

THE HAGUE NOTEBOOKS

Ante Gotovina

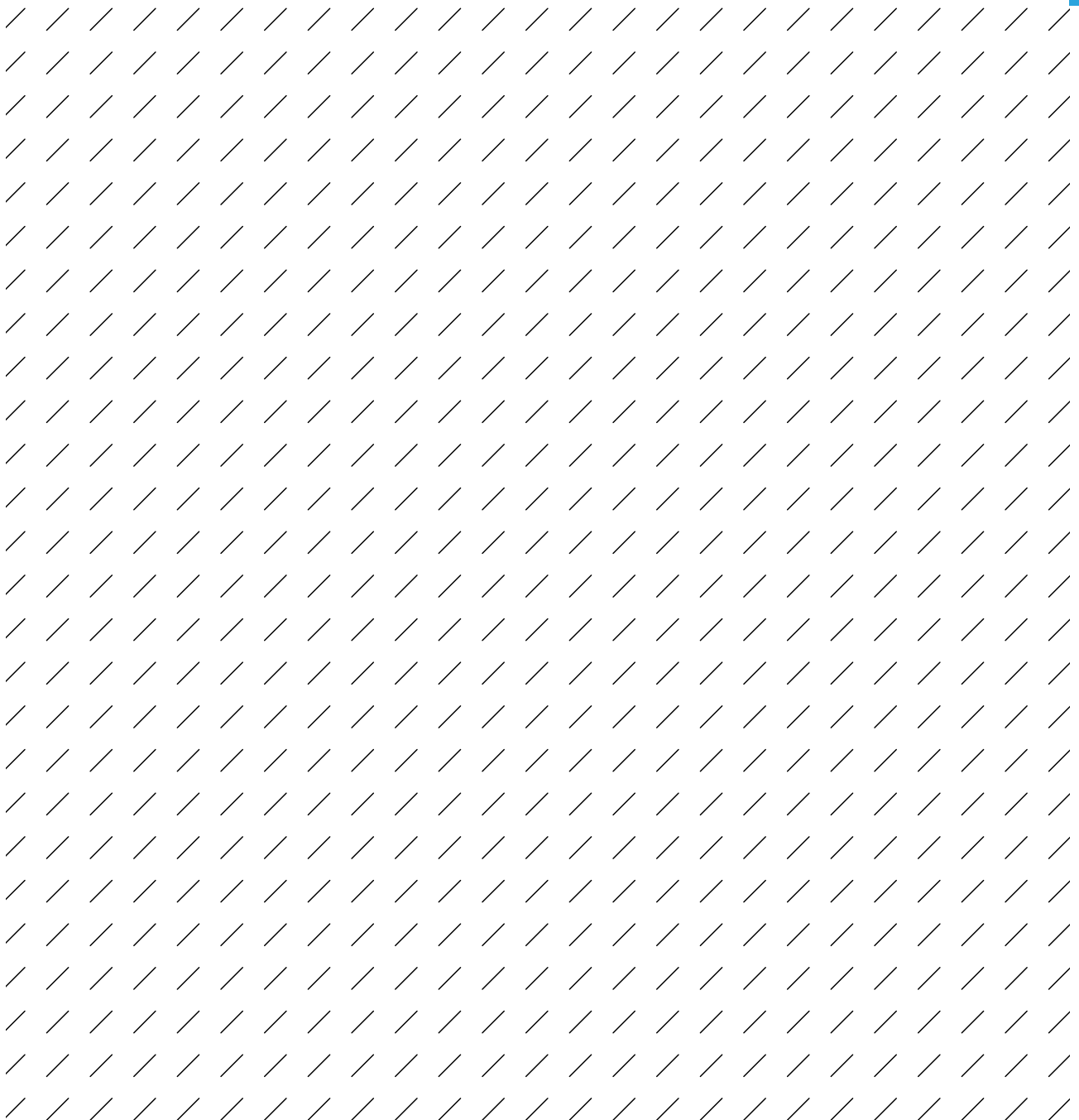


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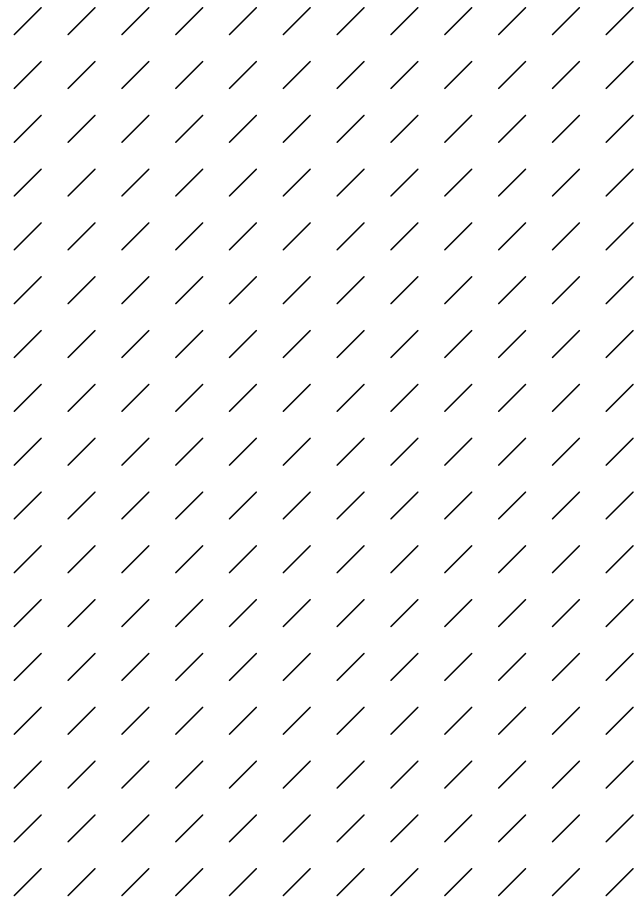
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THE HAGUE NOTEBOOKS

SENSE has collected an extensive archive over nearly 20 years of reporting from the International Criminal Tribunal for the former Yugoslavia (ICTY). Included in the archive are thousands of pages of news reports serving as a kind of chronicle of the Hague trials. With the edition of PDF publications titled THE HAGUE NOTEBOOKS, the SENSE Center organizes its archive of reports around ICTY cases, covering each of them from an indictment to the final judgment.

Each notebook contains a collection of chronologically arranged reports on a particular trial, written while the proceedings were still ongoing. These reports quote statements from victims and witnesses, insiders, forensic and other experts, and refer to documents accepted into the evidence material.

Through chronologically arranged reports, case by case, The Hague Notebooks offer an insight into an entire trial, including key testimonies, findings, and facts established during the evidentiary proceedings. Consolidated in the Hague Notebooks, SENSE reports represent a kind of guide for further research into the entire ICTY archive of judicially established facts about the wars in the former Yugoslavia.

2004-03-08

THE HAGUE

INDICTMENTS AGAINST CROATIAN GENERALS NO LONGER UNDER SEAL

Ivan Cermak and Mladen Markac are accused of taking part in a “joint criminal enterprise” – together with the late president Franjo Tudjman and the fugitive general Ante Gotovina – in the course of and after the Operation Storm.



◀ Ivan Cermak i Mladen Markac

Former commander of the HV Knin garrison, Ivan Cermak, and former commander of the Croatian Special Police, Mladen Markac, have been accused of participation, together with Ante Gotovina and Franjo Tudjman, in a “joint criminal enterprise” the common purpose of which was the forcible and permanent removal of the Serb population from the Krajina region. This is alleged in the indictment against the two Croatian generals, which was made public today. It is virtually identical to the new amended indictment against General Ante Gotovina, the highest ranking HV commander in the southern Krajina at the time relevant for the indictment, i.e., in the course of and after Operation Storm.

The accused are charged with persecutions of the Serb population in the southern part of “Krajina” in the period between 4 August and 15 November 1995. The persecutions, it is alleged in the first count of the indictment, were conducted through systematic plunder and destruction of the property of the Krajina Serbs, murder, inhumane treatment, humiliation and deportation and forced displacement of the population.

After they were alleged as constituent elements of the crime of persecution on political, racial and religious grounds, all these acts were realleged in a total of seven specific counts. In count 2, which relates to murder, it is stated that between 4 August and 15 November 1995, “Croatian forces murdered at least 150 Krajina Serbs, by means of shooting, burning or stabbing”. A schedule attached to the indictment lists the names of 30 persons murdered in the Knin municipality, one person killed in the Benkovac municipality and one in the Korenica municipality.

The third count of the indictment deals with “systematic plunder of houses, barns and livestock in the towns, villages and hamlets in the municipalities of Benkovac, Donji Lapac, Drnis, Gospic, Gracac, Knin, Korenica, Obrovac, Sibenik, Sinj and Zadar.”

In the same period –4 August to 15 November – the Croatian forces, the fourth count alleges, “systematically set fire to or otherwise destroyed ” villages and homes of the Krajina Serbs in the above-mentioned municipalities in southern Krajina.

According to the indictment, the acts of violence against the Serb population were intended to “discourage and prevent those who had already fled the area, either immediately before or during Operation Storm, from returning to their homes”. “The consequence of these violent and intimidating acts was the deportation and/or displacement of tens of thousands of Krajina Serbs to BH and Serbia,” counts 5 and 6 conclude. The accused, “acting individually and/or in concert with others, including Franjo Tudjman”, planned, instigated, ordered or committed deportations and forced removal of Krajina Serbs.

“Inhumane treatment, humiliation and degradation by beating” are listed in the last count of the indictment, charging the former commanders of the Croatian forces in the area for “inhumane acts”.

Generals Cermak i Markac are charged in five counts with both individual and command responsibility, while in two counts, murder and inhumane acts, they are charged only with command responsibility: for failing to prevent or punish the crimes. Persecutions and deportations are qualified as crimes against humanity, while murder, plunder, destruction and inhumane acts are qualified as violations of laws and customs of war.

The amended indictment against Ante Gotovina was made public together with the indictment against Cermak and Markac. The difference between the initial indictment from June 2001 and the present one is the introduction of the new form of criminal responsibility – participation in a joint criminal enterprise – and has thus been brought into line with the Cermak and Markac indictment factually and legally. Unlike the initial indictment, where murder was qualified as a crime against humanity and violation of laws and customs of war, the new indictment leaves out the first qualification. Finally, the number of Krajina Serbs who were deported or forcibly displaced has been changed: while the initial indictment estimated the number to be “between 150,000 and 200,000”, the new indictment refers to “tens of thousands” of refugees.

According to some indications from Zagreb, generals Cermak i Markac will surrender to the Tribunal this week, while General Gotovina is still at large.

2004-03-12

THE HAGUE

IVAN CERMAK AND MLADEN MARKAC: “NOT GUILTY, YOUR HONOR”

Croatian generals accused of crimes committed in the course of and after Operation Storm pled not guilty today to all counts of the indictment.



◀ Ivan Cermak i Mladen Markac in the courtroom

At their initial appearance before a judge of the International Tribunal, generals Ivan Cermak and Mladen Markac pled not guilty today to all counts of the indictment, in which they are charged with crimes committed in the course of and after Operation Storm.

Retired Croatian generals waived their right to have the indictment read out to them, stating that they had studied it and understood it well. The prosecutor charges them with individual and command responsibility for the persecution of Serbs in the territory of 11 municipalities of southern Krajina in the period between 4 August and 15 November 1995.

Cermak and Markac surrendered to the Tribunal yesterday, three days after their indictments were unsealed. In the period relevant for the indictment, Cermak was the commander of the Knin Garrison, and Markac was the commander of the Special Police of the Croatian Ministry of the Interior. The prosecutor charges them with participation in a “joint criminal enterprise the common purpose of which was the forcible and permanent removal of the Serb population” from that region in Croatia. The crime of deportation was perpetrated, as the indictment alleges, through systematic plunder and destruction of Serb property, murder and inhumane acts the purpose of which was to “discourage and prevent the Serb population that had already fled the area either immediately before or during Operation Storm”.

At the hearing today, which was attended by the chief prosecutor Carla Del Ponte herself, Cermak’s defense counsel, Cedo Prodanovic, and Markac’s defense counsel, Goran Mikulicic, stated that they were about to file a motion for provisional release of their clients. Until a ruling is made by the Trial Chamber, presided by the Maltese judge, Carmel Agius, the accused will remain in the UN Detention Unit. The accused stated today that they did not have any objections to the way they had been received and the accommodation in the Detention Unit and that the personnel, as Cermak said, was “more than kind”.

2004-03-17

THE HAGUE

MOTIONS FOR PROVISIONAL RELEASE OF CERMAK AND MARKAC

“Full cooperation with the Tribunal is not only a matter of national interest but the responsibility of every accused” – stated Croatian generals in their motion for provisional release.

On the same day when generals Ivan Cermak and Mladen Markac pleaded not guilty to the indictment charging them with crimes committed in the course of and after Operation Storm, their defence counsels filed the motions for provisional release pending trial.

The motions are virtually identical, the only difference being the description of the personal circumstances of the accused and the number of interviews they gave to the investigators of the Office of the Prosecutor: Ivan Cermak spoke to them four times (between 1998 and 2000) and Mladen Markac two times (between 2002 and 2003). Cermak adds that on two occasions he provided the Office of the Prosecutor with over 130 documents he “had managed to locate” as he says, while Markac’s motion does not mention this type of cooperation.

Both accused swear on their honour as a military and a police officer, respectively, that they would return to The Hague to face trial and that while on provisional release they would not represent a danger to the victims, witnesses or any other person. Both use the same arguments: most of the victims and witnesses of Serb ethnic origin do not live in the territory of the Republic of Croatia any more and the accused have no access to them. The same goes for the former UN peace-keepers and other witnesses from the international community who might be called as witnesses about the events of the autumn 1995 in the so called south Krajina.

In their motions for provisional release both Cermak and Markac stress that they recognize the authority of the Tribunal, “the only internationally recognized forum before which they can defend themselves and respond to the charges in the indictment”. As they say, their view is that “full cooperation with the Tribunal is not only in the national interest, but that it is the responsibility of every accused person.”

Attached to the motions are two identical sworn statements signed by the accused. In them, Cermak and Markac undertake that they will “continue their cooperation with the Tribunal, appear at the trial and respond to any summons from the Tribunal, and will not try to influence witnesses or pervert the course of justice.

Finally, two identical letters of guarantee are attached, signed by the Croatian Justice Minister, Vesna Skare-Ozbolt. The Government undertakes to ensure that generals Cermak and Markac will return to The Hague for trial if they are provisionally released and that during their stay in Croatia they will not pose any danger to victims and witnesses.

2004-04-01

THE HAGUE

CAN CERMAK AND MARKAC BE PROVISIONALLY RELEASED PENDING TRIAL?

At a hearing before the Trial Chamber today, the defense asked for the provisional release of two Croatian generals, Ivan Cermak and Mladen Markac. The prosecution opposed the motion.

Lawyers for Generals Ivan Cermak and Mladen Markac presented oral arguments before the Trial Chamber today in support of their motion for the provisional release of the two accused pending trial; prosecutors presented their arguments against granting the motion.

On the day of their initial appearance before the Tribunal, on March 12, the generals’ defense lawyers submitted their motions for provisional release to the Trial Chamber. Before ruling on the motions, the Trial Chamber ordered that not only the defense and prosecution appear before it at a hearing, but also representatives of the Croatian government. The latter were expected to furnish guarantees that Croatian authorities will arrest Cermak and Markac if they refuse to obey the court’s orders and that the accused will not present any danger to victims and witnesses.

The Croatian Justice Minister, Vesna Skare Ozbolt, presented the guarantees to the Chamber, saying that there are no problems with cooperation between Croatia and the Tribunal, and that the Tribunal should therefore have no doubts about the pledges given by the government.

Chief Prosecutor Carla Del Ponte, however, expressed certain reservations on this issue. At the hearing today, she reminded the court that Ante Gotovina – the third person indicted in the same indictment as the Generals for crimes committed in the course of and after Operation Storm – “is still missing and that the Government has been unable to do anything about it, and that there is a possibility that the other two accused could also disappear.”

The defense stressed, however, that unlike Gotovina, Cermak and Markac surrendered to the Tribunal immediately after their indictment was made public and that they cooperated with the Tribunal in the past; they were interviewed by Tribunal investigators and Cermak even gave them documents. The defense feels that Cermak and Markac should not be “punished because of Gotovina’s conduct.”

Opposing the motion for provisional release, prosecutors argue that the accused have a motive not to return to the Tribunal because the charges against them are serious and may result in severe punishment. They also say that after the prosecution discloses its evidence to the defense, they will have access to the names of victims and witnesses and will be able to try and influence them.

Cermak’s defense counsel, Cedo Prodanovic, called the arguments offered by the prosecution “routine” and cited the conduct of the accused to date in their favor: in the past years, he said, they had not tried to influence victims or witnesses, despite the high positions they held and their awareness they might be indicted by the Tribunal.

When asked by Judge Carmel Agius whether the views of the prosecution were subject to change, prosecutor Mark Ierace noted that it was “possible that the prosecution might take a different stand later, if the accused agree to be interviewed by the Office of the Prosecutor and if some other changes are put in place.” The defense, on the other hand, feels that agreement to give interviews should not be a prerequisite for provisional release.

The Chamber stated that it would rule on the issue as soon as possible.

2004-05-03

THE HAGUE

CERMAK AND MARKAC TO REMAIN IN UN DETENTION

Motions for provisional release filed by Croatian generals denied.

Since the Trial Chamber is not satisfied that Generals Ivan Cermak and Mladen Markac will come back to The Hague for trial, it dismissed their motions for provisional release, the Tribunal announced today.

According to the decision, the main reason for the motion’s dismissal is that the former HV generals have been charged with extremely serious crimes – committed during and after Operation Storm in the summer of 1995–for which, if found guilty, they would be sentenced to very long terms of imprisonment.

In the opinion of the Trial Chamber, the fact that Cermak and Markac surrendered voluntarily as soon as they learned they were indicted is not reliable proof that they would return to The Hague for trial or that they would not pose a threat to victims and witnesses. The judges accepted the prosecution's arguments that the accused – after receiving the evidence the prosecution has against them – might change their minds and abscond if provisionally released in order to escape having to return to The Hague to face trial.

Although they gave credit to the Croatian authorities for improved cooperation with the Tribunal, the judges think that the “recent experience with the Gotovina case” indicates that there are limits as to how far the authorities can go in meeting the obligations they have undertaken. In the present circumstances, the decision concludes, the Trial Chamber must treat the guarantees offered by Croatian authorities for the accused generals with caution.

2004-09-15

THE HAGUE

REQUEST FOR PROVISIONAL RELEASE OF CERMAK AND MARKAC DENIED AGAIN

Trial Chamber finds that the repeated motion from July does not contain any new arguments that would lead the Chamber to change its decision of April 2004.

The Trial Chamber hearing the case of Ivan Cermak and Mladen Markac again denied the request for the provisional release of the two Croatian generals, finding that the new motion does not contain any new arguments that would lead the Chamber to change its original decision.

The prosecution did not oppose the second motion for the provisional release of the two accused, which led everyone to expect that judges would grant the request during the recess or immediately after. The Trial Chamber, however, found that the prosecution was “quite ambiguous” in that it “does not oppose” but “does not advocate their release” either. The judges added that the arguments against their release put forward by the prosecution at the first hearing where the issue was discussed “were quite persuasive.”

“The charges (for crimes against Serb civilians in the course of and after Operation Storm) remain very serious,” and this could, in the Chamber’s opinion, affect the willingness of the accused to return to the Detention Unit. Furthermore, “no new arguments have been presented” that might change the previous conclusions reached by the judges “that the accused might pose a threat to the victims and witnesses, which is an important issue,” said the Chamber, presided over by Australian Judge Kevin Parker.

Regarding the guarantees offered by the Croatian Government that the accused, if provisionally released, will appear in The Hague when the Chamber requests, the Chamber notes that Croatia has yet to arrest Ante Gotovina, charged with the same crimes. Although the Chamber recognizes that cooperation with the Tribunal has improved, it considers it will be possible to evaluate that cooperation “with time.”

In the period between the denial of the first request and the filing of the second, Cermak and Markac were interviewed in the Detention Unit by OTP investigators--a demand made by prosecutors in order to cease their opposition to the motion for provisional release. However, for judges Parker, Carmel Agius and Jean-Claude Antonetti, this is not a “substantial change” that would lead them to change their views.

As the Croatian media is reporting, the defense will now apply to the Appeals Chamber for an allowance to appeal the Trial Chamber’s decision.

2004-09-24

THE HAGUE

DEFENSE: CERMAK AND MARKAC HELD HOSTAGE BY TRIBUNAL

The issue of the provisional release of Croatian generals Ivan Cermak and Mladen Markac is before a bench of three judges of the Appeals Chamber. Defense seeks leave to file an appeal.

Defense counsel for Ivan Cermak and Mladen Markac filed an application this week seeking leave to appeal the Trial Chamber’s decision refusing to grant provisional release to the two accused pending trial.

The Trial Chamber refused the motions for the provisional release of the Croatian generals twice, in April and September. They are charged with crimes against Serb civilians committed in the course of, and after, Operation Storm.

Their defense counsel, however, thinks the Trial Chamber erroneously concluded that the accused might pose a threat to the victims and witnesses and that they may refuse to return to the Detention Unit. The defense further contends that the Tribunal has no reason not to trust the guarantees offered by the Croatian Government. “The fact that Ante Gotovina (charged with the same crimes) has not been arrested yet does not mean that the cooperation of Croatia is not satisfactory,” the defense brief notes, adding that Cermak and Markac have become “hostages to the Tribunal”; this has been done “in order to ensure Gotovina’s surrender through their status.”

The prosecution opposed the first motion but not the second, but the Trial Chamber viewed its attitude as “ambiguous.” In the defense’s view, the prosecution has clearly stated that “it is not opposed” to their provisional release once the accused have fully cooperated with the prosecution in the Detention Unit.

Finally, the defense quoted other cases before the Tribunal where circumstances were similar, yet the accused were released pending trial: the Prlic et al. case, the Rasim Ademi case and the Enver Hadzihanovic case. In the Prlic et al. case, the accused were granted provisional release despite the opposition of prosecutors. Cermak’s and Markac’s defense note “there is a clear and crucial inconsistency between the decisions rendered in these two cases.”

On the basis of these arguments, a bench of three judges of the Appeals Chamber will decide whether to allow an appeal; if yes, the appeal will be heard by the full Appeals Chamber.

2004-10-12

THE HAGUE

PREPARATIONS FOR THE CERMAK AND MARKAC TRIAL UNDERWAY

The prosecution is in the process of disclosing its voluminous evidence to the defense. Mladen Markac’s defense warns of the accused’s ill health.



◀ Ivan Cermak i Mladen Markac in the courtroom

As Croatian generals Ivan Cermak and Mladen Markac await the Appeals Chamber’s decision on their application to file an appeal against a different decision dismissing their motion for provisional release, the usual preparations for trial are underway. They were discussed today at the regular status conference.

The prosecution is in the process of disclosing its evidence to the defense teams. The Trial Chamber is currently considering the motion on defects in the form of the indictment and will render its decision soon, Judge Kevin Parker announced. He said if preparations for trial continue smoothly, the trial could begin in the first part of next year.

Regarding the health of the accused, Markac’s defense counsel Miroslav Separovic informed the Chamber that his client had recently undergone surgery for heart problems and that he was not feeling well. The defense suggested that in addition to Dutch doctors, doctors from Croatia who have treated Markac before examine him.

Since their surrender in April 2004, Cermak and Markac – charged as the former commander of the Knin Military District and the special police respectively – have filed two motions for provisional release. The Chamber has dismissed both. The defense then applied to the Appeals Chamber to be granted leave to file an appeal to those decisions. The decision on this issue is expected in the coming weeks.

2004-10-15

THE HAGUE

CERMAK AND MARKAC GRANTED LEAVE TO APPEAL

“There is a possibility that the Trial Chamber might have erred in its assessment of the guarantees offered by the Republic of Croatia,” a bench of three judges of the Appeals Chamber notes in its decision granting leave to the Croatian generals to appeal another decision dismissing their motion for provisional release.

A bench of three judges of the Appeals Chamber granted leave to Ivan Cermak and Mladen Markac to file an appeal against the decision dismissing their motion for provisional release.

The Croatian generals – charged with crimes committed in the course of and after Operation Storm – asked twice to be allowed to wait for the start of their trial in Croatia, but the Trial Chamber dismissed both their motions. The defense sought leave last month to put the issue before the Appeals Chamber.

The Appeals Chamber allowed the appeal to be filed, finding that “there is a possibility that the Trial Chamber might have erred in its assessment of the guarantees offered by the Republic of Croatia.” The Rules of the Tribunal stipulate that the authorities of the country in which the accused reside should present guarantees that the accused will be returned to detention and will not pose any threat to victims and witnesses; the Trial Chamber had doubts about the effectiveness of Zagreb’s guarantees.

Seeking leave to file an appeal, Cermak’s and Markac’s defense counsel noted that in the Prlic et al. case, another Trial

Chamber accepted the guarantees of the Croatian government and released the six accused despite the opposition of the prosecution; this decision was confirmed in August by the Appeals Chamber.

The Appeals Chamber took those arguments into account when it allowed Cermak and Markac to appeal, adding that the prosecution itself is not opposed to the provisional release of the Croatian generals.

2004-11-03

THE HAGUE

PROSECUTION SUPPORTS CERMAK AND MARKAC APPEAL

The prosecution “is not aware of any circumstances which justify detaining” Croatian Generals Ivan Cermak and Mladen Markac pending trial, while the six accused in the Prlic et al. case have been provisionally released.

“The Prosecutor is not aware of any circumstances which justify detaining the Cermak - Markac accused while releasing the Prlic accused.” This was prosecutor Kenneth Scott’s conclusion in the brief filed with the Appeals Chamber, which is currently seized of the matter of Cermak and Markac’s provisional release.

The Trial Chamber hearing the case against Jadranko Prlic and other former Herceg Bosna leaders granted their motions for provisional release in August, deciding to accept the guarantees offered by the Croatian government. However, a different chamber in charge of the Cermak and Markac case, which is now in the pre-trial stage, has twice dismissed their motions in the past few months, refusing to accept the guarantees of the Croatian government.

Prosecutors opposed the provisional release in the Prlic et al. case, but judges dismissed their arguments. In the Cermak and Markac case, the prosecutor was opposed at the beginning but later supported their provisional release pending trial. The shift in the prosecution’s attitude did not sway the judges: in their view, the guarantees offered by Zagreb were simply not reliable.

Last month, the Appeals Chamber allowed the appeal filed by Cermak and Markac, considering that “it may be possible that the Trial Chamber has erred in its evaluation of the guarantees offered by the Republic of Croatia.”

2005-05-11

THE HAGUE

INDICTMENT FOR OPERATION “STORM”: NEW FORMAT, OLD FACTS

In an amended indictment in the Cermak-Markac case, prosecutor introduces clarifications ordered by the Trial Chamber at the request of the defense – among other things, about “joint criminal enterprise” responsibility – while stressing that these are not “substantial” changes.



◀ Kenneth Scott

The Office of the Prosecutor has proposed a different format of the indictment against Ivana Cermak and Mladen Markac, but the facts of the indictment remain the same, Prosecutor Kenneth Scott said in a motion for leave to amend the indictment. “The amended indictment charges the same case, concerning Operation Storm in the Krajina region of Croatia...and concerning the same accused” – Cermak, as the Commander of the Knin Garrison of the Croatian Army, and Markac, as the the Commander of the Special Police of the Croatian MUP (Ministry of the Interior), who have been charged with participating in a “joint criminal enterprise, the common purpose of which was the forcible and permanent removal of the Serb population from the Krajina region”.

In March this year, the Trial Chamber ordered the prosecutors to make various changes to the indictment after the defense counsels appealed its form and sought clarification of certain matters cited in it. In accordance with the order of the judges, prosecutors among other things, identified the forces under the effective control of the accused in more detail and identified the conduct by which the accused are alleged to have had the means of knowledge of the crimes. Also, they explained at a greater length what they consider to be a basis for “joint criminal enterprise” responsibility and “presented a more detailed identification of the alleged participants in the joint criminal enterprise”. Their names are not mentioned in the motion but in the amended indictment.

Several amendments have been entered at the initiative of the prosecutors, they have not been ordered by the Chambers so Prosecutor Scott is seeking the confirmation of the judges for the said amendments. They refer to the timeframe of the indictment, whose beginning has been moved backward from 4 August 1995 to July that same year. Certain geographical corrections have also been made since, in the initial indictment, the prosecutor named

the municipalities that existed in 1991. Two new counts have been added to the indictment, but the killings and cruel treatment mentioned in them were part of the initial indictment under different counts. Finally, two incidents of murder have been deleted and two new ones added to the new indictment.

The prosecutor believes that “the defence is not unfairly prejudiced by any of these amendments” ...particularly in view of the fact that there is no trial date set in the near future”.

Although the prosecutor announced earlier that he was considering a joinder of the indictment against Cermak and Markac with that against Ante Gotovina, he has given up on it for now. “The Prosecution will instead address these matters when the accused Gotovina comes before the Tribunal”.

2005-05-25

THE HAGUE

DEFENCE OPPOSES AMENDMENTS TO THE OPERATION STORM INDICTMENT

Defense counsel for Ivan Cermak and Mladen Markac oppose the “substantial changes” the prosecution has proposed to make in the indictment for the Operation Storm.



◀ Ivan Cermak i Mladen Markac in the courtroom

The defense counsel for the Croatian generals Ivan Cermak and Mladen Markac oppose the proposed amendments to the indictment for the crimes committed in the course of and after Operation Storm. The prosecution moved to amend the indictment early this month.

“So many persons have been included in the ‘joint criminal enterprise’ (designed to expel Serbs from Krajina) that it renders the proper preparation of the defense impossible. All specified persons (with the exception of the three accused, including Gotovina) are deceased, and the others are unknown or indeterminable”, the defense claims in its motion to the judges. The persons named include politicians Tudjman and Susak and generals Bobetko and Cervenko.

The defense further notes that the initial indictment “explicitly stated that Storm was a legitimate operation” while the proposed new indictment shows that the prosecutor “obviously considers the entire operation to have been a criminal endeavor and every participant therein a war criminal”. “This approach is unacceptable because it violates the principle of the determination of individual criminal responsibility,” the lawyers claim. The defense adds that Croatia’s operation to regain control over its state territory was based on provisions of UN chart and a resolution passed in December 1994.

The defense further claims that the prosecution violated the procedure when it moved to amend the indictment without first obtaining the approval of the judge to make such amendments. The prosecutor had previously (after the defense’s objections to the indictment) ordered the prosecution to clarify certain issues, but the prosecutor instead “amended the indictment substantially”, in the opinion of the defense.

When the prosecution sought leave to amend the indictment, it noted that it proposed changes to the “format”, without changing the facts.

2005-06-01

THE HAGUE

SLOW GOING

Pre-trial judge urged the parties to speed up the preparations for the trial of Ivan Cermak and Mladen Markac. The Trial Chamber will “soon” render its decision on the prosecutor’s motion to amend the Operation Storm indictment.

The judges will “soon” render their decision on the proposed amendments to the indictment against Ivan Cermak and Mladen Markac, Judge Kevin Parker announced today at a regular status conference in this case. The two retired HV generals have been charged with the crimes committed during and after Operation Storm.

The prosecution sought leave last month to amend the “format” of the indictment in a way which, in their view, would not change the factual basis of the charges. The defense has, however, strenuously objected to the prosecutor’s motion, claiming that the changes are “substantial.”

In an effort to determine how the preparations for the trial were proceeding, Judge Kevin Parker questioned prosecutor Ken Scott about the disclosure procedure and any agreements on undisputed facts. He concluded that not much had been done since the previous status conference. "The entire case is drifting," the judge warned the prosecutor, urging the parties to achieve "substantial progress" in pre-trial preparations by the next status conference.

The accused Cermak and Markac have been provisionally released pending trial and did not attend the conference today.

2005-10-21

THE HAGUE

JUDGES GRANT LEAVE TO AMEND OPERATION STORM INDICTMENT

The amended indictment against Croatian Army generals Ivan Cermak and Mladen Markac will be submitted to the Chamber by 10 November 2005, with new allegations about the "colonization of Krajina" and a plan to "psychologically intimidate" the Serbs. The issue of the legality of Operation Storm is "irrelevant" for the case of the two accused generals, in the judges' view.

Judge Carmel Agius granted leave to the prosecution to amend the indictment against the former Croatian Army generals, Ivan Cermak and Mladen Markac, accused of the crimes committed in the course of and after Operation Storm in 1995. The prosecution must submit the amended indictment to the Chamber by 10 November at the latest.

Apart from the amendments ordered by the judges, the amended indictment will contain new allegations: about the existence of a plan pursuant to which the Krajina region was to be "urgently colonised with Croats" and about the use of propagandistic techniques to "intimidate psychologically the Krajina Serbs".

In accordance with the previous requests of the Chamber, the list of participants in the joint criminal enterprise is extended and contains more details. In addition to Franjo Tudjman, Janko Bobetko, Gojko Susak, Zvonimir Cervenka and Ante Gotovina, now it lists "various officials, members of the Croatian government and political structures at all levels (including in municipal governments and local organizations), various leaders and members of the HDZ, various officers and members of the armed forces of the Republic of Croatia, including the Army and Air Force, the Special Police and intelligence services, and other persons, both known and unknown".

The prosecution now has to state clearly, in the final version of the indictment, if all Croatian forces involved in Operation Storm committed the crimes in furtherance of the Joint Criminal Enterprise or whether this allegation is confined to those Croatian forces that were under the command of Cermak and Markac. The defense filed a preliminary motion objecting to the language used in the original indictment, claiming that Prosecution "considers the whole Operation Storm a criminal endeavour and every participant as a war criminal". The Chamber rejected this defense argument as "premature" and the issue of the legality of Operation Storm as "irrelevant" for the case at hand.

The amended indictment will state in greater detail the ties between Ivan Cermak and Franjo Tudjman, the power and responsibility Markac as the commander of the Special Police possessed over members of the Special Police Force and will specify Mladen Markac's activities in furtherance of the Joint Criminal Enterprise.

The time frame and the geographical scope of the indictment have been changed too. The starting date of the joint criminal enterprise is pushed back from 4 August 1995 to the month of July of the same year and the number of municipalities in which crimes were committed is cut down from eleven to seven.

In accordance with the Rules of Procedure, the accused will be given an opportunity to enter their plea on the new charges.

2005-12-08

THE HAGUE

GOTOVINA SOON TO BE IN THE HAGUE

After his arrest last night in the Canary Islands, General Ante Gotovina should be in the UN Detention Unit within 72 hours. Only six people remain fugitives from international justice.

Ante Gotovina, one of the most wanted fugitives from international justice, should be in the UN Detention unit within the next 72 hours. Gotovina was arrested last night in the Canary Islands, Spain, and Chief Prosecutor Carla del Ponte made the news public in Belgrade, by sheer coincidence. Preparations for his transfer to The Hague are underway, it has been announced.

Unless there are any unexpected complications about his transfer, Gotovina will appear before a Tribunal judge next week to enter his plea to the indictment charging him – together with generals Ivan Cermak and Mladen Markac – with crimes committed, as the prosecution alleges, in the course and after Operation Storm, between 4 August and 15 November 1995.



◀ Ante Gotovina

The three Croatian Army generals are charged of having participated, together with the late president Tudjman, Bobetko, Susak, Cervenko and other “persons known and unknown” in a “joint criminal enterprise” whose purpose was to “forcible and permanent” removal of the Serbian population from the Krajina region. In an effort to force the Krajina Serbs to leave the area, the Croatian forces committed a number of violations of international humanitarian law, it is alleged in the indictment. Among them are the murders of at least 150 Serbs and plunder and destruction of property.

The indictment alleges that Ante Gotovina, as the commander of the Split Operational Zone of the Croatian Army, was the chief operational commander of the Croatian forces in the southern sector in Operation Storm.

Generals Cermak and Markac pleaded not guilty to the charges levied by the prosecution last March, after their voluntary surrender to the Tribunal. They have been provisionally released pending trial.

After the arrest of Ante Gotovina, only six more accused are still wanted by the Tribunal: Radovan Karadzic, Ratko Mladic, Vlastimir Djordjevic, Goran Hadzic, Stojan Zupljanin and Zdravko Tolimir.

2005-12-12

THE HAGUE

GOTOVINA PLEADS NOT GUILTY

Two days after his transfer to the UN Detention Unit from Spain, General Ante Gotovina pleaded not guilty to seven counts in the indictment. His lawyer Luka Miletic says that the general’s “message on every count of the indictment is, ‘I am not the man who is guilty’...”



◀ Ante Gotovina’s first appearance in the courtroom

“Your Honor, not guilty”. Ante Gotovina repeated those words seven times today, entering his plea to each of the seven counts of the indictment charging him with crimes against humanity and violations of laws and customs of war.

Although the accused stated, through Dutch lawyer Knops, appointed to represent him at the initial appearance by the Registry, that he would waive his right to have the indictment read to him, Judge Carmel Agius called for it to be read out in full, including the schedule with the names, age and cause of death of some of the victims. The judge justified that by the fact that the accused had been a fugitive for four years and the obligations the Tribunal had before the public and the crime victims.

The initial indictment for the crimes committed in the course of and after Operation Storm was issued in May 2001. It was amended in February 2004. General Gotovina is charged with participation, together with generals Ivan Cermak and Mladen Markac and the late president Tudjman, in a “joint criminal enterprise” whose purpose was “forcible and permanent” removal of the Serb population from the Krajina area. As the main operations commander of the Croatian forces deployed in Sector South during Operation Storm, Gotovina is charged with persecutions on political, racial and religious grounds, deportation or forced displacement of tens of thousands of Krajina Serbs and other inhumane acts. He is charged on the basis of both individual responsibility, for having “planned, instigated, ordered, committed, or otherwise aided and abetted” the crimes, and on the basis of command responsibility, for having failed to prevent his subordinates or punish them for the crimes.

Before pleading not guilty to all seven counts in the indictment, Ante Gotovina gave "Tenerife, Spain" as his last address before coming to The Hague, but did not state the exact address the judge had asked him for.

Apart from numerous Croatian reporters, former Croatian politician Drazen Budisa also followed Gotovina's initial appearance from the public gallery. After the hearing, Budisa stated he had come to The Hague "to give support to General Gotovina" because in his opinion "it is high time for the Croatian government to set up a support mechanism for the persons indicted by the ICTY".

Because all the formalities regarding their appointment have not been settled yet at the Registry, lawyers Luka Misetic and Marin Ivanovic followed the initial appearance of their client from the public gallery. After the hearing they said Gotovina would "focus on his own defense" and that his message on every count of the indictment was, 'I am not the man who is guilty'. Misetic also announced they would be filing a motion for Gotovina's provisional release pending trial and indicated his client would be talking to the prosecutors only if the interview could possibly result in the dropping of charges against him. Misetic expects Gotovina, Cermak and Markac to be tried together, and the trial to begin in six to nine months.

2007-01-17

THE HAGUE

OPERATION STORM TRIAL TO BEGIN ON 7 MAY

The trial of three Croatian generals, Ante Gotovina, Ivan Cermak and Mladen Markac, charged with crimes committed in the course of Operation Storm and afterwards, will begin on 7 May 2007. The reasons presented by the defense for the postponement of the trial were not considered "convincing" by pre-trial judge.



◀ Ante Gotovina during the status conference

The trial of three Croatian generals – Ante Gotovina, Ivan Cermak and Mladen Markac – is scheduled to begin on 7 May 2007. The pre-trial chamber made this decision regarding the defense's motion to schedule the start of the trial "at the earliest in September 2007".

Explaining the decision, the pre-trial judge Bakone Moloto stated that the arguments presented by the defense counsel representing the three generals were "not found convincing".

In early December 2006, the accused generals pleaded not guilty to the four counts in the joint indictment charging them with crimes against Serb civilians in the course of and after Operation Storm in the summer of

1995. The indictment alleges that more than 150 civilians, ethnic Serbs, were killed in the Krajina region while tens of thousands of them were expelled to Serbia and Bosnia Herzegovina.

Among the charges levied at Gotovina, Cermak and Markac is the participation – together with the late Croatian president Tudjman and other Croatian officials - in the "joint criminal undertaking" aimed at forcible and permanent removal of the Serb population from the Krajina region.

According to an earlier estimate by Alan Tieger, the prosecutor in the case, the Storm trial could take between twelve and fourteen months.

2007-01-22

THE HAGUE

PROSECUTION OPPOSED TO CUTS IN THE STORM INDICTMENT

If the Trial Chamber orders the indictment for Operation Storm to be reduced, the prosecution will comply with the order by downsizing geographical and time frame of the indictment against Gotovina, Cermak and Markac by one third.

Today, the prosecution "respectfully declined" the Trial Chamber's call to cut down the indictment against Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac. The Operation Storm indictment, claims the prosecution, is already focused on the most important criminal charges and the Trial Chamber's request for its reduction infringes the prosecutorial independence. Any further cuts in the indictment would limit the ability of the prosecution to prove the criminal responsibility of the accused.



◀ Alan Tieger, prosecutor in the Gotovina, Cermak and Markac case

However, the prosecution will agree to cut down the indictment if ordered to do so by the Chamber. It will then reduce the number of crime locations for which the evidence will be called and the time frame for the charges. As stated in the response to the Chamber, the prosecution will reduce the number of municipalities mentioned in the indictment from 20 to 14 and will not call evidence on crimes committed in Kijevo, Lovinac, Polaca, Smiljcici, Titova Korenica and Udbina. The geographical frame of the indictment will thus be reduced by approximately one third. As for the time frame, the prosecution will cut it down by one third too, by dropping the charges related to the crimes committed in October and November 1995.

This proposal for the reduction in terms of geography and time is based on “the understanding that the prosecution will be permitted to present evidence related to the pattern, intent and knowledge of the accused”, the prosecution notes in its response. This evidence would be related to some of the crimes committed in the locations and in the period not contained in the indictment reduced in size in accordance with an order of the Trial Chamber.

2007-02-09

THE HAGUE

CERMAK TO REMAIN IN UN DETENTION UNIT

Pre-trial Chamber hearing the case against the three Croatian generals charged with the crimes in and after Operation Storm decides to keep the accused Ivan Cermak in the UN Detention Unit. Mladen Markac, another accused in the same case, has been released pending trial. He might go into the trial without one of his lawyers.



◀ Ivan Cermak in the courtroom

The Pre-trial chamber hearing the case against three Croatian generals charged with the crimes in and after Operation Storm decided at the status conference today to keep Ivan Cermak, one of the accused, in the UN Detention Unit. The final decision whether Cermak will remain in detention until the trial because of alleged violations of the terms of his provisional release will be taken next week.

On the other hand, the Chamber decided to revoke its decision suspending the provisional release of another accused, Mladen Markac. He faces the loss of one of his lawyers because of potential conflict of interest.

Pre-trial judge Moloto asked Markac’s defense counsel Branimir Separovic to state whether he wanted to withdraw from the defense team because of “potential conflict of interest” or whether he intended to remain on the team.

Separovic might be called to testify in the trial of the three Croatian generals because he was the justice minister in Croatia at the time of Operation Storm. In light of the fact that he is representing one of the accused, this might result in conflict of interest.

Separovic stated that he wished to remain on Markac’s defense team because, as he said, the interest of his client was above all else. He left it to the Chamber to decide whether he should be disqualified or not. The Chamber does not have the jurisdiction to rule on this issue, and Judge Moloto asked the representative of the Association of defense Counsel Practicing before the ICTY to take appropriate action in this situation.

Michael Karnavas explained to the Chamber that the Association had already stated its view on this issue, noting in an advisory brief submitted to Chamber that they considered that conflict of interest might arise in this case, but that they could not take any specific steps without a complaint. No complaints have been lodged so far.

Separovic noted that his client would suffer “irreparable damage” if he was left without one of his defense lawyers two months before the trial, asking to be allowed to present his views to the Chamber and the Association. As he said, they would see things in a different light if they had all the facts at their disposal. The Chamber ordered Separovic to present his views in writing by next Wednesday.

The trial of Ante Gotovina, Ivan Cermak and Mladen Markac should start on 8 May with the opening statement of the prosecution, as Judge Moloto indicated. The three accused were in the same courtroom for the first time today.

2007-02-15

THE HAGUE

PROSECUTION CALLS FOR “PRE-EMPTIVE ACTION”

Pointing to the potential conflict of interest between the defense teams of the three Croatian generals charged with Operation Storm crimes, the prosecution calls for “pre-emptive action” on the part of the Trial Chamber. Waiting for “the conflict to crystallize” might lead to irreparable damage, the prosecution warns.



◀ Ante Gotovina, Ivan Cermak and Mladen Markac in the courtroom

The Office of the Prosecutor today called for “pre-emptive action” on the part of the Trial Chamber hearing the case against the three Croatian generals in order to resolve any potential conflicts of interest between their defense teams. The generals are charged with the crimes committed in Operation Storm.

Ante Gotovina’s defense counsel had announced previously its intention to call Miroslav Separovic and Rahim Ademi as witnesses. Miroslav Separovic, former Croatian justice minister, is representing the accused Mladen Markac in this case. Cedo Prodanovic and Jadranka Slokovic, Rahim Ademi’s defense counsel in the

case before a Croatian court, are defending Ivan Cermak in the Operation Storm trial. In its appeal against the decision to join the indictment, Gotovina’s defense counsel pointed to a possible conflict of interest. The Appeals Chamber dismissed the appeal and confirmed the decision to join the indictments, although it did find that there is a potential conflict of interest in this case.

The defense counsel representing Ivan Cermak and Mladen Markac deny that there is a potential conflict of interest. They enclosed statements by their clients’, waiving the right to invoke this conflict of interest at a later stage in the proceedings. The Chamber asked the Defense Counsel Association for its “advisory opinion”. Although the Association found that there was “a serious risk” of conflict of interest and that in its view the defense counsel should withdraw from the case, the defense counsel refuse to do so. The Trial Chamber for its part considers that it cannot respond to something that may or may not occur. It can only act if the conflict of interest does occur.

The prosecution insists that the Chamber is “obliged to act in a situation where there is a potential conflict of interest in order to protect the rights of the accused and the interests of justice”. In a motion filed to the Chamber, it warns the judges that waiting for “the conflict to crystallize” might lead to “irreparable damage to the administration of justice”.

The trial of three generals, Ante Gotovina, Ivan Cermak and Mladen Markac, should open on 5 May 2007. If one or more of the accused find themselves without defense counsel at that time, the start of the trial may have to be put off.

2007-02-15

THE HAGUE

CERMAK WILL BE PROVISIONALLY RELEASED AGAIN TOMORROW

The Trial Chamber took into account Cermak’s admission he had done wrong and his claim that it had not been his intention to treat the ICTY with disrespect. The Chamber decided to grant him provisional release pending trial. The accused was cautioned that any violations of the terms of his provisional release would lead to its immediate revocation.

Although the Trial Chamber found that Ivan Cermak “on at least four occasions knowingly violated the terms of his provisional release”, it decided to revalidate the decision from 2 December 2004, granting provisional release to the accused pending trial. The decision was revoked on 8 February 2007, after the Croatian media published reports and photographs of Cermak’s trips to places where he was not supposed to be according to the terms of his provisional release.

In answer to Judge Orie’s questions last Friday Cermak did not deny that he had attended a birthday party, the New Year’s Party and a ski race in late December 2006 and early January 2007. He had attended the same ski event last year. The Chamber decided to grant him provisional release again, in light of Cermak’s voluntary surrender, his “full cooperation with the Tribunal and the OTP”, his regular contacts with the police while he was on provisional release, his immediate return to The Hague when he was ordered to do so and his statement that it had not been his intention to treat the ICTY with disrespect.

In the decision rendered today, Cermak is warned that any new violations will lead to immediate suspension of his provisional release. The terms remain the same but today's decision specifies that the obligation of remain "in the place of residence" refers to his house and his estate in Krapinske Toplice. He is allowed to leave the estate between 7 am and 7 pm on working days, but only to go to his company headquarters in Zagreb or to the nearest police station. Cermak must take "the shortest route possible (in kilometers regardless of the rush hour)". The Chamber had obviously thought it appropriate to specify this, since his trip to Sljeme on 4 January 2007 was justified by the Croatian Government in its response to the ICTY as "a detour taken to avoid a traffic jam".

The decision to provisionally release Ivan Cermak enters into force on Friday, 16 February 2007.

2007-02-27

THE HAGUE

DEFENSE COUNSEL SEPAROVIC IN CONFLICT OF INTEREST

The Trial Chamber issued a formal decision finding General Markac's defense counsel "in a conflict of interest" because of his "personal interest" in the Operation Storm case. Also, it is highly likely that he will be called to testify. Separovic has persistently refused to withdraw from the case. Tomorrow he will be invited to explain why, in his view, the Trial Chamber should not institute proceedings against him for the violation of legal ethics.



◀ Miroslav Separovic in the courtroom

Miroslav Separovic, a Zagreb attorney, has a personal interest in the Storm case that disqualifies him from being a legal representative of the accused Mladen Markac. This is the conclusion of the Trial Chamber in the case of the three Croatian generals charged with crimes against Serbian civilians in August and September 1995. Separovic was Croatian Justice Minister at the time of Operation Storm and it is highly likely he will be called to testify about his personal knowledge of events at the trial of Ante Gotovina, Mladen Markac and Ivan Cermak. The trial opens on 7 May 2007.

Separovic has refused to heed the three warnings issued by the Trial and Appeals Chamber in 2006 and 2007 regarding the potential conflict of interest and has refused to withdraw from the case. Today's decision states clearly that by doing so Separovic "threatened the interests of his client" and that his negligence violated the standards of professional ethics expected from the defense counsel appearing before the Tribunal.

Tomorrow's hearing will deal with the motions filed by General Gotovina's defense challenging the jurisdiction of the Tribunal and the form of the indictment in this case. Separovic will be invited to explain why the Trial Chamber should not consider his conduct as a violation of the defense counsel's code of ethics and why it should consequently not institute proceedings against him under the relevant articles in the Rules of Procedure and Evidence and the Code of Professional Conduct for Defense Counsel Appearing before the Tribunal.

2007-02-28

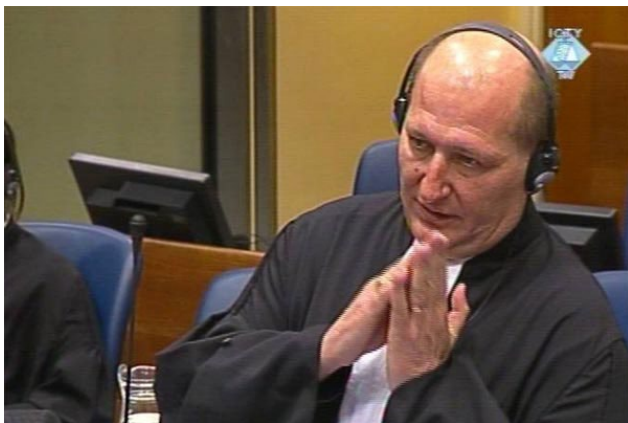
THE HAGUE

SEPAROVIC DENIES "CONFLICT OF INTEREST"

Mladen Markac's defense counsel denies any "personal interest" in the Operation Storm case and refuses to withdraw from the case. Today's hearing dealt with the motions filed by General Gotovina's defense. Legal arguments were exchanged on the motion challenging the jurisdiction of the Tribunal and alleging defects in the form of the indictments in the case against the three Croatian generals.

Zagreb attorney Miroslav Separovic, representing General Mladen Markac, denied today he had any "personal interest" in the Operation Storm case, that he "threatened the interests of his client" or "behaved improperly" in any way. In other words, he has done nothing that would call for proceedings to be instituted against him for the violation of defense counsel legal ethics.

The Trial Chamber invited Separovic to explain this after its formal conclusion yesterday that he was "in a conflict of interest", because it was highly likely that he would be called to testify at the trial of Ante Gotovina, Mladen Markac and Ivan Cermak about his personal knowledge of the events at the time of Operation Storm. He was the Croatian Justice Minister at the time.



◀ Miroslav Separovic in the courtroom

In mid-2006, Ante Gotovina's defense announced it intended to call Separovic to take the stand. Today Gotovina's lawyers asked the Trial Chamber whether it would "change the decision made yesterday if we decided not to call" the former Justice Minister who is now representing Markac. Pre-trial judge Moloto decided this offer "came too late", two months before the beginning of the trial and after both the Trial and Appeals Chamber issued three warnings regarding the potential conflict of interest and the necessity to eliminate it on time.

After hearing Separovic, the Trial Chamber brought today's hearing to a close without indicating what decision it would reach and when.

Before Markac's defense counsel made his statement, the motions filed by General Gotovina's defense challenging the jurisdiction of the Tribunal and alleging defects in the form of the indictment in the Operation Storm case were argued for one hour. Both the prosecution and the defense had 10 minutes each to orally present their legal arguments in favor and against the motion claiming that the Tribunal lacked jurisdiction in this case. "After Operation Storm was brought to a successful conclusion, there was no armed conflict" and after "the exodus of the political and military leadership of the self-proclaimed Republika Srpska" there were no "organized and intensive activities" of the forces opposing the Croatian authorities, the defense argues in support of its motion. Goran Mikulicic, General Markac's co-counsel did not deny that killings, looting, burning down of Serb houses and other crimes had been committed. However, he pointed to the fact that those crimes had not been committed in the context of an armed conflict and thus they were in "the jurisdiction of the Croatian judiciary, and not that of the Tribunal".

As the beginning of the trial is scheduled for 7 May 2007, the Trial Chamber is expected to rule on this motion soon.

2007-03-06

THE HAGUE

SEPAROVIC "NO LONGER ELIGIBLE" TO REPRESENT MARKAC

Confirming the last week's finding that Separovic was in a conflict of interest, the Trial Chamber concludes that Miroslav Separovic, attorney from Zagreb, is "no longer eligible" to represent General Mladen Markac, ordering the accused to immediately engage new counsel.

The Trial Chamber concluded that "a continuing conflict of interest would prejudice administration of justice and the integrity of the trial" in the Operation Storm case and decided that Miroslav Separovic, attorney from Zagreb, was "no longer eligible" to represent the accused Mladen Markac before the ICTY.

At the same time, the Chamber ordered Markac to immediately engage new counsel

and Separovic to assist the newly-appointed defense counsel until such time he or she can confirm that they are ready to take over the case. The new defense counsel must notify the Chamber as soon as practical, and not later than 30 March, how long he or she would need to prepare for the trial, set to start on 7 May 2007.

The Chamber did not indicate whether the trial of the three Croatian Army generals will be delayed because of the changes in the defense team of one of the accused. The three are charged with crimes committed during and after Operation Storm in the summer of 1995.

In its decision today the Trial Chamber reaffirmed its formal finding last week that Markac's current defense counsel is in a conflict of interest, since it is highly likely he would be called to testify in the trial of generals Gotovina, Cermak and Markac. Separovic was the Croatian justice minister at the time of Operation Storm and has personal knowledge of the events.

The judges also rejected Separovic's request to be allowed to address the Chamber once again. Separovic's claims at the hearing last week were rejected by the judges. He tried to persuade them that he was not in a conflict of interest, that he was not "an essential witness" since he had no "exclusive personal knowledge". He had not "acted improperly" in any way, Separovic contended, and there was no reason whatsoever for him to be removed from General Markac's defense team. At the hearing, Separovic indicated that he would seek leave to address the ICTY Appeals Chamber if the Trial Chamber decided he had to remove himself from the defense team.

2007-03-19

THE HAGUE

MOTIONS CHALLENGING TRIBUNAL'S JURISDICTION IN THE OPERATION STORM CASE DISMISSED

The Trial Chamber dismissed both interlocutory appeals filed by Ante Gotovina's defense and a joint appeal filed by Ivan Cermak's and Mladen Markac's defense teams challenging the jurisdiction of the Tribunal in the Operation Storm case.



◀ Ante Gotovina, Ivan Cermak and Mladen Markac in the courtroom

The Trial Chamber in charge of the pretrial proceedings in the case against the three Croatian generals charged with crimes against Serbian civilians committed during and after Operation Storm dismissed today all interlocutory appeals challenging the jurisdiction of the Tribunal. The two interlocutory appeals filed by Ante Gotovina's defense and the joint appeal filed by Ivan Cermak's and Mladen Markac's defense teams were dismissed.

In the interlocutory appeals, the defense teams of the three generals challenged the jurisdiction of the Tribunal arguing that "there was no armed conflict in Krajina after the successful conclusion of Operation Storm. After "the exodus of the political and military leadership of the self-proclaimed Republic of Serbian Krajina" there were no "organized and intensive activities" of the forces opposing the Croatian authorities. According to the defense, if any crimes were committed in Krajina, they were not committed in the context of an armed conflict and thus they fell under the jurisdiction of the Croatian judiciary and not that of the Tribunal.

The trial of Ante Gotovina, Ivan Cermak and Mladen Markac is scheduled to start on 7 May 2007.

2007-03-20

THE HAGUE

"COSMETIC" CHANGES IN THE OPERATION STORM INDICTMENT

The Trial Chamber granted in part the preliminary motion in which the defense alleged defects in the form of the indictment, ordering the prosecution to specify and clarify a number of counts in the indictment against three Croatian Army generals.



◀ Ante Gotovina during the status conference

The Trial Chamber partially granted the preliminary motion filed by Ante Gotovina's defense and ordered the prosecution to specify a number of counts in the indictment against three HV generals charged with crimes committed during and after Operation Storm in the summer of 1995.

The prosecution now has a week, until 26 March 2007, to extend the list of "known" participants of the joint criminal enterprise to include some "key political and military figures" who allegedly were in collusion with the accused in this case. The prosecution has to clarify whether Ante Gotovina was Ivan Cermak's superior officer, and to specify the persons he could have "affect

directly and substantially but over whom he did not have effective control". Finally, the prosecution is ordered to identify as best it can the victims in the incidents the accused are charged with and the mass grave sites known to it.

Those are mostly "cosmetic" changes, requiring the prosecution to further specify its case so that the defense has a clearer understanding of the allegations it has to contest in its case.

2007-04-03

THE HAGUE

OPERATION STORM TRIAL DELAYED

The trial of three Croatian general charged with crimes committed during Operation Storm and in its aftermath is delayed because there still are unresolved issues related to the defense teams of Mladen Markac and Ivan Cermak.

“It is virtually impossible” that the trial of three Croatian generals, Ante Gotovina, Ivan Cermak and Mladen Markac will begin on 7 May as scheduled. This is how pre-trial judge Bakone Moloto described the current situation in the case. He said that it “doesn’t mean that the delay would be substantial”.

Just how long the delay will be depends on the decision of the Appeals Chamber about Miroslav Separovic, Mladen Markac’s defense counsel, and the decision of the Trial Chamber about Cedo Prodanovic and Jadranka Slokovic, Ivan Cermak’ defense counsels. Separovic filed an appeal against the first-instance decision of the Trial Chamber to disqualify him as General Markac’s defense counsel because of conflict of interest. The decision regarding the issue of conflict of interest in the case of Prodanovic and Slokovic is expected soon. The Chamber might disqualify them too from representing General Cermak.

A new start date for the trial cannot be set until all unresolved issues related to the Cermak and Markac defense teams are dealt with. The defense counsel talked to the press after the conference. They did not hide their dissatisfaction with the fact that they were put into this situation by the moves of Ante Gotovina’s defense team. The whole issue of conflict of interest was raised by Gotovina’s lawyers, when they indicated they would be calling as witnesses General Rahim Ademi (Cermak’s defense counsel represent him in the proceedings before the Croatian court) and Miroslav Separovic, who was Croatian justice minister at the time relevant for the indictment.

With the trial delayed, the parties got some more time to make a list of agreed facts and for other preparations to speed up the trial once it is underway. The defense counsels of the three Croatian generals criticized the prosecution for not disclosing the identity of three prosecution witnesses. Two of them are Serbs, and the third is an “insider” – a Croatian Army (HV) officer who saw some of the events described in the indictment in the Operation Storm case. The defense insisted in particular that the identity of the HV “insider” be disclosed, because they want to investigate the witness’s credibility.

2007-04-05

THE HAGUE

CERMAK HAS NO DEFENSE

The Trial Chamber in charge of the pre-trial proceedings in the Operation Storm case decides with a majority of votes that Cedo Prodanovic and Jadranko Slokovic could not continue defending the accused Ivan Cermak, because there exists a conflict of interest. A month ago, the Chamber ordered Miroslav Separovic to withdraw as Mladen Markac’s defense counsel for the same reason.



◀ Ivan Cermak in the courtroom

The Trial Chamber in charge of the pre-trial proceedings in the Operation Storm case ordered today the Zagreb lawyers Cedo Prodanovic and Jadranka Slokovic to withdraw as General Ivan Cermak’s defense counsel because of conflict of interest. The decision was made by a majority of votes and it does not specify who of the three judges – Moloto, Orié and Van den Wyngaert – voted against. Cermak’s outgoing counsel were ordered to remain on the case until a new team assigned by Ivan Cermak confirms it is ready to take on the case.

The conflict of interest stems from the Prodanovic’s and Slokovic’s “double representation”. They represent both Ivan Cermak before the ICTY and General Rahim Ademi

in the Medak pocket case, referred to the Croatian courts by the ICTY. As Ademi served as General Ante Gotovina’s deputy during Operation Storm and was Cermak’s superior for a time, Prodanovic and Slokovic, in the opinion of the majority in the Trial Chamber, face the problem of divided loyalty. They have two clients whose interests do not match and who might end up trying to shift the blame for the events in Operation Storm on each other.

The conflict of interest will be there, the judges decided, regardless of whether General Gotovina’s defense calls Ademi as their defense witness, as announced. In that case, Cedo Prodanovic and/or Jadranka Slokovic would have to question one of their clients on behalf of the other one. This “double representation”, the majority in the Trial

Chamber decided, would make it impossible for Cermak to defend himself by shifting the blame for some of the incidents in the indictment on Ademi or Gotovina.

A month ago, the Trial Chamber ruled that Zagreb attorney Miroslav Separovic was “nepodoban” to continue representing Mladen Markac. Now Ivan Cermak is left without defense counsel. Separovic has filed an appeal against the decision, and Prodanovic and Slokovic will apparently do the same. This will mean a further delay for the Operation Storm trial, originally slated to start on 7 May 2007.

2007-04-20

THE HAGUE

GOTOVINA CALLS FOR APPELLATE HEARING

Ante Gotovina’s defense team wants an opportunity to present oral arguments on his appeal against the decision dismissing his motion on the jurisdiction of the Tribunal in the Operation Storm case at a hearing. The trial has now been officially postponed.

The Pre-trial Chamber in the case against three Croatian generals charged with the crimes against Serb civilians committed in the course of Operation Storm and in its aftermath issued a written decision confirming that the trial has been postponed.

A new start date for the trial depends on the decision of the Appeals Chamber on the appeals filed by the defense counsel of Ivan Cermak and Mladen Markac. They appealed against the Trial Chamber’s decision ruling that their continued representation of their clients in this case was inappropriate.

In the meantime, Ante Gotovina’s defense team filed a motion calling for an oral hearing in which the parties would present their arguments on Gotovina’s appeal against the Trial Chamber’s decision to dismiss his motion on the jurisdiction of the Tribunal.

2007-10-26

THE HAGUE

NEW DEFENSE COUNSELS FOR CERMAK AND MARKAC

All three generals accused of the crimes committed during and after Operation Storm were present at the status conference today. Following the Chamber’s order to suspend their provisional release, Ivan Cermak and Mladen Markac joined Ante Gotovina in the UN Detention Unit.

Three Croatian generals, Ante Gotovina, Ivan Cermak and Mladen Markac, charged with crimes committed in the course of and after Operation Storm appeared today together at the regular status conference. Their defense teams were the main topic of the conference.

The potential conflict of interest of Gotovina’s defense counsel Greg Kehoe was discussed in closed session. Kehoe had worked for the OTP; he was working with Alan Tieger, senior trial attorney for the prosecution in this case. According to the pre-trial judge Bakone Moloto, the Chamber was notified in writing about the appointment of British attorney Steven Kay as Cermak’s new defense counsel. Andrew Cayley, Cermak’s co-counsel, is still waiting for the approval of the Tribunal’s Registry.

The judge from South Africa read Judge Alphons Orie’s statement. Ten years ago, Orie worked closely with Steven Kay in the Tadic case. Orie was the lead counsel and Kay was co-counsel. In his letter, the Dutch judge notes that the case he was working on with Kay couldn’t ‘in any way be related’ to the case against three Croatian generals. The cooperation with Kay, he said, took place ‘so long ago’ that their engagement in another case couldn’t jeopardize the quality of the trial.

[IMAGE]1446[/IMAGE]The British attorney, famous for his role in the Slobodan Milosevic case, gave his full support to the position of his former colleague, Judge Orie. The defense teams of Mladen Markac and Ante Gotovina didn’t object to the appointment of Ivan Cermak’s new defense counsel. Kay indicated he would be ready to proceed to trial in October 2008. The pre-trial judge said this period was too long, adding that the defense counsel could find himself ‘speaking directly to the UN Secretary General’, because the Tribunal would no longer exist.

In his response, Kay spoke about the volume of the case he had taken over. Apart from the statements given by 160 witnesses, the case file contains approximately ‘40 more gigabytes of documents’. When the judge warned him he didn’t understand ‘computer language’, Kay compared the volume of the material in this case with the documents in the Slobodan Milosevic case. Last time he checked the Slobodan Milosevic case file contained half as many documents. The judge however brought it to Kay’s attention that he ‘might not have a whole year at his disposal’ for the preparations.

Tomislav Kuzmanovic, US attorney of Croatian descent was appointed Mladen Markac’s co-counsel. Kuzmanovic also has previous experience practicing before the Tribunal. He was involved in the trial for Celebici camp crimes.

2007-11-28

THE HAGUE

GOTOVINA'S MOTION FOR PROVISIONAL RELEASE DENIED

The Pre-trial Chamber denied Ante Gotovina's motion for provisional release. The Croatian general will remain in the UN Detention Unit until the start of the trial 'because of his proven ability and determination to avoid arrest'.



◀ Ante Gotovina in the courtroom

The Pre-trial Chamber today denied General Ante Gotovina's motion to be provisionally released and to await trial under house arrest in Pakostane near Zadar. Together with general Ivan Cermak and general Mladen Markac, Gotovina is charged with crimes committed during and after Operation Storm in the summer of 1995.

In the statement of reasons, the Pre-trial Chamber accepts the prosecution's argument that Gotovina didn't surrender to the Tribunal voluntarily and that 'he had actively evaded arrest for a significant period of time'. The Chamber concluded that he had already 'proven his ability and determination to avoid arrest'. This led the judges to 'doubt that he would return for trial if provisionally released'.

The Pre-Trial Chamber gave little weight to the guarantees proffered by the Republic of Croatia that it would ensure the return of Gotovina to The Hague. No weight at all was given to the guarantees proffered by Ivan Prendja, the archbishop of Zadar. The Croatian government had demonstrated its willingness to cooperate with the Tribunal, the judges said, but in case of Gotovina this commitment had 'limited effect' because he 'had demonstrated his ability and determination to thwart, for a significant amount of time, all efforts to apprehend him, including efforts of the international community'.

The judges agreed with the prosecution that the electronic bracelet Gotovina was to wear while under house arrest, as proposed by the defense, would not 'eliminate the flight risk as it would merely help to determine that the accused has escaped', adding that the electronic surveillance would have 'a limited effect to prevent an escape'.

Concluding that the 'incentives not to appear for trial remain unchanged' and that Gotovina didn't change his attitude but has merely 'adapted to the situation he finds himself at present', the judges were 'not satisfied that Gotovina would return for the beginning of the trial'. The Pre-trial Chamber also ruled that 'there was no need to hold an evidentiary hearing'.

The judges also dismissed the defense's motion to exclude from the prosecution's response to the provisional release motion the court dossier acts and judgments delivered against Gotovina in France in the period from 1985 to 1995 for armed robbery, extortion and forgery.

2007-12-06

THE HAGUE

DEFENSE: PROSECUTION HAS NO CASE AGAINST GOTOVINA

In its appeal against the decision of the Trial Chamber to deny Ante Gotovina's motion for provisional release, the defense points out that the accused general has no reason to avoid trial as 'the prosecution has no evidence' to substantiate the charges against him.

The defense of Ante Gotovina, charged with crimes committed in the summer 1995 during and after Operation Storm, filed an appeal against the decision of the Trial Chamber denying his motion for provisional release. According to the defense, the prosecution has no case against Gotovina and he therefore has no reason not to appear at his trial.

In four grounds of appeal, the defense notes that the Trial Chamber erred when it concluded 'that Gotovina didn't provide convincing arguments that he has really changed his attitude concerning his appearance for trial' and that 'his incentives not to appear for trial remain unchanged'. According to the defense, the Trial Chamber erred when it did not take into account the guarantees provided by the Croatian Government and the Archbishop of Zadar that the accused will return to The Hague to stand trial. The Chamber also did not give any weight to Gotovina's personal undertaking he would return to The Hague, the defense noted.

Attorney Luka Misetic, representing the accused HV general, notes that there is 'overwhelming evidence' confirming that Gotovina has had a change of heart concerning the trial. In his opinion, at the time it reached its decision 'the Trial Chamber was aware, or should already have been aware, that there is no evidence thus far produced by the

prosecution in discovery that demonstrates that Gotovina has committed any crime'. This is, he said, a major factor in support of granting provisional release.

The defense counsel goes on to say that there is no proof of persecution either, because, according to a report filed by a prosecution expert, the shelling of Knin on 4 August 1995 could not be considered a war crime. This is exculpatory evidence, Gotovina's defence counsel contends, and Gotovina has no need to avoid trial. The situation with the murder charges is similar: as the defense counsel notes, there is no proof that the 'accused knew or had reason to know of the murders that had been committed'. The prosecution evidence shows that the accused 'took measures to discipline the perpetrators of criminal offences' and that Gotovina didn't have effective control over them, the defence claims.

For all those reasons, the defense calls upon the Appeals Chamber to find that the Trial Chamber 'abused its discretion' and to order the judges to reconsider the motion for provisional release of the accused general.

2008-01-17

THE HAGUE

GOTOVINA TO REMAIN IN DETENTION

The Appeals Chamber dismisses the appeal filed by General Ante Gotovina and Croatian government against the decision of the Trial Chamber from November 2007. The Trial Chamber had dismissed his request for provisional release pending trial.

The Appeals Chamber dismissed today General Gotovina's appeal against the decision the Trial Chamber from November 2007. The Trial Chamber had dismissed his motion for provisional release pending trial.

Having considered the grounds for appeal filed by Ante Gotovina, the Appeals Chamber concluded that the Trial Chamber had made no 'discernible error' that would call for a revision of its decision.

The motion filed by the Croatian government for a review of an 'erroneous conclusion' was also dismissed. In the motion, the Croatian government noted that the decision violated the principle of equal treatment of the states. Croatia has been 'directly affected' by the refusal of the Trial Chamber to give equal weight to its guarantees supporting Ante Gotovina's motion for provisional release as has been given to Serbia's guarantees in other, similar cases.

According to the Appeals Chamber 'the principle of sovereign equality has not been at stake'. On the other hand, a decision on provisional release motions depends on individual circumstances of each of the accused. The state guarantees are just one of the factors to be considered. The Appeals Chamber went on to conclude that the decision on the provisional release 'was not an assessment of the reliability of any particular government or the guarantees that it offers.

2008-01-18

THE HAGUE

OPERATION STORM TRIAL OPENS IN MARCH

The trial of three Croatian generals, Ante Gotovina, Ivan Cermak and Mladen Markac, is slated to open on 11 March 2008, but this might change, depending on the availability of judges and courtrooms. There are some other considerations.

The trial of Ante Gotovina, Ivan Cermak and Mladen Markac is expected to begin on 11 March 2008 with the opening statement of the prosecution. The three Croatian generals have been indicted for crimes committed in the summer of 1995, in the course of Operation Storm and afterwards. If this happens, the pre-trial conference will be held on 10 March 2008.

The pre-trial judge Alphons Orie presented those dates at the status conference today, noting they were merely a framework. The exact dates will depend on the availability of judges and courtrooms. There are some other considerations, such as the drafting of the judgment in the Haradinaj case. Judge Orie is the presiding judge in that case.

According to the tentative schedule, the first prosecution witnesses might be called to give their evidence in the week of 11 to 14 March 2008. This is if the defense teams of the three generals decide to present their opening statements at the beginning of their cases. The trial is to go on at full speed – five days a week, if possible, from 7 April 2008.

According to Alan Tieger, senior trial attorney for the prosecution, it would take the prosecution at least eleven months to complete its case. This means that the entire trial might go on for at least two years, until the spring of 2010.

The defense counsel of the three generals were not happy with the schedule, to put it mildly. They are not yet ready to proceed to trial because they have a number of previously arranged business and private obligations.

The Pre-trial Chamber has yet to rule on a number of motions. One of them is the motion filed by the defense teams of Ivan Cermak and Mladen Markac, seeking leave to appeal against the decision that Gregory Kehoe, Ante Gotovina's lawyer, was not in conflict of interest because of his previous job with the OTP. In addition to that, there is Markac's motion against the suspension of his provisional release – he had to return to detention after the 'Wild Boar Affair'. Cermak has filed a motion asking for some modifications of his provisional release regime. As Judge Orié said, the Pre-trial Chamber will rule on those motions soon.

2008-03-10

THE HAGUE

PROSECUTION TO CALL 134 WITNESSES AGAINST GOTOVINA, CERMAK AND MARKAC

On the eve of the start of the trial, scheduled for tomorrow, all the parties in the Operation Storm case met today in the courtroom in The Hague. All the members of the Trial Chamber, and complete prosecution and defense teams attended the conference, together with the three accused – Gotovina, Cermak and Markac.



◀ Ante Gotovina, Ivan Cermak and Mladen Markac in the courtroom

The prosecution intends to call 134 witnesses to prove the responsibility of Ante Gotovina, Ivan Cermak and Mladen Markac for the crimes against Serbian civilians in the course of the Operation Storm and in its aftermath in the summer of 1995. It has been allotted exactly 209 hours and 30 minutes for their examination-in chief. It is expected that the defense teams of the three accused will be given at least the same amount of time for the cross-examination, but the Trial Chamber didn't discuss this issue at the pre-trial conference today. The prosecution case is likely to last about seven months.

The trial in the Operation Storm case will start tomorrow with the opening statement of the prosecutor Alan Tieger. Only Gotovina's defense chose to deliver its opening statement at the beginning of the trial. The defense teams of Cermak and Markac will deliver their opening statement at the beginning of the defense case, unless the Trial Chamber decides that there is no case to answer.

At the pre-trial conference today, all the parties in the forthcoming trial met in the courtroom for the first time. The Trial Chamber was in its full strength, with presiding judge Alphons Orié from Holland and judges Uldis Kinis from Latvia and Elizabeth Gwaunza from Zimbabwe. Alen Tieger, Stefan Waespi and Katrina Gustafson represented the prosecution. Luka Misetic and Gregory Kehoe attended as the defense counsel of Ante Gotovina, Steven Kay and Andrew Cayley as representatives of Ivan Cermak and Goran Mikulic and Tomislav Kuzmanovic as the defense team of Mladen Markac.

2008-03-11

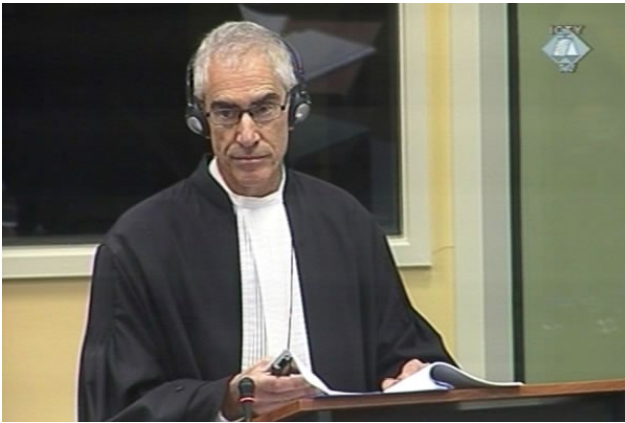
THE HAGUE

PROSECUTION: NO MILITARY JUSTIFICATION FOR CRIMES AGAINST CIVILIANS

In the opening statement at the beginning of Operation Storm trial, the prosecution emphasizes that the crimes against Serbian civilians, of which Gotovina, Cermak and Markac are accused, were not committed in the 'heat of the battle'. Nor were they 'the unavoidable and isolated consequence of the armed conflict'. Ante Gotovina's defense will deliver its opening statement tomorrow.

In its opening statement at the start of the trial for crimes committed during Operation Storm and its aftermath in the summer of 1995, the prosecution today presented the outline of its case against the three Croatian generals – Ante Gotovina, Ivan Cermak and Mladen Markac – to be presented in the coming months.

The prosecution doesn't contest 'Croatia's right to re-integrate Krajina within its internationally recognized borders', [IMAGE]3289/[IMAGE] American senior trial attorney Alan Tieger stated at the beginning of the opening statement. Apart from this legitimate aim, he went on, Operation Storm had an additional objective: to eliminate the Serbian civilian population from that part of Croatia and to ensure that their removal was permanent.



◀ Alain Tieger, prosecutor at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

According to the prosecution, the 'additional objectives' were implemented in the joint criminal enterprise, that involved the three accused, and President Tudjman and other Croatian officials. The prosecutor quoted several examples from the famous 'presidential transcripts', and Tudjman's public addresses. In them, the Croatian president notes that Serbs 'should be hit so hard that they basically disappear'. The artillery attack against Knin should be so intense that it 'demoralizes Serbs and forces them to flee'. According to him, 'it is important that the civilians start leaving, because the army will follow them'.

Among the evidence the prosecution intends to call are orders for the shelling of Knin, Benkovac, Obrovac and other cities in the Krajina region. As the prosecution sees it, the Croatian forces did not shell military targets: there were not many of those in those towns. The targets were civilian buildings, including hospitals. They were selected to demoralize the population and force it to flee. This was accomplished by a heavy barrage at dawn on 4 and 5 August 1995. In those attacks, the Croatian forces failed to observe two key principles of artillery attacks, the principle of distinguishing between military and civilian targets and the principle of proportionality.

[IMAGE]3290[/IMAGE]As Swiss prosecutor Stefan Waespi said, the prosecution intends to prove specific crimes listed in the indictment: wanton destruction of towns and villages, burning of houses, looting and killing of civilians. As Waespi described it, after Operation Storm, Krajina lay in ruins, hundreds of Serbian civilians were killed. Almost the entire Serb population left the area, villages and towns were destroyed and looted. Livestock was killed and crops burnt down. These crimes, the prosecutor stressed, were committed outside of the 'military context' and were not 'the unavoidable and isolated consequence of the armed conflict'. There is no military justification for what the Croatian forces did to the Serbian civilians and their property in the summer of 1995.

Alan Tieger concluded the prosecution opening statement by reminding the court that a commander's duty was to prevent or punish the crimes committed by his subordinates. As Tieger indicated, the prosecution intends to prove that Gotovina, Cermak and Markac received information regularly about what was going on in their areas of responsibility. According to the prosecution, they had both de iure and de facto control over their subordinate military and police troops but failed to do anything to prevent crimes or punish the perpetrators. There is evidence pointing to their efforts to conceal the crimes and cover them up, sending a clear message to their subordinates that their behavior would be tolerated and that they could carry on with unpunished crimes against Serbs.

[IMAGE]3288[/IMAGE]General Ante Gotovina's defense team will deliver its opening statement tomorrow.

2008-03-12

THE HAGUE

DEFENSE: GOTOVINA DEFEATED MLADIC AND BROUGHT PEACE TO BOSNIA

General Ante Gotovina's defense denies the prosecution argument about the excessive shelling of Knin and forcible expulsion of civilian population. They admit crimes were committed, but not as many as the indictment alleges. The defense notes that civilian authorities assumed responsibility for security in that area on 6 August 1995 while Gotovina returned to his 'main task', which was to stop Mladic's VRS.



◀ Ante Gotovina in the courtroom

If there is one person that brought about the end of the VRS and the end of the war in BH, it is General Ante Gotovina, Greg Kehoe and Luka Misectic contend. In their opening statement at the beginning of the trial of the three Croatian generals for crimes against Krajina Serbs, Gotovina's defense counsel stressed that for General Gotovina, Operation Storm in August 1995 was just 'a left turn' from his main task in BH. According to them, his task, in concerted action with the BH Army, was to stop the Bosnian Serb forces, to prevent a massacre similar to Srebrenica from happening in Bihac and to force Karadzic and Mladic to negotiate. On the eve of Operation Storm, Gotovina commanded the attacks on Glamoc and Grahovo, his defense stated, and immediately after the

liberation of Krajina, Gotovina returned to Bosnia where he was in charge of operations Maestral and Juzni Potez which led to the Dayton peace talks.

In their response to the opening statement the prosecution presented yesterday, the defense today denied the allegation that Knin was subjected to 'excessive shelling', aimed at creating panic among the civilians to make them flee. According to Gotovina's defense counsels, such instigation was not needed because the authorities in Knin had prepared and rehearsed plans for the evacuation of the population. To demonstrate this, the defense showed a recording of an evacuation drill from July 1995. The defense also mentioned statements by former RSK officials who talk about Martić's order of 4 August 1995 calling for the evacuation of 'all inhabitants unable to fight'. Also, the defense showed TV Banja Luka footage of Savo Strbac saying on 7 August 1995 that 'it has been decided to go into exodus...so that the biological mass of Serbian nation would be preserved for what is to come'.

General Gotovina's defense doesn't deny that some crimes were committed after Operation Storm, such as burning of houses, looting and killing. But they were not 'systematic and widespread' as the prosecution alleged, and the defense intends to prove it through UN reports from that period. According to Gotovina's defense, the civilian authorities of the Republic of Croatia took over the liberated area already on 6 August 1995 when General Ivan Čermak took over the duty of the 'military governor' of Knin. Police stations were established, and so were the courts, while the army 'continued to advance'. When the conflict ceased on 9 August 1995 in the whole territory of Krajina, the army – and General Gotovina – didn't have any control over the area any more.

Concluding the defense opening statement, Misić expressed his belief that the Trial Chamber would acquit general Gotovina on all counts of the indictment after the conclusion of the prosecution case.

The prosecution will call its first witness tomorrow.

2008-03-13

THE HAGUE

FIRST PROSECUTION WITNESS TESTIFIES IN OPERATION STORM TRIAL

In the period covered by the indictment against Gotovina, Čermak and Markac, protected witness 136 was a field interpreter in the UN headquarters in Knin. This was where evacuation lists were made up two months before Operation Storm. According to the defense, this caused fear among the civilian population.



◀ Stefan Waespi, member of the prosecution team in the Gotovina case

The prosecution opened its case today at the trial of three Croatian generals charged with crimes against the Serbian civilians during Operation Storm and its aftermath in the summer of 1995. The first witness to give evidence was a protected witness, testifying under pseudonym 136. At the time relevant for the indictment, she was a 'field interpreter' in the UN Knin headquarters. Two statements the witness gave to the OTP investigators in 1996 and 2007 were tendered into evidence together with several documents and reports on the killings and other incidents from the Operation Storm period.

In her brief examination-in chief, the witness said that at dawn on 4 August 1995, she left the house where she

lived. She 'ran as the shells fell all around her' past an apartment building and an outpatient clinic that had been hit by shells. She finally arrived at the UN compound in Knin, located in the 'Southern barracks'. A week later, she agreed to join the military observers and the UN civilian police patrolling Knin and surrounding villages. She visited the Knin cemetery and made lists of persons buried there in freshly dug graves, copying names of the deceased from the crosses or putting down just the NN mark if they were unidentified.

More details about what was in her statement and in the documents admitted into evidence could be seen from the cross-examination by Greg Kehoe, Ante Gotovina's defense counsel. Noting that the witness stated that her UN superiors had asked her two months before Operation Storm if she wanted to be put on the evacuation list, Kehoe implied that this information 'spread around town', causing fear among the citizens of Knin. At that time there were 'many elements that caused fear', the witness replied, giving as examples the incidents along the demarcation line and the shelling of villages near Knin.

Kehoe went on to imply that the Serbian Army of Krajina headquarters, a military depot, the post office and the parliament building were located near the apartment building and the outpatient clinic that were hit by shells as the witness ran by on 4 August 1995, on her way to the UN compound. The clinic she testified about was at that time used for military purposes, he alleged.

Ante Gotovina's defense counsel in particular tried to contest the authenticity of parts of witness' statement referring to specific killings. According to Kehoe, the body of a young soldier she had seen on 16 August 1995 in the village of Vrdnik belonged to Čedomir Miloš. That man is alive. The witness was adamant in her disagreement, claiming that the body she saw was already decomposing.

The cross-examination of the protected witness 136 continues tomorrow.

2008-03-14

THE HAGUE

ARMY 'WORSE' THAN POLICE

Protected witness 136 testifying at the trial of Gotovina, Cermak and Markac claims that for her, the encounters with Croatian soldiers after Operation Storm were much worse than the encounters with the police. She worked as an interpreter for UN observers; their teams were stopped at army checkpoints and prevented from entering villages so that they would not see the evidence of crimes against Serb civilians.

The cross-examination of protected witness 136, who worked as an interpreter in the UN base in Knin in the summer of 1995, continued today. The defense counsel of the police general Mladen Markac noted that she had allegedly been concerned only with the Serb victims, implying that she was biased, because she herself is a Serb. The witness replied that as a UN staff member she treated all the people in Krajina equally, regardless of their ethnicity. This can be seen from her work before Operation Storm, she said, when she visited the few remaining Croats, most of them elderly people, in Knin and the surrounding villages with the UN patrols, in order to help them if they were physically threatened.

At the beginning of the hearing today, Ante Gotovina's defense counsel completed his cross-examination. The witness described how she had seen bodies of Serb civilians on several occasions immediately after Operation Storm when she visited the villages around Knin with the UN military observers and UN civilian police. The most shocking scene she saw was in the village of Mokro Polje, she said. This is where she saw the body of an elderly Serb woman, Sava Babic, semi-decomposed on her family estate with a bullet wound to her head. Her brain was all over the car seat.

Gotovina's defense counsel didn't contest the fact that a Croat soldier had killed Sava Babic. His name is Mario Djukic, and he was in the 134th Home Guard Regiment. A criminal report was filed against him. As he didn't offer any more details about the case and couldn't say if the accused soldier was convicted or not, the Trial Chamber asked the defense to provide additional evidence on this incident. The defense counsel was trying to prove that the witness didn't have credible information about the majority of other killings of Serb civilians she mentions in the statement she gave the OTP. She confirmed this to a certain extent, saying that in some situations she personally had not seen the corpses and was merely recounting what the UN personnel had told her. According to her, all this information could easily be verified with the UN personnel who were there and who were doubtlessly willing to come to The Hague to testify on the issue.

In response to the questions of presiding judge Orie, the witness said that Croat soldiers were hostile to the UN patrols that were visiting villages to offer help to the remaining Serb civilians, prevent crimes and record the crimes that had already been committed. 'My encounters with the Croatian Army were much worse than those I had with the police', the witness stated, noting that in some situations 'she barely got out alive' when she went to villages where there were troops. She clarified that she had seen large groups of soldiers in almost every village she went to. She would catch them 'red handed', she said, looting Serb houses. In her words, the army often didn't allow the UN patrols to enter Serb villages. This happened, she guessed, when they were removing the bodies of the dead civilians.

The evidence of witness 136 was completed today and there will be a three-week recess at the trial of Croatian generals charged with crimes in Operation Storm and in its aftermath in 1995. As today's hearing drew to a close, the Trial Chamber announced its decision to reject Ivan Cermak's motion for provisional release during that time. The written decision will be made public shortly.

2008-04-07

THE HAGUE

BOTH PARTIES SHOW VIDEO FOOTAGE AT OPERATION STORM TRIAL

In the examination-in-chief of protected witness '6', the prosecutor showed footage of the shelling of Knin on 4 August 1995; in response, General Gotovina's defense showed a recording of Milosevic's famous speech at Gazimestan on 27 June 1989 and the footage of the 'people's rallies' in the village of Kosovo in Dalmatia 11 days later.

In the face of objections by the defense teams of the three Croatian generals charged with crimes in Operation Storm in 1995 and its aftermath, the Trial Chamber granted this morning protective measures for the prosecution witness testifying under the pseudonym '6' and with image and voice distortion. The Trial Chamber reached this decision after an hour and a half in private session.

After the witness confirmed the accuracy of his statement given to the OTP, it was tendered into evidence and the prosecutor read out a summary. In the morning of 4 August 1995, the artillery attack on Knin woke the witness up. The building he lived in was hit and he and his neighbors took shelter in the basement. The witness remained in the basement until noon, when he set off in direction of the garage where his car was. On his way there, he saw buildings that had been hit and panicked people running around looking for shelter. He drove off in his car to the village where his parents lived and tried to persuade them to leave. They refused at first, but then joined a refugee column the next day.

On an aerial photo of Knin, the witness marked the route he took on that day from his house to the garage noting the location the buildings that were hit. The prosecutor then went on to show a 10-minute excerpt from a documentary made by Zastava film studio. The documentary was directed by Colonel Milivoj Nestorovic who happened to be in Knin on 4 August 1995 with his cameraman. They recorded the artillery attack against Knin, the shell impacts, buildings on fire, traces of shell impacts on the concrete and clouds of smoke rising up from many parts of the town.

The prosecutor wanted only the images and the noise of shelling to be tendered into evidence, leaving out the propagandist, melodramatic and quasi-literary comments of the author. However, the comments, along the lines of 'blood-thirsty Ustasha specter of death...attacks the sleeping town of peace and serenity' could not be deleted from the tapes without removing the sound of shelling. The prosecution argues that the shelling of Knin was aimed at causing panic that would provoke the population to flee town.

In the beginning of his cross-examination, Luka Misetić, Ante Gotovina's defense counsel, showed his video footage to counter the prosecution's. First he showed a recording of the famous speech Milosević made on 28 June 1989 at Gazimestan, where he presaged that 'new battles' would be fought, not ruling out 'those fought with weapons'. Misetić also showed a recording of a gathering held eleven days later in the village of Kosovo near Knin. Several thousand Serbs from Croatia, Serbia, Kosovo and Montenegro met there singing Serbian nationalist songs. They cheered 'Slobo the Serb', vowing to follow him 'to Tirana if necessary'.

What Misetić was aiming at remains to be seen as the cross-examination continues tomorrow. Today's hearing ended immediately after the recording of the 'people's rally' in the village of Kosovo in Dalmatia was shown.

2008-04-08

THE HAGUE

ONE PLUME OF SMOKE FROM SEVEN DIFFERENT ANGLES

At the beginning of the Operation Storm, on 4 August 1995, a single tall and thick plume of smoke was shot from seven different angles by the cameraman and director working for Zastava Film, a production company of the former JNA and VJ, to create an impression of seven smoke clouds in different locations in Knin.



◀ The footage of the shelling of Knin that was filmed on August 4th 1995 by the cameraman of Zastava film

Croatian general Ante Gotovina's defense managed to a substantial extent to contest the evidence given by protected witness 'G' on the fierce shelling of Knin on 4 August 1995 in his cross-examination. He contends the shelling was not directed at military targets: the objective was to cause panic among the population, making it flee.

In his examination-in-chief yesterday, the prosecutor used footage showing the shelling of Knin filmed on 4 August 1995 by the cameraman of the Zastava film studio to corroborate those claims. VJ colonel Milivoje Nestorović used this footage in 1996 to make a documentary, *Oj Krajino*.

The defense noted today that the colonel who directed the movie added sound effects to the original soundtrack of the footage of the shelling of Knin. Pictures of people running across the street were accompanied by the deafening sound of the siren. The defense also managed to show that the military cameraman and his director were not creative only in editing the footage they filmed. Their creativity was evident in the way they actually shot it. Analyzing the original footage, the defense concluded that a high, thick plume of black smoke was recorded from seven different angles in order to create an impression of seven different smoke clouds over different parts of Knin. The plume of smoke they recorded was coming from the screw factory TVIK. According to the defense, it was a legitimate military target.

The defense analysis of the Zastava Film footage showed that some of the civilian buildings hit by shells were located in the immediate proximity of the Army Hall, the SVK headquarters and the Senjak barracks.

Judge Orić asked the witness if he was prepared to alter his testimony about the shelling not being directed at military targets. The witness answered that the Zastava film cameraman didn't record all the shell impacts. Apart from the buildings that are seen being hit in the footage, other civilian buildings were shelled, including his house and the neighboring building.

The witness was cross-examined by the defense teams of Ivan Čermak and Mladen Markac in closed session in order not to reveal his identity. Markac's defense counsel Goran Mikulić asked the witness only two questions in open session. When Mikulić asked him what he took with him when he left Knin in the afternoon of 4 August 1995, the witness replied 'a little bit of wine and some brandy'. He took nothing else thinking he would return in a day or two. The witness went to a village 40 to 50 km from Knin where his parents lived. That evening they roasted some lamb. Mikulić was surprised that they did this 'amidst the shelling and war' but the witness said that it was 'the best thing we could do' at the time.

2008-04-09

THE HAGUE

SYSTEMATIC CAMPAIGN OF ARSON AND DESTRUCTION

Edward Flynn, head of the UN Human Rights Action Team, began his evidence at the trial of Croatian generals charged with crimes in Operation Storm. From 7 August to 17 August 1995, he witnessed the looting, arson, destruction and discovery of bodies of civilians killed in Sector South in Krajina.



◀ Edward Flynn, witness in the Gotovina trial

'It would be accurate to say that Krajina is on fire', says the report by the UN Human Rights Action Team (HRAT) on 13 August 1995.

The author of the report, Edward Flynn, testified today at the trial of Croatian generals Gotovina, Cermak and Markac, indicted for crimes committed in Operation Storm and its aftermath. On that day, Flynn recounted, he was on his way to Benkovac via Kistanje. He saw dozens of burned down houses and fields and with at least ten 'smoke clouds rising high above Benkovac'. Members of the UN mission to Krajina, Flynn said, got worried that day because the scale of the destruction and the area it covered were so large that this was turning into a systematic campaign. Flynn's report went on to conclude

that 'the authorities are still not taking any measures to stop it'.

Edward Flynn is now a high-ranking official in the Anti-Terrorism Committee of the UN Security Council. From 7 August to 17 September 1995, he headed one of the HRAT teams in the UN mission in Knin. He saw the looting, arson, destruction and the discovery of bodies of civilians killed in the region, and he reported those incidents to his superiors on a daily basis. More importantly for the Tribunal, Flynn also informed the Croatian authorities about these events. His primary contact was the accused Ivan Cermak, who was the Knin military governor at the time.

More than twenty of his daily or weekly reports on the looting, arson, destruction, killing and other humanitarian law violations that he saw in the forty days of his tour of duty in Krajina were tendered into evidence. Video recordings and photographs of burned down houses and dead civilians taken during his patrols are among the exhibits.

On their visit to the village of Grubori in the Plavno Valley on 25 August 1995, Flynn's action team was accompanied by a UN cameraman who filmed the burned down houses, bodies of dead civilians and crying women who didn't know what happened to their husbands and other relatives. On that day, Flynn saw two bodies while his colleagues discovered the bodies of another three victims the next day.

Flynn immediately informed Cermak's principal deputy about this, expecting that the authorities would conduct a crime scene investigation. Several days later, Cermak informed the HRAT that the civilians were killed in the fighting in the village of Grubori which was 'a Chetnik stronghold'. An investigation would follow, Cermak said. Two weeks later, Flynn visited the village again. He saw two bullet casings that were still in the room where he saw the body of a man, and this led him to conclude that there had been no serious investigation in this case.

The HRAT report of 8 September 1995 notes that the issue of looting, arson and killing was raised in a meeting with Cermak. General Cermak replied that 'he couldn't deny there is serious anarchy in the sector', adding that the authorities were taking appropriate measures. He also asked the UN official to keep him informed about the crimes. To Flynn, Cermak's words were 'belated, insincere and implausible'; Cermak was regularly informed by the HRAT about what its patrols had found and if he wanted to, he could have easily seen for himself what was going on in the territory under his power.

2008-04-10

THE HAGUE

DEFENSE: CERMAK DID NOT ISSUE ORDERS – HE COORDINATED THINGS

In his cross-examination of the prosecution witness Edward Flynn the defense counsel of Ivan Cermak noted that, as the commander of the 'Knin Garrison', Cermak was authorized to 'coordinate' civil and military police and civilian authorities and not to issue them orders. Cermak also had the power to ensure functioning of public utilities and in particular to 'help the UN'.

Steven Kay, the defense counsel of general Ivan Cermak, in his cross-examination of Edward Flynn today did not deny the crimes –arson, destruction, looting and murder – Flynn witnessed from 7 August to 17 September 1995. During that period, Flynn was the head of the UN Human Rights Action Team. His mission was to record human rights violations in the Knin Krajina after Operation Storm and to report to his superiors in the UN.



◀ Steven Kay, defense attorney for Ivan Cermak

In the cross-examination, Cermak's defense counsel himself tendered into evidence several documents from the Croatian Ministry of Interior confirming there were cases of arson and looting but not murder, as Flynn noted. The most interesting document was by far the order issued by Josko Moric, deputy interior minister, on 18 August 1995, calling on both the civilian and military police to put a stop to arson and looting of houses by 'persons in HV uniforms', which were a daily occurrence. The order was proactive, 'directed at the future', as judge Orié remarked, because it stated that 'the cases of arson and illegal taking of other persons' property that have occurred to date will not be investigated operatively' – this means the perpetrators would not be prosecuted and punished.

The defense wanted to show that the civilian and military police received orders from Zagreb and that Cermak couldn't be responsible for their failures in the Knin Krajina that Flynn brought to his attention in August and September 1995. The defense counsel went on to show Cermak's letter of appointment, demonstrating that he was appointed 'commander of the Knin garrison', and not a 'military governor' of the Knin Krajina which is how Flynn described Cermak's position in his examination-in chief. According to his defense, Cermak was authorized to 'coordinate the civilian and military police and civilian authorities' and not to give them orders, as Flynn stated yesterday. Cermak was there to ensure the functioning of public utilities and, as Kay insisted, to 'help the UN'.

[IMAGE]3339[/IMAGE]Edward Flynn replied that he didn't 'use the word order lightly' in his testimony yesterday. According to him, Cermak 'behaved as if he had certain authority' in military, police and civilian matters in that area and as if he could influence the deployment of military and police troops. Flynn agreed with the defense counsel that Cermak 'was cordial and positive' towards the UN despite the fact that the international representatives who attended meetings with Cermak 'were often frustrated with the poor security situation in the field'

Edward Flynn will be cross-examined tomorrow by the defense teams of Ante Gotovina and Mladen Markac.

2008-04-11

THE HAGUE

'ORGANIZED' OR 'ORDERLY' MOVEMENT OF REFUGEES

Noting that the RSK authorities were responsible for the exodus of Serbs from Krajina in August 1995, General Ante Gotovina's defense counsel reminded the prosecution witness Edward Flynn that in a previous statement he had talked about 'a well-organized movement' of the refugees. The witness amended his statement, saying that it was better to say the movement was 'orderly'.



◀ Edward Flynn, witness in the Gotovina case

On the last day of his evidence, Edward Flynn, former head of the UN Human Rights Action Team, was cross-examined by the defense counsel of General Ante Gotovina. He argued that the Serb civilians had fled before the arrival of Croatian army and police to Krajina and that their exodus had been organized by the Krajina Serb authorities. Luka Misetic, Gotovina's defense counsel, used the statement the witness gave to the defense team investigators this year. According to the defense, on that occasion Flynn said that the Serbs' exodus from Krajina in August 1995 was 'rather well-organized'. According to the witness, it was similar to what happened four years later when Serbs left Kosovo before the arrival of the NATO troops.

The witness couldn't remember if that was exactly what he had said. He did allow the possibility that he hadn't expressed himself precisely enough. Instead of 'well-organized' it would be better to say that the movement of civilians was 'orderly'. This means that they walked along the road in a column – there was no chaotic fleeing across the mountains. In his opinion, this was because the Krajina Serbs had obviously known that the Croatian forces might launch an attack. Therefore, they 'planned in advance where the civilians would withdraw if it happened'.

Gotovina's defense continued with its efforts to contest the allegation of the excessive shelling of Knin and other towns and villages in Krajina during Operation Storm. The witness agreed to a certain extent, saying that he expected he would see more damage to civilian buildings when he first entered Knin on 7 August 1995. He gave an example: the city hospital had sustained only slight damage caused by a single mortar shell exploding.

In the days to follow, however, the witness saw more and more burned down houses. This reached its peak between 15 and 20 August 1995. The villages around Knin, Obrovac and Drnis were on fire; he estimated that about 500 houses were burned down. Some other UN military observers estimated this number to be larger than 10,000. When he was asked to explain the discrepancy, Flynn said that military observers moved around in Krajina more than the members of his Human Rights Action Team. They had more vehicles at their disposal and they could deal with the issue of burned down houses more systematically. The number he presented was just an estimate and he was careful not to 'exaggerate'.

In his re-examination, the prosecutor focused on responding to the allegations Ivan Cermak's defense counsel presented in the cross-examination of the witness. According to the defense, Cermak was authorized only to 'coordinate the work of the police and the army' and not to issue orders to them. Prosecutor Mahindaratne presented the order Ivan Cermak issued on 8 August 1995, ordering the civil and military police to let the UN forces pass through Krajina freely. As Flynn said, this shows clearly that these forces were under Cermak's power.

The trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac charged with crimes in Krajina in the summer of 1995 continues on Monday.

2008-04-14

THE HAGUE

HOW MANY DEAD IN KNIN HOSPITAL?

Prosecution witness contends 120 bodies were brought to the Knin Hospital on the first day of Operation Storm. According to the Croatian MUP document presented by the defense, there were sixteen dead bodies in the hospital morgue when the Croatian forces entered the building on 5 August 1995.



◀ Mira Grubor, witness in the Gotovina, Cermak and Markac trial

In August 1995 Mira Grubor was a lab technician in the Knin Hospital. Today she told the Trial Chamber she was 'a police officer from New Zealand'. The statements she gave to the OTP investigators in 1998 and 2007 were tendered into evidence at the trial of Ante Gotovina, Ivan Cermak and Mladen Markac. They are indicted for crimes committed in the course of Operation Storm and its aftermath.

In her brief examination-in chief, the prosecutor read out a summary of her statements, where she claims that on 4 August 1995, the day Operation Storm was launched, about 120 bodies were brought to the Knin Hospital,

including 30 to 40 civilians. Some 160 to 180 injured persons were also brought in, a third of them civilian. The witness described several shelling incidents involving civilian victims. In her words, she was either an eyewitness or heard of them from her hospital colleagues. When Croatian soldiers entered the hospital in the morning of 5 August 1995, she was hiding in the basement shelter. She claims she heard shouts, gunshots and explosions. After that, she ran away to the UN headquarters.

The defense of Ante Gotovina and Mladen Markac challenged the evidence given by Mira Grubor by video footage taken in those days in the Knin Hospital. It shows no damage to the hospital building. What is also seen is that the new hospital administration, established on 6 August 1995, took on a group of Serb doctors and medical personnel who decided to stay, and continued to treat Serbian patients that had not been evacuated to the UN base. The defense showed footage of surgeon Dr Torbica who made two statements describing the conduct of the Croatian soldiers who had entered the hospital first on 5 August 1995 as 'very correct'.

According to the defense, the large number of injured Mira Grubor mentioned in her statement is a consequence of the fact that the Knin Hospital was the only medical facility in that area with an operations room. All the injured persons from Sector South were transferred there. The witness confirmed this. The defense contested Grubor's claim that there were about 120 bodies with a document issued by the Croatian interior ministry listing only sixteen bodies in the hospital morgue on 5 August 1995. Despite the fact that she didn't go to the morgue in person, she remained adamant that she heard from the personnel that often went to the morgue that there were more than a hundred bodies there and that they ran out of storage space.

The trial of generals Gotovina, Cermak and Markac continues tomorrow with the evidence of a former UN military observer in Sector South in Krajina.

2008-04-15

THE HAGUE

WHO SHELLED KNIN?

UN military observer testifying for the prosecution analyzed the craters of the six shells that hit a residential area. In his cross-examination, Ante Gotovina's defense argued that those six shells were fired from positions held by the Serbian Army of Krajina in the afternoon of 5 August 1995, since by that time there were not many Serbs left in Knin.



◀ Tor Munkelien, witness in the Gotovina trial

From 14 August to 1 December, Norwegian officer Tor Munkelien patrolled the so-called Sector South of the Knin Krajina as a UN military observer registering violations of human rights – killing of civilians, arson, destruction, looting of houses and killing of livestock – after Operation Storm. Everything he had seen and established during his patrolling was described by Munkelien in the two statements that were tendered into evidence, together with other UNMO documents from that period, today at the trial of Ante Gotovina, Ivan Cermak and Mladen Markac. The three Croatian generals are charged with crimes in the course of Operation Storm and its aftermath.

In his brief examination-in chief, Munkelien stated that the first thing he did upon his arrival to Knin was to analyze the craters left by the impact of six shells. He did this with his colleague Antil. The shells had hit a residential neighborhood some 350 to 500 meters away from the military barracks. He described how the military observers made the 'preliminary estimate of damage' caused by the shelling of Knin at the beginning of Operation Storm. They concluded that the shelling was concentrated on military targets. Civilian facilities were damaged only if they were located in the immediate proximity of military facilities. Parts of town with no military targets were hit only three to five times. In the view of the witness, the estimate was done 'hastily', under the pressure of the UNMO command who wanted an urgent report. That is why, he added, it turned out later that the shelling had caused more damage than was described in the preliminary report.

At the beginning of his cross-examination, Greg Kehoe, the defense counsel of the first-accused Ante Gotovina, challenged the witness's expertise in analyzing craters and the impact of various artillery weapons noting that the witness had served in a medical unit of the Norwegian Army. According to the defense counsel, Munkelien misidentified the shells that had made the craters as M-63 shells. Kehoe contends they were M-77 shells, fired from multiple rocket launchers. Both M-63 and M-77 are used with multiple rocket launchers and have the same caliber, 122 mm, but M-77s are three times bigger than the M-63s and have stabilizers. On a photo of a shell, Kehoe pointed to bent metal pieces that, according to him, were parts of the shell's stabilizer.

Kehoe didn't contest all of the witness's expertise. He accepted his estimate of the angle at which the shells fell and the direction from which they were fired. According to Kehoe, it showed that the shells were fired from Strmica area, where the SVK had its positions on 4 and 5 August 1995. Unlike the Croatian Army, the SVK used M-77 shells. Kehoe used a UN military observers' report of 5 August 1995 to corroborate this claim. The report states that until 18:05 hours, eight artillery weapons opened fire from the SVK positions in the direction of Knin. By then, there were few if any Serbs left in Knin. The witness replied that he was not aware of the report. He confirmed that he had no knowledge as to who fired the shells whose craters he had analyzed.

The cross-examination of Tor Munkelien continues tomorrow.

2008-04-16

THE HAGUE

AUTHORITIES COULD HAVE PREVENTED ARSON AND LOOTING

Croatian soldiers or civilians who burned down Serbian houses and looted them, 'weren't on foot as they did it'; the Croatian authorities could easily have prevented it by posting check points along the roads in Krajina, former UN military observer Tor Munkelien contends.

Croatian authorities could easily have prevented the burning down and looting of Serbian houses after Operation Storm, if they had wanted to do it, Norwegian officer and former UN military observers in Knin Tor Munkelien was categorical today. When the defense teams of Ante Gotovina, Ivan Cermak and Mladen Markac objected that it was all happening in a large area that was impossible to fully control, Munkelien replied that it was not necessary to control the territory, but just the roads because those who burned looted houses 'weren't on foot as they did that". They drove civilian or military vehicles.



◀ Tor Munkelien, witness in the Gotovina trial

General Cermak's defense alleged that establishing check points on Krajina road was the primary responsibility of the Ministry of the Interior and civilian police but the witness disagreed. He noted that civilian authorities didn't function at the time and that it was the army that had de facto control over the area.

In his statement to the OTP investigators, the witness said that he had never seen any attempts to put out the fires as the houses burned in Knin and surrounding villages and hamlets. Cermak's defense counsel read several entries from a diary of the Knin Police Administration pointing to the contrary. Fire brigades, the defense counsel quoted, intervened when fire broke out at the UN warehouse, when a house very close to the Knin Hospital caught fire

and in two more cases outside of the town. The witness agreed that the fire brigade was deployed 'in some cases' and 'on certain locations'. But, he remarked, he could match the four examples the defense counsel quoted with 'four hundred and more cases in which they didn't even try to put out fires'.

As today's hearing drew to a close Andries Dreyer, former member of the South African army, began his evidence. In the summer of 1995, during Operation Storm, he was the security coordinator in the UN Knin base. His evidence continues tomorrow.

2008-04-17

THE HAGUE

DEAD BODIES WERE RUN OVER BY TANKS

In his evidence at the trial of Croatian generals for crimes committed in the course of Operation Storm and its aftermath, Andries Dreyer, former security coordinator in the UN Knin base, described how Croatian soldiers drove over dead bodies in a tank. The bodies were those of persons killed in a mortar shell attack on the crowd that had gathered in front of the UN base on 5 August 1995.



◀ Andries Dreyer, witness in the Gotovina trial

When the shelling of Knin began at dawn on 4 August 1995, Andries Dreyer, security coordinator in the UN Knin base, had to evacuate the personnel of the UN and other international organizations from the town and transfer them to the UN base. From 4,30 am to 6 pm he went to different parts of the town five times to pick up the personnel and transfer them to the base. On aerial photos of Knin, he marked every route he took highlighting locations where he saw shells impacts. Former member of the South African defense forces estimated that Knin had been shelled from multiple rocket launchers and 155 mm howitzers. In his view, the shelling was indiscriminate: the whole of Knin was a target.

Next day, 5 August 1995, several mortar shells hit the area in the immediate vicinity of the UN base where a crowd of civilians had gathered. The shells hit closer and closer to the base and the last one exploded right in the middle of the crowd in front of the base. In Dreyer's opinion, this meant that the mortar crew was correcting its fire. Five or six persons were killed then and their bodies were put in body bags by the Canadian 'blue helmets' and left by the side of the road. When Croatian troops entered Knin that same day, soldiers took some of the bags with dead bodies, placed them on the road and drove over them in a tank.

The defense of general Ante Gotovina didn't deny that there was an explosion in front of the UN base but it contended that a tractor trailer with Serbian soldiers carrying a large amount of weapons was hit. It gave notice to the Trial Chamber that it intended to present 'at least two autopsy reports' challenging Dreyer's allegation about the tank.

Using the same aerial photos of Knin on which Dreyer marked his movement around the town and the sites where shells landed on 4 August, Gotovina's defense marked the buildings it considered to be military targets. Among them are the army barracks, the bridge, tunnel for 'armored trains', the main intersection, the railway station, the SVK General Staff, the government and assembly buildings, factories, warehouses and even the nursing home. According to the defense, this building was used as the quarters for officers seconded to the SVK from Belgrade.

Locations that the defense considers as legitimate military targets corresponded to a considerable extent with the areas where the artillery fire was concentrated, as marked by Dreyer. The witness added that he had seen evidence of shelling everywhere he went around Knin on 4 August 1995. The Trial Chamber will, of course, decide what were and what were not legitimate military targets in this case.

2008-04-22

THE HAGUE

'INDISCRIMINATE AND DELIBERATE' SHELLING OF KNIN

General Andrew Leslie, former chief of staff of UNCRO in Sector South, began his evidence today. General Leslie is now the commander of the Canadian ground forces. He is testifying at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac about the first days of Operation Storm.



◀ Andrew Leslie, witness in the Gotovina trial

General Andrew Leslie, commander of Canadian ground forces, started his evidence today at the trial of Croatian generals charged with crimes committed in Operation Storm and its aftermath in the summer of 1995. When the operation was launched, the then colonel Leslie was in Knin as the chief of staff of UNCRO in Sector South.

In early August 1995, Knin was an undefended town, the Canadian general said. The town had not prepared for the defense and there were few troops in the town itself. All the Krajina Serb forces were moved to the demarcation line where the attack was expected to happen.

The attack started on 4 August 1995 at 5am with an intense artillery barrage. General Leslie, who spent most

of his long military career in the artillery, described the first attack as 'random, synchronized and continuous', aimed at the whole town. Two hours later, the shelling abated a bit and the attack concentrated on particular parts of the town. Among them were the town center and the targets General Leslie described as military: the train yard, the factory complex and the anti-aircraft battery of the Krajina Serb army. The shelling lasted until nightfall. The next morning it recommenced, following the same pattern. It lasted until the Croatian forces entered Knin, at approximately 11 a.m. on 5 August 1995.

In the afternoon of 4 August, Canadian general Forand, commander of the UN Sector South, sent a protest letter to General Gotovina, who commanded the Croatian Army forces in that sector, because the attack targeted innocent civilians and UN facilities. He demanded an immediate ceasefire and the withdrawal of Croatian army from the zone of separation. Gotovina's defense objected to the admission of the letter, saying there was no evidence that the accused general received that letter. The Trial Chamber nevertheless admitted this document into evidence. According to the witness, a few days later Captain Marin Lukovic, General Gotovina's liaison officer with the UN, confirmed that he was aware of the contents and importance of the letter.

In the morning of the 5 August, General Leslie was asked by a Serb doctor to evacuate some thirty patients from the Knin hospital, many of whom were in a critical condition. Leslie went there with six armored personnel carriers. In his words, he saw a 'great number of dead bodies' in the hospital, lined up along the corridors and in a make-shift morgue. When the judge asked him to be more precise, Leslie said there had been 'more than 30 and less than 50 or 60' bodies.

Soon after the convoy returned from the hospital, the Croatian army and its tanks arrived in front of the UN base to block the entrance and prevent the UN personnel from going into town to see what was going on there. According to Leslie, the blockade lasted until 9 August and he was among the first who left the base. On that day, he went to Zagreb to assume his new duty, the UNCRO chief of staff. In Zagreb, Leslie drafted a report in which he described the shelling of Knin as 'indiscriminate and deliberate'. Despite the objections of General Gotovina's defense, this report was also admitted into evidence.

As today's hearing drew to its close, the cross-examination of General Leslie began. It will continue over the next two days.

2008-04-23

THE HAGUE

GENERAL LESLIE UNDER FIRE FROM GENERAL GOTOVINA'S DEFENSE

In a ruthless cross-examination, General Gotovina's defense counsel tries to discredit the prosecution witness, Canadian general Andrew Leslie. According to General Gotovina's defense, Leslie is responsible for the charges of excessive shelling of Knin.

General Andrew Leslie, commander of the Canadian ground forces and former chief of staff of the UN peace-keeping force in Sector South is considered by General Ante Gotovina's defense team as the main culprit for the count in the indictment charging their client with excessive shelling of Knin at the beginning of Operation Storm on 4 and 5 August 1995.



◀ Andrew Leslie, witness in the Gotovina trial

According to Leslie's reports and statements given at the time, on 4 August and 5 August 1995 Knin was shelled with approximately 3,000 rounds which killed between 300 and 500 persons, mostly civilians. About three hundred houses were damaged. The Canadian general did not confirm or withdraw the figures today, noting that those were contemporaneous estimates, based on the information coming in to the Sector South headquarters from different sources.

General Gotovina's defense counsel set Leslie's estimate of the scale and consequences of the shelling side by side with a report drafted by the UN military observers. On 17 August 1995, they made a preliminary estimate of

the damage that covered some seventy percent of the Knin urban area. In their report, they found that the shelling was mainly directed at military targets; the civilian facilities that were hit were located in their immediate vicinity. Only three to five civilian buildings in other parts of the town were hit, the UN military observers stated.

When the defense counsel quoted this document to General Leslie, he tersely replied he was aware of this report and that he remembered that it had caused quite a controversy. At that time, Leslie was already the UNCRO chief of staff, and was stationed in Zagreb. Gotovina's defense counsel then referred to the final estimate of the damage caused by the shelling, made a week later. It was, as he put it, 'consistent with the preliminary evaluation'. The witness said he was not aware of the final estimate, adding that he would like to see it. The defense counsel admitted he didn't have it; no one has been able to locate the report, he said.

The cross-examination of General Leslie by Gotovina's defense counsel Greg Kehoe, who used to be a prosecutor at the Tribunal, was quite ruthless at times. He accused General Leslie of not heeding numerous warnings of the imminent Croatian attack on Krajina. General Leslie thus failed to raise the alert level in the UN Knin base. This put the UN personnel in danger as they were not withdrawn back to the base on time. On 4 August 1995, the UN staff had to be picked up in various parts of the town and taken back to the base under artillery fire. Kehoe accused the witness of receiving a medal for something he didn't do, for saving of some forty civilians working for the UN in the base, whom he purportedly transported in armored personnel carriers on 4 August to the base under artillery fire. The Canadian general replied calmly to this and all other accusations of the defense. Kehoe was admonished several times by the judge for cross-examining the witness in this manner.

Tomorrow, General Leslie will answer questions of the parties about what buildings and facilities could be considered legitimate military targets in Knin on 4 August and 5 August 1995.

2008-04-24

THE HAGUE

CROATIAN ARTILLERY WAS 'BAFFLING'

According to Canadian general Andrew Leslie, military professionals in the UN peace-keeping forces found the target selection of the Croatian artillery in Knin on 4 August and 5 August 1995 'puzzling and baffling'.



◀ Andrew Leslie, head of the UN peacekeeping forces in the Sector South in Krajina

At the end of his three-day testimony at the trial of Croatian generals charged with crimes committed in Operation Storm and its aftermath, Canadian general Andrew Leslie summarized the impressions he and his fellow UN peace-keepers formed about the shelling of Knin on 4 and 5 August 1995.

'Throughout the shelling', General Leslie said, 'we as professional soldiers couldn't fathom what the Croatian Army was actually targeting. We could see why they shelled the anti-aircraft battery but not the criteria for the distribution of fire on other targets throughout the town. Apart from the battery, we saw very little evidence

that any military targets had actually been hit, neutralized or destroyed. We found the Croats' target selection 'puzzling and baffling'.

General Leslie spent most of his military career – spanning thirty years – in the artillery. In August 1995, he was the chief of staff of the UN peace-keeping force in Sector South in Krajina. Now he is the commander of the Canadian ground forces. In the course of his testimony today, he explained there were two basic categories of artillery targets.

There are 'pinpoint targets' that have to be attacked directly with accurate weapons and 'area' targets that allow the so-called indirect fire covering the wider area where the target is located. In his opinion, when Operation Storm was launched, the Croatian army didn't have technology to engage 'pinpoint' targets without running a high risk of collateral damage.

The presiding judge asked what the alternative would be in such a case. The witness explained, 'If you do not have the accuracy guaranteeing that the military target located in the civilian environment will be hit, then you do not engage that target'.

During his stay in Knin, Leslie met with General Ante Gotovina and General Ivan Cermak a few times. He described Gotovina as 'a dynamic, charismatic and aggressive person, intelligent and determined'. The 'aura of command' could be felt in his presence. Cermak was presented to him as the military governor of Knin. Leslie's impression was that he was 'a conciliatory and cooperative man', frustrated because he could not make political decisions. Cermak struck Leslie as 'always worried, as if he carried the whole world on his shoulders'. In Leslie's words, Gotovina was 'a warrior' and Cermak was 'an administrator'.

After General Andrew Leslie completed his evidence, the prosecution called Mile Sovilj from Gracac, a small town in Lika. Sovilj will continue his testimony tomorrow.

2008-04-25

THE HAGUE

CIGARETTE CASE HELPS WITNESS RECOGNIZE HIS FATHER

Mile Sovilj recognized his father's 'decomposed and burned' dead body on a photo. His father had been killed in the village of Kijani near Gracac in Operation Storm. 'It was a picture painful to see', the witness said. When the shelling of Gracac began, he fled to Serbia. The defense notes that the evacuation of Serbian population from Krajina was planned.



◀ Mile Sovilj, witness in the Gotovina trial

Journalist Mile Sovilj was at his home when the shelling of Gracac, a town in Lika region, began in the early morning of 4 August 1995. Sovilj finally left his apartment at 4 p.m. for 'safety reasons'. By that time, he counted some fifteen explosions. He was 'able to tell those sounds from the sound of rifle shot'.

At the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac for crimes committed during Operation Storm and in its aftermath, Sovilj said that in the afternoon of that day he noticed people starting to leave Gracac. According to him, they were 'panicked, worried and without optimism on their faces'.

In his statement given to the OTP investigators in February 2007, Sovilj recounted that fourteen persons, including his father, were killed in the village of Kijani during Operation Storm. Their homes were burned down. The bodies were exhumed from a grave in 2004 and their identity was established by DNA analysis. Sovilj recognized his father on a photo he described as 'painful to see'. The body he saw was 'decomposed and burned down' but he managed to recognize his father by a cigarette case he had given him as a present two years before.

The witness was cross-examined only by Goran Mikulicic, defending Mladen Markac. Mikulicic noted that the evacuation of the Serbian population was 'planned several months before Operation Storm started'. The witness confirmed that the documents the defense counsel showed him pointed to that conclusion. He, however, was not aware of any evacuation plans. He regretted that the plan, if it existed, had not been implemented, because had that been the case, 'there would not have been so many casualties'.

Claiming that a 'large quantity of ammunition and weapons' was stored in the grain elevator, the defense counsel tried to prove that the shelling of Gracac was legitimate. Sovilj countered that claim, saying that the 'mill operated normally', adding that in fact the metal processing plant near the mill was used 'as an ammunition and weapons depot in the early days of the war'.

The cross-examination of the witness ended with the defense counsel quoting the titles of texts Sovilj wrote in 1991 for the War Bulletin of the Krajina Territorial Defense. As the defense counsel put it, in those texts Sovilj used 'the derogatory adjective Ustasha' twenty times when he described the Croatian state or army. He thus 'generated hatred against the Croatian population'. This was caused by the wartime atmosphere', Sovilj said, noting that 'Croatian side did the same.'

The trial of Gotovina, Cermak and Markac continues on Monday.

2008-04-28

THE HAGUE

WAS GENERAL CERMAK 'ARROGANT' OR 'POWERLESS'?

Mikhail Ermolaev, former acting chief UN military observer claims that general Cermak 'arrogantly denied' reports and protests of the international observers relating to violations of human rights of Krajina Serbs in August 1995. The defense notes that Cermak didn't have authority over the police or control over the whole Krajina territory.



◀ Mikhail Ermolaev, witness in the Gotovina trial

From July to October 1995, Russian Navy captain Mikhail Ermolaev was first deputy chief UN military observer and acting chief in Krajina. When Operation Storm began, he was in his apartment in Knin. In his statement to the OTP investigators, he says his flat was hit in an 'unprecedented' artillery attack on the town with tens of thousands of civilian inhabitants.

The first few days after the Croatian Army entered Knin, the witness explained, the UN military observers were blocked inside their base and were not allowed to move around. After that there was a period of 'strictly restricted movement'. As a military observer during the war in BH he never had full power of movement, but the

movement was never so restricted as it was in Krajina in August 1995. The witness lays blame for this on General Ivan Cermak whom he considers the commander of Sector South and the man who controlled the situation in the whole Krajina area.

According to the Russian captain, military observers went out into the field as much as they could. Until early September, they registered numerous violations of human rights of Krajina Serbs, mostly murders, arson, expulsion and looting. They reported this to the UNHRAT teams and to Cermak's office. In his statement, the witness notes that from the very first meeting with the UN representatives on 6 or 7 August 1995, General Cermak 'arrogantly denied' the protests of the international civilian and military observers.

In his cross-examination, Cermak's defense counsel put it to the witness that the accused general was the commander of the Knin Garrison and not the commander of the entire Sector South. In that role, Cermak didn't have any control over the police. Despite Cermak's explicit order granting the UN observers freedom of movement, the police prevented them from traveling through Krajina.

The witness didn't agree with this claim, saying that at the very first meeting he got the impression that Cermak controlled the whole of Sector South including the police units in the field. He came to this conclusion after Cermak assured the international representatives he would take various measures throughout Krajina, primarily those concerning the freedom of movement of the UN observers.

In his statement the Russian captain states that the Croatian authorities did nothing to prevent or stop the violence and crimes against Serbs in Krajina. In his view, apart from Cermak, General Gotovina bears most of the responsibility. General Gotovina's defense counsel indicated they would be cross-examining the witness. Mladen Markac's defense will be the last to question the witness.

2008-04-29

THE HAGUE

WAS SHELLING OF KNIN 'UNPRECEDENTED'?

Ante Gotovina's defense counsel contested the credibility of Mikhail Ermolaev claims that the shelling of Knin was 'unprecedented' and that 13,600 Serbian houses were destroyed during and after Operation Storm in the summer of 1995.

Ante Gotovina's defense counsel today cross-examined Russian Navy captain Mikhail Ermolaev for two hours. As expected, he devoted some time to the witness's claims about the 'unprecedented' excessive shelling of Knin. In the period relevant to the indictment, Ermolaev was the acting chief UN military observer in Knin. Yesterday in his examination-in chief he repeated what he had said in the two written statements he had given to the OTP investigators. In his words, he had never before experienced such destructive artillery fire against a town with tens of thousands of civilian inhabitants – not even in Sarajevo and in Tuzla where he was deployed earlier.



◀ Mikhail Ermolaev, witness in the Gotovina trial

As he began his cross-examination, Gotovina's defense counsel noted that the witness declared in his statement that he had spent the first two days of Operation Storm, 4 and 5 August 1995, 'mostly in his office' in the UN base in Knin. When the defense counsel put it to the witness that he was not competent to describe the shelling as 'unprecedented' when he spent all the time in his office, the witness agreed that he didn't monitor the shelling 'actively' but was able to hear what was going on outside. It is true, however, that in the morning of 4 August 1995, when the shelling began, he was in his apartment in Knin and after he went down to the basement, he couldn't hear who was firing at whom outside.

The prosecution tendered into evidence through Ermolaev a document of the UN military observers stating the 'final estimate' of 13,600 destroyed houses in 240 Krajina villages; most of the houses were burned down. When the defense counsel asked about the sources for this summary report and who ordered it to be drafted, after a lengthy session of to-and-fro, Ermolaev finally answered that the data originated from daily and 'supplementary reports' filed by military observers. The 'permission' – not the 'order' – to draft a summary report was granted by the UN command in Zagreb.

In his evidence earlier this month, Edward Flynn, former chief of the UNHRAT team, estimated that some five hundred houses were burned down in the villages near Knin, Obrovac and Benkovac. Flynn claimed that he had never heard the military observers mention the figure of over 10,000 destroyed houses, although he allowed that the military observers in fact had a fuller picture of the situation because they moved around much more. Ermolaev was surprised to hear what Flynn had said. He was sure that the summary report on the destruction of Krajina Serb houses was forwarded to Flynn, as the chief of the Action Team.

Before he was cross-examined by Greg Kehoe, Ermolaev answered questions by Mladen Markac's defense. Markac is a former commander of the Special Police. His defense counsel tried to contest the witness' claims that the Croatian police officers were responsible for the restrictions of movement of the international observers. The defense counsel showed the witness a report drafted by the UN military observers on 6 August 1995 saying that the Croatian special police allowed them to move between Gracac and Gospic. The witness replied that this particular example was not indicative of the general state of affairs. The presiding judge was prompted to add a metaphor, telling the defense counsel that the fact he was permitted to enter the Tribunal's courtroom once didn't mean that he could move freely around all UN buildings when and how he liked.

The trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac continues on Thursday. Tomorrow is a national holiday in the Netherlands and there will be no hearings at the Tribunal.

2008-05-01

THE HAGUE

13,000 HOUSES BURNED DOWN IN KRAJINA

According to a report drafted in November 1995 by prosecution witness Kari Anttila, out of 22,000 houses the UN patrols visited in Sector South in Krajina, 8,000 houses were destroyed totally and 9,000 houses sustained some damage. The most common cause of damage or destruction was fire: a total of 13,000 houses were burned down.



◀ Kari Anttila, witness in the Gotovina, Cermak and Markac trial

At the trial of Croatian generals Gotovina, Cermak and Markac the prosecution called Kari Anttila from Norway to the witness stand. From 14 August to 10 December 1995, Anttila was a member of the UN military observer team in Sector South in Krajina. One of his tasks was to set up a computer data base of the population remaining in Sector South and the houses destroyed in the course of Operation Storm and in its aftermath.

Based on the information sent daily to the UN headquarters in Knin by the military observers, Human Rights Action Team patrols and the UN Civilian Police, in September, October and November 1995 Anttila drafted summary reports on what those teams had found in the field. According to the final report from 4 November 1995, the UN patrols visited a total of some 22,000 houses in towns, villages and hamlets in Sector South. Eight thousand were completely destroyed, and nine thousand sustained

some damage. The most common cause of destruction or damage was fire: the UN patrols registered 13,000 houses that had been burned down.

According to the UN reports, sixty nine houses in Knin itself were totally destroyed and 591 were partially damaged. The witness estimated that 40 percent of them were destroyed or damaged in the shelling on 4 and 5 August 1995.

On 17 August 1995, together with his colleague from Norway, Tor Munkelien, who gave evidence two weeks ago, Anttila took part in the analysis of the craters left by six projectiles fired from a multiple rocket launcher. He also took part in the preliminary assessment of the damage caused by the shelling of Knin. According to this estimate, the shelling of Knin was focused on military targets; the civilian buildings that were hit were located in the vicinity of military targets. In other parts of the town where there were no military targets only three to five civilian facilities were hit.

Same as Munkelien two weeks ago, today Anttila described this estimate as perfunctory and hasty; its conclusion was wrong. On 17 August they did not have access to some parts of town because the rubble had not been cleared away yet. Further checks showed that other civilian buildings had been hit.

Anttila's cross-examination by Greg Kehoe, Gotovina's defense counsel, was reminiscent of the way he cross-examined Munkelien two weeks ago. He challenged Anttila's expertise for crater analysis and recognition of artillery weapons, because the witness is a construction engineer by profession. Kehoe tried to prove that the unexploded round found at the scene was not launched from an M-63 launcher used by the Croatian Army but from an M-77 launcher used by the Serbian forces in Krajina. Kehoe noted that in Knin there were considerably more military targets than the witness thought during the first days of his tour of duty in Krajina. At the time the witness thought the so-called Northern barracks was the only military target.

The cross-examination of Kari Anttila continues tomorrow.

2008-05-02

THE HAGUE

BEFORE AND AFTER OPERATION STORM

In the cross-examination of Kari Anttila, former UN military observer in Sector South, the defense teams of the Croatian generals charged with crimes committed in the course of Operation Storm and in its aftermath challenge the reliability of the information on to the destruction of houses in the Knin Krajina contained in the final UN report drafted by the witness.



◀ Kari Anttila, witness in the Gotovina trial

The figure of 22,000 totally or partially destroyed houses in Sector South in Krajina quoted in the final report of the UN mission from November 1995 is the grand total covering the four years of conflict in that part of Croatia and not only the events during Operation Storm and its aftermath in the summer of 1995.

Kari Anttila confirmed this today in his cross-examination by the defense teams of Ante Gotovina and Mladen Markac. Anttila, former UN military observer in Sector South, drafted this final report on the destruction in the Krajina region based on daily reports of military observer patrols, Human Rights Action Team and the UN civilian police. The defense tried to show that the information in these reports was not reliable.

The defense lawyers noted that the reports on specific areas didn't specify if the damage was caused before Operation Storm or afterwards. The witness confirmed this, adding that some military observer teams failed to register this information in their reports. A statement of Ivan Cermak, the then commander of the Knin Garrison, was quoted in this context. In October 1995, Cermak said that the UN data on the destruction of the houses in Sector South was 'totally untrue'. As far as he knew, 'the figure is 2,000 to 3,000 and not 22,000 houses'.

The defense referred to the 1991 census noting that, according to the reports of the military observers, in some villages and hamlets the number of partially or totally destroyed houses was several times higher than the number reported in the 1991 census. The witness wasn't able to explain this discrepancy, repeating that the information in the final UN report was based on the reports of the UN patrols visiting the zone. He added that the areas of responsibility of UNMO teams didn't coincide with the municipality borders. The presiding judge expressed his doubt about the comparability of the census data and the information in the UN report urging both sides to try and reach an agreement on this issue.

The defense showed the witness an excerpt from the written statement he had given to the OTP investigators where he says 'the Croats looted and set Serb houses on fire independent from their military activities', adding that at

times the looting and burning was done both by men in uniform and in civilian clothes. When the witness confirmed this, the defense counsel asked him if it ever happened that the people looting and burning would stop doing what they were doing when they were caught in the act by the UN military observers who confronted them. The witness confirmed that sometimes this had happened. The defense counsel then wanted to know 'if troops would stop their military operation if the UN military observers team would order them to do so'. The witness agreed that this would not be possible.

The trial of Ante Gotovina, Ivan Cermak and Mladen Markac will continue on Tuesday, 13 May 2008.

2008-05-13

THE HAGUE

VILLAGE WAS DEVASTATED AFTER CROATIAN ARMY ARRIVED

A Serb from Krajina testifies at the trial of Gotovina, Cermak and Markac with image distortion and under a pseudonym as protective measures, describing the shelling of his village near Knin and the killing, looting and burning of houses after the Croatian forces entered the village.



◀ Ante Gotovina, Ivan Cermak and Mladen Markac in the courtroom

The first witness to give evidence for the prosecution this week at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac is a Krajina Serb who was in his house in a village near Knin on 4 August 1995 when Operation Storm was launched. The name of the village was not disclosed for security reasons. The witness testified under the pseudonym 69 and with image distortion as protective measures. He testified via video link from Zagreb. Because of his age and bad health, the sessions were shorter, with longer breaks than usual.

In two written statements he gave to the OTP investigators the witness described the shelling of the hamlet. His barn was hit in the early morning of 5 August 1995. The village was shelled from the direction of Grahovo, he stated, despite the fact that there were no military targets or SRK personnel there. When the mortar fire stopped, the Croatian soldiers entered the village. One of the soldiers took 81-year-old Dmtar, the witness's neighbor, behind a house. Then there was a burst of gunfire and a week later the dead bodies of Dmtar and three other Serbs who had been killed were found in the village.

A mother and a son were among those killed. When the Croatian forces launched the attack, the two of them left a refugee column and took shelter in the witness's house. They didn't listen to the witness who told them to go with him to a nearby forest to hide immediately before the arrival of Croatian army. While their full identity was not disclosed, the public learned that the mother's name was Milka and her 40-years old son was Ilija. From his hiding place, the witness contends, he saw Croatian soldiers loot and set the houses in the village on fire. In his words, he saw them stealing things from the house where he lived, and loading them onto his tractor. At first he stated that he was able to recognize some of his former Croat neighbors among the looters but after several additional questions he was not able to provide more details about their identity.

In his cross-examination, Gotovina's defense counsel asked him if he actually saw his neighbor Dmtar being killed. The witness said he didn't, repeating that he heard a burst of gunfire thirty to sixty seconds after Dmtar was taken behind the stable. He denied the defense counsel's allegation that Ilija who was hiding in his house together with his mother had been a soldier. According to the witness, Ilija had a 'bad eye' and was not even allowed to serve the army.

The witness returned to his village on 11 or 12 August 1995, and soon after sought shelter in the UN base in Knin. From there he was evacuated to Serbia. Today, only seven or eight people live in his village. As he noted, there were times when there were as many people living in 'just one of the twenty village houses'. For security reasons, the public has not learned whether the witness was one of the seven or eight persons who returned home or if he was still a refugee in Serbia.

2008-05-15

THE HAGUE

FIRST CROATIAN INSIDER WITNESS IN OPERATION STORM TRIAL

Vladimir Gojanovic, president of Croatian Association of Demobilized Veterans from the Croatian Homeland War, testifies at the Trial of generals Gotovina, Cermak and Markac about the crimes the Croatian forces committed during Operation Storm in August 1995.



◀ Vladimir Gojanovic, witness at the Gotovina, Cermak and Markac trial

At the trial of Ante Gotovina, Ivan Cermak and Mladen Markac today the first Croatian insider witness began his evidence. Vladimir Gojanovic is a former member of the Croatian Army who took part in Operation Storm in August 1995. He was in the 113th Sibenik brigade.

At the beginning of his evidence prosecutor Prashanti Mahindaratne read a brief summary of the statements Gojanovic gave to the OTP investigators in 2005 and 2008. In August 1995, Gojanovic witnessed the crimes such as the burning of houses and looting of property, abuse of civilians and killing of one of the two prisoners of war that had surrendered to his brigade. During Operation

Storm, he and other members of the 113th Sibenik Brigade were not ordered to stop looting, burning houses and committing other crimes. Reserve troops were not given instructions on how to treat civilians and prisoners of war. Gojanovic was not aware if any members of his brigade were punished for the crimes committed in the course of Operation Storm.

As she examined Vladimir Gojanovic, the prosecutor quoted other excerpts from his statement where he described the incidents he had witnessed. In the village of Djevske, Gojanovic prevented a group of soldiers from the Sibenik brigade from setting on fire a house with an old lady inside it. In Kistanje, he saw soldiers going from house to house taking TV sets and other items that, he noted, 'the soldiers didn't need'. In his estimate, between 35 and 40 percent of the houses in Kistanje were burned down. When asked what led him to conclude that the houses had been set on fire by soldiers, Gojanovic replied that he couldn't remember what had made him reach that conclusion. When the prosecutor asked him some follow-up questions, he said he didn't remember if he had seen any civilians that day in Kistanje. The town was under military control, he added.

The prosecutor indicated she would need some twenty more minutes tomorrow to finish Gojanovic's cross-examination. The first Croatian insider witness will then be cross-examined by the defense teams of Gotovina, Cermak and Markac.

2008-05-16

THE HAGUE

DEFENSE CLAIMS WITNESS DID NOT TAKE PART IN OPERATION STORM

Ante Gotovina's defense counsel claims witness Vladimir Gojanovic, former Croatian Army soldier, was not a member of the 113th Sibenik brigade and didn't even participate in Operation Storm. The defense challenges other parts of the statement where the witness describes how he witnessed the houses being set on fire, the looting of property, the abuse of civilians and the murder of a prisoner of war during Operation Storm.



◀ Vladimir Gojanovic, witness at the Gotovina, Cermak and Markac trial

In the cross-examination of Vladimir Gojanovic, Ante Gotovina's defense counsel suggested that the witness had not been a member of the 113th Sibenik brigade and didn't even participate in Operation Storm. According to Gojanovic, he was drafted to the 113th Brigade on 2 August 1995 and fought in Operation Storm.

To corroborate this claim, the defense counsel showed the witness a list of soldiers of the 113th brigade made on 16 August 1995 by its commander Danijel Kotlar. Gojanovic's name was not on the list among more than 2,000 members of the 113th Brigade. He was mentioned in an order Kotlar sent to the military police asking that

Gojanovic be brought into the Brigade because he failed to respond to the call-up.

The witness said he had 'no explanation' as to why his name was not on the Sibenik brigade list. After Operation Storm, he added, he was awarded a medal as a former soldier of the 4th Split Brigade for a tour of duty on the Dubrovnik front after Operation Storm; this despite the fact that he had not fought on that front. According to Gojanovic, 'the military police never came to pick him up' while official documents of the military recruitment office speak best of his performance in the 113th Brigade.

Challenging Gojanovic's claims the defense counsel Luka Misetec quoted statements given by members of the 113rd Brigade who with the witness self-professedly participated in various actions. These statements were collected by the

members of Gotovina's defense team. The defense counsel showed the witness statements in which commanders of the detachments and battalions of Sibenik Brigade denied Gojanovic's involvement in any of the actions contending that he was not under their command. Those who knew Gojanovic said that they would surely have recognized him had he been there with them in the field as he wore a specific Guards Brigade uniform and was corpulent.

Gojanovic told the OTP investigators he had witnessed the burning down of houses, looting of property, abuse of civilians and murder of a prisoner of war; he also said that before Operation Storm the troops were not given any instruction as to how to treat civilians and prisoners of war. Misetec then showed him several orders from August 1995 signed by Ante Gotovina, where he orders the soldiers to comply with the Geneva Conventions and 'military discipline measures aimed at preventing the theft and burning of property and other improper conduct'. Furthermore, Gotovina 'prohibits any movements in the liberated territory without the knowledge of the commanding officer'. Gojanovic however was not swayed: the members of Sibenik Brigade were not given any instructions related to Geneva conventions, he maintained.

The cross-examination of Vladimir Gojanovic, who heads the Croatian Association of Demobilized Veterans from the Croatian Homeland War, will continue on Monday. The defense teams of Ivan Cermak and Mladen Markac indicated that they would have questions for the witness.

2008-05-19

THE HAGUE

GOJANOVIC DEFENDS 'HONOR AND DIGNITY'

Witness Vladimir Gojanovic submitted to the Trial Chamber documents that, he alleges, 'confirm that he was a member of the 113th Sibenik Brigade' and that he participated in Operation Storm. As his cross-examination continued today, Ante Gotovina's defense counsel again challenged his claims.



◀ Vladimir Gojanovic, witness at the Gotovina, Cermak and Markac trial

Before Ante Gotovina's defense counsel continued his cross-examination of Vladimir Gojanovic, former member of the Croatian Army, the witness asked for permission to address the Trial Chamber and note the fact that 'his family is under pressure and under police protection'. Gojanovic also brought several documents that would, as he said, defend his 'honor and dignity'. Last Friday, in the first part of his cross-examination, Gotovina's defense counsel Luka Misetec put it to Gojanovic that he had not been a member of the 113th Sibenik Brigade at all. Furthermore, Gojanovic didn't even participate in Operation Storm, Misetec said, and could therefore not have seen the burning down of houses, looting of

property, abuse of civilians and murder of a prisoner of war he described in the statement he gave to the OTP investigators.

Over the weekend, Gojanovic managed to obtain copies of military ID booklets that, in his words, 'confirm his participation both in the 113th Brigade and in Operation Storm'. He also submitted a letter he received as the president of the Croatian Association of the Demobilized Veterans of the Croatian Homeland War from the former chief prosecutor Carla Del Ponte. Gojanovic wanted to read a part of the letter he found particularly important, but presiding judge Orić cut him short, saying that the Trial Chamber would read it. The public thus didn't learn the details from the correspondence between the prosecution witness and former chief prosecutor of the ICTY.

Following a brief examination about the origin of these documents, defense counsel Luka Misetec showed Gojanovic two new statements that, according to the defense, confirm the witness was not a member of the 113th Sibenik Brigade during Operation Storm. Both soldiers Gotovina's defense interviewed say they are 'positive that Gojanovic was not with them'.

Gillian Higgins, representing General Ivan Cermak, contested a part of the statement Gojanovic gave in 2005 where he said that all the money from looting a factory in Kistanje 'went to the generals' while the fighters who 'liberated that territory were dishonored'. 'Cermak came, chased the soldiers away and then roped off the factory. He then started loading the equipment on army trucks', Gojanovic said in his statement. The witness clarified that he 'made a mistake': he meant Cermak's men, not Cermak himself.

In September 2004, in an interview for the *Vjesnik* daily, Gojanovic accused 'the Croatian government of being responsible for the genocide' in the villages of Varivode and Gosici. Goran Mikulic, the defense counsel of Mladen Markac, challenged this, showing a transcript from a session of the Croatian government in October 1995, where the interior minister reported the murder of nine elderly civilians in the village of Varivode. The minister went on to report that the police 'has taken all measures' to identify the perpetrators. According to the transcript, the ministers agreed that 'this is serious, organized crime, that 'it is understandable there is revenge and violence', but this 'should

be discussed with the president who is the only one with power over the army staff. Gojanovic said he was 'not aware of this political view from a public session of the government'.

In his re-examination, the prosecutor showed a document from the Sibenik military recruitment office stating that Gojanovic started his military service in Sinj in February 1994 and was last assigned to a unit designated as 9125. The witness explained that this code stood for the 113th Sibenik Brigade. The prosecutor showed the witness the 'demobilization order' signed by Danijel Kotlar, commander of the 113th Brigade, on 30 August 1995. This document certifies that Gojanovic was in the Croatian Army from 3 August to 7 September 1995.

As today's hearing drew to a close, former UN military observer Alexander Tchernetsky started his evidence. It will continue tomorrow.

2008-05-22

THE HAGUE

WERE CRIMES INVESTIGATED?

Jan Elleby, former chief of the UN civilian police, claims that he regularly reported the crimes in the Knin area to the Croatian authorities but neither the army nor the police did anything to investigate them. Ivan Cermak's defense counsel noted that crimes were investigated, but the witness 'was not informed' about the efforts.



◀ Jan Elleby, witness at the Gotovina, Cermak and Markac trial

In the statements he gave to the OTP investigators Jan Elleby, chief inspector in the Danish police, stated that the UN civilian police told the Croatian authorities about the crimes committed in Knin after Operation Storm, but neither the army nor the police did anything to investigate them. During Operation Storm, Elleby was stationed in Knin working first as the deputy chief and then as the chief of the UN civilian police.

Dozens of reports drafted by the UN civilian police about what they had seen in the field were tendered into evidence at the trial of Ante Gotovina, Ivan Cermak and Mladen Markac. Elleby confirmed the authenticity of the documents that speak of the burning of houses and

killings in Knin and its surroundings. In his statement to the OTP investigators Elleby described the shelling of Knin, his meetings with the Croatian police, the restriction of movement for the UN staff and sealing off of the territory during clean-up operations.

In his cross-examination, the defense counsel of Ivan Cermak, former commander of the Knin Garrison, noted that Elleby was not familiar with the way the Croatian police worked and didn't know the jurisdiction of the Knin police. Defense counsel Kay contends that the Knin police administration did not have a criminal investigation department at all; it had a 'general' jurisdiction. According to Kay, the police dealt with traffic violations and breaches of law and order.

Elleby confirmed that after some time it 'became clear' that the Knin police administration was subordinate to the Zadar police administration, which had more resources and greater jurisdiction. The witness also confirmed that the investigation into the murder of Sava Babic was handed over to the Zadar police administration. According to the defense counsel, this is where all the information about the course of investigation can be found. Elleby was not informed about the investigation at all, he said.

The defense counsel showed the witness a series of documents from the Croatian Ministry of the Interior that explain in detail how the clean-up operations were conducted. He also showed the witness the minutes from the meetings where the police administrations were told about the tasks related to the disposal of dead bodies. According to the instructions distributed to all police administrations, the police and the army were involved in the effort to 'remove the bodies'. The bodies had to be located, identified and then buried. Elleby replied that he had never seen these documents before.

The Danish police officer will continue his evidence tomorrow; he will be cross-examined by General Gotovina's defense counsel.

2008-05-23

THE HAGUE

DEFENSE: CIVILIANS RESPONSIBLE FOR CRIMES

Based on a UN report from September 1995, Ante Gotovina's defense counsel implies that 'Croats returning back to Knin after Operation Storm' might be responsible for the burning down of houses and looting of property. Jan Elleby, former chief of the UN civilian police, replies that 'the military observers might have gotten this impression, but not the civilian police'.



◀ Jan Elleby, witness at the Gotovina, Cermak and Markac trial

In the cross-examination of the Danish police officer Jan Elleby, the defense counsel of Ante Gotovina noted the cases where the Croatian authorities tried to establish order in Knin and where Croatian soldiers helped the civilian population 'despite the chaos'. These cases are mentioned in the reports of the UN civilian police headed by Jan Elleby.

Since the witness described the looting of Knin, burning down of houses and killings in the statements he gave the OTP investigators, the defense counsel put it to him that civilians could have been responsible for those crimes, not members of the Croatian Army. For example, a report drafted on 19 September 1995 says that 'the

general impression is that the Croatian neighbors set fires in Knin'. The witness replied that this was 'the impression the military observers got'. As far as he could remember, none of the UN civilian police officers ever told him that the crimes were perpetrated by Croats returning to Knin.

The report goes on to say that villages were looted by people in civilian clothes and military uniforms. According to the defense counsel, the people in uniform 'didn't necessarily have to be real soldiers'. 'The fact that somebody looks like a soldier isn't enough to conclude that this person actually is a soldier', Elleby confirmed. The defense counsel quoted a part of the statement given by Kari Anttila, a UN military observer, who concluded that 'looting and arson went on independently from military activities'. 'I couldn't reach this conclusion,' Elleby replied.

The civilian police report notes that villagers from the hamlet of Grubori in Plavno valley were killed by the members of the special units; Mladen Markac's defense counsel asked the witness what this conclusion was based on. It is possible that the person who drafted this report might have been 'too hasty in drawing conclusions', Elleby replied. In the re-examination, the witness told the prosecution that 'the conclusion of the civilian police officer might have been too hasty, but surely there was reason for it'.

The trial of generals Ante Gotovina, Ivan Cermak and Mladen Markac continued with the evidence of the witness testifying under the pseudonym 56.

2008-05-28

THE HAGUE

CROATIAN SOLDIERS WERE ONLY INHABITANTS IN KISTANJE

In his description of the situation in Krajina in the aftermath of Operation Storm, Canadian officer Jeffrey Hill said that Serbian houses were looted by soldiers, police and civilians. The worst situation, he said, was in the village of Kistanje near Benkovac on 8 August 1995 where Croatian soldiers 'moved in'.



◀ Jeffrey Hill, witness at the Gotovina, Cermak and Markac trial

Jeffrey Hill, former commander of the UN military police in the Sector South, visited Krajina after Operation Storm, after the Croatian Army and police had already moved into the area. He wrote down his observations in a diary that was today tendered into evidence at the trial of Ante Gotovina, Ivan Cermak and Mladen Markac. As his examination-in chief continued, the Canadian officer confirmed that what he wrote in there was true. In addition to this, he recounted what he saw when he visited the villages and towns in Krajina from 6 to 12 August 1995.

Before going to visit Sector South – Krajina – he drove through Knin with a member of the Security and Information Service. The town was full of armed Croatian soldiers drinking and celebrating, Hill recounted. They were also taking electronic devices and other valuables from Serbian houses. His escort talked to a Croatian woman, Hill said, and then wrote down something on a piece of paper and stuck it to the doors of her house. The property was thus certified as Croatian and the soldiers would not touch it. According to Hill, he saw identical papers on other houses that were indeed left untouched. Apart from the looting, the witness recounted, he saw a lot of houses that had been burned down in Knin, but the damage caused by shells was not as extensive as he had expected.

On his way to Drnis on 8 August 1995 he saw civilians looting Serbian houses, loading the loot on to their cars; the license plates indicated they were from towns in Southern Dalmatia. Apart from them, he noted a strong Croatian civilian police presence in the area. They controlled traffic and also took part in the looting. The worst situation was in the village of Kistanje in Benkovac municipality. As he put it, the Croatian soldiers were the only ‘inhabitants’ there. Serbs had fled and their houses were looted and burned down. The monument to the victims of fascism erected after World War II in the village center was smashed by hammers. In Canada, the witness added, this is called ‘vandalism’.

Despite the ‘strong stench of dead bodies’ in Kistanje, Gracac and other villages he visited, Hill admitted that he did not see any dead civilians there. However, on a hill near Knin he saw two bodies in civilian clothes with gunshot wounds to their heads. The photos he took on that occasion were tendered into evidence today. Along the route Serbian civilians and soldiers took as they retreated towards BH he saw broken down cars with personal possession scattered all over. He also saw six bodies, four in uniform and two in civilian clothes. Next to the road he noticed several broken down SRK tanks.

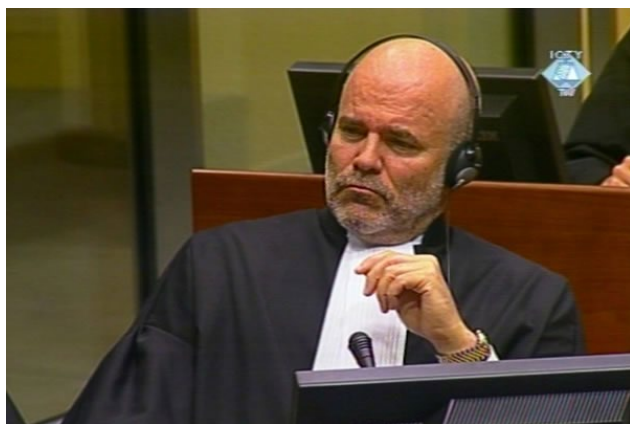
The cross-examination of the Canadian officer that began today was completed this afternoon in the additional hearing scheduled so that the witness could leave for home in the evening.

2008-05-28

THE HAGUE

HOW MUCH IS ‘HUNDREDS AND HUNDREDS’?

Prosecution witness Hill estimated in his examination-in-chief that ‘hundreds and hundreds of shells’ landed on Knin on 4 August 1995. General Ante Gotovina’s defense challenges this estimate, showing him a report by the UN military observers estimating that 350 to 450 shells were fired that day from 5am to 10:40am. The witness thinks this estimate is ‘too low’.



◀ Gregory Kehoe, defence attorney of Ante Gotovina

At the beginning of the cross-examination of Jeffrey Hill, former commander of the UN military police in Sector South in Krajina, the defense counsel of General Gotovina contested the witness’s allegation about ‘hundreds and hundreds’ of shells fired on Knin on 4 August 1995 when Operation Storm was launched. He confronted the witness with a report drafted by the UN military observers. According to the report, about 350 to 450 shells hit Knin that day until 10:40 am. Although this could be interpreted as ‘hundreds and hundreds’, the witness noted that this estimate was ‘too low’.

Hill repeated that he was surprised to see there was less damage than he expected when he visited Knin on 6 August 1995, in light of the ferocity of the shelling on 4

and 5 August. However, he saw some houses that were still on fire. Gotovina’s defense counsel then went on to show a video recording of Knin taken by Croatian Television on 5 August 1995 from the Knin fortress. Neither smoke nor fire can be seen on the footage. The witness agreed that there was no smoke on the recording, but was adamant that a day later he saw houses that were still on fire.

Hill claimed that the bags containing the bodies of Serb civilians killed by shells landing near the UN base in Knin were torn when the Croatian soldiers passed by, that shots were fired on the bodies, which were also urinated on. The defense counsel challenged that claim, showing the witness’s war diary in court. None of the things he had spoken of were mentioned in the diary. On the contrary, in his diary Hill wrote that by 6 August 1995 the bodies were removed from the scenes. In his evidence yesterday, Hill contended that on 8 August 1995 he had seen defiled bodies. Hill also stated that he had no knowledge of an incident in which those bodies were run over by Croatian tanks, as alleged by Andries Dreyer, former security coordinator in the UN base in Knin.

General Cermak’s defense was particularly interested in Hill’s statement to the OTP investigators where he says that ‘Cermak’s orders were not implemented in the field’. While the witness confirmed this, the prosecutor noted that this conclusion from the witness statement might be ambiguous – one interpretation is that Cermak was not respected, and the other is that he himself didn’t implement in the field what he promised the UN officials he would do.

The trial of three Croatian generals charged with crimes committed during Operation Storm and in its aftermath will continue tomorrow with the evidence of another prosecution witness.

2008-05-29

THE HAGUE

ARMY AND POLICE DIDN'T WANT WITNESSES

Describing the situation in Krajina during Operation Storm, former commander of the UN Canadian Battalion says the Serbian houses were systemically looted and burned down 'day by day, four weeks in a row, non-stop'. During that time, both the Croatian army and the police did nothing except to restrict the movement of UN personnel since they didn't want to 'have them as witnesses'.



◀ Jacques Morneau, witness at the Gotovina, Cermak and Markac trial

Colonel Jacques Morneau, former commander of the UN Canadian Battalion deployed in Sector South, in Krajina, was on vacation in Greece when Operation Storm was launched on 4 August 1995. The Canadian colonel cut his vacation short and boarded the first flight back to Zadar. There he found a group of his soldiers who had been captured by the Croatian Army. In his evidence as a prosecution witness at the trial of generals Gotovina, Cermak and Markac, Morneau said that forty-three Canadian soldiers were captured at the eight of a total of sixteen observation posts in his battalion's area of responsibility. According to him, that was the indication that Croatian forces wanted to avoid any kind of international monitoring of the situation.

When he returned to his base in Rastavic near Benkovac he learned that there was a strict restriction of movement for Canadian soldiers at the remaining eight observation posts. He had seen Serbian houses being looted all over the area, by soldiers and civilians alike. Nobody did anything to prevent them from doing this. Describing the situation in August 1995, Morneau recounted that 'looting went on day by day, four weeks in a row non-stop'. He believed that houses were systematically burned down; some were set on fire several times.

In the statement he gave to the OTP investigators the witness said he believed that the Croatian authorities 'turned a blind eye, ignoring the systematic looting and destruction'. As he said, the movement was restricted only to UN personnel because neither the army nor the police 'wanted them as witnesses'. Contrary to that, the movement of persons who took away the looted property of Krajina Serbs was not restricted. At the end of the examination-in-chief, the witness said that he was sure that there would have been no looting and burning had there been clear orders to prevent such behavior.

Three statements the witness had given to the OTP investigators were tendered into evidence together with a photo of a body of an elderly Serb civilian found by Morneau and his soldiers on 10 August 1995 inside their area of responsibility. Before they discovered the body, they saw the old man at a Croatian civilian police check point; he had been detained there. A video recording taken by a Canadian Battalion liaison officer was also tendered into evidence. The footage shows a village almost completely burned down. Colonel Morneau, however, was not able to tell which village it was.

Ante Gotovina's defense counsel focused for the most part of his cross-examination on proving that it was not possible to prevent looting in such a vast area with a limited number of soldiers. Serb properties were looted mostly by Croatian returnees, he notes. They had been expelled from that territory a few years before and their property had been also looted. The witness didn't comment on the claim that it was in fact the 'return of the property', rather than looting. He did say that the Croatian armed forces had enough check points to prevent this.

2008-06-02

THE HAGUE

CROATS WERE THE SAME AS SERBS

Edmond Vanderostyne, reporter for Belgian daily *Standard*, recounted that he saw members of the Croatian armed forces looting and setting on fire houses in Krajina a few days after Operation Storm. In his words, he saw Croatian soldiers behave as Serbian soldiers did in other parts of the former Yugoslavia he visited as a reporter.

On 8 August 1995, several days after the Operation Storm was launched, Edmond Vanderostyne, a journalist for the Belgium daily *Standard*, took off with his colleague, a photographer, on a tour of Krajina. In his today's evidence at the trial of generals Ante Gotovina, Ivan Cermak and Mladen Markac he repeated what he said in a statement given to the OTP investigators in 2005 describing his observations from that period. The prosecutor presented several photographs taken by Vanderostyne's colleague who traveled with him.



◀ Edmond Vanderostyne, witness at the Gotovina, Cermak and Markac trial

According to Vanderostyne, in a 50 km stretch from Gospic to Gracac, all the houses were burned down and destroyed. Smoke from fires was rising high above the whole area, he added. In Gracac he met a group of fifty to a hundred members of the Vinkovci MUP special units, called 'Delta'. While he talked to their commander he saw some special unit members looting houses in the center of Gracac. Others were celebrating the victory, drinking and listening to music. Concluding his examination-in-chief, the witness said that he had seen 'large-scale looting and destruction of houses' in Krajina on 8 August 1995. He had seen that before, when he was reporting from Sarajevo and Vukovar, only then it was done by Serb soldiers.

[IMAGE]3456[/IMAGE]Only the defense counsel of General Markac, former commander of the Croatian MUP special police cross-examined the witness. He argued that the witness had actually encountered members of the Delta unit in Gracac as they were getting ready to go home and were just packing their stuff, TV sets, computers and boxes with documents. According to the defense counsel, the witness misinterpreted this as looting. In that case, the Croatian special troops wouldn't have been so 'hostile' towards his colleague who was taking photos of the 'packing', Vanderostyne added. A photo showing a Croatian special unit member loading onto a truck a 'box with Croatian MUP documents', as the defense described it, or 'war booty', as the witness said, was tendered into evidence. The prosecutor showed several photos depicting a special unit member hot-wiring a civilian car. Delta, the name of the unit, was written over it. Markac's defense counsel didn't have questions about those photographs.

The trial of Gotovina, Cermak and Markac continues tomorrow with the evidence of Canadian general Alain Forand, UN commander in the Sector South.

2008-06-03

THE HAGUE

GENERAL FORAND'S PROTESTS WERE IN VAIN

Canadian general Alain Forand, former commander of UN forces in Sector South in Krajina, testifies about protest letters he sent to the two of the three Croatian generals in the dock. He protested against the arson, looting, murders and theft of UN equipment in the wake of Operation Storm.



◀ Alain Forand, witness at the Gotovina, Cermak and Markac trial

'If you don't like their reports, take steps to prevent this,' said Canadian general Alain Forand in response to General Ivan Cermak who accused the UN of drafting reports that contain 'unsubstantiated allegations and insinuations' about the crimes committed by Croatian forces after Operation Storm in the summer of 1995. UN human rights teams 'report on what they see... and what they see is crimes', Forand said in a letter to Cermak on 7 September 1995.

From 8 July to 10 October 1995, General Forand was the commander of all the UN forces in Sector South in Krajina. He gave four statements to the OTP investigators

about the events he witnessed in that period. The statements were admitted into evidence today at the trial of Ante Gotovina, Ivan Cermak and Mladan Markac, charged with crimes in the course of Operation Storm and in its aftermath.

A large number of situation reports for Sector South were also admitted into evidence. Forand's staff in Knin sent them daily to their superiors in the UN HQ in Zagreb, as was the correspondence, dating from August and September 1995, between Forand and two of the accused, Ante Gotovina, Croatian Army commander in the Split Military District, and Ivan Cermak, 'military governor of Knin'. Cermak's official title was 'garrison commander', but Forand claims neither Cermak nor anybody else ever corrected him when he addressed Cermak as 'military governor'.

Operation Storm started with a barrage of artillery fire targeting Knin and other towns; Forand contends the fire was indiscriminate, aimed at causing panic among the population. On the very first day, Forand sent a letter to Gotovina, protesting against 'the attacks on innocent civilians and UN facilities'. Two days later Forand met with Gotovina, who told him he should contact Cermak in the future, as he was 'responsible for the Knin area'.

Over the next weeks, Forand testified today, he sent to Cermak a number of letters protesting against the restrictions of freedom of movement of the UN personnel, looting and burning of Serb houses, murder and abuse of civilians, and the theft of vehicles, construction machinery, residential containers and other UN equipment by Croatian Army troops. On some occasions, Forand said today, Cermak would deny the incidents, or blamed them on 'outlaws'; other times, he would say this was 'a large area difficult to control. What he never said, Forand claims, was that he was not responsible for the area. Quite the contrary: he promised he would issue orders to put a stop to that.

When the presiding judge asked him 'who is supposed to stop' looting, burning and killing, Forand said, 'I understood this to mean that they, Cermak's own men, should stop doing that'.

Forand complained about the lawlessness in Sector South to General Gotovina too, at their last meeting on 5 September 1995. Gotovina responded by accusing the UN of 'harboring war criminals' in its base in Knin and threatening to kill 'the spy and agent provocateur' Alun Roberts, UN public relations officer. General Janvier, UNPROFOR force commander, protested against such threats to General Cervenko, Chief of HV General Staff.

Cermak's defense counsel started the cross-examination of General Forand on Monday as the hearing drew to a close. It is expected to take until the end of the week.

2008-06-04

THE HAGUE

'CORDIALITY AND CIVILIZED BEHAVIOR' YIELDED NO RESULTS

In his reply to the defense claim that he cooperated well with Ivan Cermak, Alain Forand, former commander of the UN forces in Krajina, confirmed that the Croatian general was 'cordial and civilized' but nevertheless didn't do anything to prevent the arson and looting of the houses belonging to Serbs who fled, in spite of numerous warnings by UN representatives.



◀ Alain Forand, witness at the Gotovina, Cermak and Markac trial

General Ivan Cermak's defense claims that the accused didn't contest the claim that Serb houses in Krajina were burned down and looted during Operation Storm and in its aftermath. He failed to prevent this crime not because he did not want to but because he didn't have the authority to do it. In his cross-examination of Alain Forand, former UN Sector South commander, the defense counsel Steven Kay today noted that Cermak was eager to meet the demands of international representatives and did everything to ensure the safe return home to all the refugees who took shelter in the UN base in Knin during Operation Storm. The refugees could leave for Serbia, if they wanted to.

In his examination-in chief, General Forand claimed that Cermak denied looting and burning down of Serb houses the UN command in Sector South repeatedly warned him of. Cermak's reply was, 'it's all a Chetnik set up to blame the Croats', the witness alleged. Defense counsel Kay then showed him the minutes from a meeting held on 18 August 1995. On that meeting, Cermak 'expresses his concern' with the crimes in Krajina, assuring the UN representatives that he would do everything to constrain 'bandits in military uniforms' and 'civilians who burn and loot in revenge'. Forand replied that perhaps he should not have said that Cermak denied crimes, but he was adamant that the Croatian general failed to do anything although he promised he would.

Pointing that Cermak's authority to deal with the perpetrators was limited despite his best efforts, the defense counsel showed Forand an order issued on 5 August 1992 in which Croatian president Franjo Tudjman appointed Cermak 'commander of the Knin garrison'. Cermak was not appointed 'military governor', which was the title Forand used. The witness agreed that Cermak signed letters he sent to the UN Sector South command as 'garrison commander'. However, when Forand wrote back to Cermak, he addressed him as 'military governor' and Cermak never corrected it.

Among dozens of documents, the defense showed several reports in which Forand says how pleased he was with the cooperation with Cermak. 'Yes, he was very cordial and civilized, yet he failed to do anything to solve the problems we noted', Canadian general clarified.

As today's hearing drew to a close, the defense counsel showed Cermak's order that all displaced persons from the UN Knin base who wanted to leave for Serbia should be given clothes, food and drink and be allowed to move through Croatian territory unimpeded. As this was in the second half of September 1995, Forand said, a few days before his return to Canada he could only say what he heard later, that everything was all right while the refugees were in Knin, but when they left town they 'had problems'.

The cross-examination of General Forand will continue tomorrow.

2008-06-05

THE HAGUE

PREVENTION OF CRIMES 'ON PAPER'

Refuting the claims of Alain Forand, former commander of the UN Sector South, that the Croatian military and civilian authorities failed to do anything to prevent the looting and arson of Serb houses during Operation Storm and in its aftermath, General Ivan Cermak's defense counsel showed a series of police and military documents where demands are made to put a stop to the crimes and punish the perpetrators.



◀ Alain Forand, witness at the Gotovina, Cermak and Markac trial

As the cross-examination of Canadian general Alain Forand continued, General Ivan Cermak's defense counsel contested Forand's claim that the Croatian authorities did nothing to prevent and stop the looting and arson of Serb houses in Krajina during Operation Storm and its aftermath in August 1995. Showing a number of documents issued by the Croatian civilian and military authorities, defense counsel Kay tried to prove that the authorities 'were concerned' about the crimes and 'undisciplined' behavior in the field. They issued orders to put a stop to it, at least on paper.

Several MUP orders issued from 10 August to 18 August 1995 are among the documents that were tendered into evidence. These orders identify Croatian soldiers as perpetrators of various crimes, primarily looting, arson and slaughtering of livestock. The military police is requested to prevent this from happening in the future. The documents showed today indicate that similar orders were also issued by General Cervenko, chief of the Croatian Army Main Staff. General Cervenko wanted to prevent the crimes and put a stop to the crimes, but he also called for the perpetrators to be punished. General Forand said he had been unaware of the internal correspondence of the Croatian military and civilian authorities. As he said in his examination-in chief, those orders were not implemented.

As the cross-examination of General Forand continued, Ante Gotovina's defense counsel took his turn to question him. He mainly focused on refuting Forand's claim that civilians left Krajina spontaneously, without an evacuation plan. He showed a document dated 4 August 1995, the day when Operation Storm was launched. In it, the RSK authorities ask the Sector South command to provide 450 trucks for the transportation of 32,000 refugees along the precisely designated route from Knin via Padjani and Srb to Bosanski Petrovac and finally to Banja Luka. The witness replied that on 4 August 1995 around 6pm he was in a meeting with the RSK representatives. He got the impression then that there was no plan and no designated route.

Noting the purported partiality of the UN forces in Sector South, defense counsel Kehoe confronted the witness with a statement given by Colonel Kosta Novakovic and quotes from a book written by another RSK army serviceman; they say that they received information from the UN personnel that the Croatian forces had launched an attack. Forand replied that he would have prevented those leaks had he known of them, adding that there was not much of a friendship between the UN forces and the RSK troops. He himself, the witness noted, in his contacts with the representatives of the SVK asked them to stop shooting at the UN soldiers if they wanted to get medical and other humanitarian help from the UN.

The cross-examination of General Forand will continue tomorrow. It was indicated at the end of the hearing today that it might stretch into Monday.

2008-06-06

THE HAGUE

DEFENSE: CANADIANS FAVOURED KRAJINA SERBS

Ante Gotovina's defense counsel claims that the reports drafted by the UN observers and soldiers about crimes against Serb civilians in August 1995 were exaggerated. Former commander of the UN troops in Krajina Alain Forand denies this claim three times.

On the last day of the cross-examination of Alain Forand, former commander of the UN Sector South in Krajina, General Ante Gotovina's defense tried to prove that the reports on the killing, shelling of civilian targets, looting and burning down of Serb houses during Operation Storm and in its aftermath were 'exaggerated'. As the defense put it, they exaggerated because they wanted to cause a diplomatic reaction by the international community and 'buy time' for the RSK army to consolidate.

Forand denied this allegation, but Gotovina's defense counsel nevertheless asked the same questions two more times before the end of the hearing today. 'For the third time, I tell you that we didn't exaggerate', the witness replied. The presiding judge then warned the defense counsel not to repeat the same question.

In an effort to prove that the UN troops favoured the RSK army, the defense counsel put it to the witness that there were dozens of wounded Serb soldiers among the patients transferred from the city hospital to the UN Knin base by UNCRO personnel at the beginning of Operation Storm. When asked if the UN had the mandate to care for the soldiers, Forand answered that he couldn't remember any more if this had been their mandate. He does consider aiding ill and wounded soldiers in the given circumstances as a legitimate humanitarian activity.

In his cross-examination, Mladen Markac's defense counsel also addressed the topic of purported exaggerations in the reports filed by the UN personnel in the field. He played an audio recording of a broadcast by the Canadian national radio from 2003, where a previous prosecution witnesses and former chief of staff in the UN Sector South Andrew Leslie says that about 10,000 to 25,000 civilians were victims of the shelling of Knin on 4 and 5 August 1995. Forand didn't want to comment on Leslie's claim, saying only that something like that was never registered in the situation reports drafted by the Sector South command. When the presiding judge asked him why he didn't play the audio recording when General Leslie was in the court, defense counsel Kuzmanovic tersely replied 'I wish I had it in my possession then'.

In his re-examination the prosecutor revisited the argument put forward by General Ivan Cermak's defense the day before yesterday in the cross-examination of the witness. The defense counsel put it to the witness that Croatian officials, together with the accused, diligently issued orders to stop and prevent the looting and burning down of Serb houses. When asked what he would have done in the Croatian generals' shoes, the witness replied that he would immediately have identified persons responsible for not obeying the orders, removed those officers and replaced them with new ones, capable of implementing the orders. Alain Forand thus completed his evidence after four working days. The trial of Croatian generals charged with crimes against Serbs during Operation Storm and in its aftermath will continue on Monday.

2008-06-09

THE HAGUE

WITNESS: 'BIG FOOLS' WERE KILLING, NOT SOLDIERS

Testifying for the prosecution, Krajina Serb Jovan Vujinovic recounted why he refused to leave his village two times despite the fact that his house was burned down, his mother killed and all other villagers decided to leave for Serbia.



◀ Jovan Vujinovic, witness at the Gotovina, Cermak and Markac trial

Jovan Vujinovic, railway worker from the village of Oton Polje in the Krajina Ervenik municipality, decided to remain in his home when Operation Storm was launched on 4 and 5 August 1995. Most of some 200 villagers decided to leave for Serbia, because they were afraid of the shelling and because they were advised to do so by local RSK officials. Sixteen villagers of Oton Polje, mostly elderly men and women, decided to stay together with Vujinovic.

In his evidence at the trial of generals Ante Gotovina, Ivan Cermak and Mladen Markac, charged with crimes committed in the course of Operation Storm and in

its aftermath, Vujinovic stated that on 5 August, Croatian soldiers had already entered village. The looting started immediately and lasted several weeks. During that time, several people were killed in the village but, as the witness put it, 'idiots' were to blame for them, not the Croatian Army, and there were idiots on all sides.

On 18 August 1995, he left his house for a couple of hours. When he returned home to his family property, he found his old mother dead. She had been shot in the head three times. A few days later he found the body of his neighbor, Stevo Vujinovic. He heard that some other local Serbs were killed in the hamlets of Otric Polje but was not able to say when it happened and who did it as he was not an eye witness to the incidents that led to their deaths. His house and ten other houses in the village were burned down in this period. After all those events, most of the villagers of Otric Polje and neighboring villages left the area under the escort of the UN troops from the Ukraine. They went to Serbia.

In his cross-examination the witness repeated that he didn't believe that Croatian soldiers killed his mother. No soldier or police officer, he added, ever pressured him into leaving the village so when the second group of villagers was leaving on 21 August, he decided to stay. Moreover, soldiers and police officers, he contended, would come to his house for a 'drink and chit-chat'. He was not afraid because he knew many of them from before. They all knew that his mother had been killed and he felt there was no need to officially report her death, he noted. Several years after Operation Storm, he heard that he could get compensation for her death. The investigation was not conducted

until April 2007 when some Croatian police officers arrived at the Vujinovic property. In a brief conversation, he was told not to move her body from the place where she was buried. The defense counsel didn't say today whether the investigation had been concluded and if yes, what the results were.

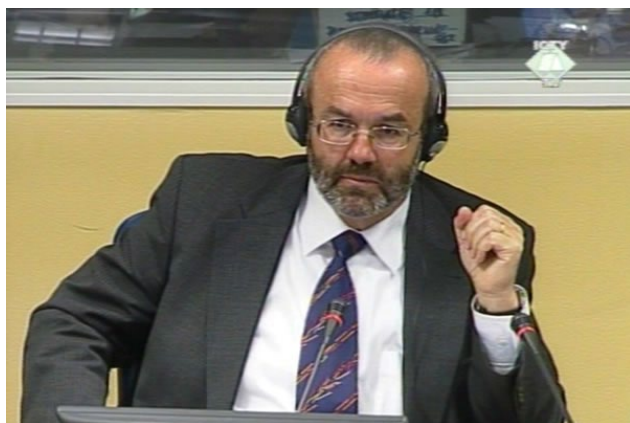
After Vujinovic completed his evidence, Peter Marti, former UN observer in Sector South, took the stand. He is expected to complete his evidence tomorrow.

2008-06-10

THE HAGUE

'BRIGANDS' LOOTED KRAJINA UNHINDERED

Peter Marti, former UN observer in Sector South in Krajina, says he and his colleagues had problems identifying the persons who looted Serb houses after Operation Storm since 'soldiers looked like brigands'. In his opinion, the looting could easily have been stopped regardless of who the perpetrators were.



◀ Peter Marti, witness at the Gotovina, Cermak and Markac trial

Peter Marti from Switzerland gave evidence today at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac. He was a member of the UN observer mission in Sector South in Krajina. His evidence followed a string of Canadian observers and officers who commanded the UN troops. Visiting Krajina villages in August and October 1995 after Operation Storm, Marti got the impression that about 60 percent of the houses were partially or completely destroyed. He did put in a caveat: a number of houses had been destroyed in the period between the summer of 1991 and the summer of 1995, while the Serbs controlled the area.

The looting in Krajina after Operation Storm became a part of everyday life, Marti contends. It looked like some routine 'unpaid job', he said. He saw civilians among the looters and people in military uniforms wearing bandanas; they 'looked more like brigands than regular troops'. Regardless of who the perpetrators were, Marti is sure that the Croatian authorities could have prevented the looting by setting up check points, arresting the perpetrators and punishing them. According to the witness, the fact that the looting went on unhindered for a long period of time shows the Croatian authorities didn't want to do anything. The looting went on in three stages, the witness explained: first cars and household appliances were taken, then furniture and finally door and window frames. During the 'waves of looting', as Marti described it, the communication between the UN representatives and the Croatian authorities was unilateral. 'We kept them informed about the situation in the field on our own initiative, but they never addressed us on this issue', the Swiss observer explained.

In the course of Marti's evidence the prosecutor showed a list of 184 Serb civilians killed in Krajina from the beginning of Operation Storm to 29 November 1995. The list was compiled on the basis of a report drafted by the UN political affairs department. Dusan Suica and Milan Marcetic, two Serbs from the village of Gudura in the Gracac municipality are among those listed there. They were killed on 29 September 1995, two days after they met the witness when he visited that part of Krajina.

In the cross-examination, Gotovina's defense counsel showed the witness a criminal report filed on 5 October 1995 by the Zadar police against unidentified persons who killed Suica and Marcetic. Marti was not aware of that, but he assumed that at least 184 criminal reports should have been filed, based on the UN reports. The defense counsel didn't say if this was the case and if any unidentified perpetrators have been identified and brought to justice. The witness agreed with the defense counsel that he and his colleagues had problems identifying the looters. Nobody from the Croatian military or civilian authorities even tried to 'bring at least some order' and prevent the looting, he repeated, agreeing that some UN observer teams didn't keep detailed track of the number of damaged objects, making their assessments without leaving their cars.

2008-06-12

THE HAGUE

LIVING PYRE IN THE VILLAGE OF DJURICI

Mile Djuric, prosecution witness testifying at the trial of generals Gotovina, Cermak and Markac, says he saw his father burned to death when he was thrown into a burning family workshop on 6 August 1995. The defense claimed that on that day the witness was not in his village.



◀ Mile Djuric, witness at the Gotovina, Cermak and Markac trial

When Operation Storm was launched on 4 August 1995, Mile Djuric was in his vacation house on a hill near his birthplace, the village of Djurici, close to Plavno. In the two statements he gave to the OTP in 2004 and 2007 and in his evidence today at the trial of generals Ante Gotovina, Ivan Cermak and Mladen Markac, Djuric described his visit to the village of Djurici on 6 August 1995 when he saw his father burned alive on their family estate.

On that day, the witness recounted, he arrived in the village amidst the shelling. Around 4 p.m. he had lunch with his parents, sister and grandmother. After that, he went to a local store. On his way back he saw his house

on fire so he hurried home, concerned about his family. When he saw Croatian soldiers in his yard, he hid in a place from which he could see his house and workshop in flames. His father Savo Djuric and his grandmother were held by three soldiers. One of them, the witness contends, ordered the others to throw his father – who had been disabled from childhood and could not walk too well – alive into the burning workshop. His grandmother was crying and begging them not to do it, but they complied with the order. The workshop was shut after the father was thrown into the fire. The witness then fled to the hills and left for Serbia the next day, although he had refused to leave when his mother begged him to on 5 August. Most of the inhabitants left Plavno that day.

The prosecutor tendered the two statements the witness gave and a number of photos showing his burned-down family house and the workshop where the incident took place and the reports on the exhumation and postmortem of the body of Savo Djuric. According to the prosecutor, the two last documents show that a human body was found in the workshop. The body was so badly charred it was impossible to identify it by DNA analysis.

In his cross-examination, Ante Gotovina's defense counsel tried to prove that Mile Djuric had actually not left his vacation house and had not come to his village on 6 August 1995. He showed the statement given by Milka Djuric, the witness's mother, to the OTP investigators in 1998. She never mentions the fact that the witness came to the village and that he saw his father being burned alive. Mile Djuric replied that his mother was an old, illiterate woman who may have mixed up some events and dates. She didn't know he was there, the witness added, since he didn't tell her that in 1998. When the defense counsel asked the witness how it is possible he and his mother had never discussed his father's death in the years following his death, the witness said it was too painful to talk about it so they chose to keep silent.

In the re-examination, the prosecutor showed the second statement Milka Djuric gave to the OTP from 2007, where she says she did see her son for lunch on 6 August 1995. Presiding judge Orić asked if the witness's mother had been told before the 2007 interview that her first statement didn't jibe with what her son had said to the investigators, but the prosecutor said she hadn't.

The trial of Croatian generals charged with crimes during Operation Storm and in its aftermath in August 1995 continues on 23 June 2008.

2008-06-17

THE HAGUE

PROSECUTOR: CROATIA HAS NOT DELIVERED OPERATION STORM DOCUMENTS

The OTP wants the judges to issue a subpoena to Croatia ordering it to deliver hundreds of military and police documents related to Operation Storm. The crimes generals Gotovina, Cermak and Markac are charged with were committed during that operation.



◀ Ante Gotovina, Ivan Cermak and Mladen Markac in the courtroom

The Office of the Prosecutor has asked the Trial Chamber hearing the case of generals Ante Gotovina, Ivan Cermak and Mladen Markac to issue a subpoena to the Croatian authorities, compelling them to deliver hundreds of military and police documents from 1995 pertaining to Operation Storm. Croatia has so far failed to deliver 370 military and about 200 police documents, although the prosecution has been requesting them since November 2006.

There is a number of Croatian Army orders, maps and reports issued from 2 to 6 August 1995 among the requested documents. They contain a detailed list of artillery targets during the attack against Knin and other towns in Krajina. Without these documents, the prosecution contends, the Trial Chamber is 'manifestly hindered' in its efforts to establish the truth regarding the first three counts in the indictment alleging persecution, deportation and forcible transfer. The prosecutor argues that the shelling of Krajina towns and villages was not motivated by military necessity; the only purpose was to scare the Serb population and compel it to flee. About 200 police documents sought are mostly orders issued by General Markac, who commanded the MUP special units during Operation Storm.

The motion signed by chief prosecutor Serge Brammertz notes that the conduct of the Croatian authorities so far leads to the conclusion that the documents in question have been 'removed or secreted somewhere'. The OTP reminds the court that in 1996, the Croatian intelligence services launched a series of activities and measures codenamed Operational Action The Hague, whose aim was to remove from the Tribunal's reach all documents 'incriminating the accused Croats or having a negative impact on national interests'.

The prosecution has now called on the Trial Chamber to order the Croatian authorities to deliver all the requested documents within fifteen days or to submit credible evidence of their inability to do so. It has also called for measures to be taken to determine if the requested documents have been secreted somewhere, and for regular reporting on the steps taken in the enquiry into the matter.

Generals Gotovina, Cermak and Markac are charged with participation in the joint criminal enterprise aimed, as the indictment alleges, at achieving forcible and permanent removal of the Serb population from the Krajina region in Croatia.

2008-06-23

THE HAGUE

GALBRAITH: AUTHORITIES ORDERED OR APPROVED CRIMES

In his evidence at the Gotovina, Cermak and Markac trial, the first US ambassador to Croatia says Tudjman believed that all countries including Croatia had to be ethnically homogenous, seeing Serbs as a 'threat' to this ideal. Galbraith then explained why he said there had been no ethnic cleansing in Operation Storm, although there had been crimes, committed 'either on the orders or with the tacit approval of the Croatian leadership', in the presence and with the participation of the military.



◀ Peter Galbraith, witness at the Gotovina, Cermak and Markac trial

Peter Galbraith served as the US ambassador to Croatia for four and a half years, from mid 1993 to early 1998. In his evidence today at the trial of generals Ante Gotovina, Ivan Cermak and Mladen Markac, indicted for crimes committed during Operation Storm and its aftermath in August 1995, Galbraith spoke of his contacts with Croatian officials at the time, primarily with president Tudjman. Tudjman is the first on the list of participants in the joint criminal enterprise aimed at permanent removal of Serb population from the Krajina territory; the three accused also feature on the list in the indictment.

He and other US officials had information months before Operation Storm that there would be a military attack on Krajina, Galbraith said. They showed understanding for operations the Croatian Army launched in the Cazin Krajina and Croatian Krajina, especially in light of the massacre in Srebrenica in July 1995 and the Bosnian Serb army attack on Bihac. The US never green-lit the operation, he contends, but because the US administration knew it might be launched, it expressly warned the Croatian authorities and president Tudjman of their obligation to protect the Serb civilians and prisoners of war. The atrocities like those committed in the Medak Pocket in 1993 were not to be repeated.

In the first days after the arrival of the Croatian Army in Knin, Galbraith recounted, the reports of the US embassy personnel indicated there were widespread killings of Serb civilians and destruction of their houses, thus confirming that the situation in the field was exactly what the US administration wanted to prevent. In Galbraith's opinion, this happened 'on the orders or with the tacit approval of the Croatian leadership', in the presence and with the participation of the military.

Regardless of the systematic crimes against Krajina Serbs, Galbraith does not see Operation Storm as ethnic cleansing, mainly because most of the population had already fled when the Croatian army and police arrived. 'You cannot ethnically cleanse somebody who is no longer there, although it doesn't mean that the Croatian forces would not have done it if the Serbs had remained there', he explained. In his view, the RSK authorities are responsible for the Serbs' departure because they had urged the population to leave. However, defense minister Susak admitted to Galbraith that the Croatian authorities engaged in 'psychological warfare' that partly contributed to the exodus, he noted.

When the Serbs left Krajina, the Croatian authorities did everything to prevent them from returning, issuing a decree to confiscate the property of all those who failed to return within thirty days. Furthermore, their houses were destroyed and their return obstructed in various ways. According to Galbraith, this fit Tudjman's idea of an ethnically homogenous Croatia. Whenever they met, the president would emphasize that every country should be ethnically homogenous, adding that local Serbs posed a 'threat' to the homogeneity of the Croatian state. 'He was not ashamed of his views and I wondered how he could imagine that an American would accept his reasoning', Galbraith stated, noting that the Croatian president spoke 'favorably' of the so-called humane transfer of population. Tudjman's attitude towards Muslims was racist and he advocated the division of BH which would lead to the creation of a Greater Croatia, Galbraith concluded.

Peter Galbraith has so far given evidence before the Tribunal about his ambassadorship in Croatia at the trial of Slobodan Milosevic, former Serbian president, that of Milan Martić, former president of the so-called Republika Srpska Krajina and of Jadranko Prlić and five other former Herceg Bosna officials.

2008-06-24

THE HAGUE

WHAT MADE TUDJMAN HAPPY

In his evidence at the trial of Gotovina, Cermak and Markac Ambassador Peter Galbraith says he thought the expulsion of Serbs from Krajina was not the objective of Operation Storm, but it was its consequence, one that Tudjman did want, one that made him 'happy'.



◀ Peter Galbraith, witness at the Gotovina, Cermak and Markac trial

In his replies to Ante Gotovina's defense counsel, former US ambassador to Croatia Peter Galbraith said he believed the expulsion of Serbs from Krajina was not the objective of Operation Storm, but it was its consequence. Croatian president Franjo Tudjman actually did want that to happen, Galbraith added, saying that the Serbs' exodus made him 'happy'.

Defense counsel Kehoe played an audio recording of a conversation Galbraith had with Tudjman on 1 August 1995. In it the US ambassador says his administration has not green-lit the attack on Krajina, but was aware it might be launched. That is why it saw the treatment of

civilians and prisoners of war as crucial for the future US-Croatian relations. If he had thought at that time that Serbs would be expelled from Krajina, he would have urged his country's government to 'red light' the operation.

The defense counsel went on to show several documents from August 1995. In them, the defense minister Susak, interior minister Jarnjak and the commander of the Split Military District Ante Gotovina demand that the looting and destruction of Serb houses be prevented, and order that the civilians and prisoners of war be treated in accordance with Geneva conventions. 'Yes, pity it was not implemented in practice', Galbraith said in his reply. When the defense counsel insisted that such orders implied the state tried to prevent crimes, the witness said he had 'enough experience' with both Serb and Croatian officials to know that they could issue orders and give promises...without fulfilling them.

The defense played an audio recording of a meeting on 19 October 1995 where Tudjman is trying to convince a US delegation that the police has solved the murder of 41 civilians and arrested 13 perpetrators. As Tudjman says, 'Serbs, criminals and drug addicts' were among those arrested. In his brief comment, Ambassador Galbraith said Tudjman's statement was 'absurd and incorrect'. The witness didn't challenge the defense counsel's argument that by 8 August 1995 civilian police was deployed throughout 'the liberated territory', adding it was obvious they didn't do anything to protect the Serbs that remained in the area and the property of those who had fled.

Defense counsel Kehoe will complete his examination tomorrow, and then the witness will be examined by the defense counsel for General Ivan Cermak and General Mladen Markac.

2008-06-25

THE HAGUE

GALBRAITH: 'WE TWISTED TUDJMAN'S ARM'

Not contesting the fact that by 2000 some 40,000 Serbs who had fled after Operation Storm returned to Croatia, former US ambassador notes that it didn't happen because Tudjman wanted the Serbs back, but because of the American and European pressure. 'We twisted Tudjman's arm...', says Peter Galbraith.



◀ Peter Galbraith, witness at the Gotovina, Cermak and Markac trial

The defense teams of generals Ante Gotovina and Mladen Markac challenged in their cross-examination the claims made by Peter Galbraith, former US ambassador to Croatia. President Tudjman and his associates did everything they could to prevent Serbs who had fled Krajina after Operation Storm in August 1995 from returning to their homes, Galbraith said. According to defense teams, the situation was the exact opposite. Tudjman made efforts to ensure everyone could return, whilst taking into account the national security concerns.

According to Gotovina's defense counsel Greg Kehoe, the agreement on the normalization of relations between Croatia and the FRY signed in 1996 contradicts the witness's claims; in the agreement, both parties undertook the obligation to create conditions for the return of refugees. Ambassador Galbraith replied that the agreement was not a concession on Croatia's part; it had to agree to it under US pressure.

The defense counsel went on to show a RSK document from January 1995, a list of 110,000 Serb conscripts, noting they too were among the refugees. That is why after Operation Storm Croatia had to run checks on those who had returned and not allow those who might pose a national security risk to return. The witness however pointed out that the list contained names of 41,000 men from Eastern Slavonia, adding he was sure the remaining 70,000 Krajina conscripts could not have been under arms. It is more likely, the witness said, that only 10 percent of that number was in the army ranks. In addition, the Croatian authorities prevented not only the men of military age from returning, but the women and the elderly too; one could not speak about any security checks.

Markac's defense counsel Tomislav Kuzmanovic in his cross-examination showed the witness a report drafted by the Croatian government indicating that some 40,000 refugees returned to Krajina by 2000. Galbraith didn't contest the number but said this didn't happen because Tudjman wanted Serbs to return but because America and Europe pressured Croatia to allow them to return. The US imposed sanctions on Croatia, the witness explained, cut down aid, threatened to put a stop to all military support and publicly called for the return of the Serbs. 'We twisted Tudjman's arm and he had to agree to the return of refugees', Galbraith said.

Markac's defense counsel finally put it to the witness that in the context of the crisis in the former Yugoslavia, Croatia was 'part of the solution and not part of the problem'. With a smile, Galbraith said that in 1991 Croatia was victim, then in 1993 it became part of the problem, then part of the solution, until August 1995 and Operation Storm when it again became a problem. When Tudjman died and new administration was inaugurated in 2000, Croatia once again became part of the solution, former US ambassador concluded.

Ivan Cermak's defense didn't have any questions for Galbraith. Tomorrow, he will be re-examined by the prosecution.

2008-06-26

THE HAGUE

SARINIC: 'REFUGEES MUST NOT RETURN'

In the re-examination of Ambassador Galbraith, prosecution shows transcripts from two meetings of the Croatian leadership in August 1995. Tudjman wants the Serb property to be confiscated, but his chief of staff Sarinic and the interior minister Jarnjak are trying to work out a mechanism to prevent the Serbs from returning. The defense challenges the authenticity of those documents.



◀ Peter Galbraith, witness at the Gotovina, Cermak and Markac trial

After four days, former US ambassador to Croatia Peter Galbraith completed his evidence at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac. Today he was re-examined by the prosecutor who once again addressed the issue of the efforts to prevent the return of Serb refugees after Operation Storm. The prosecutor showed two transcripts from the meetings of the Croatian leadership in August 1995; at the meetings, president Franjo Tudjman and his associates discussed the return of Serbs to Krajina.

At the first meeting, held a few days after Operation Storm, Tudjman advocated the confiscation of the property of all Serbs who failed to return to Krajina within 30 days; he also wanted Croats to move into Serb houses.

At the next meeting, Tudjman's chief of staff Hrvoje Sarinic said the refugees 'must not return'. Sarinic and the interior minister Ivan Jarnjak then tried to work out the mechanisms to prevent them from returning. Galbraith says that everything he heard today fit well with what he said in his examination-in chief: the Croatian authorities did everything to prevent Serbs from returning; what they were saying about the ostensible temporary confiscation of Serb property for the purpose of protecting was merely a cover.

The prosecutor didn't specify the dates when the meetings were held, and the defense contested the authenticity of the transcripts. The judges allowed these documents to be used but they will not be admitted into evidence until the Chamber's has ruled on the defense's objection.

In answer to the presiding judge, Galbraith said that in his opinion the shelling of Knin was not in violation of international humanitarian law, adding that it was definitely not comparable to the shelling of Vukovar, Sarajevo or Dubrovnik. A few days after the shelling, the witness noted, his embassy personnel entered Knin, but found no significant damage to civilian buildings.

After Galbraith completed his evidence, the prosecution called a new protected witness who will testify in closed session.

2008-07-07

THE HAGUE

'DELIBERATE HARASSING FIRE' ON KNIN

Joseph Bellerose, former UN soldier in Krajina, says there was no military justification for the 'random fire at random intervals' targeting Knin. He is giving evidence at the trial of three Croatian generals charged with crimes in Operation Storm. He concludes that the objective was to intimidate civilians and force them to leave, not solely to defeat the RSK forces.



◀ Joseph Bellerose, witness at the Gotovina, Cermak and Markac trial

In August 1995, during Operation Storm, Canadian lieutenant-colonel Joseph Bellerose was chief engineer in the UN Sector South in Krajina. In his evidence at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac, Bellerose explained why he believed there was no military justification for the shelling of Knin. In his view, the shelling was aimed at intimidating the Serb civilians and making them leave.

The few military targets in Knin, Bellerose contends, included the two army barracks and the SVK headquarters. However, he didn't notice the artillery targeting those buildings. In his view, the attack was all

about 'random shelling at random times'; this lead him to conclude that the objective was to make Serb civilians believe the next shell would fall near them; it would be better for them to leave. 'This was deliberate harassing fire', the witness concluded.

In his cross-examination, General Gotovina's defense counsel showed the witness a report of Yasushi Akashi, special representative of the UN Secretary-General, and excerpts from statements given by several prosecution witnesses who all agree that they saw no substantial damage to civilians object a few days after Operation Storm; they were all surprised it was so. Bellerose stuck to his claims admitting nevertheless that he didn't count the buildings that were destroyed in Knin. In the statements he gave to the OTP investigators, the Canadian officer stated that as early as on 6 August 1995 he saw Croatian forces clearing the rubble and fixing civilian buildings in the main street in Knin to present a better picture to the international community.

In his examination-in chief, the witness stated he had been prevented from entering the burned down Serb villages by the Croatian special police on several occasions after Operation Storm. The defense of Mladen Markac, who commanded the Croatian special police at the time, asked for additional information. Bellerose said that the villages were located near Gracac and that the policemen wore grey or black uniforms. Bellerose was unable to recall any other details.

2008-07-08

THE HAGUE

WAS KRAJINA EXODUS SPONTANEOUS OR ORGANIZED?

At the trial for crimes committed in Operation Storm, the prosecution is trying to prove that the Serb civilians fled Krajina spontaneously, on their own, while the defense of the three Croatian generals contends their exodus was organized, and proceeded according to a previously arranged evacuation plan.



◀ Jovan Dopudj, witness at the Gotovina, Cermak and Markac trial

Jovan Dopudj, former alderman in the Obrovac Municipal Assembly, testified for the prosecution at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac accused of crimes in the Operation Storm and its aftermath. Dopudj contended that the Serb population had left the town on the first day of the Croatian attack, 4 August 1995. Civilian buildings such as the health center, cafés, the bus station and cultural hall were targeted by the artillery, he said. This scared the inhabitants of Obrovac and made them flee.

Since the beginning of the trial of the three Croatian generals, the prosecution has attempted to prove that

Serb civilians had fled Krajina spontaneously, primarily in fear of random shelling of civilian buildings. Contrary to that, the defense claims that their exodus went according to the previously arranged evacuation plan. According to Dopudj's evidence, on 4 August 1995 when the shelling began, ninety percent of Serbs left Obrovac on their own. At first, early in the morning, they headed for the neighboring villages and then the same evening they continued on towards BH and Serbia.

Challenging the witness's allegations, Ante Gotovina's defense counsel put it to him the initial preparations for the evacuation were completed as early as in June 1995, corroborating this with the statement issued by Dragomir Vukcevic, the mayor of Obrovac. Vukcevic told the OTP investigators that the trial runs for the evacuation were done several times. Dopudj replied that this was not true, saying this was the mayor's wish to 'give himself some more credit'. The defense counsel then showed him a document from July 1995 where the chief of the Obrovac civil defense asks for the delivery of parts for a raft to be used in 'the evacuation if the Ustashas attack'. The witness rejected this allegation, saying that somebody in Krajina 'obviously played war' doing absurd things.

When the SVK was created, Dopudj was appointed the commander of the 4th Light Brigade, but then in 1993 he asked to be relieved of the duty. When Missetic asked what prompted him to do so, the witness replied that from the beginning of the war he couldn't see any reason for the war 'in which everybody was losing'. He then decided not to take part in something that 'was not his fight'.

As today's hearing drew to a close, Zdravko Janic was called to give evidence. At the time of Operation Storm, Janic – who is today the commander of the Croatian Special Police – was in command of a key axis of attack launched by the special police and was General Mladen Markac's immediate subordinate. He was subpoenaed by the Trial Chamber to come to The Hague and testify at the request of the prosecution.

2008-07-09

THE HAGUE

WITNESS DIDN'T KNOW, MARKAC DIDN'T ASK

Zdravko Janic, commander of the Croatian MUP special police, claims that he didn't know about the killing of Serb civilians in the village of Grubori in Krajina on 25 August 1995 despite the fact that he was the coordinator of the mop-up operations in that area. Mladen Markac, the commander of the special police, never asked Janic to report on the events in Grubori, Janic says.

In early August 1995 Zdravko Janic, a high-ranking officer in the Croatian MUP, was in command of a key axis of attack launched by the Croatian special police in Operation Storm. In the months that followed, Janic was coordinating the mop-up operations in the liberated territory in Krajina. As he contends, it was not ethnic cleansing but 'security terrain search operations'. The prosecution contends that a number of incidents happened during those 'search operations', when many villages were burned down and dozens of civilians killed. Janic's evidence today focused on the incident in the village of Grubori where, as alleged in the indictment against generals Ante Gotovina, Ivan Cermak and Mladen Markac, five Serb civilians – three men and two women – were killed on 25 August 1995.



◀ Zdravko Janic, witness at the Gotovina, Cermak and Markac trial

In the statement he gave the OTP investigators in January 2004 the witness said that six special police units participated in the mop-up operations in the Plavno Valley. The Lucko Anti-terrorist Unit was tasked with going to the village of Grubori. According to Janic, during the action and afterwards he didn't receive any reports on incidents. It was years later that he read in the Feral Tribune magazine about what had happened in Grubori.

In 2005 Janic was interviewed by the OTP investigators as a suspect. This prompted him to go through police archives where he found the report drafted by Josip Celic on 25 August 1995. In the report, Celic recounts how he

and his soldiers clashed with the remnants of the Serb forces. A few civilians were killed in the exchange of fire, including some elderly women. According to the witness, Celic gave him a completely different report after the action in Grubori: he didn't mention the exchange of fire and civilian casualties at that time. When the prosecutor asked him if he discussed with Celic this major discrepancy between the document in the archives and Celic's verbal report, Janic said he had no 'internal need to do so'. He was not asked by Markac or by any other person from the police to draft a special report on the events in the village of Grubori.

The prosecutor tendered into evidence several dozens of police reports on the incident in Grubori, but their contents were not made public. Janic was given an opportunity to read to himself long excerpts from those orders and reports, and then he briefly noted when, if at all, he had learned about them.

Janic's examination-in chief will be completed tomorrow and then he will be cross-examined by the defense teams of the three accused.

2008-07-10

THE HAGUE

HOUSES WERE BURNING BUT NOT SET ON FIRE

Zdravko Janic, former coordinator of the Croatian special police, now its commander, admits he saw houses in flames in August 1995 in the village of Ramljani in Krajina. He contends that they were set on fire when they were hit in the fighting with the remaining Serb forces some twenty days after Operation Storm ended.

As the examination-in chief of Zdravko Janic, one of the commanders of the Croatian Special Police, continued, the prosecutor dealt with the incident in the village of Ramljani near Otocac. In the statement he gave to the OTP investigators in 2004 the witness says he visited the village on 26 August 1995 after a 'mop-up operation'. He saw several farm buildings and a house on fire. Although he is testifying as a prosecution witness, Janic tried to protect his former commander in the special police, Mladen Markac. Markac is on trial together with generals Ante Gotovina and Ivan Cermak for the crimes against Serbs in the course of Operation Storm and in its aftermath. Janic came to testify in The Hague after he received a subpoena from the Trial Chamber.

As soon as he saw the fire in Ramljani, Janic contends, he called the special police commander Mladen Markac to come and see it for himself. When Markac arrived, Janic recounted what he had heard from the special police commanders engaged in the mop-up operations. In their version of events, the special units had clashed with some remaining SVK soldiers in the village and had to fire their mortars. The Serb soldiers fled, but as the witness claimed, some civilian buildings were hit in the exchange of fire and caught fire afterwards.

The witness claims Markac was not happy with the things that had transpired and ordered an additional investigation. Janic did as he was ordered and his investigation pointed to the same conclusion: that 'certainly there was fighting and the houses were set on fire, undoubtedly by mortar shells'. When he was asked if anyone from the special forces was prosecuted for that, the witness replied there was no need for that since the police 'didn't treat' what happened in the village of Ramljani as 'an incident'. According to Janic, Markac came to Ramljani from Knin where he was attending the celebration to mark the success of the operation in the presence of President Tudjman. This implies that while the highest officials celebrated the victory deep within the liberated territory, there was fighting going on along the former demarcation line.

Describing how the Croatian special police entered Donji Lapac in his 2004 statement to the OTP, the witness said the houses there had been damaged in an artillery attack. A year later, when he was interviewed by the prosecutors as a suspect, he claimed that the special troops strolled into Lapac not encountering any resistance; there was no need for any shelling. The indictment alleges that there was no military justification for the artillery attacks on the Krajina towns and villages. Their sole purpose was to make civilians flee the area. The prosecutor therefore asked the witness why Lapac was shelled if there was no military resistance. Janic explained that his unit had no need for artillery support but other units may have needed it on other axes of attack.

The defense of Mladen Markac today began the cross-examination of the witness that will be completed tomorrow.

2008-07-11

THE HAGUE

UNWILLING PROSECUTION WITNESS DEFENDS MARKAC

Although his intention to change sides and testify for the defense instead of the prosecution was thwarted, Zdravko Janic agreed with every argument put to him by the defense counsel of Mladen Markac, his predecessor at the post of commander of the Croatian special police.

The commander of the Croatian MUP Special Police Zdravko Janic gave a statement to the OTP investigators in 2004 and agreed to give evidence about his role in Operation Storm at the trial of Ante Gotovina, Ivan Cermak and Mladen Markac. In the meantime he decided to 'change sides' and to give evidence for the defense of the accused generals. However, this turn of events was prevented by the Trial Chamber. At the prosecution's request, the Trial Chamber subpoenaed Janic to come and testify in The Hague.

In his two-day examination-in chief, Janic avoided confirming the prosecution allegations. Today, when he was examined by the defense counsel of his predecessor at the post of the special police commander, Mladen Markac, the witness for the most part agreed with what the defense put to him. Cross-examination was mostly focused on the structure of Croatian regular and special forces, their training and equipment. The court heard that the special policemen were trained to perform various activities, including diving, jumping and running. They also had courses in the law of war and were issued a booklet with its key provisions.

Markac's defense counsel Goran Mikulicic used Janic's testimony to tender into evidence several documents showing that during Operation Storm and after it the special police received orders from the Croatian Army Main Staff and its chief, Zvonimir Cervenko. As he continued with the examination, the defense counsel asked a series of questions related to the tasks, areas of operations and axes of movement of the Croatian special police in Operation Storm, and was warned by the presiding judge to focus on the gist of the case because the Trial Chamber had no interest in hearing if the operation was well organized or not.

Up until the very end of Janic's evidence, the defense never once mentioned the burning of the houses in the village of Ramljani and the killing of civilians in the villages in Grubori, the main points in the prosecutor's examination. In an effort to prove that the incidents, if they happened at all, could have occurred during the clashes with the remnants of the SVK, the defense counsel tendered into evidence a number of documents from August 1995. These were warnings issued to Croatian soldiers and police about the 'remaining enemy bands' they might encounter in some parts. Only one of the documents, however, indicates that such clashes really did happen and that they resulted in the wounding of a Croatian soldier.

Finally, when Janic, who had worked with Markac for some twenty years, was asked about Markac's character, he said that Markac was 'an unassuming responsible and honorable police officer'.

2008-07-14

THE HAGUE

WITNESS: RANDOM SHELLING OF KNIN

Describing the shelling of Knin on 4 and 5 August 1995 Canadian captain Alain Gilbert says that – judging from what he saw from his office in the UN Sector South Command – it was his impression that the artillery did not engage military targets; the town was shelled randomly, he said.



◀ Alain Gilbert, witness at the Gotovina, Cermak and Markac trial

Canadian captain Alain Gilbert was General Alain Forand's aide-de-camp in August 1995. At the time, Forand was the commander of the UN troops in Sector South in Krajina. In January 2008, Gilbert gave a statement to the OTP investigators describing what he knew about the crimes committed in Operation Storm and in its aftermath. Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac are on trial for those crimes. In his brief examination-in chief, Gilbert confirmed his statement was true and authentic and clarified some of its parts.

Like general Forand and other Canadian 'blue helmets', Gilbert observed the shelling of Knin on 4 and 5 August 1995 from the UN base. As he contends, the town was under heavy artillery fire; some 400 shells were fired from the Croatian side in just six minutes in the early morning of 5 August 1995. On 25 August 1995, the witness started taking care of the refugees who had sought shelter in the UN base. In his opinion, most of them wanted to return to their homes but in fear for their personal safety they opted to

leave for Serbia. According to the witness, the reason for this could be the looting and burning down of abandoned Serb houses in Krajina that reached mass proportions after Operation Storm.

In his cross-examination, Gotovina's defense counsel put it to the witness that because of the fog and the distance from the UN base to the town he could not see if military facilities or civilian buildings were targeted. Gilbert admitted that he couldn't see where the targets were in the town, adding that the shells fell all over the town. It was his impression, he said, that the artillery did not target specific military facilities; Knin was 'shelled randomly'.

When the defense counsel put it to the witness that the UN base in Knin was used not only as a refuge for civilians but sheltered a number of RSK Army soldiers, the witness replied he knew about the case of a single Serb soldier who was expelled from the base when it was established he was in the army. The witness didn't want to comment on the fact that the Croatian authorities asked for the surrender of 38 persons from the UN base because they were war crimes suspects. In his view, they were responsible for crimes only from the Croatian point of view, not according to the UN personnel.

The Canadian captain completed his evidence today. Elisabeth Rehn, former UN special rapporteur for human rights, will give evidence at the trial of Croatian generals tomorrow.

2008-07-15

THE HAGUE

SUSAK WAS NOT HAPPY, TUDJMAN WAS NOT INTERESTED

Describing her meetings with Croatian officials in 1995, former UN special rapporteur for human rights Elisabeth Rehn noted that Croatian defense minister 'didn't like her or her reports' while president Franjo Tudjman showed no interest in the return of refugees and prosecution of those who committed crimes.



◀ Elisabeth Rehn, witness at the Gotovina, Cermak and Markac trial

In August 1995, when Operation Storm took place, Finnish politician Elisabeth Rehn was the UN special rapporteur for the human rights. In the reports she drafted in the months following Operation Storm, she noted several things that are consistent with the prosecution case at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac. She noted that civilian targets were shelled in Knin during the attack of the Croatian army and the police and that after the operation ended, the remaining Serbs were killed and abandoned houses were set on fire and looted.

In a letter sent to the Croatian foreign minister Mate Granic in February 1996, she asked for the results of

the investigation into the murder of five Serb civilians in the village of Grubori on 25 August 1995. The Croatian authorities provided replies to various questions but the only thing they said about the Grubori incident was that the investigation was in progress. In her opinion, the UN staff in the field could assist in the investigation since they were in the village on the day the murders were committed. Among other things they noted the license plates of the cars they saw there, but nobody ever asked them to assist.

In the statement she gave the OTP investigators in 2005, the witness described the meetings she had with Croatian officials on 4 December 1995. In her words, the defense minister Gojko Susak 'didn't like either her or her reports'. He thought that she focused too much on crimes committed by the army troops. The same day she met with president Tudjman and they discussed the violations of human rights after Operation Storm. He was not interested in the return of refugees and investigation of crimes against Serbs, she claims; this led her to conclude that there was no political will to punish those who committed crimes.

In the cross-examination, Ante Gotovina's defense counsel showed Rehn several reports drafted in August 1995 by the UN military and civilian observers. Their findings on the shelling of Knin differ from what the witness concluded. The reports speak of artillery fire targeting military installations, with only about twenty Knin houses being hit. As she clarified, Rehn drafted her reports not only on the basis of the information received from the UN military observers but also on her conversations with the local population and politicians.

In an effort to prove that the perpetrators of the crimes were prosecuted, Gotovina's defense counsel Luka Misetic showed the 'farewell report' filed by the special rapporteur for human rights in January 1998. In it, Rehn says that the Croatian authorities have told her that approximately 5,500 criminal reports were filed against those who committed murders, looting and destruction of houses; about 1,200 cases were brought to completion. However, in her statement to the OTP investigators, Rehn said that on the basis of those figures she couldn't tell the nature of the crimes and the ethnic background of the perpetrators and victims. Today she admitted that she and her associates weren't persistent enough in their demands to be given those data.

Elisabeth Rehn's evidence will continue tomorrow with the cross-examination by the defense counsel for Ivan Cermak and Mladen Markac.

2008-07-16

THE HAGUE

NOT A WORD ABOUT GRUBORI

Elisabeth Rehn completed her evidence at the trial of Croatian generals Gotovina, Cermak and Markac, commenting that none of the defense counsel found it appropriate during the two-day cross-examination to ask her about the murder of Serb civilians in the village of Grubori on 25 August 1995 she talked about in her examination-in chief.



◀ Elisabeth Rehn, witness at the Gotovina, Cermak and Markac trial

When Gotovina's defense counsel insisted, former UN rapporteur for human rights Elisabeth Rehn today clarified her words in the statement she gave to the OTP in 2005. At the time, Rehn had said that she personally saw people in Croatian Army uniforms looting abandoned Serb houses. She admitted today she could not be positive they actually were soldiers, since she knew that sometimes civilians wore military uniforms, adding that she saw military vehicles parked near the looters. This could point to the conclusion that the men she saw looting were not just 'civilians dressed up as soldiers'.

Apart from looting, Rehn witnessed the burning down of Serbian houses. In her report to the UN Secretary General in December 1995 she mentions an estimate of 5,000 houses destroyed by arson. When asked why the number she lists is significantly lower than the figure of 16,800 burned down houses provided by the UN military observers, the witness explained that she wanted to give a 'conservative estimate', making sure not to count the Croatian houses burned down in the years preceding the Operation Storm in the total sum she presented.

In his attempt to prove that Croatian authorities made efforts to prevent the crimes against Serb civilians and their property, General Ivan Cermak's defense counsel showed a series of internal documents from the Interior Ministry from the summer and fall of 1995. The documents are orders issued to the police administrations specifying a set of measures to prevent the looting and arson. Elisabeth Rehn replied that she was aware that there was some goodwill in the authorities. However, she and her colleagues were less interested in what was on paper, more in what was actually happening in the field.

In the statement she gave to the OTP investigators and in her examination-in-chief, Rehn said she had never gotten the information she sought about the progress of the investigation into the murder of five Serb civilians on 25 August 1995. Despite this, the defense counsel of the three Croatian generals never once brought up that incident during the two days of the cross-examination. The witness herself comment on that fact today, saying that 'obviously nobody is interested in the Grubori incident'. Her concern was alleviated by the presiding judge who told her that the Trial Chamber had already seen a lot of evidence on the murders. 'I am glad to hear that', Elisabeth Rehn replied. Soon after that, she completed her evidence and left the courtroom.

2008-07-18

THE HAGUE

DIFFERENT VIEWS OF CROATIA AND OTP

The Croatian ambassador to the Netherlands appeared in court today to present Croatia's views on the prosecution motion asking the Trial Chamber to issue a subpoena for the delivery of hundreds of military and police documents about Operation Storm. He said it would be 'unnecessary and counterproductive' because an enquiry into the matter was underway. The prosecutor contends that the enquiry is deficient, adding that so far he hasn't heard a reasonable explanation for 'the absence of documents which is systematic rather than accidental or isolated'.

Republic of Croatia opposes the prosecution motion asking the Trial Chamber hearing the case of generals Ante Gotovina, Ivan Cermak and Mladen Markac to issue a subpoena for the delivery of hundreds of military and police documents pertaining to Operation Storm. Arguing why this was the case, the Croatian ambassador to the Netherlands Frane Krnic said that a subpoena would be 'unnecessary and counterproductive' as 'an internal enquiry to locate the documents in question has already been launched'. The Croatian authorities contend that the documents are not in the archives, while the prosecution claims that they have been 'deliberately hidden and removed'.



◀ Frane Krnic, Croatian Ambassador in The Netherlands

There are two groups of documents: the so-called artillery group comprises about 370 orders, maps and reports drafted by the Croatian Army from 2 to 6 August 1995 with a detailed list of artillery targets engaged during the shelling of Knin and other places in Krajina. The police group of documents contains a little more than 200 documents, primarily orders issued by the accused general Markac.

The Croatian ambassador rejected the allegation that the authorities have been involved in a cover up operation noting that the internal enquiry has already yielded results. Also, 'a significant number of documents' have recently been located and delivered to the OTP,

although their contents were 'less significant'. According to the ambassador, it is in Croatia's interest to find the documents because they prove that neither the Croatian Army nor the police violated international humanitarian law in Operation Storm and in its aftermath.

[IMAGE]3554[/IMAGE]In his reply to the arguments presented by the Croatian representative, prosecutor Alan Tieger reminded the court that this was not about isolated cases where documents have gone missing; this is a systematic absence of documents, and no reasonable explanation has been offered. In his opinion, the current enquiry by the Croatian authorities is deficient. By way of an example he said that instead of taking new measures, the Croatian authorities have simply been going over the ground the OTP had already covered, and no relevant questions were asked during the interviews.

The Trial Chamber will rule on the prosecution motion to issue the subpoena to Croatia later.

2008-07-21

THE HAGUE

WITNESS: 'GOTOVINA WAS IRRITATED BY MY BEHAVIOR'

Alun Roberts, former UN press officer in Krajina, survived Gotovina's death threats. In his evidence as a prosecution witness today, Roberts offered his explanation why the Croatian general called him 'a spy and agent provocateur'.



◀ Alun Roberts, witness at the Gotovina, Cermak and Markac trial

When Operation Storm was launched in the morning of 4 August 1995, Alun Roberts, UN press officer in Sector South, was in his Knin apartment. Testifying today at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac, Roberts confirmed that the statements he has given to the OTP investigators since 1997 were all true. Knin was shelled 'all over the place', Roberts said; the artillery targeted the town center in particular, and there were no military targets there. He claims he saw three dead bodies lying in the street and a number of damaged civilian buildings.

Soon after that, Roberts was taken by UN soldiers to the Sector South base where he resumed his duties. In the months that followed, he visited Krajina villages and towns. In his statement to the OTP he talked in detail about his visit to the village of Grubori in the Plavno Valley. He went there on 25 August 1995 with Edward Flynn, chief of the UN Human Rights Action Team. When they arrived in the early morning, they saw many burned-down houses and terrified women who were screaming, 'soldiers' and 'shooting'.

Upset by what they saw, Roberts and Flynn went directly to the military governor Ivan Cermak in Knin. Since Cermak was out of office, they reported the situation in Grubori to his deputy, Colonel Donda. Donda tried to convince them that the houses were most likely burned down in the clashes with members of the SVK. Later that evening, Roberts and other UN representatives returned to the village to check the situation there. They found five elderly civilians who had been killed: three men and two women. A few days later, Roberts saw General Cermak on Croatian TV, saying that he visited the village of Grubori on 26 August and saw that the civilians had been killed in 'cross fire' between the Croatian forces and the remaining 'Serb terrorists'. Roberts said that, as far as he knew, the UN Sector South command never received any notification about an investigation into the Grubori incident.

The witness contends that, as a press officer, he received daily reports from UN civilian and military observers describing incidents similar to the one in Grubori. The reports spoke of systematic violence, arson and looting

wherever the Croatian troops or special police went. Roberts claims that this was a 'pattern nobody prevented' which is why it 'tended towards' ethnic cleansing rather than isolated incidents.

Roberts's name was mentioned at the trial of the three Croatian generals during the evidence of Alain Forand, UN Sector South commander. He recounted that during a meeting in September 1995 General Gotovina heard objections about anarchy in Krajina and responded by accusing the UN mission and its press officer Alun Roberts in particular; he called Roberts 'a spy and an agent provocateur'. Gotovina threatened he would kill Roberts. Today, Roberts said that he wasn't present at that meeting but was told about Gotovina's threats. 'I knew that my behavior irritated him, primarily because of what I was telling the foreign and domestic press about the situation in the field', the witness explained.

The witness was cross-examined today by Cermak's defense counsel; tomorrow he will be examined by the defense teams of the other two accused.

2008-07-22

THE HAGUE

'SPY' CONTROLLED BY KRAJINA INTELLIGENCE AGENTS

In an effort to show why Gotovina called prosecution witness Alun Roberts 'a spy and agent provocateur' in September 1995, defense counsel Luka Misetic presents a document in which the SVK intelligence service says that 'partial control of his activities' has been established.



◀ Alun Roberts, witness at the Gotovina, Cermak and Markac trial

In the cross-examination of Alun Roberts today, defense counsel Luka Misetic tried to clarify why his client, General Ante Gotovina called Alun Robert a 'spy and agent provocateur' at a meeting in September 1995 after the UN press officer complained about the anarchy in Krajina after Operation Storm. Misetic showed a report drafted by the Security Department of the SVK Main Staff on 29 May 1995 stating that a 'partial control over the activity of Alun Roberts' had been established. After he read the document, the witness said that he was not aware that his phone was tapped. He called the claim about his activities being under control 'ambitious nonsense'.

In an effort to show that it was not nonsense, the defense counsel went on to show a video recording from April 1995 of Roberts holding a press conference, with the SVK insignia in the background. Asked if he was aware that his behavior was contrary to the UN Security Council resolutions calling for the establishment of the Croatian sovereignty over the occupied territories, Roberts said that he saw nothing controversial about his appearance. In all his public appearances, Roberts contends, he advocated the integration of Krajina into Croatia. He addressed the media in the SVK premises because nobody wanted to attend a press conference in the UN base. The UN mission headquarters in Zagreb was aware of it, Roberts added, and nobody objected.

The defense teams of other two accused, Ivan Cermak and Mladen Markac, focused their cross-examination on the killing of five civilians in the village of Grubori on 25 August 1995. Cermak's counsel Stephen Kay tried to prove that his client, as the representative of the Croatian civilian authorities in Knin, had neither the authority nor resources to investigate the incident. Roberts however maintained that Cermak made it very clear to the UN representatives in their meetings that he could solve the problems in Krajina. Everybody in the UN believed that, Roberts noted. This is why they sent their report about the Grubori incident to Cermak's office. 'If we were wrong about Cermak's role, somebody had to draw our attention to the fact', the witness concluded.

Since Roberts testified in his examination-in chief that the UN representatives wrote down the license plates of police cars observed in the Plavno valley on 25 August 1995, the defense of Mladen Markac, who commanded the Croatian special police at the time, asked him if he and his colleagues had actually forwarded that information to the Croatian authorities. Roberts replied that the license plates numbers were given to the UN civilian police; he had no knowledge if the UNCIVPOL ever forwarded them to the Croatian police.

2008-07-23

THE HAGUE

'STUDENT' UNDER THE UN UMBRELLA

The 'spy affair' with the former UN press officer Alun Roberts ended on the last day of his evidence when it was revealed that he was not an informer of the RSK intelligence service: it was in fact Predrag Sare, an interpreter in the UN mission in Krajina, who worked under the codename Student. Roberts himself was accused of being a RSK spy by Gotovina in September 1995.



◀ Alun Roberts, witness at the Gotovina, Cermak and Markac trial

On the last day Alun Roberts's cross-examination, Ante Gotovina's defense continued to ask the former UN press officer in Sector South questions about his alleged connections with the RSK intelligence service. In his examination-in chief the witness said that Gotovina had called him 'a spy and agent provocateur' and threatened to kill him at a meeting with the UN mission representatives in September 1995.

According to what Gotovina's defense counsel Luka Miletic showed today, Roberts's sin was that there was a Serb intelligence service agent working close to him, not that he himself was a spy. Miletic showed several

intelligence documents seized by the Croatian Army after Operation Storm in the premises of the RSK civilian and military authorities. The documents indicate that Predrag Sare, an interpreter with the UN mission, was an agent of the security service, working under the codename Student. Sare worked as an interpreter during the meetings of highest-ranking UN officers with General Gotovina and other Croatian Army representatives. As the documents showed, Sare then forwarded the information to the Krajina Serb security service.

Roberts said that at one point Sare had told him and other UN mission representatives about his activities as a spy. He explained that he was forced to do it by the Serb security officers. Miletic then asked Roberts if not firing such an interpreter was a violation of the UN's neutrality. Roberts reminded him that Sare had not been his personal interpreter and that he had had no authority to replace him. Other high-ranking UN officers knew about Sare's contacts with the security services. Roberts saw nothing controversial in the report he drafted in August 1995 in which he described Sare as 'a recognized interpreter with years of experience' in the UN mission.

The defense counsel then went on to present more details from Predrag Sare's biography, such as the fact that he was Ratko Mladic's interpreter prior to his arrival in Krajina. His brother was Nenad Sare, former JSO units member, involved in political assassinations in Serbia. Roberts replied that he knew nothing about the interpreter's brother. He believed that Sare's application for the post of the interpreter with the UN mission in Krajina mentioned the fact that he had worked for the VRS Main Staff.

As today's hearing drew to a close, Mladen Markac's defense used an opportunity to ask an additional question. In an effort to show the purported partiality of the witness, he asked Roberts if it was true that nowadays he regularly spent time in Banja Luka, 'a town not famed for its ethnic tolerance and diversity'. Roberts replied that he had friends all over ex-Yugoslavia. Regardless of where he lived and worked, he always 'has professional work ethic in him', he said.

2008-07-24

THE HAGUE

KRAJINA IN FLAMES

British liaison officer Roland Dangerfield claims Knin and other places in Krajina were systematically looted by the Croatian Army and the special police. Eighty to ninety percent of villages he visited in the weeks after Operation Storm were partially or completely burned down.

British liaison officer Roland Dangerfield testified today at the trial of generals Ante Gotovina, Ivan Cermak and Mladen Markac. His version of events in Krajina during and after Operation Storm is fairly consistent with what other personnel from the UN mission in Krajina described as they testified for the prosecution at the trial. In the statements he gave to the OTP investigators in 1995 and in 2008 and in his evidence today Dangerfield stated that Knin was heavily shelled on 4 and 5 August 1995; there was no military necessity for the shelling. As soon as the Croatian Army and the police entered the area, he noted, systematic looting and burning of Serb houses began throughout Krajina.



◀ Ronald Dangerfield, witness at the Gotovina, Cermak and Markac trial

Dangerfield was in Krajina from mid-July to early September 1995; it was his task to report on the situation in the field to the command of the British sector of UNPROFOR in the Bosnian town of Gornji Vakuf. In late July 1995, he says, the Krajina Serb army carried out a general mobilization and only women, children and the elderly remained in Knin. To his knowledge, there was no military equipment in the town. However, in the early morning of 4 August 1995, the Croatian Army and the police launched an intense artillery attack on Knin that lasted two days; it resulted in a number of civilian building being hit. The witness contends that he didn't see any outgoing fire from Knin.

A day or two after the Croatian forces entered the town, general looting and burning of Serb houses started, Dangerfield recounted. As early as on 7 August 1995, Dangerfield crisscrossed Knin in his Land Rover and saw Croatian Army troops carrying household appliances and other valuables out of abandoned houses. They were loading it onto trucks with HV insignia. The soldiers were completely out of control, he said, and he didn't see any officers among them to command them. Not even the sight of international observers would make them stop the looting and torching of houses because what they were doing 'seemed normal' to them. Only the houses with the words 'Croatian house' written on them were spared.

In the weeks that followed in August, the witness visited most of Sector South. According to him, the situation in other Krajina towns and villages was similar to that in Knin: soldiers were looting houses and burning them down while police officers did nothing to stop them. Dangerfield contends that 80 to 90 percent of Krajina villages were partially or totally burned down. 'Larger part of Krajina was in flames and as time went by we got used to it', Dangerfield added.

In the first part of his cross-examination, Gotovina's defense counsel Kehoe mostly focused on topics Dangerfield had little or no knowledge about, prompting the presiding judge to warn him. As the judge put it, the aim of Kehoe's examination was not to 'educate the witness so he could go home wiser' but to allow the Trial Chamber to hear his evidence about what he knew from the field. Kehoe will continue his cross-examination tomorrow.

2008-07-25

THE HAGUE

'STRONG' RESISTANCE' BROKEN IN TWO DAYS

Prosecution witness contends that Krajina fell in Croatian hands without a fight after only two days; the shelling of villages and towns was not necessary. The defense wants to prove that the Serb resistance was 'strong', and the fighting 'fierce'. The trial of Gotovina, Cermak and Markac is adjourned until 25 August 2008.

Many prosecution witnesses have claimed that the Croatian forces liberated Krajina on 4 and 5 August 2008 basically without a fight and that the shelling of towns and villages was not justified by military necessity. General Ante Gotovina's defense is intent on proving that there was heavy fighting with the Serb forces and that the artillery attacks were necessary. In his examination-in chief, former British liaison officer Roland Dangerfield said that the Krajina Serb army didn't offer any resistance. However, in a newspaper article in mid-August 1995, Dangerfield says that the Serb resistance 'was strong'. When defense counsel Kehoe showed the witness this text, he replied that he merely relied on the conclusions of some UN observers, not his own.

The defense counsel went on to challenge the witness claim that the shelling of Knin was unnecessary, alleging that RSK army units were moving around the town when the attack was launched; those units were legitimate military targets. The witness confirmed that military convoys could be targeted in combat, but 'only if the risk of collateral damage is reduced to a minimum'; in his view, this was not the case in Knin.

Dangerfield claimed that the Croatian Army 7th Brigade, also known as the Puma Brigade, was the first to enter Knin. According to him, the brigade members immediately started looting and burning down the abandoned Serb houses but Dangerfield was not able to describe their uniforms and insignia. Nevertheless, he said, at that time he knew very well that it was this unit of the Croatian Army. In his examination-in chief yesterday the witness also said that the special police prevented him from entering the burned down Serb villages, but was again unable to identify the villages or describe how the special police were dressed.

Since the beginning of the trial the defense teams have contested the allegations of the prosecution witnesses, mostly former members of the UN mission, that five elderly Serb civilians were deliberately killed in the village of Grubori on 25 August 1995. The defense's argument is that General Ivan Cermak was right when he said on Croatian TV a few days after the incident that those civilians had been killed when they were caught in cross-fire between the Croatian special police and 'remnants of Serb terrorists'.

What definitely does not play into the defense hand is something that all the witnesses who visited Grubori immediately after the incident agree on, Dangerfield included: one of the old men had his throat slit and this could not have been the result of cross-fire. The defense counsel of Mladen Markac, former commander of the special police, implied that his throat might have been torn by a bullet and not cut by a knife. Dangerfield countered that, saying that he saw the old man close up and was able to see the line where the skin of this throat was split and the bleeding from the cut.

The British officer completed his evidence today and the trial of three generals, Ante Gotovina, Ivan Cermak and Mladen Markac, will continue on 25 August 2008 after the Tribunal's summer recess.

2008-08-25

THE HAGUE

MILITARY TRUCKS LOADED WITH LOOTED GOODS

Erik Widen, former Swedish UN civilian observer in Krajina, claims that some 50 to 100 military trucks passed by the UN base in Knin in the days following Operation Storm. The trucks were loaded with looted furniture and electronic devices. Widen rejects the defense argument that the goods were taken from the barracks abandoned by the Krajina Serb army.



◀ Erik Lennart Widen, witness in the Gotovina, Cermak and Markac trial

The prosecution case continues at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac after a one-month break, with the evidence of Erik Lennart Widen, a UN civilian observer in Krajina from Sweden. In the night of 4 August 1995, Widen recounted, about eighty percent of the population of Knin fled their houses, twelve hours after the Croatian forces launched the artillery attack. Their departure was not organized, the witness said. The witness didn't change his testimony after Ante Gotovina's defense counsel showed him the evacuation order signed by the then RSK president Milan Martić on 4 August 1995.

When the Croatian Army entered Knin on 5 August 1995, the witness recounted, large-scale looting began and continued for the following ten days. Widen saw 50 to 100 military trucks passing by the UN base on their way out of town, loaded with furniture, TV sets and other appliances. Widen rejected the suggestion of defense counsel Kehoe that the goods might have been taken from the abandoned Krajina Serb army barracks. The chairs he saw looked more like those used in private homes, Widen said.

The prosecutor showed a report drafted by the UN civilian observers signed by the witness on 12 August 1995 indicating that the patrol he led found the decomposing bodies of one elderly and one young man in a house in Krajina. The witness today clarified that it appeared to him that the elderly man had been shot in the kitchen and left there while the young man had been shot in the room while trying to escape. Later, they talked to a Croatian police officer, and he advised them not to enter that house because there were mines there, Widen said. The police officer didn't know that the UN civilian observers had already been there.

The name of the village where the bodies were found was not disclosed today, but in his cross-examination, defense counsel Kehoe said that the bodies belonged to Ilija and Milan Milivojević. Kehoe went on to show the post-mortem report indicating that the cause of death could not be established with certainty. When the defense counsel alleged that Ilija and Milan Milivojević might have been killed by Serbs 'who were angry at them' or Croatian civilians 'as a revenge', Widen was not able to provide an answer. He said that he had no knowledge of the circumstances in which persons whose bodies he had found perished and who killed them.

2008-08-28

THE HAGUE

EIGHT BULLETS FOR FOUR OLD PEOPLE

In his evidence at the trial of generals Gotovina, Cermak and Markac, Croatian Serb Milan Ilić recounts how he escaped from the hands of Croatian soldiers just before four old people were killed. One of them was Ilić's brother.

In the two statements he gave to the OTP investigators in 1999 and 2005, tendered into evidence at the trial of Croatian generals Gotovina, Cermak and Markac today, Croatian Serb Milan Ilić from the village of Donji Lapac in Lika, recounted how he had fled from the Croatian soldiers after his arrest in the village of Oraovac. His brother, aged 77, and three other elderly civilians were not that lucky. Their bodies were found in the Gracac cemetery after the war. The prosecutor read the summary of the witness' statements, and did not ask any questions about the incident in the brief examination-in-chief.



◀ Milan Ilic, witness in the Gotovina trial

On 7 August 1995, Donji Lapac was under the artillery attack. Ilic decided to flee the village and go to his family house in the nearby village of Oraovac. There he met his brother Marko. The Croatian Army entered the village soon after, and the two of them were arrested. Three other elderly persons, Stevo Ajdukovic, and Rade and Ruza Bibic, were also in the hands of the soldiers.

After they were searched, the witness took an opportunity when their guard was not looking and fled. He was the youngest among the captives. Ilic hid in the bushes and soon after, he heard eight shots: the shots were fired in twos. The names of the four old people killed in this incident are listed in the appendix of the indictment against the Croatian generals.

The witness was arrested again on 10 August 1995 when he attempted to reach the BH border. He was taken to a collection center in Zadar and returned to Donji Lapac in September. He found this village burned to a cinder, as he recounted; his house was also destroyed.

In his cross-examination, Ilic was not able to describe with any precision the uniforms and insignia worn by the soldiers in the village of Oraovac. As he said, some wore camouflage uniforms while others were in grey uniforms with 'some branches on their shoulders'. Ilic was cross-examined only by the defense counsel of the former police commander Mladen Markac while the defense teams of Ivan Cermak, former commander of the Knin Garrison, and military general Ante Gotovina refrained from asking any questions.

Ilic gave evidence via video link from Zagreb. He was not able to come to The Hague because he has difficulty walking. The trial for crimes committed in the course of Operation Storm and its aftermath continues on Monday.

2008-09-01

THE HAGUE

GOAL: PREVENT 'CHETNIKS' FROM RETURNING

Canadian intelligence officer Philip Roy Berikoff contends that the destruction of Serb property in Krajina during Operation Storm was planned in order to prevent the Serbs from coming back. He corroborates his allegation by quoting a high-ranking Croatian police officer who told Berikoff that the objective of the 'clean-up operation' was to prevent 'Chetniks, i.e., all the Serbs, from ever returning to Krajina'.



◀ Philip Roy Berikoff, witness in the Gotovina trial

Philip Roy Berikoff, intelligence officer in the Canadian army, came to Krajina in July 1995. He joined the UN troops deployed in Sector South and remained there until early September. In his evidence at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac he recounted what he had seen in Knin and other places in Krajina during and after Operation Storm.

In the three statements he gave the OTP investigators in 1996 and 1997, Berikoff says that at least 100 civilian buildings were hit in the attack on Knin on 4 and 5 August 1995. According to him, this proves the town was shelled indiscriminately. However, in the fourth statement he

gave in 2007, he changed this conclusion. There were some military targets in Knin, he claimed, and the shelling cannot be described as indiscriminate. However, he repeated that the collateral damage was significant and that much of the shelling was unnecessary.

One of the 'unnecessary' grenades landed in the afternoon of 5 August 1995 near the UN military base, killing five Serb civilians and a soldier. The witness and other UN staff put their bodies in black bags and placed them by the side of the road. Soon after, Berikoff said, after the Croatian forces passed by, he saw that a body had been taken out of the bag and was riddled with bullets.

Berikoff saw the worst of the looting and burning in the days following 6 August 1995 along the road from Knin to Drnis and in the villages of Kistanje, Cetina and Donji Lapac. There, he saw Croatian soldiers and police officers systematically looting and burning down Serb houses. At the same time, they made sure to leave houses marked as Croatian undamaged. Describing the situation in Donji Lapac, Berikoff said he saw Croatian soldiers going into houses and then the houses going up in flames soon after they got out.

According to the witness, Serb property was destroyed systematically and deliberately, leaving Serbs with no place to come back to. He corroborated his claim by quoting the words of police major Juric. In an encounter near Kistanje, Juric told Berikoff that the objective of the 'clean-up operation' was to 'prevent Chetniks from ever returning to Krajina'. Juric made it clear to him, Berikoff noted, that all Serbs were Chetniks and that Juric made no distinction between soldiers and women, children and other civilians.

Berikoff brought to The Hague his collection of wartime video tapes and 41 photos showing the destruction of Serb houses during and after Operation Storm. This material was tendered into evidence but was not shown in the courtroom.

As the hearing today drew to a close, General Ante Gotovina's counsel began the cross-examination. The evidence of Canadian officer is expected to end tomorrow.

2008-09-02

THE HAGUE

LOGICAL EXPLANATION FOR 'ILLOGICAL BEHAVIOR'

According to General Gotovina's defense, it is 'illogical' to claim that the Croatian Army troops took part in the burning and destruction of abandoned Serb houses because at that time Croatia had problems finding housing for the refugees from other parts of country: they could have been put up in those houses. According to prosecution witness Philip Berikoff, the only explanation for this 'illogical behavior' could be the effort to prevent the Serb refugees from coming back.



◀ Philip Roy Berikoff, witness in the Gotovina trial

In the cross-examination of Canadian military intelligence officer Philip Roy Berikoff, the defense of general Ante Gotovina put it to him that the looting and burning of Serb houses in Krajina after Operation Storm were not perpetrated by Croatian soldiers but by 'bandits in military uniforms' and civilians bent on revenge. Berikoff countered this suggestion by repeating what he had said in his examination-in chief: that civilians participated in the destruction and looting together with soldiers and police officers.

Defense counsel Kehoe claims it would not be logical for legitimate army personnel to take part in the burning and destruction of abandoned Serb houses when the

Croatian government could have used those houses to put up refugees from other parts of the country; the refugees were a major problem at the time. The witness had come to a similar conclusion in one of the four statements he gave to the OTP investigators, but today he added that the only reason for this 'illogical behavior' could be an effort to prevent the Serb refugees from returning to their homes.

Unlike Gotovina's defense, General Cermak's defense didn't deny that Croatian Army troops had taken part in the looting of Serb houses. However, they focused on the intention of their client to prevent the crimes and punish the perpetrators. To prove this, defense counsel Higgins showed the court an article from the newspaper *Slobodna Dalmacija* published on 8 August 1995. In it Cermak says that 'there is no place for looters' in the Croatian Army. She went on to show a video recording of a press conference held in early September 1995 where Cermak says it is impermissible for the looting to go on one month after Operation Storm had ended, going on to call for an immediate stop to the looting. Berikoff noted that at that time he wasn't following the Croatian media, adding that the looting didn't stop after Cermak's appeal; on the contrary, the looting continued throughout Krajina in September.

In her attempt to play down the role of her client in Sector South defense counsel Higgins reminded the witness of what he had said in his statement to the OTP investigators: the laissez-passer Cermak issued to the UN mission staff in the field was 'seen as a joke'. Berikoff explained that in some cases the soldiers and police officers completely ignored the paper signed by Cermak that the UN members showed them.

Since the Canadian intelligence officers variously described the accused Cermak in his statements as 'the mayor of Knin' and 'military commander', the defense today showed him a document dated 5 August 1995, where President Tudjman appoints Cermak as 'the commander of the Knin Garrison' in charge of cooperation with the UN mission, providing assistance to displaced persons and bringing life in Knin back to normal. The witness said that at the time Cermak was 'given many different titles'. Berikoff was not sure what his real title was, but he knew that Cermak was in charge of the entire Krajina Sector South.

Berikoff will complete his evidence tomorrow.

2008-09-03

THE HAGUE

CERMAK AND MARKAC RENOUNCE MAJOR JURIC

The defense counsel of Croatian generals Ivan Cermak and Mladen Markac today tried to prove that Major Juric was not their clients' subordinate. According to prosecution witness Berikoff, in August 1995 Major Juric wanted to prevent 'Chetniks' – all Serbs – from returning to Krajina. The defense counsel claim that Major Juric was under the command of the HV Military Police.



◀ Philip Roy Berikoff, witness in the Gotovina trial

As Canadian military intelligence officer Philip Roy Berikoff continued his evidence today, he was examined by the defense counsel of Ivan Cermak and Mladen Markac. Together with Ante Gotovina, they are on trial for crimes committed during and after Operation Storm. The looting and burning of abandoned Serb houses are among the charges against them. As Berikoff said in his testimony, this was perpetrated by Croatian soldiers and police officers throughout Krajina.

In his examination-in chief, the witness said that the destruction of Serb houses was deliberate and planned, and illustrated this with the words of Major Juric, a special police commander. A few days after Operation

Storm, he told Berikoff that the objective of the 'clean-up operation' was to prevent 'the Chetniks from ever coming back to Krajina'. Major Juric meant all Serbs when he used the term 'Chetniks'. In the cross-examination today, defense counsel Higgins challenged the witness's claim that Major Juric was her client's subordinate. Ivan Cermak was the commander of the Knin garrison.

The defense showed a document dated 2 August 1995, where General Mate Lausic, Military Police commander, orders Major Juric to 'assist in the exercise of command' over the 72nd and 73rd Military Police battalion from Split. Berikoff agreed with the defense claim that on paper, Juric was subordinate to Lausic and that there are no documents to support the claim that Juric was Cermak's subordinate or that Juric reported to him. Berikoff did add that the situation in the field 'was different'.

In order to rule out any links between Mladen Markac, former special police commander, and Major Juric, defense counsel Tomislav Kuzmanovic first implied that the Military Police had its special units which shouldn't be confused with the MUP Special Police where the controversial major had no authority. The Canadian intelligence officer allowed this might be true, but noted that in August 1995 Major Juric appeared to be in command of all the police officers in the field: both the military police and the MUP units.

Berikoff completed his evidence after three days in court. The prosecution will call its next witness tomorrow.

2008-09-04

THE HAGUE

FABRICATED REPORTS AT CROATIAN SPECIAL POLICE TOP

The man who commanded the clean-up operation in the Plavno Valley recounts at the Gotovina, Cermak and Markac trial how things he never heard or seen got into his report about the operation. On 25 August 1995 the village of Grubori in the Plavno Valley was burned down and five elderly Serbs were killed.



◀ Josip Celic, witness in the Gotovina trial

One of the gravest incidents at the trial of the Croatian generals Gotovina, Cermak and Markac happened on 25 August 1995 in the village of Grubori in the Plavno Valley, Krajina. The village was burned down and five elderly civilians – three men and two women – were killed. The prosecution alleges that members of the Lucko Unit, an outfit of the Croatian special police, were responsible for this crime. The defense contends that the civilians were caught in the cross-fire and were killed in the clashes between the special units and the remnants of the 'Serb terrorists'.

Josip Celic, the man who commanded the clean-up operation in the Plavno Valley, testified today for the prosecution. He clarified parts of the statements he had given as a suspect to the OTP in 2002 and 2005. Celic then recounted how a description of a firefight with the Serb soldiers got into his report despite the fact that both he and his superiors knew that it never happened. When the operation was over, Celic said, the leaders of four groups of the Lucko unit reported to him; they said they had gone through the Plavno Valley and the village of Grubori without encountering any problems or resistance from the remnants of the Serb forces. He put this information in his report and sent it to Zdravko Janic, chief of the Anti-Terrorist Department, who forwarded it to Mladen Markac, the Croatian special police commander.

The next day, Celic was summoned to the special police headquarters in Gracac. General Markac and his associate Sacic were waiting for him there. They told him they were not happy with his report, and that he would have to draft a new report, where he would say that there had been a firefight. To speed up the process, Sacic dictated a new report to Celic. Although Celic or group leaders in the field had no knowledge of any clashes with Serb fighters, Celic agreed to put it in the new report. He 'had no reason to doubt' the information he received from his superiors, Celic explained today. Based on what was said today in court, it can be concluded that the Croatian authorities delivered Celic's second, altered report to the prosecution, not the original one he had drafted first. Nobody has been able to trace the first report; it is no longer in the police archives.

The forging of reports continued in the next few days. The Lucko Unit Commander Turkalj took the witness and his group commanders to the village of Grubori to see for themselves that the houses had been burned down and civilians killed there. Turkalj then summoned them to Zagreb and ordered them to draft their reports on what had allegedly happened there. The witness signed a typed version of a report Sacic had dictated to him in Gracac. The group leaders drafted their own reports by copying down parts from Celic's report. They all still claimed that they never fought any Serbs nor seen any such clashes. Franjo Drlja, one of the four group leaders whose unit had actually passed through Grubori, was the only one to refuse to produce an amended report.

Zdravko Janic recently testified about this incident at the trial of Gotovina, Cermak and Markac. Janic was coordinating the clean-up operation in Krajina. He first received a report from Josip Celic that the units had passed through the Plavno Valley without any incidents or engagements with the enemy. Years later, after he read in the magazine *Feral Tribune* that something had happened there, he went to the police archives and found Celic's report. In it, Celic reports that he and his police officers had had to fight the remnants of the Serb troops in the village of Grubori. 'Several civilians including some elderly women were killed in cross-fire', Celic stated in the report.

Celic continues his evidence tomorrow when he will be cross-examined by Markac's defense counsel.

2008-09-05

THE HAGUE

DAY OR NIGHT, ON SUPERIOR'S ORDERS

In his cross-examination at the trial of Gotovina, Cermak and Markac, the man who commanded the Croatian special units' operation in the village of Grubori maintained that he never doubted his superiors when they told him that the civilians from that village had been killed in cross-fire. He put this in his report although he knew that there had been no clashes at all. The presiding judge asked him if he would have followed his superior's order if he were told to put in his report that it was a nighttime operation even though it was actually daytime.



◀ Josip Celic, witness in the Gotovina trial

At the end of the five hours of evidence, former deputy commander of the Lucko special police unit Josip Celic, faced a surprisingly brief cross-examination by Mladen Markac's defense. In some 30 minutes Markac's defense counsel asked about the witness's claim that Zeljko Sacic, chief of the Croatian Special Police Staff, first ordered him to draft a new report in Mladen Markac's presence and then, in private, went on to dictate his version of the attack on the village of Grubori on 25 August 1995 in which five Serb elderly persons were killed. Sacic and Markac were not satisfied with Celic's original report which stated that the Lucko Unit didn't encounter any resistance in the village. They then ordered him to draft a new report saying that the civilians were killed in cross-fire.

As the cross-examination drew to a close, Markac's defense counsel Goran Mikulicic asked the witness if he had ever heard that the accused police general had ever taken any measures to cover up the incident in the village of Grubori. 'No, quite the contrary was the case', Celic replied. The defense counsel briefly dealt with the witness's claim that he had put things into the report that he had not in fact seen because he had been under pressure to do so, and Markac had known about it. According to the prosecution, this was an attempt to cover up the crime. The defense

was pleased to hear Celic say that it was not Markac who told him to change the report, but Sacic, who personally told him to change it in the presence of Markac. Sacic then went on to dictate to Celic the details to be included in the report in private. Mladen Markac is charged with crimes committed in Krajina during and after Operation Storm, together with Ante Gotovina and Ivan Cermak.

Celic agreed with the defense counsel that the civilian police had to launch an investigation into the crime in Grubori, not the special police. The defense then tendered into evidence several documents showing that the Sibenik crime investigations division had been investigating the case in 2001.

The witness did change his evidence; he no longer claimed that at a meeting in Knin on 27 August 1995, in Cermak's presence, he said that there had been no clashes with the remnants of the Serb fighters in the village of Grubori. In his examination-in chief, Celic had said that Cermak had been there in the room where Celic and Sacic had been discussing it. Today he said that he was not so sure about that anymore.

When defense counsel Cayley asked him why he agreed to put Sacic's claims in his report when he knew they were false, the witness repeated that he had no reason to doubt what his superior had told him. Celic avoided giving answer to the question of the presiding judge who wanted to know if Celic would have followed his superior's orders and written in his report that the operation was conducted in nighttime even though if it had been daytime.

2008-09-08

THE HAGUE

DEAD UNDER POLICE PROTECTION

Former UN staff member in Knin, Swedish police officer Laila Malm claims that the Croatian police repeatedly prevented her from visiting the Orthodox graveyard in Gracac in September 1995. According to her, every day new graves were dug there. Malm made no comments when Gotovina's defense counsel put it to her that access to the graveyard was prohibited to prevent looting.



◀ Laila Malm, witness in the Gotovina trial

A police woman from Sweden, Laila Malm testifies at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac describing the incidents she reported after the Operation Storm. In the summer of 1995 she was a member of the UN Civpol mission in the Krajina Sector South. In her testimony Malm confirmed the contents of her statements given in 1997 and 2008 in which she said what she knew about killing, looting and burning down of houses.

During her tour of the Gracac area in late August 1995, the witness saw looting of abandoned Serb houses in the village of Ivosevica. In her field report that day she wrote that persons in military uniforms were loading the looted

items onto 'at least one truck'. She saw similar incidents in other villages too, she contended in the written statement she gave to the OTP investigators. She and her Civpol colleagues reported every incident to the Croatian police in Gracac, to no avail. The looters, she explained, passed through the police check points easily; the rare patrols that passed through the villages were not enough to prevent the looting.

Malm saw the bodies of Serbs who had been killed there in several places – such as the villages of Palanka, Zrmanja and Brgud. Dusan Brkic from the village of Palanka was among the victims. He was killed by a shell and Gotovina's defense counsel used this fact as evidence that Brkic was killed in combat.

In September 1995, Malm and her colleague from the Civpol patrol, Luis Martins, tried to enter the Orthodox graveyard in Gracac several times. Each time, they were stopped by the Croatian police. In her statement to the OTP, the witness noted she got the impression that every time they tried to go in, there were new graves in the graveyard. It looked as if more than one person was buried in some of the graves. In the cross-examination, Gotovina's defense counsel implied that the police were posted around the graveyard in order to prevent looting that was widespread in that area. The witness didn't deny or confirm this allegation.

When he questioned the witness about the persons looting the Serb houses in military uniforms, defense counsel Kehoe noted that thousands of Croatian soldiers had been demobilized at that time, implying that they might have been among the perpetrators. Moreover, he pointed out, civilians often wore military uniforms. Malm answered that she knew nothing about that.

2008-09-09

THE HAGUE

WHO BURNED HOUSES 'MORE PROFESSIONALLY'?

In his testimony at the trial of generals Gotovina, Cermak and Markac, Soren Liborius, former member of the EU monitoring mission in Krajina, contends that in August 1995 Croatian forces burned and destroyed Serb property 'far more professionally' than the Serb troops did when they targeted Croat houses in Krajina in 1991.



◀ Soren Liborius, witness in the Gotovina case

Former member of the EC monitoring mission Soren Liborius came to Knin in late July 1995 and remained there until late November 1995. He gave five statements to the OTP investigators from 1995 to 2008, describing the systematic and 'professional' destruction of abandoned Serb property and presented his conclusions regarding the reasons behind the campaign. The prosecutor tendered these statements into evidence today together with dozens of reports by the EC monitors about the situation in Krajina. Many of the documents were signed by Liborius.

During the first two weeks after Operation Storm, the campaign of destruction and burning of Serb property was particularly well organized. Croatian soldiers and police were primary perpetrators; this lead Liborius to conclude that the campaign was implemented on the orders issued by higher authorities in order to 'destroy the material basis' for the return of the Serbs who had fled the area. As the time went by, civilians also joined the campaign. According to the witness, this indicates that revenge was becoming the key factor in the campaign. Liborius estimated that the one-month campaign resulted in the partial or total destruction of 60 to 70 percent of abandoned Serb houses.

When he and other observers wanted to enter the villages where there was looting and arson, Liborius recounted, they were not allowed under various pretexts; the first and foremost was 'security reasons'. At the same time, the witness said, civilians could enter the villages easily and proceeded to loot the houses and take the stolen items; the police and troops never stopped them. When he asked why the 'security reasons' prevented the monitors from entering the villages, while the civilians could go in, he would get no answer; in most cases, the personnel manning the checkpoints would 'just laugh' at his questions.

General Ivan Cermak was the only person who could help them to go through the blockade at the checkpoints. In his evidence today, Liborius called Cermak the 'commander of the Knin military district'. Just one phone call to Cermak was enough to make the civilian or military police at the check point change their minds and allow the monitors to pass.

Describing the situation in a number of villages near Knin, Liborius said that although the houses were destroyed, the churches remained intact. In the weeks to come after Operation Storm, Orthodox places of worship were guarded by the Croatian army. Croatian soldiers told Liborius that they were there under General Gotovina's orders. Although this part of Liborius' testimony might play into the hand of the accused general, it also incriminates him because Liborius said that the soldiers guarding the churches observed the burning of the nearby houses or were themselves involved in it.

Moreover, the evidence of the former EC monitor is contrary to Gotovina's defense argument that units under Gotovina's command left Krajina immediately after Operation Storm and headed into BH.

Soren Liborius continues his testimony tomorrow.

2008-09-11

THE HAGUE

SPEECHLESS TALKS WITH GENERAL GOTOVINA

Soren Liborius, Danish member of the EC monitoring mission in Krajina described how at a meeting in late October 1999 General Gotovina 'tacitly agreed' with the conclusion that Croatian soldiers had perpetrated crimes. However, in his cross-examination he admitted that this allegation was 'not completely true'; it was only partially correct.

As his examination-in chief at the trial of generals Ante Gotovina, Ivan Cermak and Mladen Markac drew to a close, former member of the EC monitoring mission in Krajina, Soren Liborius described several meetings with General Gotovina and his subordinates in the autumn of 1995.



◀ Soren Liborius, witness in the Gotovina case

His first meeting with Gotovina, Liborius recounted, was a private one in August 1995. In a heated debate, Liborius complained about the decision to move the ECMM regional center from a building in Knin. When Gotovina angrily left the meeting, the witness claims, one of the Croatian Army officers told Liborius that he was 'crazy' to talk like that to the 'man who had the power to decide about life and death'. Defense counsel Luka Misetić put it to the witness that this meeting actually never took place. Liborius disagreed, although he admitted that he never wrote down any notes about 'the man who had the power to decide about life and death' in his diary or contemporaneous reports.

Liborius met Gotovina the second time on 27 October 1995; this time he was with the head of the EC Monitoring Mission regional center in Knin, Gambotti. According to the witness, Gambotti then brought up the involvement of Croatian soldiers in 'incidents' – the killings of civilians, and looting and burning of abandoned Serb houses. In his examination-in chief Liborius said that Gotovina didn't make any comments; the European monitors interpreted his silence as his agreement with what they had said, as an 'admission that soldiers were committing crimes'.

To challenge this claim, defense counsel Misetić showed him a daily report drafted by the ECMM that day, signed by the witness. The report says that Gotovina denied any claims that the crimes were committed by Croatian Army professional personnel. He laid the blame for the crimes on 'soldiers from conscript units lacking discipline' adding that the Croatian Army did not have enough qualified officers to control the troops. The witness then admitted that he did not 'tell the whole truth' when he claimed that there had been a 'wordless conversation' with Gotovina and that Gotovina 'tacitly admitted' that Croatian soldiers were committing crimes. As for the claim made by the accused general that there weren't enough trained officers, Liborius saw it as 'an ironical explanation'; Gotovina saw crimes as a natural disaster, something that could not be prevented.

Finally, in the statements he gave to the OTP investigators, the Danish monitor said that Croatian soldiers whom he saw looting abandoned Serb houses after Operation Storm told him that their superiors had granted them permission to do that. One of them explained to Liborius that the looting was their 'fee for fighting' since their salary was insufficient. Gotovina's defense counsel noted that this was not in witness's daily reports from the field he filed at that time. On the contrary, some of the reports state that the looting in Krajina was becoming widespread, adding that the monitors still 'have no impression that it is organized and planned by the higher authorities'. Liborius said he didn't write the reports in question. Had he been the author, they would not have contained those claims.

2008-09-11

THE HAGUE

GOTOVINA'S DEFENSE: 'IT WAS ANARCHY'

In his reports, Soren Liborius, former EU monitor, described the situation in Krajina in the aftermath of Operation Storm as 'anarchy'. Ante Gotovina's defense counsel tried to turn this to his client's favor, claiming the term 'anarchy' implied 'lack of governmental control'. The witness replied that what he meant was 'lack of normalcy' coupled with widespread looting and destruction; that, he said, didn't exclude government's involvement.



◀ Luka Misetić, defense attorney for Ante Gotovina

The cross-examination of Soren Liborius, former EU monitor in the Sector South from Denmark, continued today. General Ante Gotovina's defense counsel tried to contest the witness's estimate that some 60 to 80 percent of houses in Krajina were either totally or partially destroyed. The defense counsel noted that several villages listed as destroyed in the witness's daily reports from August 1995 actually had a Croat majority according to the 1991 census.

Asked if it meant that Croatian soldiers burned and destroyed houses of their fellow Croats, Liborius replied that he listed all the villages that in his view had been burned down after Operation Storm; he didn't pay any

attention to their ethnic structure. 'I never said that all of the 60 to 80 percent of burned villages had a Serb majority or that only Croats burned the villages down', the witness clarified. As he went on to explain, it was possible that Serbs moved into Croat houses in the four years while the Republic of Serbian Krajina was in existence, and that they were later burned down when the territory was liberated.

The reason behind the destruction of houses in Krajina, according to the witness, was the intention of the Croatian authorities to prevent Serbs from returning to their homes. In one of his reports, Liborius wrote that the looting and burning foiled to a large extent the government's plans to bring back the Croats expelled after 1991; this led the defense counsel to note that this contradicted the claim that the authorities were behind the destruction of houses. It was possible that the authorities first organized the destruction but when it got out of hand, they saw it as a problem, Liborius explained.

In a number of his reports, the witness described the situation in Krajina as 'anarchy'; defense counsel Misetić tried to turn this claim to his favor. The term 'anarchy' implies 'lack of government control' in an area, he suggested. Liborius replied that what he meant was 'lack of normalcy' and widespread looting and destruction: this did not rule out governmental involvement.

Misetić will complete his cross-examination tomorrow. The witness will then be cross-examined by the defense teams of generals Ivan Cermak and Mladen Markac.

2008-09-12

THE HAGUE

WHY REPORT CRIMES TO THOSE WHO COMMITTED THEM?

When Gotovina's defense counsel asked him why he didn't report the arson and the looting to the HV Military Police, former EU monitor Soren Liborius replied that he saw no reason to do that, when military police were those who destroyed the abandoned Serb houses. As Liborius put it, their commander had to be 'blind' not to know about those crimes.



◀ Soren Liborius, witness in the Gotovina case

As his cross-examination drew to a close, Ante Gotovina's defense counsel tried to prove that prosecution witness Soren Liborius, former member of the EU monitoring mission, and his colleagues didn't report the looting and burning of abandoned Serb houses to the right people. Those incidents were rife throughout Krajina after Operation Storm in August 1995 and were recorded by the monitors. The witness repeated today what he already had said in his examination-in chief: that he reported the crimes on several occasions to the civilian police and to Petar Pasić, the mayor of Knin.

When defense counsel Misetić asked him why he failed to report the destruction of houses to the military police,

the witness responded with a question of his own. 'How could I report arson to the people who were burning the houses?', he asked. The defense counsel went on to ask the witness how the HV Military Police commander was supposed to respond if he didn't know of the crimes. Liborius replied tersely that the commander would have been 'blind' not to have seen what his soldiers were doing.

After Gotovina's defense counsel, the witness was examined by the defense of General Ivan Cermak. In his examination-in chief the witness called Cermak 'the military governor of Knin' claiming that he had authority both over the army and the police, in the entire Krajina. In his attempt to prove his point, that his client was mischaracterized, defense counsel Kay once again brought up the order of Croatian president Franjo Tuđman dated 5 August 1995 where he appoints Cermak 'commander of the Knin Garrison'. Since the witness used the wrong title to describe Cermak, the defense counsel concluded, he was wrong in his assessment of Cermak's powers.

Liborius explained that he didn't know what Cermak's official position was, but in practice, when Cermak met with European monitors he didn't protest when he was addressed as 'military governor'. Liborius saw for himself the authority Cermak had over the Croatian security forces in August 1995, when, as he recounted, he would be allowed to pass through joint military-police check points only after Cermak intervened. That was why he wrote down Cermak's phone number on the first page of his notebook, the witness claimed.

Cermak's defense counsel will complete the cross-examination later because the witness must leave The Hague today on urgent business. He will appear before the court once again on 6 November 2008.

2008-09-15

THE HAGUE

CRIME IN GRUBORI THROUGH EYE OF UN CAMERA

After the testimony of a protected witness testifying as Witness 1, the trial of generals Gotovina, Cermak and Markac was opened to the public just as the hearing today drew to a close. The prosecutor then read the summary of the statement given by Richard Lyntton, former UN Television cameraman. In August 1995, Linton filmed the bodies of elderly Serbs killed in the village of Grubori, Krajina.



◀ Richard Lyntton, witness in the Gotovina case

The trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac proceeded in closed session today; it moved into open session for the final fifteen minutes. The protected witness testifying as Witness 1 gave his evidence in closed session. The next prosecution witness was Richard Linton, former UN TV producer and cameraman. The prosecutor however had just enough time to read summary of Linton's statement given to the OTP investigators in October 2001 and tender it into evidence.

As stated in the summary, Linton came to Knin from the UN headquarters in Zagreb in order to visit the Plavno Valley together with Edward Flynn, chief of the UN

Human Rights Action Team, and film the scheduled meeting between the remaining Serb population and the local police chief. The meeting was canceled because the police chief failed to show up, but Linton managed to record some footage before heading back to Knin. Together with other UN members, Linton went to the village of Grubori because they saw smoke rising from that direction.

In the village, Linton saw houses on fire. The remaining Serbs told him that the Croatian special police had threatened to kill them. Linton went back to Knin, and decided to set up an interview with General Ivan Cermak for the UN TV. He was told that Cermak was 'the military governor of that area'. Since the interview was scheduled for 26 August 1995 around noon, the witness had time to visit the village of Grubori early in the morning and gather additional information. He saw and recorded the bodies of two elderly Serb men. As he described in his statement, one man was shot in the head and the other had had his throat slit.

He confronted General Cermak with these facts during their interview, but Cermak denied that anybody was killed at point blank range in the Plavno Valley area. According to Cermak, 'anti-terrorist operations' were conducted there. In the course of the trial so far, the defense counsel have tried to prove that the elderly Serbs were killed in the cross fire in the clashes between the Croatian special units and remnants of Serb soldiers. One of the old men had a neck wound inflicted by a stray bullet, the defense says, and not by knife, as the prosecution alleged.

Richard Linton will be examined by the prosecutor and the defense teams of the three accused tomorrow.

2008-09-16

THE HAGUE

CERMAK'S BUSINESS PEDIGREE

The defense is trying to prove Cermak was a businessman sent by Tudjman to Knin after Operation Storm to help deal with civil affairs. Richard Lyntton, testifying for the prosecution, repeats his claim from his examination-in-chief saying that the accused general was the 'military governor' of the Knin area. He was aware of only one business Cermak ran – a chain of brothels in Croatia.

At the trial of Croatian generals Gotovina, Cermak and Markac, the prosecutor completed the examination-in-chief of Richard Lyntton, former UN TV producer. Lyntton began his evidence yesterday. In his description of the events he recorded with his camera on 25 and 26 August 1995, the witness said that as a journalist, he had never had a story with 'such great potential'. In the village of Grubori in the Plavno Valley he filmed burned-down houses and two of the five civilians killed in the village. He also recorded his interview with General Ivan Cermak, 'the military governor of the area'. In the interview, Cermak contested the evidence of the crimes he was showed.

In the cross-examination, defense counsel Higgins showed the witness a transcript of that interview taken on 26 August 1995. When Lyntton asks Cermak about the Grubori incident, Cermak repeatedly answers, 'I don't know'. Higgins went on to ask the witness if it would not be fairer to say that the accused general 'didn't know about' the crimes rather than that he denied them. 'No, not quite', the witness replied, explaining that during the interview he got the impression that Cermak knew what had happened, but was trying to conceal the fact.

When asked if he knew that in August 1995 Cermak held the title of 'the commander of the Knin Garrison' and not 'military governor', Lyntton said that he paid little attention to linguistic form. As he put it, it was not important to him if Cermak was called 'boss', 'commander' or 'military governor'; it was clear from Cermak's answers, Lyntton went to say that Cermak was 'in charge of security' in Krajina.

Defense counsel Higgins again contested the claim her client had any military role, asking Lyntton if he was aware of the fact that Cermak was a businessman sent to Knin by Tudjman after Operation Storm to help with civil affairs. To Lyntton's knowledge, the only business Cermak ran before Operation Storm was a chain of brothels throughout Croatia. When asked if he had visited any of them, the witness said he did, explaining that he decided to do that when a Croatian journalist covering the story asked him to accompany him on a visit to a brothel in Velika Gorica near Zagreb. 'You are a real gentleman', defense counsel Higgins remarked ironically and the witness thanked her.

In response to the defense's allegation that Cermak was 'not informed' about the Grubori village incident and could therefore not do anything about it, the prosecutor showed parts of an interview of 26 August 1995 where Cermak describes in detail the operations conducted by the special police forces in the Plavno Valley. Cermak promised that an investigation would follow if the reports by the military and civilian police indicated that any crimes were committed. This confirmed Lyntton's conclusion that Cermak knew what was going on and that he had 'the role of commander' who had the power to investigate the crimes.

Lyntton's testimony ended today and the trial of the three Croatian generals will continue tomorrow.

2008-09-18

THE HAGUE

'REINTERPRETATION' OF CERMAK'S ROLE

In his statement to the OTP investigators, former officer in the Croatian military police stated that his company had been under the command of Ivan Cermak. In the evidence in the cross-examination today, Bosko Djolic said that in his view this claim was not true.



◀ Bosko Djolic, witness in the Gotovina trial

Bosko Djolic, former commander of the joint company of the 72nd Military Police Battalion in the Croatian Army gave his first statement to the OTP investigators in May 2004. Before his evidence at the trial of Croatian generals Gotovina, Cermak and Markac, he gave an additional statement correcting some of the errors and clarifying some of his claims from 2004. At the beginning of the hearing today, Djolic made some additional corrections to this statement. Although he said he didn't want to make any more changes, in his cross-examination he disowned the paragraph describing the powers of General Ivan Cermak over the HV military police.

In his 2004 statement, the witness recounted that his company was under the command of Mihael Budimir, commander of the 72nd Military Police Battalion, but at the same time it was under the jurisdiction of General Ivan Cermak, commander of the Knin Garrison. As the witness noted, during his stay in Knin, from 5 to 12 August 1995, he had to 'comply with every Cermak's order'. Today, answering the questions of Steven Kay, Cermak's defense counsel, the witness denied those claims adding that in his view Cermak's role was not described entirely accurately in the 2004 statement. Today, he said, he is sure that he was only under Budimir's command, while Cermak had nothing to do with the military police. Although prosecutor Mahindaratne asked the Trial Chamber to warn the witness about the consequences of giving false evidence, the judges decided not to do it.

Defense counsel Kay showed the witness several orders issued by General Cermak in August 1995 to the military police, ordering them to set up patrols and activate crime investigation bodies to investigate the cases where property was stolen from the UN mission in the Sector South. Despite the fact that every document began with words 'I hereby order', Djolic agreed with the defense counsel that these orders were not binding on the military police in Knin. The military police took those orders 'as information' about the events in the field that they could respond to, but were not bound to do it. The witness couldn't understand why the documents he was showed began with words 'I order' when 'they were no orders'.

Djolic will complete his evidence tomorrow, and the prosecution will then call its next witness.

2008-09-19

THE HAGUE

'KRAJINA – LAND WITHOUT PEOPLE'

Former European monitor Lennart Leschly noted in his report in August 1995 that Operation Storm resulted in the expulsion of 200,000 Serbs from Krajina. Croatia thus 'gained what it wanted – land without people'. Gotovina's defense counsel stressed that 'land without people' was an expression the witness heard from Milan Martić and then used. This claim made the witness laugh out loud.



◀ Lennart Leschly, witness in the Gotovina case

When Operation Storm was launched, Danish officer Lennart Leschly was the head of the European Community Monitoring Mission Regional Center in Zagreb. In his office, he received field reports from other European monitors and he used them to draft his weekly report on the situation in Krajina. Leschly's 2007 statement to the OTP investigators and several of his weekly reports drafted after Operation Storm were tendered into evidence at the trial of Croatian generals Gotovina, Cermak and Markac today.

In his report for the week from 6 to 12 August 1995, the Danish officer notes that Operation Storm has resulted in the expulsion of 200,000 Serbs from Krajina; Croatia thus 'got what it wanted, land without people'.

Leschly's report went on to say that the Croatian Army, like every other army in the Balkans, showed it was prone to 'unnecessary looting and violence'. Leschly concluded in his report that the HV conducted 'the biggest campaign of ethnic cleansing' in the former Yugoslavia. Today Leschly added that even before Operation Storm he knew that Croats didn't want Serbs in their country, just as Serbs didn't want to live in Croatia – preferring the self-proclaimed Republic of Serbian Krajina instead.

In the cross-examination, Gotovina's defense counsel put it to the witness that the expression 'land without people' used in his weekly situation report from Krajina, was actually first used by another Danish monitor by the name of Jensen. As the defense alleges, Jensen was strongly pro-Serb. Leschly didn't rule out the possibility that he might have heard the expression from his Danish colleague. However, when the defense counsel went on to say that Jensen himself had taken that expression from RSK president Milan Martić, the witness laughed out loud. In an effort to prove Jensen's bias, defense counsel Kehoe said that Jensen had close ties with the Krajina Serb intelligence service. This service allegedly provided Jensen with a girlfriend, a car and police protection for the house he lived in. Leschly denied any knowledge of that.

Describing a meeting with Ante Gotovina in September 1995 the witness noted that the accused general first dismissed all allegations about killings, looting and arson in Krajina, saying that such things happened in every war. The European monitors went on to report that Gotovina said the looting and burning of houses was a normal human reaction on the part of those who had been expelled and whose property had been destroyed. The general however did promise the perpetrators would be prosecuted.

The trial of Croatian generals continues on Monday with the evidence of a protected witness testifying under the pseudonym 167.

2008-09-22

THE HAGUE

'COCKY' TURNED INTO 'HAPPY'

Former chief of the Zadar criminal investigations division began his evidence today at the trial of Croatian generals Gotovina, Cermak and Markac by renouncing parts of his statements to OTP investigators. He claims he never described Croatian soldiers after Operation Storm as 'very cocky and confident'; what he said was they were 'happy and proud' and there was a mistake in the translation.

After he decided to testify without protective measures, Ivo Kardum, former chief of the criminal investigations division in Zadar, appeared before the court today and began his evidence. Kardum renounced parts of the statements he gave to the OTP investigators in 2004 and 2007 where he described how he and his subordinates investigated crimes against Krajina Serbs.

The witness objected that the true meaning of some parts of his statements was distorted 'due to errors in translation'. He was granted permission to highlight the controversial paragraphs. This has already happened before the Tribunal, most recently in the case of the Serbian Radical Party Vojislav Seselj and at the trials of Haradinaj, Limaj and other KLA leaders. In those cases, prosecution witnesses would renounce their previous statements, claiming they never said what was written in the statements they signed.



◀ Ivo Kardum, witness in the Gotovina trial

Apart from a large number of less than relevant details – such as correcting his title from ‘section chief to ‘division chief – Kardum corrected parts of his statements where he said things that do not favor the accused generals. First, Kardum denied ever having said that it was ‘difficult to deal with soldiers’ because after the military victory they were ‘very cocky and confident’. Today the witness maintained that he said, or at least meant to say, that the soldiers were ‘happy and proud’, not ‘very cocky and self-confident’. This was a case of ‘bad translation’ of his statement.

25 August 1995, Kardum told the investigators that he had learned about the incident from General Ivan Cermak’s address on TV. He was not officially notified as he should have been as the chief of the criminal investigations division. ‘Somebody in authority obviously decided’ to take the CID off the case, he said in his statement. Today Kardum explained that he had said ‘somebody’, not ‘somebody in authority’ adding that ‘the authorities had nothing to do with it’.

Ivo Kardum continues his evidence tomorrow.

2008-09-23

THE HAGUE

WITNESS WAS ‘SCARED’ OF SOLDIERS

During his second day in court, former chief of the Zadar criminal investigation division Ivo Kardum continued contesting the claims he had made in his statements to the OTP investigators in 2004 and 2007. Kardum told the investigators that he himself was afraid of Croatian soldiers. Today, contrary to that, he said that the remaining local Serbs had ‘lots of nice things to say’ about those soldiers when he spoke to them.



◀ Ivo Kardum, witness in the Gotovina trial

In a statement he gave to the OTP investigators, tendered into evidence at the trial of Croatian generals Gotovina, Cermak and Markac, former chief of the Zadar criminal investigation division Ivo Kardum said that after Operation Storm, the Croatian civilian protection personnel did the clean-up of the terrain, removing the bodies without informing the police. The witness also said that he later learned that thirty bodies were found and buried in the Knin area in August 1995. As he received no notice of that, he couldn’t investigate the case.

The prosecutor today tried to prove that there had been no investigations because the Croatian police officials decided not to investigate, and not because the CID did not have proper information. He showed the minutes

from a meeting of the MUP officials in Zagreb where it is stated that it was not the task of the police to ‘investigate’ but merely to ‘identify’ the bodies that were found. Kardum denied that this meant that there was an order not to investigate the cause of death of the people whose bodies were found in Knin. The witness mentioned the murder of seven Serb civilians in the village of Gosic near Knin on 27 August 1995 and several other murder investigations undertaken from 1996 to 2002.

The witness however admitted that the minutes from the meeting in Zagreb were partially correct. There was an order issued on 7 August 1995 to the effect that there was to be no investigation in the cases when the corpses found by the civilian protection were already decomposed. As Kardum clarified, the investigations were conducted only if there were indications that a war crime had been committed. When it was assessed that the persons died in ‘combat, of natural causes or suicide’, there was no investigation, the witness said.

Kardum told the OTP investigators that on 7 August 1995, when he first came to Knin after Operation Storm, he saw smoke rising from neighboring villages, abandoned tractors and scattered civilian clothes. In the town and the environs, Kardum went on to say, there were policemen but also soldiers; he was scared of them. Today Kardum changed his evidence, saying that the police protected the remaining Serbs in Krajina villages. Serb civilians had ‘a lot of nice things to say’ about the behavior of the Croatian Army troops when he spoke to them. Asked if he or his colleagues from the police took any action against the Croatian soldiers for looting and burning, the witness replied that he was not aware of any suspicions that such acts were being committed.

As the hearing today drew to a close, police general Mladen Markac’s defense cross-examining the witness.

2008-09-24

THE HAGUE

THIEVES GUARDING STOLEN PROPERTY

Croatian police officer Ive Kardum contends that persons suspected of looting Serb property after Operation Storm were stopped at check points located throughout Krajina. When the criminal investigation was over, they were given back the stolen property to safeguard it pending the completion of trial.



◀ Ive Kardum, witness in the Gotovina trial

During his cross-examination today, former chief of the Zadar CID Ive Kardum agreed with almost everything the defense counsel of the accused generals Ante Gotovina and Mladen Markac put to him. Ivan Cermak's defense team decided not to cross-examine the witness. The general tone of mutual agreement was disrupted when the witness made contradictory claims, prompting the presiding judge to intervene.

Many prosecution witnesses, primarily UN and EU monitors, claimed in their evidence that after Operation Storm nobody stopped the Croatian soldiers, police officers and civilians as they attempted to pass the check-points with the goods they had looted. Markac's

defense counsel Goran Mikulicic showed several police documents in an effort to contest those claims: those were excerpts from the collection of some 500 receipts for temporarily seized property. The receipts that the defense managed to get hold of refer to property suspected of being stolen.

The presiding judge then intervened, asking for clarification of the decision to seize the goods 'only temporarily'. The witness said that the items could not have been seized permanently without a court decision. As Kardum explained, the suspects were taken from the check-point to the closest police station where they were interviewed by the police and then released; sometimes they were allowed to take with them the goods they had allegedly stolen with a warning not to sell them until the trial was over. 'Does that mean that the stolen goods were left in the custody of those you seized them from', the

presiding judge asked. The witness confirmed this, noting that it was 'standard procedure' when the 'goods were cumbersome', such as a herd of sheep or a dozen or so calves.

As his cross-examination continued, Kardum agreed with Gotovina's defense counsel Luka Misetec who contended that there were insufficient resources to investigate the crimes against Serbs and their property. Misetec implied that the military and civilian police officers couldn't leave check-points even if they wanted to, for security reasons. Therefore, they were not able to bring those suspected of stealing to police stations. This prompted the presiding judge to intervene once to point out that the witness was

inconsistent: his initial testimony was that persons suspected of looting were taken from the check-points to the police stations. In a sort of compromise Kardum replied that the transfer depended on the distance between the check-point and police station in question and the seriousness of the crime. Sometimes, he said, the police from other locations would come and pick up the suspects.

In an effort to prove that other crimes, not just looting, were prosecuted after Operation Storm, the defense counsel showed several police reports confirming that the murders of Serb civilians in the villages of Gosici and Varivode in August and September 1995 were

investigated. The witness confirmed that the investigations were thorough and that he himself took part in them. However, the two crimes are not among those listed in the indictment against the three generals.

2008-09-25

THE HAGUE

HV SOLDIERS CARRIED TV SETS

Canadian intelligence officer Robert Williams is testifying at the trial of the Croatian generals charged with crimes during and after Operation Storm. He says he watched Croatian soldiers from the UN base in Knin where he was, carrying items he didn't expect to see in the hands of the soldiers: TV sets and other appliances.

Robert Williams, intelligence officer from Canada, was transferred from Zagreb to Knin on 3 August 1995, a day before Operation Storm began. He was sent there to gather information about the warring factions in Sector South. He remained in Krajina for just four days, enough for him to see the bodies of a number of Serb civilians and soldiers and to witness the looting and burning of abandoned houses in Knin.



◀ Robert Williams, witness in the Gotovina trial

In his evidence at the trial of Croatian generals Gotovina, Cermak and Markac, Colonel Williams recounted that the shelling of Knin was 'some sort of harassing fire' with civilian targets more than military ones. The objective was to force the inhabitants to flee, the witness claims, because the Serb army didn't have any defense positions in the town.

When the Croatian troops and police entered the town, the witness and most of his colleagues stayed inside the UN base; they had observed the shelling earlier on from there. On 5 and 6 August 1995, the witness saw members of the 7th Guards Brigade of the Croatian Army, also known as the Puma Brigade, around the base;

the soldiers were drunk. He saw them carry items he 'didn't expect to see in the hands of soldiers' – TV sets and other appliances.

Describing the incident of 5 August 1995 when a shell killed five Serbs near the UN base, the witness said that some of the victims were in civilians clothes while other had uniforms on. Near them was a body of another victim who had been killed earlier. On that same day, the witness saw a body of a young Serb soldier near the base, in the area controlled by the Puma Brigade. The youth had been shot in the head.

The Canadian colonel left Knin on 7 August 1995 in a helicopter. From air, he could see many houses on fire. When the prosecutor asked him how many houses were burning, the witness replied, 'More than just a house here and there'.

Gotovina's defense counsel spent most of the time in the cross-examination contesting Williams' claim that there were no SRK defense positions in Knin before Operation Storm. All other issues were covered in the last half-hour of the hearing today. The defense lawyer commented on the death of five Serbs in front of the UN base in Knin on 5 August 1995, saying it was not established where the shell that hit them had been fired from. The witness agreed.

Denying General Gotovina's responsibility for the events after Operation Storm, defense counsel Kehoe showed the witness a report drafted by the European monitors on 7 August 1995. The report notes that the Croatian Army continued its way towards BH and 'undisciplined soldiers replaced the disciplined ones'; this resulted in an increase of the looting and destruction of Serb houses. Kehoe put it to the witness that Gotovina was 'very very busy' planning further actions of his units, but Williams didn't agree.

2008-09-26

THE HAGUE

EMPTY PROMISES

Dutchman Eric Hendricks claims every time European monitors brought him reports about crimes against Serbs and their property General Ivan Markac promised he would take measures to prevent such incidents. However, the promises were 'not quite' being put to practice.



◀ Ivan Cermak in the courtroom

In August and September 1995, Dutchman Eric Hendricks served in Croatia as a monitor in the ECMM – European Community Monitoring Mission. He and his colleagues reported many cases of looting and arson in the Knin area, and several murders of Serb civilians. Today at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac the witness confirmed the authenticity of one such report claiming that 60 to 80 percent of the houses in the Krajina Sector South were destroyed partially or completely after Operation Storm. Yet another prosecution witness, Soren Liborius, Hendrick's Danish colleague from the ECMM, made the same claim in his testimony.

In the trial so far, the defense counsel of the three generals argued that the international monitors didn't distinguish between houses burned down between 1991 and 1995, during the so-called RSK, and those destroyed in Operation Storm and its aftermath. This prompted the prosecutor to ask the witness at the beginning of his examination-in-chief how the monitors were able to determine when the damage was caused. As Hendricks explained, soot was lighter on houses set on fire earlier. Also, there was some vegetation in those houses, and they were not reported by the European monitors.

In some cases the European monitors didn't have to analyze soot to identify the perpetrators: they saw them on the spot. In the statement he gave to the OTP investigators in April 2008 the witness describes one such example. In the village of Biskupija his team caught Croatian soldiers red-handed: they were setting houses on fire 'not minding at all' that the international monitors were standing next to them.

Hendricks recounted another incident from the village of Vukša in Krajina. As he patrolled the area, he discovered two bodies of two women, one with a gun-shot wound to the head and the other with an abdominal wound. As the witness contends, he and the other monitors reported the crimes against Serb civilians and their property regularly to local chiefs of police, and to 'the military governor' of the Knin area Ivan Cermak. The accused general promised he would take measures to prevent crimes, the witness said, adding that he didn't 'quite see' any changes in the field; the number of crimes didn't go down.

Cermak's defense has been arguing since the start of the trial that he was not the 'military governor', but the 'commander of the Knin garrison' comprising seven municipalities in Krajina. Defense counsel Cayley put it to Hendricks. 'Whatever he was called, he was the commander of the area', the Dutch monitor said.

Hendricks's evidence continues on Monday when he will be cross-examined by General Markac's defense counsel.

2008-09-29

THE HAGUE

CROATIAN AUTHORITIES IN KRAJINA VACUUM

The defense teams of Ante Gotovina and Mladen Markac do not deny the crimes against Serbs in Krajina and their property in the days following Operation Storm. However, they maintain the crimes could not have been prevented because 'the surprisingly quick military victory' left a power vacuum in its wake.



◀ Eric Hendricks, witness in the Gotovina trial

As he continued his evidence today, Dutchman Eric Hendricks, European Community monitor in Croatia, was examined by the defense counsel of generals Mladen Markac and Ante Gotovina. Markac, Gotovina and Ivan Cermak were charged with crimes committed during and after Operation Storm. Both defense counsel didn't deny the fact that there had been crimes – looting and destruction of houses of the Serbs who had fled in particular – in the days following Operation Storm. However, those crimes were committed by Croats who had themselves been expelled from that area, and who were bent on revenge. This was impossible to control because there was a power vacuum.

According to Gotovina's defense counsel, the vacuum was the result of the 'speed of the military success which

caught the Croatian authorities by surprise'; the operation was planned to take seven days, but was over just 36 hours after it was launched. The civilian and military police in charge of security in Krajina were late coming into the area. The witness allowed that this might be the reason why murders, looting and arson hadn't been prevented. However, he noted, this vacuum could not have lasted long since the 'military governor' Ivan Cermak arrived in Knin only days after Operation Storm began.

In an effort to prove that the crimes stopped when the Croatian authorities established control over Krajina, Mladen Markac's defense counsel asked the witness if it was true that the murders, looting and arson 'stopped at one point'. 'I don't know, I was there until late October and the crimes didn't stop by then', the former monitor from Holland replied.

In his examination-in chief, Hendricks maintained that he and other European monitors made sure not to list houses destroyed from 1991 to 1995 - when Krajina was under Serb control - in their reports on the destruction following Operation Storm. This prompted defense counsel Kehoe to note that a document drafted by the European monitors stating 60 to 80 percent of the Serb houses in Sector South were destroyed goes on to list villages that had the Croatian majority according to the 1991 census. The witness explained that the list 'might not be complete' allowing for the possibility that some of the villages named there were actually destroyed before Operation Storm. However, he repeated that he and his colleagues made every effort to record only the damage caused after the arrival of Croatian security forces in Krajina.

The prosecution will call its next witness on Wednesday. Tomorrow the Tribunal will be closed because of a UN holiday.

2008-10-01

THE HAGUE

HONORABLE NEIGHBORS AND SOME OTHER CROATS

Rajko Gusa, former member of the Krajina Serb army, disagrees with the Gotovina's defense's claim that after Operation Storm Serb houses were destroyed by local Croats returning to their homes, and not by soldiers. His neighbors are 'honorable people', Gusa says. Crimes were committed by 'some other Croats'.



◀ Rajko Gusa, witness in the Gotovina trial

Rajko Gusa, a Serb from Krajina, was a member of the SVK deployed in the area of his native village of Zemunik Gornji near Zadar from 1991 to the beginning of Operation Storm. In the statements he gave to the OTP investigators in 1997 and 2008, that were summarized today at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac, Gusa recounted how he ended up in Australia, from Zemunik via prisons in Zadar and Split where he was detained after Operation Storm. From there he went to Serbia and finally to Australia.

On the first day of the Croatian attack, on 4 August 1995, Gusa fled to the village of Bukovic. He spent the next day there watching the Croatian Army enter the village. The

troops then proceeded to set the houses on fire. He then fled to a nearby forest from which he was able to see the villages of Kistanje and Ervenik; they were on fire as the military vehicles passed through. As he described in his statements, the soldiers were driving trucks full of looted goods and livestock 'openly displaying their cargo'. After two months of hiding, Gusa decided to surrender to the police and was transferred to the Zadar police detention unit where he was beaten up. A couple of days later he was moved to the prison in Split, charged with armed rebellion against the Republic of Croatia. When Gusa was released in October 1996 he went to Belgrade and then on to Prizren. He was granted an entry visa for Australia and today lives there together with his six children.

Apart from reading the summary of his statements, the prosecutor didn't examine the witness whose evidence thus continued with the cross-examination by the defense counsel of the accused generals. Markac's lawyer Goran Mikulicic accused the witness of being a member of a group that pressured their Croatian neighbors into leaving the village in 1993. Ante Stura was among those expelled, the defense counsel alleged; Stura beat up the witness out of revenge in the Zadar police detention unit in October 1995. Gusa denied any participation in expulsion of local Croats. As he put it, he was beaten up in Zadar 'just because I am a Serb'.

Since the beginning of the trial, Ante Gotovina's defense has not denied that Serb houses were looted and set on fire, arguing that this was done by Croats returning to their homes bent on revenge, not by the Croatian Army troops. Defense counsel Luka Misetic therefore first asked Gusa if it was true that Croat houses in Zemunik and its environs were looted from 1991 to 1995. 'Looted and burned down and destroyed, all of them', the witness replied. Taking his cue from this answer, the defense counsel then asked if the Serb houses were actually destroyed by Croat returnees after Operation Storm. The witness however disagreed. His Croat neighbors were 'honorable people'; they didn't destroy Serb property although 'everything they owned had been burned down'. Serb houses were burned down by 'some other Croats', the witness was adamant.

Rajko Gusa ended his evidence today. The trial of Croatian generals continues on Monday because the prosecution didn't have any more witnesses to call this week.

2008-10-06

THE HAGUE

'I DID SAY IT, BUT I DIDN'T MEAN IT'

Former Croatian MUP coordinator for the Knin District, Stjepan Buhin today repudiated parts of the previous statements he gave to the OTP investigators where he accused HV personnel of looting Serb houses after Operation Storm. In his testimony today he said this was 'a nasty statement' he would not dare repeat today.

At the beginning of the hearing today in the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac, on charges of crimes during and after Operation Storm, the court went into closed session. The prosecutor indicated that the witness wanted to state whether he still had concerns about his safety and whether he wanted to testify with full protective measures. When the cameras were switched on again, the witness, Stjepan Buhin, strolled into the courtroom, obviously quite unconcerned about any threats to his safety. Buhin is a former Croatian MUP coordinator for the Knin District.



◀ Stjepan Buhin, witness in the Gotovina trial

Buhin, like some other prosecution witnesses before him, today repudiated the ‘incriminating’ parts of the statement he had given to the OTP investigators. In his 2002 statement, he said that in August 1995 the Croatian Army troops ‘transported the looted goods in military trucks’. When the civilian police checked them, they would in most cases produce forged documents indicating the goods were to be used for military purposes. Today Buhin said this was ‘a nasty statement’; he ‘would not dare to say it again’. ‘I probably didn’t mean it, although I did say it’, the witness said, noting that it was his belief today that most of the goods he had considered to be looted at the time was in fact used for military purposes.

As he continued to explain why he now saw the events in Krajina after Operation Storm differently than he had before, Buhin said the looters wore military uniforms but were not soldiers. Those were ‘civilians prone to crime’ who used the uniforms to their criminal ends and ‘looted property of their own accord’.

Despite his efforts to clear the army of any blame for the crimes in Krajina, the witness also stressed that the civilian police could do nothing to punish any crimes committed by the troops. HV soldiers were ‘above the police’ at that time, he said, and the situation was dangerous and tense: ‘people would draw their guns over minor matters’. That is why he and other Croatian MUP officials advised the police officers not to get into any conflicts with the soldiers and to leave the searches and ID checks of people in camouflage uniforms to the military police.

Stjepan Buhin’s evidence will continue tomorrow.

2008-10-07

THE HAGUE

POLICE TOP OBSTRUCTED GRUBORI MURDER INVESTIGATION

Former Croatian MUP coordinator Stjepan Buhin continues his evidence at the trial of generals Gotovina, Cermak and Markac. Today he recounted how in late August 1995 the top police officials told him to stop investigating the murder of five Serb civilians in the village of Grubori and focus on the ‘establishing public order and traffic issues’.



◀ Stjepan Buhin, witness in the Gotovina trial

As Stjepan Buhin, former Croatian MUP coordinator for the Knin District, continued his evidence, the prosecutor asked him about the murder of five civilians in the village of Grubori in Krajina on 25 August 1995. This incident is listed in the appendix to the indictment against Croatian generals Gotovina, Cermak and Markac. The prosecutor showed the witness several classified documents relating to the incident and most of the evidence was taken in closed session. Parts of the testimony heard in open session indicated that today the witness didn’t attempt to repudiate parts of the previous statements he gave to the OTP investigators in 2002.

In that statement Buhin said that he learned about the incident in the village of Grubori in late August 1995. He and Cedo Romanic, chief of the Knin police station, were determined to conduct a thorough investigation. However, they were stopped by high-ranking officials from the Croatian MUP.

Deputy commander of the special police Zeljko Sacic – Markac’s deputy – came to Knin first; the witness and Romanic told him they intended to investigate the Grubori incident. Sacic told them that the killings would be treated as ‘a consequence of Operation Storm’. Buhin found it strange, he said in his statement, and concluded that Sacic wanted to cover up the murder. Soon after his conversation with Sacic, the witness was called by Josko Moric, deputy interior minister; he was angry and asked Buhin why he was interfering in CID work instead of going about his business: establishing public order and traffic issues. Although Buhin did stop interfering in the investigation of the Grubori crime, he was pulled out of Knin some ten days after that.

The witness didn’t repudiate parts of the statement he gave to the OTP investigators where he names General Ivan Cermak as the main military commander of the liberated area in the Knin District. This is why defense counsel Steven Kay attempted to refute it in his cross-examination. Kay asked the witness if he saw any documents that prompted him to reach this conclusion about Cermak’s command over the Croatian Army. Buhin said he didn’t, adding that his

conclusion was based on the fact that Cermak was the highest-ranking officer the police talked to about coordinating actions with the army. Also, Buhin noted, Cermak was the only high-ranking military officer in the Knin area he heard of. Only later did he hear that General Ante Gotovina was also in Krajina.

As the hearing today drew to a close, General Mladen Markac's defense counsel began cross-examining the witness.

2008-10-08

THE HAGUE

'SUBSTANTIAL' NEEDS OF CROATIAN ARMY

In his statement to the OTP investigators former Croatian MUP coordinator for the Knin District Stjepan Buhin said that the looted goods were transported in the Croatian Army vehicles. Today however he stated that this was merely the rumor, adding that the goods might have been legitimately confiscated for military needs which were 'substantial' at the time



◀ Stjepan Buhin, witness in the Gotovina trial

As the cross-examination of the former MUP coordinator for the Knin District Stjepan Buhin continued, Mladen Markac's defense tried to prove that the investigation into the murder of five Serb elderly persons in the village of Grubori on 25 August 1995 was not suspended. Markac is indicted together with generals Ante Gotovina and Ivan Cermak for crimes committed during and after Operation Storm. In his examination-in chief, Buhin confirmed the claims he made in the statement he gave the OTP, that deputy interior minister Josko Moric and deputy commander of the special police Zeljko Sacic asked him to stop interfering in the investigation into the murder in the village of Grubori ordering him to go about his business of establishing public order and traffic issues.

When asked by defense counsel Mikulicic if he thought today that Sacic wanted to cover up the murder in Grubori, the witness said that he 'had that impression for some time'. He believes that the special police deputy commander would 'make a mistake if he were to try to cover up the murder' because UN observers were aware of the incident. Buhin admitted that he was 'hurt' when his assistance in the investigation was turned down.

Buhin agreed with Mikulicic's suggestion that Sacic and Moric did not intervene to put a stop to the investigation, but to indicate that the investigation was to be handed over to the CID in Zadar. The witness didn't know if the investigation continued. In his evidence as a prosecution witness, the chief of Zadar CID Ive Kardum said that he received no official notice of the Grubori incident. He learned about it from General Ivan Cermak's address in media, Kardum maintained. In the statement to the OTP, Buhin said that when he returned to Zagreb he heard from the MUP officials that the investigation 'was not done properly'. This prompted defense counsel Mikulicic to ask Buhin if he was aware that the investigation is still open, 13 years after the incident, at the county attorney's office in Sibenik. 'I don't know that. I don't follow that case any more', the witness replied.

Although in his statement to the investigators Buhin said that the Croatian Army vehicles transported looted goods, today he claimed those were mere rumors. It is impossible to prove that the goods had not been legitimately confiscated for military needs; those needs were 'substantial' at that time. The judge reminded him that in his statement he said the HV trucks carried everything that could be loaded onto them: from household appliances to widows and doors removed from houses. The judge went on to ask the witness if that meant that the Croatian Army fitted the doors and windows in its buildings. The witness corrected himself saying that such goods were transported by civilians, not soldiers.

An 80-year old lady, Draginja Urukalo testified today via video link from Zagreb. She described how the Croatian soldiers entered her village, whose name remained undisclosed, on 6 August 1995. They made her take off all her clothes except for her underwear and to play basketball with another elderly Serb, her neighbor. She was rescued by her grandson who was a HV soldier.

In the cross-examination, Ante Gotovina's defense counsel showed a statement of the witness's grandson Josko Siklic, former member of the HV Sixth Home Guard Brigade. He denied that his grandmother was undressed when he found her and that he heard her say she was abused. 'Aha, now he can lie', the witness muttered to herself.

The trial of Croatian generals continues tomorrow.

2008-10-09

THE HAGUE

'ADDITIONAL EXPLANATIONS'

Contrary to several previous insider witnesses at the trial of Croatian generals Gotovina, Cermak and Markac, who renounced the statements they had given to the OTP investigators once they got in the courtroom, Davor Simic, former member of the Croatian military police, renounced his statement before he even entered the courtroom by giving 'additional explanations' to Ante Gotovina's defense investigators.



◀ Damir Simic, witness in the Gotovina trial

Damir Simic, former CID inspector in the 72nd Battalion of the military police, gave a statement to the OTP investigators in January 2008. In it he described what his and other units did in the Krajina territory during Operation Storm and in its aftermath in the summer of 1995. The crimes that generals Ante Gotovina, Ivan Cermak and Mladen Markac are charged with were perpetrated in that period.

Six months later, in July 2008 the witness gave another statement, this time to Ante Gotovina's defense investigators. In it he provided some 'additional explanations' of his previous statement. As Gotovina's defense counsel Luka Misetec said at the beginning of the

hearing today, the explanations differ in some details from the statement given previously to the OTP investigators.

Following his arrival in The Hague, at his proofing session and in the additional statement he gave to the prosecution, Simic confirmed that his statement from January 2008 was true. Gotovina's defense today asked that the witness be shown the statement he gave to defense investigators and then say whether he agreed with the explanations he provided originally or the additional ones. In court today, the witness confirmed that he talked to the investigators of both sides. This prompted the presiding judge to call for a break. The defense and the prosecution met during the break and reached a compromise. They decided to delete some paragraphs from both statements; nothing was said about the contents.

As the hearing today drew to a close, the prosecutor began the examination-in chief of the witness whose evidence is to be completed tomorrow.

2008-10-10

THE HAGUE

LOOTED GOODS NOT EVIDENCE OF LOOTING

Former CID inspector in the military police Damir Simic today explained why criminal reports were not filed against Croatian soldiers who had looted goods seized from them after Operation Storm. There was not enough physical evidence against the perpetrators because they were caught with looted goods in their possession, but not at the scene as they did the looting, Simic said.



◀ Damir Simic, witness in the Gotovina trial

As his examination-in chief continued at the trial of Croatian generals Gotovina, Cermak and Markac, former CID inspector in the 72nd Military Police Battalion of the Croatian Army Damir Simic said it was to be expected that a large number of criminal reports would be filed against Croatian soldiers after Operation Storm since they would come to the checkpoints with property believed to be stolen and that property was then seized from them. However, according to a report Simic himself drafted, that prosecutor Mahindaratne showed in court today, in August 1995 the CID of the 72nd Battalion filed only one criminal report against a Croatian soldier; this was for a traffic offence.

Explaining why there were no investigations and no charges pressed for looting, the witness said he assumes there was not enough physical evidence; perpetrators were caught with looted goods but not at the scene of the crime while they were actually doing the looting. In his words, soldiers who were caught with stolen property at the check-points,

would say 'we found this here and that there'; nobody said 'we stole this' and there was no further investigation.

When the prosecutor showed him several documents indicating that the members of the military police were arresting not only the Krajina soldiers but also Serb civilians and were transferring them to collection centers at the seaside, the witness said that he knew very little about the reasons for that. In his reply to the question of Gotovina's defense counsel Luka Misetić the witness said that civilians were not under arrest; they were transferred to safer places when there was fighting in the areas where they lived.

The presiding judge then asked the witness if it was necessary to transfer civilians to a 'safer place' days after Operation Storm, on 10 August 1995, as indicated in a report with that date on the transfer of civilians to collection centers. 'I don't know that, but it's possible, the witness said.

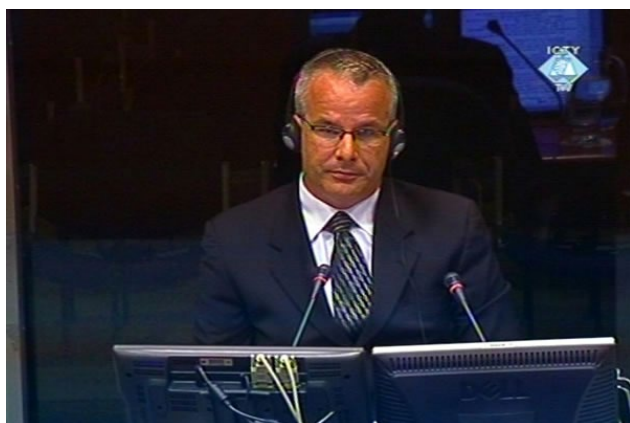
In his statement to the OTP investigators and in his examination-in chief today, Simić said he was ordered in late October 1995 to stop the investigation into the murder of Serb civilians in the villages of Varivode and Gosići in Krajina. Goran Vunić, HV soldier, was a suspect in that case. As Simić said, Captain Mrkota, commander of the 4th Company, 72nd Military Police Battalion, issued this order and did not provide any further explanation. Simić was not able to tell what happened later with the investigation. Defense counsel Misetić then showed him a judgment of a Croatian court for Varivode case. The contents of the judgment were discussed in closed session. The public heard that Goran Vunić testified at that trial.

2008-10-13

THE HAGUE

'ORGANIZED DISMANTLING OF THE TOWN'

Describing the situation in Knin following the arrival of the Croatian forces in August 1995, Murray Dawes said that personal belongings of the Serbs who had fled the town was taken out of their houses. Worthless items were neatly placed in one spot, and various appliances and other valuables were put in another area and were then taken away by military trucks. Dawes served as a civilian logistics officer in the UN at the time.



◀ Murray Dawes, witness in the Gotovina trial

Before Operation Storm was launched in August 1995, Canadian Murray Dawes worked as civilian logistics officer in the UN mission in Knin. In the statements he gave to the OTP investigators in 1996 and 2008, a summary of which was read today at the trial of Croatian generals Ante Gotovina, Ivan Čermak and Mladen Markač, the witness recounted how he saw dead civilians, looted and burned down houses and the incident when he was wounded during the shelling of Knin by the Croatian Army.

When the shelling of Knin began on 4 August 1995, Dawes left the UN base several times to go into town and assist with the evacuation of the remaining international

observers who were in private accommodation. During one of his trips to town, his vehicle was deliberately targeted by the Croatian artillery, he recounted. When he left the car, a shell hit the ground near him. He was hurled down by the explosion. His right arm was wounded slightly. He spent the next day in the UN base watching drunken Croatian soldiers take away the looted TV sets, household appliances and furniture in trucks.

The following day, 6 August 1995, the witness visited the villages of Vrbnik and Kistanje. There he saw Croatian soldiers 'in proper uniforms'. They were 'actively engaged in looting'. The goods were taken away in vehicles with HV license plates. Once the looting was over, the witness said, all the buildings in those villages were burned down, except those marked with the words 'Croatian house'. On his way back to Knin, Dawes claims he saw 15 to 25 bodies, both male and female. This was at the intersection with the road to Srb. He couldn't say anything about how they were killed. The only thing he did notice was that they were killed by small arms.

Back in Knin the witness saw Croatian soldiers taking the personal property of Serbs who had fled from their house. Garbage and worthless items were neatly placed in one spot; various appliances and other valuables were taken elsewhere, loaded onto military trucks and transported somewhere. The witness described the situation as 'organized dismantling of the town'.

Dawes saw systematic looting of property from abandoned houses in the morning of 8 August 1995 on the road from Knin to Drniš; the witness was sent to Primosten to get some drinking water for the UN mission. On his way back, the witness maintains, he saw that the houses that had already been looted were now burning. 'The sky was black, we even had to turn on the headlights because of the soot and dust in the air', the witness described, adding that he is 'not exaggerating' when he said that there were houses on fire all along the Drniš-Knin road.

As the hearing today drew to a close, Ante Gotovina's defense counsel began cross-examining the witness.

2008-10-14

THE HAGUE

LOOTING OR CONFISCATION?

Gotovina's defense counsel tried to prove today that on their arrival in Knin after Operation Storm Croatian soldiers confiscated goods from government and military facilities. The witness maintained that the goods were looted from civilian apartments. The witness saw the military police stopping soldiers and civilians at check-points but never saw any stolen property taken from them.

Murray Dawes, former civilian clerk serving in the UN mission, admitted in his cross-examination that in the days after the shelling that had occurred on 4 and 5 August 1995, Knin looked 'much better' than he and UN colleagues had expected. Other witnesses before him had said the same thing. He did maintain though that the Croatian Army targeted civilian buildings in the town. Dawes was cross-examined by Ante Gotovina's defense counsel today; the defense teams of Ivan Cermak and Mladen Markac had no questions for him.

Defense counsel Kehoe first put it to the witness that on 4 August 1995 when he was slightly wounded in Knin Dawes didn't know whether he was within the range of the Croatian artillery at the time of the impact. Therefore, the witness was not able to tell where the shell came from. The witness agreed saying that he 'doesn't know' who fired the shell at him.

In an effort to challenge Dawes's allegations of 'systematic and organized' looting of Knin after the arrival of the Croatian Army, the defense counsel suggested that the goods were taken from the facilities used by the army and government of the former RSK, and not from residential buildings. Dawes, however, stuck to his claim that he witnessed the soldiers carry TV sets, video recorders, stereos and other appliances out of apartments and not government buildings. The defense counsel picked up from that, saying that Serb army personnel might have lived there. Dawes replied that he didn't know that; what he knew was that UN staff lived in some of those buildings.

The defense counsel went on to show several documents drafted by the Croatian Army units in August 1995 with lists of goods confiscated in Knin. When asked if he saw the military police stop soldiers and civilians at check-points and take stolen items from them, the witness replied tersely, 'They did stop them, but they didn't take anything'.

When he described the looting and destruction of Serb houses in the villages of Vrbnik and Kistanje on 6 August 1995, Dawes marked the route he took that day. The defense counsel pointed that the route he had drawn crossed the river at a spot where there was no bridge. As the defense counsel alleged, this means that the witness never made that visit to villages in Krajina. The witness explained that in his examination-in chief he had marked a 'general route'; it might not have been very precise, he admitted.

The defense counsel didn't ask the witness about the looting and burning down of houses along the Drnis-Knin road on 8 August 1995 he described in his examination-in chief.

2008-10-15

THE HAGUE

HOW TO RECOGNIZE LOOTED GOODS

When the defense of General Ivan Cermak put it to the witness that loaded vehicles with no licence plates moving around Krajina after Operation Storm didn't necessarily transport looted goods, former employee of the Helsinki Human Rights Federation William Hayden remarked that it didn't look as if the soldiers in the vehicles had just been to the shopping mall.



◀ William Hayden, witness in the Gotovina trial

In the days after Operation Storm, the world media started featuring reports about violations of human rights of the Serbs in Krajina. The Organization for Security and Co-operation in Europe (OSCE) decided to verify the allegations. A mission of the Helsinki Human Rights Federation was sent to Knin on 17 August 1995 to investigate the crimes against Serbs and their property on behalf of the OSCE. American William Hayden, who gave his evidence today at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac, led the three-day mission.

As Hayden explained, the conclusions in the report drafted by the Helsinki Federation on 25 August 1995 were based on the information he and his colleagues received from the UN mission, the Croatian authorities, people they talked to in the field and what they saw. In his words, a Croatian Army colonel told him that the goal of the

shelling of Knin was to cause 'mass panic and an exodus of the Serb civilians'. Based on that and on the fact that the artillery targeted few buildings in Knin, Hayden concluded that the artillery was used 'in a special way'. The objective was to cause panic among civilians and not to destroy the town.

The Helsinki Federation report listed a number of villages in Krajina that were completely or to a large extent looted and burned down; the villages of Kistanje, Srb, Donji Lapac and Vrbnik are among them. The wide-spread nature of the looting and destruction of houses led Hayden to conclude that it was a 'systematic and coordinated' crime. Hayden said that he himself saw persons in camouflage uniforms transporting looted goods in civilian vehicles with no licence plates.

When Cermak's defense counsel Steven Kay asked the witness in his cross-examination how he could tell that the goods in the vehicles had been looted, the witness replied that it 'didn't quite look as if the soldiers had just been to the shopping mall'. The defense counsel then put it to the witness that the soldiers might have been Croat returnees transporting their own property who wanted to move into houses they had previously abandoned. Hayden said that in the three days he spent there he didn't see many Croat civilians, adding that they were still prohibited from entering the liberated territory.

In his examination-in chief, the witness said that the Croatian military and civilian authorities failed to do anything to prevent crimes. This prompted defense counsel Kay to ask the witness if during his stay in Krajina he had ever asked anybody from the authorities what was being done to prevent looting; General Cermak was among the persons Hayden had talked to. Hayden replied that he had not focused on this issue. However, he did ask and Cermak told him that the army had 'under control' five suspects – three soldiers and two civilians – but he didn't specify if they were remanded in custody.

2008-10-16

THE HAGUE

'I DIDN'T THINK I'D SURVIVE'

Prosecution witness Mirko Ognjenovic, an 87-year old ethnic Serb, sustained 'only' light injuries to the head when soldiers in camouflage uniforms entered the village of Kakanj near Kistanje in Krajina. Ognjenovic thought he would die; he survived but his neighbors, Uros Ognjenovic and Uros Saric, were murdered.



◀ Mirko Ognjenovic, testifying by video-link in the Gotovina trial

Mirko Ognjenovic, an 87 year-old ethnic Serb from Krajina, testified via video link at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac; his old age prevented him from coming to The Hague. In the statements he gave to the OTP investigators in 1999 and 2004 Ognjenovic spoke in detail about the murder of his neighbors from the village of Kakanj near Kistanje in August 1995. Ognjenovic recounted how he himself was wounded.

When Operation Storm started, Ognjenovic decided to remain in the village; he had heard Croatian president Tudjman urge over the radio all Serbs 'who are not guilty' not to leave their homes. Another eight villagers, most

of them elderly people, decided to trust Tudjman. The rest, the witness noted, left quickly leaving their possessions behind, because they thought they would return when the shelling stopped. Contrary to the president's assurances that civilians would be safe, when first Croatian soldiers entered the village they told him, the witness contends, 'it would be better that you left'. They told him not to stray far from his home because 'all kinds of things will happen'.

When the first large unit entered the village, two houses were set on fire. Several days later dozen more houses were burned. According to the witness, the houses were not set on fire by hand; special pistols were used. In the meantime, soldiers occasionally dropped by in the village and looted the abandoned Serb houses. On 10 August 1995 the witness and a few other villagers found the body of Danica Saric, an elderly Serb woman, in a well.

In compliance with the order to stay put in their homes, Mirko Ognjenovic and several other villagers from Kakanj had dinner in one of the house on 18 August 1995 when several soldiers in camouflage uniforms showed up at the door. They were shouting and threatening the Serbs so much that Ognjenovic said, 'I didn't think I would survive'. Just 10 seconds after their arrival, Ognjenovic was hit on the head and lost consciousness. When he came to consciousness hours later he learned that his son-in-law Radoslav Ognjenovic was also wounded and his two neighbors – Uros Ognjenovic and Uros Saric – killed.

In response to the questions of Gotovina's defense counsel Luka Misetic, the witness admitted that it was possible that Danica Saric jumped into the well; there were no signs of violence or gunshot wounds on her body. Saric was also afraid of Croatian soldiers, the witness added, and would often say 'she would rather kill herself than fall in their hands'.

The defense counsel did not challenge the claim that the witness was wounded on 18 August 1995 and that his two neighbors were killed; instead he tried to prove that Croatian Army troops were not responsible for the crimes. The defense counsel confronted the witness with statements given by some residents of Kakanj, who told the OTP investigators that two or three persons broke into the house on the evening of 18 August 1995; at least one was in civilian clothes. Ognjenovic admitted that everything happened very fast but still claimed that all of the perpetrators had camouflage uniforms and military caps.

The trial of generals Gotovina, Cermak and Markac continues on Wednesday, 29 October 2008.

2008-10-21

THE HAGUE

PROSECUTION REQUESTS DOCUMENTS IT ALREADY HAS?

Ante Gotovina's defense claims that the prosecutor has at least fifty of the 158 'artillery documents' it claims have been 'taken away or hidden' in the course of Operation The Hague conducted by the Croatian intelligence services.



◀ Ante Gotovina in the courtroom

On 16 September 2008, the Trial Chamber ordered the Croatian authorities to 'intensify and extend their investigation' into 370 military documents and about 200 police documents that have been, as the prosecution alleged, 'taken away or hidden' during Operation The Hague, conducted by the Croatian intelligence services. Ante Gotovina's defense has now joined the search for the controversial documents: his defence team has conducted an enquiry and has allegedly ascertained that the prosecution has already disclosed to the defence some of the purportedly missing artillery orders.

Among the 370 military documents the prosecution has in its possession there are 158 orders, maps and reports

of the Croatian Army, dated from 2 to 6 August 1995 with detailed lists of artillery targets in Knin and other places in Krajina. Gotovina's defense counsel claim that the prosecution has disclosed at least 50 of those documents to them, noting it will continue the search of their data base to see if other controversial documents have been disclosed to them. In a motion filed today there is a list of the 50 artillery orders, maps and reports issued by the Croatian Army.

Ante Gotovina is charged together with two other Croatian generals, Ivan Cermak and Mladen Markac, of taking part in the joint criminal enterprise whose goal was to expel the Serbs from Krajina. The prosecution alleges that the shelling of villages and towns in Krajina was not justified by military necessity; the objective, it alleges, was to intimidate the Serbs and make them flee the area.

2008-10-29

THE HAGUE

GENERAL GOTOVINA'S ASSISTANT GIVES EVIDENCE

After a two-week break, the trial of Croatian generals Gotovina, Cermak and Markac continues with the evidence of Ljiljana Botteri, legal affairs assistant to the commander of the Split Military District, and Milica Djuric, 76-year old woman whose husband was burned alive at their family property in the village of Djurici in Krajina in August 1995.



◀ Ljiljana Botteri, witness in the Gotovina trial

In August 1995, Ljiljana Botteri was Ante Gotovina's legal affairs assistant. Gotovina, who was the commander of the Split Military District, is now in trial together with generals Ivan Cermak and Mladen Markac for crimes against Serb civilians and their abandoned property during and after Operation Storm. Botteri gave two statements to the OTP investigators, in 2004 and in 2007. A few days before she came to The Hague Botteri also gave a statement to Gotovina's defense. She has come to The Hague as a prosecution witness and claims all three of her statements are accurate and true.

During and after Operation Storm, the witness was in charge of verifying the validity of the reports on disciplinary proceedings instituted against Croatian soldiers by commanders of the Split Military District. Prosecutor Gustafson showed her a list of 84 disciplinary proceedings filed against soldiers of the Split Military District in August and September 1995. The witness agreed with the prosecutor that most of the proceedings dealt with the soldiers who had gone AWOL from their units; a handful dealt with looting and arson.

The list showed that disciplinary proceedings were instituted against a soldier who had set on fire three haystacks in an unnamed Krajina village; proceedings were also instituted against the soldier's platoon commander who failed to prevent him from doing that. The two cases are the only proceedings related to incidents in which the Serb property was torched that could be found in the files of the Split Military District. There were several proceedings for incidents where property was taken illegally, although in most cases the property was labeled as 'war booty' and was already in the possession of the army; in the incidents, the deserters stole it when they deserted their units. The witness couldn't say why a tractor was among the stolen 'war booty'. As she explained, that tractor could be listed as war booty only if it 'was used for a military purpose'.

[IMAGE]3725[/IMAGE]Ljiljana Botteri will continue her evidence tomorrow. At the beginning of the hearing today, 76-year old Milica Djuric testified via video link from Belgrade. On 6 August 1995 her husband was burned alive in the village of Djurici in the Plavno Valley, Krajina. Describing what she knew about the incident the witness said that she was told by her husband's mother how her husband Sava Djuric had died. The witness's mother-in-law was present when Sava Djuric was forced to step inside a burning workshop at their family estate.

Milica Djuric's son Mile Djuric gave evidence about the same incident in June 2008. Mile Djuric maintained that he could see the soldiers force his father to enter the house. When the presiding judge asked the witness if her son had told her anything about that incident, the witness said he didn't like to talk about it. However, she said he could have been near and seen what had happened.

2008-10-30

THE HAGUE

GENERAL GOTOVINA AND MILITARY POLICE

In her statements to OTP investigators, Ljiljana Botteri, General Gotovina's former legal affairs assistant, claimed that the Split Military District commander was issuing orders to the military police during and after Operation Storm. In her statement to the defense, she 'corrected' herself saying that Gotovina was in charge of all military police affairs except for crime prevention and identification of perpetrators.



◀ Ljiljana Botteri, witness in the Gotovina trial

On the second day of the testimony of Ljiljana Botteri, former legal affairs assistant to Ante Gotovina, Split Military District commander, the prosecution tried to prove that the accused general had authority over the military police during and after Operation Storm in 1995. Together with generals Ivan Cermak and Mladen Markac, Gotovina is on trial for crimes against Krajina Serbs in the summer and autumn of 1995.

In the statements she gave to the OTP investigators in 2004 and 2007, the witness said that the military police was subordinated to General Ante Gotovina, the commander of the Split Military District. Gotovina was authorized to issue orders to the military police

commanders, she told the OTP. Five days before she came to The Hague, Ljiljana Botteri gave a statement to Ante Gotovina's defense in which she 'amended and clarified' her previous claims. The witness told the defense that the commander was authorized to issue orders to the military police only for 'day to day business', such as guarding persons and buildings or escorting military convoys. Gotovina was not authorized to issue orders related to crime prevention and identification of perpetrators. When the prosecutor confronted the witness with this discrepancy in her statements, Botteri replied that she 'had only a superficial grasp' of what the military police did, because it was outside of her purview.

Major part of the hearing was spent discussing if Gotovina was authorized to institute disciplinary proceedings against members of units that had been temporarily resubordinated to him. Botteri first said that he couldn't do it. When the prosecutor showed her the Military Disciplinary Rules which stipulate that it was within his power, the witness corrected herself noting that it was an 'exception very difficult to implement in practice'.

Describing how the reservists were punished in the Split Military District for violations of military discipline, Botteri said that 'non-regulation measures' were used more often than the measures the military commanders had at their disposal. The 'non-regulation' or unofficial measures boiled down to demobilization. As the witness described, this was far worse punishment for the soldiers guilty of disciplinary infractions than cautions, reprimands or 30-day detention.

At the end of the examination-in chief, Botteri described what she saw on 5 August 1995 when she went to Knin on her own because she 'wanted to be with her command'. She only passed through the main street, which as she put it, 'looked exactly as any place where an army had been'. This meant that 'a lot of shop windows were broken'. When the prosecutor asked her if the goods had been taken away or left in the shops, Botteri replied 'half and half'.

As the hearing today drew to a close, Ante Gotovina's defense began its cross-examination.

2008-10-31

THE HAGUE

PROTECTING THE TROOPS WAS PRIORITY

Witness Botteri has agreed with defense counsel Misetić that General Gotovina had the power only to punish a soldier who set a house on fire or looted property without permission in disciplinary proceedings, for going AWOL, while others were responsible for criminal prosecution of culprits. Gotovina's primary task was 'to protect the troops' army, not to punish individuals'.



◀ Ljiljana Botteri, witness in the Gotovina trial

In her cross-examination, prosecution witness Ljiljana Botteri agreed without demur with everything Ante Gotovina's defense counsel put to her. In 1995, when Gotovina was the commander of the Split Military District, Botteri was his legal affairs assistant. Gotovina and generals Ivan Cermak and Mladen Markac are now on trial for the crimes committed by the army and police against Krajina Serbs in the summer and autumn of 1995 during and after Operation Storm.

Botteri answered most of the questions put to her by defense counsel Luka Misetić with 'yes', 'that is correct', 'I agree' or 'you are absolutely right'. Botteri thus confirmed that Ante Gotovina did not have the authority to conduct criminal investigations; all he could do was to institute

disciplinary proceedings against members of his subordinate units. If a soldier was suspected of going AWOL to set a house on fire or to loot it, the defense counsel noted, General Gotovina and other HV commanders could only punish him for going AWOL. Botteri agreed with this claim adding that the military and criminal police and judicial bodies were in charge of criminal prosecution. According to the defense counsel, Gotovina's primary task was to 'protect the troops and not to punish individuals'. The witness agreed with this claim.

In his effort to prove that the primary perpetrators of crimes against Serb civilians and their abandoned property were soldiers who had been demobilized from the Croatian Army, the defense counsel showed the witness the minutes from a meeting held on 23 August 1995 where defense minister Susak and interior minister Jarnjak complained to President Tudjman that many demobilized soldiers were causing trouble, wandering about the liberated territory with weapons they had confiscated during Operation Storm and kept as 'war trophy'. The witness briefly replied that she 'agreed with the text' because many soldiers did indeed illegally keep their weapons after the demobilization.

As Botteri explained in her evidence yesterday and today, demobilization was used as an 'unofficial disciplinary measure' because it was more effective than any other punishment General Gotovina and other commanders had at their disposal. There are no data about the number and reasons behind such 'unofficial punishment' and the witness couldn't remember even a single specific case.

Ljiljana Botteri completed her evidence today, and the trial of the three generals continues on Monday.

2008-11-06

THE HAGUE

WITNESS DENIES HE 'UNFAIRLY ACCUSED' CERMAK

Former European monitor in Krajina Soren Liborius came back to The Hague to complete his evidence at the trial of generals Gotovina, Cermak and Markac. After his re-examination, the court went into closed session during the testimony of a 'very important witness'.

In September 2008, Danish diplomat Soren Liborius had to leave The Hague in the middle of his cross-examination on urgent business. The Trial Chamber decided to recall Liborius at a later date to complete his evidence at the trial of Croatian generals Gotovina, Cermak and Markac. The three generals are on trial for crimes committed during and after Operation Storm. Liborius appeared before the court today to testify about the looting and burning of abandoned Serb houses in Krajina in August 1995. Liborius was examined by the defense teams of Ivan Cermak, former commander of the Knin Garrison, and Mladen Markac, commander of the Croatian special police units.



◀ Soren Liborius, witness in the Gotovina trial

Because the witness said in his statement to the OTP investigators and in his examination-in chief that members of the special police had been those who committed the crimes, Mladen Markac's defense counsel tried to show that the witness had mixed them up with members of the 'regular' civilian police. Liborius admitted that he didn't see with his 'own eyes' the Croatian special police committing crimes. However, in August 1995, he saw their vehicles in villages near Donji Lapac where abandoned Serb houses were looted and burned down. As a member of the ECMM, Liborius was prohibited from entering the area; the explanation was that a special police operation was in progress there.

Describing the situation with the Serb refugees who took shelter in the UN base in Knin after Operation Storm in his statement to the OTP investigators, Liborius said that the goal of Cermak's negotiations with the international monitors was to 'take as many Serbs as possible' out of the base and not to help them. This 'taking', the witness contends, was aimed at men of military age who were later prosecuted for armed rebellion against the Republic of Croatia.

Defense counsel Steven Kay today showed a series of documents in which general Forand, commander of the UN Sector South, and other high-ranking officials of the international mission thank general Cermak for his extraordinary contribution to the evacuation and care of refugees in the UN base. Confronting the witness with those allegations, Kay asked him if he thought that in his statement to the OTP investigators he had 'unfairly accused' Cermak. The witness said he didn't.

When Liborius completed his testimony, the court went into closed session for the evidence of a 'very important' protected prosecution witness.

2008-11-10

THE HAGUE

GRUBORI INVESTIGATION WITHOUT MARKAC'S HELP

Former public prosecutor from Sibenik, Zeljko Zganjer, contends that by 2001, the Croatian investigators had not received any information helpful for the investigation of the murders in the village of Grubori in Krajina from general Mladen Markac and his deputy Zeljko Sacic. Markac and Sacic, according to Zganjer, stubbornly claimed that the five elderly people had been killed in a clash between the Croatian special police and remnants of the Krajina Serb army.



◀ Zeljko Zganjer, witness in the Gotovina trial

According to official MUP reports, five elderly people were killed in the incident in the Krajina village of Grubori on 25 August 1995, in an exchange of fire between the special police and the remaining RSK soldiers. There was no official police investigation before March 2001, when Zeljko Zganjer, public prosecutor from Sibenik, ordered a preliminary investigation of the crime. This is what Zganjer said in his evidence today at the trial of generals Ante Gotovina, Ivan Cermak and Mladen Markac. The three generals are charged with crimes during and after Operation Storm in August 1995.

In the three statements Zganjer gave to the OTP investigators until 2005, he said he received first reports about the Grubori murders in the spring of 1998 from the Croatian Helsinki Committee and Amnesty International. Over the next three years, Zganjer contends, he managed to get some 'more physical evidence' and in 2001 he was able to issue an order to the police to do preliminary interviews with the relevant witnesses. Among them were several villagers of Grubori and special police commanders, Mladen Markac and his deputy Zeljko Sacic.

No information helpful to the investigation was obtained in their interviews, Zganjer said today. They only spoke about the 'purported conflict' between the special police and the remnants of the enemy troops. Zganjer was unclear as to whether Markac and Sacic claimed the elderly persons had been killed in the crossfire or that they had been killed by the Serb soldiers when they refused to help the soldiers fight back the special troops.

In his evidence in September 2008, Josip Celic, who was in charge of the clean-up operation in the Plavno Valley, said that Markac and Sacic told him the day after the operation in Grubori that they didn't like his report. In his report,

Celic said there had been no fighting in the village. Soon afterwards, Celic contended, Sacic took him to a room where he dictated a new report, describing the exchange of fire with the remaining Serb soldiers.

Since there was no investigation by 2001, the public prosecutor's office in Sibenik had little physical evidence related to the Grubori murders. This led Zganjer to try to establish what weapon was used to fire the bullet whose shell he had seen on the UN TV recording. The shell lay beside the body of an old man 'who had been killed in his own bed'. In December 2001, Zganjer submitted a request to the special police, seeking information about the use of weapons in the clean-up operation in the Plavno Valley. Zganjer waited for an answer for nine months and never got it; in September 2002, he was transferred to a new post.

According to the prosecution, Zeljko Zganjer's examination-in chief should be completed in the first half hour of the hearing tomorrow. Zganjer will then be cross-examined by the defense counsel of the accused generals.

2008-11-11

THE HAGUE

ADMISSION WAS NOT ENOUGH

Former public prosecutor from Sibenik Zeljko Zganjer explains why he stopped his investigation of the Croatian soldiers who had admitted they had killed 17 Serb civilians in the Krajina villages of Gosici and Varivode in mid-August 1995.



◀ Zeljko Zganjer, witness in the Gotovina trial

Yesterday, witness Zeljko Zganjer talked about the investigation into the murder of five elderly people in the village of Grubori. Today, the former public prosecutor from Sibenik spoke about the criminal prosecution of Croatian soldiers accused of murdering 16 Serbs in the villages of Gosici and Varivode in August 1995. As the witness explained, the investigation was opened in October 1995, but the indictment was not filed until 1998 when the case was transferred from the Zadar public prosecutor's office to Sibenik.

One of the suspects, who later testified in the case, was Goran Vunic. Vunic was a member of the HV 113th Brigade but, as Zganjer later learned, Nenad Mrkota, member of the military police, obstructed the investigation into Vunic's actions. During the investigation, several Croatian soldiers confessed that they had killed Serb civilians in the villages of Gosici and Varivode. When the witness received the case file he realized that the claims in the confessions didn't match the crime scene. This is why Zganjer decided to drop the case against the suspects.

Mladen Markac's defense counsel began his cross-examination by tendering into evidence several laws of the Republic of Croatia and decisions passed by government institutions. The defense counsel then proceeded to question the witness in a more general way instead of focusing on the particular investigations. The defense counsel put it to Zganjer that in 1995 war crimes investigations were rather difficult because of various legal restrictions coupled with scarce personnel and technical resources. The witness agreed with this claim.

Zganjer's cross-examination continues tomorrow; the witness will be cross-examined by the defense counsel of generals Markac and Gotovina.

2008-11-12

THE HAGUE

INVESTIGATION SIX YEARS AFTER GRUBORI MURDERS

Former public prosecutor from Sibenik Zeljko Zganjer has agreed with the defense that he had no knowledge of General Markac obstructing the investigation into the murder of five elderly Serbs in the village of Grubori in August 1995. Zganjer nevertheless emphasized that he 'absolutely couldn't understand how such an incident' could remain unreported for years and why the investigation was not launched before March 2001.

Former county public prosecutor from Sibenik Zeljko Zganjer claimed in his examination-in chief that when General Mladen Markac was interviewed in March 2002, he didn't provide any information helpful for the investigation about the murder of five Serb elderly persons in the village of Grubori in August 1995. Answering questions put by General Markac's defense counsel, the witness said that he had no knowledge that the accused general or anybody else openly obstructed the investigation. The incident in the village of Grubori is one of the crimes committed after Operation Storm listed in the indictment against Croatian generals Gotovina, Cermak and Markac.

Although Zganjer didn't have 'reliable information' indicating that Markac or somebody else covered up the crime in the village of Grubori, he 'absolutely couldn't understand how an incident of such nature' could have gone unreported, as neither the public prosecutor's office nor an investigative judge knew about it until 1998, when Zganjer heard about the murder for the first time from an Amnesty International report. Defense counsel Mikulicic then put it to him that the special police, headed by Markac at the time, were not duty bound to report crimes, and the witness agreed. Croatian judicial bodies were prompted by Zganjer to start investigating the Grubori incident in 2001, six years after murders.

When he was examined by the defense counsel of General Ante Gotovina, the witness provided additional explanations about the decision he made in 2002 to drop the case against a number of Croatian soldiers accused of the murder of 16 Serb civilians in the villages of Gosici and Varivode. He repeated what he said in his examination-in-chief: what they said didn't match the crime scene. Zganjer also noted that during the investigation the accused claimed that their confessions had been given under duress after they were 'severely beaten' by the police.

Markac's defense implied that the special police had nothing to do with 'submitting reports and information' about crimes; likewise, defense counsel Misetic asked the witness if General Gotovina could have issued orders to military prosecutors. 'Absolutely not, in the same way as a prosecutor couldn't interfere with military actions', the witness replied.

Zganjer completed his evidence today; the trial of Croatian generals continues tomorrow.

2008-11-13

THE HAGUE

FINAL DESTINATION FOR THE EVACUEES

Retired colonel Kosta Novakovic claims the leadership of the former Republika Srpska Krajina planned 'a temporary evacuation' of the people from endangered municipalities and their transfer to Srb and Lapac. Ante Gotovina's defense counsel tried to prove that both Srb and Lapac were on the route to Banja Luka, according to the evacuation plan.



◀ Kosta Novakovic, witness in the Gotovina, Cermak and Markac trial

When Operation Storm started, retired colonel Kosta Novakovic was assistant for information to the commander of the SVK Main Staff, General Mile Mrksic. He was one of the four authors of the plan to evacuate the Serb population from the former Republic of Serbian Krajina. The plan was drafted on 4 August 1995. At the beginning of his evidence he confirmed that the three statements he had given to the OTP investigators since 2001 were true. Novakovic's statements were then tendered into evidence.

The way in which the Serb population was evacuated from Krajina when Operation Storm was launched is one of the key issues at the trial of generals Gotovina, Cermak

and Markac. If it is true that the civilians fled spontaneously, as alleged by the prosecution, after a deliberate and indiscriminate shelling of towns and villages, it could support the allegations in the indictment that the objective of Operation Storm was 'the permanent elimination of the Serb population from the Krajina territory'. If it is proven that the civilians were evacuated to BH and Serbia on the orders of the RSK leadership, as alleged by General Gotovina's defense, this might shift the responsibility away from the Croatian side.

The plan for the evacuation of the people from Krajina was agreed on 4 August 1995 between 4 and 5 pm, in accordance with the decision of the RSK Supreme Defense Council. As the witness stated in his examination-in-chief, he personally drafted and typed the document that was then signed by Milan Martic, the RSK president. Novakovic explained that the plan envisaged 'a temporary evacuation' of the population from four municipalities in Northern Dalmatia: Knin, Obrovac, Benkovac and Drnis, and their transfer to Srb and Donji Lapac in Northern Krajina. The goal was, the witness noted, to 'organize' the movement of the population that had already started. The witness provided two examples, Obrovac and Plaski, where first refugee column had started forming in the early morning hours.

On 4 August 1995, Novakovic presented the evacuation plan at a meeting held around 6 pm; members of the Krajina Civilian Protection and the UN mission, headed by Alain Forand, the Sector South commander, attended the meeting.

In his cross-examination, General Gotovina's defense counsel showed notes taken by a UN staff member and a statement by the Knin Civilian Protection commander which note that at the meeting Novakovic said that Srb and Lapac were merely points on the route towards Bosanski Petrovac and Banja Luka, not final destinations. It was 'absolutely not true', Novakovic asserted today, adding that at that meeting he had read what was written in the document, where Srb and Lapac were listed as final points on the evacuation route. Banja Luka and Bosanski Petrovac were not mentioned at all.

The cross-examination of the witness continues tomorrow.

2008-11-14

THE HAGUE

GOTOVINA DEFENSE INVOKES MARTIC AND STRBAC

In an effort to prove that the evacuation of the Serbs from Krajina was planned before Operation Storm, defense counsel Luka Misetić has tendered into evidence video recordings of former RSK president Martić and *Veritas* president Savo Strbac, where they say things that favor General Gotovina's defense. This has prompted witness Kosta Novaković to distance himself from his former colleagues in the Krajina government. They were saying 'incompetent and arbitrary things', he said.

Ante Gotovina's defense counsel continued the cross-examination of Kosta Novaković, former assistant commander of the Main Staff of the Serbian Krajina Army (SVK) today, and again tried to prove that in August 1995 the Serb population was evacuated from Krajina in accordance with the plans of the Serb leadership, not as a result of a joint criminal enterprise, as the prosecution alleges. Gotovina is charged together with generals Ivan Čermak and Mladen Markač with crimes committed during and after Operation Storm in August 1995.

Defense counsel Misetić showed a segment from a program produced by the Serbian TV from Banja Luka, broadcast on 7 August 1995, where Savo Strbac, president of *Veritas*, says that Croats and Serbs don't want to live side by side and that the Serb population was moved out of Krajina 'to preserve the biological mass for what is to follow'. Unlike him, Novaković feels that Serbs can live 'with Croats, side by side with them'; as for the argument about the 'preservation of the biological mass', he says the person who said this was 'not competent' to say anything about that, in light of the fact that at the time he was 'nothing but a secretary in the government'. He maintained that the evacuation plan pertained only to the four municipalities in Northern Dalmatia and one in Lika; their population was to be 'temporarily relocated' to safe areas within RSK.

The defense counsel then played a 15-minute video of an interview with former RSK president Milan Martić to a TV reporter from Banja Luka in the fall of 1995. Over a glass of brandy, Martić rattled off a number of claims which, if the Trial Chamber accepts them as true, might play into Gotovina's hands. Martić said that Chief of Main Staff Mile Mrksić had pulled the Serb army from Krajina, in accordance with a plan set in motion by Slobodan Milošević, and adopted months earlier in Belgrade. The fact that Mrksić didn't want to defend Krajina, in Martić's view, can be proven by Mrksić's refusal to execute his order to shell Zagreb on 4 August; the order specified that the attack should be carried out in the evening, when the Croatian TV declared the all-clear and called the people to leave their shelters.

Kosta Novaković distanced himself from the claims made by his former president, saying they were 'arbitrary'; he was amazed by the 'obsession with Zagreb' and the animosity towards Mrksić. The witness is not challenging the claim that Martić 'proposed' a rocket attack on Zagreb. Mrksić and the witness 'exchanged looks', he said, and didn't say anything. Martić's 'proposal' followed three months after seven civilians were killed and some 200 wounded in the two attacks on Zagreb, some ten days after the ICTY issued an indictment against him for the crime. In October 2008 Martić's 35-year prison sentence was confirmed on appeal. He was found guilty of the attack on Zagreb and a number of other crimes against the Croat civilians in Krajina.

Kosta Novaković's cross-examination will be completed on Monday.

2008-11-17

THE HAGUE

ARE BARRACKS A LEGITIMATE MILITARY TARGET?

Ante Gotovina's defense counsel has tried to prove that the shelling of Knin in August 1995 was directed at military, not civilian targets. In his evidence for the prosecution, retired colonel of the Krajina Serb army Kosta Novaković has maintained that there were no legitimate military targets in the town: there are reasons why even the barracks could not be targeted.



◀ Kosta Novaković, witness in the Gotovina, Čermak and Markač trial

At the trial of the three Croatian generals, Gotovina's defense counsel Luka Misetić did not change approach in his cross-examination of Kosta Novaković, retired colonel of the Krajina Serb army, during his third day on the stand. Arguing that the movement of the Serb population in the first days of Operation Storm in August 1995 was not spontaneous, contrary to what the witness claimed, Misetić noted that the movement of Serbs was planned and implemented by the political and military leadership of the so-called RSK.

The defense counsel first argued that the shelling of Knin did not cause the panic among the population; as he alleged, only military targets in town were attacked, including the two military barracks in Knin which were legitimate military targets. However, Novakovic noted that this would be correct only if combat units were deployed there. At that moment, Novakovic explained, only some Medical Corps and other logistics personnel were present in the barracks.

According to the defense, the TVIK factory in Knin was another military target in Knin; Defense counsel Misetic corroborated this claim by showing a broadcast of the Krajina TV from September 1994 reporting on the talks military leadership held with the factory management regarding the 'military production program' and showing an order of the Defense Ministry from July 1995 to switch part of the plant from civilian to military purpose. The witness didn't contest the fact that such plans existed. However, as he put it, it didn't mean that they were implemented. When he visited the TVIK factory, the witness contends, he didn't see any military production going on.

In his cross-examination, Novakovic remained adamant that the Krajina leadership didn't plan to move the Serb population to BH in the first few days of Operation Storm. According to him, on 4 August 1995 the Krajina leadership adopted an evacuation plan to remove the people from threatened areas in Northern Dalmatian and Lika to safer locations in Krajina. The witness, however, agreed with the defense counsel that the population continued moving towards Banja Luka and later to Serbia despite such a plan. In his re-examination today, Novakovic tried to clarify why that happened, saying that 'the general destruction influenced' the people to decide to keep on moving. There was plenty of space and the logistics-wise the area of Bosanski Petrovac and Banja Luka was better equipped to deal with the large number of refugees than Serb and Lapac where the Krajina leadership intended to evacuate the people temporarily.

Kosta Novakovic completed his evidence today. The prosecution will continue its case tomorrow with a new witness.

2008-11-18

THE HAGUE

'CERMAK DID NOTHING ABOUT CRIME REPORTS'

Maria Teresa Mauro, former civil affairs official in the UN mission in Krajina claims that in the aftermath of Operation Storm the Croatian authorities did not respond to reports they received from international observers about crimes against Serbs. As time went by, the property of the people who fled was completely destroyed and looted and Serbs 'didn't even think' about coming back. As the witness alleges, General Ivan Cermak was 'the highest representative' of the authorities in the Krajina area.



◀ Maria Teresa Mauro, witness in the Gotovina, Cermak and Markac trial

In the summer of 1995, Maria Teresa Mauro was a UN civil affairs official in Sector South. In the aftermath of Operation Storm she patrolled Krajina as a member of the Human Rights Action Team, reporting the violations of human rights and attacks against Serb civilians and their property. In her statement to the OTP investigators in 2000 and 2008, and at the trial of generals Gotovina, Cermak and Markac today, the witness said that she and her colleagues reported crimes to Croatian police and the office of one of the accused, General Ivan Cermak.

As the witness claims, after Operation Storm Cermak was 'the highest authority' in Krajina. He was always in uniform and everybody in the UN, including the interpreters, called him the 'military governor'. Everybody in the mission, including UN Sector South commander General Alain Forand, clearly knew that Cermak was the person to talk to if there were any major problems; Cermak was also the person whose name they used in the field.

In August and September 1995 her team, the witness contends, reported several crimes against Serb civilians to Cermak's office. The crimes included murders, looting and arson. At informal meetings with Cermak in the UN base in Knin, Cermak assured the witness he would deal with the crimes saying that the situation was under control. However, nothing would actually happen. UN personnel never received any information about investigations of the crimes they reported and the punishment of perpetrators.

The witness left Knin in December 1995. In June 1996 she took part in a research project about the status of Krajina refugees in Serbia, run by the UN office in Belgrade. In her words, none of them considered returning to Croatia; their houses were either destroyed or looted. The livestock that was their sustenance was gone and the abuse of the Serbs that remained in Krajina continued. Refugees were particularly discouraged by the fact that 'the Croatian authorities were reluctant' to issue them permits to visit their houses.

As before when former UN personnel claimed Cermak had authority in Krajina, defense counsel Higgins tried to prove that the witness did not know the formal function and jurisdiction of the accused general. Cermak, the defense

claims, was the commander of the Knin Garrison in charge of liaising with international organizations, functioning of the economy and municipal services in the liberated area. Mauro agreed that she never knew what Cermak's official authority was, but, as she repeated, everybody saw him as the 'highest authority' and called him 'military governor'.

2008-11-21

THE HAGUE

PROSECUTION MILITARY EXPERT: 'GOTOVINA KNEW ABOUT CRIMES'

Belgian military expert Reynaud Theunens contends that Gotovina's experience from BH meant he was aware that in Operation Storm soldiers under his command could again commit the crimes they had committed in Grahovo and Glamoc. When this indeed happened, Theunens alleges, General Gotovina was regularly informed about all the crimes.



◀ Reynaud Theunens, witness in the Gotovina, Cermak and Markac trial

Prosecution military expert Reynaud Theunens claims that by late July 1995 Ante Gotovina, Split Military District commander, 'was aware' that his soldiers might commit crimes in Krajina. During and after Operation Storm, he received regular reports about widespread looting and burning down of houses belonging to the Krajina Serbs who had fled the area. Theunens went on to allege that the military police units were under the command of the accused general. Military police was one of the mechanisms that could have been used to prevent the crimes and to identify and punish the perpetrators from the Croatian Army ranks. Gotovina is charged together with generals Ivan Cermak and Mladen Markac with

crimes against Krajina Serbs in the summer and fall of 1995.

The prosecution attached a series of military documents to the witness's expert report on the structure and operation of the Croatian armed forces. Among those documents is the Operational Logbook containing the minutes taken during the meetings of the Split Military District command in July and August 1995. Entries from late July 1995 note that subordinate officers repeatedly informed Gotovina and his chief of staff Rahim Ademi about the widespread looting and destruction of houses in the towns of Grahovo and Glamoc in BH, captured by the Croatian Army and the HVO units in Operation Summer '95. As Theunens put it, this meant that even before Operation Storm began Gotovina knew that his subordinate soldiers were keen to loot and burn down houses in villages and towns they took.

Furthermore, the Operational Logbook lists a series of command meetings held in August 1995 where people said that 'there is looting everywhere' and that 'burning down of houses and killing of livestock continues'. At one of those meetings, Gotovina said, 'the burning down of houses is prohibited and that problem has to be solved urgently'. Gotovina's deputy 'appealed for a ban on looting'. Those entries, Theunens concluded, showed Gotovina was aware of the crimes committed all over Krajina after Operation Storm.

A document dated 15 August 1995 was shown today, bearing Gotovina's signature and saying that 'military discipline, combat morale of soldiers and command and control of the units' during and after Operation Storm were at a high level. According to Theunens, this means that the accused general had no problems issuing orders to units and receiving reports from them. So far the prosecutor has been proving that the commander of the Split Military District did nothing to identify and punish perpetrators of crimes in the Croatian Army ranks. One of the mechanisms he could have used to that purpose was the military police. Based on his inspection of Croatian military documents, the prosecution expert concluded that the military police was under general Gotovina's operative command.

The examination-in chief of the Belgian expert should be completed on Monday. He will then be cross-examined by the defense teams of the three accused.

2008-11-24

THE HAGUE

PROSECUTION: GOTOVINA 'INCITED' CRIMES BY DOING NOTHING

As he continues his evidence at the trial of the three Croatian generals, Belgian military expert Reynaud Theunens says that measures taken by Ante Gotovina, Split Military District commander, to prevent the looting and arson in Krajina 'were not effective'. Failing to take measures against perpetrators 'incites' further crimes.



◀ Reynaud Theunens, witness in the Gotovina, Cermak and Markac trial

Based on the documents available to him at the time when he drafted the expert report on the structure and functioning of the Croatian armed forces, prosecution expert Reynaud Theunens concluded that measures Ante Gotovina took were 'not effective enough' to prevent the looting and arson of Serb houses in Krajina after Operation Storm'. As Theunens said, in August and September 1995 the accused general was told that soldiers under his command were committing crimes in towns and villages throughout Krajina.

The prosecutor showed a report from the HV General Staff about a tour of the Split Military District units – under Gotovina's command. The report notes that because of 'the failure to punish those responsible', the looting and occupation of abandoned buildings in Krajina 'still persist'. Commenting on the document, Theunens said that in the military doctrine it was well-known that failure to take measures against perpetrators 'serves to incite' further crimes.

In order to highlight the measures that could have been taken to bring order to the liberated area, the prosecutor showed Gotovina's order of 22 September 1995 demanding that curfew be introduced. However, the document referred to Jajce, a municipality in BH. The witness on the other hand said that he couldn't remember having seen any similar documents originating from General Gotovina's HQ that would pertain to Krajina. Defense counsel Misetic objected, asking Theunens to specify the law that would empower Gotovina to impose curfew in Croatian territory. The witness's reply was that he was merely providing his interpretation of disciplinary regulations; he was not familiar with the relevant legislation.

As the examination-in chief drew to its close, the Belgian expert briefly mentioned reports that pertain to the two other accused generals charged with crimes against Krajina Serbs and their property during and after Operation Storm. The documents he had at his disposal led him to conclude that Ivan Cermak was the commander of the Knin Garrison, but that he played a dual role. First, the witness maintained, Cermak was in charge of the establishment and functioning of the 'civilian and military authorities' in the Knin area. At the same time, Cermak was the person in charge of cooperation with the representatives of the international community in Sector South in Krajina.

The documents from the Croatian Interior Ministry, Theunens noted, clearly show that the special police in Krajina was under the command of Mladen Markac, deputy interior minister during and after Operation Storm. In order to corroborate his allegations the witness showed a number of orders Markac issued to the Croatian special units.

Ante Gotovina's defense counsel began his cross-examination of the witness today.

2008-11-25

THE HAGUE

'OPERATIONAL' AND 'PROFESSIONAL' CHAIN OF COMMAND

In the cross-examination of prosecution military expert Reynaud Theunens, General Gotovina's defense tried to contest the findings in his report about who was in command of the HV military police in Krajina after Operation Storm.

In his cross-examination of the prosecution military expert Reynaud Theunens, defense counsel Luka Misetic tried to contest Theunens's allegation that during and after Operation Storm – in August 1995 – the military police was under the command of Ante Gotovina, as the Split Military District commander, and of Mate Lausic, military police administration chief. According to Theunens, the military police was one of the instruments which could be used to prevent crimes against Krajina Serbs and their property; the military police could also identify the perpetrators of crimes that generals Gotovina, Cermak and Markac are charged with.

In order to show that the 72nd Military Police Battalion was not subordinated to Gotovina, his defense counsel showed a document dated 16 August 1995, where Mate Lausic orders this unit to report only to him in the future, and not to the commander of the Split Military District. Based on that document, Theunens replied, one could say that 'there was a divergence from the standard procedure'. However, it had nothing to do with subordination. As far as Theunens is concerned, the double chain of command existed nevertheless.

The witness claims Gotovina issued daily orders to the military police following the 'operational chain of command' and then Lausic, as the highest ranking officer in the 'professional chain' issued instructions how to implement Gotovina's orders. When the defense counsel showed Theunens an operational order Lausic issued on 9 August 1995 calling for the transfer of elements of the 72nd Battalion to another part of the liberated area, Theunens replied that in that particular case the chief of the military police administration overstepped his authority.

Because Theunens claims in his report that Gotovina was told about the crimes against Serbs and their property in

Krajina, the defense counsel asked him if he had found evidence in the Croatian Army documents showing that the accused general had received information about the murders of Serb civilians. Theunens said he had not, adding however that murder was not the only crime and that Gotovina received reports about the looting and destruction of abandoned Serb property. Also, Theunens noted, commanders have to actively enquire about the situation in the area controlled by their units and not wait for the reports to come in.

Reynaud Theunens's cross-examination continues tomorrow.

2008-11-26

THE HAGUE

DEFENSE DENIES GOTOVINA'S LINK WITH MILITARY POLICE

The defense of the accused Croatian general continues denying that the military police was subordinate to Gotovina, but the prosecution military expert remains adamant that Gotovina 'exercised operational command' over those units while Mate Lausic, military police administration chief, was at the top of the 'professional chain' of command.

On the second day of the cross-examination of Belgian military expert Reynaud Theunens, defense counsel Luka Misetic continued to contest Theunens's claim that General Ante Gotovina exercised 'operational command' over the military police in Krajina during Operation Storm in August 1995. At that time, as alleged in the indictment, a number of crimes against Serb civilians and their abandoned property were committed and now Croatian generals Gotovina, Cermak and Markac are on trial for them.

The defense counsel today showed the witness a number of minutes from the meetings held immediately before Operation Storm was launched, where the interior ministry and defense ministry officials discussed 'security plans' for the involvement of civilian and military police in the forthcoming combat operations. Neither General Gotovina nor anyone from the Split Military District attended those meetings. However, the chief of the military police administration Mate Lausic did attend them; this prompted the defense to claim that he had 'operational command' over the military police units.

The witness nevertheless stuck to what he said in his expert report: Lausic issued instructions to the Military Police only through the 'professional' chain of command, while Gotovina issued orders. The witness brought up a document dated 9 August 1995 where Lausic 'kindly asks' General Gotovina, as the Split Military District commander, to release the military police units from combat duty and allow them to go back to their regular activities.

According to the defense, the fact that Major Ivan Juric, assigned to coordinate the activities of the 72nd and 73rd Military Police Battalions, sent reports only to Lausic further proves that Gotovina did not have operational command over the military police. Theunens confirmed that the military documents he saw didn't say that Juric reported to Gotovina. However, as the witness sees it, this doesn't mean that Juric couldn't have gotten orders from the Split Military District command.

Defense counsel Misetic will continue his cross-examination on Friday since no hearing is scheduled for tomorrow.

2008-11-28

THE HAGUE

THIN LINE BETWEEN 'HIGH MORALE' AND 'DESIRE FOR REVENGE'

Defense counsel Luka Misetic and prosecution military expert Reynaud Theunens disagreed today over what General Ante Gotovina meant when he said at the Brijuni meeting that he had soldiers in his units who were 'difficult to keep on a leash'. Misetic and Theunens argued if it meant that the soldiers' morale was high or that they wanted revenge.



◀ Luka Misetic, defense attorney for Ante Gotovina

In his expert report, prosecution military expert Reynaud Theunens wrote that immediately before Operation Storm, General Gotovina was aware of the 'bad reputation' of some of his subordinate soldiers'. Theunens corroborated this claim with a quote from the transcript of a meeting between President Franjo Tudjman and the Croatian Army leadership at Brijuni on 31 July 1995. General Gotovina told the president that he had men among his troops who were 'ready to fight' and it was 'difficult to keep them on a leash'.

In the cross-examination today, defense counsel Misetić implied that Gotovina's words at that meeting didn't mean that he was aware of soldiers being 'problematic'. It meant, Misetić maintained, that they had 'high morale' and that they were eager to fight to liberate Krajina. Theunens replied that high morale was a good thing. However, he noted, a good commander had to be extra careful if the morale was 'very high' because there was a 'thin line between high morale and desire for revenge'.

Gotovina's defense counsel then tendered into evidence a series of documents in an effort to prove that the accused general strove to prevent crimes and punish perpetrators. One of the documents is Gotovina's order from 10 August 1995, where he demands that looting, arson and threats to lives of people in the liberated areas stop, calling for 'vigorous measures' against perpetrators.

The 134th Home Guards Regiment was one of the problem units. According to a military-intelligence report of 11 August 1995, 'the chain of command doesn't function' and soldiers 'systematically loot and burn down houses'. In his effort to prove that the accused general tried to solve this and problems in other HV units, the defense counsel showed a report from a meeting of the Split Military District command. Gotovina said that he would force some soldiers 'to sleep in houses they burned down' in winter. Theunens didn't comment extensively on Gotovina's words, merely noting that the document didn't show if this threat referred to Croatian soldiers in BH or in Krajina.

A document drafted by Operational Group West, subordinated to Gotovina, was shown in court. The document orders the 'discharge from service of individuals or groups' of the 134th Home Guard Regiment whose behavior 'disrupts order and discipline'. The witness noted that this was the 'key issue' but the presiding judge interrupted him saying that the Trial Chamber already knew that in some cases the HV soldiers were punished by being discharged from their units instead of being criminally prosecuted.

The evidence of the Belgian military expert has gone on for seven working days; it will be continued on Monday. Next week Gotovina's defense counsel will complete the cross-examination. The witness will then be cross-examined by the counsel of the other two accused, General Ivan Čermak and General Mladen Markač.

2008-12-01

THE HAGUE

GOTOVINA'S AUTHORITY OVER THE HV(O)

The defense has not denied that General Ante Gotovina was authorized to institute disciplinary proceedings against members of HV troops. It has denied that as the commander of the 'occupying force' in BH, Gotovina had the same authority over HVO units.



◀ Ante Gotovina in the courtroom

In the summer and autumn of 1995, General Ante Gotovina exercised command over a number of Croatian Army (HV) units, and over elements of the HVO, the armed force of the BH Croats. Prosecution military expert Reynaud Theunens maintained in his report that in the course of Operation Storm Gotovina failed to punish perpetrators from the HVO ranks under the command of the Split Military District. Defense counsel Luka Misetić today tried to prove that the general did not have the power to do so.

The defense counsel put it to the witness that the HVO was the armed force of another state; Gotovina did not have the power to discipline its troops despite the fact that they were under his control during the operations

Summer '95, Storm and Maestral. The defense counsel cited as an example the armed forces belonging to NATO member states that operate together in some situations under mutual command but do not meddle in prosecution policy when soldiers violate discipline. The defense counsel also noted that while the accused general operated in BH, he was the commander of 'the occupying force', while in Croatia he was the commander of 'the domestic force'. There is a substantial difference between the two, the defense counsel noted.

The Belgian military expert said that he had found documents in the Croatian military archives where Gotovina issues 'very strict' orders regarding 'order and discipline' in the HVO units. According to the witness, this means that Gotovina was able to impose disciplinary measures for violations. The witness however agreed that he had seen no documents where the commander of the Split Military District actually took measures against the HVO members. In the final analysis, Theunens contends, Gotovina was 'at least in a position' to learn about the crimes committed by the HVO soldiers and to report them to their regular commands.

On the eighth day of Reynaud Theunens' testimony, Ante Gotovina's defense completed its cross-examination. In the next five days the expert will be questioned by Ivan Čermak's defense. The defense of the third accused on trial for crimes committed during and after Operation Storm, Mladen Markač, has indicated that it will take one day to cross-examine Theunens.

2008-12-02

THE HAGUE

WITNESS: 'CERMAK DIDN'T COMPLAIN'

Referring to military intelligence documents, General Cermak's defense has implied that immediately after Operation Storm the Knin Garrison command was not able to operate properly as chaos reigned in Krajina. The prosecution military expert replied that in the large volume of Croatian Army documents dealing with the period he was unable to find a single report where Cermak complained about problems in doing his job.



◀ Ivan Cermak in the courtroom

In his expert report about the structure and operation of the Croatian armed forces, prosecution military expert Reynaud Theunens maintained that Ivan Cermak, Knin Garrison commander, had authority over the military police, as had General Ante Gotovina. At the beginning of the cross-examination, Cermak's defense counsel Steven Kay attempted to contest this claim.

The defense counsel put it to the witness that under the Croatian military rules, a garrison command was not authorized to issue orders to military units 'except when they relate to order and discipline within the territory under its control'. As the defense counsel put it, this means that Cermak had no authority over the military

police. The witness didn't agree, saying that every commander issuing orders related to 'order and discipline' had to be able to verify if those orders were implemented in practice. The 'best way' to do it was to use military police units, Theunens said.

Military intelligence reports drafted immediately after Operation Storm mention problems in the functioning of the newly established authorities in the liberated area and their inability to cope with the chaos and deal with 'groups of civilians cruising the area, out of control'. When asked why he didn't take into consideration the fact that the Knin garrison command was not able to operate regularly and why this was never noted in his report, Theunens replied that he never saw any documents where Cermak complained about 'not being able or not having enough personnel to continue doing his job'.

Since in his expert report the witness noted that General Cermak exercised 'civilian and military authority' in the garrison area that comprised Knin and six adjacent municipalities, the defense counsel asked him why he didn't include this conclusion in the three 'draft versions' of his report the defense had been given access to following a Trial Chamber decision. Theunens stated that in the end, when he reexamined all the documents he used in drafting his report, he decided to rephrase it.

General Cermak's defense continues its cross-examination of the witness tomorrow.

2008-12-03

THE HAGUE

CONTROVERSIAL OTP MEETINGS

After having mentioned yesterday evening for the first time that he had met with the members of the OTP team when drafting of his report was coming to its close, military expert Reynaud Theunens was warned today that 'he was not fully sincere' in some of his previous replies. Cermak's defense counsel attempted to prove that the witness changed some parts of his expert report after the intervention of the prosecutor.



◀ Reynaud Theunens, witness in the Gotovina, Cermak and Markac trial

Answers the prosecution military expert Reynaud Theunens gave to General Ivan Cermak's defense yesterday resulted today in almost two hours of discussion at the trial of generals Gotovina, Cermak and Markac. The three generals are charged with crimes committed during and after Operation Storm in 1995. As the hearing yesterday drew to a close, the witness noted that in December 2007, when his expert report was almost completed, he had three meetings with the senior trial attorney for the prosecution in this case, Alan Tieger. The witness had not revealed this information

before, although he was examined by the defense counsel on that topic; the defense has been questioning the witness's impartiality because of his close ties with the OTP. The witness is a military analyst in the OTP.

When Theunens appeared before the court today, presiding judge Orié told him that he, the judge, did not consider that Theunens had been 'completely sincere' up to now, reminding the witness that he was still under oath. The witness replied that he wanted to say that, but was interrupted twice by Gotovina's defense counsel Kehoe. Theunens added that he felt very sorry that this 'misunderstanding' caused 'such far-reaching consequences'.

Defense counsel Kay then implied that after the December conversation with Tieger the witness changed the title of the chapter in his report that dealt with General Cermak. In the final version of his report, he wrote that the accused general was in charge of the exercise of 'civilian/military power' in Knin and the six neighboring municipalities. The three 'draft versions' state that Cermak exercised only 'civilian power'. It is possible that the prosecutor asked Theunens 'what he meant by that formulation', the witness said; however, he contends that he then re-read the whole paragraph and decided to change 'only' its title.

As he continued his cross-examination, Kay showed Theunens a number of documents where General Cermak issues orders to the military police regarding the freedom of movement of the UN monitoring mission and civilians, implying that he had no authority to do that; it remains unknown if the orders reached their final destination and were implemented in the first place. Theunens rejected this, saying that more than one such order was issued; this means that Cermak did have the power to do so. Theunens also believes that the orders were implemented, corroborating this with example of Cermak's letter to General Forand, UN Sector South commander, of 11 August 1995, where Cermak informs General Forand that as of that date there would be freedom of movement for the international observers. According to Theunens, this means Cermak did have jurisdiction in that matter.

This was the tenth day of Theunens evidence; his cross-examination continues tomorrow.

2008-12-04

THE HAGUE

WIDE RANGE OF CERMAK'S 'CIVILIAN' POWERS

As the cross-examination of the prosecution military witness continues, the defense has tried to prove that after Operation Storm General Cermak had only 'civilian powers', taking care of various issues ranging from water supply to procuring prosciutto to be served at meetings with foreign delegations.



◀ Ivan Cermak in the courtroom

Cermak's defense counsel Kay today tried to prove that his client, who was the Knin Garrison commander after Operation Storm, held only 'civilian' powers, contrary to what prosecution military expert Reynaud Theunens has claimed. In his report, Theunens said Cermak had 'military/civilian powers'. Tendering into evidence a series of documents about the tasks the accused general was busy performing from August to October 1995, the defense argued that Cermak's priorities were logistic issues and re-establishment of normal life in the newly liberated territory.

Cermak's orders and correspondence with other officers shown today in court indicate he dealt with various problems, from water supply and cleaning of the town to the organization of cultural and art events and aid to churches and kindergartens. Cermak even obtained prosciutto to be served at the meetings with foreign delegations and was busy trying to set up a snack bar called Zdravljak. The witness didn't contest the defense claims that the accused did those things, saying that he was aware of the fact that one of Cermak's task was 'to get life in Knin back to normal'.

Since Theunens in his report quoted a number of military orders issued by General Cermak, the defense counsel implied that Cermak had difficulties dealing with such situations because he 'lacked authority' over the Split Military District units. The witness agreed in part with this explanation, saying that normal procedure implied that the Knin Garrison commander should in some situations address the commander of the Split Military District – at that time it was General Ante Gotovina – to obtain his approval for the use of units.

After he enumerated various activities Cermak was engaged in after Operation Storm, the defense counsel put it to the witness that as the Knin Garrison commander, Cermak 'had a work overload'. In his reply, Theunens said that none of the numerous documents he analyzed in drafting his expert report indicated that General Cermak complained of not being able to finish the tasks he had been given.

The evidence of Belgian military expert will continue tomorrow at the trial of generals Gotovina, Cermak and Markac for crimes during and after Operation Storm.

2008-12-05

THE HAGUE

DEFENSE: CERMAK 'WAS NOT PART OF CHAIN OF REPORTING'

General Ivan Cermak's defense has tried to prove that after Operation Storm ended, a number of civilian and military police reports never reached the Knin Garrison. Prosecution military expert Reynaud Theunens has admitted that he was surprised to see that some of those documents were not addressed to the accused general.



◀ Reynaud Theunens, witness in the Gotovina, Cermak and Markac trial

On the twelfth day of his evidence, prosecution military expert Reynaud Theunens was cross-examined by General Cermak's defense. Steven Kay focused on contesting the claims Theunens made in his expert report to the effect that after Operation Storm General Ivan Cermak had command authority over both the civilian and military police in Knin and neighboring municipalities. Cermak was the Knin Garrison commander at the time. Now he stands trial together with generals Ante Gotovina and Mladen Markac for crimes perpetrated by the Croatian army and police against Krajina Serbs and their property in the summer and fall of 1995.

The defense counsel first challenged Theunens's claim that Cermak had authority over the MUP units conducting clean-up operations immediately after Operation Storm. Those units, among other things, removed 50 bodies from the Knin area and buried them in the local cemetery. The witness said that Cermak was in control of the Knin Civilian Protection Staff, which was part of the MUP, but didn't control the clean-up teams in the field.

When he was shown a series of documents indicating that the chain of reporting about the clean-up operations in the Knin area did not include the Knin Garrison, but only the MUP, Theunens said that everything was done in cooperation with the military authorities, and Cermak was their representative. The witness admitted that he failed to include the police documents that were not addressed to the accused general in his report, but he rejected the defense allegation that he did it because the documents didn't fit in his 'one-sided approach'.

As today's hearing drew to a close, the defense counsel broached the topic of military police's subordination to General Cermak, arguing that Cermak was not part of this chain of reporting. Defense counsel Kay showed the court a series of military and police reports sent to various recipients but not to the Knin Garrison. One of the documents is a report of the 72nd Military Police Battalion dated 31 August 1995 saying that three Croatian soldiers stole 'a lot of furniture' from an abandoned house; a fourth soldier 'had some problems with a civilian'.

Theunens remarked that he himself was surprised that the report wasn't sent to Ivan Cermak who was in charge of maintaining 'order and discipline' in the Knin area. As the defense counsel noted, the defense had in its possession a number of similar documents. The witness based his claim about Cermak being superior to the military police on Cermak's orders about the freedom of movement for UN members and civilians; those orders were sent to military police units in the field.

Reynaud Theunens will continue his evidence next Tuesday.

2008-12-09

THE HAGUE

CERMAK'S HANDS WERE TIED?

Defense counsel Kay has tried to prove that after Operation Storm Ivan Cermak had no legal authority to investigate crimes in Krajina and to prosecute perpetrators. Reynaud Theunens, prosecution military expert, replied that the accused general should have been 'active'.

On the last day of the cross-examination of Belgian military expert Reynaud Theunens, defense counsel Steven Kay continued his efforts to prove that General Ivan Cermak did not have any authority over the military police in Krajina in August and September 1995. The defense alleges that the Knin Garrison – Cermak was the garrison commander after Operation Storm – was unable to operate according to the law because of the difficult circumstances at the time. As a consequence, Cermak did not receive military and police reports even when rules envisaged that they should be sent to him.

The defense counsel showed a number of military police reports on the looting and burning down of houses in the summer and autumn of 1995 in the Krajina villages by Croatian soldiers. As a rule the documents were sent to the HV military police administration, to the Split Military District, to the military prosecutors and courts but not to General

Cermak and the Knin Garrison. The witness repeated what he said on Friday: it would have been logical to send such reports to the commander of the Knin Garrison. However, among the military documents the witness reviewed when he was drafting his report he did not find a single one addressed to the accused general.

Defense counsel later implied that General Cermak had no legal authority to investigate crimes in Krajina and criminally prosecute the perpetrators. Contrary to that, Theunens said that according to the military rules Cermak was the person in charge of 'maintaining order and discipline in the area'; he had to do something about the crimes he knew of. As the witness put it, Cermak was expected to 'be as active' in investigating the crimes as he was when he responded to the complaints he received from international observers about frequent looting and burning of abandoned Serb property, and as active as he was in his contacts with the media regarding the crimes.

As the hearing today drew to a close, General Mladen Markac's defense began its cross-examination of the witness. Markac is on trial with Ante Gotovina and Ivan Cermak for crimes committed during and after Operation Storm in 1995.

2008-12-10

THE HAGUE

DID MARKAC HAVE AUTHORITY OVER SPECIAL POLICE?

Prosecution military expert Reynaud Theunens disagreed with the defense of the former special police commander and its attempt to prove that not all Croatian special units were under his 'discipline and command' authority in the time of the Operation Storm and after it.



◀ Mladen Markac in the courtroom of the Tribunal

One of the conclusions Reynaud Theunens made in his expert report on the structure and operation of the Croatian armed forces is that before, during and after Operation Storm all special police units were under the command of the accused general Mladen Markac. In his cross-examination today, defense counsel Goran Mikulicic said he did not accept that conclusion. In his opinion, some Croatian special police units were deployed in county police administrations; as such 'they were subordinated only to the county police administration chiefs in terms of discipline and chain of command'.

In 1995 Mladen Markac was the commander of the Croatian special police and assistant interior minister. Together with generals Ante Gotovina and Ivan Cermak, Markac is charged with crimes committed during and after Operation Storm in August 1995.

The defense counsel implied that chiefs of police administrations had the power to propose to the interior minister regarding the appointments of commanders of special police units operating within their administration. As he put it, this 'indicates there was subordination'. In his reply, the witness was clear that 'this is not necessarily' the conclusion to be drawn, adding that Markac had to be informed about those appointments even if they were arranged between the interior minister and the police administration chiefs.

The documents shown by the defense counsel as he continued his examination indicated that before Operation Storm about 2,300 regular and almost 2,500 reserve police were deployed in county police administrations. A part of this force, the defense counsel alleged, participated in Operation Storm in early August 1995 while others remained in their counties to do their regular duties.

After a brief re-examination by the prosecution tomorrow, Theunens will complete his evidence. The witness's testimony began on 19 November 2009 and lasted 14 court days.

2008-12-11

THE HAGUE

GOTOVINA DISTANCES HIMSELF FROM CERMAK

In the additional cross-examination of prosecution expert Reynaud Theunens, Ante Gotovina's defense has tried to prove that after Operation Storm Gotovina didn't have command authority over the Knin Garrison and its commander Ivan Cermak. Josip Turkalj, former commander of the Lucko Anti-Terrorist Unit, has begun his evidence.



◀ Reynaud Theunens, witness in the Gotovina, Cermak and Markac trial

Since the Trial Chamber granted Gotovina's defense permission to ask additional questions in the cross-examination of prosecution military expert Reynaud Theunens, Luka Misetic today tried to prove that his client had no command authority over the Knin Garrison. In the summer of 1995 the second accused Ivan Cermak was the commander of the Garrison. Gotovina and Cermak are charged together with Markac with the crimes committed during and after Operation Storm in August 1995.

In the expert report he drafted about the organization and operation of the Croatian armed forces Theunens

maintained that 'according to the military doctrine' garrisons were always subordinated to military districts. However, he contended, in the summer of 1995 the relationship between Cermak and Gotovina 'was not quite clear'. The defense counsel showed a document in which Gotovina 'asks' Cermak to 'accommodate him' about some issues. According to the defense counsel, the document implies that this was not a relationship of a subordinate and his superior. When the defense counsel asked the Belgian expert if he had ever found a document where Cermak reported to Gotovina about his meetings with the UN representatives, he said he hadn't. According to the evidence of previous witnesses, Cermak was informed about the crimes against Serb civilians and their property in Krajina in the summer and autumn of 1995.

Defense counsel Misetic supplemented his argument by putting to the witness that Gotovina never received reports about crimes from any other parties, such as Mate Lausic, chief of the HV Military Police Administration, or from the UN mission. The witness agreed, adding that Gotovina knew about crimes because the Split Military District operational logbook indicates Gotovina was informed about that by his subordinate officers at meetings.

[IMAGE]3828[/IMAGE]Theunens completed his evidence after 15 days in court – three full working weeks at the Tribunal. After Theunens, the prosecutor called Josip Turkalj, the commander of the Croatian MUP rapid reaction police unit. At the beginning of his testimony, Turkalj said that he stood by the statement he gave in February 2004, adding that he 'believes' he would give the same answers in the courtroom as he had done when interviewed by the investigators in March 2005. The interview was videotaped and the transcript was admitted into evidence. After the prosecutor asked a few questions, the hearing ended. Turkalj will continue his evidence tomorrow.

2008-12-12

THE HAGUE

NEW EVIDENCE GRUBORI REPORT WAS DOCTORED

Former commander of the Lucko Anti-terrorist Unit Josip Turkalj says that in late August 1995 he was present at a discussion where it was said that the murder of elderly Serb civilians in the Krajina village of Grubori should be depicted as random incident in which civilians got killed in cross-fire 'regardless of whether it's true or not'.



◀ Josip Turkalj, svjedok na suđenju Gotovini, Čermaku i Markaču

During and after Operation Storm, prosecution witness Josipi Turkalj was the commander of the Lucko Anti-terrorist Unit of the Croatian special police, yet he didn't participate in the clean-up operation that the unit carried out on 25 August 2008 in the Plavno valley. This was when five Serb civilians were killed and a number of houses were set on fire in the village of Grubori, in one of the gravest incidents listed in the indictment against generals Gotovina, Cermak and Markac. Turkalj was called to clarify his role in the controversial events that followed the operation, already discussed at the trial.

The first report was drafted by Josip Celic, who commanded the clean-up operation in the Plavno Valley, on 25 August 1995. The report indicated that the special units passed through the village of Grubori and the Plavno Valley without encountering any problems and resistance from the remaining Serb forces. When the report reached Mladen Markac, the special police commander, Celic was called to report immediately to the Gracac headquarters. Markac and his deputy Zeljko Sacic then told him that they were not happy with his report and demanded that he draft a new one where he would talk about the fighting which resulted in civilian victims. To speed up the process, the new report was dictated to him by Sacic.

In an interview with the ICTY investigators in 2005, Turkalj said that he had heard Sacic tell Cermak that the Grubori incident should be depicted as a chance incident in which civilians were killed in cross-fire 'regardless of whether it's true or not'. According to Turkalj's evidence, this was said on 31 August 1995 in Cermak's office in Knin, immediately after the visit of the army and police representatives to Grubori. Celic told him then that 'he doesn't know what happened' during the Plavno operation, Turkalj claims.

A day after the visit to Grubori, Turkalj summoned all subordinate commanders of the Lucko Unit to come to Zagreb, on Markac's orders. They were then ordered to draft new reports on the operation conducted in the Plavno Valley. In that document, Josip Celic stated that there had been fighting but Turkalj claims that he didn't find it peculiar that only a day earlier Celic told him he knew nothing about the incident. In his evidence, Celic stated that in Zagreb he only signed a typed version of the report Sacic had dictated to him a few days before.

In an effort to prove that the cover-up of the murders in Grubori continued over the years that followed, the prosecutor showed an order General Markac issued in 1999, calling for the decommissioning and deletion from the military records of some of the weapons used in the Plavno Valley clean-up despite the fact that an investigation was still underway at the time and the ballistics analysis was not yet completed. In the course of his evidence Turkalj tried to protect his former commander General Markac, saying that there was nothing unusual about that and that it was just a 'routine thing'.

2008-12-15

THE HAGUE

DEFENSE DENIES COVER-UP OF GRUBORI CRIMES

Former commander of the Lucko unit of the Croatian special police maintains that today, 13 years after the murder of five elderly civilians in the village of Grubori in Krajina, he 'doesn't have specific information' that it was a crime and who committed it. The witness denies that the Croatian police leadership ordered a cover-up or the incident in the village of Grubori.



◀ Josip Turkalj, witness in the Gotovina, Cermak and Markac trial

Since the beginning of the trial of Croatian generals Gotovina, Cermak and Markac, the prosecution has been trying to prove that the Croatian special police murdered five elderly Serb civilians in the village of Grubori in Krajina on 25 August 1995. The perpetrators allegedly took part in the clean-up operation in the Plavno Valley. On the other hand, the defense has stuck to the official Croatian police documents indicating that the civilians were killed in the cross-fire between the specials and 'remaining Serb terrorists'. Josip Turkalj, former commander of the Lucko anti-terrorist unit, came to The Hague to testify for the prosecution. He nevertheless tried hard to confirm the arguments of the defense of

General Mladen Markac, his erstwhile commander. As he contends, today – 13 years after the incident in Grubori – he has 'no specific information' that it was indeed a crime and who committed it.

When the defense counsel asked him if he had ever received an order from the police leadership to cover-up the incident in Grubori, the witness denied it, adding that he had no knowledge that any of his colleagues had been pressured to do so. However, one of Turkalj's colleagues, Josip Celic, said in his evidence that the day after Grubori incident he had been ordered to modify his first report, where he had stated that there had been no fighting during the operation. Zeljko Sacic, Special Police chief of staff, told Celic in presence of General Markac, who commanded the Croatian special police, to draft a new report in which he would say that there had been an exchange of fire in Grubori. Sacic then took Celic to another room where he dictated the contents of that report word by word.

In his evidence Celic said that some days after his meeting with Markac and Sacic he went to Zagreb on Turkalj's orders and there signed a re-typed version of the report Sacic had dictated to him. Turkalj however claimed that he had never pressured anybody about the incident in the village of Grubori. Celic drafted his report 'as he saw fit', he said.

As the hearing today drew to a close, Turkalj was cross-examined by General Ivan Cermak's defense counsel. When he visited Grubori in late August 1995, he got impression that there had been combat operations in the village, Turkalj said. Immediately after the incident, speaking in front of the Croatian and UN TV cameras, Cermak denied that the civilians had been killed at point-blank range. He claimed that 'anti-terrorist operations' had been conducted in that area.

2008-12-16

THE HAGUE

WITNESS: 'NO HOUSES LEFT TO LOOT AND BURN IN KRAJINA'

Hussein Al-Alfi, highest ranking civilian representative of the UN mission in Krajina, claims that in August and September 1995 he and Sector South commander General Forand regularly reported numerous crimes in Krajina to the Knin 'military governor', Ivan Cermak. After that, the witness said, the things changed because there were 'no more houses left to burn and loot'.



◀ Hussein Al-Alfi, witness in the Gotovina, Cermak and Markac trial

'Ivan Cermak denied the crimes against the Krajina Serbs. Yet at the same time he told international representatives that such behavior would stop'. This is how former coordinator of the Krajina UN Mission for civilian affairs Hussein Al-Alfi summarized his experience from the meetings he and Sector South commander General Alain Forand had with the accused general Cermak. Together with Ante Gotovina and Mladen Markac, Ivan Cermak is charged with crimes committed during and after Operation Storm in August 1995.

Soon after Operation Storm, the Croatian authorities informed the international representatives that Cermak

was appointed 'military governor' of Knin and its environs, the witness recounted. Because of that, the witness said, highest ranking UN representatives talked only to Cermak about human rights violations they recorded in the field. They did meet the Knin mayor a few times, but, as Al-Alfi put it, they soon realized that it was 'a waste of time'; the first man in Knin would either tell them to talk to Cermak or said that he himself would forward their objections to Cermak.

The prosecutor showed a number of reports drafted by Al-Alfi in August and September 1995. In those reports, the witness described meetings he and general Forand had with Cermak saying that they regularly informed Cermak about numerous murders, looting, arson and other violations of human rights in Krajina. According to the witness, the general never said he was not authorized to deal with those problems. Quite the opposite: he promised to take measures to prevent crimes and punish perpetrators. Al-Alfi didn't know it something was done about it, but he claims there were no major changes in the field. In other words, the witness said, the situation changed from 'a lot of looting and burning to no houses left to loot and set on fire'.

The witness was today shown a letter to Cermak sent at the end of his term of office. In it, Al-Alfi thanked Cermak for their good cooperation, praising his 'professionalism, sense of responsibility and dedication to finding solutions to the problems in Krajina'. Commenting on the letter, Al-Alfi said he saw 'nothing bad' in it; as he put it, the Croatian general showed his professionalism and sense of responsibility because he was ready to listen to Al-Alfi and other international representatives. This doesn't mean however that Cermak took sufficient measures to prevent crimes in Knin and its environs, the witness concluded.

As the hearing today drew to a close, Cermak's defense counsel Kay began cross-examining the witness. The witness's examination will take the whole day tomorrow, it was indicated.

2008-12-17

THE HAGUE

'VIRTUAL HANDSHAKE' IN THE HAGUE COURTROOM

In an attempt to show that Ivan Cermak was aware of the widespread looting of abandoned houses and apartments in Knin, Hussein Al-Alfi, former UN mission representative, has said that the Croatian general told him to remove the valuables from his apartment to the UN base; otherwise they might be stolen. The witness and the accused shared a 'virtual handshake' in the courtroom.

Despite the efforts of defense counsel Kay to minimize the role of Ivan Cermak in the Knin area after Operation Storm, former coordinator of the UN mission in Sector South, Hussein Al-Alfi remained firm in his cross-examination today: the accused general was 'number one' in the area under military rule. The witness knew Cermak as 'the military governor' and had never heard anyone call Cermak 'the Knin Garrison commander', his official title. Croatian generals Ivan Cermak, Ante Gotovina and Mladen Markac are charged with crimes against Serb civilians and their property during and after Operation Storm in August 1995.

The defense counsel asked the witness if he knew that General Cermak was sent to Knin to restart the 'companies, shops and services'. Al-Alfi asked a counter-question: how could the companies start working if the military situation was not stabilized. He 'never had any doubt' about Cermak's military powers, the witness added, admitting nevertheless that it remained questionable how successfully he could exercise them in practice.

Reports from the meetings between high-ranking UN mission representatives and Croatian representatives shown in court today by the defense indicate that Al-Alfi and Sector South commander Alain Forand informed General Cermak on 18 August 1995 for the first time about the crimes being committed in Krajina. When they expressed their concern about 'the continued burning of the Serb houses', the 'military governor' announced there would be 'tough action' against perpetrators. The witness claims that the Croatian general received reports about crimes in Sector South even before that, noting however that in previous meetings the crimes might not have been the main item on the agenda and were consequently not included in the report.

According to Al-Alfi, Cermak was aware of the widespread crimes; he advised Al-Alfi to remove the valuables from his Knin apartment to the UN base. They could otherwise be stolen, he said.

Al-Alfi thus completed his evidence before the Tribunal. As his testimony drew to a close Al-Alfi asked the judges for permission to shake hands with the accused general with whom he had had intensive contacts after Operation Storm. The presiding judge made it clear to him that this was not customary at the Tribunal. However, he added, the presiding judge was sure General Cermak got the message: the smile on Cermak's face clearly confirmed it. 'We could call it a virtual handshake then', Judge Orie concluded.

2008-12-18

THE HAGUE

PUTTING TWO AND TWO TOGETHER

Former UN civilian police member said in his statement to the OTP that it seemed to him that the HV members were 'systematically' burning down houses in the Krajina villages. Now, in his cross-examination he said that with time he 'put two and two together' and concluded that the soldiers 'were out of control' and were not ordered to commit crimes. The courtroom participants exchanged best wishes for Christmas.



◀ Normand Boucher, witness in the Gotovina, Cermak and Markac trial

Former member of the UN civilian police in Knin, Canadian Normand Boucher almost got killed on the first day of Operation Storm; some days later his apartment was partially looted. Boucher recounted things that happened to him until he left Krajina on 22 August 1995 in three statements he gave to the OTP investigators and one he gave last night to Ante Gotovina's defense. Generals Gotovina, Cermak and Markac are charged with crimes against Serb civilians and their property in August and September 1995.

In his evidence today, Boucher described how he was awoken by the sound of a shell hitting a building near his

Knin apartment. As he was heading down to the basement, another shell went through the roof of his building and into his top floor apartment. When he left the shelter, he saw that eight or ten buildings in the area were damaged in the shelling. The witness spent the day hiding in two locations in Knin and was then transferred to the UN base.

Boucher and his colleague from the civilian police went on their first patrol on 7 August 1995. When they visited Knin they saw Croatian soldiers taking clothes, furniture and appliances from houses 'without even attempting to hide'. The witness also visited his apartment; there, he contended, he saw that his TV set and a new leather jacket were missing. The next day, the witness saw a body of a man in uniform with a gunshot wound to the head; this was near Knin. He then saw bodies of a man and a woman lying near a tractor. On his way to a meeting in Sibenik, the witness saw Croatian soldiers carrying jerry cans full of gas out of trucks marked with the Puma insignia. They headed towards some houses. On his way back, the witness saw that most of the houses were ablaze.

Contrary to the statements he gave the OTP investigators – when he said it seemed to him that the soldiers were 'systematically' burning down the houses, in his cross-examination the witness said that with time he 'put two and two together' concluding that those soldiers 'were out of control' and were not ordered to commit the crimes. When Gotovina's defense counsel Kehoe asked him what facts led him to conclude that, Boucher said some houses were spared. Also, Ivan Cermak publicly appealed to the Serbs not to leave Krajina which meant that the government didn't want to expel them. The witness also noted that the Croatian soldiers protected Orthodox churches and for him that was yet more proof that there was no intention to expel Serb civilians.

When the defense counsel asked him about the shelling of Knin, the witness replied that his apartment and other damaged houses were located near the barracks and the police station. It was clear that the Croatian side was trying to neutralize military targets. As the witness noted, he would have done the same.

Boucher's cross-examination was ended on an amicable note. After he wished everybody in the courtroom a merry Christmas, the Trial Chamber granted General Gotovina's defense permission to wish the witness all the best in the New Year on behalf of their client. After that the other two accused rose joining Gotovina with their own best wishes. The trial of the three Croatian generals continues after the winter recess on 12 January 2009.

2009-01-12

THE HAGUE

FORENSIC FINDINGS FROM THE KNIN CEMETERY

According to British pathologist John Clark, most of the 245 victims whose remains were exhumed from the Knin cemetery after Operation Storm were killed by firearms, in some cases by a single shot to a head. Gotovina's defense counsel claims all were killed in combat.



◀ John Clark, svjedok na suđenju Gotovini, Čermaku i Markaču

The trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac, charged with crimes during and after Operation Storm in August 1995, continued with the evidence of British pathologist John Clark. From 1999 to 2001, Clark led an expert team that conducted post mortems of the bodies exhumed from four graves in the Knin city cemetery. Because the defense of general Gotovina objected to the admission into evidence of the expert report drafted by Dr. Clark at the behest of the prosecution, the Trial Chamber will decide later whether it will be admitted or not. The presiding judge did indicate that the objections raised by the defense were not sufficient for the dismissal of this document.

In his report Clark stated that about 300 bodies of Krajina Serbs were found in the Knin cemetery; 245 died a violent death. According to the British pathologist, 202 victims were killed by firearms. The rest were killed by artillery shells or died in some other way. Cause of death was not established for 35 victims. The prosecutor showed a number of photographs taken during the post mortem examinations, showing gunshot wounds to the skulls and torsos of the victims. The witness assumed that one of the victims had been killed by a machete or similar sharp object.

In his cross-examination Gotovina's defense counsel Kehoe put it to Dr Clark that most of the victims exhumed from the Knin cemetery had gunshot wounds to their torsos, which would indicate, Kehoe argued, that they had been killed in combat. The British expert told him that this might be said for a certain number of victims, but, he went on to say, there were cases when the victims had only a single gunshot wound to the head. In his opinion, this is not consistent with injuries sustained in combat.

Defense counsel Kehoe went on to read part of Clark's report where he says that in most cases he and his colleagues were not able to determine if gunshot wounds had been sustained prior or after death. The witness replied that he was careful in drafting his report. However, where there were visible gunshot wounds the witness 'assumed' they were the cause of death. Dr Clark refrained from commenting on the defense counsel's claim that some of victims from the Knin cemetery had been killed before Operation Storm, saying that he and his team didn't gather such that kind of information.

John Clark's cross-examination continues tomorrow.

2009-01-13

THE HAGUE

CIVILIANS OR SOLDIERS IN CIVILIAN CLOTHES?

The British pathologist John Clark was wrong by 44 percent when he estimated the number of soldiers exhumed from the Knin city cemetery, the defense has claimed in the cross-examination of the prosecution expert witness. Clark made his estimate on the basis of the victim's clothes. After Clark completed his testimony, the prosecutor called another expert witness, Dutch lieutenant-colonel Harry Konings.

As the cross-examination of British pathologist John Clark continued today, the defense counsel of Croatian general Ante Gotovina tried to prove that the four mass graves in the Knin city cemetery contained more remains of Serb soldiers than of civilians than was indicated in the witness's expert report. The report Dr. Clark drafted at the behest of the prosecution claims that approximately one third of the 245 victims whose remains were exhumed from the cemetery 'appeared' to be soldiers.



◀ John Clark, svjedok na suđenju Gotovini, Čermaku i Markaču

Defense counsel Kehoe showed a report of the Croatian MUP from January 1996 stating that there were 102 soldiers among the victims from the Knin cemetery. According to his calculation, it is 44 percent more than what the witness had estimated. Clark couldn't comment on the document drafted by the Croatian police because he never saw it. He added that he assumed who was soldier and who civilian based on the clothes the victims were buried in. The witness said he had never been told that some Serb soldiers changed from their uniforms to civilian clothes as they were pulling out from Krajina.

One of the victims whose remains were found in the Knin cemetery is Jovo Grubor. He and six other elderly persons were killed on 25 August 1995 in the Krajina village of Grubori, in the course of a clean-up operation in the Plavno Valley conducted by the Croatian special police. The defense of Mladen Markac, who commanded the Croatian special police at the time, argues that the elderly Serbs were 'collateral victims' in the clash of the police with the remaining Serb fighters; moreover, they deny that Jovo Grubor was shot first and then had his throat cut, as the prosecution alleges.

The post mortem report drafted by a team of international pathologists in Knin lead by Clark does not mention any wounds caused by a sharp object on the throat of Jovo Grubor. The cause of his death was listed as 'at least six gunshot wounds'. Defense counsel Mikulicic showed a photo of Jovo Grubor's body with visible injury on the throat; he asked the British expert if he thought it was a slash caused by a knife. 'It is difficult to tell from a photograph, but I believe it's more likely a bullet wound', the witness replied.

When Dr. Clark completed his evidence, the prosecution called another expert, Harry Konings, a lieutenant-colonel serving in the Royal Dutch Army. He was asked by the prosecution to draft a report on 'fire support' of the Croatian Army during Operation Storm in August 1995. The prosecution has been trying to prove that the Croatian forces' excessive shelling and deliberate targeting of civilian facilities throughout Krajina contributed to the exodus of the Serb population from that area. The defense argues that the Croatian artillery shelled only military targets in the course of Operation Storm.

2009-01-14

THE HAGUE

WITNESS: 'KNIN WAS LIKE SARAJEVO'

Harry Konings, a lieutenant-colonel in the Royal Dutch Army claims that what happened on 4 August 1995, when the Croatian Army launched its attack on Knin, was the same as what happened during the four years of siege in Sarajevo: the town was shelled 'without a clear military purpose, to cause panic among the civilian population, making the enemy troops surrender and flee.



◀ Harry Konings, svjedok na suđenju Gotovini, Čermaku i Markaču

'The use of classical artillery is probably the worst possible way to attack military targets in towns where they are mostly surrounded by residential buildings', Dutch lieutenant-colonel Harry Konings said at the trial of Croatian generals Gotovina, Cermak and Markac. The three generals are charged with crimes against Serb civilians and their property in August 1995. Konings was asked by the prosecution to draft an expert report on 'artillery support', the use of Croatian artillery in Operation Storm.

In his examination-in chief, the prosecutor showed the order general Ante Gotovina issued on 2 August 1995 to 'open artillery fire' on the towns of Knin, Benkovac, Obrovac and Gracac. As Konings put it, no 'reasonable commander' should issue orders calling for artillery attacks on towns where civilians lived without providing strict lists of military targets and expected effects of the attack. This document, the witness noted, shows that the shelling was ordered despite the 'high risk of collateral damage'.

According to the Dutch lieutenant-colonel, what happened during the attack on Knin is the same as what happened in the four years of the siege of Sarajevo. The town was shelled 'without any clear military purpose with the aim of causing panic among the civilian population and forcing the enemy troops to surrender'. In 1995, in the final stage of the siege of Sarajevo, Konings served as a UN military observer there. He recounted what he learned there before

the Tribunal in his evidence as a prosecution witness at the trial of Dragomir Milosevic, former commander of the Sarajevo-Romanija Corps. Milosevic was sentenced to 33 years.

Prosecutor Russo then showed the annex of the expert report where Konings analyzed the 'justification' of artillery attacks against individual buildings in Knin, including the three barracks, the SVK headquarters, the police station, the electrical power company office, the post office and the railway, the TVIK factory and the seat of the RSK president.

The witness concluded that some of those facilities, such as the electrical power company office, the post office and the railway, could not be seen as military targets. Other facilities that could be considered as military targets should not have been shelled because they were located amidst residential areas of the town and in immediate vicinity of civilian buildings. According to the data presented by the prosecution, on 4 August 1995 there were some 15,000 civilians and only 400 to 500 soldiers in Knin. For example, there were only a few dozen soldiers in the barracks in Knin and a dozen or so police officers in the police station. They did not constitute a major military threat, the witness said. The barracks, military headquarters and the police station were solidly built; it would take hundreds of shells to destroy them. This would inevitably cause significant damage to nearby civilian buildings, the witness added.

Lieutenant-colonel Konings will continue his evidence tomorrow.

2009-01-15

THE HAGUE

AMERICAN LAWS FOR GOTOVINA'S DEFENSE

In an effort to prove that the shelling of military targets in civilian areas is not against the military doctrine of all countries, General Ante Gotovina's defense counsel has referred to the 1956 US Manual on the Law of War. Harry Konings, a lieutenant-colonel in the Royal Dutch Army, pointed to differences between the American and Dutch approaches.



◀ Greg Kehoe, branilac Ante Gotovine

On the first day of Harry Konings's cross-examination the defense of Croatian general Ante Gotovina – charged together with Ivan Cermak and Mladen Markac with crimes against Serb civilians in Krajina in August 1995 – tried to contest his claim that the shelling of Knin and other Krajina towns during Operation Storm was unlawful. In his expert report drafted for the prosecution, the Dutch lieutenant-colonel concludes that the Croatian Army and police used artillery without a particular military purpose, to cause panic among civilian population. In his examination-in chief the witness argued that the shelling of military targets in towns was not justified by military necessity because the advantage to be gained by their destruction was minimal while the risk of collateral damage was too great.

Gotovina's defense counsel Greg Kehoe tried to prove that various military doctrines have different views of warfare and care for civilians in the course of attacks. To corroborate this, the American lawyer referred to the Manual on the Law of War issued in 1956 by the US Department of Defense. The Manual notes that 'civilians cannot be targeted in an attack'; however, artillery attacks on military targets located in civilian areas are not prohibited. Konings replied that rules changed. Furthermore, while he worked on his expert report Konings relied in part on the Dutch military doctrine that differs substantially from the US doctrine. Konings also brought up the current rules of engagement of the allied forces in Afghanistan which stipulate that fire cannot be opened on military targets if there are civilian buildings within 500 m perimeter.

In his examination-in chief the witness compared the shelling of Knin with the four-year siege of Sarajevo; this prompted the defense counsel to put it to him that the two situations were entirely different. The Serb army attacked Sarajevo randomly every day for four years and never entered it, while the Croatian armed forces attacked Knin to liberate it. Konings agreed only in part with this suggestion, saying that the circumstances were indeed different but that the artillery attacks on areas in Knin where there were civilians are not justified.

At the very beginning of the hearing today, the defense counsel tried to contest the expertise of the witness showing the statement he had given to the OTP investigators in the case of Dragomir Milosevic, former commander of the Sarajevo-Romanija Corps. There Konings said that he didn't consider himself to be an artillery expert. What he meant, Konings replied, was that he couldn't evaluate his own expertise. However, Konings emphasized, many people, including his superiors, consider him to be an expert because of his comprehensive knowledge of artillery and ground forces in general.

Defense counsel Kehoe will continue his cross-examination tomorrow. According to his calculation, it should last for at least two full working days.

2009-01-16

THE HAGUE

PANIC AMONG SOLDIERS OR CIVILIANS?

Gotovina's defense counsel has tried to prove that Knin and other Krajina towns were shelled in Operation Storm in order to cut off the communications between Serb units and to spread panic among soldiers, not civilians. Dutch lieutenant colonel Harry Konings has not denied this claim; however, he has repeated his conclusion that the military targets in Knin were not worth causing panic among civilians and risking civilian casualties.



◀ Harry Konings, svjedok na suđenju Gotovini, Čermaku i Markaču

As the cross-examination of the prosecution expert Harry Konings continued, Ante Gotovina's defense counsel tried to prove that the shelling of Knin on 4 and 5 August 1995, during Operation Storm, was aimed at causing panic among SVK troops and not among civilians. In his expert report drafted for the trial of generals Gotovina, Cermak and Markac, the Dutch lieutenant colonel concluded that the purpose of the artillery attack was to spread panic among civilians and thus to force the army to surrender and flee.

Defense counsel Kehoe showed the witness some biographies and statements given by former high-ranking officers of the SVK they wrote or gave after the war, where they accused each other of treason and identified fear and panic as the main reasons for feeble resistance offered to the Croatian troops in August 1995. When the witness was asked if he agreed that causing panic among Serb soldiers were a legitimate goal of an artillery attack, Lieutenant Colonel Konings said that 'generally speaking it would be so'; nevertheless, the same panic was spread among civilians too.

According to Gotovina's defense, the other reason why Knin was shelled was to prevent the movement and mutual contact of Serb units in the town. This argument was corroborated by quotes from the books high-ranking Serb officers wrote after leaving Krajina. Former artillery commander, General Vrcelja stated in his book War for Serb Krajina that on 4 August 1995 the soldiers were afraid to go from the barracks to the Main Staff building. The witness again agreed 'in principle' with Kehoe's argument noting that cutting off the communications between enemy officers and units could be a purpose of the artillery attack. However, the information from the field he received from the prosecution didn't lead him to conclude that there were any major defense facilities in Knin in early August. Therefore, severing communications between them was not reason enough for the artillery to shell military targets in civilian areas.

As the cross-examination continued, the defense counsel criticized the Dutch lieutenant-colonel for not dealing in greater detail with the disposition and movements of the Croatian units during Operation Storm. The witness replied that he had 'a general picture' which was sufficient for his analysis of the artillery attacks.

Harry Konings's evidence continues on Monday.

2009-01-19

THE HAGUE

BEST OR WORST TACTICS USED IN KNIN ATTACK?

The defense has tried to challenge the argument put forward by Dutch lieutenant-colonel Konings that General Ante Gotovina's decision to launch an artillery attack on Knin in August 1995 was 'perhaps the worst possible tactics' because of substantial risk to civilians. Defense counsel Kehoe noted that the danger to the Knin residents would have been even greater if the infantry had entered town without a previous 'artillery preparation'.

On the third day of the cross-examination of military expert Harry Konings American lawyer Greg Kehoe tried to prove that when Ante Gotovina decided on the tactics for the attack on Knin and other towns in Krajina, he opted for the tactics likely to cause least danger to the Serb civilians. General Gotovina was in command of the Croatian military forces in Operation Storm. Together with Ivan Cermak and Mladen Markac he is on trial for crimes committed against Serb civilians and their property during and after that operation.

In his report on the artillery attack against Knin drafted at the behest of the prosecution, Dutch lieutenant-colonel Konings noted that the Croatian Army should not have shelled the town because of the danger to civilians. The Croatian troops should have entered Knin without the artillery preparation because its infantry was stronger. The defense counsel put it to the witness that had the infantry entered town, civilian casualties would have been far

greater due to street fighting which would have ensued. Furthermore, the fiercest artillery attack on Knin was launched in the early morning hours of 4 August 1995 when there were 'fewest civilians out in the streets'.

The witness agreed in part with the defense argument in theory, adding that the shelling lasted more than 24 hours. It was unclear to him why Gotovina in his order of 2 August 1995 asked his subordinate commanders to 'open artillery fire on Knin' without identifying clearly the military targets in the town. Konings remained adamant that if the Croatian infantry had entered Knin without artillery support would have been riskier for the Croatian troops, but it would have caused less danger to the civilians in the town.

In his expert report based on the information he was given by the prosecution, Konings concluded that most military targets in Knin were of 'little value'. Also, they were located in immediate vicinity of civilian buildings and therefore should not have been shelled. The defense argues that the attack on facilities such as barracks, railway junctions, the post office and the VSK Main Staff brought substantial advantage to the Croatian side because it obstructed communications and command of the enemy troops. The witness agreed with this claim only as far as the attack on the Main Staff was concerned. He once again repeated the conclusion of his expert report that the importance of the target and the risk for civilians in town had to be 'proportionate'.

Harry Konings is expected to complete his evidence tomorrow.

2009-01-20

THE HAGUE

GENERAL GOTOVINA ISSUED 'VAGUE' ORDER

On the last day of Harry Konings' cross-examination, the defense has tried to prove that when Ante Gotovina issued his order to launch Operation Storm, he clearly indicated which military targets in Knin and other towns were to be shelled. However, the Dutch lieutenant-colonel has remained adamant: the vague wording used by the accused general 'created preconditions' for the shelling of civilian targets.



◀ Ante Gotovina, Ivan Cermak and Mladen Markac in the courtroom

Military expert Harry Konings completed his six-day evidence today at the trial of Croatian generals Gotovina, Cermak and Markac, accused of crimes during and after Operation Storm. Konings drafted an expert report at the behest of the prosecution, where he claimed that Gotovina's order of 4 August 1995 to shell Knin and other Krajina towns was 'the worst possible tactics' because of potentially negligible military effect of the shelling and substantial risk to civilians.

The Dutch lieutenant-colonel was particularly critical of the section in Gotovina's order where he orders his subordinates to place Knin and other towns 'under artillery fire' without any clear identification of military targets. Defense counsel Kehoe today showed a part of that order where it says, verbatim, 'I order artillery attacks against the enemy forward defense lines, command posts, communication centers, artillery firing positions and the placing of the towns of Drvar, Knin, Obrovac, Benkovac and Gracac under artillery fire'.

This document, the defense alleged, shows that the Split Military District commander ordered the shelling of enemy command posts, communication centers and artillery posts in towns. Disagreeing with this claim, Konings said that the part of the order where it says that towns should be 'placed under artillery fire' merely follows up on the previous text; nothing is said about military targets in towns. According to the witness, the commanders thus had leeway to attack civilian targets in towns. 'I don't know if it happened, but the document clearly shows that Gotovina's order created preconditions for something like that', Konings concluded.

Since the witness's expert report didn't concern the participation of special police units in Operation Storm, the defense counsel of Mladen Markac, former commander of the Croatian special troops, asked the witness just a few questions. Harry Konings thus completed his evidence earlier than expected. The Trial Chamber with Judge Orić presiding will not sit tomorrow. The prosecution is expected to call its next witness on Thursday.

2009-01-22

THE HAGUE

DANISH OBSERVER: OBJECTIVE OF OPERATION STORM WAS KRAJINA WITHOUT SERBS

Explaining why he wrote in the diary he kept during Operation Storm that he was 'disgusted' by what the Croatian Army was doing, former European monitor from Denmark Stig Marker Hansen said he thought at the time that the objective of the Croatian attack was to 'take the RSK territory once it was empty of the Serb population'.



◀ Stig Marker Hansen, svjedok na suđenju Gotovini, Čermaku i Markaču

In the three statements he has given to the OTP investigators since December 1995, former member of the European Community Monitoring Mission in Croatia Stig Marker Hansen described what he had seen in Knin during and after Operation Storm. Like dozens of other former international observers who have given evidence at the trial of generals Gotovina, Cermak and Markac before him, Hansen says that Operation Storm began with intense shelling of Knin; many crimes were committed when the Croatian Army entered the town.

According to the witness, on 4 August 1995, shells were hitting civilian areas, including the buildings near the

place where he lived. The prosecutor showed a diary kept by the Danish observer during Operation Storm. In it he wrote: 'I simply cannot accept the fact that people are being expelled. I can understand the Croats but I am disgusted with their methods; they are violating every single provision of international law'. Hansen and his colleagues thought at the time that the objective of the attack launched by the Croatian armed forces was 'to take the RSK territory but once it was empty of the Serb population'. The shells didn't inflict 'any structural damage' to civilian buildings, the witness said; the impacts did cause fear and panic among the civilians.

When the Croatian Army entered Knin, Hansen claims, there was systematic looting of houses and apartments. Although he and other international observers were prohibited from leaving the UN base in Knin until 7 August 1995, the witness was able to observe soldiers from the HV 4th Guards Brigade bring looted goods – mainly TV sets and household appliances – to the parking lot near the UN headquarters. From there they took the loot away in the direction of Drnis. When Hansen was permitted to leave the base, he went to his apartment which had been looted, like many neighboring flats. The place was ransacked, he said, and his camera, loudspeakers and disks that he had not taken with him to the base were missing.

In the statement he gave to the OTP investigators the witness said that he and other European observers regularly reported 'lawlessness and disorder' in the Krajina Sector South to General Ivan Cermak. At a meeting in September 1995 they told this to Ante Gotovina, Split Military District commander. As the examination-in-chief continues, Hansen will be asked tomorrow as about his contacts with two of the accused, Gotovina and Cermak, who are on trial together with General Mladen Markac for crimes committed by the Croatian Army and police during and after Operation Storm.

2009-01-23

THE HAGUE

'IT IS ONLY HUMAN TO HATE ENEMY'

In his daily report of 20 September 1995, European monitor Stig Marker Hansen noted that General Gotovina responded to reports about widespread looting and burning in Krajina with words, 'it is only human to hate the enemy that expelled your family'. The witness took it to mean that for Gotovina 'a certain degree of revenge was acceptable'.

Former member of the European Community Monitoring Mission in Croatia Stig Marker Hansen continued his examination-in chief at the trial of Croatian generals Gotovina, Cermak and Markac for crimes against Serbs in the summer and fall of 1995. Things Hansen saw in Krajina after Operation Storm made him conclude that there was a 'broader plan' to prevent the return of Serb civilian refugees. In his words, the abandoned houses were systematically burned down and looted in villages. Towns were spared for the most part, as were the villages with Croat majority.

In the three statements he gave to the OTP investigators the witness identified Ivan Cermak as person who had influence over the army and the police in Krajina. This led Cermak's defense counsel Cayley to put it to the witness that the accused general – as the commander of the Knin Garrison – mostly focused on efforts to repair the water supply system, restore power, clear the rubble and other municipal issues. The witness agreed in part with this claim

saying that he considered Cermak to be less of a soldier and more of a 'civilian in uniform'. In his statements to the OTP investigators Hansen says that after Cermak's intervention he was allowed to pass through military and police checkpoints and enter villages.



◀ Ante Gotovina in the courtroom

Describing a meeting on 20 September 1995 when he and other European monitors drew Gotovina's attention to widespread looting and burning down of Serb houses, the witness wrote down in his diary what the Croatian general had told them: he was not against Serbs living in Croatia but it 'is only human to hate the enemy that expelled your family'. Today Hansen noted he didn't remember all the details from that meeting, but said it seemed to him, based on that entry in his diary, that General Gotovina found 'a certain degree of revenge acceptable'.

In his cross-examination, defense counsel Kehoe put it to the witness that General Gotovina merely recognized the fact that Croats who had suffered a lot in the four

years of occupation of Krajina wanted revenge. In his reply Hansen said that it was not controversial that many Croats had been expelled and their homes had been looted and burned and that this led to seek revenge. However, he emphasized, it is one thing to recognize such behavior, and quite another to punish it.

The trial of the three Croatian generals continues on Monday.

2009-01-26

THE HAGUE

GENERAL LAUSIC: FROM SUSPECT TO WITNESS AND BACK

At the insistence of the defense teams representing generals Gotovina, Cermak and Markac, former chief of the HV Military police Administration Mate Lausic started his evidence by describing the timeline of his meetings with OTP representatives since May 2004. The presiding judge then warned Lausic he was entitled to protection against 'forcible self-incrimination'.



◀ Mate Laušić, svjedok na suđenju Gotovini, Čermaku i Markaču

The trial of generals Ante Gotovina, Ivan Cermak and Mladen Markac continued today with the evidence of retired Croatian general Mate Lausic. During Operation Storm, in the summer and the fall of 1995, when the crimes alleged in the indictment were committed, Lausic was chief of the Military Police Administration in the Croatian Army. During the trial, the prosecutor has been trying to prove that the military police for the most part stood by as abandoned Serb houses were being looted and burned down all over Krajina, doing nothing to prevent crimes and bring perpetrators to justice. As alleged by the prosecution, the hands of the Split Military District commander Ante Gotovina and Knin garrison commander Ivan Cermak had control over the military

police. According to the defense, the Military Police Administration and its chief, General Lausic, were responsible for what the military police did.

Lausic was first interviewed by the OTP investigators in May 2004 as a suspect. When he was interviewed the second time in August 2004, his witness statement was drafted based on his previous interview which was videotaped and audio recorded. Lausic thus became a 'witness' and was not a 'suspect' anymore. The situation however changed in December 2008 when the OTP investigators called him for another interview. He was then told, as Lausic explained today, that he was to be interviewed again as a suspect and that his interview would be taped but not for the OTP, but 'because of their obligation to Croatian judicial bodies'. Lausic refused to meet them under such conditions and the investigators decided not to interview him.

As the defense teams insisted on establishing Lausic's exact status, the witness recounted the timeline of his meetings with the OTP investigators. The defense contended that the Trial Chamber should take the words of a suspect 'with a grain of salt', as he might be tempted to shift the responsibility to somebody else through his evidence. Although General Lausic said 'my story is always the same' regardless of his status, presiding judge Orić warned him he was entitled to protection against 'forcible self-incrimination'. According to the rules of the Tribunal, Lausic is not compelled to answer any questions if he considers his answers might incriminate him.

At the beginning of the hearing today, the witness was allowed to correct errors in his statement to the investigators, and he proceeded to do so with great enthusiasm for next two hours. When all administrative questions were covered, prosecutor Tieger had just enough time to ask Lausic a few questions about the sixty-odd page statement he gave in 2004. Lausic's examination-in chief continues tomorrow.

2009-01-27

THE HAGUE

GENERAL GOTOVINA'S WRETCHED ARMY'

Describing the situation in Krajina after Operation Storm, former military police administration chief Mate Lausic says that the military line of command was not functioning at the time. There were many men in uniform in the field, prone to crime, Lausic says. 'Wretched is the army that must be disciplined by the military police, like a parent whose child is disciplined by the police'.



◀ Mate Laušič, svjedok na suđenju Gotovini, Čermaku i Markaču

As his examination-in chief at the Operation Storm trial continued today, former chief of the HV military police administration Mate Lausic maintained that he was not in command of the military police at that time: it was General Ante Gotovina. According to the military police operational manual, the administration chief was in charge only of supervision, training and personnel. 'Regular tasks' were in the purview of the commander of the military district where the military police troops were deployed. Gotovina is charged with the crimes committed in Operation Storm, in August 1995, together with generals Ivan Cermak and Mladen Markac.

Today the prosecutor showed a document issued on 2 August 1995 in which Lausic orders that the military police battalion commanders are to be subordinated to the military district commanders 'with respect to day-to-day operative command' 'for the purposes of the upcoming operations'. According to the order, the 72nd Military Police Battalion was subordinated to General Gotovina. As Lausic contends, from that time onwards, there was a double system of reporting, one leading to him and the other to Gotovina.

On 8 August, based on the reports from the field, Lausic drafted a document informing defense minister Susak, chief of the HV Main Staff Cervenko and other officials about the 'disorganized gathering of war booty and burning of edifices' in areas where there 'was a strong HV presence, with troops not substantially influenced by the chain of command'; this was a big problem, according to Lausic. The witness confirmed that he had asked his superiors to 'prevent undisciplined behavior' through the chain of command. The prosecutor showed a few other minutes from the meetings of the HV and police high officers where the problem of constant looting and burning down of abandoned houses was discussed.

HV troops 'who were not substantially influenced by the chain of command', Lausic clarified, served in the Home Guard units made up of the Croats from the villages and towns in Krajina; they had been expelled from there by the Serb forces. 'Wretched is the army that must be disciplined by the military police, just as a parent whose child is disciplined by the police', Mate Lausic described metaphorically the situation in the Split Military District.

According to the prosecutor, a document dated 18 August 1995 shows the way in which problems were solved. In the document, assistant interior minister Josko Moric says that crimes were mainly committed by the Croatian Army troops. Moric proposes that the cases of looting and arson 'that occur from now on' be investigated; those that had happened until that time should be ignored. Lausic didn't want to comment on Moric's order because he had not seen it at the time; he saw it for the first time a few days ago.

Mate Lausic's examination-in chief will be completed tomorrow. In the next four of five days Lausic will be cross-examined by the defense teams of the three accused.

2009-01-28

THE HAGUE

COULD GOTOVINA HAVE PREVENTED CRIMES?

Former Military Police Administration chief claims that General Gotovina and other commanders could have prevented the looting and arson after Operation Storm if they had ensured basic military discipline in their units down the chain of command. By way of an example, Lausic explained that a potential perpetrator could not commit a crime if he were prevented from taking a military vehicle without proper authorization, as the rules required.



◀ Mate Laušić, svjedok na suđenju Gotovini, Čermaku i Markaču

As his examination-in chief was about to end, former HV Military Police Administration chief Mate Lausic claimed that the looting and burning down of Serb houses after Operation Storm in the summer and fall of 1995 could have been prevented if disciplinary rules had been obeyed strictly in units the perpetrators belonged to. This went also to the Split Military District, which was at the time under General Ante Gotovina's command. Gotovina is charged together with Ivan Cermak and Mladen Markac with crimes against Serbs and their property during and after Operation Storm.

Explaining how Gotovina and other military district commanders could have prevented crimes, the witness used the example of a soldier who takes a vehicle from his unit without proper authorization and goes off to loot some property. If the rules on the use of vehicles had been complied with at the level of that unit, no soldier would have been able to commit crimes, Lausic noted, adding that this is why discipline had to be imposed from the top of the military district down the chain of command; had this been done, there would have been fewer crimes.

When the presiding judge asked if the military district commanders 'didn't know or didn't want to know' about the large number of crimes in Krajina, Lausic said they had to have been aware of the 'real situation' in the field from daily reports they received from the military police and other subordinate units.

In an effort to prove that there was no general awareness of the crimes the troops committed in Krajina, Ante Gotovina's defense counsel began the cross-examination with two Lausic's reports from August and September. In those documents Lausic informs the HV Main Staff about the activities of the military police and makes no mention of the widespread looting and arson in Krajina. The witness replied that the Main Staff and the Defense Ministry received such information in daily reports of the Military Police Administration drafted on the basis of reports the military police commanders sent in from the field.

The questions defense counsel Misetić asked at the hearing today clearly indicate that he intends to prove that Lausic himself played a key role exercising command over the military police during and after Operation Storm, not Gotovina, as the witness contended in his examination-in chief. The trial of Gotovina, Cermak and Markac continues tomorrow.

2009-01-29

THE HAGUE

DEFENSE: 'GOTOVINA WAS UNAWARE OF CRIMES'

The defense has tried to prove that Lausic was not entirely correct when he said there was general awareness of the widespread looting and burning down of abandoned Serb houses in Krajina after Operation Storm among the top military people. According to defense counsel Misetić, General Gotovina was among those left in the dark. Former military police administration chief Mate Lausic has begged to differ.



◀ Mate Laušić, svjedok na suđenju Gotovini, Čermaku i Markaču

Defense counsel Luka Misetić continued his cross-examination of retired general Mate Lausic, claiming that the witness, who was chief of the military police administration in the HV at the time, had command over military police units in Krajina during and after Operation Storm, in the summer of 1995. Ante Gotovina, Ivan Cermak and Mladen Markac are charged with numerous crimes committed in that period. In his examination-in chief, the prosecutor showed Lausic's order of 2 August 1995 subordinating military police units to the military district commanders during Operation Storm. At that time General Gotovina was the commander of the Split Military District.

The defense counsel implied that Lausic exercised command through Major Ivan Juric whom he had appointed as coordinator of military police units in Krajina. Misetić showed several documents indicating that Lausic was issuing tasks to Juric in August 1995, and then asked the witness if it could be argued that the military police 'was not completely subordinated' to General Gotovina. 'Military police commanders had to obey my orders as well as the orders of General Gotovina', Lausic replied, adding that his orders had to do with 'providing assistance' to the units unable to execute tasks assigned to them by a military district commander.

The defense also tried to prove that Lausic's claim about general awareness among the top military people of the widespread looting and burning down of abandoned Serb houses in Krajina was not entirely correct. In an effort to prove that the information about crimes did not reach General Gotovina, the defense counsel showed several reports drafted by Major Juric and General Lausic himself on the widespread arson and looting of Serb houses. Those reports were addressed to various high-ranking military commanders but not to General Gotovina. The accused general was informed about the crimes through the regular channels, i.e., daily reports submitted by the commander of the 72nd Military Police Battalion Mihael Budimir, Lausic explained.

The defense counsel showed several daily reports detailing petty crimes perpetrated by the HV personnel; there is no mention of crimes against Serb civilians and their property. Lausic then brought up his order of 2 August 1995 whereby the military police is subordinated to the Split Military District under Gotovina's command. The document states that the commander of the 72nd military police battalion is obliged to report to the military district commander all incidents in Krajina 'in writing and orally'. 'Budimir should be asked if he reported to Gotovina in writing or orally and I know that he gave evidence as a witness in this trial', Lausic concluded.

The cross-examination continues tomorrow.

2009-01-30

THE HAGUE

IF ONLY GENERAL LAUSIC HAD HAD A BUS...

Describing the situation in Krajina in the summer of 1995 after Operation Storm, former military police administration chief Mate Lausic has said he 'personally arrested dozens of HV personnel'. During his visit to Krajina, Lausic has claimed, he could have loaded a bus full of detainees in one hour...if only he had had it at his disposal.



◀ Mate Laušić, svjedok na suđenju Gotovini, Čermaku i Markaču

'I personally apprehended dozens of HV troops when I was travelling through Krajina in an armored personnel carrier; if I had had a bus I would have filled it with detainees in an hour', retired HV general Mate Lausic recounted as his cross-examination continued at the trial of Ante Gotovina, Ivan Cermak and Mladen Markac. The three accused are charged with crimes committed in and after Operation Storm in August 1995; the crimes include persecution, murder, inhumane treatment, deportation and destruction of property. Lausic allegedly arrested those soldiers for looting Serb houses.

The defense has suggested that the detention of suspects from the HV during and after Operation Storm was indeed Lausic's responsibility; he was the Military Police Administration chief. In his effort to prove that the military police units were under Lausic's, not Gotovina's, command, defense counsel Misetić showed a series of documents from the summer of 1995. In them the witness issues orders to military police units asking them to set up check points at specified locations, to organize patrols and cooperate with the MUP. According to the defense, this means that Lausic personally issued operative orders to the military police. Lausic claims that his orders had to do merely with the 'choice of operational methods and tactics' to improve the implementation of Gotovina's orders.

Lausic's evidence implied that all Croatian top military people knew about the widespread problem of arson and looting in Krajina after Operation Storm. According to the defense, the reports Lausic sent tell a different story. The defense counsel showed a report sent by the witness to the chief of the HV Main Staff, general Cervenko, on 16 September 1995. In that report Lausic maintains that the military police units 'have been securing public order and peace, preventing arson and uncontrolled taking of booty'. This means that the situation in the field was under control, the defense contends. The witness, on the other hand, claims that the report refers to 'the current operations and not the accomplished facts': the military police was trying to establish law and order. This doesn't mean that it actually managed to do it.

As in his examination-in-chief the witness claimed Gotovina and other military commanders could have prevented crimes if they had consistently applied disciplinary measures, the defense counsel today pointed out that disciplinary measures and their implementation were within the jurisdiction of the military police. When Lausic disagreed, defense counsel Misetić showed him documents that clearly indicate disciplinary proceedings against perpetrators from the Split Military District units were instituted by the military police. The witness did admit that there were such occurrences, but every report where it is alleged that soldiers breached the discipline made it incumbent upon the commander, in this case General Gotovina, to investigate the allegations and institute proceedings against those responsible.

Defense counsel Misetić said that he would complete his cross-examination on Monday. The witness will then be cross-examined by the defense teams of Ivan Cermak and Mladen Markac.

2009-02-02

THE HAGUE

WITNESS: 'CERMAK COMMANDED MILITARY POLICE TOO'

In the statement he gave to the OTP investigators, retired HV general Mate Lausic maintained that General Ivan Cermak was also in command of the military police in Krajina after Operation Storm. One company from the 72nd Military Police Battalion was subordinated to Cermak.



◀ Mate Laušič, svjedok na suđenju Gotovini, Čermaku i Markaču

The cross-examination of the former HV military police chief Mate Lausic by General Gotovina's defense ended as it had begun four working days ago: defense counsel Luka Misetić kept saying that the witness had had operative command of the military police and the witness stubbornly repeated the claims he had made in his statement to the OTP investigators in 2004. At that time, Lausic claimed that during and after Operation Storm the military police was under the command of Ante Gotovina, who is on trial together with Ivan Cermak and Mladen Markac for crimes against Serbs and their property in the summer and autumn of 1995.

If the Croatian judiciary takes notice of what Gotovina's defense brought up in its cross-examination, General Lausic might easily find himself in an unenviable position. Defense counsel Misetić showed a series of documents which clearly point that Lausic had regularly received reports about crimes and that orders he had issued to the military police could be considered operational and not auxiliary orders, as Lausic wanted to present them. If, on the other hand, the Trial Chamber accepts at least some of General Lausic's claims, it might significantly weaken Gotovina's position, since Lausic identified Gotovina as the commander of the military police and person responsible for the failure to implement preventive disciplinary measures in the units subordinated to the Split Military District. Those disciplinary measures might have prevented the crimes.

According to Lausic, the military police in Krajina – or at least a smaller part – was also under the command of Ivan Cermak, the Knin Garrison commander. Lausic told the OTP investigators that a military police company in Knin was under Cermak's command. This unit was sometimes referred to in documents as 'the joint company'. That is why Cermak had to dispatch military police from that unit to investigate any reports about crimes committed in Knin and its surroundings. After that, Cermak would have to report the crime to General Gotovina.

At the start of his cross-examination, defense counsel Stephen Kay tried to contest the witness's claims contending that the order subordinating the Knin company to General Cermak had never actually been implemented. Even though Lausic had issued this order, Kay argued, it could not have been implemented until it was confirmed by the commander of the 72nd Military Police Battalion deployed in Krajina. Lausic was not able to tell if his order had been 'confirmed' or not.

As the defense counsel also noted, Cermak didn't receive the order issued by the 72nd Military Police Battalion commander appointing HV officer Orsolić commander of the joint company. When he was asked if it would have been of 'utmost importance' for Cermak to be informed about the appointment, the witness said that he could give an answer only if he 'knew' that Cermak really had not 'in any form whatsoever' been informed about the new company commander.

Defense counsel Kay will continue cross-examining Mate Lausic tomorrow.

2009-02-03

THE HAGUE

LAUSIC COMPLETES HIS EVIDENCE

Concluding his evidence at the trial of Gotovina, Cermak and Markac, retired general Mate Lausic says he has always told the truth, regardless of his status: witness, suspect 'or maybe at some later time, as an accused'. Why was defense minister Susak described as a man of 'few words and fierce grimaces'?

After seven full working days, former chief of the HV military police administration Mate Lausic completed his evidence at the trial of generals Gotovina, Markac and Cermak. The three generals are indicted for crimes against Serbs during and after Operation Storm in August 1995. In his evidence before the Trial Chamber and in his statement to the OTP investigators in 2004, retired general Lausic didn't spare the accused, least of all General Gotovina whom he believed to be responsible for the military police operations in Krajina after Operation Storm and for the failure to implement disciplinary measures against perpetrators of war crimes among the HV troops.



◀ Mate Laušić, svjedok na suđenju Gotovini, Čermaku i Markaču

On the final day of his testimony the witness was far mellower towards his former superiors, president Tudjman and defense minister Susak. Lausic was at one time head of Tudjman's security, and defense minister Susak was in charge of the military police administration. The indictment against the three generals lists Tudjman and Susak as participants of the joint criminal enterprise aimed at 'the permanent removal of the Serb population from Krajina'. Lausic may well be among the remaining participants since the list includes 'officers and members of the HV military police'. Lausic held the top position in the military police.

When Markac's defense counsel Goran Mikulicic asked Lausic if he was ever given a formal or informal order to commit crimes against Serbs in Krajina, the retired general said that neither Tudjman nor Susak ever ordered him to do anything that would be 'contrary to my understanding of ethics and professionalism'. They wanted perpetrators punished, Lausic claimed.

The witness particularly praised Susak's conduct when he was told about the crimes against Serbs, saying that Susak called for 'vigorous action of the military police' and punishment of perpetrators within the HV. 'He was a man of few words and fierce grimaces that left you in no dilemma as to what he wanted to tell you', Lausic said. Contrary to what former international observers testifying for the prosecution have said in their evidence about the military police attitude after Operation Storm – they described it as anything but 'vigorous', Lausic argued that Susak's order was obeyed. According to him, it was corroborated by the statistics he presented in a document dated 16 September 1995; 321 crimes had been prosecuted until that date, with 353 perpetrators, including 79 HV personnel.

As the hearing drew to a close, Lausic replied to a question nobody in the courtroom had actually asked. Many of his friends and acquaintances, on the other hand, have asked him 'how will his case that began in 2004 end'. He put all of his professional and intellectual efforts to relay Susak's order about vigorous prevention of crimes and punishment of perpetrators to his subordinates, Lausic said. The question is, he went on to say, what the success rate was. Nevertheless, 'nobody can deny' that he has always told the truth, regardless of his status: witness, suspect 'or maybe at some later time as an accused'. Lausic was first interviewed by the OTP investigators in May 2004 as a suspect; in August 2004 he gave his second statement as a witness and he was told later that he might be investigated by the Croatian judiciary.

2009-02-12

THE HAGUE

PUHOVSKI: 'OPERATION STORM EFFECTS TANTAMOUNT TO ETHNIC CLEANSING

In his evidence as a prosecution witness at the trial of Croatian generals Gotovina, Cermak and Markac, former president of the Croatian Helsinki Committee Zarko Puhovski has said that there were 'very serious violations of human rights' during and after Operation Storm – hundreds of civilians were killed and thousands were expelled from their homes. This has led Puhovski to conclude that the 'effects of Operation Storm were tantamount to ethnic cleansing'



◀ Žarko Puhovski, svjedok na suđenju Anti Gotovini, Ivanu Čermaku i Mladenu Markaču

The trial of Croatian generals Gotovina, Cermak and Markac continued today after a seven-day break with the evidence of Zarko Puhovski, former president of the Croatian Helsinki Committee. After the two statements he has given to the OTP investigators since 2007 were tendered into evidence, the prosecutor for the most part asked Puhovski about a report drafted by the Helsinki Committee on the crimes perpetrated by the Croatian Army and police in the summer and autumn of 1995 in Krajina. The report was finished and published in 1999 and in 2001 it was edited and printed in a book *Oluja - Military operation and its consequences*.

In the conclusion, Puhovski says Operation Storm was 'justified' because its objective was to eliminate the so-called Republic of Srpska Krajina, 'an entity based on systematic human rights violations'. Puhovski nevertheless warned that during and after the operation 'there were very serious human rights violations': hundreds of civilians were killed and thousands 'were forced to flee their homes'. Puhovski today repeated his conclusion that the 'effects of Operation Storm are tantamount to ethnic cleansing'.

Professor Puhovski emphasizes in his conclusion that another reason why Operation Storm must be 'seen as negative' is the decision of the authorities to allow Croatian refugees from BH to settle the properties of Serb refugees immediately after the operation. Explaining this claim today, Puhovski said that in the summer of 1995 the prevailing public opinion was that 'everything is over' and that Serbs would never return to Croatia. Local authorities issued certificates to Croatian refugees enabling them to legally settle in abandoned houses. According to Puhovski, more than 200 Serbs contacted the Croatian Helsinki Committee, telling the activists that upon returning home they encountered persons in their property 'waving their permits' issued by local authorities.

No one in Croatia denied that there was widespread looting and burning of Serb houses after Operation Storm. General Ivan Cermak himself didn't deny this at a meeting with the delegations of the Croatian Helsinki Committee and the International Helsinki Federation in mid-August 1995 in Knin, the witness noted. Puhovski's colleagues told him about the meeting in detail, saying that Cermak had promised them at the end of the meeting he would do all he could to stop such behavior. Petar Mrkalj, executive director of the Croatian Helsinki Committee, felt this was an insincere 'parting phrase'.

Zarko Puhovski's examination-in chief will be completed tomorrow. According to the defense counsel, his cross-examination might spill over into next Monday.

2009-02-13

THE HAGUE

REAL FEAR ON FALSE PREMISES

According to Croatian professor Zarko Puhovski, who continues his evidence at the trial of generals Gotovina, Cermak and Markac, crimes against Serbs who didn't flee Krajina after Operation Storm showed that the fear of those who had fled on time – before the arrival of the Croatian Army – was 'absolutely real' although it was based on false premises and Serbian media propaganda.



◀ Zarko Puhovski, svjedok na suđenju Anti Gotovini, Ivanu Čermaku i Mladenu Markaču

As the examination-in chief of Zarko Puhovski, University of Zagreb professor, drew to a close at the trial of Croatian generals Gotovina, Cermak and Markac, prosecutor Ruth Frolich showed several clips from a documentary *Storm over Krajina* directed by Bozidar Knezevic in 2001. The documentary speaks of crimes against Serb civilians – with which the three generals are charged – during and after Operation Storm in August 1995. Puhovski, who also appears in the film, was the president of the Croatian Helsinki Committee at the time when the documentary was made. During Operation Storm, the witness was the vice-chairman of the Croatian Helsinki Committee.

Commenting on the footage showing refugee columns, the witness repeated what he had said in the film: those who fled before the Croatian Army and the police 'were right to be afraid' even though they were afraid 'for wrong reasons'; they believed the Serbian media propaganda about the Croats' bad intentions. The fate of those who stayed proved that the fear of those who had fled before the arrival of the Croatian Army 'was absolutely real'. In the days following Operation Storm, the Croatian TV reports painted a rosy picture of the situation in the field, Puhovski added. The TV showed Croatian soldiers as better mannered than any other army. On the other hand, the Croatian Helsinki Watch activists 'constantly received completely opposite reports' from people in the columns who were stoned and abused despite the military and police escort.

In the first part of the cross-examination, Ivan Cermak's counsel tried to contest the reliability of the allegation that the crimes against Serbs in Krajina were reported by several Croatian Helsinki Committee teams on 'fact-finding missions'. Those allegations were the foundations of the final report drafted and published in 1999. Defense counsel Higgins noted that the report was based on the statements of persons whose full names were not provided: this made it difficult to verify the facts. The witness admitted that he couldn't divine the names of the persons listed as sources with only their initials provided. However, nobody has contested the findings of the Croatian Helsinki Committee in the past 10-odd years the report has been available to the public, Puhovski said. When asked why there had been no experts in the HHO teams – such as a forensic expert, pathologist or ballistic expert, Puhovski said that it was not exactly safe to go to Krajina after Operation Storm and experts 'are usually not very brave'.

According to the defense, the other controversial point is Puhovski's conclusion that in the summer of 1995 in Knin, Ivan Cermak was 'the man everyone went to for everything'. The witness agreed that he hadn't met the accused general. However, the Croatian Helsinki Committee teams reported to Puhovski that the local officials in the field always replied to 'more difficult questions' that they had to ask Cermak. When asked if he knew that Cermak had been the Knin Garrison commander, Puhovski said that he never learned what his formal title had been. However, Puhovski clarified, Cermak was often casually referred to as 'the military commander' or just 'the boss'.

As the hearing today drew to a close, Gotovina's defense counsel Luka Misetic began his cross-examination of the witness.

2009-02-16

THE HAGUE

GOTOVINA'S DEFENSE: 'OTHERS ARE GUILTY OF KILLINGS'

In his cross-examination of Zarko Puhovski, professor from Zagreb, defense counsel Luka Misetic made effort to prove that members of the BH Army and the SVK were responsible for a number of Serb civilian victims, and not the Croatian Army.

In the cross-examination of Zagreb professor Zarko Puhovski, General Ante Gotovina's defense argued that the Croatian Army was not responsible for the deaths of at least some of the civilians on the list of 410 Serb victims published in the Croatian Helsinki Committee report. Until 2007, Puhovski served as chairman of the Croatian Helsinki Committee. According to defense counsel Luka Misetic, some people on the list were not killed: some committed suicide and some killings were perpetrated by the BH Army and the SVK. Gotovina, former Split Military District commander is on trial with generals Ivan Cermak and Mladen Markac for murder, persecution and deportation of Serb civilians and looting and destruction of their property during and after Operation Storm.

Proving that the SVK might be responsible for the death of at least some of the victims, the defense counsel played footage showing the massacre of civilians from a refugee column broadcasted immediately after Operation Storm on Croatian TV's *Frame on Frame*. The report stated that Serb soldiers were responsible for the massacre as they ran the refugees over in tanks fleeing from their positions. Puhovski said that he had heard of this case from his colleagues from the Republika Srpska Helsinki Committee. According to them, more than 80 civilians were killed in the incident. At that time, Puhovski added, the Croatian Helsinki Committee had information that Serb airplanes bombed the refugee columns on one occasion and that Serb soldiers killed each other in quarrels as they retreated.

Defense counsel Misetic then showed a series of police reports with statements of relatives of the Serbs who had been killed, identifying the BH Army 5th Corps troops as possible perpetrators of the crime. The witness made it clear that the HHO objective was to make a list of civilian victims of Operation Storm and not to establish who is responsible for their deaths. When the defense commented that some Serbs who are listed as victims on the HHO list had in fact committed suicide, the witness replied that immediately after Operation Storm the Croatian police refused to provide data to the Helsinki Committee. This is why he and his colleagues didn't have access to investigation results. Puhovski allowed the possibility that the HHO report was wrong 'on some occasions', emphasizing nevertheless that the victims were put on the list only if at least two sources described the circumstances of their death.

In his attempt to prove that Serb civilians, or at least some of them, left Krajina on their own will and not by force, the defense counsel asked Puhovski if he knew that 25 percent of Serbs left Eastern Slavonia despite the fact that the territory was integrated into Croatia without a single bullet being fired. The professor from Zagreb replied that he was aware of that; in his opinion they did it because they didn't want to live in Croatia for a number of reasons. Misetic then asked the witness if he knew that Serbs left other territories under similar circumstances, such as Kosovo or Ilidza municipality in Sarajevo. Puhovski said he knew that Serbs left Kosovo in 1999 because they considered NATO an enemy. He didn't want to comment on why Serbs left Ilidza because he knew nothing about it.

Puhovski will continue his evidence tomorrow. In the first part of today's hearing, French pathologist Eric Baccard completed the testimony that had begun earlier.

2009-02-17

THE HAGUE

DEFENSE: 'HHO REPORT ON CRIMES INFLUENCED BY FOREIGN DONORS'

Zarko Puhovski, university professor from Zagreb, says that according to the Croatian Helsinki Committee estimate some 20,000 houses were partially or totally destroyed in Sectors South and North after Operation Storm. The witness denied the defense counsel's allegation that the data from the HHO report were blown up in order to justify the money received from foreign donors.

A report on the consequences of Operation Storm drafted by the Croatian Helsinki Committee (HHO) in 1999 contends that 22,000 houses were partially or totally destroyed in Sector South in Krajina; this figure is based on the estimates of the UN observers. Former HHO president Zarko Puhovski agreed today with Gotovina's defense counsel Luka Misetic as his cross-examination continued. Misetic alleged that the UN observers checked about 22,000 houses and 'only' 16,000 were damaged.

According to the defense, the smaller figure remains inaccurate because the report lists more damaged houses than existed according to the 1991 census. The international observers most probably counted all buildings, including outlying facilities such as barns, pigsties or granaries, while the census in ex-Yugoslavia listed only the main buildings, Puhovski clarified. The witness allowed the UN members may not have distinguished between houses burned down before and after Operation Storm when the defense counsel suggested it to him. The HHO activists, Puhovski added, didn't include buildings that were already overgrown with vegetation on their lists; they knew they had been destroyed earlier. 'Local observers' visited less villages than the UN mission, but based on what they saw

they were able to reach a similar conclusion – that some 20,000 houses were totally or partially destroyed after Operation Storm in Sectors South and North.

In 1998, Puhovski withdrew for a few years from the HHO. In a ‘farewell letter’ showed today in court, he criticized his colleagues: they were dealing with war crimes only to ‘get hold of the foreign donors’ money’. Defense counsel Miletic implied that the HHO had to ‘produce a result’ to justify the money it had received. That is why the number of crimes was blown up in the report, he contended. The witness disagreed, saying that they were motivated by the donors to focus on the ‘subject and not numbers’. They preferred the HHO to exclude the unreliable data than to get an unreliable report, Puhovski explained. Besides, Puhovski noted, he believed that the HHO had to protect the human rights of living people instead of dealing with the issue of war crimes.

As the hearing went on, Markac’s defense counsel Goran Mikulicic showed a document issued by the Croatian Public Prosecutor’s Office in February 2006. The document states that after Operation Storm almost 4,000 crimes – killings, looting, rape and arson – were prosecuted, with 1,500 resulting convictions. The report doesn’t specify the number of convictions for each offence or the ethnic background of the perpetrators. When asked why the HHO report didn’t incorporate information from the Croatian judiciary, Puhovski said that the HHO could not obtain any information about criminal prosecutions before 2005. This was when Mladen Bajic was appointed chief public prosecutor.

The evidence of Zarko Puhovski, who teaches philosophy at the Zagreb University, was completed after four days. Tomorrow the prosecution will call its next witness at the trial of generals Ante Gotovina, Ivan Cermak and Mladen Markac, who face charges of crimes committed before and after the Operation Storm.

2009-02-18

THE HAGUE

‘POSSIBLE PROBABLE’ RISK FOR CIVILIANS IN KNIN

Former chief of artillery in the Split Military District Marko Rajcic said that general Gotovina knew that there was risk of ‘possible probable’ hitting civilian targets in the shelling of Knin. Because of that Rajcic allegedly ordered that artillery mistakes be reduced to a minimum.



◀ Marko Rajčić, svjedok na suđenju Anti Gotovini, Ivanu Čermaku i Mladenu Markaču

HV brigadier Marko Rajcic gave a statement to the investigators from Ante Gotovina’s defense team at the beginning of 2009. According to the rules of the Tribunal, witnesses are not the sole property of any one party, the prosecutor decided to examine Rajcic in the course of the prosecution case. The prosecution obviously believes that Rajcic, former artillery chief in the Split Military District – has something to say about the reasons why artillery, and not infantry, attacks were launched on Knin and other Krajina towns in early August 1995 and about the risk of civilian casualties involved in targeting military facilities in residential areas.

General Gotovina, Cermak and Markac are charged with crimes committed by the Croatian Army and police in

the course and after Operation Storm in August 1995. The prosecution argues that indiscriminate shelling of Knin, Obrovac, Benkovac, Drnis, Gracac and other towns and villages in Krajina was yet another mean to force the Serbs to flee from Krajina, and was an element of persecution. The defense contends that only military targets in towns were shelled during Operation Storm and that the so-called collateral damage was minimal. The evidence of Brigadier Rajcic holds the middle ground between those two arguments.

Rajcic agreed with the prosecutor who asked him if Ante Gotovina, who commanded the Split Military District, was aware of possible errors in targeting military facilities within residential areas. As Rajcic explained, the accused general was worried about ‘possible probable’ deviations that might result in minor civilian casualties and damage to buildings, in particular around the SVK Main Staff and the liaison center, which were on the target list and located in a civilian area. Rajcic admitted that he, Gotovina and other officers in the Military District knew very well that 130mm cannons and 122mm multiple rocket launchers could not hit just those two targets and miss everything else. According to Rajcic, 130mm cannon might deviate from target for up to 75 meters.

As Rajcic explained, the civilian risk led the Split Military District to draft an analysis of possible ‘collateral damage’. The decision was then made to launch an attack against Knin in early morning hours. It was thought, Rajcic said, that ‘presence of civilians in the streets and buildings’ would be minimal during that period. It was also known then that some people had already been taken out of the town; their exodus was organized by the so-called Republika Srpska Krajina, Rajcic said. General Gotovina ordered that the artillery errors during the attack against Knin must be brought to a minimum, the witness contends.

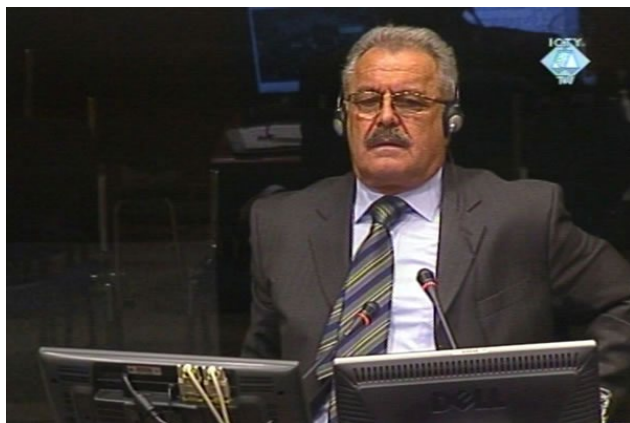
Brigadier Rajcic will continue his evidence tomorrow.

2009-02-19

THE HAGUE

WITNESS: SHELLS WERE FIRED BY A 'DISCIPLINED ARMY'

Former artillery chief in the Split Military District Marko Rajcic contends the documents he drafted before Operation Storm envisaged the shelling of military targets in towns and villages in Knin area. In his opinion, the plans were complied with because the 'army was disciplined'.



◀ Marko Rajčić, svjedok na suđenju Anti Gotovini, Ivanu Čermaku i Mladenu Markaču

In his evidence at the trial of Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac, former artillery chief in the Split Military District Marko Rajcic spoke about the shelling of towns of Benkovac, Obrovac and Gracac near Knin in Operation Storm, in early August 1995. The indictment against the three generals charges them with the shelling of towns and villages in Krajina whose objective was to frighten the civilians and make them flee.

In Benkovac, the plan he drafted envisaged the shelling of two barracks, a police station and an intersection; in Obrovac only one intersection outside of the town was

the target, the witness said. When asked if plans were implemented, Brigadier Rajcic replied that the targets were selected at the level of brigades and operations groups and not only the Military District. He believes he would have been informed if the plans had not been complied with because 'the army was disciplined'.

The shelling of Gracac, the witness argued, was not within the jurisdiction of the army but of the police. In a meeting in Zadar on the morning of 3 August 1995, General Gotovina ordered him to use some artillery elements for that purpose and to dispatch them to the special police units under the command of General Markac, who was also present at the meeting. Several foreign observers who have already given evidence at the trial maintained that Gracac had been heavily shelled in the early days of Operation Storm. Contrary to that, Rajcic argued that in the town itself there were no targets 'that would result in any military advantage'.

The second part of today's hearing was devoted mostly to 'geographical issues'. The witness marked on a map of Knin the targets that, as far as he knew, were shelled by the Croatian artillery on 4 and 5 August 1995. Those targets included the barracks, bridges, key intersections in the town, SVK Main Staff and the communications center, the defense ministry and the RSK police building.

The trial of generals Gotovina, Cermak and Markac continues tomorrow. The prosecution indicated that the examination-in chief of this witness would not be completed before Monday.

2009-02-20

THE HAGUE

LOOKING FOR MARTIC IN KNIN WITH SHELLS

In his testimony at the trial of generals Gotovina, Cermak and Markac, former artillery chief in the Split Military District Marko Rajcic has told the court that the Croatian artillery tried to hit a number of locations where RSK president Milan Martić was on the first day of Operation Storm. This was done, Rajcic admitted, despite the fact that chances of actually hitting him were 'very small'.



◀ Marko Rajčić, svjedok na suđenju Anti Gotovini, Ivanu Čermaku i Mladenu Markaču

According to the evidence of the former artillery chief in the Split Military District, the target list of the Croatian artillery for Operation Storm in early August 1995 contained bridges, road and railway junctions and military premises and one name. It was the president of the self-proclaimed Republic of Srpska Krajina, Milan Martić. By eliminating him, Rajcic contends, the Croatian side would have achieved a significant military advantage.

On 4 August 1995, the Croatian artillery shelled two locations using 130 mm cannon, the witness recounted.

The objective was to take out Martić. The first was the high-rise building where Martić had an apartment and the other was the Old Hospital. According to the intelligence the Croatian Army had, at one point Martić took refuge there. The chances that Martić would be hit by cannon from a distance of more than 20 km were 'very small', Rajčić admitted. Despite that, Rajčić argued that the objective of the shelling was to make the supreme commander of the enemy army 'feel unsafe'.

The prosecution is trying to prove that Knin was indiscriminately shelled in August 1995 in order to frighten the civilians; today, the prosecutor showed a photo of a densely populated residential block where Martić's apartment building was. He asked Brigadier Rajčić if he and the other artillerymen in the Split Military District were aware that other civilian apartments were in immediate proximity. The witness was not able to confirm that the building in the picture was actually Martić's building; he added that he and other officers in the Split Military District knew that other civilians had their apartments in immediate vicinity of the president's apartment. The day before yesterday, at the beginning of his examination-in chief Rajčić said that 120mm cannon could make deviate up to 75 meters from their target.

Milan Martić was not hit in the shelling of Knin. Immediately before Operation Storm was launched Martić was charged with the shelling of Zagreb in May 1995. The indictment was later extended to cover numerous crimes the RSK military, paramilitary and police units committed against Croat civilians from 1991 to 1995. In October 2008 Martić was sentenced to 35 years in prison.

As the hearing went on, the prosecutor asked the witness some questions about what Ante Gotovina, Split Military District commander, was like as an officer. Rajčić described him as 'strict and fair, a top professional who was highly respected among the soldiers'. In the summer of 1995 it was 'very dangerous not to obey General Gotovina's orders, the witness added.

The evidence of Marko Rajčić at the trial of generals Gotovina, Cermak and Markac is expected to be completed on Monday.

2009-02-23

THE HAGUE

WITNESS CONTESTS BRIJUNI TRANSCRIPTS

The former artillery chief in the Split Military District Marko Rajčić has said he was at the meeting on 31 July 1995 with President Tudjman at Brijuni. The witness has now denied everything that was said or rather recorded in the transcripts whose authenticity is challenged by the defense.

Despite his claims that he was unaware of the widespread arson and looting in Knin in August 1995, the artillery chief in the Split Military District Marko Rajčić maintained in his cross-examination at the Operation Storm trial that General Ante Gotovina had information about what his soldiers were doing in the town. Brigadier Rajčić bases this conclusion on the fact that on 5 August 1995 Gotovina sent his assistant for security to Knin; after that his chief of staff Rahim Ademi was also sent there. Gotovina, who is now on trial together with generals Ivan Cermak and Mladen Markac was the commander of the Split Military District during Operation Storm.

According to what Rajčić said, Gotovina had another source of information on what was going on in the field: he received intelligence from military security officers in all the units in the Military District. The prosecutor showed a report drafted by a Croatian intelligence officer for a period from 8 to 11 August 1995. The report says that 'after the task has been accomplished the discipline of a large number of HV personnel deteriorated, resulting in excessive alcohol abuse and stealing of property'. The anonymous intelligence officer observed further that after entering the Krajina villages commanders lost control of their soldiers; many took to burning down and looting houses. Rajčić, however, was not sure if Gotovina received that report.

Gotovina's defense opened its cross-examination of the witness with questions which have so far in this trial been the standard opening lines used by the prosecution. Earlier this year, before he was called to give evidence for the prosecution, Rajčić first gave a statement to the defense investigators. When the defense counsel asked him today if he still stuck to what he had stated then, Rajčić said he did. The defense counsel didn't dwell on the witness's statement and the only excerpt from it was read by prosecutor Russo in the re-examination. In it, the witness said that at a meeting with President Tudjman on 31 July 1995 at Brijuni Gotovina had stressed that the objective of Operation Storm was to inflict a military defeat on the enemy.

In an attempt to contest this claim and to prove that the Croatian operation was aimed against the Serb population, the prosecutor showed the witness the Brijuni meeting transcript. There, the Croatian president says that it is important for the civilians to leave so that the enemy soldiers would follow. Gotovina then replies that civilians were already leaving; if the Croatian side continued to press, soon there would be none of them left in Knin. As the meeting continued Franjo Tudjman, his son Miroslav and defense minister Susak discuss whether to use the media or leaflets to notify the Serb civilians that the Croatian Army has left corridors for them to flee Krajina. Although he attended the meeting, Rajčić maintained that he had heard nothing of the sort on that occasion at Brijuni. This could help Gotovina's defense in its effort to contest the authenticity of the Brijuni transcripts.

Brigadier Rajčić completed his evidence today. Tomorrow the prosecution will call its next witness.

2009-03-05

THE HAGUE

PROSECUTION RESTS ITS CASE AT OPERATION STORM TRIAL

After almost one year and 78 witnesses, the prosecution has rested its case at the trial of Croatian generals Gotovina, Cermak and Markac. The hearing on motions to acquit the accused on some or all counts in the indictment is scheduled to take place from 19 to 25 March 2009. The defense called for a three-month adjournment of the trial.



◀ Ante Gotovina, Ivan Cermak and Mladen Markac in the courtroom

The prosecution rested its case today at the trial of Croatian generals Gotovina, Cermak and Markac after deciding not to call five more witnesses to testify about the authenticity of the Brijuni transcripts. Gotovina, Cermak and Markac are charged with crimes committed in Operation Storm and in its aftermath.

The trial of the Croatian generals opened on 11 March 2008. The prosecution called 78 witnesses. Most of them were members of the UN peace-keeping mission and the EU monitoring mission and other representatives of the international community. In August 1995, they were in Krajina witnessing, as they contended, crimes

against Serb civilians and their property. The prosecution also called a number of Krajina Serbs who were either eye witnesses or victims of crimes committed in Operation Storm and after it. Some prosecution witnesses were insiders from the Croatian police and army: Mate Lausic, former chief of the military police, Vladimir Gojanovic, former Croatian Army soldier and two commanders of the anti-terrorist Lucko unit, Josip Turkalj and Josip Celic.

At the hearings yesterday and today, the Trial Chamber admitted into evidence a series of documents, including the statements the accused generals Ivan Cermak and Mladen Markac gave as suspects and a report of the Croatian Helsinki Committee, *Military Operation Storm and its Aftermath*.

Pursuant to Rule 98 *bis* of the ICTY Rules of Procedure and Evidence, the defense of the three accused may, after the prosecution has rested its case, submit their motions for the acquittal of their clients on counts in the indictment the prosecution has failed to prove. The hearing on those motions of the defense teams, if they file them, will be held sometime in the week from 19 to 25 March 2009.

The defense teams of the Croatian generals today submitted a joint motion asking for a 90-day adjournment of the trial. A three-month break in the process, according to them, would make it possible for them to investigate in more detail the allegations about 189 murders. This allegation was included in the amended indictment against Gotovina, Cermak and Markac granted by the Trial Chamber in early March 2009.

2009-03-19

THE HAGUE

DEFENSE CALLS FOR GOTOVINA'S ACQUITTAL ON ALL CHARGES

At the half-time of the trial for crimes committed during and after Operation Storm, the defense counsel call for the acquittal of General Ante Gotovina on all counts in the indictment. According to the defense, the prosecution has failed to call evidence which could lead to his conviction.



◀ Payam Akhavan, branilac Ante Gotovine

The defense counsel of the former Split Military District commander Ante Gotovina, called for the acquittal of their client on all nine counts in the indictment charging him, together with generals Ivan Cermak and Mladen Markac, with persecution, deportation, forcible transfer of Serb civilians, looting and destruction of abandoned Serb property, killing and inhumane treatment during and after Operation Storm in August 1995. According to the defense, the prosecution has failed to prove the existence of the joint criminal enterprise aimed at expelling the Serbs from Krajina. Even if it managed to prove it existed, the defense noted, nothing points to General Gotovina participation in it.

Rule 98 *bis* allows the Trial Chamber to dismiss all counts in the indictment the prosecution has failed to prove. The 98 *bis* hearing was opened today by a member of Gotovina's defense team, Payam Akhavan. In his words, 'the gist of the theory' of joint criminal enterprise was based on the prosecution allegation that there was 'unlawful and disproportionate shelling' of civilian targets in Knin and other Krajina towns aimed at forcing the Serb population to flee. The defense challenged the prosecution argument that the existence of such a plan could be seen from the Brijuni transcripts. Immediately before Operation Storm, President Tudjman met at Brijuni with top Croatian military and police officials. The fact that there was no such plan could be seen from what went on in the field, the defense argued.

As Akhavan put it, Knin and other Krajina towns were shelled with 'extreme accuracy' and minimal collateral damage in the immediate vicinity of military targets. The Croatian artillery, Akhavan said, fired on military targets; this challenges the prosecution argument about the 'unlawful attack against civilians' and consequently the very existence of joint criminal enterprise. 'There is no evidence of any unlawful attacks by the Croatian artillery against civilians or of any widespread artillery campaign', the defense counsel concluded.

The defense went on to claim that there were no deportations and forcible transfer; the people left Krajina before the Croatian army and police arrived. Those people would have left Krajina even if the Croatian side hadn't used its artillery and had the territory been liberated by some other means; as the defense sees it, the main reason why the Serbs left was Serb propaganda claims that Serbs and Croats couldn't live together and the evacuation plan of 4 August 1995 signed by Milan Martić, the RSK president.

The defense doesn't contest the fact that a significant number of abandoned Serb properties were looted and burned down in the liberated territory in August 1995. However, according to the defense, the crimes were perpetrated by 'an unruly mob', without the approval and support of Croatian authorities. General Gotovina did everything he could to prevent crimes and punish perpetrators by issuing numerous orders and taking disciplinary measures, the defense argues. According to the defense, not enough evidence has been called to prove that the accused general had the authority over the military police in respect of investigating crimes; military police chief Mate Lausic was responsible for that. Lausic was a key prosecution witness. The defense counsel also claimed that there was not enough evidence that their client knew or had reason to know that his subordinates were killing civilians.

As today's hearing drew to a close, General Ivan Čermak's defense began presenting its arguments for his acquittal at the half-time of the trial. As Čermak's defense counsel Steven Kay put it, the prosecution has failed to prove that Čermak, as the Knin Garrison commander, had effective control over the military forces in that area or that he had the capability to prevent crimes or punish perpetrators.

The Rule 98 *bis* hearing continues tomorrow.

2009-03-20

THE HAGUE

DEFENSE CALLS FOR ACQUITTAL OF CERMAK AND MARKAC

The defense teams of the former Knin Garrison commander Ivan Čermak and Croatian Special Police chief Mladen Markac called for their acquittal on all charges in the indictment for crimes in Operation Storm. The prosecution has failed to call valid evidence on their participation in the joint criminal enterprise aimed at permanent elimination of Serbs from Krajina, they claim.



◀ Steven Kay, branilac Ivana Čermaka

Yesterday, Ante Gotovina's defense presented its arguments under Rule 98 bis. Today, the defense teams of generals Ivan Čermak and Mladen Markac were given their chance to argue why in their view the prosecution failed to call enough evidence which, if accepted, would have resulted in their conviction. Ivan Čermak and Mladen Markac are on trial together with Gotovina for their participation in the joint criminal enterprise during and after Operation Storm in the summer of 1995 whose objective was to expel the Serbs from Krajina.

Defense counsel Kay believes that the prosecution has failed to call any evidence that General Čermak had command responsibility over the units of the Croatian

Army and military and civilian police in Krajina during and after Operation Storm. According to Kay, the evidence can only lead to a conclusion that Čermak as the Knin Garrison commander had only nine soldiers under his command: none of them committed any crimes. Čermak, Kay argued, had 'a logistic non-operative' role: normalize life in Knin and its surroundings after Operation Storm and to liaise with international representatives.

It is the international representatives, Kay contends, who are responsible for the misconception of Čermak's role in Krajina and the prosecution 'has bought it'. As the defense counsel explained, international observers saw Čermak

as 'military governor', a man who could do something to prevent crimes and punish the perpetrators. Cermak did promise them something like that, the defense counsel agreed, but soon learned he had 'limited authority'; this rendered him unable to 'deliver' on his promises.

The international observers, Cermak's defense counsel noted, were responsible for 'propounding the theory' of joint criminal enterprise, as they claimed that the looting and arson of Serb houses in Krajina after Operation Storm were part of a plan put together by the Croatian authorities and the accused generals. There was no plan at all, Kay claims; the crimes were committed by civilians and demobilized and/or active soldiers' who committed crimes out of revenge and not on the orders of their commanders. Even if the Trial Chamber finds that the existence of the joint criminal enterprise has been proven, the defense counsel emphasized that his client could not have been a participant as 'a planner'. Cermak was appointed commander of the Knin Garrison on 5 August 1995 when Operation Storm was already launched. When Cermak was appointed, Kay noted, he was 'a civilian in uniform' who spoke against crimes in his public addresses; that is not typical of a person who wants to expel Serbs from Krajina, Kay added.

[IMAGE]4008[/IMAGE]Markac's defense counsel Tomislav Kuzmanovic relied on the arguments presented yesterday by Ante Gotovina's defense. According to Kuzmanovic, the 'cornerstone' of the joint criminal enterprise theory lies in the prosecution's claim that the towns and villages in Krajina were unlawfully shelled with the aim of forcing the Serb civilians to flee. There is no evidence of shelling in the areas where the Croatian special police was launching attacks. The prosecution has likewise failed to prove that the Croatian special police took part in the looting and arson, Kuzmanovic added; findings of guilt could not be based solely on their presence near the crime scenes. During Operation Storm, special units moved at great speed, and even if they wanted to, they 'didn't have the time' to burn down and loot, Kuzmanovic said.

Kuzmanovic focused on the murder of five elderly Serbs in the village of Grubori. The crime has been blamed on the special police. As Kuzmanovic argued, the perpetrators of the crime have remained unidentified because the Croatian civilian police 'didn't do its job' and didn't investigate the incident properly. Markac, the defense counsel contends, did everything in his power: he sent the commander of the Special Police Staff Sacic to the crime scene. Sacic then told Cermak that five elderly persons had been killed when the special forces and remnants of the Serb army clashed in the village of Grubori.

Cermak's and Markac's defense teams called for the acquittal of their clients. They believe that the prosecution hasn't presented evidence to support any of the nine counts in the indictment charging them with murder, persecution, deportation, forcible transfer, looting, destruction and inhumane treatment. On Monday the prosecution will reply to the defense 98 *bis* arguments.

2009-03-23

THE HAGUE

PROSECUTION: ENOUGH EVIDENCE AGAINST CROATIAN GENERALS

In its response to the defense motions calling for the acquittal of generals Gotovina, Cermak and Markac on all counts in the indictment for Operation Storm crimes, the prosecution contends that enough evidence was brought before the Trial Chamber to lead to a conviction of the three accused. Thirty-two names were deleted from the list of 374 victims.



◀ Alan Tieger, vođa tima optužbe na suđenju Anti Gotovini, Ivanu Čermaku i Mladenu Markaču

The prosecution contends that in the course of its case it has managed to call enough evidence for the Trial Chamber to convict Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac on all nine counts charging them with murder, persecution, deportation, forcible transfer, looting, destruction and inhumane treatment committed during and after Operation Storm in the summer of 1995. Responding to the defense motions for the acquittal of the accused, the prosecution headed by US lawyer Alain Tieger noted that it had called enough evidence about the existence of the joint criminal enterprise aimed at expelling Serbs from Krajina and about the participation of the accused in it.

Tieger mentioned the name of former Croatian president Franjo Tudjman several times, denoting him as the mastermind of the joint criminal enterprise who didn't hide the intention to clear Krajina from Serbs in his public addresses. Tudjman's intervention at the meeting in Brijuni on 31 July 1995 was quoted; Tudjman says it is important 'that civilians start fleeing and then the army will follow'.

The prosecution contested the defense counsel's claims that it failed to prove the artillery attacks on Knin were unlawful. According to the defense, that is the 'very essence' of the theory of the joint criminal enterprise. There is ample evidence that the objective of the shelling was to force civilians to flee, the prosecution contends. Primary

targets were civilian and not military; the pattern of fire, which was intermittent over a long period, indicated that the intention was to cause fear among the population.

The unlawful shelling of Knin and other Krajina towns is just one element of the joint criminal enterprise and not its 'very essence' as the defense teams argued, the prosecution went on to maintain. That the Croatian political, military and police leadership intended to expel civilians, the prosecution argued, can be seen from the systematic and widespread looting and burning down of Serb houses, murder and abuse of civilians who remained, and various measures designed to prevent the return of refugees. The prosecution has deleted 32 names from the victim list because no evidence has been called about those victims. Evidence has been called for the remaining 342 names, the prosecution maintains, showing that they were killed unlawfully.

Enough evidence has been called, the prosecution believes, that General Gotovina failed to take measures to prevent crimes and punish perpetrators during and after Operation Storm, despite the fact that he undoubtedly had authority over all the units in the Split Military District. The prosecution doesn't challenge the fact that the accused general issued orders to prevent the crimes and put a stop to them. However, 'the repeated issuing of orders that had not been complied with', the prosecution noted, is not enough to lead to the conclusion that Gotovina sincerely intended to prevent crimes.

As regards the claim of Ivan Cermak's defense that Cermak was the Knin Garrison commander and not the 'military governor' the prosecution noted that 'semantic explanations' could not cover up Cermak's real authority which was 'huge'. According to the prosecution, there is evidence showing that Cermak had control over the army and both the military and civilian police in Knin and its surroundings, yet he failed to use it to prevent crimes and punish perpetrators. Similar evidence, the prosecution argues, has been called against General Markac although his jurisdiction was limited to the special police and crimes it allegedly perpetrated. Cermak, Markac and Gotovina contributed to creating an atmosphere of fear in Krajina aimed at expelling the remaining Serbs and preventing the Serbs who had fled from returning, the prosecution concluded.

The defense teams will deliver their rebuttal arguments tomorrow. On Wednesday, the prosecution will then once again respond to the defense in its rejoinder.

2009-03-24

THE HAGUE

DEFENSE: 'PROSECUTION'S LEGAL HODGEPODGE'

The defense teams of generals Gotovina, Cermak and Markac believe that the prosecution failed to present valid arguments against their motion for the acquittal of the three accused on all charges. In the words of Gotovina's defense counsel, the prosecution argument on the joint criminal enterprise is a 'legal hodgepodge' in which different allegations are mixed up on a wrong basis.

Ante Gotovina's defense counsel contend that in its rebuttal yesterday the prosecution failed to contest the defense claim that the court had heard no evidence that might lead to a conviction. The accused generals should therefore be acquitted on all counts in the indictment for crimes committed during and after Operation Storm in the summer of 1995. Today in the defense's rejoinder, defense counsel Akhavan called the prosecution's argument on the alleged joint criminal enterprise aimed at the expulsion of Serbs from Krajina a 'legal hodgepodge' in which different allegations were mixed up on wrong foundations.

Gotovina's defense today once again focused mostly on allegations about the unlawful shelling of Knin and other Krajina towns. According to the indictment, one of the elements of the plan was to cause fear among the population and force them to flee.

Challenging the prosecution claim that 50 to 75 persons were killed in the shelling of Knin, defense counsel Akhavan said that 'it would be nice' if the prosecution identified the alleged victims and prove they were not soldiers. There is no evidence, the defense contends, the victims were civilians killed in an unlawful attack and not RSK soldiers or 'collateral civilian victims of a legitimate military operation'. The defense still claims that there is no evidence to prove there was an unlawful attack against Knin or that civilians died in the shelling. 'This is the least tenable case in the history of the Tribunal in The Hague, with the weakest evidence on unlawful shelling of a town ever', Akhavan concluded.

[IMAGE]1446[/IMAGE]Steven Kay, representing Ivan Cermak, once again noted that there was no evidence showing that the accused general, who was the Knin Garrison commander at the time, had effective control over the army and the military and civilian police after Operation Storm. As Kay alleged, only 'non-operative tasks' related to the normalization of life in Knin were in Cermak's purview; the prosecution's allegations about Cermak's close ties President Tudjman didn't change anything. Sometimes Cermak did operate outside of his de iure jurisdiction, Kay admitted, but as he put it, in those situations Cermak 'did good things' and 'tried to prevent crimes'. Therefore, the defense believes that Cermak should not be convicted.

Mladen Markac's defense believes that the prosecution failed to refute their argument that there was no unlawful shelling on the axes of attack where the special police was deployed – primarily in Gracac and Donji Lapac, and there was no looting there. Any crimes, defense counsel Kuzmanovic noted, happened after the special police troops left that area.

Today the defense teams repeated their call for the acquittal of all three generals on all nine counts in the indictment charging them with persecution, deportation, forcible transfer of Serb civilians, looting and destruction of abandoned Serb property, murder and inhuman treatment during and after Operation Storm in the summer of 1995.

2009-03-25

THE HAGUE

BREAK OR END FOR OPERATION STORM TRIAL?

In its closing address at the Rule 98 *bis* hearing, the prosecution once again opposed the defense motion for the acquittal of Croatian generals Gotovina, Cermak and Markac at the 'half-time' of the trial for crimes during and after Operation Storm. If the Trial Chamber rejects the motion for the acquittal of the accused, the defense will open its case on 28 May 2009.

The prosecution was the last to speak in the four-day hearing on the defense motions for the acquittal of generals Gotovina, Cermak and Markac at the 'half-time' of the trial; the defense argues the prosecution failed to prove the guilt of the accused.

Responding to the argument Ante Gotovina's defense counsel put forward yesterday – that the indictment failed to name victims of the artillery attacks launched against Knin on 4 and 5 August 1998 – prosecutor Russo said that it was not necessary to do so according to the current Tribunal's jurisprudence particularly if the shelling was listed as an element of the crime of persecution. In the first of the nine counts in the indictment for crimes in Krajina in the summer of 1995, the three generals are charged with the persecution of Serbs which was allegedly implemented through the unlawful shelling of civilian targets, among other tactics.

The prosecution emphasized today that the HV Main Staff initially planned to launch an attack against military targets in Knin. However, on 31 July 1995 this changed when President Tudjman met with highest military and police officials, including the generals Gotovina and Markac, at the island of Brijuni. As alleged by the prosecution, the plan for the expulsion of Serbs from Krajina was first broached there. This culminated with Gotovina's order of 2 August 1995 to shell the towns of Knin, Obrovac, Benkovac and Gracac indiscriminately.

Replying to the defense argument that General Cermak as the commander of the Knin Garrison had a 'non-operative' role, prosecutor Margetts said the prosecution never claimed that Cermak commanded military operations. After Operation Storm, according to the prosecution, Cermak had jurisdiction over the army and the military and civilian police. Evidence pointing to Cermak's relations with the HV Main Staff and his command role over the military police was corroborated by the testimony of Bosko Djolic, commander of the joint military police company from Knin. Cermak's ties with the civilian police were discussed in closed session.

The prosecution didn't agree with the arguments put forward by Markac's defense counsel Tomislav Kuzmanovic. His client took measures to punish perpetrators who were members of the special police under his command, Kuzmanovic claimed. Prosecutor Mahindaratne contends that in the period relevant for the indictment Markac disciplined only one police officer who took part in setting up a prostitution network. In other situations, when he learned that his subordinate police officers committed crimes against Serbs, Markac simply didn't react; moreover, he assigned units implicated in crimes to new 'operative tasks'.

The Trial Chamber will rule on the motion for the acquittal of the three generals on all counts in the indictment later. If the judges reject the defense motion, the three defense teams will open their cases. According to the previously arranged schedule, the defense of Ante Gotovina, former commander of the Split Military District, will begin its case first, on 28 May 2009.

2009-04-03

THE HAGUE

MOTION FOR ACQUITTAL OF CROATIAN GENERALS REJECTED AT HALF-TIME

The Trial Chamber has rejected the defense motion for the acquittal of generals Gotovina, Cermak and Markac at the half-time of the trial on charges of crimes during and after Operation Storm. Taking the prosecution evidence 'in the best light', the judges have concluded that there was a joint criminal enterprise aimed at the permanent elimination of Serbs from Krajina.

Today the Trial Chamber dismissed the defense motion for the acquittal of generals Gotovina, Cermak and Markac for lack of evidence after the prosecution rested its case. The motion was rejected for all nine counts in the indictment charging the accused with persecution, deportation, forcible transfer of Serb civilians, looting and wanton destruction of abandoned Serb property, murder, inhumane acts and cruel treatment during and after Operation Storm in the summer of 1995.

In the introductory remarks, the presiding judge Orić notes that the prosecution has adduced sufficient evidence to make the Trial Chamber conclude, if it decided to accept it, that there were systematic and widespread attacks

against Serb civilians in Krajina during and after Operation Storm. This attack included murder, intimidation and abuse of remaining Serbs, looting and destruction of their property. As it was indicated today, based on the evidence provided, it could be ruled that those crimes were perpetrated within the joint criminal enterprise aimed at the permanent elimination of Serbs from Krajina.

According to the evidence, the head of the joint criminal enterprise was the then Croatian president Franjo Tudjman and all three accused took part in it. Listing the evidence that might corroborate this conclusion, Judge Orié mentioned the audio recording and the transcript from the Brijuni meeting on 31 July 1995. Addressing the high-ranking military and police officers, Tudjman said it was important 'that civilians go first as the army will then follow them'. Two of the three accused, Ante Gotovina and Mladen Markac, took active part in that meeting. According to the evidence called by the prosecution, Ivan Cermak 'joined' the joint criminal enterprise a little bit later, on 5 August 1995 when Tudjman personally appointed him the commander of the Knin Garrison.

The prosecution offered enough evidence of the responsibility of the three generals for the crimes against Serbs in Krajina, the judges concluded, either by planning, ordering or perpetrating them or by consciously accepting the risk that the crimes might be a natural and foreseeable consequence of their actions. The evidence called by the prosecution, according to the Trial Chamber's decision, shows that generals Ante Gotovina and Mladen Markac commanded the HV and special police units that perpetrated crimes during and after Operation Storm and that Ivan Cermak had jurisdiction over some of those units after 5 August 1995.

The judges noted that they looked at the prosecution evidence 'in the best light', as Rule 98*bis* requires, adding that their decision did not in any way prejudice the judgment that will be handed down.

Since the motion to drop the charges was not granted, all three defense teams 'will have to call evidence', as the presiding judge said, to refute the prosecution case. The defense of general Ante Gotovina will open its case first, on 28 May 2009.

2009-04-06

THE HAGUE

TRIBUNAL REPRIMANDS EUROPEAN UNION

The Trial Chamber urges the European Union to respond to the claims of Ante Gotovina's defense that they haven't yet received about a hundred reports drafted by the European monitors during Operation Storm.



◀ Alphons Orié, judge at the Tribunal

The Trial Chamber with Judge Alphons Orié presiding has urged the EU to respond to the recent motions filed by General Ante Gotovina's defense. In the motions, the defense claims the order the judges issued in February 2008 compelling the EU to deliver to the defense all reports drafted by the European monitors in Operation Storm has not yet been met. In its motion filed in March 2009, the defense notes that it has received 294 documents; they have been redacted so heavily that they are useless. Ninety-five other reports filed by European monitors are still missing, the defense adds.

According to the Trial Chamber's decision, the response should state whether in the opinion of the monitoring

mission the documents that Gotovina's defense has requested fall within the scope of the order the judges issued in February 2008. If the answer is positive, the judges call on the EU to explain why the defense has been barred access to those reports filed by the European monitors. The reply should be submitted within 14 days.

The Trial Chamber sent its invitation to several EU addresses, including Javier Solana, representative for the common foreign and security policy, the European Commission and member states who founded the European Community Monitoring Mission in 1991.

The trial of generals Gotovina, Cermak and Markac on charges of crimes against Serbs during and after Operation Storm has been adjourned after the prosecution rested its case. The trial continues of 28 May 2009 with the Ante Gotovina's defense case.

2009-04-22

THE HAGUE

SOLANA REJECTS GOTOVINA DEFENSE ACCUSATIONS

Secretary-general of the Council of the EU has rejected accusations levied by Ante Gotovina's defense that the Trial Chamber's subpoena for the European monitors' reports drafted during Operation Storm was not complied with. According to the OTP spokesperson, the Croatian authorities have failed to hand over the requested military and police documents, including those whose existence was confirmed by the very authorities last year, despite a subpoena issued by the judges.



◀ Javier Solana

Gotovina's defense has contended that it did not receive the reports drafted by European monitors during Operation Storm, noting that the EU thus jeopardized the fairness of the trial and 'equality of arms' of the defense and the prosecution. Secretary-general of the Council of the EU Javier Solana has rejected those as groundless.

In a letter to Judge Orić, Secretary-General Solana states that the EU has complied with the Trial Chamber order from February 2008 entirely, granting Gotovina's defense full access to the whole and unredacted archives of the European Community Monitoring Mission. In March 2008, Goran Žugic from the defense team searched the archives selecting the documents that were later

delivered to the defense in a redacted form. The defense has been given every single document it asked for, Solana was adamant.

Twenty-four documents the defense claimed were 'missing' have been found after a meticulous search of the Monitoring Mission archives, Solana notes. In March 2008, the documents were at the disposal of Goran Žugic, but he decided not to request them. Solana expressed his doubt that remaining 56 documents, also 'missing' as the defense alleges, existed at all. The defense never identified them or asked for them specifically, Solana was clear. Daily reports from the ECMM Knin headquarters clearly show that some monitoring teams were not operating over a period of time in August 1995, Solana noted, primarily because of 'limitations on their freedom of movement imposed by the local (military) authorities'.

On the other hand, at the press conference today, OTP spokesperson Olga Kavran was asked if the Croatian authorities had sent the subpoenaed military and police documents. Some special police documents were handed over, Kavran replied, but the so-called artillery logbooks remain undelivered. Last year the Croatian authorities admitted that 23 out of approximately a hundred artillery documents requested by the prosecution did exist, Kavran added, but there has been no progress regarding their delivery.

2009-04-24

THE HAGUE

GOTOVINA'S DEFENSE INSISTS ON SOLANA'S DOCUMENTS

In their reply to Javier Solana's letter about the 'missing' or 'non-existent' reports of the European monitors, Ante Gotovina's defense wants the EU to conduct further enquiries. The defense has also brought up Solana's potential conflict of interest; during Operation Storm, Solana claimed that the Croatian army had committed crimes by indiscriminate shelling.



◀ Luka Misetic, defense attorney for Ante Gotovina

Ante Gotovina's defense has alleged that, contrary to the claims of the EU Council Secretary-General Javier Solana, the defense has not been granted 'unlimited access to the complete and unredacted archives of the European Community Monitoring Mission' in March 2008. The war of motions, letters and statements thus continues after the defense demanded the delivery of all reports drafted by the European monitors during and after Operation Storm in August 1995. Generals Gotovina, Cermak and Markac are charged with crimes against Serbs committed in that period.

In his letter to the Trial Chamber, Solana says that 24 documents were found after a search of the Monitoring Mission archives. The defense team was granted access to the documents, Solana notes, but decided not to demand their delivery. In its latest motion, Ante Gotovina's defense has rejected this claim, adding that it is highly unlikely that the prosecution – which searched the same archives on two occasions – has also 'overlooked' those documents. However, the defense has asked that the 24 reports that have now been found, drafted by the monitors in the Krajina Sector South in August 1995, be delivered to them.

The defense has also commented on Solana's doubts that the 56 documents that the defense alleges have been 'missing' ever existed. Since the secretary-general of the EU Council argued that the defense never identified those documents or explicitly asked for them, the defense in its reply list at least 51 documents and provide 'either proof of their existence or indicate that according to the monitoring mission procedure there is clearly no rational explanation for their alleged non-existence'. The defense is particularly concerned because it has not received a single report from the European monitors' Knin headquarters for the period between 4 and 15 August 1995. Gotovina's defense believes those documents are potentially exculpatory for the accused Gotovina, especially for the indiscriminate shelling charges.

The defense has urged the Trial Chamber to issue requests to the EU similar to those issued to the Republic of Croatia at the behest of the prosecution. Croatia has been asked to deliver reports 'even if they may not even be in the possession of the Croatian government'. In other words, the defense considers the judges should order the EU 'to make further efforts' to locate the missing reports, to conduct additional enquiries, deliver any documents found and submit a detailed report on the progress of the exercise. The defense wants the report on the enquiry to be submitted within 15 days.

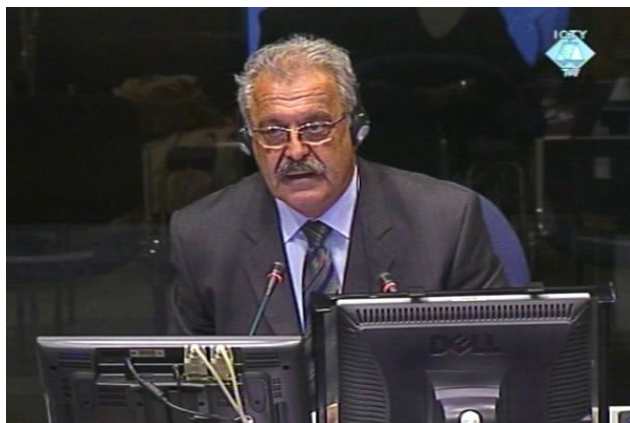
The defense has also brought up Javier Solana's potential conflict of interest. On 6 August 1995 Solana was the Spanish foreign minister and chairman of the EU Council of Ministers when he declared that the Croatian Army 'is shelling civilian territory' and is guilty of war crimes. Therefore, the defense concludes, Solana should not be in charge of locating documents that might contest his previous claims.

2009-05-25

THE HAGUE

SPECIFIC TARGETS IN 'WIDER AREAS'

In his additional examination at the trial of generals Gotovina, Cermak and Markac, commander of the HV artillery during Operation Storm Marko Rajcic contends that in August 1995 the artillery fired on specific military targets, although the prosecution showed him documents specifying 'wider areas' of various towns and villages as targets.



◀ Marko Rajčić, svjedok na suđenju Gotovini, Čermaku i Markaču

Marko Rajcic, HV artillery commander during Operation Storm, returned to The Hague at the request of the prosecution to be additionally examined about the documents admitted into evidence after his testimony at the trial of generals Gotovina, Cermak and Markac in February 2009. Today, as when he gave evidence for the first time, Rajcic's answers were more favorable to his former commander Ante Gotovina than to the prosecution that had called him to testify.

In an effort to prove that the Croatian artillery shelled Krajina towns and villages randomly during Operation Storm to scare the civilians into fleeing, the prosecution

showed Rajcic's order of 9 August 1995. In that document Rajcic ordered that 36 shells be fired on 'the wider area' of the village of Srb. In the course of the prosecution case, the prosecutors alleged that all such attacks targeted civilians – in this case refugee columns streaming through Srb from the beginning of the HV attack. Rajcic ordered the shelling of the main crossroads in the village, he explained today, as the Krajina Serb artillery was retreating through the crossroads. Rajcic's artillery shelled the enemy positions from which the HV units were attacked, he contends.

When a judge asked Rajcic if anyone was injured or killed on either side in those conflicts, the witness said that two Croatian soldiers sustained minor injuries; Rajcic was not told about any losses on the other side. Rajcic didn't have any information whether each round hit its intended target. However, when he flew over the area of Srb in a helicopter that day, he saw some craters on the main crossroads that had been targeted.

The prosecution showed a document entitled *List of artillery targets Jagoda* listing a number of targets in the Benkovac, Obrovac and Gracac area, without their exact coordinates. When Judge Orić asked the witness if there was any way to interpret the document other than it meant that whole areas instead of particular military facilities were to be targeted, the witness replied that in addition to the list there was supposed to be additional information with the exact coordinates of the targets. Not all the targets identified on the list were actually shelled, the witness

explained. In Benkovac, for instance, only the barracks were shelled although the list contains targets such as the *Glinica* factory.

The presiding judge asked the witness as his evidence drew to a close to explain the chronology of his contacts with the OTP. The witness said that he had been called by the prosecution four times to testify. He told them that he had already 'made himself available' to Gotovina's defense. The witness only agreed to testify when the Trial Chamber issued a subpoena.

The trial of Croatian generals charged with crimes against Serbs during and after Operation Storm continues on Wednesday with the pre-defense conference. On Thursday, the Cermak and Markac defense teams will deliver their opening statements. The first witnesses will be called on 2 June 2009 by Gotovina's defense.

2009-05-28

THE HAGUE

DEFENSE: CERMAK WAS 'CIVILIAN IN MILITARY UNIFORM'

The opening statement delivered by the defense of Ivan Cermak, one of three Croatian generals charged with crimes in Operation Storm, will call several military and police experts and a number of other witnesses to respond to 'groundless' accusations that Cermak had a command role over the army and the police. Among Cermak's defense witnesses are Croatian president Stjepan Mesic and Ciro Blazevic, BH football team manager and Franjo Tudjman's close friend.



◀ Steven Kay, branilac Ivana Čermaka

With the opening statement delivered by defense counsel Steven Kay, the defense case began at the trial of Croatian generals Gotovina, Cermak and Markac, on charges of crimes against Serb civilians in the summer and autumn of 1995. In three hours, Kay presented a roadmap for the way his legal team intended to contest the charges and show the 'lack of foundation' of the prosecution evidence about the role of the former Knin garrison commander Ivan Cermak in the events in Krajina after Operation Storm.

Cermak's defense will call two foreign and two local military and police experts; in their expert reports they will explain why they believe that the garrison

commander had only 'civilian issues' under his jurisdiction; he had no operational role over military and police units. The accused general, the defense argues, occupied himself with 'normalizing life' in Knin and around it. He could not make decisions on any important issues. Cermak, defense counsel Kay pointed, was 'just a conduit through which information flowed on' from the higher echelons of Croatian authorities to the representatives of the international community in the field.

Most of the 42 witnesses that Cermak's defense intends to call will say the accused primarily dealt with organizing water and power supply in to Knin, cleaning the rubble, getting the bakeries, factories, shops up and running, and in general with the job of civilian authorities. The defense counsel explained the discrepancy between Cermak's military rank and the post of commander on the one hand, and his civilian powers on the other. The law didn't allow for Cermak to be appointed as a civilian official in Knin and he was thus sent to Knin on a military appointment. Furthermore, President Tudjman, as defense witnesses contend, 'as a Partisan general was obsessed with military ranks': Cermak thus got the rank of a general, despite the fact that he was just a civilian and an entrepreneur.

The defense will challenge the prosecution's allegations that the accused covered up the crimes and thus contributed to the atmosphere of impunity which pressured the Serbs in various ways into leaving Krajina. One of the examples is the incident in the village of Grubori where five elderly Serbs were killed in late August 1995. In front of TV cameras Cermak said that they had been killed in the cross-fire between Croatian special police and the remaining Serb soldiers. It was not an attempt to cover up the crime, the defense counsel argued: Cermak was informing the media and the international representatives about the event on the basis of reports he had received from the police. The defense maintains that Cermak always responded promptly when he was informed about any crimes, forwarding the information to relevant authorities because he lacked authority to act more actively. 'It was a culture of reporting and not of covering up crimes', the defense counsel noted.

The names on the witness list include Cermak's close associates in Knin: Petar Pasic, a Serb from Krajina acting as mayor, and liaison officers Dondo and Lukovic. The current Croatian president Stjepan Mesic is also on the list, as are former Tudjman's chief of staff Hrvoje Sarinic and Tudjman's close friend, Ciro Blazevic who is now the manager of the BH national football team.

The defense of Mladen Markac, former commander of the special police, will deliver its opening statement tomorrow. On 2 June 2009, the first witnesses will be called by Gotovina's defense. Gotovina's lawyers already delivered its opening statement in March 2008 when the trial opened.

2009-05-29

THE HAGUE

MARKAC'S DEFENSE: KRAJINA EXODUS FOLLOWED BELGRADE PATTERN

The defense of former special police commander Mladen Markac denies the existence of a joint criminal enterprise aimed at expelling Serbs from Krajina, shifting the blame for the planning and implementation of the exodus on the RSK and Serbian leaderships. As the defense argues, there is no evidence that Markac perpetrated or covered up crimes during and after Operation Storm.



◀ Mladen Markac in the courtroom of the Tribunal

'I believe that after we present our case the judges will be convinced of the innocence of my client and will deliver the only fair verdict and acquit him', Zagreb lawyer Goran Mikulicic said today in his opening statement. Mikulicic is defending Mladen Markac, who commanded the special police, and is now on trial together with generals Gotovina and Cermak for crimes against Serbs during and after Operation Storm in August 1995. The defense will try to refute the charges of a joint criminal enterprise aimed at the permanent elimination of Serbs from Krajina, Mikulicic indicated.

The mass exodus of the Serb civilians, the defense argues, was 'an implementation of the ideology' pursued

by Serbian president Slobodan Milosevic. According to that ideology, Serbs were supposed to live in one country and the RSK leadership decided to evacuate the population when it became clear that the occupied territories were to be reintegrated into Croatia. The defense intends to call evidence that the first plans for the evacuation were drafted back in 1993. The evidence of this pattern of behavior of the Serb authorities is visible, Mikulicic noted, in the mass exodus of Serbs from other territories Serbs lost: Croatian Podunavlje, Sarajevo or Kosovo. As the defense emphasizes, this proves that the Croatian authorities did not intend to permanently eliminate Serbs. Consequently, Mladen Markac could not have participated in a joint criminal enterprise with this objective.

The defense will also contest the prosecution's allegations that Serbs who had fled after Operation Storm were prevented from coming back. It will prove instead that the Croatian authorities made every effort to 'facilitate and motivate' their return. The defense counsel added in that context that 122,500 Serbs had returned to Krajina by 2000.

Markac's defense counsel depicted Markac as a 'highly moral person, a conscientious professional, a dedicated father and husband, a man of no political, religious or racial prejudice'. All this, the defense counsel pointed, led to a conclusion that Markac was unable to commit any crimes. According to the defense, Markac was not authorized to detect and investigate crimes; Markac could only forward any information he received to the judicial bodies. There is no evidence, Mikulicic argued, that the accused knew of crimes and failed to report them or that he ever covered up any unlawful conduct on the part of his subordinates.

Markac's defense, it was indicated today, will try to prove that the Tribunal had jurisdiction only over crimes perpetrated during Operation Storm, from 5 to 8 August 1995 but not over those committed afterwards. After 8 August 1995, the defense contends, there was a 'state of internal unrest and tension', a level of combat below that of 'armed conflict' which is prerequisite for the Tribunal's jurisdiction.

The trial of Croatian generals continues of Tuesday, 2 June 2009, when General Ante Gotovina's defense will call its first witness, expected to be a former officer of the Yugoslav military counterintelligence service (KOS). In his evidence at the trial of Slobodan Milosevic in September 2002 the witness described the link between the JNA and Serbian police and the events in the RSK.

2009-06-02

THE HAGUE

SERBIAN INTELLIGENCE OFFICER CALLED AS FIRST WITNESS OF GOTOVINA'S DEFENSE

Slobodan Lazarevic, former JNA counter-intelligence officer who testified as prosecution witness against Milosevic, is testifying at Operation Storm trial, confirming Ante Gotovina's defense case: 'fear of Croats' was fomented among Krajina Serbs, there were no civilians among Krajina men, and the Serbian leadership 'supported' the Krajina exodus.



◀ Slobodan Lazarević, svjedok odbrane Ante Gotovine

The first defense witness called by Croatian general Ante Gotovina is a Serb officer who served in the former JNA Counter Intelligence Service (KOS). Slobodan Lazarevic served for almost four years, from February 1992 to August 1995, as chief intelligence officer with the 21st Corps in the Krajina Serb army. In 2002, Lazarevic gave evidence at the trial of Slobodan Milosevic about the ties between the Serbian political, military and police leadership and the events in the so-called Republic of Serbian Krajina. Today Gotovina's defense tendered into evidence the transcript of Lazarevic's testimony at that trial and his statement to the OTP investigators in 1999.

Lazarevic today confirmed some key arguments of General Gotovina's defense. Gotovina is charged with murder and persecution of Serbs in Krajina and with looting and destruction of their property during and after Operation Storm in August 1995. He is on trial with Ivan Cermak and Mladen Markac. According to the witness, maintaining the atmosphere of fear of Croats and military tension among the local population was 'an essential element for the survival' of the RSK. To that aim, the leadership in Knin fomented the belief that Serbs and Croats could not live together; those who disagreed were seen as enemies of the regime, such as for instance Dmitar Obradovic, the mayor of the town of Vrgin Most, who was killed for advocating coexistence with Croats, Lazarevic said.

It was easier to create the climate of fear, Lazarevic added, because of some actions launched by the Croatian Army, such as the attack on Serbian hamlets in the Medak pocket in 1993; the fact that from 1991 to 1995 many crimes were committed against Krajina Croats helped further, because it was easy to convince people that retaliation would follow. Lazarevic thus corroborated the defense argument that there were prerequisites for the population to flee Krajina in sheer fear, even before the arrival of the HV in August 1995.

Lazarevic further bolstered the defense by saying that there had been no male civilians in the RSK. Men of military age, the witness said, were called up and among volunteers there were boys as young as 16 and 75-year-old men. Even if they were dressed in jeans and shirts, the witness contends, that didn't mean they were civilians because they were armed and part of the army or the police. None of them, the witness went on, could claim that 'they were not involved' in military activities: the least they did was fire a couple of bullets at the enemy. So, when the Croatian forces attacked, everybody was ready to leave. Their families followed. In this militarized atmosphere, the smallest of quarrels would be resolved with guns. According to the witness, up to

Finally, Lazarevic confirmed that when Operation Storm was launched, the RSK leadership, headed by Milan Martić, directly encouraged the population to leave, not to stay. 'It was also painfully obvious that Belgrade decided we in Krajina had reached the end of the road', the witness added, noting that there were rumors about an agreement between Milosevic and Tudjman whereby Serbs were to leave Krajina and settle in Kosovo. When they arrived in Serbia, the witness contends, at least a part of this theory was confirmed: all highway exits were closed and they could only drive south. Lazarevic, however, didn't agree with the defense argument that the plans for the evacuation of Serbs were drafted before Operation Storm began. That would mean that the Krajina leadership was aware of an imminent attack days in advance, and that was not the case, according to the witness.

Former Serbian intelligence officer will complete his examination-in chief tomorrow. After that Lazarevic will be cross-examined, possibly by the defense counsels of the two other accused and definitely by the prosecution.

2009-06-03

THE HAGUE

WHO SCARED THE SERBS WITH PROPAGANDA?

In response to the prosecution questions, former Serbian intelligence officer Slobodan Lazarevic has said there were some statements on the Croatian side 'that caused Serbs to feel ill at ease', but those were just 'isolated moments', not obvious propaganda. The Krajina authorities then used those isolated incidents in its campaign to intimidate.

The cross-examination of former military intelligence officer in the JNA and the SVK Slobodan Lazarevic was completed earlier than expected. The prosecution mostly focused on Lazarevic's claim that the fear among Krajina Serbs was caused predominantly by the propaganda disseminated by the Krajina authorities. In his examination-in chief, Ante Gotovina's first defense witness thus confirmed the argument that in August 1995, after Operation Storm, Serbs fled Krajina in fear of retaliation even before the Croatian Army arrived.

The prosecution commented on the witness's evidence yesterday about the activities of Croatian side that could be easily manipulated by the Krajina authorities. In addition to attacks on the Serbian villages in the Medak pocket in 1993, Lazarevic said today that crimes perpetrated in Operation Maslenica were repeatedly rehashed in the Krajina media side by side with the events from the Ustasha regime in Croatia, from 1941 to 1945. Also Lazarevic said

that moves some Croatian politicians made in public were used in the Krajina media for propaganda purposes. He quoted examples of a politician using the Ustasha salute in the Croatian parliament or President Tudjman's 'well-known' statement about 'Krajina without Serbs'. 'When you hear something like that, if you are a Serb, you will surely be ill at ease', Lazarevic concluded.



◀ Vesna Škare Ožbolt, svjedok odbrane Ante Gotovine

When the presiding judge insisted that Lazarevic explain if this meant that the fear of Croats among Serbs was created by propaganda disseminated by both sides, the witness said that to his mind, those were just 'isolated moments' in the Croatian media, not obvious propaganda; the Krajina authorities then used it in its campaign to intimidate its own population.

As today's hearing continued, Gotovina's defense called its next witness, Vesna Skare Ozbolt. At the time of Operation Storm, Skare Ozbolt was Croatian president's deputy chief of staff. In the statement she gave to the defense in June 2008, tendered into evidence today, Skare Ozbolt states that the Croatian government

planned for a peaceful reintegration of Krajina into Croatia. The idea was, Skare Ozbolt said, to demilitarize Krajina and to 'reintegrate both the territory and the Serb population' into the constitutional framework of the Republic of Croatia; the return of Croatian refugees to the territory was also envisaged. Something similar occurred later in Eastern Slavonia, Skare Ozbolt explained.

The witness believes that Operation Storm 'most likely would not have been launched' if the Krajina delegation had accepted the Z4 plan in Geneva in early August 1995. Skare Ozbolt admitted that the document was 'unacceptable' to the Croatian side too, but President Tudjman allowed this plan to be a starting point for the negotiations with rebel Serbs. However, since they turned down the plan, Croatia had to resort to a military solution.

General Gotovina is on trial together with Ivan Cermak and Mladen Markac for crimes during and after Operation Storm. As alleged in the indictment, Gotovina, Cermak and Markac took part in a joint criminal enterprise headed by President Tudjman and aimed at the permanent elimination of Serbs from Krajina. The prosecution called evidence to prove that the plans for the military operation were made before the failure of the Geneva negotiations.

2009-06-04

THE HAGUE

WITNESS: LOOTING AND ARSON IN KRAJINA ANGERED TUDJMAN

Former Croatian justice minister and Tudjman deputy chief of staff Vesna Skare Ozbolt contends that the president was 'fairly irritated and angry' because of the reports on looting and burning of Serb houses in Krajina after Operation Storm. Skare Ozbolt says the law on temporary confiscation of Serb property was passed to prevent further destruction. Why was Cermak angry with the witness?



◀ Vesna Škare Ožbolt, svjedok odbrane Ante Gotovine

As the examination-in chief continued, Gotovina's defense witness Vesna Skare Ozbolt confirmed that after Operation Storm, in August 1995, information about arson and looting of Serb houses in Krajina poured into President Tudjman's office, where she worked as deputy chief of staff. Generals Ante Gotovina, Ivan Cermak and Mladen Markac are charged with participation in a joint criminal enterprise aimed at expelling Serbs from Krajina and preventing their return by destroying their abandoned houses.

Skare Ozbolt said that looting and burning of Serb houses caught everyone by surprise and President Tudjman was 'fairly irritated and angry' by those incidents. He

claimed they were 'staged and result of sabotage'. That is why, Skare Ozbolt claims, Tudjman's office demanded that perpetrators be identified and prosecuted. This resulted in almost 2,000 criminal proceedings. As the witness said, the destruction of abandoned Serb property 'left a stain' on Croatia's efforts to peacefully reintegrate the liberated territory and it was 'very stupid' to destroy housing that could have been used for Croat refugees.

When asked if she knew that the adoption of the law on temporary confiscation of property was yet another attempt by the Croatian authorities to prevent the return of the Krajina Serbs, the witness said the purpose of the law was to keep the houses occupied, lest they should be looted and burned. The plan was for the Croat returnees to move

in temporary, while their houses in Krajina were restored, but Skare Ozbolt clarified, it didn't mean that the Serb property would be confiscated permanently. Croatia was committed to protecting private property and it established a special government real estate agency which bought property from Serbs who 'no longer wanted to live in their erstwhile homes'.

As the hearing continued, Vesna Skare Ozbolt was examined by Steven Kay, Ivan Cermak's defense counsel. Cermak was appointed commander of the Knin Garrison on 5 August 1995 by President Tudjman. As the witness contends, this was not a military or police function; Cermak was a well-known entrepreneur sent to Knin to normalize civilian life. The actual territory where he was supposed to do that was not precisely delineated, and this led the witness to call Cermak 'an errant knight'.

Since the start of the trial, Cermak's defense has been trying to prove that Cermak, an entrepreneur, ended up in a military post by coincidence. To corroborate this, the witness recounted an anecdote. On one occasion, somewhere between 2003 and 2006, when she was justice minister, the witness visited Cermak in the UN Detention Unit in Scheveningen. 'I am here because of you, you people from the president's office convinced me to take up the job in Knin', Cermak told the witness then. The witness said that she could understand Cermak's reaction: he was a man taken out of the world of business and no one in the Croatian government expected that the Tribunal might issue indictments for crimes perpetrated in Operation Storm.

As the hearing today drew to a close, the prosecution began cross-examining the witness. She is expected to complete her evidence tomorrow.

2009-06-05

THE HAGUE

TUDJMAN: 'THERE MUST BE NO MORE THAN 10 PERCENT SERBS LEFT IN KRAJINA'

In an effort to challenge the claim made by former minister of justice Vesna Skare Ozbolt – that after Operation Storm Croatia didn't obstruct the return of Serb refugees – the prosecution has presented minutes from meetings where President Tudjman spoke about the issue. According to the minutes, the Croatian president stressed that 'it is out of the question for all of the 150,000 to 200,000 Serbs to return' and that there should be 'not even 10 percent' of them left.



◀ Vesna Škare Ožbolt, svjedok odbrane Ante Gotovine

In the cross-examination of Vesna Skare Ozbolt, prosecutor Gustafson showed her a series of minutes taken at the meetings of Croatian leadership. In the prosecution's view, the minutes clearly contradict the witness's claim that in August 1995 after Operation Storm Croatia in no way obstructed the return of Serbs to Krajina. Skare Ozbolt was Tudjman's deputy chief of staff during that period and she attended some of those meetings. She was called to give evidence before the Tribunal by the defense of Ante Gotovina who is charged together with Cermak and Markac for taking part in a joint criminal enterprise aimed at the permanent elimination of Serbs from Krajina in the summer and autumn of 1995.

The witness argued that the law on temporary seizure of property belonging to Serb refugees did not provide for permanent confiscation of the property but merely a short-term suspension of the ownership right. The prosecution showed the minutes of the meeting held on 11 August 1995. In the minutes, Tudjman insists that a 'radical measure' be put into the law: if the Serbs didn't return within three months, their properties would revert to the state. A provision worded in similar terms was indeed put into the law, but the witness reminded the court that Croatia was 'on its knees' at that time, facing the pressure of taking care of its own refugees who had to be accommodated somewhere, at least temporarily, and the Serb houses could be used for that purpose. The witness also made it clear that it was important to fill the 'empty space', the abandoned areas, because there was a risk of incursions from Republika Srpska and the destruction of houses.

The prosecution however stood by its claim that 'filling the empty space' was done to prevent the Serbs from returning. To corroborate this the prosecution showed the minutes from 22 August 1995 where minister for development and refugees Jure Radic explains to Tudjman that 'historically critical territories', such as Petrova Gora, should be the first to be colonized; thus 'there can't be more than 10 percent of Serbs there' in the future. 'Not even 10 percent', Tudjman replied, according to the minutes. Skare Ozbolt replied that Radic's ideas were not always wise and were often rejected although the prosecution insisted that 'not even 10 percent' didn't make it look like the president was against it. 'One should take into consideration the context, the facial expressions of the speakers, and not only the plain transcript', the witness replied, adding that Tudjman presented different stories to different ministers.

The prosecution also showed a transcript of Tudjman's speech in June 1997: in Vukovar he said that 'it's out of the question for all of the 150,000 to 200,000 Serbs to return to Croatia' because it could cause a new war. That claim was interpreted in two different ways in the courtroom today. While the prosecution believes it clearly indicates that there would be no return for the Serbs, the witness argued that 'only those who caused the war' were banned from returning en masse.

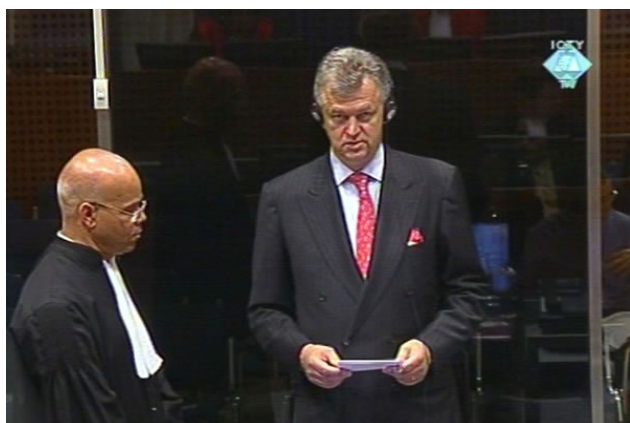
Vesna Skare Ozbolt completed her evidence today. The trial continues on Monday.

2009-06-08

THE HAGUE

LINGUISTICS AT THE BRIJUNI MEETING

In his evidence in the defense of Ante Gotovina, former Croatian foreign minister Miomir Zuzul has argued that Croatia respected the human rights of Serb civilians during and after Operation Storm. Zuzul has offered an original linguistic interpretation of Tudjman's words that the Serbs "should be provided with a route to leave, while we would pretend to guarantee their civil rights".



◀ Miomir Žužul, svjedok odbrane Ante Gotovine

Former Croatian foreign minister Miomir Zuzul contends that Croatia headed by President Tudjman 'strongly supported' a peaceful solution for the conflict in the former Yugoslavia. According to Zuzul, military operations were launched only when all other options were exhausted, never without the support of the USA and 'friendly' European countries. In Zuzul's opinion, this was the case with Operation Storm, launched in the summer 1995. As alleged by the indictment against generals Gotovina, Cermak and Markac, a number of crimes against Krajina Serbs were committed in the course of the operation.

In the period relevant for the indictment Zuzul was Croatia's ambassador in the UN in Geneva and acted as Tudjman's envoy at the negotiations with the international mediators. In his evidence as Ante Gotovina's defense witness, Zuzul said that Croatia had the 'understanding' of the USA: if the Geneva talks should fail, it could launch a military attack against the so-called Republic of Serbian Krajina. The decision to launch Operation Storm was reached in the evening of 3 August 1995, when the news came in from Geneva that the Serbian delegation had rejected the Z4 peace plan. Had Washington asked that the operation be stopped, Zuzul contends, Tudjman would surely have done so; this is what he did some time later when the HV and the BH Army advance towards Banja Luka was stopped at the behest of the US.

The witness is sure Tudjman would never have opted for a military solution without the understanding of the US. However, their support came with a number of conditions: the operation was to be carried out quickly and that the safety of Serb civilians and international monitors in the field had to be ensured. As the prosecution alleges, the transcripts from the meeting of the Croatian political, military and police leadership in Brijuni on 31 July 1995 showed that Croatia was trying to create an impression it was taking care of the civilians, but behind it was its intent to permanently eliminate Serbs from Krajina. According to the prosecution, this can be clearly seen in a sentence defense counsel Kehoe showed to Zuzul today.

'Serbs should be provided with a route to leave, while we would pretend to guarantee their civil rights', Franjo Tudjman said. He wanted the leaflets to be distributed, with the clearly marked corridor left open by the HV for the civilians to withdraw towards Serbia. As Miomir Zuzul explained, it was a case of 'linguistic misunderstanding' concerning the word 'pretend'. President Tudjman, Zuzul said, used a rare Croatian expression whenever he talked about 'some concepts he knew of, but didn't believe in them', such as '(pretended) freedom of the press' or '(pretended) human rights'. This is why, Zuzul claims, this word should be translated into English as 'so-called' and not 'pretend' as in the Tribunal's translation of the presidential transcripts.

Miomir Zuzul gave evidence before the Tribunal in May 2008 in the case against six former Herceg Bosna leaders as defense witness of the first-accused Jadranko Prlic. Zuzul claimed then that in the spring of 1993 Alija Izetbegovic offered Tudjman to annex Western Herzegovina to Croatia.

As the hearing today drew to a close, the prosecution began cross-examining the former Croatian diplomat.

2009-06-09

THE HAGUE

WHAT MADE TUDJMAN 'CHUCKLE'

In the cross-examination of Miomir Zuzul, testifying as Ante Gotovina's defense witness, there was another linguistic debate over Tudjman's sentence that the Serbs' 'civil rights should ostensibly be guaranteed'. The prosecution noted that after saying that the president 'chuckled a little'. The witness argued that he didn't chuckle at the thought that Serbs should have civil rights, but at the concept of civil rights as it is understood in the West.



◀ Miomir Žužul, svjedok odbrane Ante Gotovine

As former Croatian foreign minister Miomir Zuzul continued his evidence, a linguistic debate reopened over a sentence president Franjo Tudjman said on 31 July 1995 at the Brijuni meeting. Tudjman said that the "Serbs should be provided with a route to leave, while we would pretend to guarantee their civil right". The issue was raised by the prosecution after the witness in his examination-in chief argued that the translation into English was not quite correct as the Croatian word he used in that context should be translated as 'so-called'. According to the witness, that doesn't mean that the president implied that Croatia should only pretend to respect the Serbs' human rights during and after Operation Storm.

Prosecutor Stefan Waespi searched the Internet and found that the Croatian-English dictionaries provide a number of synonyms for the Croatian word Tudjman used, and all of them, the prosecution alleged, indicate that Tudjman intended to guarantee the Serbs' rights only before the eyes of the international community and not for real. The witness disagreed, claiming that the word was used to qualify the term 'civil rights' because Tudjman didn't believe in that and some other Western concepts. As Zuzul put it, it didn't mean that the Croatian president meant 'ostensible guarantees' of the Serbs' rights.

The prosecution noted then that, according to the audio recording of the Brijuni meeting, Tudjman 'chuckled a little' after he said the controversial sentence. According to Zuzul, this actually proved his point. The president, Zuzul clarified, chuckled at the mere mention of civil rights because his views were not close to the views prevalent in the modern world and to the concepts of the Western civilization, such as democracy, freedom of press or civil rights. Tudjman often used the term 'so-called' when he spoke about them, Zuzul said, inviting the prosecution to conduct a 'lexical analysis' of the president's speeches to verify his claim.

Regardless of frequent use of the terms 'ostensibly' and 'pretend', and sporadic chuckling at the mention of the Serbs' human rights, Tudjman was committed to the respect of those rights, because he knew it would bring Croatia closer to the international community, Tudjman's former advisor and envoy maintained.

In an effort to prove that Croatia only pretended to allow the Serbs to return to Krajina after Operation Storm, the prosecution showed Zuzul's several statements he had made at the time. A text published in the New York Times in July 1995 quoted Zuzul's words about a 'canker sore on Croatia's body'. In his diplomatic diary US ambassador to Croatia Peter Galbraith noted that Zuzul told him to 'forget about the Serbs returning to Krajina as it would only bring trouble'. The witness clarified that by saying 'canker sore' he had meant the occupation of Croatia and not the Serb population. According to Zuzul, Galbraith's notes didn't correspond the actual events.

Former Croatian foreign minister and one of Tudjman's most prominent diplomats thus completed his evidence. The trial of Gotovina, Cermak and Markac, charged with crimes perpetrated during the Operation Storm and after it in August 1995 continued in closed session with the evidence given by the next witness of Ante Gotovina's defense.

2009-06-12

THE HAGUE

IMMUNITY FOR GOTOVINA'S INVESTIGATOR

At the trial for crimes committed during and after Operation Storm, a hearing has been scheduled on the motion filed by Ante Gotovina's defense to grant immunity to Marin Ivanovic, Gotovina's team investigator. He has been charged by a Zagreb court with trying to conceal documents sought by the prosecution.

The Trial Chamber with judge Alphons Orie presiding scheduled a hearing for 26 June 2009 where the two parties and the Republic of Croatia will present their arguments concerning Ante Gotovina's motion for the suspension of the proceedings against Marin Ivanovic, member of Gotovina's defense team before the Zagreb Municipal Court. In late 2008, the Croatian public prosecutor charged Ivanovic with the destruction and/or concealing of materials the prosecution has been requesting from the Republic of Croatia to no avail.



◀ Luka Misetic, defense attorney for Ante Gotovina

In April 2009, the defense filed a motion asking the Trial Chamber to grant Ivanovic 'functional immunity' from prosecution before the Croatian judiciary in order to ensure Gotovina's right to a fair defense. In its reply, the prosecution stated that this was 'the wrong motion, brought by the wrong party before the wrong court.'

The Trial Chamber will hear not only the prosecution and the defense, but also the third party in this case on 26 June 2009. The Trial Chamber has called the Republic of Croatia to send its authorized representatives who have knowledge of the events related to the indictment against Ivanovic.

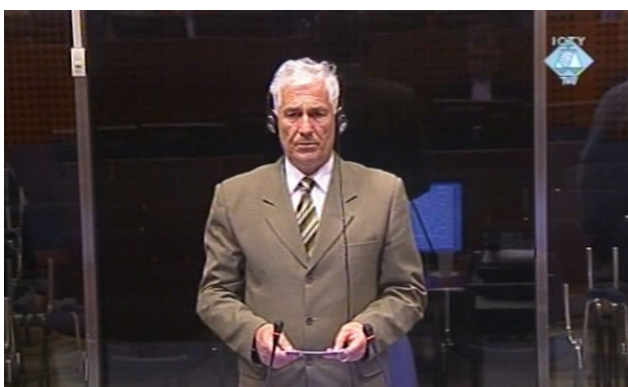
Generals Ante Gotovina, Ivan Cermak and Mladen Markac on trial for taking part in a joint criminal enterprise aimed at the expulsion of the Serb population from Krajina in the summer and autumn of 1995. Gotovina's defense will call its fifth witness next week.

2009-06-17

THE HAGUE

MRKSIC BEGINS HIS EVIDENCE AS GOTOVINA'S DEFENSE WITNESS

On the first day of his evidence at the trial of the Croatian generals for crimes during Operation Storm, former Krajina Serb army commander Mile Mrksic has said he was appointed to that post at the insistence of Slobodan Milosevic, who told him about an agreement with Tudjman and ordered him to stabilize the military and political situation in the RSK and create preconditions for negotiations with Croats.



◀ Mile Mrkšić, svjedok odbrane Ante Gotovine

Although he indicated earlier that he 'may not be willing' to give evidence in Gotovina's defense, former Serbian Krajina Army (SVK) commander Mile Mrksic appeared today before the court to answer the questions of the defense, but with a minor caveat. Mrksic agreed to start evidence without his lawyers, but warned the judges that they would 'have to keep an eye on what I'm doing in the courtroom' as he might say something to incriminate himself. After the judge convinced him that they would do so, adding that Mrksic's lawyer Domazet was expected to arrive tomorrow, Mrksic made a solemn declaration to tell the truth and started his testimony.

In response to the questions by Gotovina's defense counsel Luka Misetic, the witness said that in late May 1995, approximately two months before Operation Storm, he was transferred from the post of the deputy defense minister in the FR Yugoslavia government at the behest of Slobodan Milosevic to the post of the SVK commander. As soon as the Serbian Krajina assembly confirmed the appointment, Mrksic went to Karadjordjevo where he met with Milosevic, who allegedly told Mrksic then that the Krajina question 'could no longer be resolved militarily but only politically' and that the goal must be to achieve 'coexistence with Croats'. That is why the RSK army was to be strengthened to restore the people's trust in it, because that would force the politicians on both sides to negotiate. 'I agreed with Franjo to give you five months to consolidate the army to prevent the war', Milosevic allegedly said, meaning the Croatian president Tudjman. As Mrksic noted, Milosevic 'was on good terms' with Tudjman.

The witness described how he tried to professionalize the Krajina army although he faced a shortage of good troops: the best fighters had left for Serbia 'to do some smuggling' and 'only old men remained' to defend their homes. Mrksic's goal was, he said, to restore the SVK to its 1994 status, when it held fast the positions; it was necessary to launch an attack on Mount Dinara and the Grahovo-Livno line as a priority. Milosevic, however, had different ideas, and ordered the operations to focus on the Cazin Krajina and on the assistance to Fikret Abdic's forces in their fight with the BH Army Fifth Corps. In an operation called Spider, the Republika Srpska forces were deployed together with the Serbian State Security personnel. Mrksic first said that the Serbs were in 'command of the Spider', and then admitted that at one point he himself took over the command of the operation.

On the one hand, Mrksic's replies favored Gotovina's defense, which claims that the strings in Krajina were pulled from Belgrade, that Croatia had every reason to fear the advance of the Serb joint forces towards Bihac and a 'replay of Srebrenica' and that in the summer of 1995, the Krajina army was far stronger than the prosecution claimed. On the other hand, Mrksic said that the elite SVK troops were neither particularly large nor dangerous.

As he began his evidence, the witness said he had kept silent for too long 'bearing the burden within for 14 years'.

Today, when he finally decided to talk, Mrksic often spoke too long and too fast. The interpreters were unable to catch up with him and he was repeatedly cautioned. Mile Mrksic awaits his transfer to a country where he would serve his 20-year sentence. In May 2009, he was convicted of aiding and abetting the murder of more than 200 Croatian prisoners at the Ovcara farm near Vukovar in November 1991.

2009-06-18

THE HAGUE

PEOPLE WERE DRILLED TO FLEE INTO THE WOODS, NOT TO SERBIA

Describing the situation before Operation Storm, Mile Mrksic has claimed that the SVK, under his command at that time, was independent of the Bosnian Serb army and Serbia. Mrksic did admit that Milosevic had 'overall authority' over them. According to Mrksic, there was a plan for the evacuation of the people, but it envisaged only a temporary move into the woods, not to BH or Serbia.



◀ Mile Mrksić, svjedok odbrane Ante Gotovine

Former commander of the Serbian Krajina Army (SVK) Mile Mrksic testified today at the trial of three Croatian generals charged with crimes during Operation Storm. On the second day of Mrksic's examination-in chief, Ante Gotovina's defense counsel focused on the time before Operation Storm, in an effort to prove two defense arguments: first, that with the support from Republika Srpska and Serbia, SVK was a respectable force that had to be attacked with every available asset; second, that Krajina authorities had put together a plan for the evacuation of the Serb civilians because they were expecting an attack.

To corroborate this, the defense counsel showed two key documents, the war diary of the then commander of the VRS Ratko Mladic and the report on Operation Storm sent by Mrksic on 26 August 1995 to the VJ commander, Momcilo Perisic. Mrksic tried a few times to contest authenticity of the two documents, calling Mladic's entries 'hindsight'. As for his report, it was actually drafted by his associates, he claimed.

In an effort to prove there was coordination between the Serb armies in the region, the defense counsel showed an entry from Mladic's diary mentioning a meeting in Belgrade in late June 1995. According to the entry, it was clear that the Bihac pocket was attacked by the joint forces of Serbia, Krajina and Republika Srpska. Mrksic however claims that his army's participation was restricted to small special units. For them, it was more of a 'drill', than a real operation. According to Mrksic, the objective of the attack was not Bihac but a number of villages in the Cazin Krajina that wanted to join Fikret Abdic.

When Mrksic was shown his own report of 26 August 1995, where he says that the SVK was part of the VJ and that it should be more supported with more determination, Mrksic said that those conclusions were not his because he 'never reported' to the chief of the VJ General Staff Momcilo Perisic. The VJ, the SVK and the VRS, Mrksic explained, were 'three independent systems', but he agreed that Slobodan Milosevic 'had overall authority' over the Krajina Serb leadership. Describing his 'military entity', Mrksic said he needed only a few more months to consolidate the army. After that, he would have been able to inflict 'unbearable losses' to the Croatian Army if it had launched an attack, and there would have to be an effort to find a peaceful solution. In early August 1995, Mrksic explained, he did not have the capabilities to do it.

When the Croatian attack began, so did the 'evacuation of the people', but inside the RSK territory. Mrksic didn't contest the fact that on the first day of Operation Storm the RSK leadership ordered the temporary evacuation of the people into the woods. 'The gentlemen in the dock', as Mrksic called the accused generals Gotovina, Cermak and Markac, should be grateful for that. In Mrksic's opinion, what happened to the elderly who couldn't flee showed what would have happened to any large groups of unprotected civilians after the arrival of 'the berserk forces'. The Croatian generals would be responsible for that, Mrksic noted, although they would not have been able to prevent crimes.

When Knin TV footage from July 1995 with images of the evacuation drills was shown to Mrksic, he said it definitely was not 'drilling to flee in Operation Storm'. It was all about making plans for temporary accommodation for the people in nearby forests from where they would return to their homes once the danger was over.

Mrksic's examination-in chief will be completed tomorrow. Next week Mrksic will be cross-examined by Mladen Markac's defense and the prosecution.

2009-06-19

THE HAGUE

ACCURATE FIRE ON MILITARY TARGETS, RANDOM TARGETING OF CIVILIANS

Former commander of the RSK Army Mile Mrksic claims he was amazed by the accuracy of the Croatian artillery as it targeted military facilities during Operation Storm. The accurate fire was followed by 'random artillery attacks' on civilian targets in towns, he says. Mrksic's 'misunderstanding' with Martić has continued to this day.



◀ Mile Mrksić, svjedok odbrane Ante Gotovine

Operation Storm was launched in the early morning of 4 August 1995, with the 'incredibly accurate' shelling of military targets in Knin, said Mile Mrksic, the last commander of the Serbian Krajina Army (SVK). He is testifying at the trial of generals Gotovina, Cermak and Markac. He was quite astonished by the fact that the artillery then went on to target random civilian facilities in Knin and all over Krajina. Had they continued what they had started, the Croatian commanders could have cut off and surround many SVK units, but they 'did not cut them off, but pushed them back and intimidated', in order to force the civilians to flee.

In an effort to show that the civilians didn't leave because of the Croatian attack but because the Krajina authorities decided they should leave, defense counsel Luka Missetic produced an order by the RSK president Milan Martić to evacuate the population, issued on 4 August 1995 in the afternoon. Yesterday the witness claimed the people were to seek temporary shelter in Lika; today the defense counsel showed a video clip where former mayor of Knin Drago Kovacevic claims that at a meeting of the Krajina leadership, Mrksic demanded that the people should be evacuated further from Lika, to Bosanski Petrovac and Banja Luka. It was not true, Mrksic replied today, because he 'would never have changed a decision' of the military and political top.

According to the defense, the UN documents show that the plan was to move the civilians further away from Lika: the Serb authorities asked the peace-keepers for enough fuel to transport 32,000 refugees to Petrovac and Banja Luka. 'That's the mindset of our people: take as much as you can. If they need fuel for 50 kilometers, they'll take enough for 200,' Mrksic explained.

As the hearing continued, there was a discussion about whether the 'exodus' as Mrksic called the departure of the people from Krajina, included the troops, as the prosecution is claiming, or if the SVK actually tried to fight back the Croatian onslaught, as the defense argues. This was a contentious issue among the Krajina leadership in the aftermath of Operation Storm. In a TV show broadcast by Banja Luka TV in the fall of 1995, Milan Martić accused Mrksic of pulling out the troops from Krajina and leaving it at the mercy of Croats; Martić claimed Mrksic had been acting in accordance with a decision made months before Operation Storm in Belgrade. In an effort to defend himself, Mrksic in a way helped Gotovina's defense, saying Martić's claims were 'hindsight', and explaining that the SVK forces had withdrawn to their back-up positions once they had been forced out of Knin. The only claim former RSK president made in the TV show that Mrksic agreed with was that on the evening of 4 August Martić ordered the shelling of Zagreb, but Mrksic refused to do it.

It was Martić's goal, the witness said, to shift the blame for the loss of Krajina on him. "I bear the guilt to this day and that's why I'm grateful to Gotovina's defense for calling me to testify here," Mrksic said, denying he was Milosevic's and Serbia's man in Krajina. After the fall of Krajina he was denied entry into Serbia for a while, he said. At one point he was placed under house arrest, sent into early retirement and ended up selling produce at a green market.

Mile Mrksic's examination-in-chief was completed today. Next week, he will be cross-examined first by Mladen Markac's defense and then by the prosecution.

2009-06-22

THE HAGUE

MRKSIC: SHELLING AIMED AT 'DRIVING THE PEOPLE CRAZY'

In his cross-examination, Mile Mrksic explained why he believed the Croatian artillery attacks were aimed at civilians and why in his view the civilians didn't return to their houses as was envisaged in the evacuation plan drafted by the Krajina leadership.

In his cross-examination, prosecutor Russo gave Mile Mrksic, Ante Gotovina's defense witness, an opportunity to elaborate the claims he made in his examination-in-chief and to corroborate the allegations in the indictment better than many prosecution witnesses, including several military experts, have managed to do. During and after Operation Storm, at the time when the crimes Croatian generals Gotovina, Cermak and Markac are charged with were committed, General Mrksic was the commander of the Serbian Krajina Army (SVK).



◀ Mile Mrkšić, svjedok odbrane Ante Gotovine

Asked to clarify the claim he made in the examination-in-chief about the accuracy of the Croatian Army (HV) artillery attack on military targets in town and the 'random shelling' of other towns that followed, Mrksic said that he was 'surprised' by the enemy actions. Instead of proceeding with accurate guided missiles and redirecting attacks from the few military targets in Knin to the front lines, the Croatian artillery used inaccurate multiple rocket launchers to target inhabited places in the Krajina hinterland, where there were no combat units.

Describing the attack on Knin, the witness said that on the first day of Operation Storm, on 4 August 1995, the whole town was shelled except for the UN mission headquarters. The rockets that were used could not cause great destruction; instead they made a sound that 'drives the people crazy'. After the first shells hit the town, the witness contends, he saw children crying and women in panic fleeing their homes; 'they didn't even have time to get dressed'.

'The aim was to frighten the civilian population and to make Serb fighters run to their homes and check how their families are doing, which would shake the defense lines', Mrksic said, concluding his analysis of the artillery attack on Krajina. The prosecution wanted to prove the very same point by tendering into evidence the transcripts of the Brijuni meeting of 31 July 1995. Addressing the high-ranking military and police officials, the Croatian president Tudjman said that it was important 'that civilians leave first and the army will follow them'.

Mrksic said that the civilians had left Krajina primarily because towns were shelled; the prosecution asked him to explain why the Krajina leadership decided to evacuate the population on 4 August 1995. The people would have sought shelter from the attack even if no such decision had existed, Mrksic claimed, but everybody would have returned to their homes once the danger was over. 'Nobody will leave voluntarily that little house of his, his piece of land and the little cow on a whim', Mrksic explained, adding that the evacuation was supposed to be a temporary solution before the international community responded. As there was no response and the conditions in the town of Srb in Lika, where most of the refugees had gathered became unbearable, the civilians and the army continued fleeing towards Bosanski Brod and Banja Luka.

Mrksic will complete his evidence tomorrow morning after the re-examination by Gotovina's defense counsel Luka Miletic.

2009-06-23

THE HAGUE

'GOLDEN BRIDGE' FOR KRAJINA SERBS

On the last day of his testimony, former Serbian Krajina Army commander Mile Mrksic again answered questions by Ante Gotovina's defense counsel, who challenged the prosecution case that Serbs had been left a corridor to flee to BH and Serbia during Operation Storm; the purpose was to ethnically cleanse Krajina. Miletic quoted ancient Roman sources which state that it is better to leave 'a golden bridge' for the enemy to withdraw than to fight.

Gotovina's defense counsel Luka Miletic re-examined former Serbian Krajina Army (SVK) commander Mile Mrksic today. For a moment, he left the time relevant for the indictment against three Croatian generals for crimes in Operation Storm and went far back into the past. He quoted Roman philosopher Flavius Vegetius Renatus, in an effort to challenge the prosecution argument that during Operation Storm the Croatian Army deliberately left a corridor leading from Dalmatia to the town of Srb in Lika and further to the border with Bosnia and Herzegovina, so that the civilians could leave Krajina, thereby implementing the plan for the permanent removal of Serbs from that part of Croatia.

In his work, *On Military Matters*, the Roman philosopher criticizes the military leaders who want to 'surround and cut down the enemy'. The flight of the enemy soldiers should not be prevented, but facilitated. If this is done, the enemy will focus on how to flee; if the enemy soldiers are surrounded, they will fight the attacker in desperation, inflicting great casualties, the Roman philosopher says, recommending that a 'golden bridge' be left for the enemy to flee. The defense counsel thus implied that the Krajina 'golden bridge' was meant for the soldiers, not civilians.

There is no need to go that far into the past to prove a military truth that is general knowledge, Mrksic said, adding that he himself, when he commanded the attack on Vukovar in the fall of 1991, left a route to Vinkovci open to allow Croatian fighters to pull out. It is the goal of every commander, he said, not to encircle the enemy, because it puts the enemy soldiers in a situation where they 'defend themselves instinctively and try to sell their lives as dearly as they can'. The debate was cut short by presiding judge Orić, who remarked that military philosophy was not always in step with military history. The Chamber did not find examples that don't have anything to do with Operation Storm useful at all.

The defense counsel devoted most of his re-examination today to challenge Mrksic's claims from the examination-in-chief that some facilities targeted by the Croatian artillery – such as the Knin railway station and TVIK factory – did not have any military significance. Misetić showed him SVK and ECMM documents indicating that on 4 August 1995 trains were observed in Knin and that in the spring of that year TVIK factory manufactured modified air bombs. The witness stood by his earlier claims, saying he had never heard of anyone travelling by train from Knin throughout his stay in Krajina. He allowed that TVIK factory may have 'manufactured a bolt or two' used for a military purpose.

This ended Mile Mrksic's five-day testimony. Before leaving the courtroom, Mrksic thanked the judges for their 'patience', the prosecutor for 'being concise and clear', and defense counsel Misetić for 'his persistence in the efforts to bring [Mrksic] to the stand', allowing him to 'unburden' his soul. Gotovina's defense then called its next witness, former chief of the Crime-fighting Service in the 72nd Military Police Battalion, Boris Milas, whose evidence will continue tomorrow.

2009-06-24

THE HAGUE

WHAT CONSTITUTES 'MASS BURNING'

Former military police officer Boris Milas has said it is his impression that about 200 houses were burned down in Krajina after Operation Storm. Milas contends that this could in no way be called 'widespread' destruction. Soon after Milas nodded his head when the judge asked him if more than a thousand burned houses listed in a report by Croatian Military Police chief Mate Lausic qualified as 'widespread' arson.



◀ Boris Milas, svjedok odbrane Ante Gotovine

Boris Milas, former chief of the crime investigation division in the 72nd Military Police Battalion of the HV continues his evidence in the defense of Ante Gotovina. Today he tried to confirm two arguments in the defense case: that the accused general had no jurisdiction over the military police during and after Operation Storm in August 1995 and that looting and burning of abandoned Serb houses were not widespread, contrary to the claims by many international observers who testified for the prosecution. Generals Gotovina, Cermak and Markac are charged with a number of crimes committed in the course and after the operation.

On 3 August 1995, on the eve of Operation Storm, Milas and other officers in the 72nd Battalion were introduced to two officers from Zagreb, Ivan Juric and Ante Glavan. On the orders of Military Police chief Mate Lausic, the pair in effect took command of the 72nd Battalion. In the chain of command, Milas claimed, the crime investigation division reported to 1st Lieutenant Glavan; the commander was subordinate to Major Juric. All the information went to the Military Police Department which in turn issued all the orders. Milas's evidence thus directly contradicts the testimony of Mate Lausic, Military Police Department chief. According to Lausic, the military policemen in Krajina after Operation Storm were under Gotovina's command. In line with that, Lausic stated, he was not responsible for the identification and punishment of the perpetrators in HV ranks.

Continuing his examination, Gotovina's defense counsel Luka Misetić raised the issue of the destruction of abandoned Serb houses after Operation Storm. Misetić showed a letter from the UN Secretary General's personal representative Yasushi Akashi. In the letter of 16 August 1995, Akashi says that whole villages, such as Kistanje, Djevske and Otric were on fire in Krajina. Some 200 houses were set on fire in Sector South, he notes. That number, Milas said, more or less corresponded to what he had seen in Krajina after Operation Storm. It is not true, Milas said, that all the houses were on fire: there would be just a house or two in each of the villages. The witness was adamant that what he had seen could in no way be called 'widespread and mass arson' in Krajina; the witness did add that after 16 August 1995 he didn't spend much time in the liberated territory.

In an effort to prove that most of the Serb houses were burned by civilians, the defense counsel showed a report General Lausic sent to the defense ministry in December 1995, stating that the civilian police had by that time filed more than a thousand criminal reports against the perpetrators, while the military police conducted only 15 investigations. The presiding judge then asked the witness if more than a thousand was a number big enough to meet the 'widespread arson' standard. Milas first said that it was 'a very large number'; when the judge repeated his question, Milas nodded to confirm.

In the second part of the hearing, prosecutor Mahindaratne started cross-examining Boris Milas.

2009-06-25

THE HAGUE

AS IMPRESSIVE AS IT GETS

Gotovina's defense witness Boris Milas, former chief of the military police CID, was told by the prosecutor that the military police filed just a few criminal reports after Operation Storm for looting and none for the murder and burning of Serb houses. He admitted that it 'is definitely not an impressive number', but went on to say that it was impossible to do more than that because there were few reports from the field about the Croatian soldiers committing crimes.



◀ Boris Milas, svjedok odbrane Ante Gotovine

Prosecutor Mahindaratne today continued her cross-examination of Boris Milas, former chief of the 72nd Military Police Battalion CID. Noting that war crimes were not investigated and perpetrators not punished after Operation Storm, she presented a table listing all the criminal reports filed against Croatian soldiers from August to the end of 1995. A total of 19 criminal reports were filed in Sector South; a mere handful has to do with the looting and none with the burning down of abandoned Serb houses and the killing of civilians. Only two out of 13 criminal reports filed in the Knin company of the 72nd Battalion concern looting.

'This is definitely not an impressive number', Milas said.

He was called to testify by Ante Gotovina's defense. Gotovina is charged with generals Cermak and Markac with crimes against Serbs and their property after Operation Storm. As the witness explained, the fact that no investigations were carried out and no criminal reports were filed is due to personnel shortages and other, more important tasks the military police had to do, such as 'processing' prisoners of war and investigating deaths of the HV troops. The main reason, Milas said, was lack of reports from the field about crimes committed by Croatian soldiers. This prompted the prosecutor to show him several entries in the Knin company log book indicating that in the summer of 1995 such reports were received. The usual procedure in those situations was to dispatch a patrol to the crime scene. Upon arrival, the patrols would determine that the perpetrators had fled the scene. There were no follow-up investigations or prosecutions. Milas tried to justify this approach saying that some reports indicated there were assumptions that the HV troops or 'uniformed persons' were involved; this did not mean they were soldiers.

For General Gotovina to be found responsible for the inertia of the military police – its failure to punish perpetrators – the Trial Chamber should accept the prosecution argument that Gotovina, as the Split Military District commander, had jurisdiction over military police units in Krajina. The witness was adamant in his denial that this was the case. Today he contended that the command over the military police and its crime investigation division was exercised along the 'professional line' from the Military Police Department in Zagreb. When asked what prevented Gotovina from ordering the crimes in Sector South to be investigated, Milas said that if Gotovina had gone to the CID, it would have been 'extremely unusual', adding that the accused general may have been in a position to issue orders to Mihael Budimir, 72nd Battalion commander.

In an attempt to contest the credibility of the witness, the prosecution showed a report drafted by the Croatian authorities in 2000. The report states that Milas took part in Operation Hague as a member of the Croatian Army Security and Information Service. He joined the Service in 1996. The purpose of the operation was to prepare witnesses and conceal documents sought by the Tribunal in the Blaskic and Kordic-Cerkez cases. Milas admitted that on two occasions in 1997 he 'escorted' trucks with documents from Herceg Bosna to the Lora naval base near Split. However, Milas claimed that he didn't know what papers were inside boxes. According to Milas, the Security and Information Service merely dealt with the technical side of the preparation of witnesses. 'I was not aware I was part of Operation Hague and I had no idea of its purpose', the witness said.

2009-06-26

THE HAGUE

GOTOVINA VS. STATE OF CROATIA

At a hearing before the Trial Chamber trying three Croatian generals, Ante Gotovina's defense argued their motion to suspend the proceedings against Marin Ivanovic, Gotovina's defense team investigator, before a Croatian court. Ivanovic is suspected of concealing documents from military archives. Representatives of the Croatian judiciary oppose the motion, noting that Ivanovic enjoys no immunity from prosecution before domestic courts. Some of the documents the prosecution has been seeking for years from the Croatian authorities were found in possession of people working for Gotovina's defense team.



◀ Ante Gotovina in the courtroom

General Ante Gotovina's defense case at the trial of three Croatian generals for crimes against Serbs during and after Operation Storm was suspended briefly for a hearing on the motion filed by Gotovina's defense. The motion asks the Trial Chamber to order the Republic of Croatia to suspend criminal proceedings against Marin Ivanovic, a defense team investigator. Ivanovic has been charged with concealing military documents similar to those the prosecution has been seeking for years from the Croatian authorities to no avail. Representatives of both the Croatian justice ministry and the public prosecutor's office were present at the hearing today.

Explaining the defense position, lead counsel Luka Misetic said that the accused Ivanovic should have immunity from criminal prosecution in Croatia; Tribunal's judges and prosecutors enjoy this immunity. The relevant article in the Tribunal's Statute, copied into the Croatian law on cooperation with ICTY, does not envisage immunity for defense team members. The defense counsel invoked the right of the accused to a fair trial and guaranteed equality of arms. This, the defense counsel argued, is the reason why all defense representatives should be granted 'functional immunity' in the territory of Croatia, in order to have equal rights as the prosecution. Misetic complained that the police had frequently interrogated Ivanovic and at least four other people who work for the defense in Croatia. It has been obstructing the work of Gotovina's team, Misetic said.

Josip Cule, Croatian deputy state prosecutor, said that under Croatian laws, defense counsel representing the accused before the ICTY did not have immunity from criminal prosecution, reminding the court that the three people charged with concealing documents, including Ivanovic, did not invoke immunity. Explaining the circumstances in which the 'preliminary interviews' were held with five members of Gotovina's team, Gordan Markotic, from the Croatian justice ministry, said that the interviews had been part of an investigation undertaken by Croatia once the Tribunal issued its order to 'extend and intensify the search' for lost documents in September 2008. Some 240 persons were questioned, Markotic said, and the transcripts of the interviews were delivered to both the Trial Chamber and the Croatian investigative bodies. The Croatian investigative bodies decided to file criminal reports against a number of persons.

The Croatian representatives noted that some of the missing military documents had been received from the people who worked with Gotovina's defense team. They had been questioned in the course of the investigation. Some documents were obtained on the basis of the information they imparted in the course of the interviews.

As the hearing today drew to a close, presiding judge Orić said that the Trial Chamber would 'consider carefully' all the aspects of domestic and international law, with the caveat that this need not mean that the Tribunal had authority and power to react in this case. The trial of generals Gotovina, Markac and Cermak continues on Tuesday.

2009-06-30

THE HAGUE

MANY WERE CHARGED, BUT THERE WERE NO CONVICTIONS

Noting the efforts of the Croatian authorities to prosecute war crimes after Operation Storm, Gotovina's defense called Pero Perkovic, a Croatian soldier indicted for murder in the village of Gosici. According to Perkovic, the investigation was defective and the admissions of guilt were made under duress. As a result, the indictment was dropped and nobody has been convicted for the murder of 16 civilians in the villages of Varivode and Gosici.



◀ Pero Perković, svjedok odbrane Ante Gotovine

The defense counsel of Croatian generals on trial for crimes during and after Operation Storm in August 1995 are trying to contest the allegation in the indictment that an atmosphere of impunity for crimes committed against civilians was an element of the joint criminal enterprise aimed at expelling Serbs from Krajina. In an effort to prove that the perpetrators were criminally prosecuted, Ante Gotovina's defence called as its witness a former member of the 15th Home Guard Regiment, Pero Perkovic. Perkovic is one of the Croatian soldiers charged with the murder of Serb civilians in the village of Gosici.

The murder of 16 Serb civilians in the villages of Varivode and Gosici in Krajina is one of few trials before the Croatian courts for war crimes in Operation Storm. It certainly is the biggest. As Perkovic recounted today, it all started with arrest of a group of Croatian soldiers in mid-October 1995. He and his fellow soldiers – Ivica Petric, Nikola Rasic and some others – were among them. They signed their statements, Perkovic contended, because they were physically and mentally abused all the time. They were beaten and told they would be sent to The Hague. They were blamed for 'Croatia not joining the EU', Perkovic said.

When the investigative judge visited the scene of crime, it turned out that statements given by the accused didn't match the crime scene, Perkovic contends. All the accused were acquitted. When a higher court decided to reopen the case, the Sibenik prosecutor Zeljko Zganjer decided to drop it. In his evidence for the prosecution in November 2008 Zganjer gave the same reasons as Perkovic for dropping the indictment: the statements of the soldiers didn't match the findings at the crime scene and the soldiers claimed that their guilty pleas had been given under duress. They were 'brutally beaten' by the police, they claimed.

When a debate started on the views Gotovina's defense had about the prosecution for the crimes in the villages of Varivode and Gosici, presiding judge Orije intervened, saying the Chamber realized the defense wanted to show that 'investigations were carried out, even if the contents of guilty pleas were not true'.

When the prosecutor asked the witness in his cross-examination if the Varivode/Gosici case was ever closed, Perkovic said, 'No, nobody has been convicted yet and the perpetrators are unknown'. When asked if he knew about other crimes that were prosecuted, Perkovic said that as far as he knew there were several cases, and gave five or six examples of trials for isolated incidents in which Serb civilians were wounded or killed. One of the crimes Perkovic mentioned is the murder of an old Serb man in the village of Zrmanja. Perkovic's fellow fighter Ivica Petric was sentenced to six years for that crime, although he protested his innocence. Petric will have an opportunity to talk about his case in the courtroom in The Hague as he too is on Gotovina's witness list. The prosecution first planned to call Petric as a witness but then decided not to.

2009-07-01

THE HAGUE

'CRIMINAL AND KILLER' DEFENDING GOTOVINA

In his evidence in the defense of Ante Gotovina, former member of the 15th Home Guard Regiment Veselko Bilic admitted he had committed a number of crimes against Serb civilians after Operation Storm, including the murder of an old woman. In Bilic's words, he did it 'on his own'; 'criminals and murderers' like him should be in the dock instead of 'the innocent generals', he added.



◀ Veselko Bilić, svjedok odbrane Ante Gotovine

Yesterday Gotovina's defence called evidence about the response of the Croatian judiciary to the murder of Serb civilians in the villages of Gosici and Varivode in Krajina. Today his team continued with its efforts to prove that war crimes were prosecuted after Operation Storm. The defense called Veselko Bilic, former member of the 15th Home Guard Regiment. He was convicted by a Croatian court for the murder of an old Serb woman and was sentenced to seven and a half years in prison.

Describing the crime, Bilic recounted a rather unconvincing story. He contends that he went to the village of Pavici to find a man he described as 'Chetnik Zdravcina'; Bilic wanted revenge because Zdravcina had

slapped his father before the war. A couple of days earlier, Bilic said, he had seen Zdravcina talking to Dara Milosevic, a villager of Pavici. That's why Bilic decided to look for Zdravcina in Dara Milosevic's house. In early September 1995, Bilic came to Pavici and entered the woman's house. Bilic thought he heard her talking to the man he was looking for. 'Who are you talking to, you Chetnik woman', Bilic yelled at the old woman. 'To the devil with you, you Ustasha, get away from my house', she said to Bilic. After that, he 'secondarily', the term he used, meaning immediately fired a shot and killed the old lady.

Soon afterwards, Bilic was arrested by the military police. They turned him over to the civilian authorities. Bilic was sentenced to eight years in prison. His sentence was commuted to seven and half years on appeal. Bilic served only three and a half years because, as he explained, President Tudjman pardoned him twice, each time taking two years off his sentence. Bilic has recently been sentenced to a year in prison for sexually harassing an old Serb woman in the village of Gorica in September 1995.

Since the beginning of the trial of generals Gotovina, Cermak and Markac, the prosecution has argued the Croatian Army and in particular the Home Guard units took in people with hefty criminal records; they knew those people were capable of committing crimes in the territory liberated after Operation Storm. Prosecutor Waespi asked Bilic

if it was true that before Operation Storm began he had already clocked eight convictions for aggravated robbery, destruction of property and brawling, and had served five or six years in prison. Bilic gritted out that it was true adding that he 'suppressed those propensities deep inside'.

The witness confirmed the defense claim that he was not a member of the Croatian Army at the time he committed the crimes because he was demobilized on 18 August 1995. The prosecution now showed him a statement he gave to the defense about 10 days ago. In it, Bilic says that after his demobilization he kept his arms 'and carried out his tasks as best he could'. Bilic explained that he was guarding a water tower and two churches near Kistanje and capturing 'the remaining Chetnik groups'. His replies indicate that he issued the tasks to himself.

At the end of his evidence, Bilic answered questions by presiding judge, stressing that he 'committed all the crimes on his own'. The military structures didn't know about them. The Tribunal was wrong to try the three generals, he added. 'You have detained innocent people, it's criminals and murderers like me that should be in the dock, and not our generals', Bilic concluded.

2009-07-02

THE HAGUE

CROATIAN JUDICIARY AGAINST THE 'STAMPEDE PHENOMENON'

Describing the situation in Krajina after Operation Storm, Ivan Galovic, public prosecutor from Zadar, said that in the second half of 1995 there was a 'stampede phenomenon' there: Croat returnees and common criminals looted the abandoned Serb villages. In his evidence in Gotovina's defense Galovic said that the Croatian judiciary had tried to fight this with everything it had.



◀ Ivan Galović, svjedok odbrane Ante Gotovine

In his evidence for Ante Gotovina's defense district public prosecutor from Zadar Ivan Galovic claimed that after Operation Storm the Croatian civilian judiciary prosecuted all crimes perpetrated by former members of the Croatian Army. The defense will use his evidence to contest the allegation in the indictment that generals Gotovina, Cermak and Markac were responsible for creating an atmosphere of impunity resulting in numerous crimes against Serb civilians. As alleged by the prosecution, this contributed to the Serbs' exodus and prevented Serb refugees from returning.

Defense counsel Kehoe produced several reports drafted by the Zadar public prosecutor's office, signed by

Galovic. The reports, sent to the Justice Ministry, prove that more than 1,000 criminal reports were filed from August 1995 to February 1996 for crimes committed in Krajina. Most of them deal with looting and robberies; dozens of reports were filed for murder and less than ten for arson and destruction of abandoned Serb houses. The reason behind those figures, Galovic clarified, is that theft is easy to prove because perpetrators are often caught with stolen items in their possession; murder, on the other hand, requires a more serious investigation. It was almost impossible to prove the case for burning and blowing up of houses, Galovic noted, because the police couldn't catch perpetrators: the area was simply too big.

The prosecutor from Zadar claims that in the chaos after Operation Storm there was a 'stampede phenomenon'; different categories of persons stampeded into the liberated area. The two dominant groups in the stampede were the Croat returnees who had been expelled from their homes between 1991 and 1995 and the criminals whom Galovic labeled 'vultures' or 'small-time thieves'. The first looted in revenge. In their defense before the court they would argue that they just 'went to collect their things'. The other group looted whatever they could, including items from the house owned by witness's mother-in-law in Karin. In Galovic's view, the same people looted and burned down houses. When they stood trial later, they defended themselves saying that they just 'rescued those things from burning houses'.

In late 1995, Galovic issued an indictment against a group of Croatian soldiers, charging them with murder of 16 Serb civilians in the villages of Varivode and Gosici. The group of demobilized soldiers had been wandering around Krajina villages 'on their own', looting and killing Serb civilians. As the witness put it, he was 'unpleasantly surprised' when they were acquitted. The Supreme Court then granted his appeal and ordered a re-trial. The judiciary districts were redrafted at that time, and the trial continued before the court in Sibenik. Zeljko Zganjer, public prosecutor from Sibenik, soon gave up on the prosecution, primarily because the accused claimed that they had given their statements to the police under duress. The murder of Serbs in Varivode and Gosici has not been closed yet.

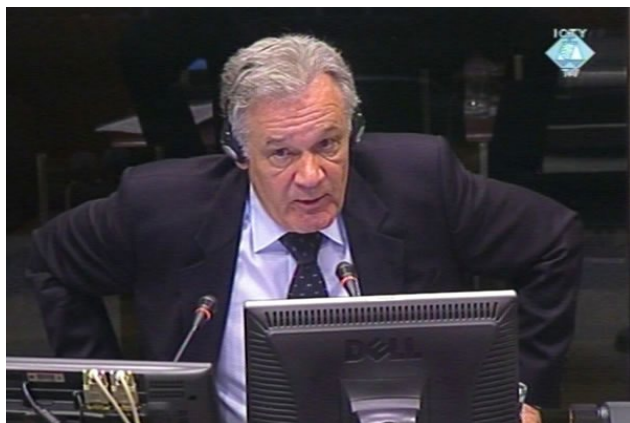
Before the hearing ended today, prosecutor Mahindaratne began cross-examining the witness.

2009-07-03

THE HAGUE

A THOUSAND QUESTIONS ABOUT A THOUSAND CRIMINAL REPORTS

In her cross-examination of Zadar public prosecutor Ivan Galovic, the prosecutor tried to prove that the thousand criminal reports filed after Operation Storm in Krajina included a substantial number of criminal reports that had nothing to do with the crimes generals Gotovina, Cermak and Markac are charged with.



◀ Ivan Galović, svjedok odbrane Ante Gotovine

In the first part of her cross-examination of district public prosecutor from Zadar Ivan Galovic today, prosecutor Mahindaratne contested his claim that the Croatian judiciary had vigorously prosecuted crimes against Krajina Serbs after Operation Storm. Generals Gotovina, Cermak and Markac are charged with those crimes. Yesterday, the defense tendered into evidence several reports Galovic sent to the Justice Ministry. In them Galovic says that in 1995 and 1996 about a thousand criminal reports were filed in the Zadar county against perpetrators of crimes in Krajina after Operation Storm.

The prosecutor however contended that a good part of the criminal reports had nothing to do with war crimes against Krajina Serbs, arguing that Galovic's reports were 'mere statistics' uncorroborated by specific data. In other words, documents with the witness's signature didn't specify the names of the accused and individual crimes they were charged with. The Zadar prosecutor admitted that all the crimes in Krajina after 7 August 1995 were listed among the thousand criminal reports, regardless of the ethnic background of the victims. According to him, the only criterion for the inclusion in the report was for the crimes to have been perpetrated in the liberated area.

As the prosecution contends, a report Galovic sent to the public prosecutor's office in Zagreb in 2006 shows what was put in the reports about the prosecution of crimes after Operation Storm. Galovic's report lists forgery, false contracts and crimes committed before August 1995. The most distinct example, in the prosecution's opinion, is the murder of an old Serb lady in the village of Karin Donji. The old woman died of a hand grenade activated by her husband. 'Murder is murder,' Galovic said, regardless of the ethnic background.

Although the Zadar prosecutor lost his most important case in court, he still believed that he was right when he indicted eight former HV members for the murder of 16 Serb civilians in the villages of Varivode and Gosici. Galovic is leery of the story about the accused making confessions because of police brutality; however he admitted that their confessions didn't match the ballistics at the scene of crime and the eye witness accounts. Galovic was unhappy both with the acquittal of all the accused by the Zadar court and the decision of the Sibenik prosecutor Zeljko Zganjer to drop the charges before the retrial.

The trial of generals Ante Gotovina, Ivan Cermak and Mladen Markac for crimes against Serbs during and after Operation Storm continues on Tuesday.

2009-07-07

THE HAGUE

CLEARING UP AFTER OPERATION STORM

Testifying as Gotovina's defense witness, former assistant police minister Zdravko Židovec has denied the prosecution's allegation that the clear-up operations after Operation Storm actually served to cover up the crimes. The army didn't take part in the clear-up, he claims.



◀ Zdravko Židovec, svjedok odbrane Ante Gotovine

As his defense case continued, General Ante Gotovina today called former Croatian assistant police minister Zdravko Židovec. During and after Operation Storm he was in charge of the Civilian Protection Service and was in the operational command dealing with the clear-up. He gave a statement about his involvement in the events to the Office of the Prosecutor in 2007. The prosecution then decided not to call him. The statement was tendered into evidence by the defence today.

Describing the procedure that was followed in the clear-up operations, Zidovec said that the Civilian Protection teams always included crime scene technicians who were there to determine the cause of death of any bodies found in the liberated area. If there was no evidence of violent death, the bodies were buried. If there was any indication of foul play, the case was handed over to the civilian crime police. The same procedure was followed when the fire-fighting teams determined that a house had been set on fire deliberately, and not in combat. The defence is now challenging the prosecution's case that the 'clear-up operations' actually served to cover up the crimes against Serb civilians that generals Gotovina, Cermak and Markac are charged with.

The other element of the clear-up effort involved going to abandoned houses in Krajina, to check if there were any bodies there and to remove any food left in the freezers and refrigerators to prevent contagious diseases. If a house was locked, the teams would break into it. Some 48,000 abandoned houses were dealt with in this way, Zidovec says. Civilian Protection teams wore 'grayish-greenish-brownish' uniforms. The patch was orange with a blue triangle.

Apart from the civilian protection, the witness was also in charge of setting up reception centers for Serb and Croat civilians. The centers were there to provide assistance to the people, mostly elderly, Zidovec claimed and denied that the people were pressured to leave Croatia. He drew a distinction between 'reception' and 'collection' centers, saying that there may have been prisoners of war in the latter. POWs were questioned in those centers, he said.

In his examination-in-chief, the witness claimed that the army had not taken part in the clear-up operation, apart from providing limited logistic support. The prosecutor showed him a document from the Split Military District dated 1 August 1995, which says that the HV personnel should start clearing up the area together with the police, or on their own, 'if the clear-up operation can be conducted quickly'. The witness claims he has never seen the document before.

2009-07-09

THE HAGUE

US MILITARY ATTACHE IN GOTOVINA'S DEFENSE

Former US military attaché to Croatia Richard Herrick claims that he was 'impressed' by General Ante Gotovina's military acumen; in his view Operation Storm was aimed at reclaiming the occupied territories and not at expelling the Serb civilians. He admits, though, that he could say nothing about the consequences of the Croatian attack, since he left the office two days before it began.



◀ Richard Herrick, svjedok odbrane Ante Gotovine

During and after Operation Storm in August 1995, Peter Galbraith was the US ambassador to Croatia and Richard Herrick was his military attaché until the start of Operation Storm. Generals Gotovina, Cermak and Markac are on trial for the crimes committed in the course of and after Operation Storm. Galbraith gave evidence for the prosecution in June 2008, stating that the crimes in and after Operation Storm were committed 'on the orders of or were tacitly approved by the Croatian authorities'. Ante Gotovina's defense counsel decided to call Richard Herrick as a witness today in part to rebut Galbraith's claims about the Croatian authorities' intentions.

In his statement to the defense investigators, Lieutenant Colonel Herrick said that, in his view, Operation Storm was "not aimed at expelling the Serbs; its objective was to reclaim the occupied territory". Herrick formed this opinion based on his conversations with the Croatian officials, in particular with the defense minister Gojko Susak. The witness added he was 'impressed' by General Gotovina's military acumen: as the commander of the Split Military District, Gotovina commanded all the Croatian forces in the attack on Krajina in August 1995.

According to Herrick, the key problem of the Croatian Army was the lack of training among the NCOs, including in the area of law of war. However, the situation improved in that respect, the witness said, after General Gotovina put in some effort. Gotovina told Herrick that he had ordered all his subordinate officers to treat civilians and prisoners of war humanely. Herrick saw for himself that those were not just empty words: in the spring of 1995 he visited the HV units on the Mount Dinara. The man who drove a jeep, a member of the 4th Guards Brigade, said he was proud of the training in law of war he had received. He also boasted that his brigade never committed any crimes.

The prosecutor then asked Herrick in the cross-examination if he really believed that a HV soldier would tell him, a US military attaché, openly that he was a member of a unit that committed a number of crimes. 'Certainly not', Herrick replied, adding that he would not expect to be told by this soldier that he was proud because no crimes were committed. The prosecutor then showed him a document drafted by the HZ HB secret service in late 1994: the document says that 4th Guards Brigade troops stole livestock, household appliances, tractors and other valuables as they pulled out from Livno. The witness said the jeep driver had never told him that. Later on, Herrick heard that

members of that unit had participated in looting and burning of houses in Glamoc and Bosansko Grahovo. He said he never checked if something like that really occurred.

As Herrick claimed that the use of artillery in the Operation Storm was justified by military necessity and that the objective of the operation was not to expel Serbs, the prosecutor put it to Herrick that he could say nothing about the consequences of the Croatian attack, since he left the office of the military attaché on 2 August 1995, two days before Operation Storm was launched. Herrick agreed, adding that he never actually saw the list of artillery targets in Krajina.

2009-07-13

THE HAGUE

GENERAL TAKING COVER BEHIND A NCO

With the evidence of former HV War School commander Mladen Barkovic, the defense of Ante Gotovina is trying to prove that it was difficult to maintain discipline among the units in the liberated territory after Operation Storm, primarily because there was a shortage of well trained non-commissioned officers.



◀ Mladen Barković, svjedok odbrane Ante Gotovine

The defense argues that Ante Gotovina could not rely on his non-commissioned officers to discipline soldiers after Operation Storm in the summer of 1995. The reason, as former commander of the HV War School Mladen Barkovic said in his evidence in Gotovina's defense, was a shortage of good non-commissioned officers. The existing NCOs were not well trained. According to Barkovic, the main reason was insufficient time to train the NCOs; the state and its military were formed in 1991, in wartime, and this situation went on until Operation Storm. Generals Gotovina, Cermak and Markac are charged with crimes committed then.

The witness maintains that discipline was most difficult to maintain among the Home Guard units, formed mostly by displaced Croats: in the liberated territories they saw the destruction of their houses and sought revenge by burning the abandoned Serb property. As Barkovic put it, the HV War School paid special attention to training its students in principles of the international law of war. Documents presented by the defense show that from 1992 to 1995 the International Red Cross staff regularly came to lecture the students on that topic. The emphasis was put on the treatment of civilians and prisoners of war based on the Geneva conventions.

In his cross-examination, prosecutor Russo argued that the HV non-commissioned officers were not undereducated to the extent that Gotovina's defense was trying to paint it. The best proof for that, the prosecution alleges, is the military success of Operation Storm. The 'HV backbone', as the witness called the NCOs, played a special role. Barkovic agreed with the claim that the attack against Knin was 'conducted fairly well' and that the chain of command functioned well, particularly in light of low expectations the operation command had in that respect.

Because he knew that the HV troops committed crimes in Glamoc and Bosansko Grahovo immediately before Operation Storm, General Gotovina had to foresee that it could happen in the villages and towns in Krajina, the prosecution argues. Gotovina probably 'could guess' that there might be some looting and burning down of Serb houses, the witness said, but every military attack carried a 'certain risk', he added. In an effort to prove that the accused general did nothing to keep that 'risk' to a minimum, the prosecution tendered into evidence several documents drafted by the Split Military District. Those documents show that many HV members were promoted and awarded after entering Grahovo and Glamoc; none were disciplined for numerous incidents of looting and arson. Whoever wanted to commit crimes in the future could clearly see that their crimes would go unpunished.

In an attempt to illustrate the discipline in Croatian units during Operation Storm, the prosecution showed some excerpts from the 6th Home Guard Regiment war logbook: as they entered various villages in Krajina they sang an Ustasha song. Barkovic said that there was such low-grade extremism among some HV troops. However, Barkovic noted, the War School emphasized the difference between Croatia and the Ustasha movement in Homeland Education, taught as a special subject.

2009-07-17

THE HAGUE

WHEN LITTLE KIDS PLAY WAR...

Ante Gotovina's defence witness Stjepan Sterc was shown minutes from the meetings of the Croatian leadership after Operation Storm where Tudjman and other high-ranking officials discuss ways to prevent Serbs from returning to Krajina and to settle Croats in their houses. Sterc said that that the project had never been implemented in practice. According to Sterc, the discussions at those meeting looked like 'little kids playing war'.



◀ Stjepan Šterc, svjedok odbrane Ante Gotovine

In the cross-examination of former Croatian assistant minister of restoration and development, prosecutor Gustafson challenged his claim that a number of steps had been taken to facilitate the return of the Serbs who had fled Krajina after Operation Storm in the summer of 1995. The prosecution contends that the Croatian leadership headed by president Tudjman did everything it could to make sure Serbs would not return. Sterc is testifying as Ante Gotovina's defence witness. Together with generals Cermak and Markac, Gotovina is charged with taking part in a joint criminal enterprise aimed at the permanent removal of Serbs from Krajina.

The prosecution confronted the witness with the minutes from a number of meetings in 1995 and 1996 when the highest-ranking state officials debated the ways how to prevent the Serbs from returning to Krajina, yet at the same time creating a false impression that there was good will to accommodate those who wanted to come back. Thus, according to the minutes of a meeting of the state leadership of 30 August 1995, President Tudjman was against issuing visas to 204 potential Serb returnees who were waiting in front of the Croatian embassy in Belgrade. 'If we allow those 204 to return, tomorrow there will be 1,204 of them and in ten days 12,000. For the time being, no way', Croatia's leader was adamant.

Some time later, at a meeting on 25 October 1995, Tudjman said that he wouldn't mind 'if 3,000 out of 300,000 Serb refugees returned'. Tudjman's associates, including the current Croatian prime minister Jadranka Kosor, advised Tudjman to allow a small number of the so-called humanitarian returns of the old and the ill as it could also serve as eyewash for the international community. Sterc said that he didn't attend those meetings; all he could confirm was that nobody ever ordered him, as the person in charge of refugees, to prevent them from returning.

According to the prosecution, Croatia's intention was to seize the houses belonging to the Serbs who had fled and to use them to accommodate Croats. That is why a law was passed to confiscate the property of those who failed to come back within 90 days. The other measure, the prosecution argues, was buying out the refugees through the state-run Real Estate Trading Agency. The prosecution today showed transcripts of several speeches Jure Radic, development and restoration minister, made at the meetings of the state leadership in 1995 and 1996, where Radic said that Serbs were 'the most corrupt nation in the world' and that's why they had to be offered an opportunity to sell their property. At the same time Radic presented to Tudjman a detailed plan to move Croats into Serb houses; he called it 'the colonization of the liberated territory'. Sterc, who was Radic's assistant at the time, replied that nothing of the sort happened in practice, adding that the conversations of high-ranking Croatian politicians looked to him like 'little kids playing war'. The law on the confiscation of property applied to all the Croatian citizens in the liberated territory, not only the Serbs, Sterc added.

The trial for crimes during and after Operation Storm continues on Tuesday. Next week Gotovina's defense will call its military expert, British general Timothy Cross, to give evidence.

2009-07-23

THE HAGUE

GOTOVINA'S MILITARY WITNESS ON 'ASSUMED FACTS'

British general Timothy Cross has concluded, based on the 'assumed facts' provided by General Ante Gotovina's defense that it was difficult to prevent crimes against Serbs and their property. Cross nevertheless admitted that had he had different 'assumed facts' his conclusions would have been different.

In their effort to prove that General Ante Gotovina could not have prevented the crimes in the liberated area in early August 1995 in Operation Storm, Gotovina's defense counsel called British general Timothy Cross as their military expert for post-conflict situations. Cross drafted a report where he primarily describes his experience in peace missions in Northern Ireland, Iraq and in Kosovo. In his conclusions, Cross briefly mentions the situation in Krajina in 1995. The report was tendered into evidence today.



◀ Greg Kehoe, branilac Ante Gotovine

Cross said that chaos was 'immanent' in post-conflict situations; in recently pacified areas one could expect an increase in crime, difficult to prevent in the first few weeks. Cross mentioned Kosovo: in 1999 when NATO troops arrived, it was difficult to prevent the returning civilians from exacting revenge and to prevent criminal groups often linked with the KLA from operating there. Similar chaos ensued following the occupation of Iraq by the allied forces.

When the presiding judge insisted that the situation in other countries was less important for future findings of the Trial Chamber, defense counsel Kehoe asked the British generals a number of questions about the second part of the report. Based on the 'assumed facts'

provided by the defense, the British general offered several conclusions on the situation in Krajina. On the basis of the 'assumption' that the preparations for Operation Storm took only a week, Cross concluded that it was impossible to come up with a good plan for establishing peace and rule of law after the liberation of Krajina in such a short time. Cross also claimed that a force of approximately 1,000 military policemen and 3,500 civilian police officers listed in 'assumed facts' was inadequate to prevent the chaos caused by the arrival of thousands of civilians in the liberated area.

When prosecutor Hederali asked the witness if his conclusion would have been different had he been given different facts about the situation in Krajina after Operation Storm, Cross confirmed it. The prosecutor also noted that both in Iraq and in Kosovo the allied forces and KFOR troops were trying to calm the situation down. In Krajina, according to the evidence given by numerous prosecution witnesses, the Croatian soldiers took part in the looting, burning down of abandoned houses and other crimes. Gotovina's military expert admitted that he would have 'changed a little' his conclusions if those elements had been among the assumed facts.

The trial of generals Gotovina, Cermak and Markac continues tomorrow with a brief hearing on administrative issues. The three-week summer recess at the Tribunal begins next week.

2009-08-18

THE HAGUE

SOLANA'S NEW LETTER

In his reply to the request of the Trial Chamber hearing the case against the Croatian generals Gotovina, Cermak and Markac, Secretary-General of the Council of the EU Javier Solana has stated that eight of the eleven reports drafted by the European observers and sought by the defense have already been delivered to the defense. There is no reliable evidence that the three remaining documents exist, Solana has added.



◀ Javier Solana

In his letter to the Trial Chamber with Judge Alphons Orie presiding, Secretary-General of the Council of the EU Javier Solana reports on the latest efforts by his office to locate the remaining reports drafted by the ECMM. The reports have been sought for quite some time by Ante Gotovina's defense.

Solana and his associates have checked carefully if the 11 report drafted in Sector South in August 1995 after Operation Storm, as the Trial Chamber believes, are in fact stored in the EU archives, Solana says, adding that eight of the 11 reports have already been delivered to General Gotovina's defense either directly from Solana's office or via the OTP in The Hague. There is no evidence showing that the remaining three reports were ever

drafted, the Secretary-General of the Council of the EU claims.

The correspondence between Gotovina's defense, the Trial Chamber and the EU started in March 2009 when the defense counsel indicated they had yet to receive almost 100 reports of the European observers. Since then, the prosecution has indicated repeatedly that some of those documents had been disclosed to the defense through the Tribunal's standard procedure. Solana's office, for its part, has indicated that the investigators working for the defense have been granted unrestricted access to the EU archives where the documents are kept.

The trial of Croatian generals Gotovina, Cermak and Markac for crimes against Serbs during and after Operation Storm continues next week with the evidence of new witnesses called by Gotovina's defense. General Ivan Cermak returned to The Hague on 13 August 2009; he was the only of the three accused to be granted provisional release for a part of the summer recess. The Trial Chamber with Judge Orie presiding rejected Cermak's request to be released provisionally on humanitarian grounds but the Appeals Chamber revised the decision.

2009-08-24

THE HAGUE

STATE PROSECUTOR GIVES EVIDENCE IN GOTOVINA'S DEFENSE

Current Croatian state prosecutor Mladen Bajic is testifying in the defense of Ante Gotovina. During Operation Storm, Bajic was a deputy military prosecutor in Split. He claims that the small number of indictments against Croatian soldiers for crimes against Serbs were not the result of any pressure exerted on the judiciary not to prosecute. In Bajic's opinion, the real reasons were that the military police lacked experience, the military prosecutor's office was understaffed and witnesses could not be contacted.



◀ Mladen Bajić, svjedok odbrane Ante Gotovine

The first witness of Ante Gotovina's defense after the Tribunal's summer recess is the current Croatian state prosecutor Mladen Bajic. During and after Operation Storm, it in the summer of 1995, Bajic was deputy military prosecutor in Split; Sector South in Krajina was under his jurisdiction. Generals Gotovina, Cermak and Markac are charged with crimes perpetrated against Krajina Serbs at that time. At the beginning of Bajic's evidence, the statement he gave to Gotovina's defense team in May 2009 was tendered into evidence.

Describing the role of the Split Military District commander - this is what Gotovina was during the war - the witness said Gotovina was under an obligation to

relay to the military police all the information about the crimes committed by Croatian soldiers he had at his disposal. However, if the crimes had already been reported, the commander didn't have to 'file a second criminal report'. His only duty was to provide the information requested by the military police, Bajic noted. As Bajic explained, the military judiciary prosecuted HV personnel who committed crimes, while cases in which the crimes were committed by demobilized Croatian soldiers were referred to the civilian police and state prosecutor's office.

The Croatian state prosecutor confirmed the argument of Gotovina's defense that Gotovina and other commanders in the Split Military District were not under any obligation to take disciplinary measures against soldiers who were criminally prosecuted. If a disciplinary infraction is minor and has already been criminally prosecuted, there is no need for additional proceedings, Bajic explained. Similarly, in civilian life, there are no misdemeanor proceedings for an offence that has already been criminally prosecuted.

According to the logbooks of the Split military prosecutor's office, tendered into evidence by the defense, 66 criminal reports were filed against Croatian soldiers after Operation Storm. Three of them are for murder and 63 reports for lootings. Many more criminal reports were filed against the Serbian army troops in Krajina for 'armed rebellion' against the Croatian state. The witness explained prosecuting crimes against Croatia had been a priority until the Amnesty Law was passed.

To explain why only a small number of crimes perpetrated by Croatian soldiers against Serbs were prosecuted, Bajic said that the military police lacked experience and the military prosecutor's office was understaffed. Moreover, the witnesses of crimes, particularly in murder cases, were not available to the Croatian justice, because they had fled to Serbia and other neighboring countries. The situation has changed in recent years, Bajic claimed, when the cooperation between regional judiciaries has been stepped up. This has made it possible to prosecute more war crimes against Krajina Serbs. There was no pressure on either him or his colleagues in the military prosecution not to prosecute Croatian soldiers for the crimes they committed, Bajic declared.

As the hearing drew to a close, the prosecution started its cross-examination of Mladen Bajic, indicating it should finish by the end of tomorrow.

2009-08-25

THE HAGUE

DEFENSE WITNESS: 'LOOTING WAS ACCEPTABLE AND ALLOWED'

In his evidence in General Gotovina's defense, Croatian state prosecutor Mladen Bajic 'agreed absolutely' with the prosecutor when she put it to him that looting was acceptable and allowed in the HV during and after Operation Storm. Bajic also agreed that the crimes against Krajina Serbs were not prosecuted vigorously before 200.

In her cross-examination of the current Croatian state prosecutor Mladen Bajic, prosecutor Katrina Gustafson tried to prove that the small number of criminal reports filed for murder and other crimes against Serbs after Operation

Storm was the result of state policy, and not some objective obstacles as the witness claimed yesterday. In his examination in-chief Bajic explained that there were less criminal reports against Croatian soldiers because the military prosecutor's office and military police were understaffed. The key reason, he said, was lack of access to witnesses.



◀ Mladen Bajić, svjedok odbrane Ante Gotovine

From 1992 to 1996 Bajic was deputy military prosecutor in Split and knew about the investigations and prosecution of crimes against Krajina Serbs during and after Operation Storm in 1995. Bajic is now testifying before the Tribunal in Gotovina's defense. Together with generals Cermak and Markac, Gotovina is charged with participation in the joint criminal enterprise headed by President Tudjman and aimed at the permanent expulsion of Serbs from Krajina.

The prosecution showed a report of the Croatian news agency HINA from a conference in 2007 where Bajic says that it was only 'in 2001 that the Croatian authorities took a more serious approach towards crimes perpetrated by the army and police in Krajina'. The prosecution also

tendered into evidence the minutes from a meeting of the Croatian Council for Cooperation with the Tribunal in November 1998. At the meeting, high ranking Croatian officials openly speak about 'the non-prosecution strategy' for the crimes against Serbs that was implemented after Operation Storm.

Asked if he agreed that 'the political leadership was unwilling' to prosecute crimes against Serbs in Tudjman's time, Bajic replied that he could not confirm it. However, when he was promoted to state prosecutor in 2002, Bajic saw that 'things had taken a wrong turn in many respects' and many of the crimes were not prosecuted. This prompted Bajic to order new investigations and to demand more dedication from the prosecutors collecting evidence against Croatian soldiers and police officers. Bajic claims he doesn't know the reason why the exhumation of more than hundred bodies of Serbs from the Knin cemetery was not done until 2001. Serbs buried in Knin were mostly shot at close range. The delay significantly slowed down the crime investigations because crucial forensic evidence was lost, Bajic admitted.

Today the prosecution also presented a series of documents from Croatian courts showing that only a small number of perpetrators from the HV ranks were prosecuted, despite the fact that the witnesses and the accused claimed that looting was widespread in Krajina in the summer and fall of 1995. The documents speak of 'large groups of soldiers loading stolen items onto trucks' in Knin and items being loaded in the village of Golubic 'on the orders of the platoon commander'. This led the prosecutor to put it to the witness that the 'looting was acceptable and allowed in the HV'.

'I agree absolutely with your conclusion', Bajic replied. Despite Bajic's unequivocal answer, defense counsel Misetec asked for a clarification in his re-examination. Bajic told him that court documents mentioned a large number of lootings committed in the Operation Storm and after it that were not processed.

Mladen Bajić completed his evidence today. The trial will continue next Monday with Gotovina's defense calling its next witness.

2009-08-31

THE HAGUE

DEFENCE EXPERT: 'GOTOVINA DID EVERYTHING TO PREVENT CRIMES'

US military expert Anthony Jones has claimed General Ante Gotovina helped calm the situation by constantly issuing orders to prevent crimes and punish the perpetrators. According to the witness, this is manifest from military reports which make no mention of any crimes involving HV personnel after 18 August 1995.

The defense of Ante Gotovina continues its case at the trial of the Croatian generals for crimes during and after Operation Storm with the evidence of retired US general Anthony Jones. The defense asked Jones to draft a military report about the duties of an operational military commander. In his report, Jones focused on General Gotovina's activities. As the commander of the Split military District Gotovina led the Croatian troops in Operation Storm in early August 1995.

General Jones found that Ante Gotovina had taken all necessary and reasonable measures to prevent looting and burning down of Serb houses in parts of Krajina the HV liberated in Operation Storm. Those measures mainly comprised orders to subordinate officers specifying protective measures to prevent crimes and punish perpetrators in instances of unlawful conduct on the part of the soldiers, the witness concluded in his report. Gotovina's orders 'began yielding results' 12 to 14 days later, Jones said, as could be seen from military reports that no longer mention the involvement of HV personnel in the looting and arson after 18 August 1995.



◀ Anthony Jones, svjedok odbrane Ante Gotovine

While reviewing Croatian military documents, Jones noted that on 3 August 1995 – less than 24 hours before Operation Storm began – General Gotovina relieved Colonel Zdilar of his duty; Svilar was the commander of the Operational Zone North, and was replaced by Rahim Ademi, Gotovina's chief of staff. The decision didn't go into reasons for this reshuffle, but Jones concluded that the accused general decided to place a man he trusted to that post to increase the efficiency of command, primarily with regard to obeying orders, discipline in the ranks and prevention of crimes against Serbs and their property.

The defense witness stressed in particular that General Gotovina's priority was to use the troops under his leadership in offensive actions. In other words, units under Gotovina's control would liberate a place and immediately advance, leaving the task of restoring law and order in the rear areas to the military and civilian police. Jones thus confirmed the defense's argument that the Split Military District commander was not responsible for crimes perpetrated in Krajina after Operation Storm.

Asked if he would have taken some additional measures to prevent crimes had he been in Gotovina's place, the US general said he 'probably would not have', adding that he might have emphasized the need to support the people tasked with establishing civilian control in the liberated territory. Concluding his examination-in chief, Jones said that Gotovina had done his job in Operation Storm 'with remarkable success' better than anybody expected or predicted. As today's hearing drew to a close, prosecutor Stefan Waespi began cross-examining the witness.

2009-09-07

THE HAGUE

EXPERT AGAINST EXPERT

US expert on war law Geoffrey Corn drafted a report for Ante Gotovina's defense, heavily criticizing the findings of prosecution expert Harry Konings that Knin was shelled 'without any military purpose'. Corn contends his Dutch colleague has misinterpreted law and military doctrine in a number of places in his report.



◀ Geoffrey Corn, svjedok odbrane Ante Gotovine

General Ante Gotovina's defense continued with its case today with the evidence of US military expert Geoffrey Corn. He is a military lawyer; as he mentions several times in his CV, he achieved the highest grades and numerous awards in the course of his training. Corn drafted a report for the defense, in which he heavily criticized the findings of prosecution artillery expert, Dutch lieutenant-colonel Harry Konings.

In January 2009, prosecution expert Konings explained in detail the findings in his report, saying that on 4 August 1995 the Croatian Army shelled Knin 'without a clear military purpose; the objective was to cause panic among the civilian population and force the enemy army to surrender and flee'. The indictment against Croatian generals Gotovina, Cermak and Markac lists the shelling of Krajina villages and towns during Operation Storm as one of the elements of the joint criminal enterprise aimed at the permanent expulsion of Serbs from that area.

Today Corn heavily criticized Konings's report, saying he had found a 'significant number of incorrect interpretations of law' and 'instances where the expert relied on false interpretations of military doctrine of tactical support'.

Defense counsel Kehoe told the witness that Dutch lieutenant-colonel had concluded that tactical - artillery - support could not be used in attacks on civilian targets. The witness was momentarily taken aback. 'What civilian targets? That doesn't exist, targets are always military', he said. When the presiding judge asked the witness to say clearly if he disagreed with Konings on terminology or merits, Corn replied he agreed that civilians should not be targeted. However, his Dutch colleague had 'clumsily worded' that conclusion in his report, Corn added. Finally the witness accepted the 'gist of the claim' by the presiding judge that Konings might have used the term 'civilian target' because somebody had unlawfully shelled civilians.

The defense counsel then quoted Konings' words in his report that the fire support system was used only to shell military targets; civilian facilities could be targeted only in self-defense. Corn once again criticized Konings' language, insisting that Konings was obviously not an expert on military law. As Corn put it, this formulation rules out the

'principle of proportionality' according to which a commander assess if the anticipated military advantages would exceed possible civilian losses, that is 'collateral damage'.

Both experts agree that the artillery was the ideal weapon of choice for achieving effects other than destruction. The defense expert however criticized his colleague from the prosecution team because in his expert report he listed as 'other effects' only the spreading of panic among civilians, and never mentioned 'harassment, prevention and neutralization', which are, according to Corn, 'classical artillery missions'.

As the hearing today drew to a close, prosecutor Russo began cross-examining Geoffrey Corn.

2009-09-08

THE HAGUE

GENERAL GOTOVINA'S 'AMBIGUOUS' ORDER

When the prosecution showed him a document in which Ante Gotovina demands that Drvar, Knin, Obrovac, Benkovac and Gracac be shelled, US expert Geoffrey Corn said that it could be interpreted as an order to launch unlawful attacks on civilians; however, 'a somewhat more convincing' explanation would be that the general ordered the shelling of military targets in those towns.



◀ Geoffrey Corn, svjedok odbrane Ante Gotovine

Prosecutor Russo started his cross-examination of US military expert Geoffrey Corn by focusing on the methodology Corn used in drafting his expert report. Yesterday that report was tendered into evidence at the trial of the Croatian generals charged with crimes during and after Operation Storm, in the summer of 1995. In his report, Corn heavily criticized conclusions of Dutch lieutenant-colonel Harry Konings who described, as a prosecution expert, the artillery attack on Knin on 4 August 1995 as an inappropriate and unlawful attack aimed at expelling the civilians from the town.

The prosecutor noted that Corn reached his conclusions about the deployment of Croatian artillery in Operation

Storm more on the basis of the information provided in December 2008 by Gotovina's defense teams and less on documents admitted into evidence at the trial. The witness didn't deny this, asking the prosecutor to show him the facts he failed to incorporate in his report. The prosecutor proceeded to do just that.

One of the key documents the prosecution intends to use to prove the intent of the Croatian side to use the artillery to attack civilians is the order general Gotovina issued on 2 August 1995, demanding from his subordinates to 'shell the first enemy defense lines, command posts, liaison centers, artillery firing positions and to launch artillery attacks on the towns of Drvar, Knin, Obrovac, Benkovac and Gracac'. Corn agreed that the order could be interpreted as a demand to shell whole towns. However, there is another explanation, 'somewhat more convincing' in Corn's view: Gotovina's order may lead to the conclusion that only military targets were to be shelled, the witness explained. This would mean that Drvar and four other Krajina towns are mentioned as centers where command posts, artillery firing positions and other military targets from the order should be targeted.

The order to 'put entire towns under artillery fire' was 'not properly worded', Corn added. The US Army legal department where he once served would surely act and demand that the commander rephrase it. It is possible that Gotovina's operations officer actually wrote the order, Corn noted, admitting nevertheless that the responsibility for what was written in the order lies only with the signatory, the accused general.

Before discussing Gotovina's order, the prosecution noted there is ample testimony of the international observers who claimed that on 4 and 5 August 1995 the HV shelled Knin. According to them, 'the entire town was a target'. Assuming the manner of a linguistic expert, as he often did yesterday in his examination-in chief, the witness argued that foreign observers didn't claim that it was a random and unlawful attack on Knin, but that 'it was their impression'. The impression could have misled them, the witness maintains, as they didn't know where the military targets were located in the town itself.

As the US military expert cannot be in court tomorrow, his cross-examination will continue on Thursday. Gotovina's next witness will give evidence tomorrow via video link.

2009-09-09

THE HAGUE

FOUR AGAINST ONE

Ante Gotovina's defense has called four former members of the Sibenik Brigade to testify. The witnesses maintain that Vladimir Gojanovic was not a member of that unit during Operation Storm. In his evidence for the prosecution last year, Gojanovic claimed that as a HV soldier he had witnessed numerous war crimes perpetrated by his fellow soldiers in August 1995.



◀ Ante Gotovina in the courtroom

Former members of the 113th Sibenik Brigade of the HV, Josko Babacic, Radoslav Juricev Sudac, Davor Zafranovic and Dragan Rak gave evidence today in the defense of their former commander, General Ante Gotovina. Together with Ivan Cermak and Mladen Markac, Gotovina is charged with crimes against Serbs in the summer of 1995. Four former soldiers testified from Zagreb via video link speaking about their participation in Operation Storm in August 1995. They were part of the Split Military District forces under Gotovina's command.

In the statements they gave to the defense in May 2008, all four claimed that prosecution witness Vladimir Gojanovic had not taken part in the military-police operation Storm,

or at least not as a member of the Sibenik Brigade as Gojanovic had testified. During the prosecution case, Gojanovic testified that his fellow fighters had been involved in crimes such as burning and looting of abandoned Serb houses, abuse of remaining civilians and murder of one of the two prisoners of war that had surrendered to his brigade. Nobody was sanctioned for those crimes, Gojanovic claimed.

The defense counsel today tendered into evidence statements by the four witnesses, deciding not to read their summaries into the record as is the usual practice and not to ask any question about the statements. The prosecution then proceeded to cross-examine the witnesses, trying to contest the allegations that Gojanovic didn't participate in Operation Storm as a member of the Sibenik Brigade. According to the prosecution, the four witnesses didn't know Gojanovic well and were not able to say for sure whether they had seen him or not during the operation. Babacic replied that he had known Gojanovic since his childhood. The other three witnesses got to know Gojanovic as the HV member in the 90's. All four witnesses confirmed that they didn't have contacts with Gojanovic and had not seen him for years before Operation Storm.

Because the witnesses denied Gojanovic's claims about crimes committed by the members of the Sibenik Brigade, the prosecution showed a document drafted on 12 August 1995, where the unit commander asks subordinate officers to deal with the those who looted and burned Serb houses. The witnesses said they knew nothing about it. The most original explanation was proffered by Radoslav Juricev Sudac. He claims the houses were not burned by the army 'but some third or fourth party', adding that fires could have been caused by flares that were fired often during combat.

Replying to the questions by the presiding judge, Juricev, Zafranovic and Rak said that they had given statements to Gotovina's defense because they had been outraged by Gojanovic's 'false evidence'. They insulted Gojanovic roundly. Judge Orić however noted that the witness statements were from the period between 8 and 12 May 2008; Gojanovic began his evidence three days later, on 15 May 2008. None of the witnesses could explain this timeline. Dragan Rak, as the presiding judge noted, repeatedly avoided answering the question.

2009-09-10

THE HAGUE

PRESIDENT TUDJMAN'S SCHIZOPHRENIA OR INTENT?

Geoffrey Corn, Ante Gotovina's military expert, contends that what Franjo Tudjman said at the Brijuni meeting before Operation Storm was 'schizophrenic': on the one hand, Tudjman was trying to figure out how to expel Serb civilians, and on the other, he didn't want to draw criticism from the international community. According to the prosecution, this was exactly what the Croatian president wanted to do, to bring together those two things by achieving the goals of the joint criminal enterprise without earning the condemnation of the international community.

Since the beginning of the trial of Croatian generals Gotovina, Cermak and Markac, the prosecution has been trying to prove that the goal of the Croatian leadership was to expel Serb civilians from Krajina. The best evidence, they argue, is the transcripts of the Brijuni meeting of President Tudjman and the highest military and police officials on

31 July 1995. Prosecutor Russo showed the transcripts today to defense military expert Geoffrey Corn as his cross-examination continued. In his expert report, Corn denied that the artillery attack against the towns in Krajina on 4 and 5 August 1995 was aimed at expelling civilians from towns.



◀ Geoffrey Corn, svjedok odbrane Ante Gotovine

The prosecution brought up the part of the meeting where President Tudjman wants the Serb civilians to be given a corridor to flee from Krajina towards BH; this would affect the Krajina soldiers psychologically and make them follow the civilians, he argues. At the same time, the transcripts show, the president urged his subordinates to do everything to prevent Croatia from losing the international support for the attack against the RSK it had gained. The witness concluded that 'what President Tudjman said was schizophrenic': on the one hand Tudjman tried to figure out how to expel civilians, and on the other he was trying not to draw criticism from the international community. According to the witness, the latter could be done only if the civilians were protected.

The prosecution claims that Tudjman's address at Brijuni was not schizophrenic at all as he had actually planned to reconcile those two things: to expel the Serbs from Krajina and create the illusion that their human rights were respected in the eyes of the international community. To corroborate this, the prosecution showed a part of the transcript where the Croatian president asks for leaflets to be spread among the civilians in Krajina with a description of escape routes towards Serbia, guaranteeing their 'so-called human rights' at the same time.

In that particular case it 'may be reasonable to conclude that President Tudjman exerted pressure on his subordinates to commit acts which are in violation of the provisions of the international law of war', the American expert replied, adding that there was no proof that General Gotovina agreed to do it. It was not the first time in the history of warfare for the highest political figure in a state to put pressure on the army to do something, only to have the military commanders find a way around it in practice, the witness said.

Since Corn had gone through the Brijuni meeting transcript with a fine-toothed comb in his preparations for testimony, he was able to conclude that General Gotovina was 'trying to calm the president' all the time, telling him, 'You have presented the strategic aims, now allow me to operationalize them'. The prosecution on the other hand argues that Gotovina agreed wholeheartedly with the president's views. The prosecution showed a part of the transcripts where Tudjman says the artillery should be used with a purported counterattack from Knin as 'a pretext'. Gotovina replies that the HV could 'raze the town to the ground if needed'. Contrary to what Corn said, Tudjman then 'is trying to calm Gotovina' saying that 'nothing should be done rashly and adventurously'.

The American expert will continue his evidence tomorrow.

2009-09-11

THE HAGUE

DID KNIN HAVE TO BE SHELLED?

At the very end of the cross-examination of Geoffrey Corn, the prosecution noted that the SVK communications system could have been destroyed in August 1995 by neutralizing targets outside Knin. Ante Gotovina's defense expert denied this, highlighting the importance of military targets in the town.



◀ Geoffrey Corn, svjedok odbrane Ante Gotovine

On the last day of the prosecution's cross-examination of Geoffrey Corn, military expert called by Gotovina's defense, there was a debate whether the artillery attack on Knin on 4 and 5 August 1995 was justified. The prosecution has been trying to prove that the artillery attack was aimed against civilians and had no military justification. The defense witness defended the findings of his expert report where he argued that the shelling of Knin was a reasonable operational procedure on the part of General Ante Gotovina in Operation Storm. The former commander of the Split Military District is charged together with Ivan Cermak and Mladen Markac with crimes committed during and after the operation.

As regards the artillery attack, the witness concluded that a number of communications centers had been located in the town itself: in the Serb Army Main Staff, in the northern barracks and the PTT building. They had to be neutralized. The prosecutor tried to prove that the Croatian military and police leadership had been aware of the fact that the Krajina army communications system could have been neutralized by capturing or destroying targets outside of the town. To corroborate the argument, the prosecutor brought up the transcripts of the meeting between President Tudjman and top Croatian officers and politicians on Brijuni.

At the meeting, General Markac said that the Serbian army communications system would be totally 'destroyed' and that general chaos would ensue if the Celavac communications center on a hill outside Knin could be neutralized. According to the Croatian Air Force reports, the site had been neutralized on the first day of Operation Storm on 4 August 1995. Gotovina was not in a position to know if the enemy was able to quickly repair the damaged communications systems, the witness said, adding that 40 percent of military communications used the PTT center in Knin. This, the witness concluded, made it a legitimate military target.

The prosecutor then noted that the Croatian Army could have neutralized the movements of the enemy by train by shelling the railway tracks outside town instead of targeting the railway station located in an area inhabited by civilians. This argument would be correct, Corn replied, only if there had been a single railway track used by the enemy to move its troops; the railway lines are traditionally targeted at junctions, he added.

This ended the four-day testimony of US military expert Geoffrey Corn. Ante Gotovina's defense will rest its case next week, it indicated. The trial will recommence on Tuesday.

2009-09-15

THE HAGUE

YASUSHI AKASHI TALKS ABOUT OPERATION STORM AFTERMATH

Former UN special envoy for the former Yugoslavia Yasushi Akashi is testifying as Gotovina's defense witness. He found it hard to recall the events from the time of Operation Storm and did not say unequivocally whether Knin was shelled indiscriminately. He did say that he toured the town after the attack and saw pieces of buildings, broken shop windows and a large number of Serb civilians who sought shelter in the UN base.



◀ Yasushi Akashi, svjedoči video linkom u odbranu Ante Gotovine

The last week of Ante Gotovina's defense case started with the evidence of Yasushi Akashi, former special representative of the UN Secretary General for the former Yugoslavia. When Operation Storm was launched on 4 August 1995, Akashi was in Zagreb. He visited Knin on 7 August. The statement Akashi gave to the defense in July 2009 was admitted into evidence today, but the summary was not read out in court. The three Croatian generals are charged with the crimes in Operation Storm.

Judging by the answers Akashi gave to defense counsel Luka Misetic's questions, testifying via video link from Tokyo, time has taken its toll and Akashi couldn't

remember most of the events from the period. The Chamber got more information from the reports the witness drafted before, during and after Operation Storm than from his testimony today.

The defense counsel showed a telegram Akashi sent to the UN Secretary General Kofi Annan on 4 August 1995, describing a meeting with Hrvoje Sarinic. In the telegram, he says that Tudjman's chief of staff undertook that 'the whole Croatian leadership will do everything to protect the Serb civilians and UN personnel'. Noting that he remembered the meeting only up to a certain extent, the witness pointed to the part of the telegram where Sarinic pre-empts any criticism about possible collateral damage to civilians, saying, 'war is a terrible thing and civilians always suffer the most'.

The defense counsel tried to prove that Akashi's office received wrong reports about the indiscriminate shelling of Knin from the UN observers in the field. He himself could see the reports were wrong when he visited the town on 7 August. When he was shown an observers' report stating that 200 to 300 shells landed on the town in the first 30 minutes of the shelling in the morning of 4 August, the witness said it didn't necessarily mean the attack was indiscriminate, because all those shells could have landed on military targets. At the same time, he couldn't recall if he received at the time any reports about the shelling of the Knin hospital, although he was shown reports on the topic.

The defense contends that the key document showing that the artillery attack on the town was nowhere near as fierce as the UN observers depicted it in their reports is Akashi's telegram to Annan in which he describes his visit to Knin. In the telegram, he says, 'My general impression is that Knin sustained damage from the shelling, but the damage, although visible, is unexpectedly small'.

Describing what he saw in Knin on 7 August 1996, the witness said 'the town was not particularly pretty or clean even in normal circumstances'. On that day it looked like any other place after a major military attack. Parts of residential buildings could be seen on the streets, shop windows were broken. Particularly heart-rending was the sight of a large number of refugees who were trying to seek shelter in the UN base. When he was asked if he was told in the UN base what had happened in Knin during and after the attack, Akashi said, 'They did say something, but I don't remember what it was'. He couldn't remember whether anyone mentioned that the Croatian soldiers had looted the town.

Akashi's testimony will continue tomorrow.

2009-09-16

THE HAGUE

ANTE GOTOVINA'S DEFENSE RESTS

Former UN special envoy Yasushi Akashi has completed his evidence about the situation in Krajina after Operation Storm. Ante Gotovina's defense has rested his case. The second accused, Ivan Cermak, will start his defense case next week.

As the examination-in-chief of former UN special envoy for the former Yugoslavia Yasushi Akashi continued, Ante Gotovina's defense brought up the alleged discrepancies between the documents produced by the top UN officials and the reports of international observers after Operation Storm in the summer of 1995. A number of crimes were committed against the Krajina Serbs and their property at the time; Croatian generals Gotovina, Cermak and Markac are charged with those crimes.

In a report filed on 13 September 1995, the UN military observers say that 'more than 18,000 houses are partially or completely destroyed' in Krajina at the time. That figure, defense counsel Misetic noted, was not contained in any of the numerous telegrams Akashi was sending to New York to the UN Secretary General. At one point, Akashi reports that 'entire Serb villages have been burned down', but the figure he gives is just 200 destroyed houses. The witness was unable to explain the discrepancy in the figures, noting that it happened 14 years ago. He 'might be forgiven for not recalling all the details'.

The defense counsel then noted that on 29 September 1995, the UN Secretary General writes in his report about 'constant violations of the Serbs' human rights and the burning and looting of their houses', but there is no mention of the figure of 18,000 destroyed buildings. Akashi took part in drafting the document. Today he said the document was of 'a general character' and its goal was not to present statistical data but to highlight factors that prevented the return of the Serb refugees.

The counsel of the other two accused also cross-examined Akashi. Steven Kay asked the witness a few questions about his meeting with the accused Cermak in Knin on 7 August 1995. Akashi was unable to recall practically any detail from the meeting. He did say that he considered Cermak to be the military commander in charge of Knin and its environs, and to be 'quite cooperative and efficient'.

Mladen Markac's defense counsel asked the witness to compare the damage to buildings he saw in Knin after Operation Storm with the damage he saw in Vukovar and Sarajevo after the attacks by Serb forces. Although Akashi stressed he didn't want to make hasty comparisons, Akashi said that Vukovar had been destroyed 'beyond the borders of what an ordinary man could imagine', and that the damage in Sarajevo was greater than it was in Knin.

The first topic addressed by the prosecutor in the cross-examination was whether the Croatian leadership was or was not committed to achieving a peaceful solution for the Krajina problem. To that end, he showed the minutes from the meeting of the Croatian military leadership in Brijuni on 31 July 1995. At the meeting, President Tudjman says that the Croatian side would attend the Geneva peace talks only 'to counter any arguments from the world that we didn't want to negotiate'. The Croatian president goes on to say that it is his goal in Geneva to cover up his war plans; the only thing that could hamper his efforts are, as he says, 'UNCRO guys - Japanese bugs', and Akashi himself. The witness didn't comment on those quotes, saying he had not been aware of Tudjman's words.

In a weekly report from late August 1995, Akashi presented the views of the Croatian president he was aware of. In the document, Akashi claims that Tudjman 'rejected the complaints about looting and arson of Serb houses as acts of individuals, condemned by the government'. Although he doesn't recall those claims all that well, Akashi said they reflect the general tone of his talks with the Croatian president.

Ante Gotovina's defense rested its case with the testimony of the former high-ranking UN official. There will be a hearing on housekeeping matters on Friday and next week, General Cermak's defense will begin its case.

2009-09-16

THE HAGUE

WITNESS: CROATIA SACRIFICED 'SELECTED CROATS'

In the cross-examination of Croatian historian Josip Jurčević, the prosecutor tried to impeach the witness by putting to him that the expert report he drafted for General Praljak's defence is nothing but another element in his lifework, devoted to 'downplaying the scale of crimes' committed by Croats. The witness accuses the Croatian authorities of supplying the Tribunal with forged documents in order to convict 'selected Croats'.



◀ Josip Jurčević, svjedok odbrane Slobodana Praljka

In the cross-examination, the prosecution tried to impeach the Croatian historian Josip Jurčević who drafted an expert report on the relationship between Croatia and Bosnia and Herzegovina between 1991 and 1995. The expert report by the witness, who is running for president in Croatia, supports the defence argument that there was no joint criminal enterprise headed by Croatian president Tudjman aimed at annexing parts of Bosnia to Croatia, as alleged in the indictment.

Prosecutor Kenneth Scott put it to the witness that his expert report is in effect yet another element in his lifework devoted to 'playing down the scale of the crimes' committed in the past by Croats in the former Yugoslavia, since the existence of the Independent State of Croatia

(NDH). The witness's book *The Creation of the Jasenovac Myth*, relies, according to the prosecution, on Tudjman's conclusions about Jasenovac in the book *Wasteland of Historical Reality*. The prosecutor's allegation that Tudjman supported the ideas promoted by the NDH had the defence counsel up in arms, and the accused Praljak asked to be allowed to leave the courtroom because he felt 'sick'. As a parting shot he said that a charge of fascism should now be added to his indictment.

In answer to the prosecutor's allegations, the witness said it was not his intention to play down the crimes in Jasenovac but to highlight the 'abuse of victims' on the part of the communist regime in the former Yugoslavia. As for Tudjman, the fact that he was in the partisans from 1941 to 1945, fighting against the NDH, speaks volumes about the Croatian president, the witness said. The prosecutor then quoted Tudjman's words from a meeting on 27 January 1994, when he said 'without radical Croats who advocated the NDH, the war against Serbs and Muslims would not have been won'. 'That's what is says here, but I don't know whether Tudjman really said that,' Jurčević replied.

The prosecutor then put it to the witness that he supported all the Croats convicted of war crimes, illustrating his claim by saying Jurčević had attended the farewell gathering for Tihomir Oreskovic when he was sentenced to 15 years in prison for crimes against Serbs in Gospic. The trial was held in Croatia. The witness admitted he attended the gathering, but said he was never opposed to criminals being tried and punished. According to him, the problem lies in 'the corrupt Croatian judiciary' and the ruling structures: it is 'not in their interest' to determine who is responsible, but to sacrifice 'selected people' to fit their 'political interests'.

According to the witness, former Bosnian Croat leader Dario Kordic is also among the 'victims' of the ruling structure in Croatia. In 2004, the Hague Tribunal sentenced Kordic to 25 years in prison for crimes against Muslims in the village of Ahmici in April 1993. He was, the witness contended, convicted on the basis of 'forged documents' the 'ruling structures in Croatia' planted on the prosecution. Jurčević implied that Croatia is taking part in the effort to convict Gotovina, particularly, as he said, 'if one takes into account the so-called defence' which includes state officials and intelligence agents. When the prosecutor asked him if he had recently visited Kordic in Graz, Austria where he is serving his sentence, with his wife and a lady friend, the witness confirmed it.

2009-09-22

THE HAGUE

CERMAK'S DEFENSE CASE BEGINS

The first witness called by Cermak's defense, Croatian general Franjo Feldi, was cross-examined by Gotovina's defense counsel, defending the findings from his expert report that after Operation Storm Cermak was under Gotovina's command, although he had gone to Knin at President Tudjman's behest.

General Ivan Cermak's defense opened its case today with the testimony of Franjo Feldi, retired Croatian Army general. The expert report about Cermak's role in Knin after Operation Storm and the statement he gave to the OTP investigators in 2003 were tendered into evidence. Cermak's defense counsel didn't ask any questions, but Gotovina's defense counsel Luka Misetić decided to cross-examine Feldi. Cermak's defense presented its opening statement on 28 May 2009, noting that 'the prosecution's allegations about the command role of the accused over the military and police in Krajina are unfounded'.



◀ Franjo Feldi, svjedok odbrane Ivana Čermaka

Gotovina and Cermak are on trial together with General Markac for crimes against Serbs during and after Operation Storm. In the course of the trial so far, the defense teams have tried several times to shift the blame from their clients to the other accused. This time, the clash of Gotovina's and Cermak's defense teams was glaringly obvious, and was prompted primarily by a conclusion in the expert report that after Operation Storm Cermak, as the Knin Garrison commander, was directly subordinate to Gotovina, Split Military District commander. Gotovina's defense argues that after Operation Storm Gotovina relinquished the responsibility for the developments in Krajina to the military and civilian police and focused on combat operations in BH.

At the beginning of the cross-examination, Misetić showed the witness a video recording of an interview General Cermak had with the OTP investigators in 2004. Cermak says that as the garrison commander he was not part of the same chain of command as Gotovina and chief of the HV Main Staff Cervenko. He was in constant contact with the President's office. The witness explained that President Cermak had appointed Cermak commander of the Knin Garrison, and tasked him with normalizing life in town and helping the civilians and the UN monitoring mission. Although he claims the garrison was in formal terms part of Gotovina's military district, Feldi says Cermak 'didn't get any instructions from anyone'; he was forced to use his own initiative in an effort to carry out the mission the president had entrusted him with.

If Cermak was subordinate to Gotovina, he was under an obligation to report to him regularly on the developments in the Knin garrison, defense counsel Misetić contended. When Feldi was asked how many such reports he had found in the course of his inspection of the documents for the purpose of writing his report, he said there were five or six of them but he didn't know if Cermak ever gave oral reports to 'his superior' about the developments in the field.

Noting that the two accused generals were not part of the same chain of command, the defense showed a document from the time after Operation Storm in which Gotovina 'requests' that Cermak take some measures in Knin. When General Feldi was asked if it was unusual for a superior officer to 'request' something from his subordinate, instead of 'ordering', he responded by quoting a military saying, 'Power orders even when it asks'.

The prosecution will cross-examine Cermak's military expert tomorrow.

2009-09-24

THE HAGUE

GENERAL CERMAK'S 'INFORMATIVE ORDERS'

Describing General Ivan Cermak's role, defense military expert said he exercised 'less than 20 percent' of his *de jure* powers. When the prosecutor showed him some orders the accused general issued to the military police in Knin, the witness replied those were 'informative orders' that didn't have to be carried out.



◀ Franjo Feldi, svjedok odbrane Ivana Čermaka

The prosecution continued cross-examining Ivan Cermak's military expert, retired HV general Franjo Feldi, focusing mostly on the place the military police had in the Croatian armed forces. Yesterday, the witness seemed to agree with the prosecution argument that during Operation Storm the military police operated under the command of HV commanders in the field: Ante Gotovina was one of them. Today, on the contrary, he claimed that the military police units were under the exclusive authority of the Military Police Administration headed by General Mate Lausic. The confusion was caused in part by the manner in which the prosecutor cross-examined the witness, going into too many details, and General Feldi's answers which were too long. Both

were cautioned several times by presiding judge Orić.

Yesterday, General Feldi said that the military police was initially under the command of the Military Police Administration headed by General Mate Lausic, but that in late 1992 the Military Council of the Croatian Defense Ministry decided to place it under the command of the HV commanders in the field. This led to the conclusion that the military police units had been placed under the control of the commanders of operational zones, which later became military districts. Ante Gotovina, who was the commander of Operation Storm, was one of those.

At the beginning of the hearing today, it became quite clear that the prosecution and the witness are in complete disagreement on this: General Feldi claims that there was another reshuffle in the military police chain of command in 1994. The new rules of service, the witness claims, stipulate that the military police units are again placed under the command of the Croatian Defense Ministry, and its Military Police Administration. According to the new rules, only the administration chief Mate Lausic could decide which military police units would be seconded to HV units and when.

As regard Ivan Cermak's relationship with the military police, the witness claimed that as the Knin Garrison commander, he didn't have any authority over the military police company in the town. While Feldi was drafting his expert report about the structure of the HV, he didn't encounter a single document where General Lausic places any military police units under Cermak's authority. The prosecution challenged the finding by bringing up a number of orders Cermak issued to the military police in the field after Operation Storm. According to Feldi, those were 'informative orders' that didn't have to be carried out. Those documents patently did not meet the formal military operational standards, the witness went on to say, because the author never asked to receive reports about the results.

After all, the witness claimed, Cermak did not exercise in practice the de jure powers he had as the Knin Garrison commander. On paper, he had the authority to issue instructions and orders to HV units, and to monitor their implementation, but according to Feldi's estimate, he had 'less than 20 percent' of those powers in practice, for a variety of reasons, including the fact that he didn't know what HV and military police units were stationed in Knin at all.

One of the key issues at the trial of Croatian generals is who had command over the military police units, linked with the charges of failure to prevent crimes and punish perpetrators. If the prosecution manages to prove that Gotovina and Cermak had control over the military police, it means that they could have ordered measures, through those units, to prevent the looting and burning of Serb houses, and to investigate murders and other crimes against Serb civilians. Police general Mladen Markac is in the dock with Gotovina and Cermak, facing the same charges for crimes committed during and after Operation Storm.

As the hearing today drew to a close, another of Cermak's military experts, Pero Kovacevic, took the stand.

2009-09-25

THE HAGUE

WHO BOUGHT DOCUMENTS ON THE BLACK MARKET?

The defense counsel representing the Croatian generals have distanced themselves from the claims made by Pero Kovacevic, Cermak's expert witness. Kovacevic has said that the accused Croats have had to 'buy' documents they need for their defense case 'on the black market'.



◀ Pero Kovačević, svjedok odbrane Ivana Čermaka

General Ivan Cermak's defense case continued today with the testimony of legal expert Pero Kovacevic, whose expert report was admitted into evidence. There was no examination-in-chief and the public was left in the dark as to the contents of the report. The brief cross-examination by Ante Gotovina's defense indicated that the report, or parts of it, contains a legal analysis of the place the military police had in the HV system.

In response to Misetić's questions, the witness said that Croatia opted for the German model, whereby the military police is not part of the armed forces, but is under the jurisdiction of the defense ministry. This was done in order to prevent the HV commanders, including

Gotovina and Cermak, from influencing the course of the investigations into any crimes their troops may have committed, since the investigations were under the jurisdiction of the military police. The defense case of the two military generals in the dock is that they had nothing to do with the military police and were thus unable to prevent the crimes against Serbs during and after Operation Storm in August 1995. Police general Mladen Markac is also charged with the same crimes.

Prosecutor Russo began the cross-examination by showing the witness a part of his expert report where Kovacevic sets as his goal 'an objective and neutral' presentation of his conclusions. The prosecutor contends that the witness's earlier statements and articles published in the Croatian press show he is 'neither neutral nor objective'. He showed Kovacevic an article from 1997 where Kovacevic says that the indictment against the Croatian generals 'is aimed against the Croatian state'; the government has to take steps to bring down 'the monstrous document'.

When the prosecutor put it to the witness that the goal of his expert report was precisely to bring down the indictment, and not to provide 'a neutral and objective' legal analysis, the witness replied that in the article he had spoken as a politician and a member of the Croatian Parliament from the Croatian Party of Rights (HSP), and that

it had nothing to do with his expert findings. He noted that he had left the HSP last year because of 'violations of democratic procedure' in party bodies.

In the article, Kovacevic demanded that the Croatian authorities assist with the defense of the Croats in the Tribunal's dock, saying their defense teams had been forced to 'buy documents on the black market'. Kovacevic claims he has heard only about General Slobodan Praljak buying documents for his defense on the black market, but the defense teams of all three accused played it safe and distanced themselves from the claims, saying they have never bought any documents on the black market.

The prosecutor then showed the witness an article from 2007, in which Kovacevic, on behalf of the HSP, calls for a referendum to put a stop to Croatia's cooperation with the Tribunal because of mild sentences the Trial Chamber imposed on the Vukovar Three. The witness explained that this was the position of the party and that he was speaking as its mouthpiece. He urged the prosecutor and the judges again not to mix up his political views and his expert opinions. 'If your baker presents political views you don't like, you're not going to say his bread was no good,' Kovacevic said to illustrate the point.

In the second part of the hearing today, the prosecution will, as indicated, deal with Kovacevic's expert opinions, i.e., the conclusions he reached in his analysis about the place of the military police in the Croatian Army system.

2009-09-28

THE HAGUE

CIVIL COMMANDER IN A MILITARY UNIFORM

Gordan Radin, who served as Tudjman's chef de cabinet, contends that Tudjman wanted to appoint Ivan Cermak as civilian commander in Knin after Operation Storm. As it was not possible to do so under the law, Cermak was appointed military commander of the Knin Garrison 'with a civilian task to normalize the situation in the town'.



◀ Gordan Radin, svjedok odbrane Ivana Čermaka

Gordan Radin, who served as Tudjman's chef de cabinet while Hrvoje Sarinic was his chief of staff, testified today as General Ivan Cermak's defense witness. Radin's statement to the defense was admitted into evidence and the defense counsel read out a summary for the record. In his statement, the witness describes how General Cermak came to be appointed commander of the Knin Garrison.

In his statement Radin says that on the first day of Operation Storm, on 4 August 1995, President Franjo Tudjman asked him to locate Ivan Cermak whom he wanted to send to Knin as 'a civilian commander'. When the president was asked what he meant, Radin

recounted, he replied that it was a role of 'a military commander tasked with normalizing civilian life'.

As there were no legal grounds to appoint Cermak to a post as per Tudjman's instructions, Radin found an alternative solution with the people from the president's military cabinet. Cermak was appointed the commander of the Knin Garrison: this was 'an appointment within the regular military system aimed at covering very specific civilian demands', the witness contended. Radin's claims corroborate the defense argument that Cermak was not a military commander in the classic sense, with jurisdiction over the HV units in the Knin area. Cermak is on trial with generals Gotovina and Markac for crimes against Serbs during and after Operation Storm in August 1995.

As Cermak's defense counsel didn't ask the witness any additional questions, Ante Gotovina's defense proceeded to cross-examine the witness. When he was asked how President Tudjman reacted to the international community's complaints about frequent attacks on Serbs and their property after Operation Storm, Radin said that Tudjman was 'irritated, and wanted it to stop'. As a staffer in the president's office he never heard that there was a plan to expel Serbs from Krajina, the witness claimed.

In Radin's cross-examination the prosecution implied that Cermak had a double role in Knin: on one hand Cermak's task was to normalize the civilian life, and on the other he did military tasks in his capacity as the Knin Garrison commander. The witness agreed in part, noting that he was not aware that a garrison commander could exercise command over HV units in the field and maintain order and discipline among the soldiers. Tudjman, the witness claimed, wanted to appoint to that duty 'a capable business person' who could bring the situation back to normal as soon as possible. In the end, Tudjman was forced to send in a 'man in the uniform' because he knew it would help him deal with the problems more easily in the conditions that prevailed after the war.

2009-09-29

THE HAGUE

IVAN CERMAK WAS 'A MULTIDIMENSIONAL PERSON'

According to witness Borislav Skegro, President Tudjman sent Cermak to Knin as a 'multidimensional person', to deal with civilian and not military affairs. The prosecution tried to refute this by contesting Skegro's credibility, implying that during his term of office in the Croatian government Skegro lied, threatened journalists and opposed co-existence.



◀ Borislav Škegro, svjedok odbrane Ivana Čermaka

In 1993, when Ivan Cermak was briefly appointed minister of industry, his defense witness Borislav Skegro began his five-year mandate as the deputy prime minister of the Croatian government in charge of economy. Two years later, in August 1995 Cermak and Skegro 'met once more' as top officials when Cermak was appointed commander of the Knin Garrison. According to the indictment against him, Cermak, as the garrison commander, was responsible for the crimes committed after Operation Storm, together with generals Ante Gotovina and Mladen Markac.

In the statement he gave to Cermak's defense, a summary of which was read by defense counsel Kay in court today,

Skegro said that after the Croatian Army entered Knin President Tudjman decided to send down a 'multidimensional person', someone able to start up the economy, help civilians, cooperate with the UN mission and normalize the conditions in the town. This person was supposed to facilitate the return of the Croats who had fled the region in 1991 and also of the Serbs who had abandoned their homes during Operation Storm.

One day after the liberation, on 6 August 1995, the witness visited Knin. On 26 August Skegro was in Knin for the second time together with President Tudjman and other politicians. Finally, on 7 September, Skegro attended the session of the Croatian government held on that day in Knin. On his way back to Zagreb after the last visit the witness saw houses on fire and dead cattle by the side of the road. As the witness put it, he and prime minister Nikica Valentic 'asked who may have perpetrated the crime'. It was a 'personal vendetta' and not part of a plan to expel Serbs, the witness concluded. Skegro contends that peace and order in the Krajina territory were under the sole jurisdiction of the civilian police and interior minister Jarnjak.

In his cross-examination, the prosecutor focused more on the credibility of the witness than on what he had said in his statement. The prosecutor first showed the transcript of a meeting in April 1995 where Skegro admits he lied before the Parliament. According to the transcript, Skegro would 'lie to the Pope himself for the good of Croatia if need be'. Asked why anyone should believe that he was not lying before the Tribunal, the witness said that he had mentioned the Pope only as a 'figure of speech', in an effort to cover up the fact that the money from the budget had been spent to import weapons instead of stabilizing the market.

The prosecution went on to quote from the transcript of another meeting with Tudjman where Skegro says there could be no co-existence in BH because 'those that do not belong together cannot live together'. As far as BH is concerned, Skegro said today, he 'was right' but it would never occur to him to speak about the co-existence of Serbs and Croats in Krajina in those terms. The prosecution then showed him articles published in the Croatian media where Skegro in 1996 made death threats against a journalist; in fact, he drew a gun at her. Skegro said he had been tried for the incident and the judgment found that none of the allegations were true.

As Skegro's evidence drew to its close, the presiding judge Orić asked him some questions. He wanted to know if the witness knew about the incident in the village of Grubori where five elderly Serbs were killed in late August 1995. Contrary to the defense claims that Croatian officials were of the opinion that the victims were caught in the cross-fire between the special troops and the remaining Serb soldiers, Skegro said that some days after the incident the government bodies discussed the crime in which the old people had been killed in their homes. Gotovina's defense counsel Kehoe noted that the witness 'may have mixed up' the Grubori incident with a similar crime against Serb civilians in the village of Varivode. Skegro then repeatedly said he could hardly remember those events today.

2009-09-30

THE HAGUE

INEFFECTIVE ORDERS TO IMPROVE EFFECTIVENESS

In his evidence as Ivan Cermak's defense witness, former Croatian official Zdenko Rincic contends that after Operation Storm the accused general issued 'requests' to both civilian and military police. Cermak didn't have the authority to issue orders, but he did so sometimes, to improve effectiveness, although he knew the orders would not be carried out



◀ Zdenko Rinčić, svjedok odbrane Ivana Čermaka

The defense case of Ivan Cermak continued with the evidence of a witness who was introduced only by his surname, Rincic. After his brief examination-in chief it was unclear why he had been called before Judge Orić's Trial Chamber, what his role in Operation Storm was and what he said in the statement tendered into evidence by the defense. When evidence is given in the form of a written statement a brief summary is usually read out; this was not done today. Generals Gotovina, Cermak and Markac are on trial for crimes committed during and after Operation Storm.

In the course of cross-examination it became clear that the witness was Zdenko Rincic, former deputy minister of economy in the Croatian government and HV officer,

who was sent to Knin after Operation Storm as government coordinator for economy. There, the witness contended, he cooperated with the then commander of the Knin Garrison, Ivan Cermak, who is now in the dock. They used to meet at the so-called coordination meetings.

Rincic claims that the first news of crimes against Serbs and their property reached Cermak only on 11 August 1995 when Alain Forand, the UN commander in Sector South, sent a letter protesting against 'the widespread looting and destruction of abandoned houses' in the Knin Garrison area.

Cermak responded immediately to complaints from the UN mission, the witness maintained, calling up a meeting with the highest ranking representatives of the civilian and military police. Because he couldn't issue orders, Cermak put forward a request, Rincic recounted. 'Come on, boys, please, put a stop to the lootings, killings and all those bad things', Cermak said according to Rincic. When Rincic was asked what killings Cermak was referring to, he replied that it was most probably the murder of 'Serb civilians who had been mistaken for soldiers'.

The prosecutor argued that the accused general didn't just 'ask' the representatives of the civilian and military police to do something; he gave them clear written orders. When the witness was told some of those documents had been tendered into evidence at the trial of the Croatian generals, the witness said that even if Cermak had written any such orders, they would have had no effect in practice because he was not authorized to do it. As Rincic put it, Cermak may have done it because there was the state of war and effective action was needed. The presiding judge then joined the discussion asking Rincic if he meant to say that Cermak issued orders to improve effectiveness although he knew they would not be fulfilled. 'Yes, that's the logic behind it', the witness replied.

Describing his stay in Knin after Operation Storm, Rincic said he saw household goods and TV sets on the sidewalks in the town. He thought those had been 'thrown out and destroyed' by the fleeing Serbs to prevent 'whoever came into town' from using them.

2009-10-01

THE HAGUE

GENERAL WITH CIVILIAN POWERS

Former HV officer Ivica Lukovic claims that after Operation Storm Ivan Cermak had no power over the military and civilian police. The sixth witness to be called by the accused general's defense further bolstered the defense case noting that, as the commander of the Knin Garrison, Cermak dealt with municipal issues.

As Ivan Cermak's defense case continues, Ivica Lukovic, former head of the HV Office for Cooperation with the UN Mission, gave evidence. Defense counsel Steven Kay asked for the statement the witness gave to the OTP investigators in 2004 to be admitted into evidence. Lukovic's other statement, the one given to the defense in 2009, was later also admitted into evidence.

In the summary of the statements read in the courtroom, the defense notes that Ivan Cermak as the commander of the Knin Garrison after Operation Storm helped civilian authorities in their effort to normalize life in the town. In order to achieve that, Lukovic recounted, it was necessary to fix the telephone and electronic infrastructure, water supply system, sewage and everything else that the Serbs 'had destroyed before leaving'.



◀ Ivica Luković, svjedok odbrane Ivana Čermaka

In addition to dealing with municipal problems, Cermak was in constant contact with the UN mission and representatives of other international organizations in Knin. He would meet their demands, the witness said in his statement. When Cermak received complaints from international observers about widespread looting and burning of Serb houses in Krajina, he forwarded the information to the civilian and military police. However, as Lukovic recounted, Cermak could not order them to do anything because he had had no power over them.

The witness thus confirmed the key defense argument: the accused general didn't have a classic military function after Operation Storm, but dealt mostly with civilian

issues. Cermak is charged together with generals Gotovina and Markac for crimes committed by the Croatian Army and police in Krajina in the summer and fall of 1995.

In the cross-examination, the prosecutor asked the witness what he saw when he arrived in Knin on 5 August 1995. There were no signs of any crimes in the town, the witness said. Only one house was on fire, because it had been hit by a shell, the witness claimed; he saw the consequences of the artillery attack in just two more places.

The prosecutor then asked Lukovic if he, as the liaison officer between the HV and the UN mission, knew that international observers complained about restrictions to their freedom of movement. The international observers thought that the Croatian military authorities were doing that to prevent them from seeing what was going on in the liberated territory and not for their safety, as the official version had it. The witness said he had no information to that effect. If that had been the case, the witness noted, it would have 'compromised the entire Croatian Army'.

Lukovic completed his evidence today. The trial of three Croatian generals continues on Monday.

2009-10-05

THE HAGUE

CERMAK 'MIXED UP INFORMATION' ABOUT THE GRUBORI CRIME

According to defense witness Karolj Dondo, General Cermak did have in his hands a report about the murder of five elderly Serbs in the village of Grubori in late August 1995. Nevertheless, in front of TV cameras Cermak said that the victims were 'three Chetniks and two civilians' killed in the cross-fire. The witness explained that Cermak 'may have seen' the report the special police filed about the same incident and may have 'consequently mixed up the information'.



◀ Karolj Dondo, svjedok odbrane Ivana Čermaka

Last week, the court heard testimony of the former head of the Office for Cooperation of the HV and the UN Mission in Knin, Ivica Lukovic. Today, Cermak's defense called another witness who worked in the Office, Karolj Dondo. In the introduction to his testimony, and in the statements he gave the OTP investigators and the defense, Dondo gave a broad picture of his activities in Knin after Operation Storm and the contacts he had with Cermak in his capacity as a liaison officer. The focus of his evidence today was on the incident in Grubori. According to the indictment against generals Gotovina, Cermak and Markac, five elderly Serbs were killed in that village on 25 August 1995, and several houses were set on fire.

Cermak's defense counsel Kay asked just some general questions. Mladen Markac's defense followed with the questions about the Grubori incident. Describing the first impressions he got in the village the day after the incident, the witness said he had seen several elderly people who had been killed. One of them had been bed-ridden and had been shot upstairs in his home, still wearing his pajamas. The body of an elderly Serb woman was burned to 'a heap of cinders'. Dondo also saw several burned houses and dead livestock in Grubori.

The defense argues that there was a clash between the Croatian special forces and the remnants of Serb fighters in Grubori; the civilians were killed in the cross-fire and their houses were burned in the fighting. The witness agreed with the argument in part, saying that 'one might say' there had been contact with the enemy in Grubori, adding that he 'couldn't comprehend why civilians and bed-ridden elderly people were killed'. When defense counsel Mikulicic asked him if it was his impression that there was an effort to cover up the incident, Dondo denied it.

In the cross-examination, prosecutor Mahindaratne tried to show that there was an attempt to cover up the incident, and that the Knin Garrison commander Ivan Cermak took part in it. She first showed a recording of Cermak's interview with the UN TV in the morning of 26 August 1995, where he says nothing about any civilian victims, but about 'a terrorist' and a HV soldier as the only casualties. The interview was taped when Cermak didn't have the relevant information, Dondo explained, adding that it was only in the evening of that day that he handed Cermak a report about what he had seen in the field: civilian victims, burned houses and dead cattle.

The prosecutor then showed a video clip of another interview with the accused general, on 27 August 1995, broadcast by the Croatian TV and filmed on the site, in Grubori. Although Dondo said he had seen Cermak read his report about the elderly victims en route to Grubori, Cermak said in front of the TV cameras that the victims were 'three Chetniks and only two civilians'. When he was asked why General Cermak said things that were contrary to what was in the report he had read before speaking to the press, Dondo said 'it is hard to find an explanation', adding that Cermak 'may have seen' a report the special police filed about the same incident. He may have 'consequently mixed up the information', the witness said.

Karolj Dondo's testimony will be completed tomorrow.

2009-10-06

THE HAGUE

CERMAK 'WAS CONFUSED' ABOUT HIS POWERS

Cermak's defense witness Karolj Dondo contends that the accused general Ivan Cermak issued orders to the military and civilian police after Operation Storm simply because of the overall confusion in the liberated territory about the chain of command. Cermak himself was not aware that he was not authorized to issue orders.



◀ Karolj Dondo, svjedok odbrane Ivana Čermaka

Continuing the cross-examination of Karolj Dondo, former liaison officer in Knin, prosecutor Mahindaratne referred to what he had said in his statement to the defense: that as the Knin Garrison commander after Operation Storm Cermak didn't have any power over the military and civilian police. Together with Ante Gotovina and Mladen Markac, General Cermak is charged with crimes against Serbs and their property in the summer and fall of 1995.

At the beginning of the cross-examination today the prosecution showed Dondo several documents in which General Cermak issues orders to the military and civilian police, and invited him to comment on them. In an effort to prove that those documents didn't necessarily imply the accused general had command authority, Dondo said that Cermak's orders often had no effect in the field. For example, the witness recounted, the HV troops prohibited the repairing of the radio stations on the Promina Mountain near Knin, saying that Cermak's order was worth nothing without the authorization from the command of the Split Military District. The Split Military District was under Gotovina's command.

The witness was then showed a transcript of Cermak's interview with the OTP representatives in 1998 where the general, who was a suspect at the time, said that after Operation Storm he ordered the HV units to give freedom of movement to all international observers in Sector South without consulting superior commanders. Dondo was adamant that Cermak was not authorized to do that. As the witness argued, in situations like that Cermak would tell his collaborators in Knin 'we will write the order and I will then deal with it later with Gotovina'.

When the prosecution asked the witness if Cermak actually 'pretended to do things he was not authorized to do' in Knin, Dondo said that Cermak signed documents with the title he really had. Cermak himself probably didn't know he was not authorized to issue orders to the military and civilian police, Dondo added. According to him, Cermak's 'ignorance' was the result of the overall confusion about the chain of command in the liberated area. It was 'quite likely' that before Cermak came to Knin on 6 August 1995 as the garrison commander, he was not briefed about his duties and powers. Finally the prosecution put it to the witness that in fact he was ignorant about the powers of a garrison commander on paper and that his evidence was based on speculations. 'Yes, what I've said about Cermak's powers over the military and civilian police in Knin are mere speculations', Dondo replied.

At the end of his evidence the witness requested permission to shake hands with the accused generals. The presiding judge didn't let him explaining that it was not customary. Dondo then turned towards the dock and bowed lightly. Cermak's defense then called its next witness. His statement was admitted into evidence, but a summary was not read out. The only thing the public learned is that the witness's surname is Dodig and that he will be cross-examined by the prosecution tomorrow.

2009-10-07

THE HAGUE

PSYCHIATRIST BLAMES CRIMES ON PSYCHOPATHS

Goran Dodig, psychiatrist from Split, contends that Croatian generals Gotovina, Cermak and Markac are not guilty of the crimes during and after Operation Storm. According to Dodig, crimes were committed by psychopaths who make 10 to 15 percent of the population in every society.



◀ Goran Dodig, svjedok odbrane Ivana Čermaka

It was only in the cross-examination of Goran Dodig, a psychiatrist from Split, that it became clear that in August and September 1995 he had briefly visited Knin several times as a representative of the Croatian government. Dodig, who is testifying as Ivan Cermak's defense witness, met the accused general there several times. Yesterday the statement Dodig gave to the defense was admitted into evidence. In the statement and in his evidence today, Dodig said he knew there had been crimes, but denied the existence of the joint criminal enterprise aimed at expelling Serbs from Krajina. Generals Gotovina, Cermak and Markac are charged with participation in this joint criminal enterprise.

Although Dodig admits that nobody from the Croatian leadership consulted him on any issues during the preparations for Operation Storm, he is sure that the objective of the attack on Krajina was not to expel Serbs but to reintegrate that territory into Croatia. The witness emphasized that, as far as he knew, President Tudjman had 'a reasonable and normal attitude' towards Serbs, seeing them as citizens of the state he headed who were to be given even more rights than other citizens.

During his visits to Knin, Dodig didn't learn anything about the crimes against Serbs and their property, assuming that General Cermak didn't know about them either. Only later did he hear that there had been crimes against Serbs, the witness said. According to Dodig, the three generals on trial in The Hague are not responsible for those crimes; the psychopaths who make 10 to 15 percent of the population in every society are to blame.

In an effort to discredit the witness, the prosecution showed an article from 2001 in which Dodig called the Tribunal in The Hague 'a political tribunal without any moral strength'. The witness replied, 'people change', and that today he might not say the same thing, urging the judges to understand his 'emotional attitude towards the institution' which is trying persons who, in his opinion, are honorable men, not guilty of the crimes in Operation Storm. 'If I knew that any of those men contributed to the crimes they have been charged with, I could not live in Croatia any more. 'For me, the trial of the Croatian generals in The Hague is as if I myself were in the dock', Dr. Dodig concluded.

In his re-examination, defense counsel Kehoe tried to prove that the witness was not the only one who thought the Tribunal was 'a political court': some former ICTY employees shared this view. Kehoe showed segments from the book *Peace and Punishment* authored by former OTP spokesperson Florence Hartmann where she qualifies the Tribunal's work in similar terms. When the presiding judge joined in the debate, it became clear that the witness labeled the Tribunal a political court because the prosecution failed to identify the real culprits for the crimes in Krajina, but convicted unjustly 'the symbols of the Homeland War'. Hartmann, on the other hand, called the Tribunal a political court because of the purported attempts on the part of foreign governments to influence its work.

2009-10-08

THE HAGUE

'PLANNED CRIMES' BECAME 'ISOLATED INCIDENTS'

Petar Pasic, former mayor of Knin, said in his statement to the OTP investigators that the Krajina crimes after the Operation Storm were planned by the Croatian leadership. Later on, in his interviews with Ivan Cermak's defense, Pasic corrected himself, saying that crimes were just 'isolated incidents'.

When Krajina was liberated in August 1995, Croatian authorities appointed several Serbs to key posts in Knin. Cedo Romanic was thus appointed chief of police of the Knin District and Milos Mihic became chief of the police station. Petar Pasic was appointed the government commissioner for Knin but he was often referred to as mayor. Romanic and Mihic haven't yet appeared in The Hague as witnesses, at least not in hearings open to the public. Today, Pasic gave evidence as Ivan Cermak's defense. Ivan Cermak is on trial with generals Ante Gotovina and Mladen Markac for crimes against Serbs during and after Operation Storm.



◀ Petar Pašić, svjedok odbrane Ivana Čermaka

Pasic was first interviewed for the trial of the Croatian generals by the OTP in 2002. In the meantime, Pasic radically changed his claims. Two documents, entitled **Corrections to the Statement to the OTP** were admitted into evidence today together with a statement Pasic gave to Cermak's defense in April 2009. Their brief summaries, read by defense counsel Kay at the beginning of Pasic's evidence, indicated only that the accused general Cermak, as the Knin Garrison commander, focused primarily on normalizing the civilian life in the town.

In Pasic's cross-examination by Gotovina's defense counsel Luka Misetić it became clear that Pasic told the OTP investigators that crimes in Krajina after Operation

Storm were 'planned by the Croatian leadership'; 'anarchy reigned [in Knin] and only President Tudjman could stop it'. In his statement to the defense the witness said that there had been only 'isolated incidents' in Krajina and that he would have left the government if he had thought that the killing of Serb civilians and destruction of their property had been official policy. Gotovina's defense counsel showed a newspaper's article from 1996 in which Pasic said, 'individual incidents do not reflect the official Croatian policies'. This prompted Misetić to ask the witness why he said the opposite in his statement to the OTP in 2002. The witness said that he didn't remember telling the OTP investigators that crimes in Krajina were planned by the Croatian leadership.

Pasic was asked if he, as a Serb, was afraid to report those 'isolated incidents' to Croatian authorities. He denied it. The defense counsel then went on to show the witness a letter of 25 October 1995 in which Pasic tells the police in Zadar about 'stealing grapes and grain in Knin'. In his statement to the OTP investigators Pasic listed a series of serious incidents after Operation Storm. He didn't report them in writing but he did speak about them primarily to Knin police officials Romanic and Mihic. When he was asked if Romanic and Mihic did anything, the witness hesitated a little then went on to say they did nothing.

One of the most serious incidents that Pasic learned of was the murder of an old Serb woman, Marta Vujnović, and her mentally ill son. A Croatian Helsinki Committee (HHO) report on crimes after Operation Storm admitted into evidence at the trial of Gotovina, Cermak and Markac, states that its staff contacted Pasic in August 1995, asking him to do something after the old woman and her son went missing. Pasic told them that he 'had better things to do with his time than to go around collecting Serb bodies in Krajina'. When defense counsel Misetić asked the witness if he remembered his correspondence with the HHO, Pasic said he received only one request from the HHO; it wasn't about that incident.

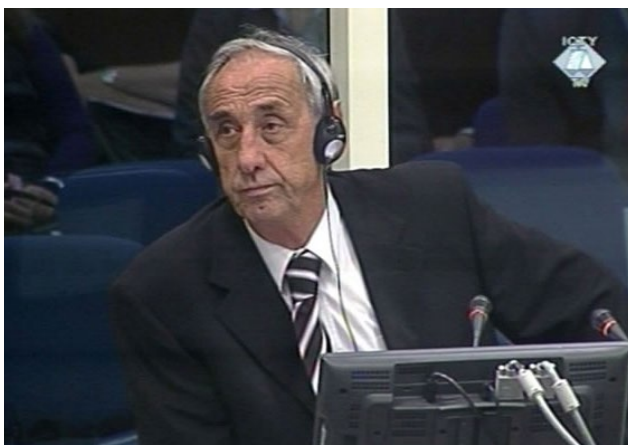
As the hearing today drew to a close, prosecutor Gustafson began cross-examining the witness.

2009-10-09

THE HAGUE

USTASHA SONGS OR PATRIOTIC SONGS?

Cermak's defense witness Petar Pasic has made a number of amendments to the statement he gave to the OTP investigators seven years ago. Before he claimed that Ustasha songs were sung in Knin after Operation Storm in the presence of General Ante Gotovina, now he says that patriotic songs, such as the song **Jure and Boban**, were sung there.



◀ Petar Pašić, svjedok odbrane Ivana Čermaka

In the cross-examination of Petar Pasic, former Croatian government commissioner for Knin, the prosecution focused on the amendments to the statement the witness gave to the OTP investigators in 2002. Yesterday, the statement the witness gave to the defense was admitted into evidence together with two additional documents containing a number of amendments to the OTP statement. In his interview with the OTP investigators, Pasic accused the Croatian leadership of planning the crimes in Krajina in the summer of 1995. Pasic is testifying as General Ivan Cermak's defense witness. Cermak is on trial together with Ante Gotovina and Mladen Markac for crimes against Serbs and their property during and after Operation Storm.

The major changes are contained in a document drafted after the witness arrived in The Hague on 6 October 2009. The witness renounced five paragraphs where he said the Croatian Army and police had done nothing to prevent

crimes in Krajina after Operation Storm. In his statement to the OTP investigators in 2002 Pasic said that Serb houses in Krajina were looted and burned down while police 'couldn't or didn't want to' prevent crimes in Serb villages, while the army 'could but didn't want to' prevent them. When he came to The Hague he called the defense and listed all the inaccuracies from the statement. Pasic and the defense then drafted a new document containing all the amendments. Today Pasic claimed that there were crimes against Serbs after Operation Storm, but that those were 'isolated incidents'; the accused generals were not responsible for them. In Pasic's view, the main culprits for the Serbs' exodus from Krajina were 'their self-declared leaders', primarily Milan Babic and Borislav Mikelic.

When asked why he didn't change his statement earlier, since he had a number of opportunities to do so, Pasic replied that he didn't read his statement to the OTP investigators carefully until he was called to give evidence. Only then did Pasic realize 'the weight of my statement'. On the plane from Zagreb to Amsterdam he felt 'some lack of confidence in my own self' and this prompted him to change his previous claims. Pasic noted that earlier he changed only claims about General Cermak because he met only with his defense team. Immediately before he left for The Hague, he met with defense representative Zeljko Basic in Sibenik. However, Pasic claims they didn't discuss his statement or possible changes.

One of the amendments has to do with General Ante Gotovina. Pasic denied his earlier claim that Gotovina was 'untouchable' in Knin and that he would see the general on 'social occasions' where Ustasha songs such as Jure and Boban were sung. After Pasic came to The Hague, he made a complete U-turn, saying 'Gotovina was accessible' and that 'patriotic' songs were sung in Gotovina's presence, not Ustasha songs. Pasic noted that Jure and Boban lyrics 'may be controversial in some segments', but not enough to be called Ustasha song. When he was asked if some people may see the song as glorifying the Ustasha movement, Pasic said, 'Some people perhaps might, but not me'.

The evidence of former Croatian government commissioner for Knin Petar Pasic, one of three Serbs appointed to high-ranking posts in Knin after Operation Storm, continues on Monday.

2009-10-12

THE HAGUE

WHERE THERE USED TO BE 90 PERCENT SERBS, NOW THERE WERE 90 PERCENT CROATS

Former Knin mayor Petar Pasic claims that the demographic composition of Knin drastically changed after Operation Storm. The number of Serbs dropped from 90 to only five to eight percent. At the same time, the number of Croats rose from eight to 90 percent but Pasic contends that the Croatian authorities were not to blame.



◀ Petar Pašić, svjedok odbrane Ivana Čermaka

As his cross-examination continues, former Croatian government commissioner for Knin Petar Pasic tried to protect the former Knin Garrison commander Ivan Cermak. Pasic is testifying as Cermak's defense witness. In his cross-examination by prosecutor Gustafson, Pasic said that after Operation Storm the accused general dealt with 'civilian issues only and not in any way with the tasks of the army and police'. Cermak is on trial together with generals Gotovina and Markac for crimes against Serb civilians and their property in Krajina in the summer and fall of 1995.

Pasic admitted that after the arrival of the Croatian Army and police the demographic composition in Knin changed drastically. The number of Serbs dropped from 90 percent to just five to ten percent. At the same time, the percentage of Croats rose from eight to 90. The witness contends that the Croatian leadership was not to blame for it. According to the witness, after Operation Storm there were no obstacles for the Serbs to return to Krajina. On the first day of his testimony, Pasic claimed that the Serbs' 'self-proclaimed leaders' were responsible for the exodus of the Serb population.

The prosecution showed a report drafted by Elisabeth Rehn, the UN special rapporteur for human rights. Rehn's report claimed that the return of Serbs was virtually impossible: according Croatian laws passed at the time, the Serbs' property would be seized if they failed to come to Croatia by a certain deadline. At the same time, the Serbs were denied documents they needed to enter Croatia. The witness said he disagreed with the assessment, because he 'cannot put more trust in the special rapporteur than in the Croatian authorities'. This prompted the prosecution to show a report authored by a former member of the UN mission, where he says that in October 1995 the Knin mayor Petar Pasic told him that he disagreed with the Croatian government policy on the return of the Serbs. Pasic denied this, noting that he didn't agree with the government policy which allowed everybody to come back. In Pasic's opinion, those Serbs who had committed crimes in Krajina should not have been allowed to return.

In the second part of the hearing today, Gotovina's defense counsel Misetic re-examined the witness. Misetic tried to contest Pasic's claim that the former Split Military District commander attended receptions where songs about former Ustasha leaders Jure Francetic and Rafael Boban were sung. Misetic showed recordings made at two ceremonies in Knin, one at the castle in August 1995 and the other in the elementary school in December 1995. Gotovina attended the two ceremonies. The song about Jure and Boban was not sung there. Pasic's reply made it clear that he had in mind other events: concerts in the Officers' Hall in Knin. The song was performed there in the presence of the accused general.

Pasic argued that his 2002 statement in which he had accused the Croatian leadership of expelling Serbs from Krajina didn't contain his words but the words of the OTP investigators. This prompted the defense counsel to show a video recording of an interview between an OTP representative and former interior minister Jarnjak. In the interview conversation, Jarnjak was asked leading questions a number of times. Pasic replied that the same had happened to him. According to Pasic, the investigators confronted him with a number of claims and he mostly agreed with them. Only later did Pasic realize that the claims were not true and he repudiated them in the statement he gave to Cermak's defense.

2009-10-14

THE HAGUE

WITNESS: CERMAK HAD NO AUTHORITY OVER POLICE

In his evidence as General Cermak's defense witness Ivica Cipci, former chief of the Split-Dalmatia Police Administration, contends that under the Croatian law the accused general was not superior to the civilian police in Krajina after Operation Storm. The presiding judge commented that 'practice is known to deviate from laws at times'.



◀ Ivica Cipci, svjedok odbrane Ivana Čermaka

Former chief of the Split-Dalmatia Police Administration Ivica Cipci told defense counsel Steven Kay that General Ivan Cermak as the Knin Garrison commander had 'no authority whatsoever' over the civilian police in Krajina after Operation Storm. Cipci thus challenged the allegation in the indictment that the accused general could have used the police units to prevent crimes and punish those who killed Serb civilians and looted and burned down their houses in the summer and the fall of 1995. Generals Ante Gotovina and Mladen Markac face the same charges as Cermak.

Cipci contends that Cedo Romanic, chief of the Knin Police Administration, was in charge of the police work.

According to the chain of command, Romanic reported to the Croatian MUP and to Minister Jarnjak. The witness didn't rule out the possibility that Cermak may have issued written orders to the police at times. However, the witness added that such documents had no weight; they were purely informative. Cermak was obliged, as is every other citizen, to report any crimes he was aware of to the police, but Cipci couldn't say why Cermak did that using the order format.

To corroborate his claims, the witness used the commander of the Split Garrison as an example. That man had no authority over the police in the Split-Dalmatia Police Administration, Cipci said, just as Cermak had no jurisdiction in the Knin area. This could be verified by looking into laws that were in force at the time. Presiding judge Orić told Cipci that the Trial Chamber would take into account the legislation, but added that 'practice is known to deviate from laws at times'.

In his statement to Cermak's defense admitted into evidence today, Cipci says that in mid-August 1995 he was told that large-scale looting of abandoned houses was underway in Knin; it was done by civilians arriving by train from Split. In his cross-examination by Gotovina's defense the witness said he had suggested to his police officers, seconded to the Knin Administration, to line up along the train station and prevent the goods from being loaded onto the train to Split. They did that and the looted goods remained in Knin, Cipci said.

The presiding judge joined in, asking the witness why he didn't order his police officers to prevent the looting instead of waiting for the looted goods to get to the train station. 'I was not authorized to do it', Cipci replied. All MUP personnel in Knin, including the police from the Split-Dalmatia Administration, were subordinated to Cedo Romanic. When asked if he felt it was appropriate to inform Romanic about the events, the witness said there was no need to do it: he assumed that police officers in the field, down the chain of command, had already done that.

Markac's defense counsel Mikulicic proceeded to ask the witness some questions. As the hearing today drew to a close, the prosecution began cross-examining the witness.

2009-10-15

THE HAGUE

“A SUPERIOR DOESN’T COOPERATE, HE ORDERS”

Noting there was a connection between Ivan Cermak and the civilian police after Operation Storm, the prosecution produced Cermak’s interview with the OTP investigators where he admitted that he had good cooperation with the MUP and Minister Jarnjak. Defense witness Ivica Cipci responded, saying that it actually meant that Cermak had no authority over the police: according to him, cooperation is not the same as having command authority.



◀ Ivica Cipci, svjedok odbrane Ivana Čermaka

Former chief of the Split-Dalmatia Police Administration Ivica Cipci completed his evidence sticking to what he had said to the defense, that General Cermak had no authority over the civilian police in Knin after Operation Storm. Cermak, who was the commander of the Knin Garrison, is on trial together with generals Gotovina and Markac for taking part in the joint criminal enterprise aimed at the permanent elimination of Serbs from Krajina in the summer and fall of 1995.

Prosecutor Adria De Landri showed a number of documents where the Knin police informed Cermak about steps taken regarding crimes committed in the second half of 1995. Asked why the police informed Cermak about that if they were not subordinate to

him, Cipci said that such reports were actually sent to addressees in the Croatian MUP. Cermak received them ‘for his information’. According to Cipci, the Knin Garrison commander was listed among the addressees because he needed the information about those investigations to be able to use it in his contacts with the UN mission and other international observers. They reported crimes to Cermak and expected information on what steps had been taken.

The prosecutor then referred to Cermak’s interview with the OTP investigators in 1998, where Cermak said that his garrison worked well with the police, adding he was on good terms with Minister Jarnjak and that he and Jarnjak discussed the steps the police should take vis-à-vis crime investigations. The witness said Cermak’s statement only served to reinforce his belief that Cermak did not have command responsibility over the civilian police. The document speaks about working with the police, Cipci said; a ‘superior doesn’t cooperate with others, he orders them to do something’. If Cermak had had command authority, he would have issued orders to the police, the witness contended; he would not have asked Jarnjak to deal with problems.

The Knin Garrison commander could not issue laissez-passer guaranteeing freedom of movement in the liberated area to civilians either, although he did that, Cipci added. Laissez-passer signed by Cermak were not valid in the area controlled by the Split-Dalmatia Police Administration, the witness claimed.

There will be a one-week break in the trial of the three Croatian generals. On 26 October 2009, Ivan Cermak’s defense will call its next witness. Cermak’s defense is expected to rest its case by late October or in the first week of November 2009.

2009-10-29

THE HAGUE

POLICE MADE ARRESTS ONLY WHEN THEY DARED

Former chief of the Zadar-Knin Police Administration Ivan Cetina said that in the first month and a half after Operation Storm civilian police had tried to prevent the looting by Croatian soldiers ‘only if they assessed that there would be no confrontation with the perpetrators’. Cetina claims the police did not investigate the murder of five elderly Serbs in the village of Grubori.

Ivan Cermak’s defense case continued with the evidence of former chief of the Zadar-Knin Police Administration Ivica Cetina. Cetina spoke about the security situation in the liberated territory after Operation Storm in the summer of 1995. In the statement he gave the OTP investigators in 2001 Cetina recounted that after the arrival of the Croatian troops in Krajina, his police administration urgently set up police stations and made them operational to re-establish law and order. The administration was thwarted in its efforts, because there were numerous crimes in the liberated territory and the police was understaffed. Cetina said the same in the statement he gave the defense in 2009.

Ivan Cermak is in the dock with generals Gotovina and Markac because they allegedly took part in a joint criminal enterprise aimed at expelling Serbs from Krajina. One of the charges against Cermak is that he did not use his influence over military and police units as the Knin Garrison commander to prevent crimes and prosecute perpetrators. In answer to questions by defense counsel Kay, Cetina said that Cermak ‘didn’t impose himself on the police’ and that he didn’t have the authority to manage police work.



◀ Ivica Cetina, svjedok odbrane Ivana Čermaka

Visibly unhappy with the witness's claim that only the military police dealt with the crimes perpetrated by Croatian soldiers, Gotovina's defense counsel Luka Misetic put it to the witness that under the law, civilian police also could 'interfere' in the investigation of crimes perpetrated by soldiers. It was like that on paper, Cetina said, but in practice it 'was a little bit more difficult'. When the civilian police saw uniformed persons transporting stolen goods, they tried to arrest them and prevent the looting 'only if they assessed that there would be no confrontation with the perpetrators'. This is how it was for a month and a half after Operation Storm, Cetina said.

The defense counsel then presented several documents that show the opposite was the case, including a MUP report of 14 August 1005 stating that the police arrested three HV members who had tried to steal some tractors. 'In that particular case we should applaud to the police, we did really well', the witness said, confirming that the police did what it was supposed to do.

In the cross-examination, prosecutor Mahindaratne noted that there was a case where, in her opinion, the police didn't do anything to investigate a crime: five elderly Serbs murdered on 25 August 1995 in the Krajina village of Grubori. The Grubori crime is listed in the appendix to the indictment against the Croatian generals. Cetina said that, as far as he knew, that crime was not investigated and that appropriate steps were not taken. He, as the chief of the police administration where the crime occurred, never asked around why there had been no crime scene investigation and why no other effort had been made to investigate the crime.

Ivica Cetina's cross-examination continues tomorrow.

2009-10-30

THE HAGUE

CERMAK'S 'REQUESTS' TO THE POLICE

Although he was shown several orders Ivan Cermak issued to the police, former chief of the Zadar-Knin Police Administration Ivica Cetina remained adamant that the accused general had no authority over the police after Operation Storm. Cetina did admit that they would look into the reports about crimes received from Cermak, adding that they would inform him about the results of the investigation if Cermak requested them to do that.



◀ Ivica Cetina, svjedok odbrane Ivana Čermaka

At the beginning of the hearing today, prosecutor Mahindaratne produced a transcript of a meeting between the military and civilian police on 15 September 1995. At the meeting, Ivica Cetina, currently testifying as Cermak's defense witness, describes the situation in Krajina after Operation Storm. Generals Ante Gotovina, Ivan Cermak and Mladen Markac are on trial for crimes in Krajina in the summer and fall of 1995.

Speaking at the meeting as the chief of the Zadar-Knin Police Administration, Cetina said that in the first phase, immediately after Operation Storm, professional HV units operated in the liberated territory. They were replaced with units 'that burned down the houses and threatened with weapons' those who attempted to stop them. Finally Cetina recounted that in the third phase in Krajina there prevailed 'civilians who took property in large quantity'. The witness said yesterday that the civilian police were leery of the HV troops perpetrating crimes; the prosecutor asked Cetina if he told anyone in the army about those problems. Cetina replied he didn't do that; he reported this to his superiors in the MUP instead, but couldn't tell if they did anything later.

According to the prosecution, the witness's statement to the defense shows that the police was lax about the crimes. The witness told the defense that most of the murders took place in remote villages far from the main roads where the police rarely ventured. The reports about crimes were obtained from the civilian defense or international observers. When asked why the police relied on reports of others instead of visiting the remote villages themselves, Cetina said that the MUP at that time was understaffed.

Contesting the witness's claim that, as the Knin Garrison commander, General Cermak did not have any influence on the police units in the field, the prosecution showed several orders the accused general issued to the police and

the reports Cermak received subsequently from the police. Cetina nevertheless stuck to his previous claims, saying that Cermak's communication with the MUP units was based on 'requests': the police would check reports about crimes they received from Cermak and, if the general requested them, they would inform him of their findings. In re-examination by defense counsel Kay, the witness said that it was Cermak's civic duty to report crimes to the police. Cermak was informed of results, among other things, because he was supposed to forward the information to the UN mission representatives in Krajina.

In his cross-examination, Cetina said that on the orders of the deputy interior minister Zidovec the police didn't conduct crime scene investigations when they came across human bodies in the course of clean-up operations. The defense tendered into evidence several documents showing that in some cases crime scene investigations were indeed conducted.

Ivan Cermak's defense case continues on Monday.

2009-11-02

THE HAGUE

CROATIAN BUSINESSMEN IN CERMAK'S DEFENSE

Mladen Vedris and Nadan Vidosevic, respectively the former and current chairmen of the Croatian Chamber of Commerce, described Ivan Cermak, their former colleague from various business and political entities as 'a key, exceptional' person. According to them, Cermak was sent to Knin with the task to normalize civilian life after Operation Storm. Was Stipe Mesic right when he called Tudjman a dictator?



◀ Nadan Vidošević, svjedok odbrane Ivana Čermaka

Despite his fame, the current president of the Croatian Chamber of Commerce and presidential candidate at the upcoming presidential elections, spent only 45 minutes in the Tribunal's courtroom today. Vidosevic's evidence was the shortest to date in General Ivan Cermak's defense case. When the witness appeared in the courtroom and after he had made the solemn declaration to speak the truth, Vidosevic's written statement was admitted into evidence. Vidosevic gave this statement to the defense in May 2009. Cermak's defense counsel Kay read out the summary for the record.

During Operation Storm, Vidosevic was minister of economy. In his statement Vidosevic explained that the

liberation and reintegration of Krajina was of key importance for the Croatian economy, primarily because it made it possible to restore the transport and power supply networks. General Ivan Cermak played a key role in the effort to restart the economy in that part of Croatia after Operation Storm in August 1995, the witness said. Cermak's role in the normalization of life in Knin and its environs, Vidosevic contended, was 'crucial and exceptional'.

Vidosevic thus corroborated the defense's argument that after Operation Storm, Cermak's role as the Knin Garrison commander was primarily civilian and not military. Cermak and generals Gotovina and Markac are charged with crimes against Serbs and their property in Krajina during and after Operation Storm in the summer of 1995.

In his cross-examination Vidosevic stuck to what he had said in his statement. In Vidosevic's words, Cermak was 'an efficient, competent and reliable' businessman which is why he was sent to Knin in the first place. The witness denied there was a plan to expel Serbs from Krajina. Had there been such a plan, Vidosevic noted, he and some other ministers would not have accepted it; they would have left the government. According to Vidosevic, there was no such plan and he remained a minister until September 1995 when he moved to the Chamber of Commerce.

[IMAGE]4426[/IMAGE]Vidosevic's predecessor, former chairman of the Croatian Chamber of Commerce Mladen Vedris also gave evidence as Cermak's defense witness. Cermak's friend of many years, Vedris said that Cermak worked 'as a bulldozer' and was a key person for the normalization of life in Knin after Operation Storm.

Since Vedris described Croatia at the time of Operation Storm as 'a young emerging democracy', prosecutor Waespi asked him if he agreed with the current president Stipe Mesic who called Tudjman a dictator in a speech in November 2000. The witness said he didn't agree, despite the fact that he and Mesic were friends. In Vedris's words, Tudjman 'had some authoritarian propensities but respected parliamentary democracy'. Although the defense objected strongly, the prosecutor was allowed to read a part of Mesic's speech, where Mesic says Tudjman made every decision in Croatia 'from the choice of the cabinet ministers to the choice of players in the national football team'. As the witness claimed that the Croatian authorities wanted to solve the conflict with the Serbs by peaceful means, the prosecutor wanted to show the witness Mesic's claim that 'some actions taken by President Tudjman antagonized Krajina Serbs', but the judges disallowed it. Vedris continued his evidence noting that the Croatian authorities believed in coexistence with the Serbs in Krajina. However, as Vedris emphasized, 'it takes two' for coexistence.

2009-11-04

THE HAGUE

KRAJINA, KOSOVO AND NEW ORLEANS: SIMILAR OR DIFFERENT?

Mladen Markac's defense tried to prove that the crime wave in Krajina after Operation Storm was an entirely normal consequence of the conflict. Defense expert Christopher Albiston agreed, noting that the situation was similar in Northern Ireland and Kosovo after the conflicts there. The defense counsel then asked the witness to compare the situation in Krajina to the criminals on the rampage in New Orleans after Katrina and in Paris after the street rioting.



◀ Christopher Albiston, svjedok odbrane Ivana Čermaka

The hearing today began with the defense of the former Croatian Special Police commander Mladen Markac cross-examining the British police expert Christopher Albiston. Defense counsel Goran Mikulicic tried to prove that an increase in crime after Operation Storm was nothing out of the ordinary, and that the police could do nothing to deal with the perpetrators. Albiston has been called by the defense of the former Knin Garrison commander Ivan Cermak. Together with generals Gotovina and Markac, Cermak is on trial for crimes against Serb civilians and their property during and after Operation Storm in the summer of 1995.

In his examination-in chief yesterday, Albiston denied that Cermak had any links with the civilian police; at the time the police didn't have enough personnel and technical resources to fight the wave of looting and arson in the recently liberated territory. Defense counsel Mikulicic put it to the witness that an increase in crime is normal in post-conflict situations, and asked him to recall his experiences from Northern Ireland and Kosovo. Albiston was stationed there immediately after the conflicts as a high-ranking police official.

Criminals and gangsters of all sorts tried to exploit the fact that law and order had not been completely restored, the British expert said. The defense counsel then went one step further, asking the witness to compare the situation in Krajina to that in New Orleans after hurricane Katrina and in Paris after the street riots when criminals went on the rampage. The prosecutor objected, prompting the presiding judge to interrupt the defense counsel. Judge Orić noted there was no foundation for those questions because the witness wasn't there when those events occurred.

Prosecutor Katrina Gustafson took the floor then to start the cross-examination. She picked up on Albiston's conclusion that under the military laws and regulations, General Cermak had no authority over the civilian police in the liberated territory, asking the witness what had led him to conclude that the accused general was working on normalizing life in Knin and its environs and liaising with the media and the international community, since those tasks were not listed among Cermak's duties in any legal document. Albiston replied that his conclusions were based on what Cermak did in practice.

The prosecution is trying to prove that in practice the accused issued orders to the civilian police, too. Today, the witness was shown a report from the UN mission in Knin, stating that Cermak promised to the international observers he would 'issue an instruction' to the police to participate in joint patrols with them. According to Albiston, this doesn't mean that the Knin Garrison commander had authority over the police. The witness contends that the document only shows that Cermak 'had an impression' that he had the authority to issue operative instructions to the police. This however doesn't mean that he actually did have it.

The witness didn't entirely reject the suggestion that President Tudjman might have given Cermak authority over the civilian police off the record, adding that he didn't deal with that hypothesis in his report.

Christopher Albiston's cross-examination will continue tomorrow.

2009-11-05

THE HAGUE

CROATIAN POLICE WAS AFRAID

Ivan Cermak's defense witness has admitted that it is 'disappointing' that the police did not investigate the crime scenes where Serb civilians had been killed in Krajina, but the fact remains that the Croatian police were afraid that the straggling Serb soldiers might attack them and did not want to stay at crime scenes too long.

British police expert Christopher Albiston continued his evidence at the trial of Croatian generals. On the second day of his cross-examination, prosecutor Katrina Gustafson tried to challenge the claim in his report that after Operation Storm Ivan Cermak worked together with the civilian police, but did not have any command over them. Cermak is

on trial because in the summer of 1995 he allegedly failed to use his authority as the Knin Garrison commander to prevent and punish the crimes against Serbs, thus contributing to the goals of the joint criminal enterprise. Generals Gotovina and Markac are in the dock for their alleged participation in the same criminal enterprise.



◀ Christopher Albiston, svjedok odbrane Ivana Čermaka

Since a number of Cermak's orders to the Knin police commanders Romanic and Mihic are already in evidence, the prosecutor asked the witness whether he, in their shoes, would have sought some explanation from MUP superiors as to why they are receiving orders from someone they're supposed to 'work with' and nothing else. Albiston said he would certainly have done so, admitting that he couldn't find any instances where civilian police officers complained about Cermak's orders in the documents he had inspected for his report.

The prosecutor then showed a document drafted by the European monitors in August 1995. After they complained about the restrictions to their freedom of movement, Cermak contacted the police minister directly and demanded that the problem be solved. The prosecutor asked the witness how many people in his country are able to call up the police minister directly, to his knowledge. 'I don't know anyone who can do that,' Albiston said, admitting that the document testifies to Cermak's 'influence and access to the highest echelons in the Croatian MUP'.

The prosecutor then challenged Albiston's claim that lack of human and financial resources in the police contributed to the hike in crime in the liberated area. According to the prosecution, the documents the witness inspected show that the police did not conduct any crime scene investigations in most of the places where people had been murdered, including the village of Grubori in Krajina where five bodies of elderly Serbs with gunshot wounds were found in late August 1995. Albiston admitted it was 'disappointing, but only to be expected, because proper crime investigations could not be conducted before control was established over the territory.'

The prosecutor countered that the control over the territory had certainly been established, because the police would remove the bodies from the crime scenes and bury them for the most part in the Knin cemetery. Yet the police did not do any crime scene investigations, Gustafson argued. The witness pointed to the fact that the Croatian police feared for their lives because they thought there were straggling Serb soldiers in the hills, and wanted to leave the crime scenes as soon as possible.

Christopher Albiston's testimony will end tomorrow. Cermak's defense will then call its last witness.

2009-11-06

THE HAGUE

GENERAL CERMAK 'INCREDIBLY UNQUALIFIED'

Defense military expert Jack Deverell has denied that General Ivan Cermak had any command authority over the HV units in Krajina after Operation Storm, saying that Cermak was 'incredibly unqualified' for any military role and noting he was 'flabbergasted' when he saw a paragraph in the indictment listing the units allegedly under Cermak's command.



◀ Jack Deverell, svjedok odbrane Ivana Čermaka

As the evidence of police expert Christopher Albiston drew to a close, the prosecution and the defense fought a document war, each party producing documents showing the efficiency, or lack thereof, of the Croatian civilian police after Operation Storm in the summer of 1995.

Prosecutor Gustafson showed a series of reports by international observers about the police officers often not doing anything even when they saw houses being looted and set on fire. High ranking Croatian police officials would talk to the observers and try to cover up those incidents, offering various explanations: that the houses were on fire because of faulty wiring, etc. The

witness said he saw examples like that in the documents he received from the defense. Although 'the police conduct was unsatisfactory', the witness said, one should not forget that for various reasons the police work in Krajina after the conflict was difficult.

Defense counsel Higgins returned fire with a set of Croatian MUP documents, where deputy minister Moric issues an order immediately after Operation Storm to 'put an end' to the looting and arson in Krajina and to start investigating those crimes. Albiston said that evidently the police had every intention of investigating the crimes, but errors were always possible in 'individual police actions'.

After a brief re-examination by the defense teams of generals Gotovina and Markac, Christopher Albiston concluded his evidence. Cermak is on trial together with generals Gotovina and Markac for crimes committed during and after Operation Storm. Cermak's defense then called its last witness, retired British general Jack Deverell. As a defense military expert, Jack Deverell drafted an expert report shedding light on Cermak's role as the Knin Garrison commander.

Deverell studied the curriculum vitae of the accused and concluded he was 'incredibly unqualified' for any military function: Cermak never had any military training. Nevertheless, once he was appointed garrison commander, under the Croatian law Cermak was responsible for the functioning of the Knin Garrison. Cermak was also in charge of maintaining 'order and discipline' among the soldiers in the Garrison buildings but had no authority over units 'that were passing through'.

The witness said he was 'flabbergasted' when he saw a paragraph in the indictment listing units Cermak had allegedly controlled, such as the 4th and the 7th Guards Brigade, 126th Home Guard Regiment or the 113rd Infantry Brigade. Among the documents from that time, Deverell couldn't find any orders the Knin Garrison commander issued to those units. He couldn't find any reports issued by the units' commander sent back to the Knin Garrison commander either.

The British general continues his evidence on Monday and is expected to complete it on Wednesday.

2009-11-09

THE HAGUE

CERMAK RECEIVED REPORTS 'AS A COURTESY'

In his expert report, British general Jack Deverell says that Ivan Cermak, Knin Garrison commander, didn't have any authority over the military police in Krajina after Operation Storm. Explaining why he concluded that, he said that Cermak didn't receive reports from the military police as their 'primary recipient', but 'for his information', 'as a courtesy' and was not obliged to do anything about them.



◀ Jack Deverell, svjedok odbrane Ivana Čermaka

As the examination-in chief of defense military expert Jack Deverell drew to a close, defense counsel Cayley brought up a part of Deverell's expert report where he says that General Ivan Cermak, as the Knin Garrison commander, didn't have any authority over the military police in Krajina after Operation Storm in 1995. Generals Gotovina, Cermak and Markac are on trial for numerous crimes perpetrated at that time against Serb civilians in the territory liberated by the Croatian armed forces.

Contesting the prosecution's argument that Cermak had to have used his authority over the military police to prevent the crimes perpetrated by the HV members, Deverell said that the accused general took no part in the decision-making about the military police operations. The witness noted that Cermak would at times receive reports from the military police, but not as the 'primary recipient'; those reports were sent to Cermak 'for his information', 'as a courtesy', as Deverell put it. Deverell admitted he saw several orders Cermak issued to the military police in Knin. In Deverell's opinion, Cermak did that because 'he was not aware he was not authorized to issue such orders' and because Cermak 'didn't have good advisers'.

As the hearing went on, Gotovina's defense counsel Kehoe started the cross-examination. He was trying to prove that his client didn't have any authority over the units that remained in the liberated territory after Operation Storm, because Gotovina had already moved on with his troops, and was engaged in new operational combat tasks. The British general agreed with the argument.

After Mladen Markac's defense lawyer asked the witness some questions, prosecutor Hederally started his cross-examination. He went back to the witness's claim that Cermak had no authority over the HV units 'passing through' the Knin Garrison area, but only over the units billeted in the Garrison buildings. The prosecutor quoted from the HV Rules of Service which state that 'all units in the garrison are subordinated to the garrison commander'. Only a literal interpretation of the rules would support the prosecutor's argument, Deverell said. According to the witness, this would be a misinterpretation of the rules, because it would mean that Cermak had authority over every soldier travelling in his car through the Knin Garrison territory.

The cross-examination continues tomorrow.

2009-11-10

THE HAGUE

CROATIA WAS DEFENDED FROM BH

Ivan Beneta, brigadier general in the Croatian Army, contends that 'Croatia had no other way to defend itself' but to send its troops to BH and prevent the JNA from taking over a swath of Croatian territory up to the Virovitica-Karlovac-Karlobag line.



◀ Ivan Beneta, svjedok odbrane Milivoja Petkovića

Brigadier general Ivan Beneta, assistant chief defense inspector for the military sector, is testifying as a defense witness for the former chief of the HVO Main Staff Milivoj Petkovic. The witness has known the accused Petkovic from their time in the former JNA when both of them worked in the reserve officers' school in Zadar. Beneta remembers Petkovic as a 'successful officer'.

Beneta left the JNA in July 1991 to join the Croatian Army as a volunteer. Apart from defending Zadar, Split and Dubrovnik, in 1992 and 1993 Beneta fought in BH on two occasions. In July 1992 the witness fought in the ranks of the HV 4th Guards Brigade to wrest Stolac from the JNA. In July 1993, Beneta fought in the HVO ranks in

Operation South against the BH Army in the Neretva river valley. The witness contends that the HV troops did not penetrate deeper than 20 to 25 km into the BH territory to 'defend Croatia'.

Petkovic's defense brought up the findings of military expert Milan Gorjanc, who concluded in his expert report that a country had the right to cross into the territory of another country if it was attacked from there. Gorjanc thus confirmed the defense argument that the JNA attacked Croatia from BH, which prompted the Croatian Army to cross into the BH territory. Gorjanc illustrated his findings with a map where he showed that in May 1991 the JNA intended to capture southern Croatia from Split to Dubrovnik by attacking from Livno and Stolac.

Beneta argued that the JNA had prepared a plan, codenamed 'S2', for an attack on Yugoslavia from abroad. In Beneta's words, the plan corresponds fully with the plans shown on his map. According to Beneta, it transpired later that the 'actual meaning' of the S2 plan was to let the Serbian troops enter the Croatian territory in an effort to implement the plan to create a Greater Serbia which was to have the Virovitica-Karlovac-Karlobag line as its border. Given that this was the JNA's goal, Croatia 'had no other way to defend itself' but to cross into the BH territory with its forces and prevent the JNA from advancing.

The prosecution will cross-examine Beneta tomorrow.

2009-11-10

THE HAGUE

IVAN CERMAK'S DEFENSE RESTS ITS CASE

After a month and a half, the defense of the former Knin Garrison commander rested its case. The last witness, military expert Jack Deverell, contends that the accused general was appointed after Operation Storm to a post he 'didn't understand'. Consequently, Cermak assumed 'the responsibility that wasn't his', 'with the best of intentions'. Despite earlier announcements, Mesic, Sarinic and Blazevic were not called to testify.



◀ Jack Deverell, svjedok odbrane Ivana Čermaka

As the cross-examination of defense military expert Jack Deverell continued, the prosecution tried to prove that General Ivan Cermak had command authority over the military police. The prosecution showed several orders, some issued in August 1995, in which the accused called for the involvement of the military police in the search for the vehicles from the UN mission. The prosecution holds Cermak responsible, among other things, because he didn't use his influence over the military police to prevent and investigate crimes against Serbs in Krajina after Operation Storm. Cermak limited his influence to helping the international observers. Ivan Cermak is indicted for taking part in the joint criminal enterprise

aimed at expelling the Serb population from Krajina in the summer of 1995. He is now on trial together with generals Gotovina and Markac.

'Indeed it appears that Cermak had authority over the military police', Deverell said when he was shown orders of the accused general, but then he went on to explain why it didn't mean it was actually the case. The accused was a successful man from the business and political circle, who had influence, the witness explained; now he was appointed to a post 'he didn't understand' and he assumed 'responsibility that wasn't his' 'with the best of intentions'. The fact that somebody wrote an order doesn't necessarily mean that he was authorized to do it, Deverell noted.

Noting that the crimes after Operation Storm were widespread and that Cermak was aware of them, the prosecutor showed the witness a transcript of an interview the accused had given to the investigators from The Hague. In the interview, Cermak described his conflict with the Defense Ministry spokesman General Ivan Tolj in the summer of 1995. Cermak objected to the claims Tolj had made to the *Slobodna Dalmacija* daily, that the crimes in Krajina were committed by civilians dressed in military uniforms, not by Croatian soldiers. Cermak allegedly called Tolj on the phone warning him that such claims were bad, because 'covering up and lying is in no one's interest', Cermak said to Tolj. 'Don't get angry, you know that there are people above me', Tolj allegedly replied to Cermak.

In the interview with the prosecutors Cermak drew their attention to an interview he gave to the same newspaper, in which he said that those responsible for the crimes 'should be sought among Croatian soldiers and the HV commanders should be charged accordingly'. Although the witness had gone through the transcript for the purpose of his report, the witness said he couldn't locate the quote. When asked if Cermak who was in Knin had more reliable information that Tolj who was in Zagreb, Deverell said that it was not necessarily so. Sometimes, no matter how paradoxical it may sound, somebody sitting 'at the top' may have better and more comprehensive information than somebody in the field, Deverell said.

Ivan Cermak's defense then rested its case, opened on 22 September 2009. Despite previous announcements, public figures such as Stjepan Mesic, Hrvoje Sarinic and Miroslav Ciro Blazevic were not called to testify. It is unclear if they were deleted from the witness list by the defense or if the prosecution decided not to cross-examine them, in which case their statements were simply admitted into evidence. Cermak's defense counsel did indicate they had decided not to call two of their original witnesses, identified only as IC-32 and IC-34.

The trial of the Croatian generals will be adjourned until Monday. The defense of Mladen Markac, the third accused who is a former commander of the Croatian special police, will then start its case.

2009-11-11

THE HAGUE

CROATIA WAS DEFENDED FROM BH

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◀ Ivan Beneta, svjedok odbrane Milivoja Petkovića

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later that the 'actual meaning' of the S2 plan was to let the Serbian troops enter the Croatian territory in an effort to implement the plan to create a Greater Serbia which was to have the Virovitica-Karlovac-Karlobag line as its border. Given that this was the JNA's goal, Croatia 'had no other way to defend itself' but to cross into the BH territory with its forces and prevent the JNA from advancing.

The prosecution will cross-examine Beneta tomorrow.

2009-11-17

THE HAGUE

MATE GRANIĆ IN DEFENSE OF MARKAČ

Former Croatian foreign minister claims that Tudjman's authorities engaged in various diplomatic efforts to get the rebel Serb leaders from Krajina to the negotiating table and to solve problems peacefully. The Serb leadership kept refusing the initiatives and at the same time indoctrinated their compatriots, telling them not to accept the Croatian state. According to the witness, this culminated in Operation Storm and 'the departure of those people'.



◀ Mate Granić, svjedok odbrane Mladena Markača

After a protected witness whose evidence was heard in closed session, police general Mladen Markač called his second witness, former Croatian foreign minister Mate Granić. The statement Granić gave to the defense in May 2009 was admitted into evidence. Granić was examined in chief by defense counsel Goran Mikulicic, who focused primarily on the events that preceded Operation Storm in the summer of 1995. Generals Gotovina, Cermak and Markač are on trial for crimes perpetrated in Operation Storm.

Granić first recounted how he, a well-respected medical doctor and dean of the Medical School, first became deputy prime minister in 1991 and then two years later the leading Croatian negotiator and foreign minister. The witness said that the Croatian policy in the 1990s was peaceful, stressing the constant efforts to reach solutions by diplomacy and not war. One such example, Granić contends, was exerting pressure on the Bosnian Croat leadership headed by Mate Boban to make them refrain from fighting with the Muslims, resulting in the Izetbegovic-Tudjman agreement in September 1993.

In his evidence today, Granić insisted that the leadership in Zagreb had friendly relations with Alija Izetbegovic's government, striving to accommodate it whenever it could. In 1994, Croatia wanted to take military measures to prevent attacks on Bihac from the territory of the so-called Republika Srpska Krajina. However, the US administration didn't green-light this operation. It was only in the summer of 1995 that it became possible for the operation to be launched, and the Croatian Army could assist the BH Army and the HVO in operations around Glamoc and Grahovo which had an indirect impact on the situation around Bihac.

About 390,000 Croats and other non-Serbs were expelled from parts of Croatia occupied in 1991-1995, Granić said. Thousands were killed. UNPROFOR, deployed in Croatia in 1992, could do nothing to prevent the crimes against the non-Serbs in Krajina. UNPROFOR didn't do much to disarm insurgent Serbs, Granić added. According to him, the UN mission in Croatia actually 'freeze the status quo achieved by ethnic cleansing' in Krajina.

Granić argued that all Croatian diplomatic efforts were in vain, because the Krajina authorities headed by Martić were not interested in coming to an agreement with the Croats, and violated the agreements that had already been signed. For example, Granić stated, the agreement to put the Zagreb-Belgrade highway back into operation and to use the gas pipeline going through the Serb-controlled areas was not implemented. In May 1995, because the Serb leadership reneged on its commitments, the Croatian side launched Operation Flash, which did not result in any serious human rights violations, as Granić contended.

Martić didn't come to his senses and sit down at the negotiating table: his response was the rocket attack on Zagreb and other Croatian towns, the witness recounted. According to Granić, the Croatian authorities nevertheless were adamant that the Serbs from Krajina were Croatian citizens with equal rights; they were to be given the highest level of human rights, as guaranteed by the Croatian Constitution. However, Granić continued, the local Serbs were exposed to 'constant indoctrination' by their leaders, who kept telling them not to accept the Croatian state. This culminated with Operation Storm and 'the departure of those people', Granić concluded.

The evidence of the former Croatian diplomat continues tomorrow. Granić is expected to answer questions more directly related to the allegations in the indictment.

2009-11-18

THE HAGUE

MATE GRANIĆ: 'CROATIA DIDN'T DO ETHNIC CLEANSING'

While Granić didn't deny that there were isolated crimes against Serbs and their property during and after Operation Storm, he claimed that the Croatian authorities wanted to defeat the enemy and to have the civilians remain in their homes. Why was a minority of Serbs allowed to return immediately while most of them had to wait two and a half years to come back.



◀ Mate Granić, svjedok odbrane Mladena Markača

Immediately after Operation Storm, in August 1995, Croatia came under fire from the international community because of the murders of the Serbs who had remained in Krajina and the destruction of abandoned Serb property. Continuing his evidence in the defense of General Mladen Markac, Mate Granić, who served as Croatian foreign minister at that time, said that President Tudjman and the people around him were 'deeply worried' over that. At first they thought it was just a media campaign. However, by 20 or 25 August 1995 it was clear that there were widespread crimes and that they had to take radical measures to stop them.

Granić didn't deny that there were individual crimes, maintaining that some elements in the international community unfairly accused Croatia of ethnic cleansing. In Granić's view, it was a sort of conflict of great powers in which Germany and America supported Croatia while Great Britain harshly condemned Croatian actions after Operation Storm. Granić claims that the British were not pleased when their efforts, with Lord Owen's mediation, to achieve a peaceful solution failed. Croatia then became a part of the US peace initiative and Operation Storm was launched as part of it. The aim of the Croatian offensive, and the US plan, Granić recounted, was not just to liberate Krajina but to advance into BH and weaken the Bosnian Serb military position. This was to force Bosnian Serbs to sit down at the negotiating table. The witness emphasized that at that time the Croatian authorities didn't make 'a single step' without consulting the US administration.

Today Granić was adamant that there was no ethnic cleansing in Krajina. In Granić's view, Serbs left because their evacuation was 'planned, organized and encouraged' by the RSK leadership. The aim of the Croatian authorities was to defeat the enemy, Granić said, and to have the civilian population remain in their homes. This is how Granić challenged the allegation in the indictment that there was a joint criminal enterprise headed by President Tudjman, with generals Gotovina, Cermak and Markac as participants.

In an effort to prove that the Croatian authorities were determined to make the Serbs stay in Krajina, defense counsel Goran Mikulicic showed minutes from the meeting of the Croatian government of 7 August 1995. At the meeting Granić and other ministers spoke of a need to urge the civilians to stay. Presiding judge Orić remarked that the Trial Chamber had heard a lot of evidence indicating that by 7 of August 1995, most of the Serbs had already left Krajina. 'How are we to understand the call to Serbs to stay when they had already left', Judge Orić asked the witness. A small number of Serbs had not left yet, Granić said, primarily those in Sector North; however, Sector North is not mentioned in the indictment against the Croatian generals.

In addition to its efforts to make Serbs stay in Krajina, Croatia did everything to make it possible for those who had fled to come back to their homes as soon as possible, Granić noted. In the beginning, however, a mass return was not possible for security reasons. On the other hand, individual requests for the so-called family reunion, the return of people whose family members remained in Croatia, were granted as soon as possible. In 1998, Croatian authorities and international humanitarian organizations drafted a plan for a large-scale return. The presiding judge then asked the witness if it meant that if a whole family fled, the family members had to wait up to two and a half years to come back because they didn't have anybody to 'reunite' with. Granić confirmed that it was indeed the case.

Granić's examination-in chief was completed today; in its course, defense counsel Mikulicic showed a number of transcripts from the government meetings, meetings with President Tudjman and the correspondence between Croatian and international officials. Most of the documents confirmed Granić's claims. As the hearing today drew to a close, Gotovina's defense counsel Luka Miletic began cross-examining the witness.

2009-11-19

THE HAGUE

SERBIAN COMPLAINTS AND INTERNATIONAL CRITICISM WERE 'EXAGGERATED'

Former Croatian foreign minister Mate Granic explained how in 1995 he dealt with 'false', 'exaggerated' or 'even tendentious' international complaints about the situation in Krajina during and after Operation Storm



◀ Mate Granić, svjedok odbrane Mladena Markača

General Ante Gotovina's counsel today cross-examined former Croatian foreign minister Mate Granic, in some respects supporting the prosecution case, by showing a series of documents that were quite unfavorable to the defense. In the course of the trial so far, such documents have mainly been used by the prosecution. Granic is testifying in the defense of the former Croatian Special Police commander Mladen Markac, who is on trial, together with Gotovina and Cermak, for their alleged participation in the joint criminal enterprise aimed at the permanent elimination of Serbs from Krajina in the summer of 1995, during and after Operation Storm.

The defense counsel first showed the minutes from a meeting in President Tudjman's office on 11 August 1995.

At the meeting, interior minister Ivan Jarnjak accuses Serb politician Milorad Pupovac of 'making a fuss' because he described the situation with Serb refugees as catastrophic. 'That son of a bitch' Veljko Dzakula supported Pupovac's claims, Jarnjak complained. When he was asked why Jarnjak was angry with the Serb representatives, Granic said that Jarnjak thought that they 'exaggerated the problems' by blowing up the number of refugees.

However, the complaints about the situation in Krajina during and after Operation Storm didn't come only from Serb political representatives: the international community also raised objections. In August 1995, Swedish mediator Carl Bildt raised his voice, accusing Croatia of 'the barbaric shelling of Knin'. German foreign minister Klaus Kinkel 'expressed his concern about the crimes in Krajina'. Jose Ayala-Lasso, UN high commissioner for human rights, in his report drafted on 18 August 1995 claimed that the Serb property 'is systematically looted and destroyed' in the presence of the Croatian Army; the police did not respond.

The Croatian authorities responded to such complaints mostly through letters signed by minister Granic. Carl Bildt was declared a persona non grata in Croatia. This happened, the witness clarified, because Bildt's claims about the indiscriminate attacks on Knin were untrue. In late August 1995, Granic replied to his German colleague Kinkel, saying that his allegations about the crimes were based on 'exaggerated or even deliberately tendentious reports'. There was no ethnic cleansing and no systematic crimes in Krajina, Granic wrote, adding that there were 'isolated incidents caused by vengeful and irresponsible individuals'. Today the witness noted that Kinkel was a fair politician with quick temper, sensitive to violations of human rights. Granic tried to convince the Trial Chamber that the German complaints encouraged the Croatian authorities to deal more firmly with the crimes; they didn't want to cover up anything.

Finally, in his reply to the criticism by the UN High Commissioner for human rights, Granic 'resolutely rejected' his allegations, emphasizing that the Croatian Army 'never took part in any crimes anywhere'. Granic didn't rule out the possibility of isolated incidents, adding that 'Serbs may be responsible' for burning down houses. After Granic confirmed the authenticity of his own words, his entire correspondence with the foreign diplomats was admitted into evidence. The witness repeatedly maintained that a report by UN Secretary General Boutros Ghali painted the most objective picture of the situation in Krajina after Operation Storm. According to the Croatian ambassador to the UN, the report contained a 'positive and favorable picture despite its rather negative tones in reference to the treatment of Serb refugees'.

The defense went on to show minutes from other meetings between President Tudjman and Croatian politicians, including the conversation between Tudjman and Jure Radic, the minister for development and reconstruction, on 22 August 1995. Radic was in favor of settling the Croats in liberated areas as soon as possible. According to him, Serbs should not make more than 10 percent of the population in 'priority' areas. 'No, not even ten percent', President Tudjman said in agreement. The goal was to settle Croats in those areas and not to prevent Serbs from returning, Granic said today.

Granic was then showed a transcript of a meeting on 30 August 1995, where Tudjman demanded that custom officers be ordered not to allow the Serbs to return. Tudjman's chief of staff Sarinic added that the situation should be solved as it had been in Slavonia. There, Sarinic explained, everything 'worked well for us because not a single Serb has come back'. In the face of this evidence, Granic stuck to his guns, claiming that Serbs were not prevented from returning. At that time, with the threat of terrorist attacks and incursions from Serbia, it was impossible for the Serbs to return, Granic noted.

Mate Granic's evidence continued in the afternoon, when he was cross-examined by the prosecution.

2009-11-20

THE HAGUE

TWO SIDES OF TUDJMAN'S PERSONALITY

Croatian president Franjo Tudjman said it was impossible for the Serbs to return to Krajina after Operation Storm. Mate Granic, who served as Croatian foreign minister at the time, explained that one should distinguish Tudjman as a historian from Tudjman as a politician. The former, Granic explained, often made historical assessments of whether it was possible for the refugees to return home after the war. The latter was a pragmatist who always complied with the recommendations of the international community, said Granic.



◀ Mate Granić, svjedok odbrane Mladena Markača

In an effort to contest Mate Granic's claims that Croatian authorities acted in good faith to ensure the return of the Serbs after Operation Storm in the summer of 1995, the prosecution showed a series of statements Franjo Tudjman made at that time. Talking to the media and at the meetings with various domestic and foreign politicians on a number of occasions, Tudjman said that the return of Serbs was 'impossible' and 'practically inconceivable'.

'There is substantial difference between Tudjman as a historian and Tudjman as a politician', Granic noted. According to him, when Tudjman said it was impossible for the Serbs to return, he made an assessment as a

historian; this was not an indication of his intentions. Granic claims he knew the president well: Tudjman was a pragmatic statesman who complied with the recommendations of the international community regarding human rights. Mate Granic is testifying for the defense of former Croatian special police commander Mladen Markac. Together with generals Gotovina and Cermak, Markac is on trial for taking part in the joint criminal enterprise headed by Tudjman. The aim of the joint criminal enterprise was to expel Serbs from Krajina.

In his book *Foreign Affairs, Politics Behind Scenes*, parts of which were admitted into evidence by the prosecution, Granic noted that he himself was embarrassed when Tudjman made one such 'historical' proclamation. At a rally in Karlovac after Operation Storm, Tudjman said to the crowd 'I can tell those Serbs who do not want the Croatian state not to come back'. Granic broke out in cold sweat when he heard that. Today he explained that the president might have been 'transported by the atmosphere'. Granic as the foreign minister didn't want any public announcements that 'may hurt Croatia's foreign friends. 'So you broke out in cold sweat because Croatia's image may have been tarnished and not because you cared about Serb refugees', the prosecutor noted. Granic didn't reply directly, saying he devoted years of his career to caring for the refugees. The prosecution alleges that preventing the Serbs from returning to Krajina after Operation Storm indicates that even before the operation, there was intent on the part of the Croatian authorities to expel the Serbs permanently from those areas.

As the hearing drew to a close, Judge Orić brought up the Brijuni transcript of 31 July 1995, where defense minister Susak proposes that leaflets be distributed to Serb civilians after the first day of Operation Storm, showing exit routes to BH and Serbia. President Tudjman agreed with the proposal. The presiding judge wanted to know how throwing leaflets with exit routes jibed with Granic's claims that Serbs were urged to stay in Croatia. This was a conversation with the people who were to lead the operation, and the purpose was most likely to achieve military victory, the witness replied. According to Granic, Tudjman never said anything of the sort when he spoke with Croatian politicians. Had Tudjman done it, Granic would have opposed him, telling Tudjman that the Serbs' human rights had to be 'respected sincerely and deeply'.

Former Croatian diplomat completed his evidence after four days. Mladen Markac's defense will call its next witness on Monday.

2009-11-23

THE HAGUE

SERBS COULD RETURN THREE YEARS AFTER OPERATION STORM

Former chief of the Croatian Office for Refugees and Displaced Persons Lovre Pejkoć contends that the requirements for a mass return of the Serbs to Krajina were not met until 1998. Before that, Pejkoć explained, permissions were granted on a case-to-case basis and for 'go and see' visits.

The indictment against generals Gotovina, Cermak and Markac alleges that the deportation and forcible transfer of Serbs from Krajina went hand in hand with the effort to 'prevent them from returning to that area'. Generals Gotovina, Cermak and Markac are charged with crimes during and after Operation Storm. The prosecution argues that the fact

that the Croatian leadership tried to prevent the Serbs from returning indicates it intended to eliminate the Serbs permanently from Krajina. This, according to the prosecution, implies that there was a joint criminal enterprise with such a goal. In an effort to challenge the prosecution case, General Mladen Markac's defense called Lovre Pejkovic, former chief of the Croatian Office for Refugees and Displaced Persons, as its witness.



◀ Lovre Pejković, svjedok odbrane Mladena Markača

The witness claims that the Croatian government did everything it could to make it possible for the Serbs to return to the territories liberated during operations Flash and Storm, following the recommendations of the highest international institutions. The Croatian authorities, Pejkovic said, were guided by the statement of UN High Commissioner for Refugees Sadako Ogata. In October 1995, at a meeting in Geneva, Ogata said that the return had to be voluntary and carried out in three stages. The first to return would be those displaced within Croatia, followed by the refugees from the neighboring countries and finally, by the refugees from the European countries and overseas.

Pejkovic argued that after Operation Storm Serbs whose families remained in Krajina were allowed to return on a case-to-case basis. There was goodwill on the part of the Croatian authorities, the witness said, noting that 'go and see' visits were organized at that time, allowing the Serbs who had fled to come back and check their property and decide if they wanted to come back. Security and other requirements for a mass return to Krajina were not met until 1998, Pejkovic explained, when a plan for the return of the displaced persons and refugees was made.

Defense counsel Goran Mikulicic brought up an example of the application to return that was actually granted: in 1996, former high-ranking official of the Krajina SDS, Jovo Opacic applied for permission to return to Croatia with his family, claiming that Croatia was his state. He left it, Opacic said, 'as a part of an exodus that crowned the failed policy pursued by Slobodan Milosevic and the Krajina leadership'. When the presiding judge asked the witness when Opacic's application was granted, the witness said it was 'sometime in 1998', two years after it was submitted.

By the end of the hearing today Pejkovic didn't specify either the total number of Serbs who had fled Krajina or the number of Serbs who had come back, according to the Croatian authorities' data. Pejkovic continues his evidence tomorrow.

2009-11-24

THE HAGUE

HOW MANY SERBS LEFT KRAJINA?

Former chief of the Croatian Office for Refugees and Displaced Persons Lovre Pejkovic claims that 120,000 Serbs left Krajina during and after Operation Storm. The prosecution brought up a UN report stating that almost 200,000 Serbs fled the region. According to the data of the Office for Refugees and Displaced Persons, the witness said, approximately 40,000 Serbs returned to Croatia by 2000.



◀ Lovre Pejković, svjedok odbrane Mladena Markača

As his examination-in chief drew to a close, former chief of the Croatian Office for Refugees and Displaced Persons Lovre Pejkovic said that by May 2000 a little over 40,000 Serbs had returned to Croatia. Those Serbs had fled during and after operations Storm and Flash. Presiding judge Orić wanted to know how many of those Serbs returned to Sector South in Krajina because it figures in the indictment against generals Gotovina, Cermak and Markac, but the witness couldn't tell him 'off the cuff'. He referred the Trial Chamber to a report drafted by the Croatian government with the breakdown of the returnees by municipality. The Croatian generals are charged with participating in the joint criminal enterprise whose goal was the permanent elimination of Serbs from Krajina in August 1995.

In his statement to Mladen Markac's defense, Pejkovic said that about 8,000 Serbs left Western Slavonia after Operation Flash and some 120,000 Serbs left after Operation Storm. Prosecutor Ryan Carrier in his cross-examination contested those figures pointing to a UN report from October 1995, which stated that 12,000 Serbs left Western Krajina and 200,000 of them fled Krajina. The witness replied that in both cases the figures were estimates, either of the Croatian authorities or the UN. However, the witness added, the figures compiled later by the UNHCR were

closer to 120,000 refugees. The witness added that about 10,000 mostly elderly and bed-ridden Serbs remained in Krajina after Operation Storm.

Until 1998, when the Croatian authorities put together a plan for the return of the displaced persons and refugees, only individuals were allowed to return to Krajina: a small number of the Serbs who remained in Croatia were allowed to reunite with their family members who had fled. Noting that the number of those who returned on that basis was fiddled with to suit various agendas, the prosecution showed the minutes of a meeting in Franjo Tudjman's office on 25 October 1995, where interior minister Jarnjak says that several hundred Serbs came back to Croatia to reunite with their families. Ivica Kostovic, who served in the president's office, retorts that he 'lied in public': there were thousands of such cases. Pejkoć refused to comment on what was said on a meeting he didn't attend. The defense objected, noting that the Croatian officials were discussing the return of the refugees to the town of Jajce in BH, not to Croatia.

In his examination-in chief, the witness said that the Croatian authorities allowed a large-scale return of the Serbs in 1998, based on the agreement on the normalization of relations with the FRY. This prompted the prosecutor to ask the witness why the return of people who were born and lived all their lives in Croatia depended on the agreement. Croatian authorities requested a 'two-way return', that is reciprocity in regard of return of Croats fled from Vojvodina and Kosovo, the witness clarified. As the witness pointed, although the other side agreed, Croats were never allowed to return 'in a way the Croatian authorities have made it possible for Serbs who fled'.

2009-11-25

THE HAGUE

FOLLOWING THE CROATIAN SPECIAL POLICE

Davor Pavlovic, Mladen Markac's assistant for communications, described the movements of the Croatian special police during Operation Storm. Pavlovic contends that the special police didn't take part in crimes; it was not their task to investigate crimes, he added. The Croatian special police 'fixed' broken-down civilian vehicles, he said, in order to drive them away.



◀ Davorin Pavlović, svjedok odbrane Mladena Markača

During Operation Storm retired police officer Davorin Pavlovic served as assistant commander for communications in the Special Police, commanded by Markac, who called the witness Antena. In his statement to Markac's defense admitted into evidence today, Pavlovic said that the special police in Operation Storm operated under the command of the HV Main Staff. Markac is charged with 'contributing' to the permanent elimination of Serb population from Krajina through crimes perpetrated by the special police under his command. The elimination of Serbs from Krajina was the goal of the joint criminal enterprise as alleged in the indictment. Two other accused, Ante Gotovina and Ivan Cermak, are charged with the same crimes.

Pavlovic said that the special police were ordered to capture several peaks on the Velebit mountain on the first day of Operation Storm. Mount Celavac, the main communication node of the RSK Army, was among them. When the special police completed this mission, they entered Gracac. The special police then set up their HQ there, with Markac as its head. The prosecution was trying to prove that the town was looted and many houses burned down during that period. The witness claims that he saw only one house on fire and a number of others damaged by shells when he entered Gracac.

Through Belgian journalist Edmond Vanderostyne, the prosecution tendered into evidence a number of photos taken on 8 August 1995 in Gracac. The photos show Special Police Unit Delta troops jumpstarting civilian vehicles; later they painted the name of their unit on the car. Markac's former deputy said that those were broken-down cars left abandoned by the road. The police, the witness maintained, only entered those vehicles to drive them away to 'a place designated for abandoned goods'. However, because there weren't enough vehicles, some abandoned cars were used by the special police, the witness said, adding that the units would paint their names on the cars to avoid friendly fire incidents.

In the morning of 6 August 1995, an order came to advance towards Donji Lapac and the special police arrived there the next day. Soon afterward, as the witness described, they moved on towards the BH border. Only a small number of signalmen and logistics people remained in Donji Lapac. The prosecution case was that Donji Lapac was also looted and burned down. Pavlovic countered the claim, saying that on 7 August 2007 he saw only two houses on fire. After the special units left, the 118th Home guard Regiment came to Donji Lapac. The witness claims that the special police's only task was to capture the designated areas. They handed them over to the civilian police, who were in charge of investigating any crimes.

Davorin Pavlovic is expected to complete his evidence tomorrow. Markac's defense indicated it would rest its case by the end of January 2010, in the first or the second week following the winter recess.

2009-11-26

THE HAGUE

SPECIAL POLICE OR CAR MECHANICS?

The prosecution has been trying to prove that photos taken in Gracac immediately after Operation Storm clearly show the Croatian special police stealing cars belonging to the Serbs who had fled the region. Davorin Pavlovic, Markac's defense witness, denied this, saying that the special police only 'removed' the broken-down cars from roads and checked them for booby-traps. General Markac was known to 'shed a tear', Pavlovic says.



◀ Davorin Pavlović, svjedok odbrane Mladena Markača

Finishing his examination-in-chief, retired police colonel Davorin Pavlovic answered some questions about the character of the former Croatian special police commander Mladen Markac. Pavlovic is testifying in The Hague as Markac's defense witness. According to Pavlovic, Markac is 'a person of high moral standards' who looked after civilians regardless of their ethnic background. Markac was sensitive to human suffering, the witness added, and on many occasions he saw Markac 'shedding a tear' when he met the mothers of Croatian fighters killed in action. In the summer of 1995, during and after Operation Storm, Pavlovic was Markac's assistant for communications. Generals Gotovina, Cermak and Markac are on trial for crimes against Serbs during and after Operation Storm.

In the cross-examination, the prosecution focused mainly on the events in Gracac. The Croatian special police entered Gracac on 5 August 1995. Three days later, the journalists of the Belgian magazine *Standard* visited the town in Lika and took photos. Some photos show police officers taking goods out of the houses and loading them onto trucks. On other photos, police officers are jumpstarting civilian cars and later painting the name of their unit – Delta – on the vehicles. Since yesterday Pavlovic denied that these men were looting in Gracac, today the prosecutor showed him the photos again.

The insignia on the sleeve of the man on the photo seen jumpstarting the car could lead to a conclusion that he was a member of the special police, the witness admitted. The witness supposed that the man was ordered to drive the vehicle to site where abandoned goods were stored. As the man didn't have the keys for the car, he was forced to start it 'the only way he could', Pavlovic explained. At first the witness was not able to tell where the warehouse was, only to recall a bit later that it was on a farm behind a local school. Asked to clarify this inconsistency, the witness said it was a long time ago. He had trouble remembering many events but then 'an image would appear', the witness said.

The witness had claimed that 'broken-down' vehicles were driven away because they blocked the passage for the Croatian special police. This prompted the prosecutor to show the witness a photo with a car parked in front of a house; it was clearly not in anybody's way. 'That's your assumption, which is as good as mine', Pavlovic replied. The prosecutor asked why the member of a crack police unit ended up doing such menial tasks as removing vehicles. At first the witness said he didn't know, but in his re-examination he agreed with the defense counsel's suggestion that the special police were given that task for security reasons. The Croatian special police had engineering training, and cars could have been booby-trapped by the enemy before their retreat, Pavlovic explained.

The trial of the Croatian generals continues next Monday. Markac's defense will call its next witness.

2009-11-30

THE HAGUE

WHO KILLED THE OLD PEOPLE IN GRUBORI?

The indictment alleges that five elderly Serbs were killed in the village of Grubori on 25 August 1995; in an effort to contest the allegation, Markac's defense today showed a report drafted by the accused himself. In his report, Markac says that the Croatian special police clashed with the remaining Serb soldiers in the village. One armed Serb and four elderly people were killed in the clash. Former special police commander from Zagreb Zoran Cvrk didn't want to comment on the document. According to Cvrk, he didn't know the details about the events in Grubori.



◀ Zoran Cvrk, svjedok odbrane Mladena Markača

Mladen Markac's defense continues with its case: today the court heard the evidence of a former special police commander from Zagreb, Zoran Cvrk. In Operation Storm, in 1995, Cvrk was the commander of an 'auxiliary axis' of attack; the objective was to secure the flanks of the main police force. Generals Gotovina, Cermak and Markac are on trial for crimes against Krajina Serbs during and after Operation Storm.

Describing the attack, Cvrk said that between 4 and 8 August 1995, on the orders of the HV Main Staff, the special police advanced 60 to 80 km, liberating the territory from Velebit Mountain to the BH border at Kulen Vakuf. For the most part, Cvrk recounted, they

passed through uninhabited parts of Krajina. When they entered towns and villages, the civilians had already fled. According to Cvrk, approximately 2,200 to 2,500 members of special police under Mladen Markac's command took part in Operation Storm. Describing their arrival in Gracac and Donji Lapac, the witness said that the facilities he considered to be legitimate military targets had been damaged by shells. He also saw bullet holes on civilian houses in the outskirts of Gracac. The witness claims that the local hotel was set on fire in Donji Lapac.

When Operation Storm ended, the Croatian special units started the clean-up, on the orders of the HV Main Staff. The first clean-up operation was carried out in the Petrova Gora region from 10 to 20 August 1995 and other operations followed soon in other parts of the liberated territory. The defense tendered into evidence several reports General Markac sent to the Main Staff. In those reports Markac notes that special forces took care of the civilians they encountered while searching and cleaning up the area; Markac also says there were sporadic clashes with the remaining Serb fighters.

According to Markac's report, one such clash happened in the village of Grubori on 25 August 1995, when the special police confronted 'eight to ten enemy soldiers'. A Serb man by the name of Djuro Karanovic, armed with a sniper, was killed and Stevan Karanovic, another Serb, was arrested. The latter had an automatic rifle. Markac didn't go into any details, merely noting in his report that two unidentified females and two elderly men – Milos and Jovo Grubor – were killed that same day in Grubori.

The witness didn't want to comment on the document, saying he heard there had been 'action' in the village of Grubori; he himself didn't know any details. The prosecution contends that the special police action had nothing to do with a military clash: it was a crime against elderly Serb civilians and their property because the village was later burned down.

As Cvrk's examination-in chief drew to a close, he spoke about Markac's character. Highlighting Markac's immense credit for the work of the special police, the witness noted he believed Markac was an honorable man.

2009-12-01

THE HAGUE

POLICEMAN BLAMES THE ARMY

Testifying in the defense of police general Mladen Markac, former commander of the Zagreb-based special police unit Zoran Cvrk claims that the buildings in Donji Lapac were set on fire when an HV unit entered the town - the unit was not under Gotovina's command. Former deputy interior minister Josko Moric was called as Markac's next witness.



◀ Zoran Cvrk, svjedok odbrane Mladena Markača

Former commander of the Zagreb-based special police unit Zoran Cvrk tried to shift the blame for the houses burned in Donji Lapac on the Croatian Army. If the Chamber were to accept his evidence as the truth, Mladen Markac could be acquitted of the charges related to the crimes in Donji Lapac, a town in Lika. It would favor General Gotovina too, because Donji Lapac was under the jurisdiction of the 9th Guards Brigade which was part of the Gospic Military District. Gotovina was the commander of the Split Military District. Generals Gotovina, Cermak and Markac are charged with the crimes against Serbs and their property during and after Operation Storm in 1995.

The special police entered Donji Lapac on 7 August 1995, the witness said. There was no destruction during the day, but the HV troops entered the town that night and that's when the problems started, Cvrk said. When the presiding judge asked him what the problems were, the witness said that 'up to ten businesses were burned down, including the local motel'. He didn't discuss this with his superiors, generals Markac and Sacic, although he did meet with them in the morning of 8 August.

Presiding judge Orié asked the witness some questions about the photographs taken by Belgian journalists in Gracac on 6 August 1995. Cvrk admitted that some of the photographs do not show the special police 'in the best of lights', primarily those showing the police singing and reveling in the streets. When the judge brought his attention to the photographs where a police officer is seen jumpstarting a civilian car, the witness said the policeman might have wanted to move the vehicle somewhere else to prevent any unauthorized use, since fire had been opened from a similar vehicle on the special police some time ago. The police officer shown on the photograph - the prosecution argues that he was stealing the car while the defense maintains he merely wanted to move the vehicle away - has given a statement to the defense and may come to testify.

Prosecutor Mahindaratne noted in her cross-examination that General Markac had authority to order an investigation into any crimes committed by the special police; the witness denied it. A debate ensued about whether the special police personnel were told before each action that they had to comply with the international humanitarian law in their dealings with the civilians. Although there are no warnings to that effect in the written orders Markac issued, Cvrk claims he received them regularly from Markac orally. As for the treatment of civilians, the Croatian special police were taught that as part of their regular training.

As the hearing drew to a close, the defense called another former police official: former deputy interior minister Josko Moric, who was in charge of general-duty police. His name has been coming up in a number of documents admitted into evidence at the trial of the three Croatian generals. There was just enough time for the two statements - one he gave to the OTP investigators in 2004 and the one he gave to the defense this year - to be admitted into evidence.

2009-12-08

THE HAGUE

SKABRNJA AS 'EXAMPLE' FOR CROATIAN VILLAGES IN KRAJINA

According to Marko Miljanic, the village of Skabrnja in the Zadar hinterland was razed to the ground in November 1991 in a 'strategic operation' of the JNA, Martić's militia and unidentified 'special units'. The goal of the operation was to make an 'example' of it for other Croatian villages in Krajina, to intimidate their inhabitants and make them leave their homes.



◀ Marko Miljanić, svjedok na suđenju Stanišiću i Simatoviću

The trial of former chief of the Serbian State Security Jovica Stanisic and his assistant Franko Simatovic continued today with the evidence of Marko Miljanic. Stanisic again didn't appear in the courtroom, but followed the trial via video link from a special room in the UN Detention Unit in Scheveningen.

Miljanic began his testimony on 1 December 2009. A former officer in the JNA, Miljanic was the commander of the defense in Croatian village of Skabrnja in the Zadar hinterland. The witness described how the joint forces of the JNA and the Serbian paramilitary troops supported by the artillery and the air force razed Skabrnja to the ground on 18 November 1991. At least 38 civilians were

killed, including Miljanic's brother, grandfather and several relatives.

Miljanic said that the worst crimes were perpetrated by the special units wearing berets. Armed with automatic weapons, they jumped out of four helicopters. 'The worst thing happened', Miljanic recounted. 'They entered the village, dragged people out of their basements and killed them'.

As a former military officer, Miljanic said the attack was a 'strategic operation' with a pincer movement to encircle Skabrnja and destroy it completely. According to Miljanic, Skabrnja was to be an 'example' for other Croatian villages to intimidate their inhabitants and make them leave their homes. Miljanic has already given evidence about this incident at the trials of Slobodan Milosevic and Milan Martić. The transcripts of Miljanic's testimony were tendered into evidence at the trial of the former Serbian State Security Service chiefs. Stanisic and Simatovic are charged with crimes the Serbian police and paramilitary forces committed in Croatia and BH.

In their cross-examination, Stanisic's and Simatovic's defense counsels, Gert-Jan Knops and Vladimir Petrovic tried to get the witness to confirm that the attack on Skabrnja was a military operation under the command of Ratko Mladic. At that time Mladic was a colonel and commander of the Knin Corps. The witness couldn't confirm the relationship between the regular army, Martić's militia, Chetniks and other participants in the attack. The witness couldn't identify

the formation to which special units that entered the village belonged. 'I cannot say for sure who killed those people', said Miljanic.

After Miljanic, the prosecution called a new witness. Testifying with full protective measures, with image and voice distortion, the witness began the evidence in closed session.

2009-12-09

THE HAGUE

VITEZ DEFENDS MARKAC

Drazen Vitez, former assistant commander of the Varazdin special police, contends that his men followed General Mladen Markac's instructions to respect the international law of war during Operation Storm and did not commit any crimes. The witness described the accused as a 'determined, responsible and highly respected police officer'.



◀ Dražen Vitez, svjedok odbrane Mladena Markača

Testifying in Mladen Markac's defense, Drazen Vitez, former assistant commander of the Varazdin special police, described the movements of his unit – 140 strong – in Operation Storm. In his May 2009 statement to the defense, Vitez claimed that the special police from Varazdin launched the attack on 4 August 1995 from the Velebit Mountain. Three days later, Vitez described, they reached the BH border and then returned to Varazdin. As alleged in the indictment against generals Gotovina, Cermak and Markac, during and after Operation Storm, crimes were committed against Serbs and their property; the objective was to ethnically cleanse Krajina. The witness denied that the special police took part in those crimes.

Vitez contends that the commanding officers met with the special police commander Mladen Markac on 3 August 1995 in the town of Starigrad. Markac gave them their tasks, assigned axes, and shared with them the intelligence about the strength and disposition of the enemy forces. According to the witness, Markac focused in particular on the need to respect the international law of war: both civilians and prisoners of war were to be treated according to the law. Immediately before the attack, strict instructions of the special police commander were passed on to all police officers from Varazdin.

As far as the witness knew, the special police respected Markac's instructions and didn't commit any crimes in the course of their involvement in the war. On 7 August 1995, the witness passed through Gracac. He claims he didn't see any damage to the houses. Some houses were overgrown with bushes and the witness concluded that they had been destroyed much earlier. Continuing their advance towards the border, the special police entered the village of Mazin. There they found some elderly Serbs and explained to them that they should stay there and wait. The general-duty police that were to arrive soon would help them, Vitez's men told them.

The witness saw the first burned down houses – not more than two or three – when he arrived in Donji Lapac on 7 August 1995. The next night, the small town in Lika was burned to the ground, the prosecution alleges. His unit spent the night there and no special police took part in any crimes, Vitez said. Some previous witnesses called by General Markac blamed the HV Gospić Military District units for the destruction of Donji Lapac. Those units were in Donji Lapac at the same time.

As his examination-in chief drew to a close, Vitez was asked to say few words about his colleague Mladen Markac, with whom he had worked for long years. Vitez described Markac as a responsible and determined worker. There wasn't a task that Markac wouldn't complete. This is why, Vitez continued, Markac was a 'highly respected general' even outside the police ranks.

Former assistant to the Croatian interior minister Josko Moric completed his evidence today before Vitez took the stand. As he left the courtroom, Moric thanked the judges and the Tribunal's personnel who took care of him, saying he arrived in The Hague with 'some prejudice, but was leaving the prejudice behind now.'

2009-12-10

THE HAGUE

GOTOVINA AND MARKAC REFUSED TO ENTER COURT

The accused generals are protesting against the latest action by the Croatian authorities to locate the documents sought by the prosecution. The defense teams asked the Trial Chamber to order the Croatian authorities to immediately cease all such current and future activities. Reminding the defense that an order of this kind can be issued 'in exceptional circumstances', the judges postponed their decision until tomorrow, when the prosecution and the Republic of Croatia are to explain their actions in the search for the documents.



◀ Ivan Čermak se danas nalazio sam u sudnici Tribunala

The trial of the Croatian generals charged with crimes against Serbs during and after Operation Storm didn't continue as planned with the cross-examination of former special policeman from Varazdin Drazen Vitez. Two of the three accused failed to appear in the courtroom. Generals Ante Gotovina and Mladen Markac remained in the UN Detention Unit refusing to attend the hearing today. As their defense explained, Gotovina and Markac were protesting against the latest actions of the Croatian authorities aimed at locating the documents the OTP has been looking for for some time now. General Cermak didn't appear to share their concern and decided to attend the trial as usual.

In their motion filed last night and the arguments they presented to the Trial Chamber today, Gotovina's defense stated that the Croatian authorities had launched a coordinated action yesterday, in which a number of documents and three computers had been confiscated from the defense's office in Zagreb. Some people working for the defense were detained, including Marin Ivanovic. Gotovina's defense argued that now their documents had been taken, they could no longer guarantee the security of the information declared confidential by the Trial Chamber. The Croatian authorities now have access to the communication between Gotovina and his defense counsel. This is a violation of the right to the client-counsel privilege, the defense argued, adding that they could no longer prepare for their work.

Gotovina's defense asked the Trial Chamber to order the Croatian authorities to immediately suspend all further actions, to suspend any judicial proceedings against Marin Ivanovic (who had previously been charged with hiding and/or destroying documents similar to the ones now sought by the prosecution), to cease the examination of confiscated computers and documents and all future searches. This moratorium should remain in force 'until the Trial Chamber has issued new orders' dealing with the new developments. Markac's defense joined this motion.

The defense also requested that a subpoena be issued to ICTY chief prosecutor Serge Brammertz and to the Croatian public prosecutor Mladen Bajic, compelling them to appear in the courtroom on 16 December 2009. According to the defense, Brammertz and Bajic should respond to the defense's claims that Croatia launched the action to locate the documents on Brammertz's orders. A hearing on the missing artillery logbooks is scheduled for that date and Croatian representatives have been invited to attend.

Presiding judge Orić said that the situation is 'potentially very serious' if the defense claims prove to be true. He stressed that the Trial Chamber would first deal with the most urgent motion filed by the defense demanding an immediate cessation of any further action of the Croatian authorities. The prosecution was ordered to reply to the defense motion by noon tomorrow. At 2 p.m., there should be a hearing where the Croatian representatives would be allowed to participate.

After the end of the debate on the latest actions of the Croatian authorities, the cross-examination of defense witness Drazen Vitez began.

2009-12-11

THE HAGUE

GOTOVINA AND MARKAC VERSUS THE REPUBLIC OF CROATIA

After a four-hour hearing attended by the representatives of the Croatian government, the Trial Chamber with Judge Orić presiding issued an urgent order to the Croatian authorities to cease further inspection of documents and items confiscated from current or former members of Ante Gotovina's defense team. The documents and items were confiscated in an action that targeted persons suspected of hiding and/or destroying documents stolen from the state archives.



◀ Joško Paro i Josip Čule, predstavnici Republike Hrvatske u sudnici Tribunala

The Trial Chamber granted this evening a motion filed by the defense of Ante Gotovina and Mladen Markac and issued an urgent order to the authorities of the Republic of Croatia to cease any further inspection of the contents of the documents and items including computers confiscated from the current or former members of Gotovina's defense team. The authorities were ordered to seal those items and keep them in their possession. The order comes into effect immediately and remains in effect until further notice.

This concluded the 4-hour hearing on the conflict that erupted yesterday, one that might be dubbed as Gotovina and Markac vs. the Republic of Croatia. Protesting against

the action of the Croatian police, the two generals didn't attend the hearing. On Wednesday, 9 December 2009, the Croatian police searched the apartments, offices and cars of a large number of persons suspected of hiding and/or destroying archive documentation. Some of them were detained and preliminary interviews were conducted with them. As alleged by Gotovina's counsel Luka Misetić, two current and one former member of general's defense team were among those detained and questioned.

At the beginning of the hearing, Ambassador Josko Paro and deputy state prosecutor Josip Cule explained in detail why and how the action in which suspects were searched and detained was conducted. Paro and Cule appeared as the representatives of the Republic of Croatia. Both Paro and Cule said that the action was conducted not only to respond to the request of the Trial Chamber and the OTP to deliver documents. Hiding and/or destroying documents that should be kept in state archives is a crime, prosecuted *ex of dio*, Paro and Cule noted. To prove that the action was not launched because of the pressure exerted by chief prosecutor Brammertz, as the defense purported, Ambassador Paro offered to show the full correspondence between the Croatian authorities and the OTP to the Trial Chamber. The Trial Chamber accepted this proposal, noting that both sides in the proceeding would have access to the correspondence.

The main motive behind the decision to order the Croatian authorities to temporarily seal the confiscated materials is the concern of the Trial Chamber that there may be documents protected by the lawyer-client privilege among them. The Trial Chamber believes a procedure should be established to determine if any of the confiscated documents should be protected by the privilege.

In order to show that the privilege didn't cover the evidence of crimes, Judge Orić used the example of a situation where a person gave a knife he had used to murder someone to his counsel, asking the counsel to 'safeguard' it in his office. Gotovina's defense counsel Misetić agreed that the knife would not be protected by the lawyer-client privilege: keeping it would be obstruction of justice. It is logical to assume the same for the so-called 'artillery logbooks' from Operation Storm if they were to be found in a lawyers' office.

2009-12-16

THE HAGUE

'ACCOUNTANCY HEARING' ABOUT ARTILLERY DOCUMENTS

At the hearing about the missing HV artillery documents, the OTP noted it was now seeking 63 documents. The Croatian delegation argued that a significant part of the artillery reports from Operation Storm never actually existed.



◀ Predstavnici Hrvatske na raspravi o nedostajućim dokumentima Hrvatske vojske

A hearing on the missing Croatian Army documents was held today before the Trial Chamber with Dutch judge Orić presiding. Judge Orić is the presiding judge in the case of Croatian generals Gotovina, Cermak and Markac on trial for crimes during and after Operation Storm. Pursuant to an order the Trial Chamber issued in September 2008, Croatia was obliged to deliver the missing documents to the OTP. Apart from the parties, today's hearing was attended by the representatives of the Republic of Croatia. Croatian delegation was headed by Gordan Markotić, head of the Office for Cooperation with International Courts in the Ministry of Justice.

Since some of the documents had been delivered in the meantime and some documents never existed, at the beginning the OTP notified the court that it was now seeking 63 documents; initially, they had 370 documents on its list. The parties then discussed whether each particular controversial document existed or not.

An agreement was reached today that a small number of documents had never been drafted but most of the requested material remains controversial. This is mainly about the reports that the artillery and artillery-rocket groups sent, or were expected to send, to the operational groups in the Split Military District, headed at the time by General Gotovina. Prosecutor Tieger is still convinced that those reports were indeed drafted and sent during Operation Storm in early August 1995. The Croatian representatives contend that their enquiry led them to conclude that the reports didn't exist.

The hearing today grew so tedious with endless reference numbers of controversial documents. This prompted the presiding judge to say that the hearing was 'an accountancy hearing'. He suggested that all technical details related to the search for 'the artillery documents' should be discussed outside of the courtroom from now on, at special meetings between the parties. The Croatian authorities and the representatives of the Trial Chamber should also attend those meetings. Everybody agreed and the head of Croatian delegation added that the first meeting should take place as soon as possible because, as he noted, at this time the contentious issue of the undelivered documents is 'causing a lot of damage to the Republic of Croatia'.

The trial of the three generals continues on Friday, the last day before the Tribunal's winter recess. General Mladen Markac will call his next witness.

2009-12-17

THE HAGUE

EUROPEAN UNION ASKED TO DELIVER 'KNIN LOGBOOK'

Granting the request of Ante Gotovina's defense, the Trial Chamber today asked the European Union to 'focus and intensify' its efforts to find a compendium of logbooks produced by the EC Monitoring Mission in Knin. The diaries contain reports drafted during and after Operation Storm.



◀ Alphonse Orié, sudija Tribunala

Judge Orié's trial chamber asked today the European Union to 'focus and intensify' its efforts to search the archives and locate the logbooks of the Knin Regional Center of the EC Monitoring Mission. The logbooks should contain reports drafted during Operation Storm and in its aftermath. In the next 14 days, the logbooks or their parts should be located and delivered to Ante Gotovina's defense, the Trial Chamber said in its missive. If the documents are not located, the judges expect to receive an overview of all the activities undertaken to find them.

The call went out to Pierre de Boissieu, the Secretary General of the Council, and Catherine Ashton, EU's High Representative for Foreign Affairs and Security Policy. On 1 December 2009 De Boissieu and Ashton succeeded Javier Solana, whom the Trial Chamber had sent a number of missives regarding the European monitors' documents.

The correspondence between Gotovina's defense, the Trial Chamber and the EU began in March 2009 when the defense stated they had yet to receive almost 100 reports of the European monitors. The OTP has since repeatedly declared that some of these documents have been already disclosed to the defense as part of the regular procedure. Solana's office, on the other hand, has contended that the defense investigators have been granted access to the EU archives where the documents are stored.

In the last motion, on 10 November 2009, the defense indicated they were only seeking to obtain the European monitors' reports from 4 to 15 August 1995. The reports are compiled in a compendium of all the logbooks produced by the Knin Regional Center of the EC Monitoring Mission.

Generals Gotovina, Cermak and Markac are on trial for their alleged participation in the joint criminal enterprise aimed at the expulsion of Serbs from Krajina during and after Operation Storm. The Croatian special police commander Mladen Markac is in the middle of his defense case. The trial is expected to end by late January 2010.

2009-12-18

THE HAGUE

WITNESS: 'ARMY TROOPS, NOT POLICE, BURNED HOUSES'

In his evidence as General Markac's defense witness, former member of the Croatian Special Police medical corps Ivan Herman contends that the situation in Donji Lapac in August 1995 was 'satisfactory' for as long as the special police stayed there. Houses and haystacks had been set on fire by the Serbian troops as they retreated; when the Croatian Army entered the town, the burning started again, Herman said.



◀ Ivan Herman, svjedok odbrane Mladena Markača

On the last working day of this year, the defense of former Croatian Special Police commander called Ivan Herman, a doctor from Varazdin. In Operation Storm, Herman served as a volunteer with the Croatian Special Police medical corps. In the five days, from 4 August 1995 on, Herman went from Mount Velebit to the BH border. Markac's defense challenged the prosecution's allegation that many crimes were committed in that period in Gracac, Donji Lapac and other places where the special forces went. Generals Gotovina, Cermak and Markac are on trial for their role in the joint criminal enterprise aimed at the permanent expulsion of Serbs from Krajina.

Dr. Herman said they advanced quickly in those days; so quickly that Herman didn't see any special police committing any crimes. When the operation started he passed through some Croatian villages which had been completely destroyed. In Gracac, many civilian houses were abandoned but, as Herman explained, they were not damaged. Just a few houses had been hit by shells. The few elderly civilians that stayed in their houses were given help: medicines, water and food, Herman stated.

As Herman recounted, the situation in Donji Lapac was rather rough, but the Serb and Croatian troops were to blame, not Markac's special units. The witness maintained that when the police entered the town on 7 August 1995 they saw several destroyed houses and haystacks that had been set on fire by the Serb fighters as they retreated. The situation was 'satisfactory' until the Croatian Army arrived, when all-out celebration started. At one point, Herman recounted, the soldiers started celebrating 'in a strange way', firing their weapons into the air. Herman and other special police soon withdrew to the outskirts of the town in Lika. As they did so, Herman saw some houses burning. As some earlier Markac's witnesses, Dr. Herman blames the fires in Donji Lapac on the units of the HV Gospić Military District.

In his cross-examination, the witness stressed he didn't see who set the houses in Lapac on fire, repeating that the army troops were there at the time. As a senior member of the special police, the witness added that he acted 'to educate' his younger fellow fighters. Herman told them not to set abandoned buildings on fire because they were homes of Croatian citizens. According to the witness, General Markac felt the same way, always insisting that the special police should treat all civilians humanely 'regardless of their religion, ethnic origin, gender or skin color'.

The General Markac's defense continues its case after the Tribunal's winter recess, on 11 January 2010.

2009-12-18

THE HAGUE

CROATIA MAY CONTINUE ITS SEARCH FOR ARTILLERY DOCUMENTS

The Trial Chamber confirmed and provided the reasoning for its last week's decision ordering Croatia to suspend its inspection of the documents and computers seized from Gotovina's defense team members. The Trial Chamber dismissed the defense's motion to prohibit any further searches undertaken that might be conducted in order to find the missing artillery documents.



◀ Chamber of the Tribunal

In the statement of reasons for the last week's decision ordering the Croatian authorities to suspend their inspection of confiscated documents, the Trial Chamber hearing the case against the Croatian generals Gotovina, Cermak and Markac reiterated that any further actions of that kind might violate the counsel-client privilege. In its today's decision, the Trial Chamber notes that even though the defense has not been able to confirm whether any privileged information was contained in the seized documents and computers, it was highly likely that there was such information there.

On Wednesday, 9 December 2009, the police searched the apartments, offices and cars of several persons

suspected of hiding and destroying the materials from the archives. Some of them were detained and interviewed. Two current and one former member of Gotovina's defense were among those searched and detained.

The Trial Chamber provided the reasoning for its decision to suspend the inspection of the confiscated documents and items, but at the same time, the judges dismissed the defense motion to order the suspension of all future

searches that might be directed against members and associates of Gotovina's and Markac's defense teams. In the decision, the judges say that the defense failed to provide enough facts to indicate that their associates may face future searches. If the searches do occur, the defense teams may address the Trial Chamber again and call for the suspension of any inspection of confiscated documents and items, just as they did last week. The Croatian authorities were thus allowed to continue their search for artillery documents. Pursuant to the order of the Trial Chamber from September 2008, the Croatian authorities are obliged to deliver those documents to the OTP.

With this decision, the Trial Chamber dismissed Gotovina's defense motion to order the Croatian authorities to cease all their actions against Marin Ivanovic. Ivanovic, who is on Gotovina's defense team, was accused earlier of hiding and/or destroying documents similar to those sought by the OTP.

Generals Gotovina, Cermak and Markac are on trial for their role in the joint criminal enterprise aimed at the expulsion of Serbs from Krajina during and after Operation Storm in 1995. The indictment alleges indiscriminate and excessive shelling of Knin and other places in Krajina as a charge. The evidence of that, the prosecution contends, is contained in the missing artillery documents.

2010-01-11

THE HAGUE

'REVOLUTIONARY JUSTICE' OR PROTECTION OF SERB PROPERTY?

Snjezana Bagic, one of the authors of the law on temporary takeover of property abandoned during and after Operation Storm, is testifying as Mladen Markac's defense witness. Bagic contends that the goal of that law was not to prevent Serbs from coming back. On the contrary the law was aimed at protecting abandoned Serb houses by letting them temporarily to Croatian returnees and refugees.



◀ Snjezana Bagic, defence witness of Mladen Markac

The first working day of the new year at the Tribunal began with the evidence of Snjezana Bagic. A judge of the Croatian Constitutional Court, Bagic came to The Hague as a defense witness called by the former Croatian Special Police commander Mladen Markac. Markac is on trial with generals Ante Gotovina and Ivan Cermak for his role in the joint criminal enterprise aimed at permanent elimination of Serbs from Krajina during and after Operation Storm in 1995.

As alleged by the prosecution, when the Croatian authorities passed the legislation allowing the temporary takeover of property abandoned in the summer of 1995, they showed their intention to prevent the Serb refugees

from returning after Operation Storm. Snjezana Bagic, who was a secretary in the Ministry of Justice at the time, took part in drafting the controversial law, whose full title is the Law on the Temporary Takeover and Management of Certain Property. Bagic contends that the act was not aimed at preventing return; its goal was to protect the property targeted by looters and arsonists.

As the witness explained, the legislator's intent was to give the abandoned property to Croat returnees and refugees from BH who had lived until then in free parts of Croatia. In addition to dealing with the housing issue, this prevented the devastation of abandoned houses and looting of movable property, Bagic noted.

The Government's decree of 31 August 1995 gave Serbs thirty days to return to Croatia and reclaim their property. In late September 1995, a law was passed extending this period to 90 days. The prosecution has alleged that the change was brought about by the pressure from the international community. Bagic however said that it was done because the 30-day period turned out to be 'unrealistic' and too short. In early 1996, all deadlines for the restitution of property were abolished and the issue was solved a little later with an agreement between the states of Croatia and FR Yugoslavia.

Defense counsel Mikulic showed a UN document of 23 October 1995, criticizing harshly Croatia's attitude towards abandoned property, claiming it was 'legalizing ethnic cleansing' and confiscating property 'in the spirit of revolutionary law'. The witness said that she didn't understand how the author of the UN document could say that the property was confiscated, when the government's decree and the law clearly state that it was a temporary takeover of abandoned property, the witness noted. The Court of Human Rights in Strasbourg confirmed this in its judgments in the lawsuits filed by several Serb returnees.

As the hearing today drew to a close, prosecutor Gustaffson began cross-examining Snjezana Bagic.

2010-01-12

THE HAGUE

GOOD IDEA THAT SOMETIMES DIDN'T WORK

Markac's defense witness contends that legislation was passed after Operation Storm to speed up the Serbs' return to Krajina, but in some cases, the laws were not efficient enough. People had to wait for a long time for their houses to be restored to them – in some cases as long as six years.



◀ Snjezana Bagic, defence witness of Mladen Markac

Prosecutor Katrina Gustaffson today cross-examined Snjezana Bagic, a judge of the Croatian Constitutional Court. Gustaffson put it to the witness that the Croatian authorities had taken measures to prevent the Serb refugees from returning to Krajina after Operation Storm, and wanted to settle Croats permanently in Serbian houses. According to the prosecution, a decree and a law on the temporary takeover of abandoned property were passed in August and September 1995 with that goal.

The witness was a secretary in the Justice Ministry at the time and she took part in the drafting the controversial laws. Bagic rejected the prosecutor's allegations, saying

that the goal was to speed up the Serbs' return to their homes. The law first set a 30-day deadline for the refugees to return and reclaim their property: it was later extended to 90 days. The prosecutor noted that the deadline was too short and made Serbs decided not to come back, because the property could not be reclaimed after the expiry of the 90-day deadline. The law on the temporary takeover of property was not the only law enabling the Serbs to claim their property, Judge Bagic said; the Constitution and the law on property gave them that right in the first place.

Sticking to the claim that Croatia did everything to prevent the Serbs from coming back, the prosecutor asked the witness if she knew of a single case where a Serb was able to return to Croatia and reclaimed their property between early 1996, when the 90-day period expired, and 1998, when the refugee issue was regulated by an agreement between Croatia and FR Yugoslavia. Snjezana Bagic's ministry was not in charge of monitoring the return of the refugees, she said, and she could therefore not give any examples of successful return of property in that period.

When the prosecutor put it to her that in some cases the refugees were able to reclaim their houses after as long as six years, the witness said the system was meant to speed up their return as much as possible, but in some cases it was less than efficient. This is why, she explained, the legislation was amended whenever it proved to be ineffective.

Yesterday, Bagic claimed that the option of confiscating abandoned Serb property was never considered. Today, the prosecutor today showed her the minutes from a closed session of the Croatian government of 31 August 1995, where the prime minister and members of his cabinet say that the confiscation as an option should be deleted from the decree because this might lead to pressure from the West where private property is sacred. The witness then allowed it was possible that the confiscation was mentioned 'as an alternative' in the draft of the decree. She herself took part in the drafting.

Snjezana Bagic thus completed her evidence for Mladen Markac's defense. Markac is on trial together with generals Gotovina and Cermak for his role in the joint criminal enterprise aimed at expelling of Serbs from Krajina in the summer of 1995. General Repinac, Markac's expert witness, is scheduled to begin his evidence tomorrow.

2010-01-13

THE HAGUE

DEFENSE EXPERT: 'SPECIAL UNITS DIDN'T CONTROL TERRITORY'

In his evidence as a defense witness of the Croatian special police commander Mladen Markac, General Dragutin Repinc claims that the police task in Operation Storm was to push back the enemy from the territory between Mount Velebit and the BH border. According to Repinc, the police was not there to control the liberated territory. The prosecution alleges that a number of incidents involving arson and looting of abandoned Serb property occurred there.

The defense of the Croatian special police commander Mladen Markac continues its case with the evidence of Dragutin Repinc. Repinc, a military general currently serving as Chief of the Planning Directorate in the HV Main Staff, can be described as a military expert on police issues. In his expert report, tendered into evidence today, Repinc described the role of the special police during and after Operation Storm in the summer of 1995. Generals Gotovina, Cermak and Markac are charged with numerous crimes that were committed against Krajina Serbs and their property at that time.



◀ Mladen Markac in the courtroom of the Tribunal

About 2,200 special police participated in Operation Storm, Repinc said. Repinc described the special police - led by a staff of consisting of only 15 persons - as a military force 'with a small head and a large body'. Staff commander Mladen Markac and his deputy Zeljko Sacic were at the top of the 'small head'.

The witness noted that military and police documents led him to conclude that the special police during and after Operation Storm operated 'under the command and following strict instructions' of the HV Main Staff. This is why General Markac did not have full freedom in matters of planning compared, for example, to commanders of military districts such as Ante Gotovina. According to

Repinc, the special police commander could only decide how to carry out the missions he was given by the military leadership and not what to do next.

In a way, Repinc summarized what some other witnesses called by Markac had said describing the war record of the special police in Operation Storm. According to Repinc, on 4 August 1995 the special police set off from Mount Velebit. They first captured Mount Celavac, where the enemy had a communication node. The next day, the special police entered Gracac and later Donji Lapac, in Lika. From there, the special police advanced in two directions towards the border and Kulen Vakuf, a town in BH.

A key feature of the special police's role in Operation Storm, the witness said, was that their tasks were directed 'only at the enemy and not the territory'. In other words, the enemy was to be driven out of the territory between Mount Velebit and the BH border. The special police was not there to control the liberated territory in the long-term. Thus, once Gracac was liberated, it was left to the military and civilian police and Donji Lapac to the army, although a small number of the special police remained there. As alleged in the indictment, a number of incidents involving looting and arson of abandoned Serb property occurred in Gracac and Donji Lapac.

Croatian general Repinc continues his evidence tomorrow.

2010-01-14

THE HAGUE

FEW INCIDENTS IN LARGE-SCALE SEARCH

Defense military expert Dragutin Repinc contends that the special police under General Markac's command searched more than 5,000 square kilometers of territory in the two months after Operation Storm: only two incidents were reported in that period. According to Repinc, this is proof of the high level of discipline in the Croatian special police.



◀ Dragutin Repinc, defence witness of Mladen Markac

In his evidence yesterday, defense military expert Dragutin Repinc described the war record of the special police in Operation Storm. Continuing his evidence, Repinc clarified parts of his expert report about the role of the special police after the operation. Repinc has been called by the defense of the former Special Police commander Mladen Markac, who is on trial together with generals Gotovina and Cermak for his role in the joint criminal enterprise aimed at expulsion of Serbs from Krajina in the summer and fall of 1995.

When on 9 August 1995 the combat was over in the area from Mount Velebit to the BH border, the Croatian special units were given new orders: to search and mop-

up the terrain, Repinc said. The special police was first sent to the Petrova Gora area in Sector North and ordered to search the areas where the HV hadn't yet been. The special police remained there until 21 August 1995.

The special police was then transferred back to Sector South where they continued combing the terrain until 9 October 1995, when their mission in Krajina ended. The indictment against the Croatian generals covers the incidents in Sector South. In that period, the special police searched more than 5,000 square kilometers: only two incidents were reported. According to Repinc, the incidents happened on 25 and 26 August 1995. This led Repinc to conclude that lack of discipline was sporadic in the special police, not widespread. The witness didn't specify the incidents, but one of them is conceivably the crime in the village of Grubori, where five elderly Serbs were killed.

Repinc contends that the military and police documents show that after Operation Storm the special police continued operating under the command of the HV Main Staff; the search and mop-up operations were all done on General Cervenko's orders. General Markac only implemented the orders of the Main Staff in the field, the witness argued. By the same token, General Markac signed reports sent to him from the field and forwarded them on to General Cervenko. General Repinc concluded his examination-in chief with the claim that he didn't come across any documents ordering or reporting any crimes against civilians and their property.

The defense lawyers of the two other accused took until the end of the session today to cross-examine the witness. Gotovina's defense argued that the HV had reason to believe that Knin was the pivotal point of the RSK defense, which involved the entire RSK population. Cermak's defense counsel implied that his client was kept informed about the military activities in the field only to be able to forward them to the international community representatives when he met them. For the most part the witness agreed with these claims.

On Monday, prosecutor Mahindaratne will begin her cross-examination of General Repinc. Markac's defense is expected to call its last witness after that.

2010-01-18

THE HAGUE

NEW OR FABRICATED FACTS ABOUT GRUBORI?

Defense military expert Dragutin Repinc says he noticed a 'major discrepancy' between two reports Markac filed about the murder of five elderly Serbs in the village of Grubori. However, because of 'the sensitivity of the incident', the witness was not able to personally conduct an investigation and see why the first document doesn't speak about the incident at all. The second report claims that the civilians were killed in the cross-fire when the Croatian special police clashed with the Serb fighters. Repinc couldn't rule out the possibility that the report was changed based on 'fabricated' and not 'new' facts.



◀ Dragutin Repinc, defence witness of Mladen Markac

Today the prosecution cross-examined defense military expert Dragutin Repinc. All police units taking part in Operation Storm and the search operations that followed were under the control of Mladen Markac, special police commander, Repinc said. Generals Gotovina, Cermak and Markac are charged with crimes perpetrated against Serb civilians and their property at that time, in the summer and fall of 1995.

Prosecutor Mahindaratne referred to what the witness had said in his examination-in chief: Markac simply forwarded to the HV Main Staff daily reports his subordinates sent to him from the field without changing their contents. On 25 August 1995, five elderly Serbs were

killed in the village of Grubori. The prosecution noted that there were two different reports Markac drafted about the Grubori incident: one that doesn't speak about any incidents and the other, which states that the elderly Serbs died in the cross-fire between Croatian special troops and the remaining Serb fighters. Only the first report matches the report drafted by the man who commanded the action, Zdravko Janic, the prosecution noted.

When he was drafting his expert report, General Repinc noticed 'a major discrepancy' between the two documents. 'Out of human curiosity,' Repinc wanted to find out why. However, 'because of the sensitivity of the incident', he was not able to personally investigate it. Repinc just said that he assumed that the new, subsequent, report included the new facts Markac had learned later. Repinc was not able to tell where the new facts had come from. In response to presiding judge Orić, the witness admitted that he 'couldn't rule out the possibility that Markac's new report was written on the basis of fabricated facts rather than any new facts'.

The prosecution is trying to prove that the original report was modified at the demand of General Markac and his deputy Zeljko Sacic. The goal was to cover up the crime in the village of Grubori. The defense denies that the special police commander was involved in the incident.

In his examination-in chief, the witness argued that during and after Operation Storm, the special police were implicated in just one other incident, two days after the event in the village of Grubori. It would be wrong to conclude that Markac and his colleagues tolerated unruly behavior on the basis of just two incidents, the witness argued. The prosecution noted today that nobody has been punished for those two incidents yet. The witness confirmed this. However, people are being prosecuted, Repinc noted. He reminded the court of the recent arrest of Markac's former assistant Zeljko Sacic and a group of current and former members of the special police in Croatia. The Trial Chamber stated that it had not received any information about the arrests. The prosecution indicated it would provide the information as soon as the Croatian authorities delivered the requested official documents.

Markac's military expert will complete his evidence tomorrow.

2010-01-19

THE HAGUE

MARKAC'S DEFENSE RESTS ITS CASE

Tomislav Penic, the last witness of Markac's defense, said that the Republic of Croatia showed its good will when it passed the amnesty law. The Serbs' participation in the armed rebellion, their 'fanaticism, shouting at roadblocks, concealing rifles' were forgiven and forgotten. Franjo Tudjman brought up his days in prison in the debate about the amnesty law.



◀ Tomislav Penic, defence witness of Mladen Markac

The defense of police general Mladen Markac pointed to benevolent attitude of Croatian authorities towards Krajina Serbs who took part in occupation of parts of Croatia. Markac's defense called its last witness, former government official Tomislav Penic. As Croatian deputy minister of justice Penic worked on drafting and implementing of General Amnesty law. This law regulated certain criminal acts perpetrated during or related to the armed conflict including acts of participating in armed rebellion against the Republic of Croatia. Many Serbs in Krajina faced such charges.

The first amnesty law was passed in September 1992. It was later amended to cover the period until the spring of

1996: all Serbs under arms until the end of Operation Storm were amnestied under the law. Penic explained that the amnesty was not granted to those who committed war crimes or ordinary crimes not related to the armed conflict. The legislator intended to grant amnesty to Serbs in Croatia because they had been misled and manipulated. They and other government representatives often said in public that 'Serbs' fanaticism, shouting at roadblocks, and concealing rifles' would be forgiven and forgotten, Penic said.

The witness said that 'when Croatia was in flames', amnesty was a very delicate issue, but the authorities nevertheless passed the amnesty law. Penic highlighted President Tudjman's role in the process. 'We have to forgive. After all, I was in prison too and I don't know if the prison made me better', Tudjman said to Penic at a meeting.

Penic didn't only take part in drafting the law: he was there to implement it. To that purpose, Penic went twice to the UN base in Knin immediately after Operation Storm. Among some 1,000 Serbs who had sheltered there, seventy were war crimes suspects. Penic's task was to disclose to them the evidence against them. A number of suspects refused to receive the documents. Penic says that General Cermak received him in Knin and provided him with all the assistance he needed. According to Penic, Cermak wasn't there when he talked to the UN representatives and Serb suspects. The witness noted that all those who were not under investigation could leave the base without any problems and return to their homes.

After a very brief cross-examination, Tomislav Penic completed his evidence. The defense of third-accused, General Mladen Markac, thus rested its case. Markac is on trial together with Ante Gotovina and Ivan Cermak for crimes during and after Operation Storm in the summer of 1995; the aim of the crimes was to expel Serbs from Krajina.

There will be an administrative hearing at the trial of the three Croatian generals tomorrow.

2010-01-27

THE HAGUE

THE TRIAL CHAMBER CALLS WITNESSES AT THE OPERATION STORM TRIAL

At the administrative hearing in the trial of generals Gotovina, Cermak and Markac, the judges indicated they would call additional witnesses. The names of witnesses were not disclosed today.

Last week, the defense of third-accused Mladen Markac rested its case at the trial for the crimes committed during Operation Storm. Today the last administrative issues regarding the admission of documents were dealt with. The trial of the Croatian generals is not over yet. As indicated today, the Trial Chamber with Judge Orić presiding will call its witnesses.

The presiding judge didn't disclose the names and the number of witnesses the Trial Chamber decided to call. According to the presiding judge, the scheduling order, to be issued soon, will clear all that up.

As the administrative hearing started today, the prosecution was granted permission to reply orally to the objections of Gotovina's defense against the work of investigator Joachim Robertsson. The defense alleged that Robertsson inserted his own claims into the statement given by former UN Sector South commander Alain Forand. Also, according to the defense, Robertsson omitted claims that were potentially exculpatory for the accused.



◀ Trial chamber at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

Prosecutor Gustaffson denied any such allegations, asking the Trial Chamber to overrule the objections of Gotovina's defense. In April 2009, when Forand testified, the defense teams had a chance to go through the controversial parts of his statement, the prosecutor noted, but they failed to do it. The prosecution contends that the defense motions lead to the conclusion that investigator Robertsson was guilty simply because he was a Swede who purportedly took instructions from Carl Bildt. After Operation Storm, Bildt was declared a persona non grata in Croatia for his claims about the indiscriminate 'barbaric attack on Knin'.

Defense counsel Misetic replied that the defense didn't bring up Robertsson's ethnic background; instead it focused on the fact that he had worked for the Swedish intelligence service. The defense proposed that the Trial Chamber order the prosecutor to talk to the investigator and obtain information on how Forand's statement was taken.

Ending the hearing today, the presiding judge said that the Trial Chamber will not sit until further notice.

2010-02-05

THE HAGUE

TRIAL CHAMBER: 'EU SHOULD DELIVER A MORE DETAILED REPORT'

Not satisfied with the last EU report on the steps taken to locate the EC monitors' logbooks from Knin, the Trial Chamber issued an 'urgent' invitation to the Secretary-General of the EU Council to provide a more detailed report about the search of the European archives within 14 days. Gotovina's defense has sought the logbooks of the European monitors from Knin for some time.

The Trial Chamber hearing the case of Croatian generals Gotovina, Cermak and Markac invited the EU to deliver within 14 days all the information on the steps taken to locate the logbooks kept by the EC Monitoring Mission Regional Center in Knin. The defense has sought those documents, because, as it has contended, they contain reports the European monitors drafted during and after Operation Storm. The three generals are charged with numerous crimes committed against Krajina Serbs and their property at that time.

The Trial Chamber sent a similar request to the EU in mid-December 2009. A month later, it replied that 'once again, all the steps were taken' but the logbook 'simply couldn't be located'. In the Urgent Invitation to the EU made public today, the Trial Chamber notes it expected to receive more detailed information about what was done, such as the names of archivists and other officials consulted about the controversial logbooks. The Trial Chamber also expected to be given details about the chain of custody for archiving of that document. This is why the Trial Chamber invited the EU to deliver detailed information this time about the efforts, noting that the deadline for the submission of the documents could be extended beyond the original 14 days, if necessary.

As on previous occasions, the Trial Chamber with Judge Orić presiding sent the request to the Secretary-General of the EU Council, Pierre de Boissieu, who has recently succeeded Javier Solana.

The correspondence between Gotovina's defense, the Trial Chamber and the EU began in March 2009. The defense maintained that it didn't receive almost 100 reports of the European monitors. In one of its last motions, Gotovina's defense stated that only the controversial logbook of the European monitors from the Knin Regional Center was still missing.

The trial of the Croatian generals has entered its final stage. The Trial Chamber now has to hear the last seven witnesses it has called. The first Chamber witness has been provisionally named CW-1 and will begin his evidence on Wednesday, 24 February 2010.

2010-02-18

THE HAGUE

KNIN EC MONITORS' LOGBOOK NOT IN EU ARCHIVES

Following the Trial Chamber's request for a 'more detailed' report on the steps taken to locate the EC Knin monitors' logbook drafted during Operation Storm, Secretary-General of the EU Council Pierre de Boissieu says that more than 200,000 documents were searched, but the Knin logbook sought by Gotovina's defense has not been located. De Boissieu has advised the Trial Chamber to address the EU Monitoring Mission member states in the effort to locate the missing document.



◀ Secretary-General of the EU Council Pierre de Boissieu

Secretary-General of the EU Council Pierre de Boissieu today submitted to the Trial Chamber with Judge Orié presiding a report detailing the steps taken to locate a logbook of the European monitors drafted during Operation Storm in 1995, sought by General Ante Gotovina's defense. The logbook is the last document that remains unaccounted for in the EU archives after the defense has requested it. Two weeks ago, the judges asked the EU Council to deliver a 'more detailed' report on the enquiry.

In his letter, De Boissieu says the EU staff has searched almost 200,000 documents electronically and another 10,000 manually since last year. None of documents has

been identified as the **Logbook of the Knin Regional Center**. The search, the letter goes on, uncovered more than ten documents produced by the European monitors in Knin: daily reports, situation reports, humanitarian reports and weekly assessments. A number of daily and weekly reports drafted by the European monitors from other regional centers were located. All those documents are available to Gotovina's defense, De Boissieu noted.

By way of conclusion, the secretary-general instructed the judges and Gotovina's defense to address the states that were members of the EC Monitoring Mission and ask them to search their national archives in order to find the missing documents.

The correspondence between Gotovina's defense, the Trial Chamber and the EU started in March 2009. The defense contended that they never received almost 100 EC monitors' reports. Now, in one of its latest motions, Gotovina's defense claims they have yet to receive the controversial logbook of the EC monitors' Knin Regional Center.

The trial of Croatian generals Gotovina, Cermak and Markac on charges of crimes against Serbs during and after Operation Storm is now in its final stage. The Trial Chamber will now examine seven witnesses it has called to testify. The first witness has been provisionally given the pseudonym CW-1 and will begin his evidence on Wednesday, 24 February 2010.

2010-02-24

THE HAGUE

SERBS, CROATS AND BOSNIAKS ALL BECAME CROATS

Jure Radic, former Croatian minister for development and reconstruction, proposed to President Tudjman to limit the percentage of Serbs in a part of Croatia after Operation Storm to 'no more than 10 percent'. Asked to clarify his proposal, Radic said that by Serbs he meant only those who attacked Croatia with guns, whereas, Croats for him were all loyal citizens regardless of their ethnic background: Serbs, Croats or Bosniaks alike. Radic was called to testify by the Trial Chamber.



◀ Jure Radic, witness at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

The first of the seven witnesses of the Trial Chamber at the trial of generals Gotovina, Cermak and Markac is Jure Radic, former Croatian deputy prime minister and minister of development and reconstruction. Today the judges questioned Radic about the intent of the Croatian authorities to permanently expel Serbs from Krajina in August 1995. As alleged in the indictment, their permanent elimination was a goal of the joint criminal enterprise headed by President Tudjman and involving all three accused. The minutes taken at a number of government and Supreme Defense Council meetings in 1995 and 1996 - admitted into evidence during the prosecution and defense cases - listed the witness's

name among the attendees. Radic often intervened in the discussions.

At the meeting of the state leadership on 17 December 1996 attended by Radic, Tudjman asked that the Serb refugee be 'offered a monetary compensation for not returning to their homes'. Radic tried to 'clarify' the president's words, saying that there was a lot of debate going on at the time: various options were tabled, but 'eventually' Radic was able to convince Tudjman that it was better to offer the Serbs first the opportunity to return and then a compensation to those who didn't want to come back.

However, as presiding judge Alphons Orié noted, at the same meeting Radic tried to convince Tudjman that Serbs

were 'the most corrupt nation in the world'. The Croatian state 'could do much by buying out their property'. When the judge remarked that his words didn't imply that he favored the return of the Serbs, the witness said that he was not sure which solution was the best at the time.

The court focused on the minutes from the meeting on 11 August 1995, where President Tudjman suggested a 'radical measure': confiscate the property of those Serbs who failed to return to Croatia within one month. Radic said he never saw this proposal as negative, but as an 'incentive' for the refugees to come back as soon as possible. However, it was difficult for the refugees to return for various reasons, and the Croatian authorities extended the deadline to three months, the witness explained. The deadline was later repealed. Judge Orić went on to note that the Trial Chamber has already heard – in particular in the evidence of former US ambassador in Zagreb Peter Galbraith – that the plan to confiscate the abandoned property was abandoned because of international pressure. Radic admitted that some ambassadors 'suggested' that Serbs should return as soon as possible.

Finally a transcript of a meeting of the Croatian leadership on 22 August 1995 was shown, where Radic suggests that the number of Serbs in the strategically important areas along the Karlovac-Slunj-Ogulin line should be limited to 'no more than 10 percent'. This prompted President Tudjman to say, 'Less than 10 percent!'. Radic tried to convince the judges that things were not what they seemed. The idea was not to prevent the Serb refugees from returning, but to settle Croats, so as to bring their number to ten times as many as the Serbs. Since he claimed that the goal of the government was to settle the people in an uninhabited area to protect Croatia's strategic interests, the presiding judge asked Radic why then he brought up their ethnic background in the first place. 'When I say Serbs, I mean those who attacked Croatia with guns, and when I say Croats I mean our citizens regardless of their ethnic background: Serbs, Croats, Bosniaks or whoever,' Radic replied.

Before the former Croatian minister of development and reconstruction took the stand, the court was told that on 25 May 2009 he had given a statement to Ante Gotovina's defense. It was not disclosed why Gotovina's defense decided not to call Radic.

Jure Radic continues his evidence tomorrow.

2010-02-25

THE HAGUE

'TO CROATIZE' IS TO 'EUROPEANIZE'

According to former Croatian minister for development and reconstruction Jure Radic, the graffiti seen on a Knin wall, '*Cedo*, you won't come back' in August 1995 didn't reflect any hostility towards Serbs who had fled during Operation Storm, but the 'unity of the Croatian people'. He also spoke about Tudjman's intention to 'Croatize' Muslims and bring them closer to the Western civilization.



◀ Jure Radic, witness at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

Prosecutor Gustafson today cross-examined former Croatian minister for development and reconstruction Jure Radic. She tried to prove that the witness was not quite frank yesterday when he replied to the presiding judge, claiming that after Operation Storm in 1995 the Croatian authorities ensured equal conditions for the return of all refugees, regardless of their ethnic background. The prosecution alleges that the transcripts of meetings of Croatian state leadership from that period clearly show their intention to prevent the return of Serbs and settle Croats in the liberated Krajina territory.

Radic was called to give evidence by the Trial Chamber hearing the case against the Croatian generals Gotovina,

Cermak and Markac, on trial for their role in the joint criminal enterprise aimed at expelling Serbs from Krajina in the summer of 1995.

Today the prosecutor showed the minutes of a meeting between President Tudjman and high-ranking military officers on 23 August 1995. Radic was invited to attend the meeting and explain the demographic situation in Krajina. Radic lamented the 'unfavorable distribution of the population' in Croatia; he suggested that Croats should be settled in parts of Krajina to 'compensate for it'. When he was told that he spoke only about the return of Croats, not mentioning Serbs, the witness replied with a rhetoric question. Why should he talk about the return of Serbs to an auditorium of high-ranking military officers, the witness asked. He discussed that issue 'at government meetings'. At this meeting, Radic explained, he merely tried to convince the military leadership to 'settle' a military unit or two in the liberated area. Since they were Croatian soldiers, it was logical to talk about 'the return of Croats', Radic argued.

Continuing his demographic presentation at the meeting, Radic said that Croats should also return to the Slunj area where 'fortunately no Serbs used to live'. The former minister sees nothing wrong with that. He used a 'colloquial' expression: when he said Serbs he meant aggressors. According to Radic, the controversial statement should read 'in Slunj fortunately, no aggressors used to live before'.

One day before his meeting with the military officers, Radic talked to President Tudjman and told him there 'is nothing more beautiful' than when Croats from Varazdin and Split arrive together in Knin. As part of his vision of beauty, Radic spoke about the graffiti from Knin, '*Cedo* /Chetniks/, you won't come back'. In an effort to clarify why he was so taken by the graffiti, Radic said he liked the fact that a Kajkavian word was used, indicating that Croats from Zagorje had come to Knin: this was an example of the 'unity of the Croatian people'. Also, Radic explained that *Cedo* was a term among the people for Chetniks. In other words, the author of the graffiti wanted to say 'Chetniks, occupiers, you won't come back'.

According to the prosecution, the transcript from another meeting corroborates the claim that the Croatian state leadership wanted to ethnically cleanse areas both in Croatia and in BH. At the meeting, President Tudjman says that Croats should 'carry on their backs' the Bosnian Muslims and 'gradually Croatize' them along the way. Radic unsurprisingly gave a different spin on these words of the former president. When Tudjman said 'Croatize', in fact he meant that Muslims should be 'Europeanized' to 'become part of the Western civilization' together with the Croats, Radic said.

As today's hearing drew to a close, Gotovina's defense began cross-examining the witness.

2010-02-26

THE HAGUE

MINES THAT KILL ONLY SERBS

Former Croatian minister Jure Radic contends that the Serbs could not return to their homes after Operation Storm because of security risks, including the landmines. This prompted the judges to ask Radic why Croats enjoyed full freedom of movement in the liberated territory.

In the cross-examination of Jure Radic, former Croatian minister for development and reconstruction, defense lawyer Kehoe focused more on the 'context' in which the high-ranking state officials discussed whether the return of the Serbs to Krajina after Operation Storm was possible at all; he didn't focus on the contents of the meetings where the issue were raised. The Trial Chamber called Radic to The Hague to clarify what he had said at the meetings of various state bodies: among other things, he said that 'no more than 10 percent of the Serbs' should remain in some parts of Krajina, suggesting that Croats should be settled in the abandoned Serb houses.

Gotovina's defense said that the war raged in BH at the time, close to Krajina. The witness confirmed this, reminding the court that Milosevic was still in power in Serbia. The defense tried to prove that the public addresses of Croatian officials showed the real attitude of the Croatian state leadership towards the return of Serbs, more so than their words in various meetings behind closed doors. In a public address Tudjman urged 'all Serbs who didn't participate in armed rebellion' to remain in Croatia. Tudjman made this call in the media on the first day of Operation Storm, on 4 August 1995. Radic said that the call to the Serbs to stay was sincere, but 'Serbs left on their own will', 'contrary to the president's wishes'.

Defense counsel Kehoe showed minutes from the government meeting held two weeks after Operation Storm was launched. Radic tells Tudjman about the situation in the liberated territory saying, 'our men have done a lot of torching, to this day, I don't know how it can be prevented'. Because President Tudjman replied that such incidents should be prevented, the defense contends it shows that there was no intention to prevent the Serbs from returning to Krajina. The witness agreed.

As he continued his description of 'the context' for the return of the Serb refugees, the witness said that the security situation was difficult. Those who returned were exposed to different security risks, including mines. That is why, Radic clarified, the situation in Krajina had to be normalized first before a mass return of the Serb refugees could be organized. Since Croatian citizens had full freedom of movement in the liberated territory, Judge Klinis asked the witness how it was possible that the Croat returnees didn't face the same security risks. Radic replied that the authorities 'publicly told' everyone that the time was not yet ripe for them to return, but couldn't identify a single instance when this was said in public, apart from his purported speeches to Croats in refugee camps.

Former minister and Tudjman's close associate Jure Radic completed his evidence. The second witness of the Trial Chamber will appear in the courtroom on Thursday, 4 March 2010.

2010-03-04

THE HAGUE

'MYSTERY' OF KISTANJE

The second witness of the Trial Chamber was a major in the Croatian military police. Ivan Juric claims that during his visit to the Krajina village of Kistanje immediately after Operation Storm he saw 'nothing out of the ordinary'. The presiding judge then showed him reports drafted by UN members and the Croatian intelligence service which stated that the village was in flames and filled with the stench of dead bodies. The presiding judge asked the witness to help the Trial Chamber to solve 'this mystery'.



◀ Ivan Juric, witness at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

In August 1995 chief of the Military Police Administration Mate Lausic ordered HV major Ivan Juric to go to Knin to 'coordinate the work' of 72nd and 73rd Battalion of the Military Police. The two battalions were in charge of preventing and investigating any crimes the Croatian soldiers committed in the liberated territory. So far at the trial for the crimes during and after Operation Storm, the prosecution has been trying to prove that two of the three accused – Ante Gotovina and Ivan Cermak – did exercise command over the military police. The defense lawyers denied this allegation, shifting the blame on General Lausic. Although Juric's role in Krajina was often referred to in the course of the trial, none of the parties

called him to testify in The Hague, leaving the judges to do it. Juric was a major at the time but has since been promoted to the rank of general. He still works in the Croatian Army.

Describing the system of military reporting in the summer of 1995, Juric said that he put together daily reports filed by his subordinate units. Juric then forwarded the document to the Military Police Administration in Zagreb. Juric nevertheless claimed that the commander of the 72nd Military Police Battalion was in contact on a daily basis with the commander of the Split Military District Ante Gotovina. According to Juric, they regularly informed each other about the events in Krajina, either in writing or orally at briefings.

Presiding judge Orić then asked Juric about the connection between General Cermak and the military police. The witness said that General Cermak, as the commander of the Knin Garrison, could issue orders to military police units, but Cermak 'didn't have much control' over the military police. The tasks Cermak ordered had to be in line with the designated overall mission of the units, the witness clarified.

The judges devoted most of their time today on probing Juric's knowledge about the crimes in the liberated territory in the first half of August 1995. The witness said that during his stay in Krajina, from 3 to 13 August 1995, he received reports that the HV troops or 'men in uniform' had committed crimes, but 'not major ones'. Juric knew that individuals were stopped at check points and were found to be in possession of goods of unknown origin but, he added, he had never heard of murders of Serb civilians, lootings or burning down of their abandoned houses.

Because the witness said he didn't receive any reports, and didn't personally see any soldiers perpetrating crimes, he was asked about his visit to the village of Kistanje on 9 August 1995. Juric claims that he 'didn't notice anything out of the ordinary' apart from four or five buildings he thought had been destroyed in the fighting.

The presiding judge noticed that Juric's claim was contested by the UN Canadian Battalion (CANBAT), whose troops passed through Kistanje on the same day. The CANBAT soldiers stated in their report that they had to close the car window because of 'the heat from burning houses and the stench of the dead bodies'. Judge Orić showed the witness the report of SIS operations officer Ante Gugić, who said that 'chaos reigns in the villages of Bribirске Mostine, Djevrске and Kistanje, all recently liberated, with mass looting and arson'. Gugić claimed that the HV members were 'disorganized and drinking alcohol'.

The presiding judge commented that such claims 'don't conform' to Juric's observations asking Juric to help the Trial Chamber to 'solve this mystery'. The witness stuck to his previous claim, saying, 'I really didn't see anything like that', and asking a rhetorical question, 'if I had, would I just have stood there doing nothing?'

The prosecution and the defense lawyers will cross-examine General Juric tomorrow.

2010-03-05

THE HAGUE

NOT KNOWING ENGLISH AS ALIBI

The defense of Ante Gotovina argued that in August 1995 HV general Ivan Juric didn't speak English. Therefore, when Juric met Canadian observers in the village of Kistanje he could not tell what the aim of the 'clean-up action' had been. In his evidence for the prosecution the Canadian intelligence officer claimed that Juric told them that the aim was that 'Chetniks never again return to Krajina'.

In a brief cross-examination of HV general Ivan Juric, prosecutor Ryan Carrier focused on the jurisdiction over the military police in the liberated parts of Krajina during and after Operation Storm. Croatian generals Gotovina, Cermak and Markac are charged with crimes committed then. At that time, the witness was in Knin on the orders of the chief of the Military Police Administration Mate Lausic. Juric was to coordinate the work of the military police units in the field; those units were in charge of preventing and investigating crimes.



◀ Ivan Juric, witness at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

Juric was yesterday examined by the judges who called him to testify in The Hague. Juric said that the commander of the 72nd Military Police Battalion, Major Mihael Budimir reported daily to General Gotovina on his unit's doings. Today Juric added that the military police in Krajina was subordinated to Gotovina, commander of the Split Military District, in terms of 'daily operational tasks'. Juric contends that his arrival in Krajina on Lausic's order didn't violate the legally established chain of command with Gotovina at the top.

In his cross-examination, Gotovina's counsel Luka Misetic showed a daily report of the 72nd Military Police Battalion. The report shows that the commander of the Split Military District was just one of ten recipients. The witness confirmed this. The defense went on to note that General Gotovina wasn't informed about all the developments in the field. For example, Gotovina was not informed that stolen items were seized from Croatian soldiers at checkpoints. Juric agreed with the claim, noting that he didn't know why that was the case.

The defense counsel then asked the witness if he spoke English while he was in Krajina and how he communicated with the Canadian Battalion troops. On 9 August 1995, Juric met Canadian observers in the village of Kistanje. Juric said he knew only some fifty English words. Since there was no interpreter, Juric communicated with the Canadians using 'signs and hands'. The defense used this 'English pop quiz' to contest the claims of former Canadian military intelligence officer Philip Roy Berikoff. In his evidence for the prosecution in 2008, Berikoff maintained that when he met Juric in Kistanje, Juric told him that the aim of the 'clean-up action' was to 'prevent Chetniks from ever returning to Krajina'. By Chetniks Juric meant all Serbs.

General Ivan Cermak's defense lawyer Steven Kay exercised his right to cross-examine the witness. Kay contests the claim that the military police was subordinated to his client. Kay put it to the witness that the orders Cermak issued to the military police after Operation Storm were in fact information summaries they would have dealt with even if they had been sent by a rank-and-file soldier. Juric agreed, adding that Cermak as the commander of the Knin Garrison 'couldn't issue orders, but only tasks' to the military police.

Juric thus completed his evidence. There will be a two-week break at the trial of the Croatian generals, until 19 March 2010, when the next witness of the Trial Chamber is slated to testify.

2010-03-15

THE HAGUE

CROATIA GETS FREE REIN, PERMANENTLY

The Trial Chamber dismissed the defense motion to order the Republic of Croatia to 'permanently discontinue' its inspection of computers and documents confiscated last year from members of Gotovina's defense team in the search for the missing artillery logs. Croatian authorities must not inspect any documents protected by the lawyer-client privilege and materials the defense has prepared for the trial.

The Trial Chamber with Dutch judge Orije presiding dismissed today the motion of general Gotovina's defense to order the Republic of Croatia to 'permanently discontinue' its inspection of computers and documents confiscated from the defense team in an action the Croatian police launched in early December 2009. In its decision, the Trial Chamber added that it also dismissed the motion to order Croatia to desist from further investigation of various members of Ante Gotovina's and Mladen Markac's defense teams.

The Trial Chamber issued a similar decision on 18 December 2009. At that time, it was a 'temporary' order which has now become 'permanent'. In the meantime, the defense submitted new arguments in support of their requests. Both the prosecution and the Republic of Croatia opposed those arguments in their respective replies.

The Croatian police launched the action to comply with the order of the Trial Chamber to locate artillery documents drafted during Operation Storm; the prosecution has been asking the Republic of Croatia for those documents for quite some time, to no avail.

The decision imposes some restrictions: Croatia was ordered to refrain from inspecting confiscated documents protected by the lawyer-client privilege and materials the defense has prepared for the trial. This raised the issue of who would decide what the restrictions covered. The judges left it to Gotovina's defense and the Croatian authorities to agree on that. If they fail to do so, an independent body of the Tribunal will. The Trial Chamber ordered Croatia to keep all information on protected witnesses contained in the confiscated materials under seal.

Finally, in the decision the judges rejected the defense's request to suspend the investigation and drop charges against the two members of Gotovina's defense team, Marin Ivanovic and Jozo Ribicic, for hiding and/or destroying Operation Storm documents.

Generals Gotovina, Cermak and Markac are on trial for their role in the joint criminal enterprise aimed at expelling Serbs from Krajina during and after Operation Storm in 1995. The indictment alleges there was excessive and indiscriminate shelling of Knin and other places in Krajina. The evidence that corroborates the allegation can be found in the missing artillery documents, the prosecution has claimed.

2010-03-19

THE HAGUE

GOTOVINA REQUESTS FOR CERTIFICATE TO APPEAL

The defense of Ante Gotovina, unhappy with the Trial Chamber's decision giving 'free rein' to the Croatian authorities to continue investigating defense team members suspected of hiding and/or destroying documents from state archives, today sought leave to appeal. Markac's former deputy Zeljko Sacic started his evidence in closed session.

Ante Gotovina's defense today sought leave to appeal against the decision of the Trial Chamber of 15 March 2010, in which it denied their motion

for a permanent restraining order directed to Croatia to cease all investigative steps against any members of the defense team. In December 2009, Croatian authorities in their search for the HV artillery logbooks from Operation Storm confiscated computers and documents belonging to several members of Gotovina's defense team. Even before that, some members of the defense team were prosecuted for hiding and/or destroying documentation from state archives.

The defense contends that the Trial Chamber's decision has had a negative impact on "fair and expeditious conduct of the proceedings". An immediate decision of the Appeals Chamber would "materially advance the proceedings", the defense argues; if this criterion is met, an interlocutory appeal may be lodged.

The defense lawyers noted that the Trial Chamber in its decision stated it is aware that "the searches conducted against the defense team members may present a practical obstacles for their performance". According to the defense, the Trial Chamber thus admitted in a way the 'fairness and expeditiousness of the trial' might be jeopardized. If the Appeals Chamber could rule on the appeal as soon as possible, any future controversies related to the investigations of the defense team members might be forestalled, the defense argued. This issue has already disrupted the proceedings, the defense went on.

The Trial Chamber's decision imposed some restrictions on Croatia for the inspection of confiscated documents. Gotovina's defense lawyers Misetic and Kehoe obviously do not consider those restrictions are sufficient to protect the rights and interests of the accused. The judges ordered Croatia to refrain from inspecting documents protected by lawyer-client privilege and materials the defense prepared for the trial, and to keep under seal all information on protected witnesses gathered during the inspection of confiscated material.

The trial of generals Gotovina, Cermak and Markac continued today in closed session with the testimony of Zeljko Sacic, assistant to the special police commander Mladen Markac. Many witnesses, both prosecution and defense, spoke about Sacic in the context of the cover-up of the crime in the village of Grubori. In late August 1995, five elderly Serbs were killed there. Judge Orić indicated today that Sacic would continue his evidence next week, 'mostly' in closed session. Gotovina, Cermak and Markac are charged with their role in the joint criminal enterprise aimed at expelling Serbs from Krajina during and after Operation Storm in 1995.

2010-03-23

THE HAGUE

MARKAC'S DEPUTY TESTIFIES IN OPEN SESSION

Zeljko Sacic, former chief of the Croatian Special Police Staff and deputy of the accused Mladen Markac today gave evidence in open session for a short time. Sacic described the role and the wartime activities of the special police in Operation Storm. It appears that Sacic's examination in closed session was much more interesting.

For two and a half days, the examination-in chief of former chief of the Croatian Special Police Staff Zeljko Sacic proceeded in closed session. This afternoon, the court finally went into open session. Sacic arrived in The Hague as a witness of the Trial Chamber to talk about the actions of the Croatian special police that the judges felt should be addressed after the prosecution and defense teams rested their cases. Generals Gotovina, Cermak and Markac are charged with crimes against Serbs during and after Operation Storm in 1995.

Presiding judge Orić first showed the witness some photos taken on 8 August 1995 in Gracac. The photos show uniformed members of the Croatian armed forces hotwiring a civilian car, taking goods out of buildings, loading the goods onto trucks and celebrating the liberation of the town in Lika. Asked if they were members of the Special Police, the witness said that the person trying to hotwire the civilian car was '100 percent' a member of the Special Police. Other persons 'probably' or 'certainly' belonged to the Special Police units that took part in Operation Storm under the command of the accused Markac, the witness replied.



◀ Zeljko Sacic, witness at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

Continuing the examination, the presiding judge asked the witness about the movements of the special police during Operation Storm, from 4 to 9 August 1995. The witness recounted in detail the wartime activities of the special units, from Mount Velebit to Gracac and then on to Bruvno and Mazin, Gornji Lapac, Donji Lapac and the BH border.

In their evidence at the trial of the Croatian generals, several witnesses mentioned Zeljko Sacic in relation to the cover-up of the crime in the village of Grubori. In late August 1995, five elderly Serbs were killed there. Deputy commander of the Lucko Anti-terrorist Unit Josip Celic

claimed that Sacic had ordered him to modify his report in which he wrote that there was no fighting in the village of Grubori. Sacic ordered Celic to write down that there was a clash with the remaining Serb soldiers and that civilians were killed in the cross-fire, Celic claimed. Another commander in the Lucko unit, Josip Turkalj said in his statement to the OTP investigators that in late August 1995 he witnessed a conversation in which Sacic told General Ivan Cermak that the Grubori incident should be presented as an 'accident' in which civilians lost their lives in the cross-fire, 'whether it is true or not'.

In 2008, Celic and Turkalj were called by the prosecution to give evidence. In late 2010, the Croatian judiciary indicted Zeljko Sacic for the attempt to cover up the evidence of the crime in Grubori and arrested him. As the proceedings before the Croatian court has not yet been completed, it is logical to assume that the Grubori case has been discussed in closed sessions.

The judges today completed the examination of the witness. Tomorrow and the day after tomorrow, the witness will be examined by the prosecution and the defense teams of the three accused.

2010-03-24

THE HAGUE

SACIC GRATEFUL TO PROSECUTION FOR 'REFRESHING HIS MEMORY'

At first, Zeljko Sacic contended that he hadn't received any reports on the arson cases in Gracac and Lapac. The former deputy commander of the special police then thanked the prosecutor when she reminded him that he was the recipient of various reports about the cases where abandoned houses were burned down. Sacic admitted that he didn't launch any investigations and suggested to the prosecutor to ask Markac if he did it. The accused Markac commanded the Croatian special police at the time.



◀ Zeljko Sacic, witness at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

In the first half of the cross-examination of the Trial Chamber's witness Zeljko Sacic, prosecutor Mahindaratne probed the allegations about looting and arson in the territory the Croatian special police liberated in early August 1995 in Operation Storm. At the time, Sacic was chief of the Special Police Staff and served as the deputy of the special police commander Mladen Markac. General Markac is on trial together with generals Gotovina and Cermak for crimes against Serb civilians and their property in the summer and fall of 1995.

Sacic and Markac entered Gracac together with the Croatian special police on 5 August 1995. Two days later, they arrived in Donji Lapac. The prosecution is trying to prove that the two towns were burned down and looted after the liberation. The witness at first didn't agree with this claim. As he put it, the issue was 'outside the scope of his interest'; he 'didn't notice' any crimes nor was he informed about them.

The prosecutor said that, unlike Sacic, his subordinates in the special police 'did notice' the burning of the houses. In their reports drafted after Operation Storm, logistics commander Branislav Bole and Zdravko Jonic, who commanded a unit in the field, said that houses had been set on fire in Donji Lapac on 7 and 8 August 1995.

The witness first contended that he was 'almost 100 percent sure' that he didn't receive any reports mentioning the burning of Donji Lapac, only to thank the prosecutor for 'refreshing his memory' when she showed him documents that included Sacic as the addressee. In Jonic's report, there was a hand-written note that 'General Markac should be informed about the burning'. Sacic admitted that it was his handwriting. The witness was then asked if anyone from

the special police ever launched an investigation into the arson cases in Lapac. 'I surely didn't, ask Markac if he did', the witness responded.

The prosecutor then noted that in the course of the trial, the Chamber had heard evidence that Gracac had been burned down and looted on 8 August 1995, three days after the liberation, once the Special Police Staff had been set up in the town center. The witness said he 'cannot believe that it could be true'. General Markac 'explicitly ordered' everyone not to break the law, Sacic said. The witness was then asked if anyone in the special police had ever been punished for looting and arson. Pressing his forehead with his fingers, Sacic pondered the reply for a moment. 'I really cannot remember that it happened', Sacic said. A bit later Sacic remembered that he had heard that an 'arsonist on a motorbike' had been arrested. Sacic, however, was not able to tell if that man was a civilian, a policeman or a soldier and when it happened.

One of the prosecution witness said that in Operation Storm up to 90 percent of the houses he saw along the road from Gracac to Donji Lapac had been burned down. The witness rejected this claim. 'In that case I would probably have gotten burned too', the witness concluded.

The second half of the hearing today proceeded in closed session.

2010-03-26

THE HAGUE

SACIC PRAISES MARKAC'S HUMANITY

In the final part of his evidence, Zeljko Sacic heaped praise on his former superior, General Mladen Markac, noting that Markac's humanity had always impressed him. The trial continues in mid-April with the evidence of the next Trial Chamber's witness.



◀ Zeljko Sacic, witness at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

'His humanity has always impressed me', said former chief of the Croatian Special Police Staff Zeljko Sacic speaking of his former superior, Mladen Markac. As he explained, 'otherwise, we would not have been able to work together, because I myself am a humane person'. The witness then continued heaping praise on the witness when defense counsel Goran Mikulicic asked him to describe Markac's qualities as a commander.

Sacic is former chief of the Special Police Staff; he also served as the deputy commander of the special police; Markac was the commander. Markac is on trial with generals Gotovina and Cermak for crimes against Serb

civilians and their property in the summer of 1995. Sacic was called to The Hague by the Trial Chamber. In the six days of his testimony, which proceeded for the most part in closed session, Sacic talked about the activities of the Croatian special police. According to the judges, the issue has not been cleared up in the course of the prosecution and the defense cases.

The witness praised Markac because he respected and enforced laws. Sacic 'never heard or saw' the accused break the law. The defense counsel then asked the witness if he ever reported to Markac any unlawful acts by the special police. On one occasion, Sacic actually reported that he himself had committed a traffic offence and Markac 'punished him as the rules required' because he was 'strict and consistent'.

Zeljko Sacic is facing criminal prosecution in Croatia. He is suspected of covering up the crime in the Krajina village of Grubori in the Plavno Valley, where five Serb civilians were killed in late August 1995. The crime is listed in the indictment against generals Gotovina, Cermak and Markac. According to the evidence called by the prosecution, the Lucko unit of the Croatian special police was responsible for the crime. The defense tried to prove that Serb civilians were killed in cross-fire when the special police fought the remaining Serb soldiers.

After Sacic completed his evidence, the presiding judge noted the trial would continue in mid-April 2010 with the evidence of the remaining witnesses of the Trial Chamber. The prosecution and the defense are expected to submit their final briefs by 31 May 2010 and the Trial Chamber will then schedule the closing arguments.

2010-04-14

THE HAGUE

SOLVING OF THE GRUBORI 'MYSTERY'

In an effort to unravel the controversy surrounding the police reports on the incident in which elderly Serbs were killed in the village of Grubori in Krajina in late August 1995, the judges in the Operation Storm case called Stjepan Zinic to testify in The Hague. Zinic commanded one of the Croatian special units that took part in the 'mop-up operation' in the Plavno Valley.



◀ Stjepan Zinic, witness at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

A number of former special police members testified either as prosecution or defense witnesses at the trial of Croatian generals Gotovina, Cermak and Markac about the mop-up operation in the Plavno Valley in late August 1995. Five elderly Serbs were killed in the village of Grubori at the time. The Trial Chamber with Judge Orić presiding obviously feels that the incident has not been completely clarified and have called another participant of the mop-up operation to shed more light on it. Zinic commanded one of the groups of the Lucko special police unit.

The question remains whether Zinic's evidence will clear any issues up. What Zinic said today differed to a certain

extent from what he stated earlier to the OTP investigators and what he said last year to a Croatian investigative judge. The main contradiction – as in the testimony of previous witnesses – pertains to the controversial issue: did the Croatian special forces and the remaining Serb troops clash in the village of Grubori on 25 August 1995 and did the elderly Serbs die in the cross-fire, as the defense contends.

Like all other special police members in the mop-up operation of the Plavno Valley, Zinic first reported to his superior that there had been no clashes with 'the Chetniks'. Zinic then 'corrected' himself, stating in his later reports that there had indeed been fighting there. Today Zinic clarified that his group didn't fight with anyone. However, during the mop-up operation, he had heard gunfire from the direction of Grubori. The smoke Zinic saw could have come from burning buildings. Zinic contends that he later heard there had been some fighting. He mentioned it in the report he wrote in Zagreb in early September 1995, at the request of Josip Turkalj, the Lucko unit commander.

Zinic was adamant that he was not pressured by anyone when he wrote his report. This is contradicted by the man who commanded the mop-up operation in the Plavno Valley, Josip Celic. He stated that the story about the purported fighting was included into police reports only after the special police commander Mladen Markac and his deputy Zeljko Sacic intervened. Celic was called to give evidence by the prosecution in September 2008. Sacic has recently been indicted by the Croatian authorities for his part in the effort to cover up the crime in Grubori.

Celic had testified that the special police commanders had not been happy with his report which contained no mention of the fighting. Celic was then summoned to the HQ in Gracac where Sacic dictated a new report to Celic. Celic claimed that the fabrication of the report continued in Turkalj's office in Zagreb, where Celic was given a prepared document to sign: the report now spoke about a clash with 'the Chetniks'. Parts of that document were then copy-pasted into reports signed by Zinic and other group commanders. Zinic today denied those claims, describing the procedure: all of them came to Turkalj's office where they wrote their reports by hand. The reports were given to a secretary who typed them up and then they signed the typewritten texts. Those texts were given to Turkalj and he forwarded them to Sacic.

Stjepan Zinic continues his evidence tomorrow.

2010-04-15

THE HAGUE

WITNESS GAVE IT A LITTLE THOUGHT AND THEN CHANGED HIS MIND

In his cross-examination at the trial of Croatian generals Gotovina, Cermak and Markac, the Croatian special police member Stjepan Zinic tried to explain the discrepancies in his various statements about the murder of elderly Serbs and burning down of houses in the village of Grubori.

In the cross-examination of Stjepan Zinic, member of the Croatian special police, prosecutor Hederally tried to shed more light on the way in which five elderly Serbs were killed on 25 August 1995 in the village of Grubori in Krajina and who was responsible for that. The incident happened at the time when the Lucko unit was conducting a mop-up operation in the Plavno valley. The aim of the operation was to ensure safe passage for the Liberty Train on 26 August 1995, from Knin to Zagreb. Aboard the train was the Croatian state leadership headed by president Tudjman.



◀ Stjepan Zinic, witness at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

In his statement to the Croatian investigative judge in December 2009, Stjepan Zinic said that at one point during the mop-up operation he heard gunfire from direction of Grubori. When Zinic came near the village, he saw the burned-down houses, and then about 15 members of the special police from a group headed by Frano Drlje came out of the village, the witness recounted. Today, however, the witness couldn't confirm 'with one hundred percent certainty' that it was 'the village of Grubori or perhaps some other hamlet'. The witness claimed he didn't see any houses on fire, only

smoke. When asked to explain the discrepancy between his evidence today and what he had stated to the Croatian judiciary just a few months earlier, the witness replied, 'I've given it a little thought in the meantime'.

After the operation in the Plavno valley, the Croatian special police were deployed around the village of Ramljane on 26 August 1995 and were ordered to continue with the mop-up operation. The witness said he again saw smoke rising from houses that day; according to him, the houses could very well have been burned down immediately before the arrival of the special police. When the operation was completed in Ramljane, the special forces continued towards Gracac. However, general Mladen Markac intercepted them en route and ordered them after a brief debate to return to Zagreb.

Zinic's previous statements differed from what he said today. In his statement to the Croatian judiciary and the OTP investigators, Zinic said that Markac was angry and shouted at Frano Drlje, one of the special police commanders, because 'some houses were burned down and some people killed'. Today the witness maintained that he didn't hear what Drlje and Markac were discussing. In his reply to Markac's defense counsel, Zinic said that in his previous statements he said things he 'most likely heard from other special police members'.

The witness explained to Markac's defense why immediately after the Grubori incident he reported to commander Josip Celic that there had been no fighting with the remaining Serb forces, only to write down a few days later that there had been clashes. According to Zinic, he thought that other groups would tell Celic about the clashes. The witness also claimed that he wasn't under any pressure later when he wrote his reports, especially not from the special police commander Mladen Markac. The defense case is that Markac was told that the elderly Serbs had been killed in cross-fire as the special police and the remaining Serb soldiers fought.

The trial for crimes during and after Operation Storm continued in closed session with the evidence of the next witness called by the Trial Chamber.

2010-04-19

THE HAGUE

TIME-LINE OF THE GRUBORI CRIME

A member of the Croatian special police who took part in an action when five elderly Serbs were killed in August 1995 was called by the Trial Chamber to give evidence about the incident. The witness recounted what he knew about the incident and identified possible perpetrators of the crime in the village of Grubori, which is listed in the indictment against generals Gotovina, Cermak and Markac.

At the trial of generals Gotovina, Cermak and Markac for crimes during and after Operation Storm, several witnesses have already described how five elderly Serbs were killed in the village of Grubori on 25 August 1995. Today the Trial Chamber heard what may very well be the most detailed evidence on the incident and the names of possible perpetrators were mentioned in the courtroom for the first time. Branko Balunovic, a member of the special police and the leader of one of the four Lucko anti-terrorist units participating in the mop-up operation in the Plavno Valley in late August 1995, was called to testify by the Trial Chamber with judge Orić presiding.

In his replies to the presiding judge, Balunovic today said that during the action he heard sporadic gunfire from the village of Grubori; a group headed by Frano Drlje was passing through the village at the time. Balunovic claims that he didn't know at the time that several elderly Serbs were killed and many houses were set on fire. Balunovic's report to Celic was similar to those the commander received from other group leaders, and Celic put it in his report that there had been no major incidents in the Plavno Valley. However, the special police top brass didn't like it and Celic was summoned to the headquarters in Gracac the next day, 26 August 1995. Balunovic came along with Celic.

Balunovic claims he was waiting in the corridor the whole time and did not witness what went on in the headquarters, but he says Celic told him that 'on the instructions of Mr. Sacic' he had drafted a new report on the mop-up operation. In the new report, Celic said that the special police had clashed with the remaining Serb soldiers in the village of Grubori; the elderly Serbs could therefore have been killed in the cross-fire. On 27 August 1995, Celic and Balunovic went to Grubori together with Sacic to verify if the incident had really happened. The witness says he saw disturbing scenes that are still fresh in his memory. As they entered the village, they saw pig and cow carcasses, and then a

villager told them, 'it's a pity the people got killed, not the cattle', and took them to a place where the bodies of elderly Serbs were.

When they returned to Zagreb, commander Celic and the group leaders, including Balunovic, were called to the Lucko unit headquarters to submit their written report on the operations in the Plavno Valley. They had drafted their reports 'based on the information Celic has received from Sacic' and not based on what they had seen and experienced in the field, the witness said. In order to make the story about the fight with the remaining Serb forces more convincing, the report spoke about the capture of two enemy soldiers. Although Balunovic admitted all four special police groups gathered in the same place, where he didn't see any prisoners, he said today he never questioned Sacic's words.

Asked if he later learned what exactly happened in the village of Grubori, the witness said that 'sometime in 2003' Marjan Sosa, another member of the special police, told him that Frano Drlje and Igor Beneta 'killed somebody in Grubori'. Sosa also told the witness that Drlje took him to a forest near the Lucko Unit base and threatened 'he would kill and bury him there if he said what he knew about the murder of the elderly Serbs'.

As today's hearing drew to a close, the prosecution began cross-examining the witness.

2010-04-20

THE HAGUE

SPECIALS 'NOT ACCUSTOMED TO WRITING'

The witness of the Trial Chamber Branko Balunovic explained why he had drafted his report on the murder of elderly Serbs in the village of Grubori in late August 1995 the way he did. In his report Balunovic wrote that there was a clash with remnant Serb soldiers despite the fact that he hadn't seen it. Balunovic clarified that members of the special police simply 'weren't accustomed to drafting reports'. The witness admitted that this thus created 'distorted image of actual events'.



◀ Branko Balunovic, witness at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

In a brief cross-examination of prosecutor Hederaly member of the Croatian special police Branko Balunovic clearly stated that he hadn't seen remnant Serb soldiers during the mop-up operation in the Plavno Valley in late August 1995. Five elderly civilians were killed then in the village of Grubori. Despite that in his report drafted after the action in Zagreb Balunovic wrote that there was a clash between the special police and 'Chetniks' in Grubori. This was in line with the Croatia's then official position that elderly Serbs were killed in a cross-fire during combat. General Cermak put forth this view in his statement.

The defense counsel of former commander of the special police Mladen Markac in his cross-examination implied that his client was not involved with pressuring participants of the action into changing their first reports. The defense counsel laid the blame for that on Markac's deputy Zeljko Sacic and commander of the mop-up operation Josip Celic. Balunovic repeated in part what he said yesterday that he had drafted his report in Zagreb following Celic's instructions. Sacic previously dictated to Celic the 'truth about Grubori'. The witness contends that Markac wasn't involved in that as he has never heard that Markac influenced anybody to change report on the Grubori incident.

In February 2010 Balunovic said before a Croatian court that he had put into his report things that he 'couldn't say depict the actual situation in the field'. The presiding judge asked the witness why he did that. The witness replied that then he 'had no reason to doubt and didn't dare to doubt' veracity of what his superiors had said. Judge Orije wanted to know what could be purpose of such a document that purportedly delivered a report from the field while in fact it didn't convey things that the author had seen. Balunovic clarified that members of the special police then simply 'weren't accustomed to drafting reports' admitting that this thus created a distorted image of actual events.

Markac's defense counsel then pointed to a part of Balunovic's yesterday's examination-in chief. Balunovic heard in 2003 that members of the special police Frano Drlje and Igor Beneta 'killed somebody in Grubori'. Markac's defense counsel asked Balunovic if he had reported his superior officers about that. The witness said that he didn't find it necessary to report perpetrators immediately as war crimes were not subject to statute of limitations. Balunovic also added that at that time he and other member of the special police who knew the truth about Grubori were threatened so they didn't want to 'expose themselves to revenge'.

Due to disruptions in air traffic next witness wasn't able to arrive in The Hague and an administrative hearing will be held tomorrow at the trial of generals Gotovina, Cermak and Markac. The three Croatian generals are charged with crimes against Serbs in the Operation Storm and after it.

2010-04-22

THE HAGUE

NOT A WORD ABOUT GRUBORI

Former member of the special police Bozo Krajina exercised his right not to answer any questions about the murder of elderly Serbs in the village of Grubori. Krajina contends that truthful answers might compromise his position in a Croatian court, where Krajina is charged with covering up that crime. The Trial Chamber has now called all its witnesses but the trial of generals Gotovina, Cermak and Markac is not over yet. The prosecution was granted request to reopen its case.



◀ Bozo Krajina, witness at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

Based on the choice of witnesses called by the Trial Chamber, most of the unresolved issues after the prosecution and defense cases at the trial of generals Gotovina, Cermak and Markac concern the murder of five elderly persons in the village of Grubori on 25 August 1995. The Trial Chamber called seven witnesses: four of them were direct or indirect participants in the mop-up operation in the Plavno Valley when the incident occurred. One of the Trial Chamber's witnesses gave evidence in closed session.

Bozo Krajina, leader of one of the four groups of the Croatian special police that carried out the mop-up operation in the Plavno Valley, gave evidence today.

Together with Zeljko Sacic, deputy of the special police commander Mladen Markac, Krajina is charged with covering up the crime in the village of Grubori by the Croatian judiciary. At the beginning of his evidence, the presiding judge instructed Krajina he was not obliged to provide answers that might adversely influence his defense in a Croatian court. As additional precaution, Krajina was appointed defense counsel, Suzana Tomanovic, who was granted permission to counsel her client during the entire examination.

It became clear that the witness would exercise his right to refrain from responding to questions that might incriminate him when he was asked the first specific question about the events in the village of Grubori. The witness first refused to answer Judge Orić what his special police group found on 25 August 1995 in Grubori. The witness then proceeded to refuse to answer any questions related to the drafting, or 'fabrication' of reports after the mop-up operation. Several of Krajina's fellow fighters from the special police had already testified about it.

Despite their right to do so, the judges decided not to order Krajina to reply to those questions. The presiding judge only concluded that the witness 'fears that the correct and true answer may incriminate him'.

In the end, Bozo Krajina testified only about the incident in the village of Ramljani where houses were torched on 26 August 1995. In his replies to the judges, the prosecution and Markac's defense, Krajina said that after the action he saw smoke rising from the direction of the village but didn't know who set the houses on fire. He did confirm what several previous witnesses had claimed, that General Markac stopped the special police on their way back from the village of Ramljani; he was angry and told them that they 'shouldn't burn down the houses' adding that they 'should all be arrested' and 'recalled to Zagreb'. In the end, the special police were not arrested but they were recalled to Zagreb. The witness recounted that one of the group leaders, Frano Drlje, came out of the ranks and stood before the special police commander. Drlje told Markac, 'I did it and there's nothing you can do about it'. Markac obviously either couldn't do or didn't want to do anything as Drlje was neither disciplined nor processed for torching the houses in the village of Ramljani.

The last witness of the Trial Chamber thus completed his evidence at the trial of the Croatian generals. The trial is not yet over: the parties were told today that the judges had granted leave to the prosecution to reopen its case. The motion had been filed under seal. The prosecution indicated it could not call its first witnesses before 17 May 2010 due to logistic problems, but the testimony might be postponed even further because Ivan Cermak's defense announced it would appeal the Trial Chamber's decision.

2010-06-03

THE HAGUE

'TEMPORARILY CONFIDENTIAL' TESTIMONY AT OPERATION STORM TRIAL ENDS

As the hearing today drew to a close, presiding judge Orić disclosed the identity of the three additional prosecution witnesses who had testified in closed sessions. The evidence of Jozo Bilobrk, Antonio Gerovac and Zeljko Mikulic, will soon be made public

After two days of hearings in closed session, presiding judge Orić said publicly that the evidence of the three additional prosecution witnesses was completed at the trial of the Croatian generals Gotovina, Cermak and Markac, for crimes against Serbs in Operation Storm and afterwards in 1995.

The Trial Chamber had previously decided that the three witnesses would testify in closed session; the reasons were not disclosed. However, it was indicated that the public would be informed of their testimony later. As today's hearing drew to a close, the witnesses were identified as Jozo Bilobrk, Antonijo Gerovac and Zeljko Mikulic. The presiding judge indicated that the Chamber would soon issue a short decision to declassify everything that was said in the courtroom yesterday and today. In mid-April, the judges granted the prosecution's confidential motion to reopen its case.

The trial continues on Thursday, 10 June 2010. The defense of Ivan Cermak will call its additional witness in response to the witnesses called by the prosecution this week. Markac's lawyers indicated they would not be calling new witnesses.

The Trial Chamber with Judge Orić presiding today issued a decision to finally put an end to the repeated motions by General Gotovina's defense seeking European monitors' documents from the EU archives. The defense submitted its first motion in late 2007, asking for about 100 reports the European monitors drafted during Operation Storm. As time went by, all the documents were delivered apart from the logbook of the Knin Regional Center of the European Community Monitoring Mission. The logbook was purportedly drafted in August 1995.

In February 2010, Secretary-General of the EU Council Pierre de Boissieu submitted a detailed report at the request of the Trial Chamber on steps undertaken to locate the requested document. De Boissieu stated that over 200,000 documents in the archives were inspected, but the logbook was not found. Days later, not satisfied with the report, Gotovina's defense asked the judges to send a new request to the EU Council to force them to undertake a more detailed investigation of the 'chain of custody' of the controversial logbook. The defense claims that European monitors Soren Liborius and Stig Marker-Hansen had the document, but the EU representatives never contacted them.

In its decision, the Trial Chamber rejected the defense's motion, noting that the EU representatives had conducted a thorough investigation of its archives but had not been able to find the logbook of the Knin Regional Center or indeed confirm that it ever existed'. Also, the Trial Chamber went on, European monitors Liborius and Mark-Hansen had said earlier that they had already handed over to the OTP all the documents of the European monitoring mission in their possession. Liborius and Mark-Hansen testified for the prosecution at the trial of Croatian generals.

2010-06-10

THE HAGUE

PUBLIC RESPONSE TO CONFIDENTIAL EVIDENCE

Additional witnesses called by Ivan Cermak's defense described what happened during the mop-up operation in the Krajina villages of Strmica and Grubori on 27 August 1995, in response to the testimony of additional witnesses called last week by the prosecution. It is difficult to gauge the impact because the transcripts of the prosecution witnesses' testimony has yet to be made public, despite the decision of the Trial Chamber of 7 June rescinding 'temporary protective measures'.



◀ Ivica Vrticevic, witness at the Gotovina, Cermak and Markac trial

At the trial of Croatian generals Gotovina, Cermak and Markac, the court today heard testimony of last two witnesses, former crime scene technician in the Split-Dalmatia police administration Ivica Vrticevic, and former civil defense member Mile Serdarevic. In the summer of 1995, Vrticevic and Serdarevic were part of a mop-up team in charge of removing the human and animal bodies found in the liberated area.

The defense of the former Knin Garrison commander Ivan Cermak called Vrticevic and Serdarevic, having been granted permission to call new evidence in response to the additional witnesses called by the prosecution last week. However, as the three 'additional' prosecution

witnesses testified in closed session and their evidence remained under seal, in contravention of the Trial Chamber's decision, the public is in the dark as to what the response was in response of.

At the moment, only the names of the three prosecution witnesses heard last week have been made public. The witnesses are Jozo Bilobrk, Zeljko Mikulic and Antonijo Gerovac. From the evidence today, it transpired that Bilobrk was a crime scene technician who took part in the mop up operation in the Knin area. In their statements to the defense, admitted into evidence today, Vrticevic and Serdarevic described what went on in Knin and its surroundings on 27 August 1995.

That morning, Vrticevic and Serdarevic received information that a body had been found in the Plavno Valley and five bodies in the village of Grubori. Bilobrk heard the information at the police station and communicated it to the mop-up team that would meet in a nearby bar. The team first headed towards Strmica where they picked up a semi-decomposed body and moved it to the Knin cemetery, where the bodies of civilians and soldiers, both identified and unidentified, recovered in the liberated area after Operation Storm were buried.

The mop-up team headed towards the village of Grubori. As alleged in the indictment against the Croatian generals, two days earlier five elderly Serbs were killed there. According to the testimony heard today, the bodies were first photographed and examined by crime scene technicians Bilobrk and Vrticevic. After that, the civil defense team, including Serdarevic, tagged the bodies and put them in plastic bags. The bodies were taken to the Knin cemetery in a truck.

Both Vrticevic and Serdarevic claim they saw general Cermak 'near the bridge in the village of Plavno', but neither could remember Cermak entered the village of Grubori. Defense counsel Kay asked both Vrticevic and Serdarevic if they heard that day 'anybody suggest that weapons should be left near the bodies the civilians in the village of Grubori to make it appear as if there had been fighting in the village'. Vrticevic and Serdarevic denied it. Prosecutor Hederaly put it to Vrticevic that he couldn't have heard any such suggestions because he didn't hear his colleague Bilobrk talk to other people in front of the police station and 'near the bridge' in the village of Plavno. Vrticevic admitted this was true, adding that in the former situation he was in a bar and in the latter, he stood at some distance from the bridge 'smoking' with some civil defense personnel. Once the transcript of the three witnesses, Bilobrk, Mikulic and Gerovac, are made public it will become clear whether the defense is relying on this evidence to challenge their claims.

There will be an administrative hearing at the trial of the Croatian generals tomorrow.

2010-06-11

THE HAGUE

WHO TRIED TO TURN DEAD CIVILIANS IN GRUBORI INTO SOLDIERS?

Last week's evidence of three Croatian police officers was unsealed today. The prosecution used their evidence to prove that General Ivan Cermak ordered or proposed on 27 August 1995 that rifles be left or placed near the dead civilians in the village of Grubori to make it look as if they had been killed in armed conflict. Two witnesses who testified yesterday for Cermak's defense claimed that they didn't hear of such an order or proposition. They too participated in cleaning up the terrain in Grubori.



◀ Jozo Bilobrk, witness at the Gotovina, Cermak and Markac trial

Did General Ivan Cermak order or at least propose a 'rearrangement' of the crime scene to make it look as if the civilians had been killed in an armed conflict with the Croatian special police in an incident on 25 August 1995, when five elderly Serbs were killed in the village of Grubori in Krajina.

This was the central issue that dominated the two days in which the prosecution re-opened its case at the trial of generals Gotovina, Cermak and Markac. The three generals are on trial for crimes during and after Operation Storm. To 'protect the integrity of the trial' the Trial Chamber ordered the witnesses to testify in closed

sessions, and then decided to make their testimony public.

Jozo Bilobrk, police officer from Split, was a key figure in the closed session hearings. Bilobrk was sent to Knin in August 1995. His task was to 'clean up the terrain', registering and burying bodies discovered in the liberated area. In the past ten months, Bilobrk has given no less than seven statements about the events of 27 August 1995, all of them different.

Bilobrk was the most straightforward in his conversation with his colleagues, Mikulic and Gerovac, police inspectors from Zagreb, who interviewed him in November 2009 as part of an investigation into who had ordered and committed the crime in the village of Grubori. According to an 'official note' about the conversation, Bilobrk said that Cermak issued him an order in front of the police station in Knin to conduct a crime scene investigation in the village of Grubori. Cermak suggested to Bilobrk to 'place the weapons by the dead bodies in order to make it appear as if there had been an armed conflict, fighting'. Bilobrk, the note went on, 'retorted angrily' to Cermak's suggestion, saying he would not do it and the bodies remained as they were, without any weapons.

In his other statements, Bilobrk gradually veered from the version of events presented in the 'official note'. In his evidence last week, Bilobrk recanted the whole statement. In court in Zagreb in February 2010, and in his statement to the OTP investigators in May 2010, Bilobrk said that one of Cermak's anonymous companions suggested to 'place

weapons in the village', while they were all in front of the police station in Knin. After the defense 'refreshed' Bilobrk's memory showing him some documents drafted at the time, Bilobrk changed the location where the conversation took place: now he claimed the conversation took place on the village road near Plavno. About 20 to 30 people gathered there in several smaller groups, he recounted. As he stood there, he heard somebody behind his back say, 'weapons should be left in Grubori', and he turned to face those people and reacted angrily. In his previous statements, Bilobrk had claimed that Cermak was standing five to six meters away, talking to a group of journalists and 'could surely hear' the people speak about 'placing the weapons' but didn't react. In his evidence before the Tribunal, Bilobrk was no longer sure if Cermak 'could hear it', telling the prosecutor to ask the accused if he heard it.

Finally, in his testimony before the Tribunal Bilobrk repudiated his previous interpretation of the suggestion to 'place weapons' in the village. This actually meant that the weapons should be left in the vehicles, at the outskirts of the village, in order not to intimidate the villagers with rifles. Bilobrk however was not able to explain why he never informed anybody – including Cermak's defense – about this important shift in his interpretation.

When Jozo Bilobrk completed his evidence, the prosecution called police inspectors Zeljko Mikulic and Antonijo Gerovac to the witness stand. They described how they interviewed Bilobrk, who asked questions and who kept notes. Mikulic and Gerovac also recounted how the 'official note' was drafted. In the cross-examination, Cermak's defense insisted that the inspectors had asked 'leading questions'. They told Bilobrk they had information that 'high ranking MUP and defense ministry officials' recommended that something be done at the crime scene and thus, the defense argued, they actually led Bilobrk to mention Cermak's name. Mikulic and Gerovac strongly denied this claim, claiming Bilobrk's interview was conducted according to the rules of service. According to them, no suggestions were made to Bilobrk; the police officer from Split volunteered Cermak's name as a person who said 'weapons should be placed in the village of Grubori'.

As SENSE reported yesterday, Cermak's defense called two witnesses: Ivica Vrticevic and Mile Serdarevic. On August 27, 1995, they participated in "cleaning-up" of Grubori. They both claimed they haven't heard Cermak or anyone else ordering or proposing placing or leaving rifles next to the bodies of victims.

2010-06-11

THE HAGUE

ALL EVIDENCE IN AT OPERATION STORM TRIAL

The prosecution rested its case at the trial of Croatian generals Gotovina, Cermak and Markac after more than two and half years and 145 witnesses. The evidentiary stage is now finished, with a small caveat that either party may seek leave to call 'additional' evidence. If there are no such motions, the prosecution and the defense will deliver their closing arguments in the second half of August or in early September 2010.

All pending administrative issues were settled at the hearing today, and then the presiding judge Orije, from Holland, declared the end of the evidentiary stage at the trial of Croatian generals Gotovina, Cermak and Markac. The trial began on 11 March 2008 and in more than two years, the court was in session on 303 working days. Out of a total of 145 witnesses, the prosecution called 81 witnesses and the defense 57 witnesses. The Trial Chamber has called seven witnesses.

The presiding judge noted today that 'it would not be surprising' if either side asked leave to re-open their case after the Trial Chamber and the Appeals Chamber have ruled on pending motions. The decisions are expected in the weeks to come, and among them is the decision on Gotovina's appeal against the decision rejecting his motion to order the EU to carry out further investigations in their archives to locate the logbook of the European monitors' regional center in Knin.

If there are no motions to call new evidence, the sides should submit their final briefs by early July 2010. In the week beginning 23 August 2010, the prosecution and the defense would deliver their closing arguments. General Cermak's defense has asked for both deadlines to be put forward a bit. The Trial Chamber will schedule the exact dates soon.

Generals Ante Gotovina, Ivan Cermak and Mladen Markac are charged with participation in the joint criminal enterprise to permanently eliminate Serb civilians from the liberated territory in Krajina in the summer of 1995. The indictment alleges that the objective was implemented 'by force, intimidation, persecution, forcible transfer, deportation, looting and destruction of property' of Serb civilians; it could be assumed that the murders and inhumane and cruel treatment were 'a possible consequence of the implementation of the objective of the joint criminal enterprise', headed by Croatian president Franjo Tudjman.

2010-07-05

THE HAGUE

APPEAL FILED BY MARKAC'S AND CERMAK'S DEFENSE DISMISSED

The defense's appeal against the Trial Chamber's decision to reopen the prosecution's case was dismissed. The evidence of additional witnesses called by the prosecution on Cermak's role in the effort to cover-up the murder of five elderly Serbs in the Krajina village of Grubori remains in evidence.

The Appeals Chamber with Judge Mehmet Guney presiding, rejected the appeal filed by the defense teams of generals Ivan Cermak and Mladen Markac for the reversal of the Trial Chamber's decision to permit the prosecution to reopen its case and present new facts on the murder of five elderly Serbs in the village of Grubori in late August 1995. The crime is listed in the indictment charging generals Gotovina, Cermak and Markac with their role in the joint criminal enterprise aimed at expelling Serbs from Krajina in Operation Storm and after it.

The defense didn't ask for the trial to be suspended pending the Appeals Chamber's decision. The three 'additional' witnesses of the prosecution and two witnesses called by Cermak's defense were examined in the meantime.

The defense lawyers of the Croatian generals opposed the calling of additional evidence, arguing that it would unnecessarily prolong the trial. The prosecution could have presented the evidence in the 'regular' course of its case, the defense contended. The Appeals Chamber however rejected this argument, noting that the prosecution obtained new information about the crime in the village of Grubori only after the results of the Croatian investigation of the crime were divulged.

Witness Jozo Bilobrk was the star of the prosecution's additional case. Bilobrk is a police officer from Split who took part in the clean-up operation in the liberated area – including the village of Grubori – after Operation Storm. According to the official note drafted by the Croatian investigative bodies in November 2009, Bilobrk said that Ivan Cermak suggested that rifles be placed near the bodies of elderly Serbs to make it look as if they got killed in an armed conflict. Cermak made that suggestion before he went to the village of Grubori on 27 August 1995.

In his subsequent statements and in his evidence before the Tribunal, Bilobrk denied those claims. After Bilobrk, the prosecution called Croatian policemen Zeljko Mikulic and Antonio Gerovac. Mikulic and Gerovac, authors of the controversial note, said that during the investigation Bilobrk identified Cermak as the person who issued the order to place arms next to the dead bodies in the village of Grubori. According to the official note, Bilobrk 'angrily' dismissed Cermak's 'suggestion' and the bodies of civilians remained as they were recovered – without arms.

In their response to the prosecution's additional case, Cermak's defense called two witnesses – police officer Ivica Vrticevic and former member of the Civilian Defense Mile Serdarevic. In the summer of 1995, Vrticevic and Serdarevic were involved in the clean-up operation together with Bilobrk. Both Vrticevic and Serdarevic maintained that they never heard either Cermak or anybody else demand that rifles be placed next to the dead bodies in the village of Grubori.

The trial of the Croatian generals will end after the prosecution and the defense deliver their closing arguments from 25 to 27 August 2010.

2010-07-20

THE HAGUE

NEW DETAILED SEARCH OF EU ARCHIVES YIELDS NO RESULTS

In its latest letter, the EU Council has stated that Gotovina's defense has been given more than 10 reports produced in August 1995 by the European monitoring mission's Knin Regional Center, but there are no clear indications that the Knin observers did actually put together a logbook at all.



◀ Pierre de Boissieu, EU council Secretaries General

The Secretary-general of the EU Council Pierre De Boissieu informed the Tribunal about a detailed search of the European archives aimed at locating a logbook produced by the European observers in the Knin Regional Center. Ante Gotovina's defense contends that the logbook was drafted in August 1995. In his letter, Boissieu says that the last search was undertaken from 23 to 25 June 2010 and reminds the judges that more than 200,000 documents have been inspected since April 2009. The controversial logbook has not been recovered.

The letter states that the defense has been given more than 10 reports produced in the relevant time period in the Knin Regional Center, but there are no reliable indications that the Knin observers had put together their logbook at all or that it has been forwarded to the European archives after the mission in Croatia was completed. Boissieu also noted that contrary to the claims made by Gotovina's defense, there is no evidence that each European observers' regional center in Croatia maintained a detailed 'hour to hour' log book. The EU Council has advised the judges to contact EU members and ask them to search their national archives if it considers it necessary.

Boissieu addressed his latest missive to Judge Patrick Robinson, who is the presiding judge in the Appeals Chamber seized of the motion filed by Gotovina's defense to rescind the decision of the Trial Chamber of June 2010. In the decision, the Trial Chamber rejected the defense's request to order the EU Council to investigate the 'chain of custody'

of the controversial document. The defense filed this motion although Boissieu had submitted a detailed report on the efforts to search and locate the logbook.

Generals Ante Gotovina, Ivan Cermak and Mladen Markac are charged with their participation in the joint criminal enterprise to permanently eliminate Serb civilians from the liberated Krajina territory in the summer of 1995. As alleged in the indictment, the goal was implemented by 'force, intimidation, persecution, forcible transfer, deportation, looting and destruction of property' of Serb civilians, and it could have been foreseen that the murders and inhumane and cruel treatment would be 'a possible consequence of the implementation of the aim of the joint criminal enterprise' headed by Croatian president Franjo Tudjman.

The trial opened on 11 March 2008. In more than two trial years, a total of 303 working days, 145 witnesses gave evidence. The defense and prosecution will deliver their closing arguments from 30 August to 2 September 2010 before the Trial Chamber with Dutch judge Orië presiding.

2010-08-30

THE HAGUE

PROSECUTION: 'CRIMES ARE CONTROVERSIAL, NOT OPERATION STORM'

In the closing argument at the trial of generals Gotovina, Cermak and Markac, the prosecution insisted that it never claimed that the Republic of Croatia had a plan or a policy to expel the Serbs from Krajina. It was done by Croatian officials involved in the joint criminal enterprise, headed by President Tudjman, in which the three accused played a part.



◀ Alain Tieger, prosecutor at the Ante Gotovina, Ivan Cermak and Mladen Markac trial

The decision to launch Operation Storm is not controversial; what is controversial, however, is 'the successful effort' of some Croatian officials headed by President Franjo Tudjman to 'exploit the circumstances' and implement the plan to eliminate Serbs from Krajina. US prosecutor Alain Tieger put this forth in the first part of the closing argument at the trial of generals Ante Gotovina, Ivan Cermak and Mladen Markac. As Tieger insisted, he and his colleagues never claimed that the Republic of Croatia had a plan or a policy to expel people: it was the participants of the joint criminal enterprise, including the three accused, who did.

According to the prosecution, the removal of the Serbs from Krajina as a goal of the joint criminal enterprise was formulated on 31 July 1995 at a meeting of President Tudjman with high-ranking officials loyal to him at Brijuni. The prosecutor reminded the Trial Chamber of Tudjman's words at the meeting: Serb civilians were to be offered 'an escape route', while at the same time 'their human rights were to be purportedly guaranteed to them' in the hope that the Krajina army would follow in their wake. As Tieger said, Tudjman was against multi-ethnic states and was in favor of an ethnically homogenous Croatian state without Serbs. He did so openly, before international representatives. The Croatian president called Serbs 'a canker in Croatia's stomach', whose spread was to be prevented by Operation Storm.

Once Serbs were expelled from Croatia, everything was done to prevent their return: their property was either destroyed or confiscated and they were physically prevented from returning. Tudjman 'was proud of what had been done', the prosecutor said, bringing up Tudjman's words at the first anniversary of Operation Storm. 'Knin was brought back under Croatia's wings, as pure as it was in King Zvonimir's time', he had said. In other words, forcible and permanent elimination of Serbs from Krajina – set as a goal of the joint criminal enterprise – was achieved.

After Tieger completed his presentation, his colleagues picked up to address the elements of the joint criminal enterprise and the role the accused had played in it. Prosecutor Russo stressed that the expulsion of the Serbs – planned at the Brijuni meeting – was to be implemented by a combination of indiscriminate artillery attacks and psychological pressure. On 2 August 1995, Gotovina ordered the shelling of the towns of Knin, Obrovac, Gracac and Benkovac, the prosecutor noted. To avoid the response of the international community, the Croatian Army resorted to 'moderate unlawful attacks': the aim was to scare the people and make them flee, while avoiding too much damage to the towns and villages. The prosecution rejected the defense's claim that the Serb civilians fled because the Krajina leadership ordered them to evacuate; the population was in a panic even before the decision was issued, the prosecution noted. Moreover, many civilians were unaware of the decision.

According to prosecutor Hederaly, one of the goals of the joint criminal enterprise was to burn down and loot houses in Krajina and thus force the remaining Serbs to leave and to prevent those who had left from returning. In the course of Operation Storm and in its aftermath, the international staff reported that about 60 to 90 percent of houses in Serb villages had been destroyed. The only properties spared 'to at least an extent' were those in large villages where Croats soon moved in.



◀ Ante Gotovina, Ivan Cermak and Mladen Markac in the courtroom

Hederally also reminded the court that during and after Operation Storm, at least 324 Serb civilians and prisoners of war were killed. Their bodies were in most cases buried in the Knin cemetery; no investigation was undertaken. The facts that two thirds of the victims were killed immediately after the Croatian Army entered Krajina and that more than half were elderly women and men who had in effect been executed, prove that the killings were not mere accidents but part of a pattern, the prosecution alleges. In its final brief, the prosecution defined the killings not as an element of the joint criminal enterprise but as its 'natural and foreseeable consequence'.

Speaking about the responsibility of the three accused, the prosecution contended that generals Gotovina and Markac had played an active part in Operation Storm and at the Brijuni meeting where the plan to expel Serbs was concocted. Cermak, however, was 'brought into the joint criminal enterprise by President Tudjman' who appointed him the commander of the Knin Garrison.

General Gotovina is charged with the actions of soldiers who were subordinated to him as the commander of the Split Military District. As the key man of Operation Storm, Gotovina is charged with failing to take reasonable measures to prevent murder, looting, arson and other crimes. In the words of prosecutor Mahindaratne, General Markac is charged with a 'flood' of crimes that the special police units subordinated to him committed in Krajina: burning and looting in Gracac, Otric and Donji Lapac and murder of Serb civilians who got in the way of the Croatian special units. Among them were the five elderly Serbs killed in the village of Grubori. As the prosecution alleges, General Cermak was responsible for failure to use his powers over the civilian and military police in Knin to prevent crimes and to punish perpetrators after Operation Storm.

Based on the degree of their involvement in the joint criminal enterprise and their individual culpability, the prosecution called for long-term sentences for all three accused: a 27-year sentence for General Gotovina, 23 years for Markac and 17 years for Cermak.

As today's hearing drew to a close, Gotovina's defense began its closing argument. Today, Gotovina's defense filed a motion asking the judges to order orally – without waiting for a written judgment – the immediate release of General Gotovina if they found him not guilty after they considered the evidence.

2010-08-31

THE HAGUE

DEFENSE: 'WORLD OWES A DEBT OF GRATITUDE TO GOTOVINA'

Noting that the prosecution in the case of the Croatian generals acted as a 'devil's advocate' alleging that there was 'invisible ethnic cleansing', Ante Gotovina's defense lawyers called for his acquittal. As Gotovina's defense noted, Gotovina was a 'brave and honest soldier to whom the world owes a debt of gratitude because he put his life in danger to vanquish those who had ethnically cleansed the territory of ex-Yugoslavia'. The defense teams of Ivan Cermak and Mladen Markac also called for their clients' acquittal.



◀ Luka Misetić, defence counsel of Ante Gotovina

At the beginning of the closing arguments by General Ante Gotovina's defense, his lawyer Luka Misetić said that the prosecution case could easily be summed up in a single line: 'Your honors, do not believe your own eyes because nothing is as it seems'. The truth, as the defense contends, is obvious. There was no joint criminal enterprise to expel Serbs, only isolated crimes, for which Gotovina – as the key man of Operation Storm – was not responsible. In Misetić's words, the prosecution offered a 'complex conspiracy theory' to implicate Gotovina.

The defense accused the prosecution of drafting the final brief as a 'devil's advocate', not seeking justice but making allegations against Gotovina at any cost, denying

that the accused had ever done anything good. Misetić commented on the prosecution's allegation that President Tudjman – knowing that the international community would strongly oppose ethnic cleansing – did everything he could to cover up the expulsion of the Serbs after Operation Storm while it was still underway. The prosecution thus spoke of an 'invisible ethnic cleansing': even those purportedly ethnically cleansed weren't aware of it, Misetić concluded ironically. According to Misetić, no Serb witnesses ever stated that they had fled Krajina in fear of shelling.

Countering the prosecution's arguments, the defense noted that General Gotovina took all reasonable measures to prevent crimes and punish perpetrators, including issuing the orders to prevent and put a stop to the looting and burning of Serb houses which the prosecutor described yesterday as 'insincere'. Yesterday the prosecution argued that the accused general knew that the orders would not be obeyed but did nothing to change the situation.

Gregory Kehoe, Gotovina's co-counsel, rejected the allegations of indiscriminate shelling as an element of the joint criminal enterprise, noting that the prosecution failed to produce any video or photographic evidence of the destruction in Knin and other Krajina towns. The prosecution failed to produce the kind of crater analysis used at the trials of VRS generals Galic and Milosevic. Galic and Milosevic were convicted for artillery terror against Sarajevo. 'If you look for evidence of large-scale destruction and civilian victims in Knin, you'll look in vain because the prosecution has failed to call any', Kehoe told the judges.

While Kehoe did not deny that there was looting and burning of Serb houses, he nevertheless contended there was no evidence to prove that it was part of an organized campaign. In Kehoe's words, the HV soldiers couldn't be held responsible for looting and arson in an area just because they happened to be there. Immediately after Operation Storm, many civilians rushed into Krajina bent on revenge. 'The prosecution evidence on the murder of civilians is similarly defective', the defense contends.

Payam Akhavan concluded Gotovina's defense closing argument by saying that the accused general had been in detention for five years now 'on groundless accusations', adding that Gotovina was a 'brave and honest soldier to whom the world owed a debt of gratitude for putting his life in danger to vanquish those who had ethnically cleansed the territory of the ex-Yugoslavia'. This is why Gotovina should be acquitted on all counts in the indictment, Akhavan concluded.

The defense also called for Ivan Cermak's acquittal, arguing that Cermak was sent to Knin pursuant to President Tudjman's decision, to deal with civilian, rather than military matters – despite the fact that Cermak had the rank of a general and was appointed military commander of the Knin Garrison. Defense counsel Steven Kay denied that Cermak had authority over the military and civilian police, urging the judges to disregard Cermak's rank on paper but to focus instead on what was going on in practice. According to Kay, Cermak was preoccupied with the normalization of life in Knin and cooperation with the international representatives. 'What happened here is that three generals were to be brought to trial and Cermak's name popped up. Cermak was in the wrong place at the wrong time and did nothing wrong', the defense counsel concluded.

The defense of former special police commander Mladen Markac contends that the prosecution has failed to prove a link between their client and the crimes in the field, dismissing the prosecution's claim that Markac did nothing to prevent or punish those crimes. Only the crime police could investigate any crimes that the special police may have perpetrated and Markac could not take any measures at all, the defense noted.

The defense denied that Markac was responsible for the crime in the village of Grubori, where five elderly Serbs were killed in an action of the special police on 25 August 1995. According to defense, the accused did not know what was happening during the special police engagement in the village of Grubori. 'If Markac's subordinates lied to him and Markac himself merely forwarded their reports, he couldn't be blamed for the cowardice of others, who did not have the courage to tell him the truth', the defense argued.

Markac's defense lawyer Goran Mikulicic denied that there was an armed conflict in Krajina after 8 August 1995, challenging the Tribunal's jurisdiction over the crimes committed after Operation Storm. According to Mikulicic, 'there is no way' that the joint criminal enterprise to expel Serbs from Krajina ever existed.

The prosecution will deliver its reply, not longer than one hour, tomorrow, to address the defense's arguments. The defense of each of the accused will then again have an hour to respond.

2010-09-01

THE HAGUE

TRIAL OF CROATIAN GENERALS ENDS

The trial of three Croatian generals for crimes during and after Operation Storm ended today after three days of closing arguments. The prosecution asked for 27 years in prison for Ante Gotovina, 17 years for Ivan Cermak and 23 for Mladen Markac. The defense teams called for their clients' acquittal. The judgment is to be delivered 'in the foreseeable future', most probably by the end of the year.

The trial of three Croatian generals for crimes during and after Operation Storm in the summer of 1995 ended today. The prosecution and defense exchanged responses in an effort to challenge the claims made in the past two days of closing arguments. The judgment will be delivered 'in the foreseeable future', presiding judge Orić indicated.

Ante Gotovina's defense claimed yesterday that the prosecution had failed to prove disproportionate shelling of Knin because no photographs or videos of the destruction in the town had been exhibited. In his reply, prosecutor Tieger reminded the court that it was not the prosecution's case that Knin had been 'reduced to rubble', like Vukovar or Stalingrad. It was shelled in order to scare the people and make them flee, he said.



◀ Ante Gotovina in the courtroom

As the prosecutor said, during Operation Storm about 1,000 shells hit Knin; a mere handful hit the military targets in the town. There was no large-scale destruction because the artillery attacks were not focused on specific points, but dispersed all over town to cause panic, the prosecution contends. In response to the defense's claim that the prosecution's arguments were too complex, prosecutor Tieger said that the course of events in Operation Storm was very simple: first, a decision was taken on 31 July 1995 at a meeting in Brijuni to use artillery to cause panic and force the civilians to flee Krajina, then General Gotovina, who commanded the operation – issued an order on 2 August 1995 to shell entire towns and not only military targets, and two days

later the attack started. In their evidence before the Trial Chamber, those who witnessed the attack said that civilians were targeted.

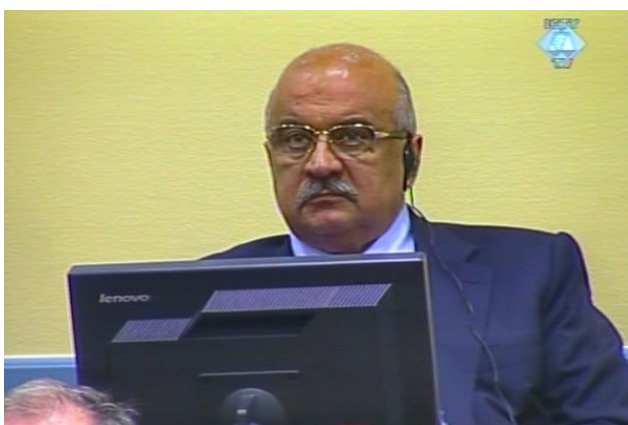


◀ Mladen Markac in the courtroom

Yesterday, the defense of the former special police commander Mladen Markac claimed that Markac was not in a position to know what exactly had happened in the village of Grubori on 25 August 1995 and who had taken part in the murder of five elderly Serbs and burning of the Krajina village. The prosecution today countered this argument, claiming that when he had learned about the murder and arson in the village of Grubori, Markac could simply take a phone and call his subordinates to determine which unit was deployed along that axis and then to pull it out from the cleanup operation. Instead, the Lucko unit was sent to the village of Ramljane, which was burned down the next day.

The prosecution today contested the arguments put forth by Ivan Cermak's defense that he – as the commander of the Knin Garrison – was not superior to the military police. The prosecutor brought up a statement given to the OTP by the commander of the Knin military police company, Bosko Djolic, who said he had been subordinated to Cermak as he went about his day-to-day business. The prosecutor today argued that Cermak was very close to President Tudjman: their frequent meetings after Operation Storm confirm it. This is contrary to what the defense claimed yesterday.

Responding to the prosecution's arguments, Gotovina's defense again dismissed the allegation that Knin had been shelled with disproportionate force, noting that even the Krajina Serb army intelligence reports talk about the shelling of military targets – such as the Northern Barracks, the Serb army HQ and the Tvik Factory. The prosecution had argued that the efforts to prevent the Serb refugees from returning was evidence that there was a joint criminal enterprise to ethnically cleanse Krajina; Gotovina's defense counsel Akhavan replied today that Croatia had the right to temporarily prevent the Serbs from returning because they were 'hostile citizens' who were not Croatian nationals at all, but held citizenship of the former SFRY.



◀ Ivan Cermak in the courtroom

Defense counsel Kay dismissed the prosecution's claims that Ivan Cermak was close to Tudjman and that Cermak's role in Knin was already defined at the Brijuni meeting. As Markac's defense lawyers maintained, their client didn't know what had happened in the village of Grubori. They also denied that the special police had looted the town of Gracac.

All three defense teams today again called for the accused to be acquitted, calling the three generals 'honorable, honest officers who performed their duties to the best of their abilities'. The prosecution has asked for 27 years in prison for Gotovina, 23 years for Markac and 17 years for Cermak.

2011-03-14

THE HAGUE

JUDGMENT FOR CROATIAN GENERALS DUE ON 15 APRIL

Judge Orić's Trial Chamber has scheduled the date for the delivery of the judgment to generals Gotovina, Cermak and Markac, who were tried for crimes against Krajina Serbs during and after Operation Storm, in the summer of 1995.



◀ Ante Gotovina, Ivan Cermak and Mladen Markac in the courtroom

The Trial Chamber will deliver its judgment to Croatian generals Ante Gotovina, Ivan Cermak and Mladen Markac for crimes against Serbs during and after Operation Storm on Friday, 15 April 2011 at 11 am, it was disclosed today at the Tribunal.

The Gotovina, Cermak and Markac trial that began on 11 March 2008 ended with the closing arguments of the parties delivered in late August and early September 2010, after 303 working days and a total of 145 witnesses.

The prosecution has asked Judge Orić's Trial Chamber to sentence Ante Gotovina, who commanded Operation Storm, to 27 years, Ivan Cermak, who was the Knin

garrison commander, to 17 years and Mladen Markac, who headed the special police to 23 years in prison. In their closing arguments, the defense of the three accused called for their clients' acquittal.

Generals Gotovina, Cermak and Markac are charged with their role in a joint criminal enterprise aimed at the permanent elimination of Serb civilians from the parts of Krajina liberated in the summer of 1995. As alleged in the indictment, the objective was implemented by 'force, intimidation, persecution, forcible transfer, deportation, looting and destruction of property' of Serb civilians. At the same time, it could be assumed that murders and inhumane and cruel treatment were 'a possible consequence of the implementation of the objective of the joint criminal enterprise' headed by the then Croatian president Franjo Tudjman.

2011-03-18

THE HAGUE

PUBLIC ASPECT OF CONFIDENTIAL DOCUMENTS

Following a request of the European Union, the prosecution has asked that some of the documents produced by the European monitors in Krajina during and after Operation Storm be placed under seal, although it is not opposed to the contents being discussed publicly.

The prosecution has filed a motion to place under seal some of the documents produced by the European Community Monitoring Mission used during the trial of Croatian generals Gotovina, Cermak and Markac. In the motion to Judge Orić's Trial Chamber, the prosecution explains the move has been prompted by a demand from the European Union, which has supplied some of the ECMM documents.

In line with the European Union's request, the prosecution notes that it 'is not opposed to the judges publicly referring in their judgment to the contents of those reports inasmuch as it is necessary, as long as the documents remain confidential'. In other words, the public will not have access to the documents, except when the Trial Chamber mentions them in the judgment. During the trial a number of EC monitors' reports were used in closed session.

An annex containing brief summaries of some of the documents that should be placed under seal was attached to the prosecution motion. These are mostly daily and periodical reports of the European monitor teams in Knin and elsewhere in Krajina in August 1995. Among them is a report which says that General Gotovina told the monitors 'the police must stop the looting, arson and abuse', but that he understands it when people hate their enemy because it is a 'normal human response'.

The documents refer to the looting and burning down of Serb houses; some deal with the incident in which civilians were killed and houses were burned in the village of Grubori. A report filed by the European monitors covering the period from 6 to 12 August 1995 speaks about 'needless looting and brutality of the Croatian Army' and goes on to state that the destruction of various towns in Krajina – Knin in particular – continued. The reports refer to General Ivan Cermak as 'the military governor' of Knin; according to the documents, he was at the 'center of the military and political power' in the Krajina area.

The trial of general Ante Gotovina, Ivan Cermak and Mladen Markac for crimes against Serbs during and after Operation Storm ended in September 2010. The Trial Chamber has announced it will deliver the judgment on 15 April 2011.

2011-03-22

THE HAGUE

GOTOVINA DOESN'T WANT THE EUROPEAN MONITORS' REPORTS TO REMAIN UNDER SEAL

General Gotovina's defense opposes the prosecution motion supporting the request of the European Union to place under seal some of the documents produced by the EC monitors during Operation Storm. Gotovina's defense contends it will jeopardize the rights of EU citizens, including Ante Gotovina, who is a French national.

Ante Gotovina's defense considers that the Trial Chamber should dismiss the recent prosecution motion asking the judges to place under seal some of the documents produced by the European Community Monitoring Mission (ECMM) in Krajina during and after Operation Storm. The EC monitors' documents were used in public session during the trial of generals Gotovina, Cermak and Markac.

Mladen Markac's defense has in the meantime joined the motion filed by Gotovina's defense, which states that the prosecution has failed to demonstrate that the EU request for confidentiality of the documents has been submitted on time and that "the Trial Chamber should not at this late stage retroactively take documents out of the public domain". The Trial Chamber and the defense, the motion notes, have not received the correspondence between the prosecution and the EU. Without it, it is impossible to assess if the motion has been submitted on time or not.

In its recent motion, the prosecution notes that the EU has demanded that some of the EC monitors' documents be placed under seal, but is not opposed to the judges 'referring to the contents of those reports publicly in their judgment inasmuch as it is necessary'. The defense warns that granting this request would violate the rights of the EU citizens, because they would be prevented from inspecting the documents, yet at the same time the Tribunal would be allowed to use the same documents publicly, at least in part. One of the EU citizens whose rights would be jeopardized is General Gotovina, the defense notes, as he is a French citizen.

The defense notes that yet another French citizen – Ivan Jurasinovic – was denied his rights directly when his request to examine the EU archives was finally rejected last year. Jurasinovic hoped to locate the reports filed by the team of EC monitors stationed in Knin. The defense had sought those documents but Brussels claimed the documents didn't exist. The motion goes on to state that General Gotovina has been prevented from inspecting those reports although they 'are considered to be essential for his defense'. The documents 'could refute' the prosecutor's allegations that civilian targets were shelled and that Croatian forces were engaged in burning, looting, and killing on a massive scale during and after Operation Storm. The defense indicates it will raise the issue in the appellate proceedings 'if it proves to be necessary', i.e., if Gotovina is convicted.

Ante Gotovina, Ivan Cermak and Mladen Markac stood trial for their alleged part in the joint criminal enterprise aimed at expelling Serbs from Krajina. The prosecution alleges that the goals of the enterprise were implemented through crimes perpetrated during and after Operation Storm in the summer of 1995. The Trial Chamber indicated it would deliver its judgment on 15 April 1995.

2011-04-15

THE HAGUE

GOTOVINA SENTENCED TO 24 YEARS, MARKAC TO 18, CERMAK WALKS FREE

Croatian generals Ante Gotovina and Mladen Markac were today convicted as participants of the joint criminal enterprise headed by former president Franjo Tudjman. The judges found that Ivan Cermak didn't contribute to the crimes against Serbs in Krajina during and after Operation Storm.



◀ Ante Gotovina in the courtroom

In the summer of 1995, there existed a joint criminal enterprise in Croatia, headed by President Franjo Tudjman. Its objective was the permanent removal of the Serb population from the Krajina region, concluded the Trial Chamber with Dutch judge Orije presiding. The judgment for the crimes during and after Operation Storm was handed down today at the Tribunal. The judges found that the joint criminal enterprise involved the then defense minister Gojko Susak, Chief of the HV Main Staff Zvonimir Cervenko and other high-ranking political, military and police officials. Among them were the two accused – the Split Military District commander Ante Gotovina and the special police commander Mladen Markac, but not the commander of the Knin Garrison Ivan Cermak.

The Trial Chamber found the two accused guilty of eight out of the nine counts in the indictment, charging them with persecution, deportation, looting and destruction of property, murder, inhumane acts and cruel treatment. Gotovina was sentenced to 24 years and Mladen Markac to 18 years in prison. Ivan Cermak was acquitted of all charges and will be released. Gotovina will receive credit for the five years and four months he has already spent in the UN Detention Unit and Markac for a little over four years.

The Trial Chamber found that during the artillery attack on Knin, Benkovac, Gracac and Obrovac on 4 and 5 August 1995, the shells hit not only the pre-determined military targets but also civilian areas. This constituted an indiscriminate and unlawful attack on the civilian population. The judgment notes that the order of the Krajina authorities for the evacuation of civilians of 4 August 1995 was taken into consideration, but the judges concluded that it had 'little or no' influence on the Serbs' decision to leave Krajina. The main reason why they left was fear of violence that resulted from the indiscriminate shelling of the towns and other crimes, like murder, looting, arson and inhumane acts committed by the Croatian Army and the special police. 'Those crimes contributed to an environment in which the Krajina Serbs had no other choice but to flee', the Trial Chamber concluded.

When the Serb civilians left Krajina, the Croatian authorities issued a series of 'legal instruments' to prevent them from returning, the summary of the judgment says. The goal was to make sure that the property the Krajina Serbs left behind would end up in the hands of the Croats. According to the judges, this was a discriminatory measure that constituted persecution. The Chamber also found that the Croatian Army soldiers and the special police killed several people in the Krajina area. Among the murders are those of an old woman and her sick son in the village of Mokro Polje, the execution of five men in the village of Ocestovo and of several elderly persons in the village of Grubori. The army and police personnel are held responsible for the plunder and destruction of abandoned Serb property and for the deportation and inhumane treatment of Krajina inhabitants.

Colonel General Ante Gotovina commanded all those units. Gotovina was involved in the preparations for Operation Storm at the meeting of President Tudjman and the state and military leadership in Brijuni on 31 July 1995. This was one of key events in the judges' decision about the existence of the joint criminal enterprise. The judgment notes that Gotovina contributed significantly to the implementation of the joint criminal enterprise by ordering unlawful attacks on civilians and not doing anything to prevent crimes and punish the perpetrators. This created an environment in which crimes were acceptable.



◀ Mladen Markac in the courtroom

The situation is similar in Mladen Markac's case, although he commanded just a part of the forces that took part in Operation Storm: the special police units. Those units participated in the indiscriminate shelling of Gracac, the murder of several elderly people in the village of Grubori and the looting and destruction of Gracac and Donji Lapac. The judges considered the large number of crimes in a wide geographical area, the vulnerability of the victims, and the abuse of the position of authority as aggravating circumstances for both Gotovina and Markac. Mitigating circumstances were Markac's health and Gotovina's good behavior in the detention unit and in the courtroom.



◀ Ivan Cermak in the courtroom

Ivan Cermak was acquitted of all counts in the indictment. The Trial Chamber ruled that Cermak's duties in the liberated territory were primarily of civilian nature: he liaised with the international observers and made sure that life in Knin could go back to normal. Although they find that Cermak had 'some influence' over the army and the police, the prosecution evidence was not sufficient to convince the judges that Cermak was their superior. The summary of the judgment says that the evidence shows that in late August 1995 Cermak 'denied and concealed' the crime in the village of Grubori, but the Trial Chamber was 'not convinced that Cermak gave false assurances' to the international representatives that the crimes against Serbs would cease.

After the judgment was delivered, there were just a few sighs and muttered words of disapproval in the public gallery, but no major incidents.

2011-04-18

THE HAGUE

BRIONI TRANSCRIPTS ANALYZED

Judgment for the Croatian generals

What are the facts on which the Judge Orić and his Trial Chamber based their legal finding about the existence of a joint criminal enterprise to permanently eliminate Serbs from Krajina, headed by Croatian president Tudjman in the summer of 1995? Convicted generals Gotovina and Markac contributed significantly to the joint criminal enterprise, the judges found, unlike General Cermak who was acquitted.

Last Friday, generals Ante Gotovina and Mladen Markac were sentenced to 24 and 18 years in prison respectively, while Ivan Cermak was acquitted of all charges. The judgment states there was a joint criminal enterprise to permanently eliminate Serbs from Krajina in the summer of 1995. This finding is based on an analysis of the preparations for Operation Storm. The 'central element' of the planning, the judgment notes, was the meeting of President Tudjman with the Croatian military leadership in Brioni, on 31 July 1995. The Trial Chamber devoted a chapter in the judgment to an analysis of the course of the meeting and gave its view of the prosecution allegation that the plan "to permanently and forcibly remove the Krajina Serbs was crystallised" at the meeting.

According to the Brioni transcripts, admitted as prosecution exhibit P-461, President Tudjman defined the agenda as follows: 'to inflict such blows that the Serbs will [for] all practical purposes disappear, that is to say, the areas we do not take at once must capitulate within a few days'. The prosecution argued that Tudjman envisaged 'disappearance for all practical purposes' of the SVK and Serb civilians. The Trial Chamber rejected this claim, noting that the Croatian president continued his intervention by saying, 'to inflict such powerful blows in several directions that the Serbian forces will no longer be able to recover, but will have to capitulate'. As the Trial Chamber concluded, it was clear that the 'disappearance for all practical purposes' referred mostly to the Serb military forces, not civilians.

However, the judges found that in other statements made by Tudjman and other persons at the meeting about what should happen to 'Serbs' it was less clear whether they refer to the army or civilians. The judgment quotes Tudjman's words that it was 'important to leave a way out for the civilians, because the army would follow them, and when the columns set out, they will have a psychological impact on each other'. General Gotovina answers, 'a large number of civilians are already evacuating Knin and heading towards Banja Luka and Belgrade. That means that if we continue this pressure, probably for some time to come, there won't be so many civilians just those who have to stay, who have no possibility of leaving'. As the meeting progressed, the participants say that the Serbs' human rights should be guaranteed publicly while at the same time, Serbs should be shown a way out of Krajina. Tudjman's words, 'so in that way, to give them a road, while ostensibly guaranteeing them civil rights' were analyzed in great detail in the judgment.

The Trial Chamber also considered if the opening of a corridor for the Serb civilians to leave Krajina was motivated by a desire to avoid civilian casualties in the military operation or to reduce them to a minimum. Some defense witnesses, like former Croatian foreign minister Mate Granic, had put forth this argument. The judges didn't find anything in the Brioni transcripts to corroborate this claim. The judgment says that the participants at the meeting didn't speak at all about how to conduct a military operation to minimize civilian casualties. On the contrary, in an exchange Tudjman speaks about launching an artillery attack on Knin 'for complete demoralization', under the pretext of a Serb counter-attack. Gotovina answers that 'Knin could be destroyed in a few hours'. The president also speaks about the need to avoid the shelling of the UN barracks but said nothing about the civilian targets in Knin.

Analyzing them side by side, the Trial Chamber decided that all those statements referred primarily if not exclusively to civilians. The defense argument that Tudjman, as an old-school communist, talked about 'ostensible human rights' and not about 'ostensible guarantees' was rejected. According to the judges, things wouldn't be much more different if the word 'ostensible' referred to human rights, because the two concepts - human rights guarantees and 'showing them a way out' - are irreconcilable. Because, as the judgment finds, 'guaranteeing them civil rights [...] would require the Serbs to stay'.

All this, the Trial Chamber found, was an expression of the true intent of the participants of the Brioni meeting "to show Serbs out but at the same time give them the impression that they could stay".

2011-04-19

THE HAGUE

TUDJMAN'S ATTITUDE TO SERBS

Judgment for the Croatian generals (2)

In its judgment in the case of generals Gotovina, Cermak and Markac, the Trial Chamber decided there existed a joint criminal enterprise not only on the basis of their analysis of the Brioni meeting transcripts. The judges took into account several other indicators, such as the attitude displayed by President Tudjman and the Croatian state leadership towards the Serb minority and the question of their return after Operation Storm.

In addition to a detailed analysis of the transcripts of the Brioni meeting of 31 July 1995, the judges' conclusion about the existence of a joint criminal enterprise to permanently and forcibly expel Serbs from Krajina in the summer of 1995 was based on the evidence about the attitudes and policies pursued by Croatian state leadership towards the Serb minority and the return of the refugees after Operation Storm. The judges conclude that in that respect president Tudjman played a 'central role', just as he was the key figure in the joint criminal enterprise.

The Trial Chamber started with the evidence of prosecution witness Peter Galbraith, former US ambassador in Zagreb. As Galbraith said, the Croatian president advocated 'a homogenous Croatia' and considered Serbs and Muslims as a part of a different civilization. Tudjman believed in the idea of a 'Greater Croatia' and considered Serbs to be 'too numerous and a strategic threat to the state', Galbraith testified. The US ambassador said that Tudjman denied the right of the Serb refugees to return after Operation Storm. According to a US Embassy cable dated 11 December 1995, the Croatian president told a US congressman at a meeting 'it would be impossible for the Serbs to return to the place where their families lived for centuries'. According to a US Embassy cable of 31 August 1995, the public announcement guaranteeing human rights to Serbs was for propaganda purposes only, while the actual goal was to 'ethnically cleanse' the Krajina to make room for 1,000,000 Croats who were to settle in the area.

'Tudjman's policy was Croatia's policy', Galbraith said, and other political leaders shared Tudjman's views. Many of them testified for the defense, like Mate Granic, Miomir Zuzul, Nadan Vidosevic or Vesna Skare Ozbolt. They contested Galbraith's claims, arguing that there was no plan to expel Serbs and that everybody regardless of their ethnicity was allowed to return. At the same time, they didn't deny that President Tudjman was the key figure of the then Croatian leadership.

The Trial Chamber in its judgment focused in particular on the analysis of Tudjman's statements at rallies and in the media. In his address at a rally in Knin on 26 August 1995, Tudjman said, 'never again it will go back to what was before, when they spread cancer which has been destroying Croatian national being in the middle of Croatia and didn't allow Croatian people to be truly alone on it's [sic] own...they were gone in few days [...], they didn't even have time to collect their rotten money and dirty underwear'. Similarly, on 5 August 1995 Tudjman addressed the troops in Knin and said, '... "[w]e have returned Zvonimir's Croatian town [Knin] to the fold of its motherland, Croatia, as pure as it was in [King] Zvonimir's time'.

The Trial Chamber noted it was aware that the statements were given at the time of 'high level of hostilities', adding that political statements could sometimes serve 'the purpose of gaining confidence of the population in the war efforts and mobilizing the military forces'. The judges, nevertheless, insisted that Tudjman's statements must not be seen only through that prism: they do have 'some, although limited, importance' in the assessment of Tudjman's policy toward the Serb minority in Croatia.

On the other hand, the judges note that the attitudes expressed at various meetings of the state leadership were relevant in a different way from the public statements, because they were not weighed down with the need to curry favor with the public. The judgment lists a series of Tudjman's meetings with his close associates at which they discussed ways to prevent the Serbs from returning to Krajina, and the need to prevent further looting and arson of abandoned houses because the area was to be resettled by Croats.

At the meeting of 22 August 1995, the judgment notes, deputy prime minister Jure Radic said that parts of Krajina should 'be urgently colonized with Croats' and that 'we should by no means let more than [sic] 10 per cent of Serbs be here ever again'. Tudjman replied 'Not even 10 percent'. Radic also talks about 'a beautiful picture to see people from Varazdin and Split entering the [sic] Knin together. On the one wall in Kupres, the message "Cedo [Chetnik], you will not come back" can be seen'. A day later, when informed at a meeting of the state leadership about an attempt by some Serbs to enter into Croatia from Hungary and return to their houses, Tudjman insisted that 'they should simply be told that they could not enter' adding that 'If we let 204 persons come here, tomorrow you would have 1,204 and in ten days 12,000'. 'Nothing for now', the president was clear.

At several meetings in August and September 1995, it was emphasized that the houses in Krajina were now in Croatia's hands and further looting and arson should be prevented. The judgment concludes that high-ranking Croatian officials were well aware of the widespread destruction of Serb private property. They requested it to stop only because they considered it to have become 'Croatian property needed for the return of Croats' to Krajina.

On the basis of those quotes, the Trial Chamber found that 'one of the aspects' of the policy pursued by Tudjman and the Croatian state leadership was to 'encourage Croats to return and settle in Krajina in abandoned Serb houses'. At the same time, the rate of return of the Serbs was to be 'limited to a minimum' according to the Croatian regime, the judges concluded.

2011-04-20

THE HAGUE

DISCRIMINATORY LAWS AFTER THE OPERATION STORM

Judgment for the Croatian Generals (3)

In the judgment for Gotovina, Markac and Cermak, the judges concluded that the aim of the legal measures introduced by the Croatian authorities after Operation Storm was to 'allocate the abandoned Serb property [...] to Croats and thereby deprive the real owners of their housing and property'; this also led the Trial Chamber to find that the joint criminal enterprise did exist in this case.

The judgment for generals Gotovina, Cermak and Markac states that the various pieces of legislation on the abandoned Serb property introduced by the Croatian authorities after Operation Storm are just another indicator that the joint criminal enterprise to permanently expel the Serbs from Krajina in the summer of 1995 did exist. The Trial Chamber considered not only the contents of those acts but also the discussions at various meetings of the state leadership before they were passed.

The focal point of the analysis was the Decree on the Temporary Takeover and Administration of Certain Properties and the law passed by the Parliament under the same name a bit later. The Decree was passed at a government meeting on 31 August 1995 and envisaged that the houses and properties abandoned after Operation Storm should be placed under the administration of the state; commissions established by local authorities should allocate the property to 'expelled persons, refugees, returnees whose property was destroyed or damaged during the Homeland War,...and to the families of dead (...) Croatian defenders' and other persons involved in the activities essential 'for the security, reconstruction and development' of the recently liberated territories. A decision of the commission for the allocation of property to specified categories could be quashed only if the rightful owners of the property 'return[ed] within 30 days of this Decree coming into force and seeking restitution'. In other words, if the owners failed to appear before the commission by this deadline, they lost their property.

Some 20 days later, on 20 September 1995, the Croatian Parliament adopted the law which mirrored all the key provisions of the Decree. The only difference was the deadline for the restitution of property which was extended to 90 days. Several witnesses who were high-ranking state officials at the time relevant for the indictment, like the deputy prime minister Jure Radic, claimed that the deadline was extended because few persons applied for the restitution by the 'unrealistic' deadline of 30 days. Former US ambassador in Zagreb Peter Galbraith said in his evidence that the deadline was extended under pressure of the US and the international community.

In their evidence before the Tribunal, former Croatian state officials claimed that the idea was to 'protect abandoned property'. By setting a deadline of 30 or 90 days, they made sure that the people could 'return as soon as possible' and the laws didn't specify the ethnicity of persons whose property was taken over. The prosecution nevertheless tendered into evidence a series of minutes from the meetings of the Croatian state bodies where this issue was discussed. In June 1995, after Operation Flash, Jure Radic demanded at a meeting of the Supreme National Defense Council that Croatia take over the houses of Serb refugees 'in the beginning temporarily and later permanently'. At the government meeting when the decree was adopted, Radic described this legal act as 'a historic document which determines demographic future of liberated area'. Radic unequivocally demanded that 'Croats expelled from BH and Serbia' be resettled in the abandoned houses. At a government meeting after Operation Storm president Tudjman agreed with proposal to declare 'all abandoned property state property on the pretext of preserving the property'.

Jure Radic led the way at the meetings with Tudjman and other Croatian politicians by making proposals to seize the abandoned Serb property from its owners and to allocate it to Croats. The Trial Chamber therefore found that Radic was also a participant in the joint criminal enterprise whose aim was to ethnically cleanse Krajina, although he didn't participate in Operation Storm directly.

The temporary takeover measures were rescinded on 17 January 1996, but had already yielded results: it was clear that only a small part of the Serbs would decide to return. According to the evidence of the special rapporteur of the UN Commission for Human Rights Elizabeth Rehn, by early 1998 only ten percent of the Serb civilians had returned to Krajina. Peter Galbraith estimated that by 2000 there were 'either no or very few returns'. The few Serbs returned only after the US authorities put pressure on Croatia. Galbraith said in his evidence that the aim of the Croatian leadership was to use the law to 'take the property, to make it impossible for the Serbs to return and to resettle Croats in Krajina'.

The Trial Chamber concluded in its judgment that the 'purpose of the time limit of 30 or 90 days was to make it more difficult for persons who wished to return to reclaim their property'. The judges were unanimous that the goal of the legal instruments adopted after the Operation Storm was to 'allocate the abandoned Serb property in the liberated areas to Croats and thereby deprive the real owners of their housing and property'. The judgment described such legal instruments 'as discriminatory'.

2011-04-21

THE HAGUE

'LIMITED RESULTS' OF INVESTIGATIONS INTO CRIMES AFTER OPERATION STORM

The Judgment for the Croatian Generals (4)

The judgment of generals Gotovina, Cermak and Markac highlights the omissions in the investigations of crimes after Operation Storm as another indicator of the existence of a joint criminal enterprise whose goal was to expel Serbs from Krajina. The emphasis was placed on the crime in the village of Grubori. The Croatian special police murdered a number of civilians in the village; their commanders then invented a story about a clash with 'terrorists'.

In addition to analyzing the plans for the military attack on Krajina and measures adopted afterwards to prevent the return of Serb refugees, the Trial Chamber focused in particular to what happened in Operation Storm and its immediate aftermath in its findings on the joint criminal enterprise. The judgment of the Croatian generals states that an indiscriminate artillery attack on civilians started on the first day of the operation, 4 August 1995. When the Croatian Army and the special police entered the occupied territory, the abandoned houses were destroyed, and civilians were murdered, subjected to inhumane treatment and deported.

Those crimes were not adequately investigated and punished. In a separate chapter of the judgment on the joint criminal enterprise, the Trial Chamber puts forth its conclusions about the causes of the 'inadequate response' of the Croatian law enforcement and judiciary to the events in the field. Having considered the attitudes of the Croatian authorities towards the investigations, the judges brought up the first part of the evidence of former Special Rapporteur of the UN Commission on Human Rights, Elizabeth Rehn. As she said, President Franjo Tudjman told her that it was impossible to 'keep the gloves on' in a fight and to prevent the Croatian returnees from committing acts of revenge and destroying Serb houses. The Trial Chamber also invoked the report of the UN Secretary-General of 14 February 1996, which notes that '[t]he discrepancy [...] between the number of apparent violations of the right to life recorded by United Nations investigators in the former Sectors and the number of cases acknowledged by the Croatian authorities continues to be unaccountably large' and insists that except in the massacre of nine Serbs at Varivode, 'there is little evidence of progress in resolving the many other reported cases of individual killings' of civilians.

When Krajina was liberated, the Croatian authorities cleaned up the terrain. A number of Serbs who had been killed were buried without any sort of investigation into how they had died. The Trial Chamber doesn't contend that the purpose of the sanitation effort was to cover up the crimes. However, there were a number of omissions in the way the investigations were conducted. Mladen Bajic, who was the Deputy Military Prosecutor for the Split Military District (he is now the Croatian Public Prosecutor), corroborated this conclusion when he testified that about the 300 bodies disinterred at the Knin cemetery in 2001; most of the bodies were buried after Operation Storm without an on-site investigation.

The judges accepted the defense argument that the lack of investigations was caused by objective circumstances, such as work force shortage and lack of equipment, dire conditions in the war and a large number of crimes. The judgment notes there were attempts to deliberately obstruct investigations in some cases, but there was no evidence that there was a policy pursued by the Croatian authorities not to investigate crimes. Since some – not many – crimes were prosecuted, the Trial Chamber concluded that 'some investigatory efforts were made, but with relatively few results' and they 'were motivated at least in part by a concern for Croatia's international standing rather than by genuine concern for victims'.

A typical example of a deliberate obstruction of the investigation is the chain of events following the murder of five elderly Serbs in the Krajina village of Grubori on 25 August 1995. The number of witnesses testifying about this incident greatly exceeded all other evidence for crimes listed in the indictment. Based on the evidence of the police commanders and the special police personnel, the Trial Chamber concluded that after the elderly persons were killed, the special police leadership invented a story about the clash with 'Serb terrorists'.

This finding was corroborated by the evidence of Josip Celic, who was in charge of the clean-up operation in the Plavno Valley. The incident in the village of Grubori occurred during the operation. Although Celic tried to recant parts of his statement to the OTP investigators, the Trial Chamber in its judgment gave credence to Celic's claims that in his report to his superiors he said clearly there had been no fighting in the clean-up operation. Celic was then summoned to Gracac where Mladen Markac and his deputy Zeljko Sacic told Celic there had been an 'armed conflict' in Grubori. Celic was told to draft a new report, which was dictated to him by Sacic in an adjacent room. The terrorist story was further corroborated in August and September 1995 when other members of the Special Police backdated their reports on the orders of Markac and Sacic, confirming the details as they had been dictated to Celic, the judgment concluded.

After three years in which the prosecution and the defense called their evidence, the Trial Chamber found that the Croatian Special Police were responsible, beyond reasonable doubt, for the murders in the village of Grubori.

2011-04-27

THE HAGUE

SHELLING WAS INDISCRIMINATE

Croatian Generals' Judgment (5)

The Trial Chamber found that the artillery attacks on the Krajina towns in Operation Storm were carried out in order to force the Serb civilians to flee, just as the prosecution claimed. The judges did not give any credence to the defense case, which was that the towns were shelled in order to achieve a military victory.

In its judgment, the Trial Chamber sentenced the Croatian generals Ante Gotovina and Mladen Markac to 24 and 18 years in prison respectively and acquitted Ivan Cermak of all charges. The judges found that the Serb civilians were persecuted in Operation Storm through a campaign of indiscriminate shelling of the towns of Knin, Benkovac,

Obrovac and Gracac. Judge Orić and the other two judges reached that conclusion after they compared the artillery reports of the Croatian Army (HV) and the impact sites on the ground, and after they analyzed the number of impacts and the way in which the artillery targeted the towns.

The Trial Chamber looked at an order issued by the Split Military District commander Ante Gotovina and his artillery commander Marko Rajčić of 2 August 1995, in which they “issued orders for the HV artillery to put the towns of Drvar, Knin, Benkovac, Obrovac, and Gračac under artillery fire”. Although the judges say in the judgment that the language in the order might lead to the conclusion that the entire towns were treated as targets, they took into account Rajčić’s testimony in court. He said that the military targets in the towns had been predetermined, and that the order lists those locations as targets. When the judges took into account the HV reports from the field, they concluded that they could not find beyond reasonable doubt that those towns were treated as targets.

Analyzing the evidence on the shelling of Knin, to the effect that the strikes occurred in regular intervals, the Chamber took note of the evidence of military experts called by the prosecution and the defense respectively, Harry Konings and Geoffrey Corn. They both agreed that “this method of fire can, depending on the target and the intended effect, be used for a military purpose or to psychologically harass civilians”. The judgment therefore states that the method used to shell Knin is not sufficient to conclude that the attack on the town targeted civilians.

The fact that a large number of shells actually hit areas devoid of military targets led the judges to conclude nevertheless that Knin had been shelled indiscriminately. As the Chamber concluded, a total of 600 shells hit Knin on 4 August 1995, and 300 shells were fired the next day. The judgment notes that it was not possible to determine with any accuracy the exact impact sites for many shells, but the evidence shows that “a considerable” number [of those] hit civilians buildings or areas”. The distance of 200 meters was taken as a permissible margin of error in light of the accuracy of artillery pieces used by the HV and the range from which the shells were fired.

The Chamber accepted that the buildings in Knin, listed as artillery targets in some orders, e.g., the Krajina army main staff, the Northern Barracks, the Senjak Barracks, the police station, Milan Martić’s apartment and the railway station, were in fact legitimate military targets. However, according to the evidence, a large number of shells hit areas 300 to 700 meters away from those targets. Thus, for instance, about 40 shells fell near the headquarters of the European monitoring mission in the town, which was 300 meters away from the nearest military target. Likewise, four shells exploded in the immediate vicinity of the Knin hospital, and at least one shell impacted near the cemetery, at a distance of 450 and 700 meters from military targets respectively. These are not the only examples listed in the judgment. The Chamber also considered that targeting Milan Martić’s apartment downtown was indiscriminate and posed ‘too great a risk for civilians. “This risk was excessive in relation to the anticipated military

Advantage”, the judges noted. This led the judges to conclude that the Croatian artillery ‘deliberately fired on’ civilian targets in Knin.

The Chamber drew similar conclusions about the shelling of Benkovac, Obrovac and Gracac; in fact, the only town where civilian targets were not shelled indiscriminately was Donji Lapac.

The Chamber notes that in light of what actually happened on the ground, Gotovina’s order to use artillery to fire on Drvar, Knin, Benkovac, Obrovac and Gracac can indeed be interpreted as an order to treat entire towns as artillery targets, rather than to fire on predetermined military targets.

The judges concluded that the artillery fire on Knin, Benkovac, Obrovac and Gracac constituted ‘an indiscriminate attack on these towns and thus an unlawful attack on civilians and civilian objects’. In light of the ethnic composition of the population in those towns, the judges concluded that the attacks were carried out “with the intention to discriminate [the population] on political, racial, or religious grounds.

2011-04-29

THE HAGUE

DEPORTATION, NOT EVACUATION

Croatian generals’ judgment (6)

Despite the fact that Milan Martić’s government issued an order for the civilians to evacuate on 4 August 1995, the Trial Chamber concluded that the Croatian Army and special police were primarily responsible for the exodus of the Krajina Serbs during and after Operation Storm.

In order for a set of events to be characterized as deportation or forcible transfer, the judges need to establish that “the people are moved against their will or without a genuine choice” and that there was justified fear of crimes that resulted in the civilians ‘not having any other choice but to leave’. This is precisely what happened to the Krajina Serbs during and after Operation Storm in the summer of 1995, the judges found in their judgment of generals Gotovina, Čermak and Markac.

As the Trial Chamber concluded, the departure of civilians from Krajina occurred “during and just after the shelling” of Knin, Benkovac, Obrovac and Gracac and that ‘a vast majority if not all’ of those who left decided to do so in fear of the shelling. Here, the Chamber was also guided by its other findings: that the Brioni meeting defined the objective

of the joint criminal enterprise, which was to expel Serbs, and that on 4 and 5 August 1995 the Croatian Army and special police launched artillery attacks “with the intent to forcibly displace persons” from Krajina.

In addition to the shelling, the residents of those four towns and the municipalities of Civljane, Kistanje and Orlic was caused by other crimes of the army and police, such as murders, inhumane treatment, detention of civilians, plunder and destruction of property. In light of the circumstances in which the exodus of the people from Krajina unfolded, the ethnicity of the victims and the time and place of the deportations, the Chamber was able to conclude that it was part of ‘a widespread and systematic attack’ on civilians.

The Trial Chamber did not disregard the fact that in the afternoon of the 4 August 1995, the president of the so-called Republic of Serbian Krajina, Milan Martić, issued an order for the civilians to evacuate. The judges however concluded that the order had ‘little or no influence’ on the decision of the civilians to leave their homes.

Firstly, the evacuation order was drafted much earlier, at 16.45, and it became operational some hours later, when the civilian population was already in flight; the shelling had commenced in the early morning hours. Secondly, the testimony of witnesses who were in the refugee columns ‘give few or no indications’ that their decision to leave was influenced by the Krajina authorities. Quite the contrary, they mostly stated that they had left in fear of the shelling and other crimes of the Croatian army and police.

Thirdly, despite the fact that there were evacuation plans in place at municipal level, the Chamber was not convinced that the Krajina authorities had any clear plan as to how the civilians were to be evacuated. In this respect, the Chamber relied on the testimony of the UN commander in Sector South, Alain Forand, who said that the representatives of the Krajina authorities that met with him on 4 August at around 6 pm appeared ‘completely confused and in panic’; they never showed him any evacuation plans, although they promised they’d put it together in the hours after the meeting.

Finally, the Chamber states that the evidence does not show that the movement of the civilians had in any way been organized, or assisted by the Krajina army in any way. A more logical conclusion, the Chamber found, would be to side with the then chief of staff of the Serbian Army of Krajina Mile Mrksić who testified in court that many soldiers deserted their units in order to help their families leave Krajina, which resulted in a total collapse of the army. This is in effect what Tudjman envisaged as a desirable scenario for Operation Storm as he spoke to his associates at the Brioni meeting.

In light of all of the above, the Trial Chamber decided that ‘generally speaking, the people did not leave their homes because of the existence of any evacuation plan’ on the part of the Krajina authorities. This conclusion was to a large extent affected by the testimony of General Mrksić and his assistant for information, Kosta Novaković. Mrksić’s statement would not have been part of the evidence had he not been called by Ante Gotovina’s defense. Judging by the conclusions presented in the Croatian generals’ judgment, the strategy backfired and caused more harm than good to the accused.

The judgment states that about 14,000 people, most of them women and children and the elderly, left Knin on 4 and 5 August 1995; only about a thousand remained in the town. The judges also say that between 50,000 and 70,000 people crossed the border into Bosnia and Herzegovina in Donji Lapac. The judges conclude that ‘at least 20,000’ of those people had been deported from Croatia by indiscriminate shelling and other crimes against civilians.

2011-05-03

THE HAGUE

GOTOVINA’S CONTRIBUTION TO JOINT CRIMINAL ENTERPRISE

The Judgment of the Croatian Generals (7)

Previously, SENSE has analyzed in detail the conclusions of the Trial Chamber in respect of the basic elements of the joint criminal enterprise aimed at expelling Serbs from Krajina, indiscriminate shelling of towns and deportation of civilians. The next three articles will deal with the judges’ findings about the individual criminal responsibility of the three accused.

Based on the evidence called during the trial, Judge Orić’s Trial Chamber concluded that Ante Gotovina participated in various ways in the joint criminal enterprise aimed at the permanent elimination of Serb civilians from Krajina. Gotovina was sentenced to 24 years in prison, while Mladen Markac, former special police commander Mladen Markac got 18 years. Ivan Čermak was acquitted of all charges.

As the commander of the Split Military District, the judgment stated, Gotovina undoubtedly exercised command over all the units that took part in Operation Storm and committed crimes against Serbs in the summer of 1995. Gotovina’s contribution to the joint criminal enterprise is reflected in the fact that he was at the Brioni meeting when the plan to expel Serbs from Krajina was put together. ‘An important element’ in the implementation of the plan was ‘the unlawful attack on civilians’ through indiscriminate shelling of Krajina towns. Gotovina in fact ordered the artillery to fire on Knin, Obrovac and Benkovac, the judgment notes. The judges here quoted an order Gotovina issued on 2 August 1995, instructing his subordinates to ‘treat whole towns as targets’ in the course of their artillery attacks.

The judgment goes on to say that Gotovina contributed to the implementation of the goals of the joint criminal enterprise when he failed to prevent murder and other crimes against Serb civilians and didn't take measures to punish perpetrators. This 'had an impact on the general attitude towards crimes' in the liberated territory.

The judges found there was enough evidence indicating that the commander of the Split Military District received regular reports about frequent attacks on Serb civilians. The judges noted that Gotovina received those reports from his subordinate officers and the international representatives. On the first day of Operation Storm, on 4 August 1995, the UN Sector South commander Alain Forand wrote a letter to Gotovina, demanding an immediate stop to the shelling of 'unarmed civilians' which was 'contrary to international humanitarian law'. Forand wrote another letter the next day, warning Gotovina of the looting and destruction of Serb property. Forand continued raising those objections at various meetings after the end of Operation Storm. At a meeting on 5 September 1995, Forand asked Gotovina 'why he didn't put an end to the ongoing looting and burning of houses'. Gotovina told Forand that 'he could not control some of the things that were going on, and that it was a way for his people (military and civilian) to take revenge for Serb actions in 1991'.

In the judgment the judges refer to the reports Gotovina's subordinate officers sent to the Split Military District commander. Gotovina's meeting with his officers at the Knin fortress on 6 August 1995 is highlighted as an important indicator that Gotovina knew about crimes. General Gotovina described the situation in the liberated territory as a 'disgrace', saying, "[b]arbarians and vandals work like that! Those who are paid with war booty! And wage war for war booty'. Bosko Dzolic, who commanded the joint military police company in Knin, testified that on that same day, 6 August 1995, those who stood on the Knin fortress could see smoke coming from the villages around Knin.

General Ivan Cermak attended the meeting too. In his statement to the OTP investigators, Cermak said about Gotovina's comments to his subordinates, 'One thing is to say, and the other thing is to do something about it...They were just talking'. In his statement, Cermak said that at other meetings Gotovina repeatedly spoke about 'the illegal actions carried out by the Croatian military on the ground [...] [that] had to stop'. Gotovina replied that 'he knew and that they would stop [...] it'. According to Cermak, Gotovina tried to shift the blame for the events around Knin on the civilian authorities, although he admitted that the army was responsible for the situation in the town.

Gotovina had authority over all the units in the Split Military District and taking measures to ensure that all his subordinates guilty of crimes were prosecuted was his responsibility. Gotovina could, for instance, use the military police, because they were under his command, although the defense claimed they were not. The Trial Chamber concluded that Gotovina 'only rarely used his authority over the military police'. According to the documents admitted into evidence, Gotovina used disciplinary measures at least 70 times in August and September 1995, but he acted 'mostly in relation to minor breaches'.

Instead of punishing the perpetrators, Gotovina praised his subordinates and gave them recommendations they later used to obtain awards and promotions. In his report to the Chief of the HV Main Staff Zvonimir Cervenko on 15 August 1995, Gotovina says 'military discipline and combat morale are exceptionally high'.

The Trial Chamber thus concluded that Gotovina was a participant in the joint criminal enterprise aimed at the permanent expulsion of Serb civilians from Krajina through persecution, deportation and forcible transfer. The judgment notes that Gotovina was aware that the destruction and looting of property, killings, inhumane acts, cruel treatment and unlawful detention of civilians were all natural and foreseeable consequences of the joint criminal enterprise.

2011-05-06

THE HAGUE

MARKAC'S FAILURE TO ACT IN OPERATION STORM

The Judgment of the Croatian Generals (8)

The judges sentenced General Mladen Markac to 18 years in prison, noting that Markac's contribution to the joint criminal enterprise could be inferred from his participation at the Brioni meeting, where the plans were made to expel Serbs from Krajina. Markac also contributed to the joint criminal enterprise when he ordered the indiscriminate artillery attacks on Gracac and failed to punish the special police who committed crimes in Gracac, Donji Lapac, Grubori and other places in Krajina where civilians were killed and their property destroyed.

The Trial Chamber with Dutch judge Orije presiding sentenced police general Mladen Markac to 18 years in prison for his involvement in the joint criminal enterprise aimed at the permanent elimination of Serbs from Krajina, in the summer of 1995. At the time, Markac served as deputy interior minister and was in charge of the special units. He commanded the joint police force that took part in Operation Storm in early August 1995, and the cleanup operations that followed it. During Operation Storm, Markac's special police was part of the Split Military District, operating along the Dinara-Gracac-Donji Lapac line. Ante Gotovina was the commander of the Split Military District.

The judgment notes that Markac, like Gotovina, actively participated in the Brioni meeting on 31 July 1995, called by President Tudjman. According to the judges, the objective of the joint criminal enterprise – to eliminate Serbs from Krajina – was crystallized at the meeting. Markac then proceeded to order an unlawful attack on civilians by indiscriminate shelling of the town of Gracac in Lika. This was an 'important element' in the implementation of the

plan. When the special police entered the liberated area, they committed numerous crimes. The Trial Chamber found that Markac failed to prevent crimes and prosecute perpetrators; he did not even remove them from their units. This omission was qualified in the judgment as contribution to the joint criminal enterprise.



◀ Mladen Markac in the courtroom

As with generals Gotovina and Cermak, the Trial Chamber dismissed the allegations in the indictment that Markac took part in the joint criminal enterprise through 'disseminating false information to cause the departure of Serbs' and 'creating and supporting discriminatory policies against Serbs'.

In the afternoon of 5 August 1995, Markac's special units entered Gracac. According to the evidence accepted by the judges, the special units took part in the looting of Serb houses and the destruction of 'a substantial part of the town'. At that time, Markac was in Gracac and, as noted in the judgment, the 'only reasonable inference' was that Markac knew what his subordinates were doing. Markac nevertheless did nothing to investigate

the crimes and punish the perpetrators, or at the very least to report the crimes to the criminal investigations division in the regular police. The judges found that Markac's failure to take any measures opened the door to new crimes, a day or two later in Donji Lapac.

Units under Markac's control left Gracac on the morning of 6 August 1995 and headed towards Donji Lapac. On their way, the Trial Chamber concluded, the special police killed four Serb civilians in the village of Oraovac. During their stay in Lapac, the special police burned down a 'substantial part of the town'. The Trial Chamber has not found any evidence, nor did the parties point to any" showing that Markac took action or made any effort to prosecute crimes, punish perpetrators and prevent similar incidents from happening again in the future. There is no evidence that Markac was in Donji Lapac at the time when crimes were committed. However, the Trial Chamber found that Markac should have known what was going on, especially because Markac's deputy Zeljko Sacic had received all the reports.

When Operation Storm was completed, the special police was tasked with a number of clean-up operations. One such operation was carried out in the Plavno Valley in late August 1995, and resulted in the killing of five elderly Serbs in the village of Grubori; a number of houses were burned down in the same village. The Trial Chamber found that the Croatian special police were responsible for the crime. Instead of investigating the incident, Markac made up "a false story' about a conflict with the Serb 'terrorists' to cover up the crime, the judgment states. Markac sent the 'false report' to the Chief of the HV Main Staff Zvonimir Cervenko. The next day, the special police burned down the nearby village of Ramljane. The commander of the special police failed to do anything after that incident too.

In its conclusion about Markac's responsibility, the Trial Chamber notes that he was a participant in the joint criminal enterprise whose goal was to permanently expel Serb civilians from Krajina through persecution, deportation and forcible transfer. The Trial Chamber notes that Markac was aware that the destruction and looting of property, murders, inhumane acts, cruel treatment and unlawful detention of civilians were all natural and foreseeable consequences of the joint criminal enterprise.

2011-05-10

THE HAGUE

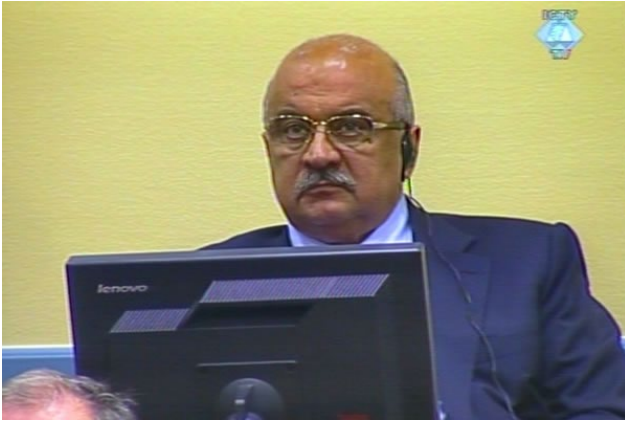
WHY IVAN CERMAK WAS ACQUITTED

The Judgment of the Croatian Generals (9)

Judge Orić's Trial Chamber found there was not enough evidence to show that General Cermak's activities after Operation Storm were directed at implementing the objective of the joint criminal enterprise. The Trial Chamber concluded that Cermak did not have significant power over the army and the police in Knin, which was his area of responsibility.

General Ivan Cermak was charged together with generals Gotovina and Markac as a participant in the joint criminal enterprise aimed at 'expelling Serbs from Krajina through persecution, murder, deportation, looting, arson and other crimes against civilians and their property. While the Trial Chamber convicted Gotovina and Markac, it didn't find sufficient evidence of Cermak's responsibility. Gotovina was sentenced to 24 and Markac to 18 years in prison.

Cermak didn't participate in Operation Storm. In line with President Tudjman's order of 5 August 1995, Cermak was appointed commander of the Knin Garrison and was sent to the liberated territory. In this capacity, Cermak was part of the military hierarchy and was, albeit only on paper, subordinated to the commander of the Split Military District Ante Gotovina, the judgment notes. The Trial Chamber took into consideration various documents showing that Cermak, on his arrival in Knin, issued orders to the Croatian Army units, including the orders seeking that some soldiers be resubordinated to him, but the Trial Chamber concluded there 'is limited evidence showing that such orders were effective'.



◀ Ivan Cermak in the courtroom

The prosecution argued that Cermak had jurisdiction over the military and civilian police and as such could prevent and investigate crimes. A number of Cermak's orders to the military police were admitted into evidence, such as the order requiring an investigation into the allegations about a vehicle stolen from the UN mission in Knin. At the same time, some military police officials, such as the former commander of the Knin joint military police company Bosko Dzolic, came to court to disclaim their previous statements that Cermak was their superior. This led the judges to decide that General Cermak's authority over the military police 'is not clear'. The judgment also notes that, under the Croatian law, a garrison commander had some 'limited authority'

over the military police 'although they were not subordinated to him'. In their evidence, high-ranking international observers claimed that Cermak promised them he would issue orders to the military police to deal with the complaints against Croatian soldiers. The Trial Chamber nevertheless found that Cermak did not 'despite how he represented himself in that regard' have the authority to issue orders to the military police.

Although Cermak didn't have jurisdiction over the civilian police on paper, the judges concluded that he was able to influence their work by virtue of his position and the 'charisma or authority that accompanies the rank of Colonel General'. Having considered the evidence, the judges concluded that Cermak's influence on the civilian police was 'not pervasive or constant'. Seven orders that Cermak issued to the police during the relevant period were admitted in the evidence. The Trial Chamber considered the opinion of defense expert Christopher Albiston, who said that if Cermak did have *de facto* command over the police during this period he would have expected to see 'a significant volume of orders, instructions and requirements for reports as to what exactly was being done'. According to the available evidence, this was not the case.

The Trial Chamber concluded that Cermak's role in Knin amounted to 'cleaning up Knin, improving hygienic conditions, providing a public soup kitchen, making the hospital operational, reconnecting water and electricity to the town' and other civilian tasks. As the judgment notes, the transcripts of the meeting between President Tudjman and his minister Jure Radic on 22 August 1995, show that Cermak's role 'was linked to the goal of populating the Krajina with Croats rather than Serbs'. However, there is no evidence that Cermak himself was aware of that goal and that he contributed to it apart from making efforts to bring life in the town back to normal.

The evidence the Trial Chamber considered in the judgment shows that Ivan Cermak regularly received reports of the looting and burning of Serb houses, and of killings and other crimes against civilians in the liberated territory. General Forand, UN commander in Sector South pestered Cermak with his reports; his numerous written appeals to the commander of the Knin Garrison were admitted into evidence. In his responses to these appeals, Cermak didn't deny the crimes or the involvement of Croatian soldiers in them, the Trial Chamber found. What Cermak did in his contacts with the international representatives was to create a false picture that measures were taken to prevent crimes, the Trial Chamber noted. There is no evidence, however, that Cermak did this deliberately.

The only exception was Cermak's involvement in the events after the murder of some elderly Serbs in the village of Grubori in late August 1995. According to the judges, in his contacts with the media and the international observers, Cermak 'deliberately denied the crime' in Grubori but this was not 'a significant contribution to the joint criminal enterprise'. Cermak didn't attend the Brioni meeting, where the plan to expel Krajina Serbs was put together, and there was no evidence that Cermak worked on implementing the objectives of the plan. This is why the judges found that General Ivan Cermak wasn't a participant in the joint criminal enterprise headed by President Tudjman. Cermak was acquitted on all counts in the indictment in which he was charged with persecution, deportation, forcible transfer, looting and destruction of property, murder, inhumane acts and cruel treatment.

British lawyers Steven Kay and Gillian Higgins contributed to General Ivan Cermak's acquittal: they focused on defending their client and not on defending the late president Tudjman, the purity of the 'Homeland war' and the legitimacy of Operation Storm.

2011-05-17

THE HAGUE

GOTOVINA AND MARKAC APPEAL AGAINST JUDGMENT, PROSECUTION DECIDES NOT TO APPEAL

The defense teams seek to quash the finding that there was a joint criminal enterprise aimed at expelling Serbs from Krajina and call for the acquittal of generals Gotovina and Markac. Having reviewed the judgment, the prosecution has decided not to appeal. This means that Ivan Cermak is now a free man, as there is no appeal pending against his acquittal.

The defense of the Croatian generals filed their notices of appeal against the Trial Chamber's judgment. The Trial Chamber sentenced Ante Gotovina to 24 years and Mladen Markac to 18 years in prison. The defense teams indicate they will appeal all the findings of the Trial Chamber and will call for the acquittal of the accused on all counts in the indictment. Markac's defense alternatively called for a milder sentence if the Appeals Chamber rejected the request for his acquittal.

General Ante Gotovina's defense focused on the finding of the Trial Chamber that the Croatian Army's and special police shelled Krajina towns during Operation Storm in an 'unlawful attack against civilians'. The defense contends that the entire judgment is based on an 'arbitrary' conclusion of the Trial Chamber that all shells that hit locations outside of a 200 meter radius around military targets represented unlawful attacks. If the Appeals Chamber rejects this conclusion, the conviction 'cannot stand', the defense maintains. Gotovina was convicted for ordering an unlawful attack on civilians that was the 'primary and direct cause' of the Serbs' departure from Krajina. This finally led to the conclusion that Gotovina took part in the joint criminal enterprise.

According to the notice, during the trial the parties never stated that the permissible error in artillery strikes was 200 meters from the military target. Even if this criterion were to be accepted, the Trial Chamber found that only five percent of the shells – about 60 out of 1,205 projectiles, hit civilian areas. The judges reached their conclusion that there was a joint criminal enterprise based on the existence of alleged unlawful artillery attacks 'in which 95% of the shells were satisfactorily shown to have been directed at military objectives' the defense claims. The defense notes that, according to the judgment, most of the five percent of shells that remain contentious actually impacted on 'empty fields' that could not be characterized as civilian areas. Furthermore, the Trial Chamber didn't find that 'a single civilian was killed, injured or forcibly displaced as the result of instances of unlawful shelling', the defense argued.

In the seven grounds of appeal, Gotovina's defense states that the Trial Chamber erred when it rejected 'reliable evidence' about the evacuation plans and anti-Croatian propaganda disseminated by the Krajina authorities as the cause for the exodus of Serb civilians. According to the defense, the Trial Chamber also erred when it found that there was a joint criminal enterprise aimed at expelling Serbs from Krajina. The defense contends that the Trial Chamber erroneously concluded that Gotovina was involved in the joint criminal enterprise and that he was aware of the widespread and systematic attacks against civilians. Gotovina's defense has in the meantime been reinforced by Swiss lawyer Guenaël Mettraux.

In its 12 grounds of appeal listed in the notice of appeal, Mladen Markac's defense also denies the existence of the joint criminal enterprise and the involvement of their client in it. The defense contends that the Trial Chamber 'should have first asked itself' whether Operation Storm was a legitimate military operation and only then gone on to consider if there was a joint criminal enterprise. The notice states that the Trial Chamber should have concluded that Markac was 'misinformed' about the murder of the elderly Serbs in the village of Grubori. In the judgment, the Trial Chamber found that Markac wanted to cover up the incident. The defense also contends that the Trial Chamber erred when it concluded that the special police, headed by Markac, participated in the indiscriminate shelling of Gracac and the destruction and looting in that town, and in the torching of Donji Lapac and murders of civilians.

The prosecution briefly announced today that it 'decided not to appeal having reviewed the judgment'. This indicates that the prosecution is happy with the sentence imposed on Gotovina and Markac. It also means that Ivan Cermak's acquittal on all charges for crimes against Serbs in Krajina is now final.

2011-05-23

THE HAGUE

CROATIAN GENERALS GET AN APPEALS CHAMBER

ICTY president Patrick Robinson has appointed five judges who will rule on the appeals filed by the defense teams of Ante Gotovina and Mladen Markac. The Croatian generals have appealed their conviction for the joint criminal enterprise and their sentences, 24 years for Gotovina and 18 years in prison for Markac.



◀ Ante Gotovina, Ivan Cermak and Mladen Markac in the courtroom

The Tribunal today announced the composition of the Appeals Chamber that will hear the appeals in the case of two Croatian generals: judges Mehmet Guney from Turkey, Fausto Pocar from Italy, Andresia Vaz from Senegal, Theodor Meron from the USA and Carmel Agius from Malta. The Tribunal's president Patrick Robinson signed the decision on their appointment.

The judges will deliver their judgment on the appeals filed by the defense teams against the Trial Chamber's judgment sentencing Gotovina to 24 years and Markac to 18 years in prison for their involvement in the joint criminal enterprise aimed at forcible and permanent

elimination of Serb civilians from Krajina. In the judgment, the Trial Chamber with Dutch judge Alphons Orié presiding found the two generals guilty of persecution, murder, deportation and other crimes against Krajina Serbs and their property during and after Operation Storm in the summer of 1995. The Trial Chamber acquitted General Ivan Cermak of all charges.

The prosecution hasn't appealed against the judgment, considering that as far as Gotovina and Markac are concerned, the Trial Chamber's findings 'adequately reflect the scale of the crime and the individual responsibility' of the accused. As for Cermak's acquittal, the prosecution considers there 'is not much hope for success of an appeal that would justify launching the appellate proceedings'.

2011-06-23

THE HAGUE

GOTOVINA SEEKS HELP FROM SERBIA

The defense of convicted Croatian general Ante Gotovina has been prompted by Slobodan Milosevic's words at a Supreme Defense Council meeting to consider that there are documents that 'probably may be of use' in their effort to overturn the Trial Chamber's judgment on appeal. Gotovina's defense has asked the Appeals Chamber to compel Serbia to deliver the documents by 15 July 2011.

Ante Gotovina's defense has recently obtained information that, his lawyers contend, might help him overturn the Trial Chamber's judgment on appeal. Gotovina was sentenced to 24 years and Mladen Markac to 18 years in prison respectively for crimes against the Krajina Serbs. The documents are the recently disclosed transcripts of the meetings of the FR Yugoslavia's Supreme Defense Council published in their entirety on the SENSE news agency website.

The defense began with the minutes of the Supreme Defense Council's 41st meeting of 14 August 1995, where the Serbian president Slobodan Milosevic says that it would be 'idiotic' to help the RSK after they decided to leave Krajina causing an exodus of the people, 'when all the conditions were in place for them to defend themselves'. 'Is this supposed to be the reason for Yugoslavia to rush in there and defend the territories they fled like a bunch of rabbits', Milosevic asked.

The defense contends that the quote is relevant for the Croatian generals' appeal because it 'sheds new light on what the Serb leadership thought was the reason why civilians fled Krajina' during and after Operation Storm. According to the defense, Milosevic's words underpin their argument that the main reason why Serbs left Knin, Obrovac, Benkovac, Gracac and other parts of Krajina was an evacuation order issued by the Krajina authorities, not artillery attacks launched by the Croatian army and police.

Prompted by Milosevic's words, the defense filed a motion seeking the disclosure of the

additional minutes of the Supreme Council Defense meetings which might be relevant for the appellate proceedings. In the minutes of the 43th meeting of 29 August 1995, the defense found a trail leading to the documents that might be of help. According to the minutes from the 43th meeting, all officers, including the commander of the VJ 40th Personnel Center covering the Krajina area, were obliged to write 'statements about the events in their areas of responsibility during the Croatian aggression against the RSK' and send them to chief of the VJ General Staff Momcilo Perisic.

The defense lawyers contend that the documents 'might contain' information about the reasons why Serbs left Krajina which could support the defense case. The defense thus sent a request in late May 2011 to the Republic of Serbia through the Serbian embassy in the Netherlands, asking them to deliver the documents. Having received no answer by 15 June 2011, the defense sent a new request, to no avail. The defense was prompted to file a motion, asking the Appeals Chamber to compel Serbia to provide the documents by 15 July 2011. The defense listed the documents it is seeking or the indicia of their existence in a confidential annex.

Generals Ante Gotovina and Mladen Markac were sentenced to 24 or 18 years respectively for their roles in the joint criminal enterprise headed by Croatian president Tudjman and aimed at a forcible and permanent expulsion of Serb civilians from Krajina. Ivan Cermak faced the same charges but was acquitted on all counts. Unlike the prosecution, the defense teams of Gotovina and Markac appealed against the judgment.

2011-09-07

THE HAGUE

GOTOVINA'S DEFENSE RENEWS REQUEST FOR ASSISTANCE FROM SERBIA

The defense of the Croatian general once again asks the Appeals Chamber to issue a subpoena to the Republic of Serbia compelling it to deliver documents that could purportedly help Ante Gotovina to overturn the Trial Chamber's judgment on appeal.

Ante Gotovina's defense today renewed its request to the Appeals Chamber to issue a subpoena to the Republic of Serbia to compel it to deliver documents that, in its opinion, might help the accused in his appeal. The documents are the reports of the officers serving in the VJ 40th Personnel Center in the Krajina Serb Army about the events during Operation Storm. The defense believes that those reports exist and that the information they contain could help it prove that the Krajina Serbs didn't flee their homes in fear of the Croatian Army's shells but because the Knin authorities ordered them to evacuate.

Gotovina's defense wrote to the Serb authorities on 15 June 2011 asking them to provide the documents. Having received no response after a week, the defense filed a motion to the Appeals Chamber, asking it to issue a subpoena to Serbia to compel it to disclose the documents to the defense. In the motion, the defense noted that the minutes from the Supreme Defense Council from August 1995 showed that all the officers from the 40th Personnel Center, including the commander, were under an obligation to submit 'reports on the events in their units' areas of responsibility during the Croatian aggression on the RSK' to the chief of the VJ General Staff Momcilo Perisic. According to the defense, the reports 'might contain' information about the Serbs' exodus from Krajina which could favor the accused general. The defense submitted an exact list of documents or at least the indicia of their existence, in a confidential appendix.

On 19 July 2011, the Appeals Chamber rejected the defense's motion stating that Serbia 'has not been given enough time to respond to the defense request' and that 'it could not yet be said that Serbia was refusing to voluntarily produce the requested documents'. The defense sent a letter to Rasim Ljajic, head of the National Council for Cooperation with the ICTY the same day, renewing its demand for the documents to be delivered. Having received no answer from Serbia, the defense has now decided to again ask the Appeals Chamber to intervene.

In its motion, the defense urged the Appeals Chamber to order Serbia to deliver the documents 'without delay' by 30 September 2011. The defense says the judges should decide to do this 'without giving Serbia an opportunity to be heard'.

Generals Ante Gotovina and Mladen Markac were sentenced to 24 and 18 years respectively for their part in the joint criminal enterprise headed by Croatian president Tudjman. The goal of the joint criminal enterprise was to forcibly and permanently expel the Serb civilians from Krajina during and after Operation Storm in the summer of 1995. The judges acquitted General Ivan Cermak of all charges in the indictment. Both Gotovina's and Markac's defense teams appealed against the judgment. The prosecution decided not to appeal.

2011-09-27

THE HAGUE

GOTOVINA COMPLAINS ABOUT CROATIA

Gotovina's defense want the Appeals Chamber to issue an order to the Republic of Croatia to terminate criminal proceedings against Marin Ivanovic, a member of Gotovina's defense team, and to explain why this hasn't already been done, in light of the Trial Chamber's order to that effect issued seven months ago.



◀ Ante Gotovina in the courtroom

In a motion submitted to the Appeals Chamber with Judge Theodor Meron presiding, Ante Gotovina's defense says the Republic of Croatia has yet to comply with an order that the judges issued in February 2011. The Trial Chamber ordered the Croatian authorities to terminate all criminal proceedings against members of Gotovina's defense team. The Appeals Chamber had previously decided that members of Gotovina's defense did enjoy 'functional immunity' before domestic courts.

In their latest motion, the defense recalls that in November 2008, Marin Ivanovic, a member of Gotovina's defense team, was charged with 'concealing archival material': documents produced by the Croatian Army during and after Operation Storm in 1995. In July 2010, Ivanovic was acquitted of all charges. Nevertheless, in January 2011 the Croatian public prosecutor's office appealed against the judgment. The appeal has not been withdrawn, despite the Trial Chamber's order from February 2011.

The defense is now urging the Appeals Chamber to order Croatia to comply with the order and terminate the appellate proceedings in the Marin Ivanovic case and to explain why this hasn't already been done in the seven months after the first order was issued.

The case of generals Ante Gotovina and Mladen Markac is now in the appellate stage. Gotovina was sentenced to 24 years in prison and Markac to 18 years for their part in the joint criminal enterprise headed by Croatian president Tudjman and aimed at a forcible and permanent elimination of Serb civilians from Krajina during and after Operation Storm, in the summer of 1995. The judges acquitted General Ivan Cermak of all charges. Unlike the prosecution, Gotovina's and Markac's defense teams appealed against the judgment.

2011-09-30

THE HAGUE

PROSECUTION: 'CONFIRM GOTOVINA'S AND MARKAC'S SENTENCE'

In its response to the appellate briefs filed by the two Croatian generals, the prosecution states that the Appeals Chamber should reject all grounds of appeal denying the existence of the joint criminal enterprise aimed at expelling Serbs from Krajina and the participation of the two accused in it.



◀ Helen Brady, member of the prosecution team

The prosecution contends that in their appellate briefs Ante Gotovina and Mladen Markac 'failed to point to any errors' in the trial Chamber's findings. The Trial Chamber sentenced the two Croatian generals to 24 and 18 years in prison respectively. The prosecution therefore urges the Appeals Chamber to 'dismiss in its entirety' the generals' demand for their acquittal.

In its response to Gotovina's appellate brief, the prosecution notes that the defense 'has shown a substantial failure to understand' the Trial Chamber judgment when it contested the Trial Chamber findings about the unlawful artillery attack on Knin. The defense stated in the appellate brief that the Trial Chamber

reached its conclusion about the unlawful attack on Krajina after it was established that 5% of a total of 1,200 shells hit civilian areas, or 200 meters or more from the nearest military target. The prosecution notes that the Trial Chamber confirmed the exact point of impact for 154 shells: 77 of them hit civilian areas: that makes 50%, not 5% of the total. The defense's conclusion, the prosecution states, is based on an assumption that all shells for which it was impossible to determine the exact point of impact in fact fell within a 200-meter radius from military targets.

The prosecution notes in its response that the finding about the indiscriminate shelling of towns was not based only on the statistical analysis of shell impacts, but also on the order General Gotovina issued on 2 August 1995. In the order, Gotovina demands that 'Knin, Benkovac, Obrovac and Gracac be put under artillery fire', or, to treat entire towns as targets.

The defense argued that the Trial Chamber erred when it rejected 'reliable evidence' on the evacuation plans and anti-Croat propaganda of the Krajina authorities as a reason for the Serb civilians leaving Krajina. The prosecution supported the conclusion in the judgment that the 'primary and direct cause' of the exodus of the tens of thousands of civilians was their fear from indiscriminate shelling. In the appeal, the prosecution contends, the defense merely reiterates 'the arguments rejected at the trial' and presents 'a misunderstood view' of the findings on the unlawful artillery attack. According to the prosecution, the defense is in the wrong when it asks the judges to link each fallen shell with a particular incident in which civilians fled, disregarding the statements of witnesses and failing to see the evidence as a whole.

Finally, the prosecution contests the claims made in the appellate brief denying the existence of a joint criminal enterprise aimed at expelling Serbs from Krajina and General Gotovina's participation in it. The prosecution recalls that the Trial Chamber's finding on the enterprise was based on four elements, which all 'corroborate each other'. The first is the transcript of the Brijuni meeting where the participants, including President Tudjman and the two accused, agreed on carrying out the unlawful artillery attack. This resulted in Gotovina issuing an order to his troops to 'treat entire towns as targets'. The second piece of evidence is the unlawful attack of 4 and 5 August 1995 itself, which resulted in at least 20,000 civilians fleeing Krajina. The third element is the crime spree committed by the Croatian armed forces after they entered Krajina. The crimes led to a climate in which 'victims had no other choice but to leave'. The fourth element consists of the legal and other measures implemented by the Croatian government to prevent the Serb refugees from returning to Krajina and to facilitate the settlement of Croats in the Serb homes. The defense's bid to look at those elements 'in isolation and out of their context' should be rejected, the prosecution argued.

The prosecution contends that the appellate brief in which the defense contests the allegation that Gotovina was part of the joint criminal enterprise focuses more on '[the defense's] interpretation of evidence instead of the Trial Chamber's findings', stubbornly repeating that there 'is no evidence' to uphold the conclusions in the judgment. According to the prosecution, this approach is not in line with the appellate standards and should be dismissed. The prosecution's brief goes on to list the indicia of Gotovina's involvement in the joint criminal enterprise, such as his active participation at the Brijuni meeting, his issuing the orders for the artillery attack and his failure to punish the perpetrators and prevent crimes after the Croatian Army overran Krajina.

The prosecution's response to Mladen Markac's appeal uses similar arguments regarding the existence of the joint criminal enterprise. The only exception is that the former special police commander ordered the unlawful attack only on Gracac and not, like Gotovina, on several Krajina towns, the prosecution alleges.

The prosecution argues that the Appeals Chamber should reject all the grounds of appeal submitted by Markac's defense: Markac has denied the responsibility of the Croatian special police for the destruction and looting of Gracac, the burning of Donji Lapac and the murder of civilians in the village of Oraovac. The prosecution maintains there is sufficient evidence that Markac knew about the murder of five elderly Serbs in the village of Grubori and that he deliberately tried to cover up the crime instead of investigating it, and contributing to the punishment of the perpetrators.

In Gotovina's appellate brief his defense demanded that he be acquitted. Markac's defense alternatively called for a milder sentence and the prosecution emphasized that the 18-year sentence was commensurate to the crimes the former special police commander was convicted of. They include the gravest war crimes such as persecution, murder, inhumane treatment and deportation. The prosecution recalled that those were 'among the cruelest crimes known to humanity'.

2011-10-03

THE HAGUE

DEFENSE REPLIES TO PRESECUTOR'S REPLY

The defense claims that in its response to Gotovina's appellate brief the prosecution didn't offer any arguments that might convince the Appeals chamber not to invalidate the judgment sentencing the Croatian general to 24 years in prison.

General Ante Gotovina's defense believes their Appeal should be adopted. They claim the prosecution didn't offer any arguments in its reply which could contest the claims in Defense Appeals Brief. General Gotovina was sentenced to 24 years in prison in April this year, as a participant in the joint criminal enterprise (JCE) aimed at expelling Serbs from Krajina during and after Operation „Storm“ in 1995. Defense urges the Appeals Chamber to invalidate the findings in the judgment and „acquit“ former commander of Split Military District „of all charges“.

Defense contends that the prosecution's argument on the existence of a joint criminal enterprise „rests on the bootstrapping of four individually unproven arguments, each used to prove the existence of the other“. These are the Brioni meeting, indiscriminate shelling, crimes of Croatian Army and Police and measures implemented by the Croatian government to prevent the Serb refugees from returning to Krajina after Operation „Storm“.

In its reply, Gotovina's defense states that the prosecution „never cites“ the transcript of Brioni meeting from 31 July 1995 in support of its claims. According to the prosecution, participants of that meeting „explicitly refer[ed] to forcing the flight of the Serb civilian population out of the Krajina through the unlawful attack“. The defense contends that the prosecution „concedes“ there was no „formal decision“ taken at Brioni to expel Serbs, and no „single statement“ at the Brioni meeting would indicate that there was intent to target Serb civilians with artillery.

The defense also contests the prosecution's argument that the judgment properly concluded that Gotovina's aim was „to treat entire towns as targets“. According to judgment, this was done through the order issued on 2 August 1995 in which Gotovina demands that 'Knin, Benkovac, Obrovac and Gracac be put under artillery fire'. Defense states that the Tribunal's Conference and Languages Services Section (CLSS) erred when they translated word „udari“ as „fire“, instead of translating it as „strikes“. That mistake in the translation drastically changed the situation, because the word „udari“ indicates that artillery attacks were aimed at military targets. According to the defense, it is clear from the later orders issued by Gotovina and Commander of the HV artillery during Operation Storm Marko Rajcic. The defense claims that those orders clearly mark military targets which should be attacked in the above-mentioned towns. Finally, the defense believes there is „no finding or evidence of direct targeting of civilians and no basis to infer an indiscriminate attack“. As a result „the entire Judgment collapses“, the defense claims.

The Chamber, the defense notes, specifically found that the common objective of JCE „did not amount to, or involve, the commission of the natural and foreseeable crimes“. The prosecution at the same time claims that crimes were planned. If these crimes were intended they would have formed part of the common JCE objective. The Chamber „found they did not“, defense claims.

The prosecution claims that Serb refugees were prevented from returning to Krajina. „Prosecution does not dispute that if the Krajina Serbs were not deported from the four towns, then the demographic policy post-Storm was not unlawful“, defense claims.

Gotovina „was not a member of, and did not significantly contribute to, a JCE“, the defense states. That is, according to them, clearly confirmed in the parts of their Appeals Brief, allegedly unchallenged by the prosecution. The Appeals brief states: numerous times Gotovina exclusively „ordered to target military objectives“; „the Chamber made no finding of any civilian deaths or injuries from shelling“; „every subsequent investigation by impartial observers and human rights organizations failed to uncover any evidence of unlawful shelling“. Finally, the defense also stated that general Gotovina took „all steps“ before and after Operation Storm „to prevent/punish crime“ against civilians and their property.

2011-12-05

THE HAGUE

GOTOVINA SEEKS 'ARTILLERY LOGS' FROM UN

The defense has asked the Appeals Chamber to issue an order to the United Nations to disclose the HV 'artillery logs' from Operation Storm. The logs purportedly contain information important for the defense's challenge of the Trial Chamber's judgment, sentencing Ante Gotovina and Mladen Markac to 24 and 18 years respectively, for crimes against Serb civilians.



◀ Ante Gotovina in the courtroom

The defense of the Croatian general Ante Gotovina claims that some of the so-called artillery logs could be found in the UN archives. The artillery logs which could, as the defense contends, assist it in its appeal, are the Croatian Army documents produced during Operation Storm, which contain information about the artillery targets in Knin and other towns in Krajina that were shelled in the operation. During the trial, the prosecution sought the documents from the Republic of Croatia in vain in a bid to prove that the artillery attacks on Knin and other towns were indiscriminate. The defense now claims that the missing documents contain information that could prove the opposite, that the HV artillery shelled only military targets.

The defense's claim that the UN has in its possession some of the 'artillery logs' is based on the evidence of former UN military observer, Russian colonel Alexander Tchernetsky. In his testimony before the Tribunal, Tchernetsky said that in September 1995 he had found some of the artillery documents in an abandoned HV command post in BH. Tchernetsky claimed that he gave the documents to the head of the UN observers in Zagreb, British officer Peter Williams. Williams handed the documents to Russian military officer Viktor Tarusin, chief of the Military Information Center. This is where the documents 'of great importance were inexplicably lost'.

The defense has been granted access to the UN archives in Geneva and New York on several occasions but the lawyers were unable to locate the requested documents. The defense has now asked the Appeals Chamber to order the United Nations to find and deliver the 'artillery logs' in their possession. If the UN fails to do that, the defense wants the judges to order the UN to provide a detailed report on the investigation. The report should also specify what Tchernetsky, Williams and Tarusin know about the missing documents.

The Appeals Chamber has recently denied the motion filed by Gotovina's defense to order the Republic of Serbia the disclosure of reports of the Yugoslav Army which allegedly show that the Serb civilians left Krajina voluntarily and not under pressure. The Appeals Chamber ruled that the additional information wouldn't 'have a decisive impact' on the outcome of the challenge to the Trial Chamber's judgment, sentencing Ante Gotovina and Mladen Markac to 24 and 18 years in prison respectively for their involvement in the joint criminal enterprise aimed at the permanent elimination of Serbs from Krajina. The Trial Chamber acquitted Croatian general Ivan Cermak of all charges.

2012-01-13

THE HAGUE

AMERICAN EXPERTS: 'REJECT THE FINDINGS OF UNLAWFUL ARTILLERY ATTACKS ON KRAJINA'

Twelve military experts, including an expert of General Ante Gotovina's defense, have urged the Tribunal's Appeals Chamber to reject the findings in the Trial Chamber's judgment of the unlawful artillery attacks on civilians in the Krajina towns during Operation Storm. The experts have recalled the significance of the appellate judgment for the development of international humanitarian law.

In the capacity of 'Amicus Curiae', a group of military experts has today submitted a motion to the Appeals Chamber in the case of Croatian generals Ante Gotovina and Mladen Markac. The group urges the Appeals Chamber to 'reconsider and reject' the findings in the Trial Chamber's judgment on the unlawful artillery attack on civilians in Knin and other Krajina towns during Operation Storm in early August 1995. Twelve persons who 'share interest and expertise in the relationship between military operational practice and international humanitarian law' have signed the motion to the Appeals Chamber. Most of them are Americans; Geoffrey Corn, who testified as a military expert in Ante Gotovina's defense, is among them.

On 15 April 2011, the Trial Chamber sentenced generals Ante Gotovina and Mladen Markac to 24 and 18 years in prison respectively for their part in the joint criminal enterprise aimed at eliminating Serbs from Krajina. The

judgment found that the artillery attacks on Knin, Obrovac, Benkovac and Gracac were indiscriminate and unlawful because they targeted civilians and not the Krajina army. The indiscriminate attack was only one of the elements of the joint criminal enterprise headed by Croatian president Franjo Tudjman, the judgment concluded.

In the general introduction to the motion, “*Amicus Curiae*” warn the Appeals Chamber that the final judgment in the case against the Croatian generals vis-a-vis the artillery attack will substantially affect the future application of international humanitarian law in armed conflicts. Also, the motion cautions that ‘no operational commander can guarantee absolutely perfect execution of even the most legally compliant targeting plan’.

The Amici state they are ‘concerned’ by the Trial Chamber’s decision to consider all shells that fell more than 200 meters away from military targets in Krajina towns as a part of a deliberate attack on civilian targets. The 200-meter limit has never been established in military practice, and that is the standard, the signatories claim, that is “inconsistent with operational reality”. Even if such a limit were accepted in the appellate judgment, the judgment established that only 4 % of the shells did not hit military targets, the military experts note. In their view, this is no evidence that Gotovina intended to target civilians. The Trial Chamber in its judgment said that the exact place of impact was established only for a smaller number of shells that fell on Knin on 4 and 5 August 1995. Of that percent, a ‘large quantity of shells hit civilian targets’.

The only specific example in the twelve experts’ motion is the artillery attack launched by the Croatian Army on the apartment of the Krajina Serb president Milan Martić. The Trial Chamber’s judgment described the attack as disproportionate. The commander of Operation Storm, Ante Gotovina, had the right to launch the attack in order to reduce the president’s ability to influence military decisions, the experts contend. Gotovina “took great care’ to avoid civilian casualties although he could “reasonably believe” that “most of the civilians had left the residential area in the vicinity of the Martić apartment”.

The motion was filed in line with the Tribunal’s rule allowing every country, organization or individual, acting as ‘a friend of the court’ to submit their opinions to the Tribunal, solicited or unsolicited. The defense and the prosecution have the right to reply.

2012-01-24

THE HAGUE

PROSECUTION URGES JUDGES TO REJECT AMERICAN EXPERTS’ BRIEF

The prosecution has responded to the brief filed by twelve military experts who urged the Appeals Chamber as *amici curiae* to reject the Trial Chamber’s findings in the case of Croatian generals Ante Gotovina and Mladen Markac. The prosecution contends that the brief “couldn’t assist Appeals Chamber” as its contents are ‘irrelevant’ and its authors ‘are neither objective nor impartial’.



◀ Ante Gotovina, Ivan Cermak and Mladen Markac in the courtroom

The prosecution has urged the Appeals Chamber hearing the case of Croatian generals Ante Gotovina and Mladen Markac to reject the brief filed by 12 military experts in the capacity of the *amici curiae*. In their brief, they urged the judges to reject the Trial Chamber’s findings on the unlawful artillery attacks on civilians in Knin and other Krajina towns during Operation Storm in August 1995. Generals Gotovina and Cermak were sentenced to 24 and 18 years respectively for their involvement in the joint criminal enterprise aimed at eliminating Serbs from Krajina.

The prosecution contends that the brief filed by the *amici curiae* “couldn’t assist Appeals Chamber” because it was for the most part ‘irrelevant’. Large parts of the brief “repeat” what expert witnesses told the Trial Chamber during the defense case, the prosecution contends.

The prosecution notes in its response that the *amici curiae* ‘raise factual issues’ and ‘discuss non-controversial principles of law’, such as the postulates that criminal responsibility must be determined on the basis of the totality of the available evidence, that it is necessary to determine the existence of the *mens rea* of the accused and the presumption of innocence. The Trial Chamber took those principles into consideration in their judgment, the prosecution notes.

The prosecution also argues that the military experts didn’t address “questions of law” as they ‘should do as *amici curiae*’, but were focused on “issues of fact” and offering their own ‘conclusions that the Trial Chamber erred in number of areas’. They were thus trying to assume the roles of ‘defense lawyers, experts and fact finders’. As the prosecution argues, this ‘cannot assist the Appeals Chamber’.

The prosecution argues that the *amici curiae* are ‘not objective’ and that their brief is based on ‘a flawed understanding of the meaning and content of the Judgment’. As the prosecution argued, Geoffrey Corn served as a military expert

in Ante Gotovina's defense team, yet now he signed his name as an '*amicus curiae*' who 'should be objective and impartial'.

The prosecution wants the judges to reject the brief filed by the *amici curiae*. However, if the Appeals Chamber decides to admit it, the prosecution wants to be afforded "sufficient opportunity to respond fully on the merits to the submissions and to test factual assertions made in it".

2012-01-30

THE HAGUE

GOTOVINA'S DEFENSE: 'ACCEPT ARGUMENTS OF AMERICAN EXPERTS'

Croatian general Ante Gotovina's defense argues the motion filed by 12 American military experts about the lawfulness of the artillery attack on the Krajina towns tallies with what the defense has stated in its appellate brief. Gotovina's defense wants the Appeals Chamber, with US judge Theodor Meron presiding, to take the motion into consideration.

Twelve military experts acting as *amici curiae* have recently urged the Appeals Chamber to reverse the Trial Chamber's findings in the Ante Gotovina and Mladen Markac case. The prosecution has responded by petitioning the Appeals Chamber to dismiss the motion, labeling it biased. Unlike the prosecution, the defense has urged the Appeals Chamber to accept the arguments put forward by the military experts. Croatian generals Gotovina and Markac have been sentenced to 24 and 18 years respectively for their part in the joint criminal enterprise aimed at expelling Serb civilians from Krajina during and after Operation Storm in 1995.

The defense contends that the American experts' motion may help the Appeals Chamber "in understanding matters at the intersection between the laws of war and technical aspects of conducting military operations". The American experts argue that the findings in the judgment on unlawful artillery attack on Knin and other towns in Krajina should be reversed on appeal. The defense notes that the 12 *amici* have a great deal of military experience and are 'independent and impartial'. The fact that one of the signatories, Professor Geoffrey Corn, testified at the trial as Gotovina's military expert does not call into doubt their independence and impartiality.

The submission filed today also notes that the American experts' arguments may assist the Appeals Chamber in deciding whether the artillery attacks on the Krajina towns were lawful or not. The submission recalls a point made by the *amici* that Gotovina purportedly complied with international humanitarian law when he ordered the attack on Knin, including the targeting of the apartment used by the former president of the so-called Republika Srpska Krajina, Milan Martić. A former OTP legal advisor and several law professors are among the 12 experts.

The Appeals Chamber should rely on the positions put forward by the American experts regarding the Trial Chamber's finding that all the Croatian Army artillery shells that impacted at a distance greater than 200 meters from military targets as part of a deliberate attack on civilian targets. The *amici curiae* have expressed their 'concern' about that part of the judgment, stating that it was 'inconsistent with reality'.

Gotovina's defense repeats several times in their submission that the 12 American experts have a total of '290 years of military experience', noting that their findings substantially match the arguments put forward in the defense's appellate brief.

The defense therefore wants the Appeals Chamber to grant the motion filed by the *amici curiae* and allow the parties to submit their detailed comments on the document.

2012-02-14

THE HAGUE

'AMICUS CURIAE' BRIEF IN THE CASE OF CROATIAN GENERALS DENIED

The judges are 'not convinced' that the brief filed by 12 experts, most of whom are from the US, would assist them in dealing with the issues on appeal. The applicants want the Appeals Chamber to reverse the part of Ante Gotovina's and Mladen Markac's judgment about unlawful artillery attack on Serb civilians. The brief was denied mainly because of the concerns about the applicants' objectivity and because it revisits the issues already dealt with by the Trial Chamber and in the appeal briefs filed by the parties.

Judge Theodor Meron's Appeals Chamber denied today the motion filed by 12 military and legal experts, ten Americans, a Canadian and a Briton, who addressed the court as '*amici curiae*' and asked it to reverse the Trial Chamber's findings about unlawful artillery attack on civilians in Operation Storm in the summer of 1995 in the judgment of Croatian generals Ante Gotovina and Mladen Markac. The Trial Chamber sentenced Gotovina to 24 and Markac to 18 years in prison for their involvement in the joint criminal enterprise aimed at expelling Serb civilians from Krajina.



◀ Ante Gotovina and Mladen Markac in the courtroom

The judges recalled that the appellate proceedings were largely party-driven and that the parties assisted the Appeals Chamber through submissions on issues of fact. The Appeals Chamber added that the *Amicus Curiae* brief addressed 'numerous factual issues' and 'interpretations of evidence on the record'. Thus, the applicants readdressed the issues already dealt with by the Trial Chamber and in the appeal briefs filed by the parties. The judges in the Appeals Chamber noted that the three expert reports included in the *Amicus Curiae* brief were included among the reports appended to Gotovina's motion to admit additional evidence.

The judges noted that the American experts' motion had failed to disclose that one of the 12 applicants, military expert Geoffrey Corn, had testified earlier as Gotovina's defense's expert witness. The *Amicus Curiae* guidelines state that 'an *amicus* brief should include a statement identifying and explaining any contact the applicant had, or has, with any party to the case'. The Appeals Chamber recalled that another applicant had worked as a defense expert consultant, noting that this 'raises some additional concerns' about the objectivity of the *amici curiae*.

In light of all that, the judges concluded they are 'not convinced' that the proposed brief of the 12 experts 'would assist [us] in determining the issues on appeal' and thus decided to deny it.

It has been indicated earlier that the appellate hearing in the case against Croatian generals would be held 'in spring'. An exact date may be determined soon.

2012-04-05

THE HAGUE

GOTOVINA AND MARKAC WILL FACE APPEALS CHAMBER ON 14 MAY

The Trial Chamber with Judge Theodor Meron presiding has scheduled an appellate hearing for 14 May 2012. The defense of the two convicted generals will present their arguments against the Trial Chamber's judgment, sentencing Ante Gotovina and Mladen Markac to 24 and 18 years in prison respectively. The prosecution will then respond to the arguments. The two generals may address the court if they wish.

Thirteen months after the Trial Chamber handed down its judgment to Croatian generals Ante Gotovina and Mladen Markac, an appellate hearing has been scheduled following the appeals of the two generals. The judgment, delivered on 15 April 2011, sentenced Gotovina to 24 and Markac to 18 years in prison for crimes against Serbs in Operation Storm. The appellate hearing has been scheduled for 14 May 2012. The prosecution has not appealed, apparently satisfied with the sentences.

The scheduling order signed by the presiding judge of the Appeals Chamber Theodor Meron indicates that Gotovina's defense will be the first to address the judges on 14 May 2012, after brief introductory remarks by the judges, which should not take longer than ten minutes. Gotovina's defense will have an hour and a half for its presentation. The prosecution will then have the same amount of time to respond. The defense will have half an hour for its rejoinder. Markac's defense will then present its arguments, following by the prosecution's response and the defense's rejoinder. At the end of the hearing, the two accused will have ten minutes each to address the judges. The hearing will begin at 9 a.m. and is expected to be end by 6:30 p.m.

The Appeals Chamber will present a detailed schedule and any instructions to the parties to address specific issues that may interest the judges in court in a forthcoming decision.

Ante Gotovina and Mladen Markac were convicted of persecution, deportation, looting and destruction of property, murder, inhumane acts and cruel treatment of Krajina Serbs during and after Operation Storm, in the summer of 1995. The judgment found that the crimes were committed as part of a joint criminal enterprise whose aim was to expel Serb civilians from Krajina. Gotovina, who commanded the Split Military District at the time, was in charge of the operation, while Markac commanded the special police who participated in Operation Storm. The Trial Chamber found that the Croatian president Franjo Tudjman headed the joint criminal enterprise, while the accused, defense minister Gojko Susak, chief of the Croatian Army Main Staff Zvonimir Cervenko and other high-ranking officials were its participants.

In their appellate briefs, the defense of the two convicted generals asked the Appeals Chamber to reverse the finding about the existence of a joint criminal enterprise, mainly by contesting one of its elements, the artillery attack on Knin and other Krajina towns. The defense contends that the whole judgment is based on 'arbitrary conclusions' of the Trial Chamber; there is no evidence that the shelling constituted an 'unlawful attack on civilians'. The Trial Chamber's judgment acquitted the Knin Garrison commander Ivan Cermak on all counts in the indictment. As the prosecution did not appeal against Cermak's acquittal, he is now a free man.

2012-04-20

THE HAGUE

GOTOVINA AND MARKAC TO RETURN TO COURT SOON AFTER THEIR APPELLATE HEARING

Gotovina and Markac will first be in court for the appellate hearing following their appeals against their sentences of 24 and 18 years in prison respectively. Nine days later, there will be a status conference to allow the accused to raise any issues related to the conditions of their detention and their health.

On Wednesday, 23 May 2012, Judge Theodor Meron will conduct a status conference in the appellate proceedings for Croatian generals Ante Gotovina and Mladen Markac. Such status conferences are held in line with the Tribunal's rules once every four months, to allow the accused to present any complaints they may have regarding the conditions in the detention unit and to tell the judges about any health problems. Any pending administrative issues may be discussed. The last status conference was held on 26 January 2012.

Nine days before the status conference, on Monday 14 May 2012, there will be the appellate hearing in the Gotovina and Markac case. On 15 April 2011, former commander of the Split Military District Ante Gotovina was sentenced to 24 years in prison for crimes against Serbs during and after Operation Storm, in the summer of 1995. Mladen Markac, who commanded the Croatian special police, was sentenced to 18 years. Both accused appealed against the Trial Chamber's judgment, contesting the judges' findings that there was a joint criminal enterprise aimed at expelling Serb civilians from Krajina and that the accused took part in it.

The prosecution didn't appeal against Gotovina's and Markac's sentences and the acquittal of the former Knin Garrison commander Ivan Cermak.

2012-04-24

THE HAGUE

KEY ISSUES DEFINED FOR APPELLATE HEARING IN OPERATION STORM CASE

The Appeals Chamber presented to the parties four key issues they should deal with at the appellate hearing scheduled for 14 May 2012. The issues refer to the Trial Chamber's finding that the artillery attack launched by the Croatian Army on Krajina towns was unlawful and that, as such, it constituted an element of the joint criminal enterprise aimed at expelling Serbs from Krajina.

Three weeks before the appellate hearing in the case of Croatian generals Ante Gotovina and Mladen Markac, Judge Meron and his Appeals Chamber presented to the parties a list of issues the parties should deal with in their oral arguments. The appellate hearing will take place on 14 May 2012 and will take the whole day.

In the order published today, the sides were asked to focus in their oral arguments on the topics dealt with in the briefs filed by Gotovina and Markac. The parties were also cautioned against presenting new arguments. The prosecution and the defense were invited to consider four issues related to the Trial Chamber's finding about the unlawful artillery attacks on Knin and other Krajina towns as one of the elements of the joint criminal enterprise aimed at expelling Serbs from Krajina during and after Operation Storm in the summer of 1995.

The first issue the parties should consider is whether the Trial Chamber erred in "applying a 200 meter range of error in analyzing the lawfulness of artillery shelling". Secondly, the parties should consider whether the conclusions regarding the shell impacts in civilian areas could be upheld if the application of the legitimate 200 m range of error from military targets is found to be erroneous. If the conclusions on impact sites are quashed, the Appeals Chamber has the third question: whether the findings on the unlawful artillery attacks may be upheld. Finally, if the Appeals Chamber quashed the finding about the unlawfulness of the artillery attacks, the parties should consider if the Trial Chamber's finding that the existence of a joint criminal enterprise aimed at expelling Serbs from Krajina should be reversed.

All of these issues are related to the key arguments listed in Gotovina's appellate brief. Gotovina's defense stated that the entire judgment was based on an 'arbitrary' conclusion that all shells that fell more than 200 meters away from military targets were illegal. If the Appeal Chamber quashes this conclusion, the Trial Chamber's judgment 'cannot be upheld', Gotovina's defense argued. Gotovina was convicted because he ordered an unlawful artillery attack which was the 'main and direct cause' of the Serbs' exodus from Krajina. The conclusion that Gotovina participated in the joint criminal enterprise was also based on this finding. The Trial Chamber listed in its judgment other elements of the joint criminal enterprise, such as plans to expel Serbs made at the Brijuni meeting, the looting and burning of Serbs' houses and preventing the refugees from returning to their homes.

In April 2011, Ante Gotovina, former Split Military District commander, was sentenced to 24 years in prison. Mladen Markac, who commanded the special police, received an 18-year sentence. Ivan Cermak, the Knin Garrison commander, was acquitted on all counts. Gotovina and Markac filed appeals against the judgment; the prosecution didn't appeal.

2012-05-14

THE HAGUE

GOTOVINA'S DEFENSE DENIES UNLAWFUL ATTACKS ON CIVILIANS

In the first part of the appellate hearing in the Operation Storm case, General Ante Gotovina's defense exchanged arguments with the prosecution. The defense challenged the Trial Chamber's finding about the existence of a joint criminal enterprise aimed at permanently eliminating Serb civilians from Krajina. The Trial Chamber found that the aim was implemented through an unlawful attack on civilians in Knin and other towns in Krajina in August 1995.

The Trial Chamber's findings about the existence of a joint criminal enterprise aimed at permanently expelling Serb civilians from Krajina are based on an erroneous conclusion that all artillery impacts that fell outside of a 200-meter radius from the nearest military targets were unlawful, General Ante Gotovina's defense contends. At the appellate hearing in the Operation Storm case, the defense noted that the Trial Chamber 'invented' this standard and then used it as a basis for two findings: that the attacks on Knin, Obrovac, Benkovac and Gracac were unlawful and that there was a joint criminal enterprise. The Trial Chamber sentenced General Ante Gotovina to 24 and General Mladen Markac to 18 years in prison for crimes against Krajina Serbs. Both defenses appealed against the judgment.

As Gotovina's defense lawyer Luka Misetic said, the Trial Chamber says in its judgment that only five percent of the 1,200 shells fired on Knin and other Krajina towns on 4 and 5 August 1995 fell outside of the 200-meter radius. The defense contends that the prosecution failed to prove that the buildings in the areas designated as civilian by the Trial Chamber were in fact been used for civilian purposes only.

According to the defense, these circumstances indicate that General Gotovina issued an order for a lawful attack on legitimate military targets in Operation Storm in early August 1995. Furthermore, no evidence was called during the trial about the deaths or injuries to civilians caused by the shelling of Knin. Not 'a single rumor' has surfaced in the eighteen years since Operations Storm about any civilians who may have been harmed in it.

In his response to the defense, prosecutor Douglas Stringer said that the Trial Chamber concluded that the 200-meter radius was legitimate based on the evidence of a prosecution military expert. Even if the Appeals Chamber rejects the finding, the Trial Chamber's conclusion about the unlawfulness of the attacks may continue to stand. The prosecution contends there is ample evidence to support this finding, such as Gotovina's order of 2 August 1995 in which Gotovina says that the artillery should attack the enemy front lines and other military targets and 'put towns of Knin, Benkovac, Obrovac and Gracac under artillery fire'. The Croatian Army reports also stated that urban areas were attacked indiscriminately. One such document reports that 18 projectiles were fired 'on the general area of Knin'.

The prosecution contests the defense's claim that 95 percent of the shells hit areas with military targets, recalling that the Trial Chamber established the exact impact sites for only 10 percent of the fired projectiles. Half of these hit civilian areas. The prosecution contends that the shell impact analysis showed they were 'distributed all over entire towns'. Prosecutor Matthew Cross asked if it was really necessary to fire 900 shells on Knin in a day and a half. At the time there were only 150 soldiers and 15,000 civilians in Knin.

The prosecution responded to the claim that the shelling didn't injure or kill a single civilian by insisting that witnesses spoke about the bodies strewn in the streets of Knin. The prosecution did not have to call detailed evidence about those deaths and injuries because its case was that the attacks were carried out to persecute, not kill, civilians. As the prosecution noted, those who had to flee Krajina because of this unlawful attack could also be counted as victims of the shelling.

Today, the prosecution noted that the unlawful attack on Knin was just one of the elements in the joint criminal enterprise, calling on the Appeals Chamber to look at the evidence in its entirety: from the plans to expel civilians made at the Brijuni meeting to the shelling during Operation Storm, the murder of civilians, looting and destruction of their homes and other crimes General Gotovina failed to investigate and prevent, and finally the effort to prevent the refugees from returning. The accused didn't take an active part in this effort, but other participants of the joint criminal enterprise headed by President Franjo Tudjman did.

2012-05-14

THE HAGUE

MARKAC'S DEFENSE BRINGS DOWN 'HOUSE OF CARDS'

The defense of the former Croatian special police commander contends that the Trial Chamber's judgment will fall down like a 'house of cards' and the accused will be acquitted. The prosecution highlighted Markac's role in the planning of the expulsion of Serbs from Krajina, the unlawful shelling of Gracac, the murder of civilians and destruction of their property. The two accused addressed the Appeals Chamber in different languages to convey similar messages.



◀ Mladen Markac in the courtroom

As the appellate hearing in the Operation Storm case continued, the defense of the former Croatian special police commander Mladen Markac presented its arguments challenging the Trial Chamber's findings in the judgment for crimes against Serbs during and after Operation Storm. The Trial Chamber sentenced Markac to 18 and General Ante Gotovina to 24 years in prison for those crimes. Markac's defense supported the arguments presented by Gotovina's defense this morning, challenging the Trial Chamber's judgment, adding some vivid illustrations.

As did Gotovina's defense, Markac's defense argued that the Trial Chamber's finding on the unlawful artillery attack on civilians in Krajina was untenable. According to Markac's defense, most of the 150 shells fired on the orders of the special police commander on Gracac impacted near military targets. If the Appeals Chamber agrees that there was no unlawful shelling, it will be compelled to find that the joint criminal enterprise aimed at eliminating Serbs from Krajina didn't exist, defense counsel John Jones argued.

'The Trial Chamber's judgment is like a house of cards that will fall down once the finding about the unlawful artillery attack is dismissed', Jones said. He compared the judgment with 'a knitted sweater' which will unravel if you pull out 'the main strand', the unlawful shelling. In short, without unlawful shelling, there can be no joint criminal enterprise and Markac's involvement in it.

In its response, the prosecution said that in late July 1995 Markac attended the Brijuni meeting where a decision was made to expel Serb civilians. Markac subsequently issued an order to his forces to treat the whole of Gracac as a military target. He thus contributed to the implementation of the joint criminal enterprise. Also, as the prosecution noted, Markac failed to do anything to prevent the special police which went on a rampage in this town in Lika on 5 and 6 August 1995, looting and destroying property, although he was right there. Similar arguments can be made regarding the destruction of Donji Lapac and Ramljane, and the killing of civilians and torching of the village of Grubori. The prosecution alleged and the Trial Chamber found that Markac tried to cover up those crimes.

Presiding judge Theodor Meron briefly interrupted the prosecution's argument, asking to what extent the Krajina leadership's decision to urge the people to evacuate contributed to the Serbs' exodus from Krajina. Prosecutor Ingrid Elliot replied that the decision did not have any impact for all intents and purposes because it was issued on 4 August 1995 at 5 pm. By that time, most of the people had already joined the columns of refugees that began forming in the early morning, when the artillery attack was launched. Gotovina's defense lawyer Misetic revisited the issue, claiming this was nothing but the prosecution's 'fancy': there was no evidence the most of the civilians did in fact leave their homes before 5pm that day.

At the end of the hearing, the accused were invited to address the Appeals Chamber. Former Split Military District commander Ante Gotovina decided to speak in French. As a human being, Gotovina said, 'I regret the loss of lives but I cannot be held responsible for other people's crimes and mistakes'. Gotovina admitted that the decision to evade justice for years was wrong. As he insisted, it cannot be proven that he 'ever wanted or agreed that a civilian or a soldier be killed only because they were ethnic Serbs'. As Gotovina said, 'I am an honest officer who tried to do my best in difficult circumstances'.

After Gotovina concluded his address, Mladen Markac took the floor. He said he was 'surprised with the claims made about Operation Storm as they have nothing to do with facts'. Markac insisted he was 'not a member' of a joint criminal enterprise. Before he came to The Hague, nobody had told him anything about the existence of such an enterprise, Markac explained. He was likewise unaware of any unlawful acts by his special police. 'As a human being and a humanist', Markac deeply sympathizes with the victims but does not feel he is guilty. He expects the judges to deliver a just judgment.

As the presiding judge brought the appellate hearing to a close, he indicated the final judgment would be rendered 'in due course'.

2012-07-20

THE HAGUE

MODES OF LIABILITY FOR GOTOVINA AND MARKAC

If Gotovina and Markac end up being acquitted of the artillery attack on Krajina towns or involvement in the joint criminal enterprise on appeal, should they be found guilty of command responsibility or aiding and abetting the crimes? The prosecution has to file its answers to those hypothetical questions asked by the Appeals Chamber before 10 August 2012 to assist the judges to achieve 'a just resolution' the appellate proceedings.

The Appeals Chamber has ordered the prosecution to present its opinion if the Croatian generals Ante Gotovina and Mladen Markac should be found guilty of command responsibility or aiding and abetting crimes, if they are acquitted

of the charges of artillery attack on civilians or the joint criminal enterprise aimed at the permanent elimination of Serbs from Krajina. The prosecution should file its submission by 10 August 2012. Gotovina's and Markac's defense are expected to respond by 31 August 2012.

In April 2012, Ante Gotovina, former Split Military District commander, and Mladen Markac, special police commander, were found guilty of taking part in a joint criminal enterprise and sentenced to 24 and 18 years respectively. The aim of the enterprise, the judgment concluded, was implemented through the indiscriminate shelling of Knin, Obrovac, Benkovac and Gracac in Operation Storm in the summer of 1995. The defense teams appealed against the judgment, asking the Appeals Chamber to reverse the 'arbitrary' finding on the existence of the joint criminal enterprise. According to the defense, this conclusion was based on 'uncorroborated arguments'.

In today's order, the Appeals Chamber referred to the previously presented written and oral arguments of the parties regarding the possibility of obtaining a conviction on alternative modes of liability. The Appeals Chamber holds this 'additional briefing' on the issue could assist the judges in a 'just resolution' of their appeals. The prosecution is expected to state if the 'remaining findings of the Trial Chamber' satisfy the legal standard confirming the existence of alternative modes of liability.

To avoid the notion that these unusual hypothetical questions to the prosecution imply that the acquittal of the Croatian generals is a 'sure thing', the Appeals Chamber has insisted that the order 'in no way expresses the Appeals Chamber's views on Gotovina's and Markac's appeals'.

2012-09-04

THE HAGUE

NEITHER INDIVIDUAL NOR COMMAND LIABILITY FOR GOTOVINA AND MARKAC

The defense teams explain why in their view the Croatian generals shouldn't be convicted of aiding and abetting crimes if the Appeals Chamber finds they are not guilty of unlawful artillery attacks on Knin and their part in the joint criminal enterprise aimed at expelling Krajina Serbs during and after Operation Storm.



◀ Ante Gotovina and Mladen Markac in the courtroom

The defense teams of Ante Gotovina and Mladen Markac contend that their clients shouldn't be convicted on the basis of alternative modes of liability if the Appeals Chamber finds them not guilty of indiscriminate artillery attacks on Krajina towns and their part in the joint criminal enterprise carried out in the summer of 1995. The alternative modes of liability relate to possible guilt of the accused on the basis of command responsibility, which includes aiding and abetting persecution, deportation, murder, wanton destruction, looting, cruel treatment and other inhumane acts.

In April 2011, generals Gotovina and Markac were sentenced to 24 and 18 years in prison respectively for their part in the joint criminal enterprise aimed at expelling Serbs from Krajina during and after Operation Storm. Gotovina's and Markac's defense teams appealed against the judgment. The Appeals Chamber, acting with uncommon haste, called the prosecution to present its opinion on the possibility of convicting the Croatian generals on the basis of their command responsibility if they were not found guilty on the basis of individual responsibility. As the prosecution noted in its brief, if that were to be the case, the Croatian generals should be convicted on the basis of command responsibility and their sentences shouldn't be reduced. The defense teams have filed their responses to the prosecution's brief.

The prosecution contends that Gotovina's and Markac's conviction couldn't be underpinned solely by the conclusions about the indiscriminate shelling of Knin and other Krajina towns. Unlike the prosecution, the defense claims that all findings in the Trial Chamber's judgment were based on the conclusion that there had been an indiscriminate attack. Therefore, the defense holds that if the Appeals Chamber dismisses this finding, there are no grounds for the conviction of Gotovina and Markac of any other charge.

Gotovina's defense contends that the Trial Chamber's judgment indicates that the crimes of persecution and deportation had been committed in the course of the alleged indiscriminate artillery attack on civilians. If the Appeals Chamber were to conclude that there was no such attack, then the accused couldn't be found guilty on that ground. In its response to the prosecution's argument that crimes against civilians, such as deportation, murder, destruction and looting were committed after the artillery attack, the defense notes that the judgment treated those acts as part of the artillery attack. The Trial Chamber found that Gotovina was responsible for creating a 'general atmosphere of crime', the defense notes. According to the judgment, the crimes committed after Operation Storm were committed in 'light of [Gotovina's] order to launch an unlawful attack on civilians and civilian buildings'.

Markac's defense lawyer offered a similar argument. In their view, the accusations against Markac changed during the trial. This made Markac swing 'from hope to desperation'; the defense warned the Appeals Chamber that the accused couldn't be a 'toy in the hands of justice'.

The defense teams have earlier objected to the very possibility that the Appeals Chamber may deal with alternative modes of liability of the accused. According to the defense, this cannot be done in the appellate stage because neither party has filed such a motion.

2012-09-18

THE HAGUE

GOTOVINA AND MARKAC BACK IN COURT FOR A SHORT TIME

Ratko Mladic's trial continued in closed session for the second day. The only hearing open to the public was a seven-minute status conference in Gotovina's and Markac's appellate proceedings; the two Croatian generals were convicted by the Trial Chamber of crimes against Serb civilians during and after Operation Storm. Markac is 'OK' after a difficult surgery and Gotovina has no health problems.

Croatian generals Ante Gotovina and Mladen Markac were back in court today for a status conference in the appellate proceedings before Judge Theodor Meron's Appeals Chamber. In April 2011, Gotovina was sentenced to 24 and Markac to 18 years in prison for their involvement in the joint criminal enterprise aimed at expelling Serbs from Krajina during and after Operation Storm in the summer of 1995. The defense of the two generals asked the appellate judges to acquit the accused while the prosecution called for the confirmation of the Trial Chamber's judgment.

After a brief introduction dealing with procedural matters, the presiding judge invited the accused to present any comments about the conditions in the detention unit and any health problems. Mladen Markac spoke first; he explained that he was recuperating from a 'difficult surgery'. As he is receiving 'appropriate medical care', 'everything is OK', Markac said. Ante Gotovina told the Trial Chamber he had no health problems and confirmed 'everything is all right'.

Before concluding the hearing, Judge Meron recalled that in August 2012 the prosecution responded to an earlier invitation of the Trial Chamber to give its opinion on whether the Croatian generals should be convicted on the basis of their command responsibility for aiding and abetting crime if they are acquitted of individual responsibility for the attacks on towns in Krajina and for their part in the joint criminal enterprise. The prosecution replied that the Croatian generals should be convicted on the basis of their command responsibility, but that their sentences should remain unchanged. In their response, the defense teams of the two generals asked the judges not to convict their clients on the basis of either form of responsibility.

In addition, on 11 August 2012, Gotovina's defense submitted a motion claiming that the Appeals Chamber lacked authority to consider their client's command responsibility because the prosecution didn't lodge an appeal to that effect. Markac's defense supported the motion. Gotovina's defense counsel Greg Kehoe asked the presiding judge when they could expect the decision on the issue. As the presiding judge indicated, the parties will be notified as soon as the decision is made.

The appellate hearing in the case against the Croatian generals was held in May 2012, early by the Tribunal's standards: little over a year after the Trial Chamber delivered its judgment. No specific dates were mentioned today for the Appeals Chamber's final judgment for the crimes against Serbs during and after Operation Storm. The only indication was Theodor Meron's last address to the UN Security Council, when he said that the judgment would be handed down by the end of this year.

2012-11-02

THE HAGUE

GOTOVINA AND MARKAC FINAL JUDGMENT SLATED FOR 16 NOVEMBER 2012

On Friday, 16 November 2012 the Appeals Chamber will render its judgment to Croatian generals Ante Gotovina and Mladen Markac. The Trial Chamber sentenced Gotovina to 24 years and Markac to 18 years in prison for crimes in Operation Storm.

The Appeals Chamber will render the final judgment to Ante Gotovina and Mladen Markac on Friday, 16 November 2012 at 9am in Courtroom I, it was announced at the Tribunal.

In April 2011, the Trial Chamber sentenced Gotovina and Markac to 24 and 18 years respectively for their involvement in the joint criminal enterprise headed by Croatian president Franjo Tudjman and aimed at a forcible expulsion of Serbs from Krajina during and after Operation Storm in the summer of 1995. The defense appealed against the judgment, calling for acquittal of the accused. In the appeal, the defense also denied the existence of the joint criminal enterprise and, above all, one of its elements - the indiscriminate artillery attack on Knin and other towns.

The prosecution didn't appeal against the judgment: not even against Ivan Cermak's acquittal on all counts.

An appellate hearing was scheduled just 13 months later, exceptionally quickly by the Tribunal's standards. Soon afterwards, the Appeals Chamber asked the parties to give their opinions on an additional question: whether Gotovina and Markac should be convicted on the alternative mode of liability, command responsibility, if the judges acquit them of taking part in the joint criminal enterprise. The prosecution said they should, while the defense claimed it was not possible. As the defense argued, the Appeals Chamber may not consider the issue because neither of the parties has raised it.

The final judgments will be delivered to the Croatian generals six months after the appellate hearing. Gotovina has spent a little less than seven years in the detention unit. This time will be credited against his sentence. Markac has been in detention a little over than five and a half years because he has spent some time on provisional release.

2012-11-16

THE HAGUE

JUDGES DIVIDED, GOTOVINA AND MARKAC WALK FREE

The five judges in the Appeals Chamber rendered the final judgment today in the Gotovina and Markac case, voting three to two to quash the Trial Chamber's verdict on unlawful artillery attacks on the Krajina towns as the main cause of the deportation of the Serb civilians during and after Operation Storm, concluding that the joint criminal enterprise to permanently remove Serbs from Krajina did not exist.



◀ Ante Gotovina and Mladen Markac

Judges Theodor Meron, Patrick Robinson and Mehmet Guney decided to quash the findings of the trial judgment that there was a joint criminal enterprise whose aim was to permanently remove Serb civilians from Krajina during and after Operation Storm in the summer of 1995; the remaining two judges in the Appeals Chamber, Fausto Pocar and Carmel Agius, dissented. The judges from the USA, Jamaica and Turkey found themselves at odds with their colleagues from Italy and Malta and acquitted the two accused on all counts in the indictment.

The majority in the Appeals Chamber quashed the Trial Chamber's finding about the unlawfulness of the artillery attacks on Knin, Obrovac, Benkovac and Gracac; they found the trial judges erred when they applied the 200

meter standard, whereby all impact sites located more than 200 meters away from the military targets may be considered as unlawful attacks on civilians. Furthermore, the majority considers, in line with the arguments put forward by the defense, that the unlawful artillery attacks were central to the conclusion about the existence of a joint criminal enterprise whose aim was to remove Serbs; the Appeals Chamber did not analyze whether any other elements, such as the Brijuni transcript, the crimes committed in Operation Storm apart from the artillery attack and the effort to prevent the Serbs from returning may have led to the conclusion that there was the purpose to expel the Krajina people from Croatia.

Since the trial judgment found generals Gotovina and Markac guilty of participation in the joint criminal enterprise, they were today acquitted of all charges on the basis of individual responsibility for the crimes in Krajina. The Appeals Chamber then considered whether they could be acquitted based on the alternative mode of liability, command responsibility, for their failure to prevent crimes and punish the perpetrators. The judges considered that the jurisprudence gave them the power to consider this issue, despite the defense's opposition.

The Appeals Chamber found, however, that the trial judgment did not contain enough facts to indicate that Gotovina as the commander of Operation Storm had failed to take reasonable measures to control his soldiers. The judges also concluded that the Trial Chamber did not quote evidence to support the finding that Markac, as the special police commander, had effective control over his special police. The Appeals Chamber therefore decided that there was no basis to consider their command responsibility. An additional reason was the fact that the prosecution had not filed any appeals in this respect. The judges were again divided, with Judge Agius appending a separate opinion.

The Appeals Chamber thus quashed with a majority of votes the conviction and the prison sentences for the two generals; Ante Gotovina had been sentenced to 24 and Mladen Markac to 18 years in prison. The judges ordered their immediate release from the UN Detention Unit. Gotovina has spent almost seven years, and Markac about five and a half years in detention.

The judgment was attended by a large number of fans of the two Croatian generals. When the judges said they were to be set free, applause broke out and there were shouts of glee from the packed public gallery. Soon afterwards, the defense teams of the two generals spoke to the media with triumphant statements. One of them went as far as to call for the dismissal of the Dutch judge Alphons Orie, whose judgment was reversed today. The prosecution refrained from comments, noting that they wanted to first study the judgment, the dissenting opinions appended by two judges, and separate opinions of judges Meron and Robinson.

2012-11-19

THE HAGUE

MINORITY CRITICIZES MAJORITY

In their dissenting opinions, judges Agius and Pocar dissected the approach and findings of the majority in the Appeals Chamber. In its judgment rendered last week, the Appeals Chamber acquitted Ante Gotovina and Mladen Markac on all counts in the indictment. Gotovina and Markac were charged with taking part in the joint criminal enterprise in which crimes were committed against Serb civilians in Krajina during and after Operation Storm in the summer of 1995.



◀ Fausto Pocar and Carmel Agius, judges in the Tribunal

Dissenting opinions are not a rarity in the judgments rendered by the Trial and Appeals Chambers of the Tribunal. Yet they have never been as critical and harsh as the opinions appended by judges Agius and Pocar, the minority, to the Majority's appellate judgment in the Gotovina and Markac case. The two judges expressed their fundamental disagreement with the conclusions of the majority of the Appeals Chamber – judges Meron, Robinson and Guney, who acquitted generals Gotovina and Markac.

In the opinion of the minority, the Majority's approach to the Trial Chamber's judgment sentencing Gotovina to 24 and Markac to 18 years was 'artificial and defective',

contradictory, vague and distorted. The Majority's reasoning was 'confusing and confused', full of 'misinterpretations' leading to 'erroneous conclusions'; in parts of the judgments, their findings are 'simply grotesque'. All in all, as Judge Pocar put it, the Majority's judgment 'contradicts any sense of justice'.

Substantially, judges Pocar and Agius disagree with the Majority because in their view, it misinterpreted and distorted the Trial Chamber's findings and conclusions and then 'compartmentalized' and analyzed them 'in isolation' from the totality of evidence. The Majority in the Appeals Chamber ruled that the Trial Chamber's conclusion that all artillery impacts that fell more than 200 m away from a legitimate target were unlawful was the 'corner stone' of the Trial Chamber's judgment. The Majority stated that the 200 m standard was 'arbitrary' and 'unreasoned'; this destroyed the 'corner stone' and the entire construction - the judgment - collapsed. In the view of the Majority, if the 200 m standard cannot stand, there are no unlawful attacks on civilians; if there were no unlawful attacks, there is no joint criminal enterprise and the accused are not guilty.

It is the opinion of the minority, this approach has multiple defects. First, if the Appeals Chamber holds that the Trial Chamber applied a wrong legal standard, the Tribunal's rules and jurisprudence require that the Appeals Chamber formulate a new, correct legal standard and apply it to all the findings in the trial judgment. The Majority, however, chose to reassess them without defining any standard at all. This prompted Judge Pocar to wonder: "Does the Majority consider that the correct legal standard was a 400-metre standard? A 100-metre standard? A 0-metre standard?". Judge Agius concluded that in this case, the Majority raised the margin of error *ad infinitum*, indefinitely. In Judge Agius's view, this 'should not have been done' because 'it would practically be impossible to qualify any attack as indiscriminate' on this basis. It remains to be seen how Karadzic's and Mladic's defense teams will apply this 'new law', articulated by the Majority in the Appeals Chamber, in contesting the evidence on the indiscriminate shelling of Sarajevo.

The minority insisted that contrary to the Majority's claims, the Trial Chamber's conclusion about unlawful shelling was in no way based only on the acceptable 200 m margin of error but also relied on a wide array of 'mutually corroborating evidence' that should be considered in its totality. The evidence ranges from the transcript of the Brioni meeting when a plan to expel Serbs from Krajina was forged, to Gotovina's order on 2 August to 'put under artillery fire' four towns in Krajina and proof that the HV Artillery implemented it, to the testimonies of UN staff who were in Knin during the shelling and finally, the evidence of excessive artillery attacks on Milan Martić's residence.

Judge Pocar noted that the Majority dismissed all this 'mutually corroborating' evidence, reasoning that it was 'far from being convincing'. In just three paragraphs of the appellate judgment, the Majority dismissed the conclusions on the unlawful shelling that the Trial Chamber set out on more than 200 pages.

According to Judge Pocar, the Majority's interpretation of the transcript of the Brioni meeting was 'simply grotesque'. The minority applied a similar reasoning to challenge the majority's finding that Gotovina didn't 'explicitly' call for 'unlawful attacks' on the towns, but merely ordered that the towns be shelled. Judge Agius argued that the Majority 'misinterpreted' the findings of the Trial Chamber in that respect. The Trial Chamber carefully approached the testimony of international witnesses, acknowledging that some of them lacked artillery training necessary to evaluate if the shelling was indeed indiscriminate. The Majority used this caveat to simply dismiss the evidence of all international witnesses, including seven members of the European Community Monitoring Mission and UNPROFOR headed by its commander in Sector South, Canadian general Forand. The trial judgment accepted their testimony.

It is somewhat surprising that the majority of the three judges, appointed and paid by the UN, had so little confidence in the generals and other high-ranking officers from UN member states, who were in Knin, serving under the UN flag and who testified about the events they had witnessed before a UN Tribunal.

As Judge Agius noted, the fact that 'at least 900 projectiles fell all over the town in just one and a half days, and there are no findings of any resistance coming from the town' cannot be ignored. According to the evidence called at the trial, at least 50 projectiles fell at distances of 300 to 700 m from the nearest military targets. Judge Agius recalled that the Croatian Army used an accurate grid system allowing a minimum error of only one meter. Gotovina's artillery commander Marko Rajcic said in his evidence that the margin of error was below 200 m: below the standard adopted by the Trial Chamber.

To support its finding that the artillery attack on the Krajina towns was not indiscriminate, the majority argued that the HV may have aimed at targets of opportunity in Knin; to illustrate this opinion, the judges state that 'a police car was in fact hit'. In the opinion of Judge Agius, the Majority's reasoning is marred by a 'blatantly unfortunate contradiction'. 'Since a police vehicle was hit, the Majority concluded that the HV Artillery could be so accurate as to obtain a direct hit but with regard to all of the military targets which had been pre-established with proper coordinates, the Majority effectively gives the HV the benefit of the doubt ad infinitum.'

Confused by their reasoning, Judge Agius all but begged his colleagues to explain it further: 'I would like to be enlightened by an explanation from the Majority as to how, if the HV could be so accurate with regard to a moving object, it could miss military targets by hundreds of meters'.

Judge Agius and others who would like an explanation are doomed to remain unenlightened, as the Appeals Chamber, or at least the majority sitting on the panel, are the highest instance and their judgment will not be subject to any further scrutiny.

2012-11-20

THE HAGUE

OPEN QUESTION ABOUT INTENTIONS

Minority Criticizes Majority (2)

Former President of the Tribunal Fausto Pocar stated that the reasoning of the majority in the appellate judgment that acquitted Gotovina and Markac was 'wrong, incorrect and misleading' and even 'grotesque'. In the conclusion of his dissenting opinion, Judge Pocar raised and left unanswered the issue why the majority - if it wanted to acquit Gotovina and Markac - had to quash the very existence of the joint criminal enterprise rather than concentrating on Gotovina's and Markac's contributions to it.

Analyzing the transcript of the Brioni meeting of 31 July 1995 on the eve of Operation Storm, the Trial Chamber concluded in its judgment that the participants in the meeting agreed on that occasion about a plan to remove the Serb population from Krajina. Judge Orić's Trial Chamber ruled that President Franjo Tudjman's words that it was important for 'civilians [to] go', to 'leave a way out' for them and to 'pretending to guarantee their civil rights' was an expression of the obvious intent to expel Serbs from Krajina.

Last week, the Appeals Chamber rendered its judgment acquitting the two generals with the majority of votes: judges Meron, Robinson and Guey voted to acquit, while judges Agius and Pocar dissented. In its judgment, the Appeals Chamber decided that this conclusion of the Trial Chamber was unfounded. The meeting of the Croatian political and military leadership in Brioni and Tudjman's words to 'leave a way out for the civilians' could be seen as an attempt to 'help civilians temporarily depart from an area of conflict for reasons including legitimate military advantage and casualty reduction'. Furthermore, Gotovina's statement at the same meeting that 'Knin could be destroyed in a few hours' by his artillery could be interpreted as a mere 'shorthand' to describe the military potential and supremacy of the Croatian forces.

In his dissenting opinion, Judge Pocar labeled the reasoning of judges Meron, Robinson and Guey as 'simply grotesque'.

According to Judge Pocar, 'the Trial Chamber's careful and detailed review' unequivocally rejected the interpretation that the conversations in Brioni were about the protection of civilians. The conclusions that Tudjman cared about Serb civilians are irreconcilable with a speech the Croatian president gave after Operation Storm. In the speech, Tudjman said 'never again it will go back to what was before, when they spread cancer which has been destroying Croatian national being in the middle of Croatia[...] They were gone in a few days [...] They did not even have time to collect their rotten money and dirty underwear'.

In the trial judgment, the Brioni transcript was one of the four elements of the joint criminal enterprise. The other three elements are the unlawful artillery attack on Knin, Obrovac, Benkovac and Gracac, the crimes against Serb civilians and their property after Operation Storm and finally, the effort to prevent the return of Serb refugees. The Appeals Chamber, for reasons we presented in our first article yesterday, concluded there was no sufficient evidence that the attack on the four towns was indiscriminate and thus unlawful. This in the opinion of the majority led to a dismissal of all the other findings about the existence of the joint criminal enterprise. Such an important conclusion was reached on the basis of just three paragraphs worth of analysis in the appellate judgment, Judge Pocar noted.

The former Tribunal's President recalled that the finding on the joint criminal enterprise was based on four 'mutually corroborating groups of evidence' and the Trial Chamber couldn't be blamed for foregrounding the artillery attack. The majority in the Appeals Chamber stated that the trial judgment described the artillery attack as 'the core indicator' and 'the primary means' of the deportation of Serbs and thus also of the joint criminal enterprise. According to Judge Pocar, it was a 'mischaracterization' of the Trial Chamber's findings and an 'incorrect and misleading' approach on the part of the majority: the Appeals Chamber 'makes statements not supported by references' to the trial judgment they purportedly refer to.

The majority in its decision ignored the finding that there were deportations regardless of the shelling, judge Pocar noted. The trial judgment emphasized that the Serb witnesses speaking about the reason why people had fled spoke not only of the fear of shelling, but also the fear of other crimes that did in fact happen in Krajina after Operation Storm, such as the murder and abuse of civilians, and the looting and destruction of their houses. The Trial Chamber in its judgment concluded that these acts of the Croatian armed forces 'caused duress and fear of violence in their victims and those who witnessed them, such that the crimes created an environment in which these persons had no choice but to leave', judge Pocar stated.

The other appellate judge to append a dissenting opinion on the appellate judgment was Judge Carmel Agius from Malta. Judge Agius also considers that the joint criminal enterprise aimed at expelling Serbs from Krajina existed. In his analysis, Judge Agius unequivocally contends that the artillery attack on the towns in Krajina was unlawful. In respect of all the other issues pertaining to the joint criminal enterprise, Judge Agius fully endorses Judge Pocar's position.

Judge Pocar concludes his dissenting opinion with an implicit suggestion that in considering the trial judgment the majority could be guided by motives other than purely legal.

'Even if the Majority wished to acquit Gotovina and Markac entirely, one might wonder what the Majority wanted to achieve by quashing the mere existence of the joint criminal enterprise rather than concentrating on Gotovina's and Markac's significant contributions to the joint criminal enterprise. I leave it as an open question.'

2012-11-21

THE HAGUE

MUST IT BE "EXPLICIT" WHEN IT IS "OBVIOUS"?

Minority Criticizes Majority (3)

Judge Pocar opposed the decision of the majority in the Appeals Chamber not to convict generals Gotovina and Markac on the basis of their command responsibility for failing to prevent and punish crimes of their subordinates arguing that this was yet another indication of the 'legal confusion' in the majority's reasoning. Judge Agius argued that the Trial Chamber's findings on the responsibility of the accused for crimes were rejected for lack of 'explicit statements' although such statements would merely be 'spelling out the obvious'.



◀ Theodor Meron, president of the MICT

Judges Meron, Robinson and Guney acquitted Gotovina and Markac of charges based on their individual responsibility for their alleged part in the joint criminal enterprise concluding that the enterprise didn't exist. The judges then considered possible 'alternate modes of liability'. As a result, the majority in the Appeals Chamber found that the accused generals were not guilty on the basis of command responsibility for their failure to prevent and punish their subordinates who committed crimes against Serb civilians during and after Operation Storm.

Judges Pocar and Agius strongly opposed this decision of the majority, just as they did in respect of the other

findings in the appellate judgment. Judge Pocar, former president of the Tribunal, described the findings on the 'alternate modes of liability' as yet another confirmation of 'the legal confusion' in the reasoning of the three-member majority. In Judge Pocar's view, the finding that the accused were guilty on the basis of their command responsibility would not be tantamount to entering a 'new conviction' but a mere review of the trial judgment, in which the judges would switch from one mode of liability to another, which is a frequent occurrence in appellate proceedings.

Judge Agius, the other member of the minority and the current vice-president of the Tribunal, contends that the issue of 'alternate modes of liability' should never have been raised as, in his view, the accused were guilty as participants of the joint criminal enterprise. However, since the question was raised, Agius tried to answer to it and explain why he thought the majority erred in their conclusion that there were no grounds to convict Gotovina and Markac on command responsibility.

Presenting the reasons behind the decision not to convict Gotovina on command responsibility, the majority of the appellate judges stated that nowhere in the trial judgment was it explicitly explained which ‘relevant people’ Gotovina should have contacted about the crimes, what kind of additional public statements Gotovina should have made, what kind of ‘available capacities’ Gotovina should have diverted towards preventing and following up on crimes; and how his “additional measures would have addressed (Gotovina’s) perceived shortcomings in following up on crimes”. The majority notes that the Trial Chamber devoted just six lines in the judgment to an analysis of those issues.

As Judge Agius said, such criticism was not only ‘unwarranted and petty’ but also ‘completely unjustified and unfair’ to Judge Orić’s Trial Chamber. First, it is not true that the Trial Chamber limited its analysis to just six lines: in fact, it dedicated 21 pages in the judgment to analyzing this issue, Judge Agius said. Those pages ‘explain in detail’ the following: first, that Gotovina knew about crimes of his subordinates and that even commander of the Knin Garrison Ivan Cermak confirmed it, second, what Gotovina did and did not do in relation to the extensive information he had received about these crimes, and third, that ‘on more than one occasion’ Gotovina refused to acknowledge the involvement of the forces under his command in the crimes committed. In fact, Gotovina “commended and praised” his subordinates and their conduct in Operation Storm when he knew that crimes had been committed, Judge Agius noted.

Furthermore, the majority ‘ignores the relevant parts’ of the trial judgment describing ‘in great detail’ Gotovina’s powers as the commander of the Split Military District and the fact that the ‘relevant people’ Gotovina should have contacted about the crimes were military police officers, who were subordinate to him, Judge Agius noted. The trial judgment clearly showed that Gotovina knew what his powers and responsibilities were, who the actors in the theater of war were and who he should have talked to about the prosecution of the crimes. In Judge Agius’s opinion, the majority expected the Trial Chamber to ‘spell out the obvious’.

With respect to the majority’s findings on Markac’s responsibility, Judge Agius said he was ‘at loss’ to understand the reasons for the decision not to convict him on the basis of command responsibility. In relation to Gotovina, the Majority appeared at least willing to examine the Trial Chamber’s findings, Judge Agius said. With respect to Markac, however, the Majority did not even entertain the idea of assessing the relevant findings, but ‘simply dismisses’ such findings for purported ‘lack of explicit statements’ about Markac’s powers as a commander. Judge Agius drew attention to two completely divergent approaches and asked why the Majority did it.

The first ‘explicit statement’ that the majority in the Appeals Chamber considers to be missing from the trial judgment was that the special police commander Markac ‘possessed effective control over the special police’. Even if the Trial Chamber did not explicitly use those words, it cannot be doubted that the Trial Chamber concluded that Markac had effective control over the special police. First, it is clear that Markac was the operative commander of the special units in the field during and after Operation Storm, the special police were subordinated to him, answered to him and kept ‘him regularly informed’. Finally, Markac regularly received reports about his subordinates’ crimes and he was duty bound to investigate and suspend the perpetrators.

The second ‘explicit statement’ missing in the trial judgment according to the majority is the finding that Markac ‘substantially contributed’ to the crimes committed by the special police. Judge Agius disagrees that such a statement was necessary given the findings of the Trial Chamber that ‘leave no doubt’ as to Markac’s contribution through his failure to punish crimes, which created an environment conducive to the commission of the crimes.

All that, in Judge Agius’s opinion, ‘would be more than sufficient to remove any doubt’ that the Trial Chamber had indeed established Markac’s ‘effective’ and ‘de jure’ control over the police forces as well as his ‘substantial contribution’ to the commission of the crimes.

In the conclusion, Judge Agius notes, ‘I firmly believe’ that Gotovina and Markac could be found guilty on the basis of command responsibility for failing to prevent and punish the crimes committed by their subordinates, soldiers and police officers, irrespective of whether the artillery attacks on the Krajina towns were unlawful or not.

2012-11-21

THE HAGUE

PROSECUTION WILL CONSIDER A MOTION FOR A REVIEW OF GOTOVINA AND MARKAC JUDGMENT

Five days after the Appeals Chamber delivered its judgment acquitting Croatian generals Ante Gotovina and Mladen Markac with a three-to-two majority, the Tribunal’s chief prosecutor Serge Brammertz issued a statement.

On behalf of the Office of the Prosecutor and victims whose ordeal ‘has not been acknowledged’ chief prosecutor Brammertz expressed his disappointment with the outcome of the appellate proceedings. Brammertz indicated his office would ‘consider’ filing a motion for a review of the appellate judgment. Under the Tribunal’s rules, a motion for review can be filed one year after the appellate judgment is rendered, if the parties can show there are new facts that they were not aware of during the appellate proceedings.



◀ Serge Brammertz, chief prosecutor of the Tribunal

The Tribunal's chief prosecutor indirectly urged Croatia to start prosecuting crimes committed during Operation Storm using the evidence that the OTP in The Hague will place at its disposal. Brammertz expressed his hope that the Croatian judiciary would 'live up to its obligations'.

Brammertz finally urged the Tribunal to 'reflect' on the issues raised in the dissenting opinions of judges Pocar and Agius about the application of 'coherent standards' in the appeals proceedings and 'giving appropriate deference to a trial chamber's factual findings'. Such a reflection, in Brammertz's view could be a 'catalyst to further strengthening the international justice system'.

Here is the full version of the chief prosecutor's statement.

2012-11-30

AVOIDING CONFLICT AFTER THE ACQUITTAL OF GENERALS

The initiative to calm down the situation, redress the wrongdoings, give equal attention to all war crimes should come from the Croatian side. The Serbian side feels damaged by what they perceive as fundamental injustice - not so much with the acquittal of Gotovina and Markac in itself but more with the implications arising from the judgment. The judgment implies that crimes against Serb victims were insignificant and that farmers left their homes, property and livestock and embarked on living as refugees for years out of spite almost - stressed Zoran Pusic, President of Civic Committee for Human Rights in Croatia.



◀ Zoran Pusic

The Appeals Chamber's judgment provoked euphoric but opposite reactions in Croatia and Serbia. There are few Croatian politicians that can afford to stay out of the overall excitement over the 'triumph of justice'. Only few politicians in Serbia however can avoid being part of general frustration and bitterness over the 'obvious lack of justice'. However, in this particular case, a significant portion of responsibility for 'the irrational behaviour of the savages from the Balkans' - as we are intimately perceived by part of the international community - lays with one of the most respectable international judicial institutions, envisioned as a highly professional and ethical entity, above any corruption or political influence. The difference between the sentence of 24 years in prison

and an acquittal is a serious stain on the ICTY's work. The judgment of acquittal was rendered without presenting a single new fact, testimony or evidence; a severe error was made either by Trial judges or Appeals Chamber. The fact that the Catholic clergy presented the most accurate predictions about the outcome of the trial points somewhat to the degree of rationalism of the judgment. Catholic church in Croatia has been criticizing the Hague Tribunal for years and in this particular case they predicted the acquittal based on prayer vigils. Were there any other extra-judicial elements that influenced the decisions of the Trial or the Appeals Chamber (for the first time in the history of the ICTY, one judge in the Appeals Chamber suggested such a possibility in his dissenting opinion). This question will most likely outlive the Tribunal and will stay on the agenda for intense legal and political debates about the judgment that dealt with such a sensitive topic and was rendered with such narrow majority of votes. Some local experts on the issue of worldwide conspiracy e.g. admiral Domazet Loso have no doubts whatsoever: the Trial Panel acted on the directives of the Great Britain, whilst the Appeals Chamber was directed by the United States.

Nevertheless, there are some other facts that unfortunately can not be overturned by the decision of any court: the exodus of Serbs from Croatia, the existence of victims; concealing crimes and not prosecuting them; many instances of burning houses; public speeches of Tudjman[1], Jure Radic[2], Bosiljko Misetic[3], ... establishment of the state border regime that has first prevented and then for years made it hard for the refugees to return to their homes...

These days, Gotovina's statement has been frequently quoted. In a brief and balanced speech held in a euphoric atmosphere at the main square in Zagreb, Gotovina said "let's turn to the future". In the case of Croatia, turning to the future implies two options. Croatia can short-sightedly enjoy the triumphalism where individuals having distinctive ideas of justice are getting louder - we could already hear a Parliament Member suggesting the abolishment of Glavas's[4] conviction and termination of the proceedings against Mercep[5] based on the ICTY's judgment. It can further decide not to take notice of frustrations and the strong sense of injustice especially with the refugees who

have been living away from their homes for 18 years. Such frustrations may easily grow into hatred poisoning for the next decades the lives of people living in this area. This hatred might as well be the covert source of possible new conflicts. There are numerous examples of similar situations in the past: from the creation of fertile ground for the rise of Nazism in Germany after World War I to the creation of terrorist organisations, largely out of desperation, among the exiled Palestinians.

The other possibility is that Croatian politicians currently formulating Croatian policies, e.g. Government and the President of the Republic, demonstrate sufficient wisdom and “express generosity in the moment of victory”. Tudjman and the then Croatian political elite lacked this wisdom after operation ‘Storm’. This wisdom should include public renouncing of the policies that corrupted liberation of the country with ideas about “ethnic cleansing” and methods of its implementation; sending the message to people, victims of such methods, to demonstrate that today’s Croatian official politics is not oblivious to their suffering; corroborating this message with deeds aimed at offering actual help.

So far, apart from two half-phrases by the President and Prime Minister and statements by some Croatian non-governmental organisations, such a message was to everyone’s surprise delivered by Gotovina himself. He gave a calm brief speech at the Square, while crowds gathered around him expected and wished for the language coloured with far less tolerance. This speech was in such contradiction with the created atmosphere, that it was whistled despite the fact that, at the moment, Gotovina enjoyed the status of a living saint. Gotovina reminded many that there was too much speculation about his present views, while not enough true information. Moreover, in the aftermath of the operation ‘Storm’, when many politicians, academics, writers and soldiers competed in making statements that nowadays could be used as material for a book on animosity and intolerance, Gotovina did not make any such statement. In an interview to “Kurir”^[6], Gotovina stated that each refugee currently living in Serbia has the right to consider Croatia their homeland as much as he did and he invited them to return. These statements were surprising and sounded sincere and noble. To be accurate, they appeared sincere to me and it would be extremely important for Croatia that this was the case. I would truly wish that they were indeed sincere.

At the moment, Croatia should call for an initiative to calm down the situation, redress the wrongdoings and give equal attention to all war crimes. The Serbian side feels damaged by what they perceive as a fundamental injustice - not so much with the acquittal of Gotovina and Markac itself but much more with the implications arising from the judgment. The judgment implies that crimes against Serb victims were insignificant and that farmers left their homes, property and livestock and embarked on years of refugee life out of spite almost. It is easy to act smart and superior now saying that the main problem lays with the Serbs and Serbian politicians not being able to face the truth about Serbia being the aggressor. But let’s just imagine for a moment the scope of bitter and irrational reactions that would have emerged from the Croatian public and the politicians had the Appeals Chamber’s fine majority tilted the balance towards the other side.

This is not an important football match where one team won on penalties or got awarded a dubious penalty. This is the moment when the choice of actions to a large degree might determine the future relations in the region, especially between Croats and Serbs (for the most individuals that are still not seeing these relations as private matter). I hope it is not too much to expect from both Croatian and Serbian politicians to show a higher level of rationalism than that demonstrated by football fans. I hope they will show rationality and empathy that have always been lacking in this region. In this case, when one has to keep in mind that the world is sometimes much more complex than it seems, these two values have been most clearly shown by Gotovina himself.

Author is the President of Civic Committee for Human Rights in Croatia

[1] Franjo Tuđman, the President of the Republic of Croatia during the period 1990 -1999., e.g. his speech in Karlovac on 26.8.1995., 18 days after the completion of the operation “Storm”: “ Those who reproach about torching of Serb houses in liberated areas of Croatia should remind themselves that it is exactly the Bible principle from the Old Testament that teach us ‘an eye for an eye’ ” or: “ Serbs have ingloriously vanished from these regions as if they have never existed. But, there are more of them also here among you! Of 22 judges in Karlovac seven of them are Serbs. ”

[2] Jure Radić, the Minister of Reconstruction in the Croatian Government in 1995, e.g. at the meeting with Tuđman on 22.8.1995: “You must not allow in those areas (which Serb had fled from) more than 10% of Serbs”. Tuđman: “Even less than 10%”.

[3] Bosiljko Mišetić, the Vice President of the Croatian Government in 1995, e.g. his speech in August 1995: “Croatia does not wish that people of other ethnicities live in it”.

[4] Branimir Glavaš, the Croatian General, Parliament Member, convicted of committing war crimes in Croatia, fled to B&H. At present, he serves his imprisonment term at the Zenica penitentiary.

[5] Tomislav Merčep, Commander of the special police unit, former Parliament Member, at present standing trial for committing war crimes in Croatia.

[6] Belgrade based newspaper whose reporter had a brief phone interview with Gotovina

THE HAGUE NOTEBOOKS

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