. Justice hasn't been served yet. Justice hasn't been served yet. And to Serbian government hasn't – it doesn't want to give up the criminals. The criminals who committed this heinous crime on my family.

TIERSKY: Ilir, what is your family hoping for at this point?

BYTYQI: We're hoping to have – seek justice – seek justice. To see the perpetrators who committed this crime – heinous crime brought to justice, and swiftly being punished according to the law.

TIERSKY: Ilir, thanks very much for taking us through this. If you can stay with us, please, I'd like to bring in a couple of other voices to our conversation at this point.

In the studio with me today are two other individuals who've been tracking this case very closely. I'd like to first introduce Praveen Madhiraju, a lawyer who serves as your family's representative and advisor in Washington. Welcome, Praveen, thanks for making time for us.

MADHIRAJU: Thanks, Alex.

TIERSKY: I'd also like to introduce my colleague Robert Hand. Bob is a policy advisor at the Commission, as I am. Bob, thanks for agreeing to come on with me to help us place this case in the context of the policy debates in Washington.

HAND: Glad to do it.

TIERSKY: Praveen, Bob, you all have been tracking this case. You were listening as Ilir described this tragic series of events. Is there anything you'd like to add to what he's told us about how this unfolded?

MADHIRAJU: Well, Alex, I think I'd say is in some ways this case is not that complex. The Serbian government, now for at least a decade, has admitted that it itself, the Serbian government, committed these crimes – members of the Serbian government. Multiple presidents

and prime ministers, interior ministers, have all admitted that these were state-sponsored murders of three American citizens. And they've promised justice in the case. The problems in the case are more complex, why there hasn't been justice.

TIERSKY: Mmm hmm. Bob.

HAND: I would only say that I think that in the early years, as Serbia went through the transition in 2001, when their bodies were found, by that time Slobodan Milosevic was out of power and Serbia was going through a transition, a transition that I think it is still going through in so many ways. There was a heavy focus on some of these bigger issues – bringing Serbia back into the international fold, trying to resolve the question of Kosovo's status. It was not until 2008 that Kosovo asserted its independent statehood. And just trying to achieve some degree of normality on the ground in terms of the return of minority populations, holding elections, forming government institutions in Kosovo to replace the ones that were basically run by Serbs beforehand.

And so there was a lot of things on the agenda. And for that reason, I think in the early years individual cases like this one didn't get the attention that they – that they deserved. And it was only because of the perseverance of the Bytyqi family in wanting to seek justice and the clear-cut nature of the case – I mean, these people were just executed. There was no trial, no justice whatsoever. It was just a brutal murder – that it actually prompted, I think, the U.S. government, including those in the U.S. Congress, to try to do more regarding this case, even as these larger issues were still being dealt with.

TIERSKY: OK. Thanks, Bob.

All three of you have mentioned prominently the role of the Serbian government. And Praveen, in a minute I'm going to ask you to kind of take us through some of the – some of the negotiations, some of the discussions that you've been tracking and assisting with historically.

before we do that, I want to come back to you, Ilir. Again, the Serbian government playing such a central role. I think you said that the Serbian government doesn't want to hand over these war criminals. Has your family appealed directly to Serbian government officials?

BYTYQI: Yes, we have. We have numerous times. We have met the president, at the time the prime minister, for the – Prime Minister Vucic, which he said to our face – Praveen, my brother Fatos, to his – he looked into eyes, in front of government officials, that the two people are involved in murdering the Bytyqi brothers, and he named the names. At the time, he was the prime minister. Now he's the president of Serbia. And most – let's make it clear, today President Vucic praises Slobodan Milosevic as a great leader, you know? And when the president today praises a butcher of Balkans, that he was a great leader, that means there's something wrong with that president today.

TIERSKY: Ilir, let me be more specific. When then-Prime Minister Vucic named these two names to your brother and to Praveen, what were the consequences of that? Were these two individuals arrested? Where they taken into custody by Serbian authorities?

BYTYQI: No. No. He said, soon you will be able to seek justice. But justice hasn't been happening, you know? He just promised us – to the family, to the U.S. Congress, he just lies – true lies. Everything that he's promised to the family, to myself, my attorney Praveen, and the U.S. government, the congressional. Now every time he meets with them, he promises that there will be justice in his case. And every time he's done that, he just has – just has, what do you call it, failed.

TIERSKY: Yeah. Yeah. Let me turn back to Praveen here.

Praveen, can you give us a little – something of a kind of overview of the years of the family's attempts to get justice in this case, and some of the twists and turns in that story?

MADHIRAJU: Sure. Ilir and his brother Fatos, their efforts in this case have been nothing short of heroic. So in 2002, when the bodies were found, they – from 1999, but starting in 2002 especially – both the brothers have made continuous trips to Belgrade and Washington, D.C. to get the authorities involved in this case and focused on this case. The FBI and Serbian investigators both opened investigations into this case more than 15 years ago. And as a result of that, there was some attention on this case for an extended period of time.

The problems in the case, though, as Ilir pointed out, are that Serbia will say all the right things, but not do the right things. So as Ilir mentioned, even the president of Serbia has told us who committed these crimes. He's named names. But what's happened subsequently to that is completely different. You asked Ilir what were the consequences of him naming these names? And really the only thing that happened was for President Vucic to protect the people that he named. So about a year after we had that conversation with President Vucic, President Vucic went to the Serbian press and mentioned the same people and said: These are friends of America. And the family and the U.S. ambassador, U.S. officials who are pressing this case, are just trying to kick me in the head.

TIERSKY: Hmm. How does Vucic and others that you, Praveen, you, Ilir, have met with on – you know, on let's say a regular basis, you've met multiple times over years on this case – how have they explained the absence of action, even as they look at you, and they name names, and they say, you know, we do share some responsibility here? How do they explain the lack of progress?

MADHIRAJU: Well, the thing I'd say is that they say different things in private and in public. They say different things to U.S. officials and to the Serbian public. And consistently, though, what they've said that there isn't enough evidence in this case, which is just absolutely false. The main suspects in the case have – we have been documented at the time and the place of the murders. And we've even had some of the main suspects in the case admit on the record, and in open court, to all the elements of committing the crimes that we've been describing. But it's easy for Serbia and its leaders to say, well, we don't have enough evidence, but that's just not true.

TIERSKY: Do – Ilir, maybe I'll start with you again with this question. Do you feel as though there are allies that you have within Serbia who want to help your family find justice?

BYTYQI: Yes, we do. We do. We have the Humanitarian Law Center that has been assisting us for quite some time now. And they've been very great in helping us. And, you know, the U.S. government also, the embassy in Belgrade, have been. You know, but as Praveen said before, President Vucic will say one thing and do another thing. One thing to your face, and then do another thing publicly. You know, and all they come up is there's not enough evidence. As Praveen said, we have plenty – the evidence is there, you know, but they choose not to prosecute.

TIERSKY: Sure, sure. I find it remarkable that there are elements in Serbian society that are eager to help in your quest for justice at the same time as the Serbian state is so resistant. I don't know if you have any reflection on that. How would you explain that?

MADHIRAJU: Well, the people that we've worked with that Ilir has described, the Humanitarian Law Center, let me just say that they are constantly under attack in Syria. They are not the dominant voice in the media, in the public, in public discussion. They are very much fighting an uphill battle. And the Serbian government, though, and the more nationalistic voices, those are ascendant. So I think – you know, and it's – like, all the same people that were empowered during the '90s in the Milosevic regime, they're all still in power now. And they have a very vested interest not to hold war criminals accountable.

HAND: Yeah, I would concur with that. I think we have seen, particularly in recent years, when many of those who were actually sentenced by the International Criminal Tribunal for war crimes in Kosovo or Bosnia, when they have served their sentence would return to Serbia, where they were given a hero's welcome. There's also the question of how the Serbian courts prosecute war crimes within their own court, as opposed to the international level, where there seems to be a willingness to put on trial low-level people who might have been responsible for some crimes, but not actually going up to the mid and higher levels, where people ordered these things to happen or directed these policies basically seem to have impunity and actually do rather well under the current – the current system.

I would also echo what was said about the Humanitarian Law Center and other groups. They're real heroes of the 1990s, having followed the Balkans at that time, were those Serbs who stood up and said “no” to what was being done in their name. And these Serbs, to this day, do not want to be part of the Serbia that fails to recognize the crimes that were done. Every country has people like this, that want to open up, to apologize, to make things right, to reconcile. And there are some awfully brave people in Belgrade who have been pushing this case – I think not just the Humanitarian Law Center, but also some journalists and others who have been willing to step out at great risk to themselves to bring these issues out for the Serbian public to hear.

And the big question is, where is the Serbian public? They hear the statements of their government leaders, but they also know of these other voices that are there. And that's the challenge, I think, that Serbia faces today.

MADHIRAJU: So, Alex, I can add some color to that.

TIERSKY: Yeah, please.

MADHIRAJU: So when – Serbia’s war crimes prosecutor is elected by its parliament. And so most recently there was basically two main candidates to be the next war crimes prosecutor. One of them ran on a platform of prioritizing cases of Serbian victims and the other one didn’t. Guess which one won? The one that promised to prosecute cases of Serbian victims won an overwhelming majority of the vote and is now the current war crimes prosecutor there.

TIERSKY: Let me ask maybe one more question on the Serbian governmental position on this, because really you’re all – you’re all leaning into their culpability in the protection of war criminals, essentially. What levers exist to pressure at the highest levels the Serbian government to behave differently? I think this is probably a question for Bob.

HAND: Yeah, that’s a challenging question. I think, first of all, what we had hoped for is that by simply raising this case and appealing to the decency of the Serbian leadership that they would go and do the right thing. And many times when they made these promises, we came away impressed, maybe disarmed by it. Gave them time and waited, and it took a while to learn that these promises were not going to be – to be fulfilled. There’s also the question of bringing greater publicity to it, which is what has been done through congressional hearings, other public events done by the Helsinki Commission, and other places to try to shed greater light on the issue.

Unlike some other issues earlier in our bilateral relationship with Serbia – for example, there was conditionality on assistance to Serbia based on Belgrade’s cooperation with the International Tribunal, a linkage that actually achieved some very good results. There’s nothing like that in this case. There’s no real consequences for it. And what I have tried to say to Serbian officials that I have met with is that while this linkage doesn’t exist, if they do the right thing – and they admit what the right thing is when you talk to them directly and personally about it – that Serbia would actually benefit so much in terms of its aspirations for joining Europe and becoming an accepted member of the international community, and removing an irritant in our bilateral relationship. But still, we don’t see action.

TIERSKY: Well, let me jump in and – on this question of an irritant in our bilateral relationship. Ilir, when I asked you about whether you had local allies in Serbia, you talked about the U.S. embassy there. And of course, I want to remind our listeners, what we’re talking about are U.S. citizens who came from Long Island. And to some of our listeners, that might seem – the Kosovo conflict might seem very far off. But these are – these are Americans that we’re talking about, after all. Can you say a little bit about how your family – how your family assesses the level of U.S. government support to your cause?

BYTYQI: Well, we – let’s put it this way, can U.S. government put pressure on it? Yes, they can. But understandable that the U.S. has the channels to put pressure on Serbia. Believe it or not, just recently – a couple of – last year, when the resolution H.R. 20 passed, Serbia – you know, when Congress speaks, Serbia listens. You know, but when the U.S. embassy talks to them, they just – believe it or not, Serbia doesn’t really – you know, it’s one ear in, the other ear

out. You know, we have – we have confidence in the U.S. government but, you know what, they could do more. They could do more. They could do more.

TIERSKY: So, Praveen, let me turn that to you. Ilir just mentioned H.R. 20, a resolution in the House. And he says when Congress speaks, Serbia listened. What can you tell us about congressional engagement on this issue?

MADHIRAJU: Congress has really, I think, led on the U.S. government's pushing of this case over the years, primarily by Congressman Eliot Engle Lee Zeldin, but also a number of members of the Helsinki Commission, including past and current chairs and co-chairs, like Alcee Hastings, Chris Smith, Senators Cardin and Roger Wicker. And in this Congress, it's actually H.Con. Resolution 32. And but Ilir's right, last year when it passed just the committee, the Foreign Affairs Committee, Serbian press reported on that for five consecutive days, including requiring – it required the foreign minister and the interior minister to do essentially press conferences addressing the issue. So, yes, Congress's involvement is incredibly important in this case.

TIERSKY: Sure. Clearly. Clearly Belgrade listens.

Bob, can you say a little more about what the context of the messages that our commissioners are sending Serbia, or other members of Congress are sending Serbia, through some of these resolutions they're adopting? What are these about? What are they calling for?

HAND: Well, I think they're calling for what the family is calling for, and that is justice. In these resolutions, as Praveen said, H.Con.Res. 32. H. Concurrent Resolution 32, which is introduced by Mr. Zeldin, who represents the Bytyqi family in Long Island and the state of New York. I think that the message that's in there is, first of all, documenting the nature of this crime. Also pointing out that there is goodwill towards Serbia, a desire to see it become an accepted Democratic member, integrated into Europe. But then an insistence that in order to reach those aspirations that it provide justice in this particular – in this particular case. This is not something that I think the members of Congress use just because they are anti-Serb or want to whack the – Serbia over the head with something. We want to see Serbia succeed.

And it's been put forward with that in mind, but with the bottom line is that these were, as you had mentioned, American citizens who were murdered execution-style. And that we cannot be silent when there's no justice in a case like this. And other issues in our bilateral relationship are important, but they're not going to make this issue go away. I think that's essentially the message that members of Congress has given in hearings through this resolution, statements they have given, et cetera.

MADHIRAJU: Yeah, we're very, appropriately, focusing on the Bytyqi case, but unfortunately it's not the only case out there. There are thousands of unresolved war crimes from that era. And what other members of Congress have done that I think is also effective, especially Chairman Eliot Engel, is to make it very clear that he does not think that Serbia should enter the European Union until these crimes are – these cases are resolved more generally.

This is actually what the EU has stated. The EU's requirements for Serbia include a requirement that they start prosecuting more of these cases. And Congress, echoing that requirement, I think is also very helpful. It's something that Serbia always asks for when they come to the United States. Their leaders are always asking for U.S. support for their entry into the EU.

TIERSKY: It sounds like that's the core of a response to my next question for you, Praveen, which is: What happens next? What would you like to see in terms of action, whether it's by Congress, whether it's by the State Department, or other elements of the executive branch? What would you like to see happen next?

MADHIRAJU: It's a great question. There's a number of things that the U.S. – all branches of the U.S. can do. And, like I just said, Serbia is always looking for the U.S.'s support to enter the European Union. And they're always looking for U.S.'s support in gaining sort of better international stature. And those are important levers. Yes, it's true that right now we don't – like Bob said – we don't have sanctions on Serbia anymore. We don't have conditionality. But we have other strong levers.

So Congress, I think, there's a few things that Congress can do. One, again, making it very clear that Serbia should not enter the EU until they resolve these types of cases. But also we've put forth proposals for the U.S. government to take stronger action and have better tools when there's any case of an American killed by a foreign government abroad. Not just a Bytyqi case, but in any case like this.

TIERSKY: Thanks, Praveen.

Let me bring our discussion to a close with one more question. Ilir, let me start with you and then ask Praveen and Bob to comment on this as well. I can imagine someone coming fresh to this conversation, learning about this tragedy, reflecting a big and saying: You know what? This was a real tragedy. But keeping a focus on it threatens to reopen old wounds, potentially rekindle conflicts that were so dramatic when they were occurring. Maybe we should all just forget about this and move on, and look to another brighter day, as tragic as this was. Ilir, what would you say to someone who has that perspective?

BYTYQI: Well, when a crime is committed, the crimes should be prosecuted, no matter how long it takes. To a person like that, you ask me to move on, this is not a crime that got hit by a hit and run and the guy got wounded, you know what I mean, he went to the hospital, he's all up and running. That these are American lives we're talking about. They've been executed in a brutally – understandable if they were, OK, you know, arrested for vandalism, you know what I mean, all right, let's say we move on, you know what I mean? You do the crime, you do the time. And then release, have a good day. But my brothers have committed no crime.

TIERSKY: Yeah. Yeah.

Praveen, your thoughts, please?

MADHIRAJU: Ilir is right. And his family deserves justice. But there's another aspect to this, which Bob alluded to, which is this is in everybody's interests to prosecute these kind of cases. And let me just tell you a quick story. In April 2019, just very recently, in Serbia there was a Muslim-Albanian butcher who was flying the wrong kind of flag. Like, I think he was flying an Albanian flag. And Serbian nationalists butchered the head of a pig and put it in front of his store to intimidate him. Now, to their credit, other Serbians who – very brave Serbians – rallied to the butcher's defense in the following days.

But these kind of provocations based on ethnicity happen often – way too often – in the Balkans. And it's because the leaders of all the countries in the Balkans – not just Serbia, not just Kosovo – they all have run to their, I think, sort of nationalistic posts, and essentially denied what's happened in the past. Each ethnic group is blaming the others instead of focusing on individual responsibility. And so that's the key for cases like this – focusing on individual responsibility. It does not require that we collectivize the guilt of any one ethnicity.

TIERSKY: Thanks, Praveen.

Bob, your thoughts?

HAND: Yeah, I would agree with everything that was – that was just said. And I would go back to the way you started this podcast in terms of the Helsinki Commission's purpose in terms of providing more genuine security and greater stability. You can put these things under the carpet, but that doesn't mean they go away. You may achieve a little bit of short-term stability that you can get credit for, but in the longer terms these things simmer. What you have to do in order to go to the future is reckon with the past.

For Serbia and, for that matter, for everyone in the Balkans to come clean in terms of the crimes that were committed in their names. There were some Serbs who were victims as well. And the people who perpetrated crimes against them should also be brought to justice. And that should all be acknowledged, whether it's in Kosovo, Bosnia, Croatia, wherever. But you need to deal with these issues if you want to have true stability that's lasting. Part of the reason that the Balkans became unstable in the '90s is that there was still a desire to settle old scores, that were not – were not deal with previously.

And I guess my last point is, I always tell my fellow policymakers here in Washington who would argue such things that they would have to look a person like Ilir in the eye and say they would not feel like he did if it was their brothers who were killed.

TIERSKY: With those words of wisdom, listeners, we've come to the end of another episode of Helsinki on the Hill. Praveen, if our listeners would like more information on this particular case, what's their best source, please?

MADHIRAJU: You can go to our website, which is BytyqiBrothers.com – dot-org, I'm sorry. And you spell that B-Y-T-Y-Q-I Brothers dot-org.

TIERSKY: Thanks very much, Praveen.

Iir, thank you so much for joining just by phone from Long Island.

BYTYQI: You're welcome.

TIERSKY: Praveen, Bob, thank you for joining me in the studio. And thank you all for your commitment to justice, and for being with us today.

Listeners, thanks again for tuning into our show. We're always interested in hearing back from you with feedback. Get in touch via our website at CSCE.gov, our Facebook page, or on Twitter.

Thanks, again, for joining us for Helsinki on the Hill. Until the next conversation, I'm Alex Tiersky, signing off.

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