

THE HAGUE NOTEBOOKS

Naser Orić

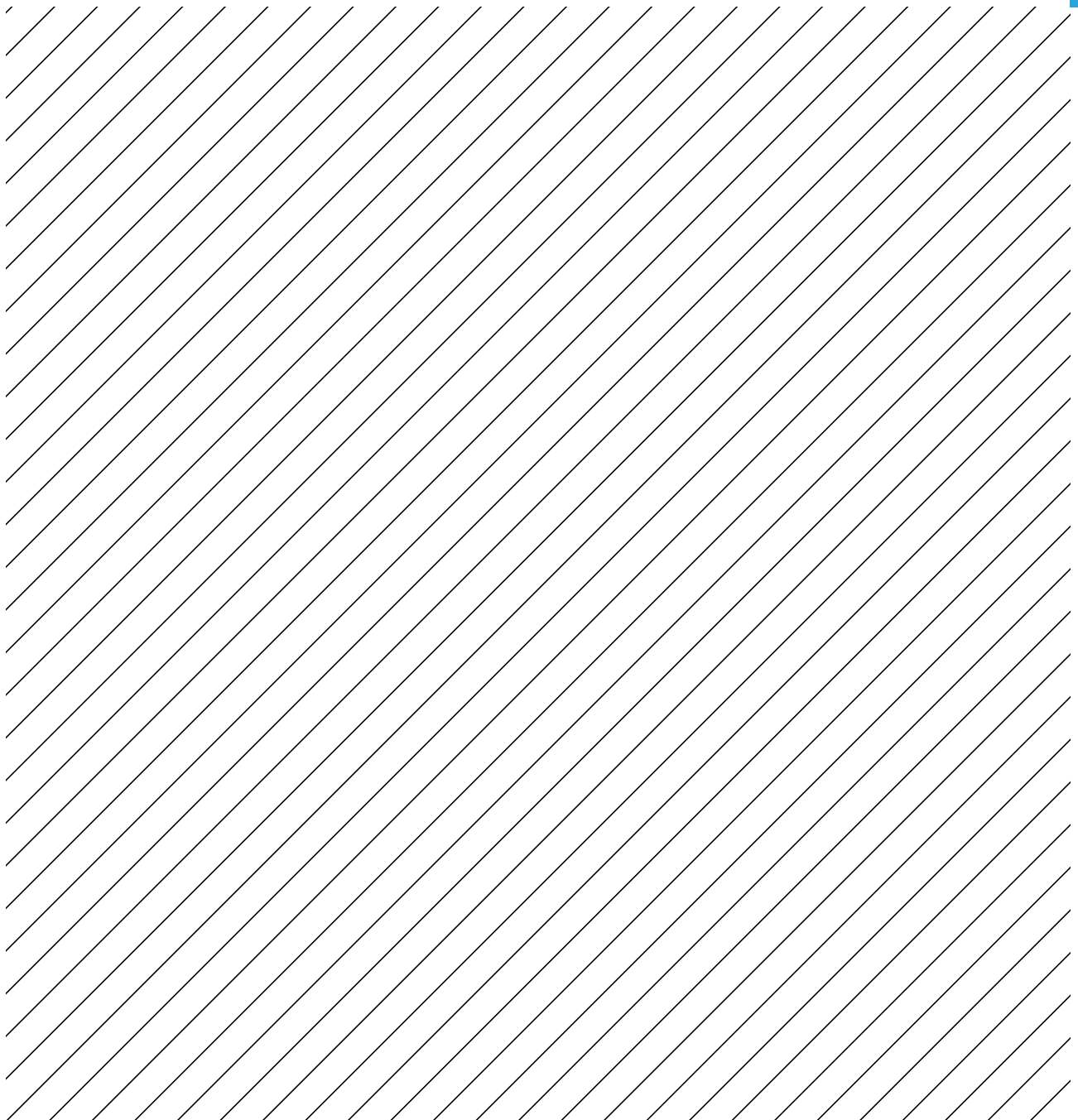
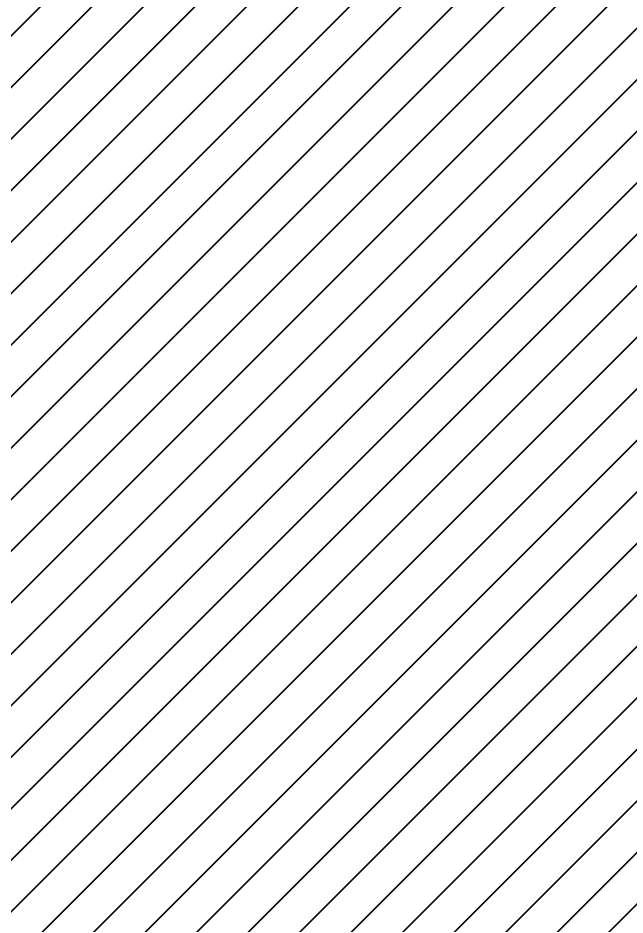


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THE HAGUE NOTEBOOKS

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.

2004-03-15

THE HAGUE

NASER ORIC'S DEFENCE

In its pre-trial brief, Naser Orić's defence submits that this is "the first time in history that a representative of a people under siege and facing genocide has been indicted by an international tribunal for crimes allegedly committed against the besieging foe."



◀ Naser Orić as BH Army officer

The defence of Naser Orić has filed its pre-trial brief outlining its strategy at the impending trial. The trial date has not been set yet. The brief submits that the accusations levied against the former commander of Bosniak forces in the Srebrenica area are imprecise and that, in order to understand the actions of the accused, one must take into account the "catastrophic situation" in which Bosniaks lived in the enclave from 1992 until its fall in July 1995.

The indictment alleges that Orić was the *de iure* and *de facto* commander of all Bosniak units in the municipalities of Srebrenica and Bratunac and consequently charges him with the attacks on Rupovo Brdo, Ratkovci, Jezestica,

Fakovici, Bjelovac and Kravica in 1992 and in early 1993 and with the detention and abuse of several Serbs in Srebrenica, some of whom were beaten to death. The prosecutor alleges that in the period relevant for the indictment thousands of Serbs left the area because of attacks on their villages and hamlets.

Orić's lawyers Vasvija Vidovic and John Jones consider the charges imprecise, i.e., that the prosecutor "in many cases does not know when the alleged crimes happened" or "which individuals perpetrated the alleged unlawful acts."

The general line of defence is that "on the assumption that the alleged acts were even committed, to which the prosecution is put to strict proof, and that if committed the conduct was not justified by necessity... then Mr. Orić denies that he exercised effective *de facto* control over the perpetrators."

The defence describes the attacks on the villages listed in the indictment as "defensive actions" and desperate attempts to obtain food for the population under siege. Orić did not know that any crimes had been committed in the course of the attacks, nor did he know that soldiers subordinate to him had committed any prohibited acts, claims the defence. The defence also challenges the allegation that the accused knew about the abuse of the Serbs detained in Srebrenica or that he had any authority over those who beat and tortured prisoners.

The defence deems that the prosecutor had to – and deliberately failed – to explain in the background of the indictment that the Bosniaks in the Srebrenica enclave lived under siege from 1992 on, starving and victims of a "slow-motion genocide". "The Trial Chamber, in order to do justice in this case, must at all times bear in mind this appalling reality", the brief concludes. "This is the first time in history that a representative of a people under siege and facing genocide has been indicted by an international tribunal for crimes allegedly committed against the besieging foe."

2004-07-21

THE HAGUE

NASER ORIC TO BE TRIED IN EARLY OCTOBER

The trial of the former BH Army commander in the Srebrenica region will start on 5 October, the pre-trial judge announced today. Orić has been charged with murders and cruel treatment of Serb civilians in the police station in Srebrenica and for destruction and plunder of Serb villages in the municipalities of Bratunac, Srebrenica and Skelani in 1992 and 1993.

The trial of Naser Orić, former commander of the BH Army forces in the Srebrenica region, will begin on 5 October, announced Judge O-gon Kwon at a status conference today.

Orić was arrested by SFOR in April 2003, after an indictment was issued against him by the Tribunal, charging him with murders and cruel treatment of Serb civilians in the police station in Srebrenica and for destruction and plunder of Serb villages in the municipalities of Bratunac, Srebrenica and Skelani in 1992 and 1993. As a consequence of the attacks, thousands of Serbs fled the municipalities, alleges the indictment. At the time when the crimes were committed, Orić was the commander of the local Territorial Defense, and then the commander of the joint BH Army forces for the Srebrenica region.

At his initial appearance, the accused pleaded not guilty on the six counts of the indictment, charging him with violations of laws and customs of war.

As indicated earlier, the prosecution intends to call nearly 60 witnesses. At the hearing today, the prosecution announced that they would like to call additional eight witnesses, while the defense is opposed, in principle, to a continued extension of the prosecution's witness list.

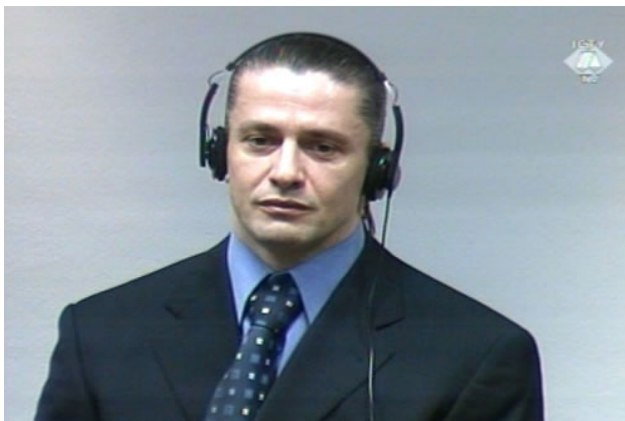
The trial will be heard by the Trial Chamber II, with the Maltese judge Carmel Agius presiding. Four months have been allotted to the prosecution for their case, and the defense will have the same time for theirs.

2004-09-28

THE HAGUE

NASER ORIC READY FOR TRIAL

Pre-trial conference in the case of Naser Orić, former BH Army commander in the Srebrenica region, whose trial is set to begin on Wednesday, 6 October 2004. The prosecution is granted leave to amend the indictment yet again.



◀ Naser Orić in the courtroom

A week before the start of the trial, set for Wednesday, 6 October at 9 a.m., the Trial Chamber granted leave to the prosecution to amend yet again the indictment against Naser Orić, former BH Army commander in the Srebrenica region.

Instead of "international conflict and partial occupation," the phrases used to describe the context in which the crimes Orić is charged with were committed, the indictment now alleges that "there was a state of armed conflict" at that time in BH. Although in previous trials held before the Tribunal it has been proven that the conflict in BH – because of the involvement of Serbia and Croatia – was international in nature, the prosecution

does not have to prove that in Orić's case, since he is charged only with violations of the laws and customs of war (the existence of "armed conflict" is sufficient for those charges), not with Grave Breaches of the Geneva Conventions (which apply only to international conflicts).

Prosecutors also sought to delete from the indictment allegations charging Orić with the attack, destruction and looting of the village of Rupovo Brdo. As the defense did not object, the Trial Chamber allowed the amendment.

Trial preparations were also discussed at today's pre-trial conference, where it was concluded that the parties – despite objections by the defense because of the delayed disclosure of exculpatory evidence – were ready to proceed to trial. The chamber that will try Orić was present for the first time in full: in addition to Maltese judge Carmel Agius, who already presided over the trial of Radoslav Brđjanin, the other members of the Chamber are two newly-appointed ad litem judges--Dane Hans Henrik Braydenscholt and German Albin Eser.

Naser Orić is charged with the murders and cruel treatment of Serb civilians detained between June 1992 and March 1993 in the police station in Srebrenica; the wanton destruction of cities, towns and villages not justified by military necessity; and the plunder of public or private property. According to the indictment, forces under his command burned, destroyed and plundered at least 50 Serb villages and hamlets in the municipalities of Bratunac, Srebrenica and Skelani; thousands of Serbs fled the area as a result.

The prosecution will have about four months to prove its charges, and then the defense will be allotted the same time to challenge them. This means that the trial might last less than a year.

2004-10-05

THE HAGUE

NASER ORIC TRIAL BEGINS TOMORROW

Apart from survivors and eye-witnesses to the crimes which Orić, former BH Army commander in the Srebrenica area, is charged, the prosecution will call people who fought side by side with Orić as well as representatives from the international community who negotiated with him in 1993. The defense calls "this is a unique case in history that a representative of a people under siege... is tried for alleged crimes against the enemy besieging them."



◀ Naser Orić in the courtroom

The trial of Naser Orić, former BH Army commander in the Srebrenica area, will begin tomorrow with opening statements by the prosecution and the defense. He is charged with crimes committed by forces under his control between May 1992 and March 1993.

The case will be heard by the Trial Chamber presided over by Maltese judge Carmel Agius; the other two judges in the Chamber are temporary--or ad litem--judges appointed to hear this case only: Braydensholt from Denmark and Albin Eser from Germany.

The prosecution team will be led by Dutch prosecutor Jan Wubber, assisted by two other prosecutors: Gramsci Di Fazio and Patricia Sellers from Australia and the USA respectively. Naser Orić will be represented by Sarajevo lawyer Vasvija Vidovic and Briton John Jones.

The indictment against Naser Orić was issued in March 2003; the accused was arrested in April 2003 in Tuzla by SFOR. The OTP charges him with the murders and cruel treatment of Serb civilians detained in the Srebrenica police station, the wanton destruction of cities, towns and villages, and the plunder of public or private property. The indictment alleges that between May 1992 and February 1993, forces under his command burned, destroyed and plundered at least 50 Serb villages and hamlets in the municipalities of Bratunac, Srebrenica and Skelani; thousands of Serbs fled the area as a result.

At his initial appearance before the Tribunal on 15 April last year, Orić pleaded not guilty to all the charges, qualified as violations of the laws and customs of war.

The prosecution will call 62 witnesses to try and prove the allegations in the indictment; their examination-in-chief will last an estimated 11 weeks. The defense has asked to be given the same or a similar amount of time for its cross-examination. The Trial Chamber will render its decision on that motion at the beginning of the trial.

The prosecution's pre-trial brief does not disclose the names of the witnesses. But from extracts of testimony quoted there, it can be concluded that apart from survivors and eye-witnesses to the crimes Orić is charged with, the court will hear testimony from some of the soldiers who were subordinate to him, as well as from representatives of the international community involved in the Srebrenica area in 1992 and 1993. Judging by the prosecution's pre-trial brief, it is possible that among the witnesses will be French general Philippe Morillon or some of his close associates who met with the accused and had talks with him in March 1993.

The prosecution tendered into evidence numerous military documents and reports and orders signed by the accused; Orić's defense is challenging their authenticity. That is why the first prosecution witnesses will be experts who will try to prove the authenticity of the tendered documents.

Orić's defense indicated in its pre-trial brief that it would be arguing that the accused had not had effective control over the forces that committed the crimes. It describes the attacks on the Serb villages as "defensive actions" and desperate attempts to get some food for the besieged civilians in the Srebrenica enclave.

His defense claims that Naser Orić's case is "the only case in history in which a representative of a people under siege, a people threatened with genocide, stands accused before an international tribunal of alleged crimes committed against the enemy besieging them."

This trial is not expected to last longer than a year.

2004-10-06

THE HAGUE

THE FOUR RIDERS OF THE APOCALYPSE

Naser Orić's defense notes that in order to understand events in Srebrenica, one needs to comprehend four crucial words: genocide, siege, starvation and sickness. Was Orić accused of "stealing TV sets"?

As Naser Orić's defense co-counsel, Briton John Jones, stressed in his opening statement, events in Srebrenica in the period relevant to the indictment cannot be understood without a "broader picture" of what was going on in that part of Bosnia and Herzegovina from the outbreak of war in the spring of 1992 to its bloody finale in July 1995.

The defense contends that to get a "broader picture," one needs to comprehend four crucial words: genocide, siege, starvation and sickness. The "four riders of the Apocalypse" turned Srebrenica into "a real hell" and, added Jones, the Trial Chamber "would have to put itself in Naser Orić's shoes in order to see what he could realistically have done in Srebrenica."

During his opening statement, the defense counsel showed several video tapes giving a striking picture of the “hell” in Srebrenica in the winter and spring of 1993: starving people “with sunken bellies and empty stares”; desperate women trying to get onto trucks to be evacuated, or at least to put their children on them; wounded boys and girls dying in their parents’ arms or in the arms of UN soldiers--all because Bosnian Serbs were firing shells to prevent medevac helicopters from landing.

Jones described the accused Orić as an “outstanding warrior who fought back the Serbs to protect his people” and as someone who was “persecuted by Serbs for doing that in war and peacetime.” The defense counsel warned against any “warped thinking” whereby Orić’s conviction for the crimes he is charged with – the destruction and plunder of Serb villages and the murder and abuse of Serb detainees in the police station in Srebrenica – would “absolve Serbs from the responsibility for what happened in July 1995,” since one could conclude that “Muslims brought the genocide on themselves.” Jones claims that there is similar “warped thinking” among some in the international community, which also bears part of the responsibility for the July 1995 events in Srebrenica.

The British lawyer tried to minimize the charges against Orić in his opening statement, claiming he is charged with “property crimes: stealing cattle, furniture and TV sets” and wondering why the Office of the Prosecutor in a Tribunal established to prosecute people responsible for the most serious war crimes “elected to charge Naser Orić with stealing TV sets.” The defense counsel also asked several rhetorical questions:

“Is it a crime when civilians steal food from those who are trying to starve them to death?”

“Is it plunder if one steals weapons and ammunition from an enemy of superior strength who is trying to destroy you?”

“Is it wrong to resist ethnic cleansing?”

At the end of his opening statement, Jones urged the Chamber to “separate facts from fiction and myth from man.”

The Chamber will issue instructions to the parties about the future conduct of the trial. The first prosecution witness will be heard Friday.

2004-10-06

THE HAGUE

“WARLORD,” NOT WARRIOR

In his opening statement at the beginning of Naser Orić’s trial, the prosecutor describes the accused as “a warlord”--a supreme military leader who also holds civilian power and who is “accountable to no one.”

In his opening statement at the start of Naser Orić’s trial today, the prosecutor described the case as one “involving a young bodyguard, police officer and military commander... turned warlord.” Noting that in the period relevant to the indictment Orić “had unquestionable military authority and unquestionable political power in Srebrenica,” prosecutor Jan Wubben defined a “warlord” as “a supreme military leader who has civilian power, too, and is accountable to no one.”

The violations of the laws and customs of war with which Orić is charged in the indictment’s six counts were, according to the prosecutor, a “conscious choice” of the accused, a means to an end. The prosecutor claims his end was to “cleanse” the Srebrenica area of its remaining Serbs in such a way as to eliminate any possibility of their returning. This end was achieved by systematically plundering and then thoroughly burning and destroying Serb villages after they were attacked and captured. Wubben indicated the prosecution would present evidence that Orić ordered his soldiers not to burn villages until they had been plundered, or not to burn them the first day they were captured so they could have a place to sleep. For Orić, the prosecutor claims, “plundering was not a war crime, but a war policy.”

In addition to the plunder and wanton destruction of towns and villages, Orić is charged with the murder of seven captive Bosnian Serbs, detained between June 1992 and March 1993 in the police station in Srebrenica, and the cruel treatment of detainees. The prosecutor claims Orić knew the soldiers under his command were maltreating and severely beating the prisoners--sometimes to death--but did nothing to prevent his subordinates from committing the crimes and nothing to punish them.

In addition to the testimony of Bosnian Serbs – survivors of the crimes described in the indictment – prosecutors announced there would be Bosnian Muslim witnesses who disagreed with Orić’s policy and actions and who subsequently resigned. The prosecutor quoted from a document made by the BH Army 2nd Corps Command in May 1992. In it, the commanders of subordinate units are ordered to prevent the plunder and burning of property and all forms of physical abuse; massacres against civilians are prohibited; and orders are issued that captured enemy soldiers are to be treated humanely and fairly, in the spirit of the Geneva Conventions and the laws of war. The prosecutor claims Orić failed to obey those and similar orders from his superior command, deciding instead to “respect the laws of war only when he considered them to be in his favor.”

After the prosecution, Naser Orić’s defense presented its opening statement.

2004-10-08

THE HAGUE

ORIC'S DEFENSE CHALLENGES DOCUMENTS' AUTHENTICITY

The prosecution tenders 263 documents seized at BH Army 2nd Corps headquarters and others obtained from different sources, including authorities in Republika Srpska. The defense objects to having them admitted into evidence and expresses concern about the "dubious sources" of the prosecution's documents.



◀ The prosecution in the Oric trial

On the first day of the prosecution case in the Naser Oric trial, the prosecution tendered into evidence 263 documents seized by OTP investigators in search and seizure operations at BH Army 2nd Corps headquarters in Tuzla. Other documents tendered were obtained from different sources, such as military, police or civilian authorities in Republika Srpska.

The defense of the former commander of the BH Army's joint forces in the Srebrenica region objected to more than three-fourths of the documents tendered, expressing concern about the "dubious sources" of some of the documents.

Rasin Manis is an investigator who was team leader in September 2002 when her team carried out a search of four locations in Tuzla. The search was carried out pursuant to a search warrant issued by a Tribunal judge, with the consent of the 2nd Corps Command. Manis testified about the search procedure, record-keeping and chain of custody for the documents seized. For each document, there is information about its source and about who handed them to whom and when. Among the seized documents are several orders allegedly signed by the accused himself. The contents of the documents will be discussed in greater detail later on in the prosecution's case.

Since the defense challenges the authenticity of the majority of documents in the prosecution's possession--claiming that in some cases, they are forgeries and manipulations--the Trial Chamber demanded that evidence about their authenticity be adduced at the beginning of trial. In addition to Rasin Manis, two other investigators who took part in the seizure of the documents and were part of their chain of custody will testify next week; there will also be a handwriting expert who has analyzed the signatures that the prosecution alleges are Oric's. The defense claims they are forged.

2004-10-11

THE HAGUE

WHAT IS IN HANDWRITING?

The prosecution calls a handwriting expert to prove the authenticity of Naser Oric's signature on documents it is tendering into evidence.

In order to prove the authenticity of documents it is tendering into evidence against Naser Oric, the prosecution today called a Dutch handwriting expert who concluded that a substantial number of the signatures on those documents were "highly probably" Oric's; in other words, they were not forged.

On the first day of trial last week, prosecutors tendered into evidence 263 documents their investigators seized at BH Army headquarters in Tuzla or obtained from authorities in the Republika Srpska. The contents of the documents have not been disclosed yet, but they are orders and other military documents. Oric's lawyers are challenging the authenticity of the majority of them, claiming that some are from "dubious sources." The defense counsel also claims that Oric's signatures on some of the documents are in fact forgeries.

Hand-writing expert Alphonsus Vagel compared the contested signatures with a signature that is undoubtedly Oric's and concluded that as far as the majority of documents is concerned, the signature is "highly probably" Oric's, while for some it is "possible" that the signature is his. Copies of other documents were too poor for the handwriting expert to give an opinion.

The testimony of the Dutch expert will continue on Tuesday, when he will be cross-examined by Naser Oric's defense.

2004-10-14

THE HAGUE

THOSE THAT REMAINED WERE EITHER KILLED OR BURNED

Court hears first testimony of Naser Orić's specific crimes. A witness from the Serb village of Jezestica testifies about two attacks on the village, the burning of houses and the killing of civilians. The defense tries to prove the attacks were not on unarmed civilians.

Bosniak forces attacked the village of Jezestica near Bratunac twice. In both attacks, they burned houses and killed those villagers who had not fled before the onslaught. So testified Jezestica native Dragan Djuric at the trial of Naser Orić, former BH Army commander in the Bratunac and Srebrenica area. He is charged with having led the attacks.

Djuric testified with his face distorted as a protective measure. He stated that eight villagers were killed in the first attack, on 8 August 1992. His house was among those burned down. "After that, we lived in fear," the witness testified. The second attack on Jezestica was carried out on Orthodox Christmas, 7 January 1993. Eighteen villagers were killed on that occasion. "We were probably attacked by the same Muslims from surrounding villages... but that time, there was a lot of snow and they wore white uniforms," the witness recalled. Djuric fled with the other villagers in the direction of the village of Kravica. From a distance, he could see smoke from the village. "Those that remained were either killed or burned down," Djuric said. He was not present when the houses were set on fire.

He said while he was fleeing, he was wounded in the neck. He ended up in the hospital in Zvornik and was then moved to Serbia. He added that he went back in October 1993, when he was drafted into the Republika Srpska Army.

In a detailed cross-examination, Orić's defense counsel John Jones tried to put events into a different context. Regarding the attack in August 1992, Djuric testified that the VRS had arrived in the village after the attack, while the defense claims – quoting VRS military documents – that the inhabitants of Jezestica, including the witness, were already part of the Bratunac Brigade and that the village offered resistance. The witness did not categorically deny that he had already been drafted in 1992, but refused to confirm it directly. This led Presiding Judge Agius to ask him at one point, "Why are you ashamed to admit that you were a VRS soldier when others are proud of that?" The question remained unanswered.

Jones also noted that Bosniaks in that area were starving in the winter of 1992-93, that they tried to get food, and that "thousands of civilians were moving with the 'men in white'" who attacked the village in January 1993. The witness, however, stated he had not seen that.

2004-10-15

THE HAGUE

MILITARY ATTACKS OR FORAGING FOR FOOD?

Prosecutors are trying to prove that Naser Orić is criminally responsible for the plunder and destruction of property in the Serb villages around Srebrenica and Bratunac. Miladin Simic testifies that some of the houses in the village of Jezestica were burned and the cattle stolen.

When Bosniak forces attacked the Serb village of Jezestica near Bratunac, some of the houses were burned and the cattle was stolen, Milan Simic testified today. He personally saw the aftermath of the attack on 8 August 1992. He says in the hamlets where Bosniak troops passed, all the cattle were led away, while all the pigs were killed.

Prosecutors are trying to prove that Naser Orić, commander of BH Army forces in the Srebrenica area, is criminally responsible for the plunder and destruction of property in the Serb villages around Srebrenica and Bratunac.

Several inhabitants of Jezestica were killed in the attack. When the prosecutor asked the witness to confirm the names of those who had been killed, Orić's defense counsel noted that their client is not charged with the killing of locals in that attack. The judges, however, asked the witness to say everything he knew about the killings, deeming the information relevant to their findings.

Simic said he had seen the bodies of two murdered people, Andjelko and Dragan Mladjenovic. He said their heads had been cut off. "I heard later that a man by the name of Kemal, nicknamed Kemal, had taken Andjelko Mladjenovic's head to Srebrenica... and hung it at the sports field as a trophy," Simic said. He further stated that in the second attack on his village, on Orthodox Christmas in January 1993, his house was set on fire.

The prosecution witness claims there were no troops in Jezestica, that it was guarded by villagers organized in watches. He was among them. Orić's defense is trying to prove that the villagers were members of regular military units and that the attacks launched by Orić's units were militarily justified, primarily as attempts to find food for Bosniak refugees in the Srebrenica area who were cut off and starving at the time.

2004-10-20

THE HAGUE

A CLASH BETWEEN TWO ARMIES OR A MASSACRE OF CIVILIANS?

Naser Orić's defense is trying to prove there was fierce fighting between Serb and Muslim forces on 7 January 1993 in Kravica and the Serb villages around it in the Srebrenica area that resulted in casualties; it is challenging the prosecution's argument that forces under the accused's command attacked undefended villages and massacred civilians.

Just as Kosovo Albanians testifying at the trial of Slobodan Milosevic "did not see the KLA," and just as Djelo Jusic and other inhabitants of Dubrovnik who testified at the trial of General Pavle Strugar "did not see any Croatian Army personnel on the streets of Dubrovnik," the prosecution witnesses heard so far at Naser Orić's trial claim they "did not see" VRS soldiers in Kravica, Jezerstice and other Serb villages in the Srebrenica area.

According to what prosecution witnesses are saying, there were self-organized "village guards" armed mostly with hunting pieces. The defense, though, claims those guards were integrated into the VRS, that its members were on the Bratunac Brigade payroll, and that they had artillery pieces in addition to their "hunting pieces."

The defense is using documents disclosed by the prosecution to prove it: the so-called Bratunac collection of personnel files and payrolls, military orders, and other documents seized during a search of Bratunac Brigade headquarters.

Among the documents is a list of 34 fighters from the Kravica area who were killed on 7 January 1993. During cross-examination, the defense showed the list to witness Miladin Simic, asking him to identify names from his village of Jezestice and to state who among them was a fighter and who a civilian. Since the witness hesitated before answering, Judge Agius intervened and read out the list name by name, asking the witness: "Soldier or civilian?" The witness mostly answered by saying, "Fighter – killed." For three names, he said, "Exempt – died at home." For one of them, he said he had been exempt from military service but had weapons.

By conducting the cross-examination in this vein and presenting documents obtained from the prosecution, Naser Orić's defense is trying to prove that there was fierce fighting between Serb and Muslim forces on 7 January 1993 in Kravica and the Serb villages around it in the Srebrenica area that resulted in casualties. It is challenging the prosecution's argument that forces under the accused's command attacked undefended villages, massacring civilians.

2004-10-26

THE HAGUE

KRAVICA: "EVERYTHING THAT COULD BURN WAS BURNED"

Naser Orić trial hears first testimony about the attack on the village of Kravica on 7 January 1993.



◀ Slavisa Eric, witness in the Orić case

After BH Army forces re-captured the village of Glogova near Bratunac in December 1992 (about 2,000 Bosniaks were expelled from the village in May that same year), the nearby village of Kravica found itself encircled. To the West, Kravica was surrounded by Muslim villages and hamlets; the route to Bratunac--which went through Glogova--was cut off.

According to the prosecutor, those developments preceded the attack on Kravica in January 1993. The BH Army forces that took part in the attack were commanded by Naser Orić; he is charged with the destruction of villages and the plunder of property from burned Serb houses.

Today's witness at Naser Orić's trial was a male nurse from Kravica--Slavisa Eric. During the war, he worked in the village's outpatient unit. Answering questions put to him by the prosecutor, he said the attacking forces "burned everything that could burn in the village" on 7 January. Eric claimed that during the attack, no distinction was made between military targets and civilian facilities. He testified there were no "military targets" in the village at all, with the exception of about 350 to 400 fighters--members of the "village guard"--reinforced by about 40 volunteers from Bratunac and Bijeljina.

During cross-examination, Eric confirmed that the "village guard" was transformed in November 1992 into the 3rd (Kravica) Battalion of the Bratunac Brigade and that it had "quite a few weapons." But the witness did not agree with the defense's claim that there was continuous fighting in the area from mid-December 1992--when the BH Army took

Glogova--until 7 January 1993, when Kravica was attacked. Orić's defense counsel, Sarajevo attorney Vasvija Vidovic, showed the witness a document from the Bratunac Brigade, dated 4 January 1993, stating there were "200 armed Turks still" in the Glogovo area and that Serb forces were "engaging in attack operations" targeting several villages, including Kravica. The witness claimed that combat operations were conducted "from the direction of Bratunac, not from the direction of Kravica."

As Orić is charged with the destruction and plunder of the village and not with the casualties resulting from the 7 January attack, the defense put it to the witness that the destroyed and burned houses could in fact have resulted from the 15 March 1993 counter-attack in which Serb forces re-captured Kravica. But the witness stated categorically that in March, the fighting was confined to the surrounding hills and the access routes to the village, not the village itself. He concluded that the destruction and burning could not have been caused by that attack.

2004-10-27

THE HAGUE

FIGHTERS OR CIVILIANS?

Although Naser Orić isn't charged with the deaths of those killed during attacks by his forces, the prosecution claims the victims were civilians, while the defense is trying to prove that the majority of the casualties were fighters from the VRS Bratunac Brigade killed in action.



◀ Novka Bozic, witness in the Orić trial

When the Serb village of Radijeveci near Bratunac was attacked on 5 October 1992, many of its inhabitants were "in the fields, doing fall farm work," testified Novka Bozic at Naser Orić's trial today. She lived in Radijeveci with her husband and four children; she was a housewife.

The witness described how the "shooting started around noon," and that apart from "the gunfire from a nearby woods," she also heard shouts of, "Get them, get the Chetniks, get them alive!" As she fled with the others "towards the Drina River," she saw "soldiers in uniforms" but could not recognize any of them. The village of Radijeveci is next to the river, surrounded by two other Serb villages--Dioveci and Boljeveci. The nearest Muslim village, Zanjevo, is about three kilometers away from Radijeveci.

Most of the villagers who gathered there "crossed the river Drina and went into Serbia." Those who could not get into the boats because there was no room left "held hands and walked into the river," the witness described. When they returned to the village two days later, they saw that four of the 22 houses had been burned, while the others showed signs of being fired upon. The cattle had been taken away, Novka Bozic said, adding that no one in the village "had prepared for the attack because no one had expected it." Among those killed, she identified her mother and several neighbors whose names she gave during her testimony.

The indictment alleges that Naser Orić commanded the attack on the villages of Radijeveci, Fakovic and Dioveci on 5 October 1992, leading members of the Territorial Defense units from Potocari, Osmaci, Sucevka and Skenderovic and the Stari Grad company. He is charged with the "plunder of property and cattle of Bosnian Serbs and for the unlawful destruction of property and houses.

Orić's defense counsel John Jones objected to the prosecutor's request that the witness describe the bodies of the villagers who were killed that she was able to recognize, noting that Naser Orić "is not accused of the killing of those people." Presiding Judge Agius overruled the defense objection; the witness then stated that evidence of violence could be seen on the dead bodies and that "none of them had worn a uniform."

Showing the witness a "list of the VRS Bratunac Brigade fighters killed between 1992 and 1996," the defense put it to the witness during cross-examination that the majority of the casualties were in fact VRS soldiers who had been killed in action. The witness denied it, stating, when asked by a judge, that "both the elderly and the young men from the village had fled to the Drina River together with all the rest."

2004-10-29

THE HAGUE

PLUNDER OR HUNGER?

According to Naser Orić's defense, the motive behind the attacks on Serb villages in the Bratunac and Srebrenica areas in June 1992 was "desperate civilians' hunger." Stanisa Stevanovic testifies about those attacks today.



◀ Stanisa Stevanovic, witness in the Orić case

The population of the Serb villages and hamlets around Bratunac and Srebrenica organized village guards in the first half of 1992, testified Stanisa Stevanovic at the trial of Naser Orić. Stevanovic is from the village of Bradjevina near Ratkovici.

"Until June 1992, when Bradjevina was attacked, quite a few Serb villages in the Srebrenica [area] had already been burned," Stevanovic said, describing how news of the murders and burned houses in this area quickly spread to other villages. In May 1992, the witness took his seven children to his relatives in the village of Vranjesevic, which was "closer to the Drina River."

Stevanovic explained that the village guards were made up of villagers, and that in his village, Bradjevina, the guards counted "12 men"--the total number that lived in the 12 village households. They bought weapons themselves. "The weapons one had depended on how much money one had," Stevanovic said. The witness said that he'd heard weapons were traded in "a café owned by a man named Slavko Jovanovic in Fakovici," the chairman of the village SDS.

Stevanovic said the village guards "did not wear any uniforms. They did not have any links with the JNA or the RS Army." The witness claims only one meeting was held in February 1992 in the village of Ruljevici. Representatives attended it from every village and hamlet.

Stevanovic's village, Bradjevina, was attacked on 21 and 27 June 1992. The witness recounted how after the first attack, the villagers "took their cattle down to Grabovicko Polje by the banks of the Drina River," but some of the cattle "were stolen by the local Serbs." They brought the remaining cattle to the village on 26 June, believing they would not be attacked again.

But the next day, Bradjevina was attacked again. The witness sought shelter in a fallow field. After the morning fog lifted, he could see "the nearby villages of Gornji Ratkovici and Dvorista burning." He claims to have seen groups of "civilians and soldiers retreating across the fields towards the village of Mocici, driving the cattle before them." The witness claims they burned the buildings in the field as they passed.

Ratkovici and the surrounding villages were destroyed completely; Bradjevina was among them. "The farmers sustained 100 percent damage," the witness said, describing how "everything was burned down." Household appliances, TV sets and other valuables were first plundered from the houses and the cattle driven out or killed in the stables.

Stevanovic was an eye-witness to the murder of a man whose body was photographed. Because of the brutality of the pictures of the massacred body, judges decided that the witness should testify about that event in closed session. When public session resumed, the only thing heard was that Stevanovic took the body of his dead neighbor to the bank of the Drina River, where his son then took it and buried his father in Bajina Basta.

Stevanovic said he can go to his village of Bradjevina today only "as a tourist - to see it," but not to live there. "Everything has been destroyed and burned down." No one lives in those parts today, he said. "Everything is overgrown with weeds."

In an attempt to challenge allegations in Stevanovic's testimony that Bosnian Serbs were attacked, Naser Orić's defense suggested that the "soldiers and civilians" the witness "allegedly saw burning and looting" had in fact been "desperate civilians, women and children forced to bang pots and pans in order to scare their enemies, risking their lives to get food." Orić is charged with the wanton destruction of towns and villages and the plunder of Bosnian Serbs' property in the municipalities of Srebrenica and Bratunac in 1992 and 1993.

The witness, however, maintained that they were "men who went there in order to burn and plunder Serb villages." He said, "Gentlemen, I do not know whether they were forced to do that, but they did attack us."

Slavisa Stevanovic's cross-examination will continue Monday.

2004-11-23

THE HAGUE

DEFENCE AGREES WITH PROSECUTION EXPERT

According to British expert Andrew Gow, and by extension, the prosecutor who has called him to testify, the conflict in BH broke out when the Serb side set out to draw new borders through ethnic cleansing. Gow testified about the development of the conflict in which the crimes that Naser Orić is charged with were committed.



◀ Andrew Gow, witness in the Orić case

British Professor Andrew Gow, expert for war and security issues, testified at the trial of Naser Orić about the development of the conflict in BH. In the context of that conflict the forces under Orić's command, as alleged in the indictment, carried out the attacks on Serb villages and civilians in the Srebrenica area.

According to Gow, and by extension, the prosecutor who has called him to testify, the conflict in BH broke out because of the attempts by the Serb side – SDS party in BH supported by the Belgrade authorities – to draw new borders through ethnic cleansing. In an attempt to avoid the ascribing of blame to Belgrade, the JNA was transformed in May 1992 – a month and a half after the

start of the war in BH – into the Yugoslav Army and the Republika Srpska Army, the witness said. He added, however, that regardless of the formal transformation of the military, the implementation of the “Serbian project” continued with the aim of joining all the “Serb” territories in Croatia, BH and FR Yugoslavia together.

Faced with a situation in which the Serb population in BH “looked towards” Serbia and the Croat towards Croatia, “Bosniaks considered the declaration of independence to be the best way to protect the BH State,” Gow added. In the beginning there was no army of Bosnia and Herzegovina, Gow notes, and the Sarajevo Government used the old defense structure – the Territorial Defense – to defend the state, until it established the BH Army in late 1992.

In the course of the cross-examination, Naser Orić's defense did not challenge his testimony, but tried to expand them by including additional information and documents. The defense suggested that one of the strategic goals of the Bosnian Serb Assembly was to remove the border on the Drina River and to join the Bosnian side of the Drina basin with Serbia. The witness agreed that the plan was to annex parts of BH. The defense is trying to prove that Orić, as the commander of BH Army forces in the Srebrenica area, operated in a very difficult situation, with the Bosniak population expelled from their villages and besieged, and that the attacks on Serb villages were conducted in order to obtain food.

2004-12-03

THE HAGUE

“BABY FIGHTERS”

A witness from Bjelovac, whose children were taken prisoner by the Bosniak soldiers says, “I told Orić once, ‘What kind of a commander are you, you’ve captured a six-month old baby!’ And he said that all those who found themselves on the frontline were fighters as far as he was concerned.”



◀ Slavoljub Filipovic, witness in the Orić trial

Naser Orić personally communicated with ham radio operators on the Serb side to tell them he had Serb captives to be exchanged, witness Slavoljub Filipovic from Bjelovac testified. As a prosecution witness at the trial of Orić, former BH Army commander in the Srebrenica area, Filipovic testified about a Bosniak attack on his village of Bjelovac on 14 December 1992, in which many of his neighbors died, as did two of his relatives. Some of the civilians were taken prisoner.

The witness, who defended the village together with the other members of the village guard, listed the names of the people who were killed or were set on fire in the attack mounted by Orić's forces. In the days that followed the attack, Filipovic saw his own father and brother

among the dead bodies. "My six-month old son and my three-year old daughter remained in the house. I thought they had burned, but a woman told me that they had jumped into the Drina river," Filipovic recounted. "About seven or eight days later I learned that they were in Srebrenica as prisoners."

Filipovic, who had known the accused Orić from before the war, said that he had been listening in on the conversations between ham radio operators: his friends on the one side and Orić on the other. "Once I told Orić, 'What kind of a commander are you, you've captured a six-month old baby!' And he said that all those who found themselves on the frontline were fighters as far as he was concerned."

When the judges asked him if he had used his acquaintance with Orić to tell him that the children were his, Filipovic said he had not. He let the "authorities and the military sort out the case among themselves". Filipovic's wife and children were exchanged on 16 February 1993 in Skelani.

The witness will continue his testimony with the cross-examination by the defense.

2004-12-10

THE HAGUE

AN INCIDENT IN COURTROOM

Provoked by the testimony of Nikola Popovic whom he considers responsible for the killing of two thousand people in Kravica in July 1995, accused Naser Orić shouted that he did not want "a criminal to testify" against him. Presiding Judge Agius threatened that he would have Orić handcuffed and removed from the courtroom.



◀ Naser Orić in the courtroom

"I will be forced to have you handcuffed," Carmel Agius, Presiding Judge of the chamber hearing the case of Naser Orić, said after the accused, provoked by the testimony of Nikola Popovic, stood up without permission and said in a loud voice that he did not "want a criminal to testify here."

Visibly shaken, Orić stood up in the dock again and shouted that the witness had "killed two thousand of his people" in the warehouse of the farming co-op in Kravica in July 1995. During the cross-examination, John Jones, defense counsel of the accused Orić, quoted from a "Statement of Facts and Plea Agreement" made by Momir Nikolic, former security chief in the VRS Bratunac

Brigade, where it is stated that Nikola Popovic had taken part in the executions of Bosniaks captured on 13 July 1995 after the fall of Srebrenica in Kravica.

The witness denied his participation in the crimes, and the prosecutor stated that Popovic had not been offered immunity and that he was not considered as a suspect in those crimes by the Tribunal.

In the course of his testimony, Nikola Popovic spoke about an attack of the Bosniak forces on the village of Kravica and other Serb hamlets on the Orthodox Christmas Day, 7 January 1993. As he said, his 82-year-old grandfather was killed in the attack, while his father Kostadin was captured and taken to the prison in Srebrenica. The witness also spoke about the exhumation of his father's body who had died in prison on 6 February 1993 as a consequence of daily beatings.

Defense counsel Vasvija Vidovic and John Jones apologized to the court on behalf of their client, citing the fact that Orić had lost many relatives and friends in the massacre after the fall of the Srebrenica enclave. Presiding Judge Agius replied that he would not tolerate such incidents in the future and that he would remove the accused from the courtroom if necessary.

2005-01-10

THE HAGUE

CAN DOCUMENTS FROM BANJA LUKA BE TRUSTED?

Naser Orić's defense challenges the authenticity and reliability of documents obtained by the OTP from a "problematic source" – the Republika Srpska authorities.

If the OTP has taken the view that "the Republika Srpska authorities cannot be relied on in any serious matter", how is it possible then that in its case against Naser Orić the prosecution is extensively using documents obtained from the authorities in Banja Luka?

This is the question Orić's British defense counsel John Jones asked today as the trial of the former BH Army commander in the Srebrenica enclave continued. He quoted several statements made by OTP representatives in 2002 in which they were "scandalized" by the first "Srebrenica report" by the RS Government in which it denied that the crimes committed in July 1995 ever happened. He quoted a motion filed by the prosecution in November 2002 in opposition of the provisional release of Vidoje Blagojevic, in which guarantees given by the RS Government were described as worthless and in which the conclusion is made that the Banja Luka authorities "continue to insist on myths and lies" and that "they cannot be relied on in any serious matter".

According to the defense, the trial of Naser Orić – accused with the destruction and plunder of Serb villages and torture and murder of detained civilians in late 1992 and the first half of 1993 - is too serious matter to be based on the evidence obtained from "problematic sources".

Noting that the RS authorities are not a "reliable source of documents", the defense quoted the fact that the High Representative Paddy Ashdown had at one point removed from office Dejan Miletic, former head of the RS Bureau for Cooperation with the Tribunal, because he had "taken active part in the efforts to conceal documents", as the explanation went. Mr. Miletic himself confirmed in an interview for the Bosnian bureau of the Deutsche Welle, quoted today by the defense counsel, that the RS authorities had "assisted in the investigation against Naser Orić" and provided "certain documents" to the OTP.

Quoting from statements made by several potential witnesses who denied in the interviews conducted by the OTP investigators that they had ever written or signed the documents that had been showed to them bearing their names, the defense suggested that that after the fall of Srebrenica in July 1995, the Serb forces had found official BH Army stamps they then used to forge those documents and submitted them to the OTP.

The prosecution will respond to the allegations made by the defense tomorrow, as the trial continues.

2005-01-13

THE HAGUE

"DENTIST'S OFFICE" AT THE SREBRENICA POLICE STATION

Nedeljko Radic, a Serb from the village of Milici in Srebrenica area, described his encounters with Naser Orić in the Srebrenica SUP building where he had been detained and abused in the fall of 1992.



◀ Nedeljko Radic, witness in the Orić trial

The prosecutor contends that Naser Orić, former commander of the BH Army forces in the Srebrenica area, knew that the troops under his command were "abusing and beating to death" prisoners at the Srebrenica SUP building, yet failed to do anything to prevent or punish them for it.

Through the testimony of Nedeljko Radic the prosecution is trying to prove that Orić did have the opportunity to see for himself how the prisoners were treated in September 1992. The witness had been captured after an attack on the bauxite mine where he had been working. He was subsequently detained in a cell in the Srebrenica SUP building.

Radic testified that four other Serb civilians had been detained in a 3 to 4 square meter room. They were beaten on an almost daily basis on their trips to the toilet in the corridors by whoever happened to be there. But the most severe beating happened at night, when they were taken to the room next door one by one. In that room, as Radic recounted, there were two strong lads by the name of Kemo and Mrki.

They mostly kicked and punched them, but they would also use logs stacked next to a large stove. Radic's teeth were knocked out by such a blow the very first night. The next night "Kemo extracted with pliers what was left of his teeth and then disinfected it all with urine", the witness said.

Radic was able to confirm that another one of the five detainees in the cell, who was called Kukic, had also been beaten with a log. He claims to have seen Kukic die after Kemo hit him over the chest with a log several times for having "cursed his Ustasha mother." Kukic's dead body was returned to the cell, and the next morning, when Kemo asked them "what happened to him", the detainees responded, "heart attack". Radic explained that they were afraid that they would have shared his fate had they told the truth.

They gave the same reply to Naser Orić who visited them soon after this incident to ask "whether anyone was beating or mistreating them." Again, they did not dare tell the truth. Radic claims to have seen Orić two more times in the SUP building. He always wore "an American camouflage uniform with the fleur-de-lis emblem", described the witness. He was subsequently exchanged.

On a video tape of the police station in Srebrenica shown to him by prosecutor Patricia Sellers, Radic was able to identify the rooms on the first floor where he had been detained and beaten. He also confirmed the authenticity of a drawing of that area made on his instructions in May 2000 when he gave a statement to the OTP investigators about his experiences at the Srebrenica SUP (Secretariat of Internal Affairs).

Radic's testimony will continue tomorrow.

2005-01-25

THE HAGUE

NIGHTLY VISITS TO "CHETNIKS" IN THE SREBRENICA PRISON

At the trial of Naser Orić, witness from the village of Cosici describes abuse he was subjected to as a detainee in January 1993 in the SUP building and at other locations in Srebrenica.



◀ Ilija Ivanovic, witness in the Orić trial

The trial of Naser Orić, former BH Army commander in the Srebrenica region, continued today with the testimony of Ilija Ivanovic from the village of Cosici near Srebrenica. He was captured on 16 January 1993 after an attack on his village.

Ivanovic confirmed that he was a member of the village guard made up of the villagers from Cosici. They were armed with "semiautomatic and automatic rifles". Twelve of them were killed in an attack launched by the "Muslim forces" on 16 January, Ivanovic described. He himself was captured as he retreated.

Ivanovic claims to have seen not only the attackers he described as armed men in camouflage uniforms and

civilian clothes, but also women and even children who followed the soldiers "creating a great din" and dragging horses they used to carry "everything they would confiscate."

Ivanovic was taken to the Srebrenica SUP building where he spent three or four days and was then taken to the "national defense building." On sketches made according to his instructions, the witness indicated the cell where he was detained with three other Serbs. It was a "small room with a concrete floor, a single window and a radiator, but with no heating."

The detainees were beaten on a daily basis, Ivanovic said, specifying that they would be "beaten in particular during the night", when "visitors, including girls sometimes," would come to the building.

"First we would hear the sound of a truck coming, then shouts of "let's see the Chetniks," and then the visitors would get into the building and start beating us", Ivanovic described. He had two ribs, nose and a cheekbone broken as the result of the beatings. His face and body bear numerous scars from the punches and cuts.

The witness described that on one occasion, when he was beaten in front of the reception booth and received the most serious injuries, among the soldiers and visitors stood a man "with black hair and beard" in a camouflage uniform. The other soldiers pointed this man out to him as "our champion, the chief, the boss, or our Naser." Ivanovic was unable to confirm that was indeed Naser Orić since he "did not know him" at the time, as he said.

When Judge Agius insisted that he clarify whether he thought today that this was the accused, the witness said that when he saw Orić in photographs and video tapes later, he thought it was the same person that was at the reception of the National Defense building the day he received the severest beating.

The last five or six days of his captivity, Ilija Ivanovic spent in hospital together with three other detainees. They were locked up, but "no one beat" them, the witness said. He confirmed that this was the first time they received any medical treatment. They were eventually exchanged.

Ivanovic and a group of other detainees were taken to be exchanged three times. When they returned from "failed negotiations", the Muslim soldiers would tell them: "Even the Chetniks don't want you."

Ilija Ivanovic's testimony will continue with the cross-examination by Naser Orić's defense.

2005-02-03

THE HAGUE

“YOUR GUYS ARRESTED OURS, SO WE HAVE TO ARREST YOU”

At the trial of Naser Orić, protected witness C7 described how he had been liberated from detention in Srebrenica by “Philippe Morillon’s blue helmets”

“Your guys arrested our guys, so we have to arrest you,” – that was the only explanation witness C7 got after eight months in detention in Srebrenica and the nearby village of Rovasi. The protected witness testified about at the trial of the former commander of BH Army units in Srebrenica Naser Orić.

In the summer of 1992, after he had taken his wife and children to Serbia, he encountered soldiers in camouflage uniforms that took away his horse, confiscated his corn, tied him up and took him to the Muslim village of Rovasi. He was detained in a barn with five other Serbs and three Muslims.

During his detention in the barn, which lasted approximately six months, C7 was beaten countless times and would often “faint from the beatings.” As far as he was able to see “during the time he was conscious”, the other detainees fared no better. They would be beaten almost on a daily basis by “visitors” who came to the barn at day- and night-time.

Sometime after Christmas 1993, the witness recounted, “men in uniforms” took him and the other detainees to the “police station in Srebrenica”, where the beatings continued. Badly beaten and in agony, the witness was not aware how long he spent there; he does not remember who beat the prisoners. “I came to know this guy that beat me, kicking me in the stomach with his military boots,” the witness said. He confirmed that two of the detainees in his cell had died of the injuries they sustained during the beatings.

The only period when they were not beaten was the time they spent in the hospital, where they were taken about ten days before their release. Partially recovered, they were taken back to the prison where they were picked up by the “blue helmets”. “Philippe Morillon and the people with blue helmets or berets,” the witness said, carried him into a white armored personnel carrier on a stretcher, since he could not walk. They were terrified, as he described “by all those animals they had to take off me.”

C7 said that, according to the information he got in the hospital, he weighed “about 30-40 kilos, had scars from sharp objects all over his body and head and was crawling with lice”. He never was informed what crimes he was charged with or why he was detained and tortured from the summer of 1992 until the early spring of 1993. His testimony will continue tomorrow.

2005-02-15

THE HAGUE

WITNESS FOR BOTH SIDES

Troops commanded by Naser Orić attacked the Serb villages in the Srebrenica area to get “arms and ammunition”, while civilians looking for food “plundered, ransacked and burned the houses,” prosecution witness Nedret Mujkanovic claims.



◀ Erdin Arnautovic, witness in the Halilovic case

Units commanded by Naser Orić carried out several “attack actions” in the Srebrenica areas between September 1992 and February 1993, Dr. Nedret Mujkanovic confirmed today as he continued his testimony. He is a pathologist from Tuzla, who treated soldiers and civilians wounded in those attacks as he worked as a surgeon in the Srebrenica war hospital.

He confirmed the allegations in the indictment about “wanton destruction and plunder” of the Serb villages but also the defense argument that those were “desperate attempts of starving civilians to find food”. Dr. Mujkanovic at times seemed more like a defense witness, despite the fact that he was in fact called by the prosecution.

“The survival instinct was stronger than death”, Mujkanovic said, describing why the civilians, as he testified, “raided the villages, carrying away food, household appliances and furniture from the houses and then setting the houses on fire”. He confirmed that all the attacks were organized in the same way. First, the troops would get in, take control of the village, seize any weapons and ammunition they could find and then the civilians would come in and get all the rest.

All the attacks were planned in strictest secrecy, the witness claims, describing how “even the hospital would receive notification of an attack only when it was imminent.” When asked by the presiding judge how it was possible that the civilians had participated in the attacks en masse despite the secrecy, Mujkanovic explained that every soldier would warn his family that there would be an attack, so that they could get ready to “be the first to enter the village” immediately after the troops.

“Some of them would get into the villages even before the troops,” the witness said, describing how in some cases the first wounded to come in would be civilians.

When Judge Agius asked him to confirm a claim he made in a statement given to the investigators in 2000 that “Naser Oric was present and commanded all those attacks”, Mujkanovic was unable to do so in full. He made this conclusion, he says, on the basis of the conversations he had with the wounded in the hospital and with Oric himself. He claims that Oric would come to visit the wounded.

Mujkanovic claims that “the soldiers did not burn houses in the villages they attacked.” As he says, they were only interested in weapons and ammunition, while the burning of houses was “some kind of revenge by civilians.” He also confirmed that such conduct could be anticipated during every further offensive launched by the units under Naser Oric’s command.

2005-02-22

THE HAGUE

WHY BURN A HOUSE THAT HAS BEEN LOOTED?

After explaining first that the Muslim refugees living in Srebrenica enclave burned houses in Serb villages “because they were afraid they would be moved there”, Dr. Nedret Mujkanovic later agreed to the suggestion put forward by the presiding judge that they in fact did that “for the same reason Serbs did it” – to prevent the owners from returning to their homes



◀ Nedret Mujkanovic, witness in the Oric case

Serb villages in the Srebrenica area were plundered and burned in 1992 and 1993 by civilians desperate to find food, claimed Dr. Nedret Mujkanovic in the course of his marathon testimony at the trial of Naser Oric. Mujkanovic is a doctor from Tuzla who was a surgeon in the war hospital in Srebrenica during the war.

The prosecution is charging Oric, former commander of the BH Army units in Srebrenice area, with “wanton destruction” of the villages in that region. Although Mujkanovic was called as a prosecution witness, he claims that the BH Army “did not burn houses” and that he saw with his own eyes civilians do it – women, children and the old people. “When they got whatever could be

taken away, they burned the house”, Mujkanovic described the actions of the civilians.

The failure of the prosecution to ask the witness why the houses were burned after they had been looted, and the evasion of the issue by the defense – was corrected by presiding judge Carmel Agius as Mujkanovic’s testimony drew to a close. “I can understand why the houses were looted, as those people were hungry, but why did they burn the houses?” the judge asked.

The witness first came up with a rather original explanation. According to him, the houses were burned because “the refugees from occupied Muslim villages who had taken shelter in the Srebrenica enclave were afraid they would be relocated there”. Mujkanovic thinks that the refugees were afraid they would be moved to Serb villages from the Srebrenica enclave. The villages were 20 or 30 kilometers away from Srebrenica, close to the frontlines. That is why they burned houses in order to make them uninhabitable.

Having heard the explanation, the judge asked Mujkanovic whether “Serbs burned houses too?” The witness confirmed that and added that “their motive was probably to prevent the Muslims from returning to their homes.” The Maltese judge then put it to the witness that “Muslims, civilians and soldiers alike, did that with the same motive: to prevent Serbs from returning to their homes.”

Mujkanovic agreed that this might have been a reason why Muslim civilians burned houses in Serb villages in Srebrenica in 1992 and 1993. He explained this may have something to do with the mentality of “the man from the Balkans, who has close ties with the physical space, the house.” According to him, it is “one people divided by three religions, but sharing the same mindset and mentality.”

2005-03-15

THE HAGUE

GENERAL MORILLON'S FAILED ESCAPE BID FROM SREBRENICA

British colonel Pyers William Tucker testified today about a failed escape bid of General Morillon from Srebrenica in March 1993, his decision to stay with the refugees and why the general could not convince "colonel" Oric to stop the fighting

British colonel Pyers William Tucker testified today at the trial of Naser Oric about how and why the French general Phillipe Morillon, the then commander of UNPROFOR in BH, decided to stay in Srebrenica longer than he planned in March 1993.

On arrival in Srebrenica on 11 March 1993, Morillon and his escort were taken to the PTT building where they had several meetings with the municipal war presidency. When they tried to leave the next morning, they were surrounded by refugees and thus prevented them from leaving town. The refugees were afraid that the Serb forces would resume their shelling of Srebrenica after the departure of the UN representatives. This is precisely what happened in neighbouring Konjevic Polje, after the UN team left the town, the witness explained.

The second night after their arrival in Srebrenica, General Morillon planned his escape, as the witness recounted. Dressed in a jacket with a hood on his head, Morillon crept out of the PTT building and hid in the nearby remnants of a destroyed house, waiting for Tucker to pick him up in an armored personnel carrier. However, Tucker could not start the APC without attracting the attention of the refugees who monitored his every step.

As he waited, general Morillon observed the endless columns of refugees walk through the blizzard from Konjevic Polje and entering the town. The witness said that the next morning Morillon went back to the PTT building and said: "I will stay!"

Every shell fired on Srebrenica would cost at least ten lives, General Morillon estimated. That is why, the witness said, Morillon tried to arrange a cease-fire, the free passage for the aid convoys, opening of a helicopter corridor for the evacuation of the wounded. An idea was also broached to declare Srebrenica an open city under the protection of the UN. But, the fighting had to stop, and the general, as the witness explained, could not convince "colonel" Oric to agree to it.

As Tucker said, "colonel" Oric said he didn't care and that he wouldn't surrender the weapons, that he would continue to fight in order to obtain the resources he needed to defend the enclave because every bullet that was fired in its defense had been taken from the enemy. When Morillon asked Oric whether there were any Serb prisoners in Srebrenica, Oric never answered.

Naser Orić, former commander of the BH Army forces in Srebrenica area, is charged in the six counts of the indictment with plunder and burning of Serb villages in Eastern Bosnia and the beating and killing of Serb detainees in the Srebrenica police station.

2005-03-16

THE HAGUE

BRANDY AND CIGARS FOR GENERAL MORILLON

"In Srebrenica, the law of the jungle rules", British colonel Pyers William Tucker wrote in his notebook in March 1993 during his stay in Srebrenica. The witness described the humanitarian airdrops and distribution as "the fight for survival."



◀ William Tucker, witness in the Oric trial

"In Srebrenica, the law of the jungle rules", British colonel Pyers William Tucker wrote in his notebook in March 1993 during his stay in Srebrenica. He spoke about it today at the trial of Naser Oric, testifying about his stay in Srebrenica with the then UNPROFOR BH Commander, French General Philippe Morillon.

The witness described the humanitarian air drops, underway at the time, and their distribution as "the fight for survival" – "only the fittest would get it." Tucker recounted how about four people would be killed every night in the fights about the food dropped from the helicopters.

Most of the people in Srebrenica, the witness said, ate flour they obtained from hazelnut trees that "tasted like sawdust." At that time, about 70,000 people lived in the Srebrenica pocket, according to the UNHCR data.

One night, among the pallets of food that were airdropped there was a package with cigarillos and brandy for General Morillon. However, the package had already been opened when it reached the general and cigarettes and brandy were gone.

Colonel Tucker's notebook also contains entries indicating that Morillon was aware at that time already that "crimes against humanity" would be committed if Serbs were to take Srebrenica. As he planned the establishment of a demilitarized zone, Morillon knew, according to the witness, that four to six thousand UN troops would be needed to defend the zone, but that he did not have those assets either then or later. Tucker said that, in that light, he was able to understand why Orić did not want to hear about the demilitarization of Srebrenica.

As Morillon negotiated about the humanitarian aid deliveries, evacuation of the wounded and the deployment of UN observers, he contacted the Serb commanders several times. They were "terribly angry" that the UN observers were in the area. He mostly met with Milan Gvero, although the Serbs, as Tucker said, kept promising that Ratko Mladic would come.

When Mladic was mentioned and when the witness was asked whether he was aware that Mladic was indicted for the genocide in Srebrenica, Tucker said curtly, "I hope he burns in hell!" Speaking about two other VRS officers who have also been indicted for the Srebrenica crimes, the witness noted, "Tolimir was a Rottweiler and Gvero a lapdog that Serbs trotted out when necessary."

Naser Orić, former BH Army commander in Srebrenica, is charged in six counts of the indictment with the plunder and burning of Serb villages in Eastern Bosnia and maltreatment, beating and murder of Serb detainees in the Srebrenica police station.

2005-03-23

THE HAGUE

HAKIJA'S TROOPS, ZULFO'S TROOPS, NASER'S TROOPS

Were units under Naser Orić's command "teams for the salvation of the people" or military formations?



◀ Bećir Bogilović, witness in the Orić trial

The establishment of the police and military forces in Srebrenica began in Bajramovići, on 20 May 1992, testified Bećir Bogilović at the trial of Naser Orić. Bogilović attended that meeting and received the task to establish a police station in Srebrenica. He said that Orić was on that occasion appointed the commander of the Srebrenica Territorial Defense staff.

Ten days later, at a meeting of local representatives in the village of Stupine, Hajrudin Avdić was appointed the president of the Srebrenica municipality. At the same time, he was the president of the War Presidency. This in effect established the civilian government in Srebrenica, Bogilović said. At that meeting, he was appointed the

Srebrenica chief of police.

Although in his examination-in-chief he testified about the establishment of the military and civilian authorities in Srebrenica, in his cross-examination by the defense Bogilović denied that this had been a formal establishment of a military chain of command in Srebrenica. The residents of the villages whose representatives attended those meetings "elected their unit commanders themselves", Bogilović said, describing those formations as "teams for the salvation of the people". "There was a war, and we gave them military names, but the people still called them Hakija's troops, Zulfo's troops, Naser's troops...", the witness said.

Bogilović also confirmed the defense argument that "no chain of command was established" and that Naser Orić, although the commander of the Srebrenica Territorial Defense staff, "had no influence over the appointment of local commanders" because they were "elected by the locals."

The prosecution once again faced a situation in this trial where its witness confirms the defense arguments in the cross-examination. The judges noted this. In the re-direct, the prosecutor tried to point to the witness the inconsistencies in his testimony, but Bogilović persistently avoided giving a direct answer. After several interventions, Presiding Judge Carmel Agius told the witness that he hoped his testimony would end soon because he did "not believe him" as the witness had been "trying for fifteen full minutes to avoid answering the questions" put to him.

In response to the last few questions put by prosecutor Patricia Sellers, Bogilović finally agreed that Naser Orić, as the TO staff commander, commanded all the "groups" which were organized into units at those two meetings. He also confirmed that Naser Orić had never refused to be the commander of those groups.

At the end of his testimony, Bećir Bogilović was not allowed by the judges to greet the accused. Naser Orić's trial will continue on 4 April.

2005-05-02

THE HAGUE

PROSECUTOR GIVES UP ON “NON-COOPERATIVE WITNESS”

Former president of the Srebrenica municipality was supposed to testify at the trial of Naser Orić this week but after the prosecutors realized in the course of two days of proofing that Ibran Mustafić did not want to cooperate with them, they decided not to call that witness



◀ Naser Orić during the trial

The lead prosecution counsel at the Naser Orić trial today decided not to call the witness who was supposed to testify this week. In the course of two days of proofing, as prosecutor Jan Wubben said at the beginning of the morning session, the witness was “highly uncooperative” and the prosecution was forced to decide not to call him to the witness stand. The prosecution, Wubben added, was “disappointed, because we considered him an important insider”. In two interviews with the OTP investigators, last August, it turned out that he had important information about the events in Srebrenica in the period relevant for the indictment against Naser Orić.

The name of the prosecution witness who will not testify was not mentioned today during the 20-minute morning session, but SENSE has learned that he is Ibran Mustafić, former president of the Srebrenica municipality and one of the founding members of the SDA party in that part of Bosnia.

Judge Agius reminded the court that the prosecution could have applied to the Chamber to declare the uncooperative witness “a hostile witness”, which would make it possible for the prosecutor to cross-examine him and confront him with the statements he made in previous interviews with OTP investigators. The prosecutor decided against this option, obviously judging that he would not be able to get the information to corroborate his allegations. Orić’s defense did not have anything to say to the prosecutor decision to forego the testimony, and Judge Agius said, “it never occurred to the Chamber to call this person as a court witness and to issue a subpoena for his testimony.”

The prosecutors have had trouble with several unwilling prosecution witnesses – associates or acquaintances of Naser Orić from the period covered by the indictment – who evaded giving a direct answer to the prosecutors’ questions, but were all too happy to confirm the main arguments of the defense about the situation in Srebrenica in late 1992 and early 1993.

Since Mustafić’s testimony was supposed to last until the end of the week, the prosecution did not have a back-up witness for today. The trial was adjourned. It will continue when the prosecution manages to bring a new witness to The Hague.

2005-05-12

THE HAGUE

NASER ORIC AND GENEVA CONVENTIONS

Testimony of Enver Hović who, as the head of the legal department of the BH Army 2nd Corps that Naser Orić’s troops were part of, advised commanding officers on the application and respect of the international laws of war. Did Hović’s advice ever reach Srebrenica?



◀ Enver Hović, witness in the Orić trial

The BH Army units started receiving their instructions for the treatment of the prisoners of war and conduct in war operations back in May 1992, said Enver Hović, who was the head of the legal department of the 2nd Corps between 1992 and 1996. At the trial of former commander of the BH Army in Srebrenica Naser Orić, Hović testified on the competence of military and civilian courts in Bosnia and Herzegovina during the war.

In the period covered by the indictment – between May 1992 and March 1993 – a military rulebook existed with clearly formulated guidelines governing the army conduct during war operations, Hović confirmed. He

said that it included the provisions of the Geneva Conventions. Orić and other BH Army officers, according to Hogić, were obliged to ensure and supervise the respect of those rules and report the cases of their violations to their superior officers.

Within the command of the 2nd Corps, which incorporated the units commanded by Naser Orić, Hogić advised the officers on the application and respect of the international laws of war. He stressed that the advice he provided would be sent to all BH Army units, but was unable to confirm whether it ever reached Orić's units in Srebrenica because of difficulties in communicating with the enclave "up to mid-1994".

Prosecutor Patricia Sellers showed video tapes in which Orić, while talking to the Tribunal investigators in May 2001, explained that despite being a commander he could not control civilians in Srebrenica, that he believed his frontline duties were of uppermost importance and that, as a commander, he would often sign documents he had not even read. In a TV interview, whose excerpt was also shown in the courtroom, Orić said that his units had "fought using all the available means, both respecting and breaching the Geneva Conventions".

"The Geneva Conventions had to be respected in full and it was the position of the command that had not changed since the war began", Hogić said, commenting on that particular statement of the accused.

During the cross-examination the defense tried to prove that the units under Orić's command had no firm structure, and that due to communication breakdowns the officers had no access to any rules of conduct in armed conflicts. Hogić confirmed that he "has no knowledge" of whether his advice on the respect of the international laws of war ever reached Srebrenica.

2005-05-31

THE HAGUE

PROSECUTION RESTS AT NASER ORIĆ TRIAL

After 101 trial days, during which 50 witnesses were heard, the prosecution rested its case at the trial of former BH Army commander in the Srebrenica region. Orić is charged with destruction and plunder of Serb villages and abuse and murder of detainees in late 1992 and early 1993.

The prosecution today rested its case at the trial of Naser Orić, former commander of the BH Army forces in the Srebrenica region, accused of the plunder and destruction of Serb villages and abuse and murder of detainees there in late 1992 and early 1993.

It took 101 days for the prosecution to present all its evidence. Fifty witnesses were heard – survivors and eyewitnesses of the crimes Orić has been charged with. The prosecution has tendered 561 and the defense 302 exhibits.

The last prosecution witness was an OTP investigator who investigated the events in Srebrenica and obtained the war diary of one of Naser Orić's soldiers. The diary mentions the events described in the indictment. The diary allegedly belonged to Avdo Huseinović, who will probably appear at Orić's trial as a defense witness.

Before the Srebrenica investigator, general Sead Delić took the witness stand. From November 1993, he commanded the BH Army 2nd Corps in Tuzla. Srebrenica was in its area of responsibility. Through a series of reports on actions that had been carried out, where planning and command of the units during military operations in 1992 and 1993 are discussed, the prosecution tried to prove that there was a clear chain of command and command responsibility and that all the commanders, including Orić, had to know about the rules of international law of war. General Delić stated, however, that everything was "clear and known on paper", while the situation in the field was quite different. According to this witness, the commanders in the BH Army were mostly people "with no military education or too young", "not fit to command".

On Thursday, the defense will present its motion to acquit Naser Orić on all or some counts of the indictment, which the prosecution in their opinion failed to prove beyond reasonable doubt. The prosecution will respond on Friday. The decision of the Chamber will determine when and if the defense case will begin. In case the judges decide that the prosecution failed to prove the guilt of the accused beyond reasonable doubt, Orić's defense would have no case to answer.

2005-06-02

THE HAGUE

SHOULD NASER ORIĆ'S TRIAL CONTINUE?

"In eight months, the prosecution has failed to prove any of the counts of the indictment", claims defense counsel John Jones. He is asking the prosecution to drop the entire case. In that case, the defense would not have to present its case at all.



◀ John Jones, defense attorney for Naser Orić

Defense counsel John Jones today argued that Naser Orić should be acquitted on all counts of the indictment. He said, "In eight months, the prosecution has failed to prove any of the counts of the indictment". Jones wants the prosecution to drop the entire case, "because the trial does not deserve to go on for even another second".

The prosecution rested its case this week and the defense is seeking Orić's acquittal before the defense case begins.

Defense counsel Jones notes that in the context of Srebrenica it is hard to speak about any crimes committed by the BH armed forces, adding that the crimes Orić has been charged with were committed by hungry civilians

whose very lives were at stake. Faced with the Serb aggression, they had to choose between two evils: "to die of hunger or to get killed as they went looking for food in Serb villages". No one could control the starving civilians or prevent them from doing that. The accused Orić is no exception, Jones says. He adds that stealing food and ammunition should not be considered a war crime.

The defense considers that Orić's command responsibility in any of the incidents described in the indictment has not been proven. Jones quotes, among other things, the prosecution military expert, Piers Tucker, who testified that the BH Army in Srebrenica did not have a military chain of command or any command structure. It was made up of poorly armed volunteers who stayed in their own homes. It was difficult for Orić to exercise command over them.

There were also groups of soldiers who were commanded by local leaders (Zulfo Tursunovic, Akif Ustic and others). Orić had no influence over them, the defense contends.

The counts of the indictment charging Orić with abuse and murder of civilians in the Srebrenica police station describe "horrific events", Jones says, expressing his sympathy for the victims and their families. However, the lawyer claims that those crimes were the responsibility of the civilian police and that Orić, who spent most of his time on the frontline, had no influence over them either.

"The prosecutor's arguments are based on assumptions," Jones says. In his view, neither the crimes, nor Orić's knowledge of them, nor his position as a superior to the perpetrators have been proven beyond reasonable doubt.

The prosecution will respond to the defense motion of no case to answer tomorrow. At the beginning of the hearing today, the prosecutor merely noted that he "agree[s] there is not enough evidence to prove Orić's command responsibility for the destruction of the hamlet of Bozici."

Judge Carmel Agius announced that the Chamber would render its oral decision on the defense motion to acquit Orić on Wednesday.

2005-06-03

THE HAGUE

"EVIDENCE AGAINST ORIĆ SUFFICIENT"

Prosecution today argued before the Trial Chamber that enough evidence had been presented about the attacks on Serb villages and abuse in the Srebrenica police station; the trial should thus continue with Naser Orić's defense case.

"There is sufficient and more than sufficient evidence" for the trial of Naser Orić to continue, the prosecution claims in the response to the defense motion to acquit former commander of the BH Army in Srebrenica on all counts.

After the defense stated yesterday that "in the eight months of the prosecution case, they failed to prove any of the counts of the indictment," today the prosecutors argued before the Chamber that they had presented enough evidence about the attacks on Serb villages and the cases of abuse in the Srebrenica police station and that the defense had case to answer.

The prosecutors argued that there was evidence of Orić's command role, of his knowledge of the crimes and failure to prevent and punish them. Orić has been charged with the planning and execution of the attacks on a number of Serb villages in 1992 and 1993. The prosecutors note that they have "voluminous documents" about Orić's involvement in the attacks on the villages of Fakovici, Bjelovac and Kravica.

The prosecutors also reminded the judges of the evidence indicating that Orić had reason to know that the Serb detainees in Srebrenica had been subjected to brutal abuse and that some of them had died.

The Trial Chamber will render its decision on whether the trial should continue orally on Wednesday, 8 June.

2005-06-08

THE HAGUE

ORIC ACQUITTED OF CHARGES OF PLUNDER BUT NOT MURDER AND DESTRUCTION

The trial of Naser Orić will continue on only four instead of the initial six counts charging him with the crimes committed by the forces under his command in the Srebrenica area in late 1992 and early 1993.

Naser Orić is not responsible for the plunder of public and private property, the Trial Chamber found at the end of the prosecution case and acquitted him of counts 4 and 6 of the indictment. Orić's trial will, however, continue on all other counts in the indictment charging him with murder, cruel treatment of detained Serb civilians and wanton destruction of villages, qualified as violations of laws and customs of war.

In an unanimous decision on the motion to acquit the accused filed by the defense after the prosecution rested, the Chamber found that the prosecution had adduced enough "evidence which, if believed, would be capable of leading to the conclusion that the accused is responsible" for the acts in counts one, two, three and five, with the exception of three incidents where the responsibility of the accused had not been proven.

Naser Orić is charged with murder, cruel treatment of civilians and wanton destruction of cities, towns and villages in the Srebrenica area both on the basis of his individual responsibility and command responsibility, for failing to prevent or punish the perpetrators subordinate to him. When the judges reached the decision, as presiding Judge Carmel Agius said today, they did not accept the arguments presented by the defense that the units under the command of the accused had not had a strict military structure and that Orić had had no control of them, either *de facto* or *de iure*.

The Chamber has invited the prosecution to file an amendment indictment against Naser Orić to reflect the conclusions in the decision. Counts four and six, of which Orić has been acquitted, should be deleted from the indictment. According to the schedule presented today, the defense case begins on Monday, 4 July.

2005-07-04

THE HAGUE

NASER ORIC'S CASE BEGINS

The Trial Chamber dismisses the defense motion to suspend the trial until the Appeals Chamber has ruled on the restrictions imposed on the presentation of the defense case. The Chamber also indicates which elements need not be proven by the defense.



◀ Edina Becirevic, defense witness for Naser Orić

Naser Orić's defense began its case today, after the Trial Chamber dismissed its motion to stay the trial until the Appeals Chamber ruled on the defense appeal against the decision setting time limits for the defense case. Instead of 8 months in which the defense intended to call 72 witnesses, the Chamber allotted it 9 weeks and allowed it to call 30 witnesses. The Trial Chamber also dismissed the alternative motion filed by the defense for the two weeks that remain until the summer recess (in which Orić's lawyers planned to call four witnesses) not to be counted.

As it ordered Orić's defense to complete its case by 30 September 2005, the Chamber instructed the defense

lawyers that they need not present any evidence about the "historical context" of the conflict in BH, that Srebrenica was besieged by a far superior Serb force, that tens of thousands of Bosniaks ethnically cleansed from that part of Bosnia had found refuge there and that hunger, poverty, sickness and despair were rampant in the town. There is no need to do that because the defense has already cross-examined prosecution witnesses about those elements at length. Instead, the Chamber noted, the defense should concentrate on presenting evidence about whether the accused Orić had effective command and control over the various armed forces active in Srebrenica in late 1992 and early 1993.

The first defense witness was Edina Becirevic, a journalist from Sarajevo. Since 2003, she has been the coordinator of Naser Orić's defense investigation team. She testified about the sources and ways in which the documents to be used by the defense during its case were gathered. Her testimony lasted about 30 minutes, including the cross-examination.

2005-07-13

THE HAGUE

SCAVENGERS FROM SREBRENICA

Sead Bekric, testifying as Naser Orić's defense witness, described how he "desperately searched for food" with the civilians in Srebrenica in 1992 and 1993.

"They called us scavengers", Sead Bekric recalled, as he testified as Naser Orić's defense witness, describing the situation he was in when he was expelled from the village of Voljavica in the Bratunac municipality in September 1992. He was thirteen years old at the time.

Bekric describes how he roamed the area in search of food for almost a year, in a group "of starving and desperate refugees" from the villages in Srebrenica and Bratunac. "We followed the actions carried out by forces offering resistance to the aggressor," Bekric described the units. As he said, those units were the result of spontaneous gathering of people around the local leaders, Hakija Meholic, Akif Ustic and Zulfo Tursunovic. They "tried to defend or recapture their villages," and the 'scavengers' followed in their wake, Bekric said.

"We would break into the abandoned houses before, during and after the armed combat," the witness described, specifying that "there were scavengers everywhere." When the judges asked him if it was not too dangerous, Bekric replied that people had been desperate and they had faced the choice of "either risking their lives in search for food or starve to death."

As he searched for food and shelter, the witness passed through the villages of Jezestica, Sase, Bjelovac, Pobrdje and Mocevisa. He was in the village of Kravica on the Orthodox Christmas in 1993, during the attack which was commanded by Naser Orić, as the prosecutor alleges, and in which Orić himself participated.

The village was looted and burned, the prosecutor claims. According to Bekric's testimony, the houses in Kravica "caught fire after they were hit by shells fired from Serb positions". As the witness described, the Serbs used a variety of tricks: they would hide in houses and then suddenly open fire from them.

Bekric saw bodies of "two elderly people next to a machine gun" in a house in Kravica. He found 25 kilos of flour, a pair of camouflage trousers he managed to sell later and a bottle of brandy.

Sead Bekric confirmed the defense argument that in the second half of 1992 and in the beginning of 1993 there had been no communications between the villages in this area. The witness claims that communications equipment he would find, such as radios and talkie-walkies, "didn't have batteries." According to him, the entire area was constantly shelled from the VRS artillery positions in the Srebrenica area, and from across the Drina river, from Serbia. As Bekric described, some locations were targeted by small aircraft used to spray crops that also flew in from Serbia.

Sead Bekric testified in English, because he has been living in Florida since September 1993. He was transferred to the US after he was hit by a shell at the football field in Srebrenica and lost his eyesight. Bekric will be cross examined by the prosecutors tomorrow.

2005-07-21

THE HAGUE

RESTRICTIONS ON ORIC'S DEFENCE LIFTED

Appeals Chamber grants in part the appeal filed by Naser Orić's defense against the decision of the Trial Chamber to restrict the number of witnesses and time allotted to the defense for its case.

The Trial Chamber hearing the case against Naser Orić will have to reconsider its decision to allot only 9 weeks for the defense case, instead of the 8 months the defense requested, and to restrict the number of witnesses to 30 instead of 72.

The Appeals Chamber issued this order after considering the appeal Orić's defense filed against the decision to restrict its case.

When the Trial Chamber decided to order Orić's defense to end its case by 30 September 2005 and to hear only 30 witnesses its chief argument was that enough evidence had already been adduced about issues such as the historical context of the conflict in BH, the fact that Srebrenica had been besieged by Serb forces that vastly outnumbered the Bosniaks, that tens of thousands of Bosniaks who had been ethnically cleansed from that part of Bosnia had found refuge in Srebrenica and that starvation, poverty, sickness and despair reigned in the enclave. In the view of the judges, the defense had extensively cross-examined the prosecution witnesses on those issues.

The Trial Chamber ordered the defense to focus on evidence about whether the accused Orić had effective command and control over various armed forces operating in the Srebrenica area in late 1992 and early 1993.

The Appeals Chamber, however, ruled that it would be "unreasonable" to restrict the defense to the evidence about the existence of "military necessity" in the actions launched by Orić's units, which might, as the judges note, play a

“central role” in his defense on counts 3 and 5 of the indictment.

The Appeals Chamber also ruled that to restrict the defense in presenting information in several “evidentiary areas” would be unjustifiable, unless the Trial Chamber is ready “to acquit the accused on charges in counts 3 and 5 of the indictment.”

The Appeals Chamber considers it to be necessary for the defense to be able to present evidence about the “military situation in the entire Srebrenica area, including the disposition of the Bosnian Serb forces, the isolation of the Muslim forces, alleged superiority of the Bosnian Serb forces, the despair among the Muslim population in the enclave and the allegation that the Bosnian Muslims could count only on the weapons they seized from the Bosnian Serb forces.”

Although the Appeals Chamber did not specifically order that the defense should be allotted more time (and how much more time) or given leave to call more witnesses, it nevertheless ordered the Trial Chamber to reconsider its decision.

2005-08-24

THE HAGUE

NO ONE COULD STOP THE ‘TORBARI’

There was no substantial difference between civilians and fighter as they searched for food, Naser Orić’s defense witness claims.

There was hunger in Srebrenica in 1992 and civilians went into Serb villages, alone or with soldiers, to get food, Kada Hotic said, testifying as Naser Orić’s defense witness.

In 1992, Kada Hotic herself took part in the foraging for food, together with a group of civilians called ‘torbari’. “I went foraging for food nineteen times,” the witness said. She confirmed that the ‘torbari’ (people carrying bags) often went after the BH Army units as they attacked. She described in detail the foraging expeditions in the villages of Fakovici, Bjelovac and Kravica.

Srebrenica was attacked by the Serbian forces in late April 1992 and devastated, the witness said, describing how the forces plundered and burned most of the houses as they retreated from the town. The defense against new attacks, she said, was organized by Akif Ustic and Hakija Meholic. Most of the men joined them. Her son was among them.

Civilians went after the units as they attacked, because, as she said, “no one could prevent thousands of hungry people from looking for food.” According to her, there was no substantial difference between the fighters and civilians because “there were no uniforms and civilians sometimes carried rifles they had seized.”

After the attack on Fakovici on 9 October 1992, there was enough food in Srebrenica to last only ten days, and in November there was hunger everywhere. “People made bread of ground corncobs,” Kada Hotic said, describing how she went looking for food first in the village of Bjelovac and then in the village of Kravica.

The witness neither confirms nor denies that in those actions Serb houses were burned after they were looted, as the indictment alleges. She described, however, how Hakija Meholic “urged people not to burn the houses” because they would be needed to house a large number of refugees who came to this area fleeing Serb attacks.

Kada Hotic, whose testimony will continue tomorrow, is the vice-president of the Movement of the Mothers from Srebrenica and Zepa Enclaves. In July 1995, after the fall of Srebrenica, she lost her son, husband and two brothers.

2005-08-25

THE HAGUE

FIGHTERS UNDER PRESSURE FROM CIVILIANS

BH Army units in Srebrenica did not coordinate the “torbari” as they foraged for food, but they did attack Kravica “under pressure from civilians,” Kada Hotic claims, testifying as Naser Orić’s defense witness.



◀ Kada Hotic, witness in the Orić trial

“There could not have been any coordination between the fighters and the civilians,” Kada Hotic said, testifying as Naser Orić’s defense witness. She repeated that in 1992 and 1993, thousands of starving civilians – called the torbari (people carrying bags) – followed the units of the BH Army units in the Srebrenica area, in search for food.

Prosecutor Gramsci Difazio put it to the witness in cross-examination that the movements of “thousands

of civilians” could not have been spontaneous, and that someone had to have informed them in advance of any forthcoming attacks by the army and coordinated their movements in the area where actions were taken. The witness, however, maintained that no one had directed the torbari – she herself was among them. “If we didn’t go there, we had no food, because the fighters couldn’t bring the food to us. It all happened spontaneously, on the run, so to speak,” Kada Hotic said.

The judges did ask for additional clarifications about how thousands of people could get information about the time and place where actions would be carried out and about how to get there. “We knew the approximate time when the attack was planned to take place, and about how to get there,” the witness said, adding that this was a “public secret”, that this was usually in the “early morning hours” and that civilians “came to those places from all over, taking various routes.”

Answering questions the defense counsel asked in re-direct, the witness explained that the torbari would come to the place where the army units carried out their actions at different times. Thus she would sometimes leave in order to go to such a place only to meet a group of civilians already on their way back to Srebrenica with their booty.

It was difficult to distinguish fighters from civilians, Kada Hotic repeated. People who had arms would join the units on a voluntary basis and “sometimes they would go into action as fighters and sometimes as civilians foraging for food”. On the latter occasions, she claims, they carried rifles “only for personal protection.”

Naser Orić commanded the attack on Kravica on 7 January 1993, the prosecution alleges. As Kada Hotic said, the BH Army units carried out the attack “under pressure from the people” who were facing disaster. “People faced death, either from starvation or cold and they asked the fighters to do something in Kravica,” the witness said. She claims she learned about the action in the morning of 7 January. When she got to the village, only the hay had been set on fire – no houses were burning.

The prosecution has charged Orić with wanton destruction of houses and property not justified by military necessity in the attacks on the villages in the Srebrenica area in 1992 and 1993. Naser Orić’s defense case will continue next week.

2005-08-29

THE HAGUE

POTS AND PANS AS WEAPONS

In the spring of 1992, Muslims from Srebrenica did nothing but defend themselves against the attacks by Serb forces, Naser Orić’s defense is trying to prove. Civilians and poorly armed volunteers managed to make the Serb forces retreat from the village of Rakovici by “banging on pots and pans.”



◀ Omer Ramić, defense witness for Naser Orić

“Bosniak movements in the Srebrenica area from March 1992 until March 1993 were a spontaneous response to the attacks by Serb forces,” claims defense witness Omer Ramić at the trial of Naser Orić. He is from the village of Potkorijeni north of Srebrenica.

Ramić describes how on the eve of the conflict the Serb population was issued arms and how refugees from Skelani and the Muslim villages near the Drina river started arriving. Those villages had already come under attack. There were about thirty refugees in his home, he said.

The Serb people were armed by the JNA, the witness said, adding that in March 1992 he personally saw the

weapons being unloaded from military helicopters bearing the Red Cross insignia near the village of Ratkovici. He heard from others about arms deliveries from military trucks in other locations.

Together with other residents of Potkorijeni, Ramić participated in the defense of the village. He denied the allegations made by the prosecution that his unit had more than a hundred armed and uniformed soldiers. He says that “there were no uniforms,” and as for weapons, they had “a few hunting rifles and some home-made rifles”. They would sometimes manage to seize some automatic rifles in an action.

One such action was conducted in late June 1992 in the village of Ratkovici. The indictment alleges that the units taking part in that action were under the command of the accused Orić. Ramić denied that it had been an organized military action, claiming it was “the starving people heading for Ratkovici with a handful of poorly armed volunteers in desperate search of food, above all.”

The civilians took from the village everything they needed, including the construction materials they needed to build shelters. By shouting loudly and banging on “pots and pans”, the witness claims, they scared the Serb units. The troops withdrew, leaving their weapons, including two mortars, behind them.

The armed group from Potkorijeni was no military formation, Ramic said, adding that military formations are not referred to in documents until 1994, after the demilitarization. Even then, the witness contends, those were merely “paper units”, because all the weapons had to be handed over and those units could not mount any actions.

Omer Ramic’s testimony will continue tomorrow, when he will be cross-examined by the prosecution.

2005-09-02

THE HAGUE

THE TORBARI: CIVILIANS OR FIGHTERS?

“It was hard to distinguish fighters from civilians” in Srebrenica in 1992 and 1993, Naser Orić’s defense witnesses claim.



◀ Sabra Kolenovic, defense witness for Naser Orić

“Everyone in Srebrenica was a fighter,” Sabra Kolenovic said at the end of her testimony at Naser Orić’s trial, when defense counsel John Jones asked her if it was true that “in order to survive, even the women and children were fighters in the enclave in 1992 and 1993.”

The defense is trying to support its argument that the “Bosnian Serbs’ property” was not destroyed by the units commanded by Naser Orić, but by “starving civilians” whom no one could control as they desperately searched for food. Several defense witnesses, including Sabra Kolenovic, claimed that “it was difficult to distinguish civilians from fighters” at that time. The prosecution is trying to contest the arguments.

During the direct examination, the witness said that her husband “criticized the civilians for creating chaos” during the attack on the village of Kravica in January 1993. Prosecutor Joanna Richardson concluded that in that case “it was possible to distinguish civilians from fighters.” Although she did confirm this at first, Sabra Kolenovic later corrected herself, saying that her husband “criticized her and not civilians”, not during the action but after they returned home.

The witness maintains that when thousands of civilians participated in actions “spontaneously” their movements were not coordinated. As she testified, she did not know Naser Orić before the conflict in Srebrenica. In 1992, she saw him in hospital, “very shaken” after an action in which many fighters were killed. “I heard somebody say, “this guy who’s shouting is Naser,” Sabra Kolenovic said.

Naser Orić’s trial will continue on Monday.

2005-09-08

THE HAGUE

“PURE FANTASY”

The report of the Srebrenica Armed Forces Command about the structure of their units in 1992 and 1993 was «a reflection of their wishes, not of the actual situation», as Naser Orić’s defense witness testified.

There was no organized military structure of the Muslim forces in the Srebrenica area in 1992 and 1993, Nesib Buric claims, testifying as Naser Orić’s defense witness today.

Buric, a teacher now living in Tuzla, found himself in his home village of Osmace when the war broke out in 1992. He described in detail how from mid-April that year the “JNA distributed weapons” and recruited and trained Serb men of military age in the villages in the Srebrenica area.

As he testified, the conflict began with the murder of two Muslim youths in Vitez on 13 April 1992. Muslims started leaving, finding refuge in Slovenia or Germany and the Muslim villages remained in isolation because the communications were cut by armed Serbs patrolling the roads.

Buric claims he saw in Vitez on 14 April the body of one of the youths that had been killed and “30 to 50 Serbs in camouflage shirts undergoing military training” in the Jezero area. As he testified, Serb soldiers could be seen with the naked eye in the neighbouring village and similar training areas were located in few other villages.

On 7 and 8 May 1992, Serb forces attacked a number of Muslim villages in the Drina river basin, including Osmace. Other villages were destroyed, plundered and burned to the ground, while the remaining population was “killed”. His village was shelled, but, as he described, “the Serb troops did not enter the village.” The villagers returned to their destroyed homes and organized their defense, made up of “about fifty lads at the most, with a total of 21 rifles.”

Just as the previous defense witnesses, Buric claimed “with full responsibility” that those were not units of any sort, but “groups of villagers” who gathered some weapons and tried to defend their villages. He denied that those groups had any “commanders” or that they had any “uniforms, ranks, barracks or arms depots.”

The defense showed the witness a document from the Srebrenica Armed Forces Command, dated 19 September 1993, where the “structure of the armed forces in Srebrenica” is described. About 120 fighters from Osmace, according to this document, were organized in three companies, making up the Osmace Territorial Defense. The Territorial Defense was part of the structure of the BH Army.

Buric denied this strenuously, maintaining that those were “groups of volunteers that were not under anyone’s command”, people who had got together on their own initiative to defend their villages. The defense is challenging the authenticity of the documents the prosecution had admitted into evidence as official BH Army documents, claiming they are forgeries created by the Serb forces after their taking of Srebrenica in 1995.

“This is all fantasy, we probably all wished it had been true and we would have been all too happy had this been so in the field... but this is not even one percent accurate,” Nesib Buric said. His testimony will continue tomorrow.

2005-09-09

THE HAGUE

THE SURPRISE FACTOR IN KRAVICA

The Serb forces, which vastly outnumbered the Bosniak attackers and were much better armed, were nevertheless overwhelmed in the surprise attack on Kravica, claims witness Buric, testifying in defense of Naser Orić. Buric participated in the attack on Kravica on 7 January 1993



◀ Nesib Buric, defense witness for Naser Orić

As the trial of Naser Orić continues, Nesib Buric described the attacks launched by the Muslim forces on the villages of Fakovici and Kravica. He himself participated in those attacks.

As Buric testified, on 5 October 1992, he entered the Serb village of Fakovici with a group of “armed lads” from his home village of Osmace. He said he saw thousands of Muslim civilians who were already on the way back to their own villages, carrying sacks of grain. Just as the previous defense witnesses, Buric claims that “no one could control those people”. He said that the civilians were there as soon as the fighting stopped as “they would always go wherever they heard shooting.”

As he estimates, a well armed “professional battalion” of the Serb army, with about 300 troops, was stationed in Fakovici. Buric corroborated this claim by saying that there was a training area nearby. “Cadets would come there all the time”. He added that his group had captured a large quantity of weapons and ammunition after entering Fakovici, “left behind by the Serbs as they retreated.”

Buric and his group did not take Fakovici, because, as he described it, reinforcements arrived to the Serb forces in the afternoon, and then the “shelling started, from all directions, from all available weapons.” He claims that the damage to the houses in Fakovici was caused by the Serb shelling, not by anyone “setting fire to them” during the attack on the village, as the indictment alleges.

One hundred and fifty-nine Muslims were killed in Glogova and the surrounding villages by January 1993, Buric testified. He claims that the Glogova and Kravica area was the “major Chetnik stronghold, even before the war.” The attack by the Muslim forces on Kravica on 7 January 1993 was a reaction to the “daily incessant shelling from the Serb positions,” in particular “when Serb soldiers got drunk” on the Orthodox Christmas Eve.

Buric claims that the “surprise factor” was used in the attack on Kravica on 7 January 1993. As he describes it, by the time the Serb soldiers realized they were under attack, he and his group reached as far as the village center. Again they managed to seize or destroy a large quantity of weapons, including a tank.

The witness claims that houses were not set on fire in Kravica. Although he personally did not enter more than two or three houses, he claims that “there was shooting coming out of every Serb house.” His lads, as he described, defused the booby-traps set by the Serb troops on the arms depot as they were about to retreat. About a hundred automatic rifles and a lot of other infantry weapons were seized there.

Nesib Buric will continue his testimony on Monday.

2005-09-13

THE HAGUE

“THE SREBRENICA CHRONICLE”

Nesib Buric quotes from Ivo Andric's *Travnik Chronicle* to contest the allegations made in the «Srebrenica chronicles» from 1992 and 1993. One of them was written by the accused Naser Orić, the prosecution alleges.



◀ Nesib Buric, defense witness for Naser Orić

“Naser Orić was not, nor could he have been the commander of all the units in the municipality of Srebrenica,” said defense witness Nesib Buric as his cross-examination drew to a close.

Buric allows that Orić may have “led the group from Potocari,” but insists that the “groups of armed lads” set up to defend the villages could not be called military units. He denied strenuously that there has been any rigid military structure in Srebrenica in 1992 and 1993. “I maintain that the territorial defense is a fabrication,” Buric said, confronted with a document prosecutor Gramsci Difazio claims is a list of Territorial Defense members in the Osmaca area.

The witness labeled the list a “population census”, although the prosecutor noted that it contained “only the male population aged between 16 and 70.” Buric maintained that “until the demilitarization there were no units in Srebrenica” that were part of the BH Army. According to him those were just “organized groups”.

Buric himself led one such group, in the village of Osmaca, in the period relevant for the indictment. The achievements of his group and other “organized groups” in the Srebrenica area between May 1992 and March 1993 have been described in two books. The prosecution claims that the authors are Nijaz Masic, a history teacher from Srebrenica, and the accused Naser Orić. The prosecution has exhibited both books. The defense has challenged their accuracy and the claim that Orić wrote the book *Srebrenica testifies and accuses*.

As Buric suggested, the real author is Nijaz Masic, who wrote the other book, *Aggression, Resistance, Treason, Genocide*. Although the witness admits he has not “seen, let alone read” any of the books, he considers both of them to be inaccurate and unreliable. As he said, “Masic is an historian, and historians are known to lie a lot.”

When the prosecutor asked him to explain how his name got on the list Masic thanked for helping him write the book, Buric said that this was probably due to his post-war job as the education, science and sports officer in the Srebrenica municipality.

Buric adds that Masic never asked him for any information he printed in the book. Even if he had, He “would not have given him any.” He personally “would not allow [Nijaz Masic] to write at all.”

Masic explained the reasons for his attitude towards Masic in closed session, after the judge allowed him to do so. The only thing available to the general public is the quote the witness used to describe his views of the “Srebrenica Chronicles.”

“The one who can’t read is not stupid, but the one who believes everything that has been written,” Buric said, quoting Ivo Andric's *Travnik Chronicle*.

2005-09-27

THE HAGUE

ONLY AN ATOMIC BOMB WAS MISSING

Hazim Malagic, Naser Orić's defence witness, describes the balance of power in the Srebrenica area in 1992.

“The only thing that was not used was the atomic bomb,” Hazim Malagic said today, testifying as Naser Orić's defence witness, when asked about the weaponry used by the Serb forces in the Srebrenica area in 1992.

The Serb forces, Malagic testified, were superior in strength: some of the fighters had been through the war in Croatia, they had modern infantry weapons and heavy artillery. Often, they had air support from Serbia. On the other hand, the witness added, “for us, the weapons meant survival. We had about 150 automatic rifles and a certain number of hunting rifles. When one of our soldiers got killed, the first question we asked was, what about his rifle”.

The group he fought in had a radio they used to eavesdrop on the communications among Serb units. Malagic learned about the establishment of the Bratunac Brigade and the Assault Brigade from the intercepted conversations. He also learned about the plans to attack Muslim positions and to set up ambushes to prevent the civilians from

foraging for food. His claims were corroborated by VRS documents presented by defence counsel Vasvija Vidovic. One of the documents she showed was an order by Ratko Mladic from November 1992 to the Drina Corps, noting that the defence of Visegrad is the main task, while in the environs of Srebrenica, "the enemy should be given the chance to lay down their weapons. If they refuse to do so, destroy them."

Describing the fierce fighting in the Bjelovac area in late 1992, Malagic said that the Serb units had had the support of the airplanes and artillery from Serbia and that there had been logistic support too, judging by the uniforms the soldiers had been wearing. "As the fighting went on, our civilians were waiting for the outcome, hoping that the passage to their houses, where there was some food left, would open. At one point, airplanes flew in from Serbia and they immediately dropped their bombs on the civilians who were out in the open. If only the pilot knew what a massacre he caused," Malagic said.

During his testimony today, the defence was trying to challenge the credibility of the military documents purportedly signed by the accused Orić, as the prosecution alleges. Speaking about one such document, an order to place parts of the Muslim forces around Srebrenica under the control of a man named Avdo Beli, Malagic said it looked "like a joke at Orić's expense, in light of Beli's reputation." The witness described him as a "mentally unstable lad who never carried weapons," and who would later commit a murder and then kill himself in Tuzla, after the fall of Srebrenica.

Hazim Malagic's testimony will continue tomorrow with the cross-examination of the defence witness by prosecutor Patricia Sellers.

2005-09-29

THE HAGUE

EVERYONE WAS A LEADER, NO ONE WAS A COMMANDER

Naser Orić's defense witness claims that the accused merely "led" his group of fighters, not "commanded" them.



◀ Hazim Malagic, defense witness for Orić

"The BH Army formations in Srebrenica in 1992 and 1993 were just poorly-armed groups with no chain of command," Hazim Malagic said today, testifying as Naser Orić's defense witness. Malagic said that after the prosecutor showed him a video tape from April 1994, where Orić is presented as the commander of the 8th Operational Group of the BH Army, and where he himself speaks about the second anniversary of the establishment of the Territorial Defense in Srebrenica.

After yet another tape was shown, in which Orić recounts an incident in the war and said that a soldier called him commander, Malagic maintained that it was wrong to use the term "commander" and that the term "leader"

would be more appropriate. "Orić led the group in Potocari, just as Osman Malagic was the leader of my group from Likari, and Semso Husic in Poloznik," the witness explained, stressing that the term "commander" was used for battalions and larger military formations.

The witness said his group had had a radio used to intercept the communications by Serb forces around Srebrenica. He added that only his group had access to this information. The prosecutor asked him today to clarify this statement, noting that on several occasions, Malagic himself said the information had been relayed to other places. A tape was shown in which Orić says he was notified about the preparations of the Serb forces by courier. Malagic said the information "could have been relayed by civilians who were on the move all the time, as they foraged for food," or could even have been exchanged by soldiers from different groups if they met by chance, but that "there was no courier system".

Malagic again denied the credibility of the documents the prosecution has. His comment on a document describing BH Army units' plans to reconnoiter the terrain was that this would have been as if he had been sent by someone to reconnoiter The Hague. "You are a beautiful and charming lady and I'm sorry I have to say this, but you must see yourself the contradictions in those documents," Malagic said, addressing prosecutor Sellers.

As the session drew to a close, Simon Mardel took the stand as the next witness. He is an English doctor who came to Srebrenica with General Morillon and a group of UNPROFOR soldiers.

2005-09-30

THE HAGUE

MIDDLE AGES IN THE 20TH CENTURY

Dr. Simon Mardel testifies about the catastrophic humanitarian situation in Srebrenica in early 1993.



◀ Simon Mardel, defense witness for Orić

“Srebrenica looked like a medieval town. I’d never seen anything like that in my life, not even when I was working in Afghanistan and with the refugees in Ethiopia,” Dr. Simon Mardel said today, testifying as Naser Orić’s defense witness. Dr. Mardel, who was working for the World Health Organization at the time, testified about his first visit to Srebrenica in early March 1993, when he managed to get into the town through the woods and snow with a few armed Srebrenica men.

The houses were full of people and there was not enough room in them for everyone, so people lived in municipality and school buildings. “Some families lived in the hospital together with their sick or wounded

relatives.”

Mardel said that the humanitarian situation in Srebrenica was catastrophic, that he had been told 20 to 30 people died of starvation and starvation-related illnesses every day. He was able to see for himself that this was the case. “I saw many cases of pneumonia that were the consequence of malnutrition,” the witness said, adding that the people’s immunity was low. Mardel showed photographs he had made in Srebrenica to illustrate the point. They show the starving inhabitants of the town.

Apart from hunger, there were other factors causing the increase in the death rate: “The snow, the cold, lack of fuel, unclean water, stress, but above all, lack of medicines and medical supplies,” he said.

In the cross-examination, Mardel said he had not seen the accused Orić in Srebrenica, that he had never heard of him during his stay in the town and that no one had ever named anyone as the commander of the armed forces. When the prosecutor asked him if he knew anything about the existence of the war presidency, the military police and the command staff of the military forces in Srebrenica, Mardel said he didn’t.

Orić’s trial will continue next week.

2005-10-19

THE HAGUE

DID THE PROSECUTION CONCEAL EXCULPATORY EVIDENCE IN ORIC CASE?

Heated debate on the motion filed by Naser Orić’s defense, accusing the prosecution of having concealed the existence of evidence that might exculpate or mitigate the responsibility of the accused.

Naser Orić’s defense accuses the prosecution of having violated Rule 68 of the Rules of Procedure and Evidence, compelling it to “disclose as soon as practicable all materials that might exculpate the accused or mitigate his guilt or affect the credibility of the prosecution evidence”.

The defense submitted to the Chamber documents in the possession of the prosecution in which events in the Drina basin are described in a manner playing into the hand of the defense, or so it contents. In one of the documents, a man by the name of Slobodan Misić a/k/a Top describes his “wartime exploits” in the Bratunac area in 1992 and 1993. He says that as a “volunteer from Serbia” he was billeted in Fakovici, on the left bank of the Drina river and that he personally killed between 70 and 80 Muslim civilians – men and women – from an ambush. Those people were foraging for food. Misić estimates that between four and five thousand Muslim civilians were killed in the Drina basin area during the war.

Defense counsel John Jones considers that those arguments corroborate the arguments of the defense that the villages Orić’s units attacked, as alleged in the indictment, were not inhabited by civilians but by soldiers or “volunteers” from Serbia, that Muslims moved around searching for food and that even when they were armed they were never under unified command.

The defense claims that the prosecution has had those documents for years, yet that it has failed to disclose them. Prosecutor Gramsci Difazio states that the documents are in the prosecution electronic files and that all defense counsel have access to them – the defense counsel could thus have found them again. The prosecutor also tries to play down the documents’ evidentiary value.

Presiding Judge Agius did not like this approach. On several occasions, he took an unusually harsh tone with the prosecution team. "There have been situations again in which the prosecution has made such mistakes, but they have been able to admit to them and say, we are at the Chamber's disposal and we will do all it takes," Agius said, warning the prosecutors that "their defensive attitude might have major consequences". The presiding judge noted that this was a "major omission" causing "great problems for the Chamber" and denying the defense the right to examine the prosecution witnesses on the basis of the new knowledge. The prosecutor then grudgingly admitted that "it seems the prosecution has violated Rule 68".

Since the prosecution is not obliged to disclose documents in the public domain, prosecutor DiFazio asked for some time to do the necessary checks. Although he did agree to this, the Maltese judge warned the prosecutor to bear in mind "that something published in a Maltese newspaper is not in the public domain".

According to a web search SENSE ran, the confessions of Slobodan Misić a/k/a Top, entitled How I Killed Croats and Muslims was first published on 6 November 1997, not in a Maltese newspaper, but in one published in Vranje – the Vranjske novine. The debate on the omission made by the prosecution is set to continue.

2005-10-19

THE HAGUE

PROSECUTION ADMITS IT MADE A MISTAKE, DEFENCE CALLS FOR "SANCTIONS"

Naser Orić's defense finds "astonishing" the failure of the prosecution to run an investigation of the confession made by Slobodan Misić in an interview to the Vranjske novine newspaper in November 1997 that he had killed between 70 and 80 Muslim civilians.



◀ Naser Orić in the courtroom

The name of Slobodan Misić a/k/a Top was again in the spotlight at the trial of Naser Orić. He is a volunteer from Vranje. During the war in BH, he fought with the Serb army in the Fakovici area. After the defense complained that the prosecution had not disclosed a document with Misić's interview in which he describes the crimes against the Bosnian Muslims in the Drina Basin, prosecutor Gramsci DiFazio tried to justify the failure of his team to do so.

He admitted today that the prosecution had made a mistake, caused by the "human factor". He still doesn't know how it happened: whether because the document went "unnoticed" or because someone on the team

considered it not to be "exculpatory" and was therefore not subject to Rule 68. He added that the OTP experts were doing the searches and would disclose to the defense every item related to Misić in the files by tomorrow, to "mitigate the damage". The prosecution claims that there are not many documents in its files on Misić, because he refused to talk to the OTP investigators. As DiFazio explained, the documents they obtained from Serbia state that when Misić was interrogated by an investigating judge in Vranje, Misić claimed he had "drunk a lot before the interview" and that he "could not remember" ever saying any of the things that were published". After he sobered up, Misić claimed he "did not kill any civilians or prisoners of war".

The defense did not accept this explanation, noting that the report from the Vranje court showed that seven witnesses had been questioned in the course of the investigation. They all claim that Misić took part in the fighting in BH in the Fakovici area. One of the witnesses, defense counsel John Jones claims, confirmed that Misić had cut off the head of a Muslim and stuck it on the fence of a house near Fakovici. He noted that the "prosecution acted in an astonishing manner because it failed to investigate the matter," and that their conduct in this case "raised more issues rather than solving the existing problem".

The debate will continue tomorrow. It is unlikely it will end then, because in the motion, the defense is asking the Chamber to "sanction" this conduct by the prosecution.

Slobodan Misić was mentioned during the testimony of Ibro Alic, who confirmed some of the allegations made in the "killer's confession" published in the Vranjske novine. Alic spent the first two years of the war in the wider area of Fakovici as a male nurse, as he described himself, treating the wounded fighters and civilians. He confirmed that there had been troops stationed in Fakovici, not just the village guards, and that the Muslim "armed and unarmed civilians" in that area were killed every day in that area, by shells, in ambushes as they foraged for food and when the Serb infantry attacked the Muslim villages.

Ibro Alic's testimony will continue in the next two days.

2005-10-31

THE HAGUE

ORIC'S DEFENCE DAMAGE CONTROL

Naser Orić's defense will be given an opportunity to recall some prosecution witnesses and cross-examine them again, in light of new evidence that came to light after the defense found among the prosecution documents an interview with Slobodan Misić, a Serb volunteer. The prosecution was ordered to disclose all materials in its possession that might be of use to the defense.

The trial chamber hearing the Naser Orić case has invited the defense to submit by 18 November a list of witnesses it wishes to cross-examine again to restrict the damage caused to the defense by the violation of Rule 68 by the prosecution. In the same decision, the prosecution was ordered to search through the archives by 11 November and to disclose to the defense all the documents that "tend to show the innocence or mitigate the guilt of the accused or affect the credibility of the prosecution evidence".

The prosecution is obliged to do so under Rule 68 of the Rules of Procedure and Evidence. This rule was violated, as alleged by the defense, because the prosecution failed to disclose an interview with Serb volunteer Slobodan Misić. In the interview, Misić described his participation in the ethnic cleansing of Muslims in the Podrinje area and the crimes he and his fellow fighters committed in the Bratunac area in 1992 and 1993.

After the defense argued the information contained in the interview "plays into the hand" of the accused, the prosecution admitted it had made a mistake. Presiding Judge Carmel Agius warned the prosecutors that the "damage would be immeasurable" if it should turn out at the end of the trial that there were more exculpatory documents in their archives. "You can't make soup and realize at the end that you haven't put salt in it," Judge Agius used a metaphor to clarify his meaning.

Although the defense called for "the conduct of the prosecution to be sanctioned", this did not happen. The Chamber's decision notes that the practice of the Tribunal in relation to the violations of Rule 68 "relies less on sanctions than on a definitive judicial evaluation of the adduced evidence and the opportunity given to the prosecution and the defense to contest the evidence of the other side".

2005-11-01

THE HAGUE

MAKE-SHIFT ARMY WITHOUT A COMMANDER

During Mustafa Sacirović's examination-in-chief, Naser Orić's defense recapitulated most of its main arguments. From the beginning of their case, the defense has been trying to prove that in 1992 and 1993 the Serb forces controlled the situation in the Podrinje area, committing crimes against civilians, while the military structure in the Srebrenica enclave was a make-shift one, with no unified command and communication among the armed Muslim groups.



◀ Mustafa Sacirović, defense witness for Orić

Mustafa Sacirović, a new witness for Naser Orić's defense, was the chairman of the Commission for the Investigation of War Crimes at the War Presidency of the Srebrenica municipality from July 1992 until the end of the war. In this capacity, he gathered hundreds of witness statements, most of them Muslims, survivors of ordeals during the war. The witness spent most of his time in the Srebrenica hospital. There, he "got information about the crimes against civilians in Podrinje from the wounded and those who had brought them in". Some claims made by the defense were corroborated by video recordings made by Sacirović during the war.

The witness described the murders and expulsion of the Muslim civilians in Podrinje, including the crimes committed in May 1992, when more than 60 Muslim civilians were killed in Glogova, several Muslims in Hranca, among them a five-year-old girl, and in the villages of Joseva and Jagodnja, where the victims included several women, one of whom was pregnant.

Sacirović says that such crimes happened every day, that Muslims were expelled from their homes and that groups of people who had fled into the woods or the villages that the Serb army had not entered yet numbered between a few hundred and several thousands. Sacirović claims that he had visited 20 to 30 such groups and showed a video tape he had made during one such visit. The witness confirmed the defense argument that civilians had been targeted both by artillery and infantry attacks, as they sheltered in the woods or moved about foraging for food.

Because of the “unbearable situation”, Muslims organized several armed groups to defend the fleeing civilians, the defense claims. Sacirovic says that when he went visiting the civilians he would go to see some of the armed groups. He claims the fighters were poorly armed, with no logistic support and unable to communicate with each other. He adds he knows “none of the groups” he visited “was under Naser Orić’s command”.

Sacirovic claims that, on the other hand, the Serb army had a lot of artillery and infantry weapons, that it used chemical agents and that when the VRS carried out its attacks, it had the support of the artillery and air force from Serbia. The witness confirmed the accuracy of VRS documents expounding the plans for an offensive in Podrinje in December 1992. He says the Serb forces were constantly on the offensive until the spring of 1993 when they came near Srebrenica, but failed to take it because of the arrival of the UN forces.

The prosecution started the cross-examination of Mustafa Sacirovic as today’s session drew to a close. It will continue tomorrow.

2005-11-14

THE HAGUE

TYSON VS. FIFTEEN-YEAR-OLD

Testifying as Naser Orić’s defense witness, former UN observer confirms defense argument about the superiority of Serb forces over powerless Muslim troops and about the crimes committed against civilians in Podrinje.



◀ Lawrence McDonald, defense witness for Orić

Describing the observations he made during the war in Bosnia and Herzegovina, Canadian military officer David Lawrence McDonald confirmed several arguments put forward by the defense. He first spent four months in Sarajevo as a UN observer in late 1992 and early 1993, was subsequently transferred to Serbia and was able to enter Srebrenica from there on 27 March 1993.

Bosnian Serbs were very well-organized and equipped, Captain McDonald testified. They got substantial artillery and air support from Serbia, and regular deliveries of weapons and ammunition, he added. On the other hand, the poorly-armed Muslim fighters, most of whom did not wear uniforms at all, “were not a real army”, according to

McDonald. Confirming the defense argument about the superiority of Serb forces over powerless Muslim troops, he compared the situation around Srebrenica with a boxing match “between Mike Tyson and a fifteen-year-old boy fighting with his hands tied”.

The witness also corroborated the defense allegations about the crimes committed against Muslim civilians in 1992 and 1993. He claims to have seen Serb bunkers around Srebrenica that were used, according to other UN observers, to target the civilians trying to break through from the Srebrenica region towards Tuzla. The witness claims he personally saw the Serb forces plunder and destroy villages around Srebrenica.

Talking about the attempts by the then UNPROFOR commander to enter Srebrenica in early March 1993 with a group of UN soldiers, McDonald described how Serbs had been trying to block that for two weeks, claiming that “Morillon is in danger from strong Muslim forces”. He said that his team leader, Russian military officer Alex Vasilyev, had witnessed the shelling of Muslim civilians gathered around a UN vehicle in Konjevic Polje on 12 March 1993. As he said, “hundreds of women and children were killed there”.

General Morillon and his escort managed to enter Srebrenica on 27 March 1993. The Canadian captain arrived almost immediately after them, with a group of UN observers. As he described it today, Srebrenica was “full of people, the situation was one of chaos, and the actual situation in the town was beyond anyone’s control”. This is the argument offered by Orić’s defense: they are trying to prove that in such a situation there could not have been a unified command and control over the Muslim groups. One week after entering the enclave, the witness was wounded by a shell fired from the Serb territory and was evacuated immediately.

The Canadian captain will be cross-examined by the prosecutor tomorrow.

2005-11-23

THE HAGUE

DESTRUCTION WAS RESULT OF “NECESSITY”

Protected defense witness claims that there was a strong VRS presence in all the Serb villages around Konjevic Polje and that the destruction of civilian buildings Naser Orić is charged with was the destruction of legitimate military targets.



◀ Naser Orić in the courtroom

“As early as in 1993, the Serb forces tried to implement in Podrinje the plan they finally managed to implement three years later,” claims protected witness D-005, confirming the arguments put forward by Naser Orić’s defense about the superiority of Serb forces in the Bratunac and Srebrenica area. Testifying about the situation in Konjevic Polje, D-005 said that in late 1992 the enclave had been surrounded by Serb forces and that attacks had been launched from the Serb villages listed in the indictment against Naser Orić, such as Kravica, Jezestica and Siljkovici.

The defense is trying to challenge the allegations in the indictment that the forces under Naser Orić’s command are responsible for “the destruction of at least 50 villages not justifiable by military necessity”. The argument of Orić’s defense is that “the necessity existed”, because the houses and other civilian structures in those villages were turned into legitimate targets by the Serb forces. “There were armed people in the houses, artillery pieces next to the houses and buildings such as schools were turned into barracks and arms depots,” the witness claims.

Orić’s defense counsel corroborated claims made by witness D-005 by VRS documents, quoting mostly the correspondence between the commands of the Bratunac Brigade and the Drina Corps. Among other things, the documents contain plans “to destroy the Muslim forces and evict the non-Serb population” from the Podrinje area and list names of VRS units stationed in the villages Orić is allegedly responsible for destroying.

The defense is primarily trying to prove that there was no “deliberate and unjustified destruction” in the attacks on Serb villages, but is also trying to convince the Trial Chamber that Naser Orić was not the commander of the units that destroyed the villages listed in the indictment. To confirm that argument, witness D-005 says that the armed groups from the Konjevic Polje area were never under the command of anyone from Srebrenica during the war. He indirectly contested the allegation in the indictment that Naser Orić had commanded the Joint Forces in the Srebrenica subregion, stating that the bodies of the Subregion, established in November 1992, never actually became operational.

The defense will end the examination-in-chief of witness D-005. He will then be cross-examined by the prosecution.

2005-11-24

THE HAGUE

WHAT WERE PROSECUTION WITNESSES DOING IN SREBRENICA IN JULY 1995?

The defense claims that one fifth of the witnesses called by the prosecution in the case against Naser Orić participated in the Srebrenica massacre in July 1995.



◀ Nikola Popovic in the footage from Srebrenica

In their cross-examination, Naser Orić’s defense counsel asked virtually every prosecution witness – there were 50 of them – where they had been and what they had been doing in July 1995, when about 8,000 Bosniaks were killed in Srebrenica. They all claimed they had been somewhere else, not in Srebrenica.

As the defense continued with its case today, examining protected witness D-005, Orić’s defense lawyers named ten prosecution witnesses who, as the report of the Republika Srpska Government Commission, had participated in the Srebrenica operation conducted by the VRS in July 1995. The defense found their names on

the list of 17,342 persons who, as the RS Commission determined, participated in various ways in the events on the eve of, during and after the fall of the Srebrenica enclave. The confidential list was disclosed to the defense by the prosecution, as part of their obligation to disclose potentially exculpatory material. In this case, this is evidence that might affect the credibility of prosecution witnesses.

During the war, witness D-005 was a member of one of the armed Muslim groups in the Konjevic Polje area, near Bratunac. When the defense showed him Reuters agency footage of Serb forces entering Potocari on 11 July 1995, the witness identified Nikola Popovic, who testified as a prosecution witness at the trial of Naser Orić. According to witness D-005, Popovic was one of the Serb soldiers who had singled out and taken away his father and several other men. They disappeared without a trace. After the war, the defense witness learned from the women who had passed through Kravica en route to Kladanj that they had seen and identified Popovic among the military police officers who had participated in the massacre of more than 1,000 Bosniaks detained in the co-op warehouse. Nikola Popovic was identified as a participant in the massacre by the former security officer in the Bratunac Brigade in his Statement of Facts and Acceptance of Responsibility.

Apart from impeaching prosecution witnesses, the defense tried to prove, through the testimony of witness D-005, that Bosnian Serb units and heavy weaponry were stationed in Kravica and other Serb villages around it, that in late 1992 and in 1993 Kravica was one of the centers from which Serbs launched attacks on Muslims in the Podrinje area, and that the villagers there participated in many crimes in the four years of war. Naser Orić has been charged with the destruction of those villages.

2005-11-28

THE HAGUE

DO THOSE WHO RELAY INFORMATION NEED TO BE COURIERS?

Fighters who relayed information from one armed group to another cannot be considered couriers, in the opinion of protected witness testifying in Naser Orić's defense. The witness thus corroborates the defense argument that there was no organized military structure in the Muslim forces in the Podrinje area.

"Were news relayed among Muslim fighters in the Srebrenica area in 1992 by couriers or ordinary fighters?" This seemingly immaterial question was asked by both parties, in an attempt to get an answer from protected witness D-005 that would tend to corroborate their case.

The existence of couriers would indicate that there existed a military structure and an elaborate system of communications among Muslim armed groups and that it was possible to exercise control from a single center. The prosecution has been trying to prove that – and the defense disprove – since the very beginning of the Naser Orić trial.

When the prosecutor was asking him questions, witness D-005 claimed that in the area of Konjevic Polje where the group he belonged to fought, the information among the Muslim forces was relayed in a haphazard way, mostly in crisis situations during attacks by Serb forces. He claimed that the fighters who pulled out from the front lines and went to seek help from other groups could not be considered couriers. "So, there is a difference between people seeking help and those relaying information as couriers, prosecutor Patricia Sellers asked and the protected defense witness confirmed it.

Corroborating the defense argument about the insignificant role the accused played in the Bratunac-Srebrenica region, the witness claimed that he had first heard of Naser Orić in 1994, although he had come to Srebrenica in 1993. He said that until the end of the war in BH he had not known of any other Muslim armed groups apart from a few such groups in Konjevic Polje.

The testimony of protected witness D-005 ended today and the defense managed to introduce its next witness before the adjournment. He is Mirsad Mustafic, member of the Srebrenica Territorial Defense, headquartered in Tuzla. He will be examined by the defense and the prosecution tomorrow.

2005-12-05

THE HAGUE

"SETTING THE STAGE FOR GENOCIDE"

Naser Orić's defense witness, former Venezuelan ambassador to the UN, now special adviser to the UN Secretary-General, accuses the international community it did nothing to prevent the genocide in Srebrenica.

There was a "gradual genocide" in Srebrenica, Diego Arria said, testifying as Naser Orić's defense witness. Arria served as the Venezuelan ambassador to the UN from 1991 to 1993. Today he is a special adviser to the UN Secretary-General. Ambassador Arria, who initiated the visit of the UN Security Council delegation to Srebrenica in April 1993, and was at its head, described the situation in the enclave as "genocide in slow motion".



◀ Diego Arria, defense witness for Orić

Shocking images of poverty, destruction, starvation and squalor were hidden from the public. As the Venezuelan ambassador testified, this was done with the collusion of the UNPROFOR troops deployed in the enclave declared a “protected area” a little while ago. Arria took the first photographs of the destruction of Srebrenica and its starving inhabitants. Those were the only photographs in existence at the time. He refused to hand over his camera to UN members.

Diego Arria already testified about the mission he had led to Srebrenica after it was declared a protected area as a prosecution witness at the trial of Slobodan Milosevic in 2004. This time he did not want to testify as

a prosecution witness, but agreed to come as Orić’s defense witness.

After Arria confirmed he stood by all his previous statements, the defense tendered into evidence his statement to the OTP investigators from 2003 and the transcript of his testimony in the Milosevic case in February 2004.

The international community “did not move its little finger” to protect the Muslims in the enclave and “did not make it possible for them to defend themselves”, Ambassador Arria said today, openly accusing the then UN Secretary General Boutros Ghali and his staff of withholding the reports about the real situation in Srebrenica and misinforming the Security Council.

The report on the “humanitarian disaster in Srebrenica”, Arria claims, appeared before the Security Council 12 days after the dramatic appeal by the then UN High Commissioner for Refugees, Sadako Ogata. There was a tendency in the Security Council, he said, to “morally equate the victims and the aggressor”, thus avoiding the need to take action to prevent the humanitarian disaster.

The Venezuelan diplomat claims that the blue helmets in the enclave did nothing to prevent the “gradual genocide”. Quite the contrary, during the visit of the Security Council delegation to Srebrenica, the then UNPROFOR commander, Brigadier Hayes did all he could to prevent them from seeing the real situation and the truth about the area which had already been officially declared as “protected”.

As he said, the international community had been hoping, before the declaration of the safe haven, that the Serbs would overrun the enclave quickly, thereby “solving the problem”. The defenders of Srebrenica, Arria contends, were a problem for the international community. It turned out that the UN-protected enclave was in fact a “scene set for genocide”, Arria said, adding that today he was “sorry [he] proposed the establishment of the protected area together with the other representatives of the non-aligned countries in the Security Council”.

Through Diego Arria’s testimony, the defense is trying to prove that Muslims in Srebrenica were under constant attacks by the Serb forces, and that resistance was not offered by organized military units under the command of the accused Orić, but self-organized civilians forced to do so by hunger and despair.

Ambassador Arria will continue his testimony tomorrow, when he will be cross-examined by the prosecutor.

2005-12-08

THE HAGUE

DESTRUCTION RESULT OF “MILITARY NECESSITY”

Naser Orić’s defense is trying to prove that the destruction of villages in the wider Srebrenica area in the attacks by Muslim forces was the result of “military necessity”. A defense witness claims many of the villages sustained additional damage in counter-attacks launched by Serb forces.

In an attempt to challenge the allegation in the indictment that the destruction of the Serb villages in the Bratunac and Srebrenica region was “not justified by military necessity”, Naser Orić’s defense called Suad Smajlovic to testify. The former leader of one of the armed Muslim groups in the environs of Srebrenica described the attack on Bjelovac, one of about a dozen villages listed in the indictment.

The witness claims that a large Serb force was stationed in Bjelovac in December 1992, consisting of the troops from the Bratunac Brigade, the Red Berets from Serbia, soldiers from Krajina and special units under the command of Mugos and Kokara. According to him the village houses were legitimate military targets, because major artillery pieces were positioned in them or around them.

Smajlovic confirmed the defense argument that the Muslims civilians known as torbari were also partly responsible for the destruction of the villages, because they entered the houses after the soldiers had left, searching for food. “No one could stop the civilians in their forays,” the witness said, adding that he himself had been wounded in an attempt to prevent the torbari from getting into a barn in Bjelovac where Serb soldiers had been.

Apart from constant attacks on the Muslim villages in the Podrinje area, the Serb forces launched a counter-offensive in mid-January 1993 to regain the areas captured by the Muslims "during the short-lived success" of their operations in the winter of 1992/1993.

In the course of the counter-offensive, Serbs attacked the Serb villages in Muslim hands, the witness claimed. The witness claims that Bjelovac, Kravica and all its hamlets were destroyed in those attacks. "They razed everything to the ground with their guns, howitzers and tanks," Smajlovic said.

To corroborate the claim, the defense submitted a number of VRS documents with orders for the attacks on both Muslim villages and Serb villages held by Muslims. They also showed an intercept in which Ratko Mladic issues an order to "open fire on all the surrounding villages, but not on Srebrenica" immediately before Srebrenica was demilitarized. UN observers were in Srebrenica at the time. "Fire on live flesh and don't worry. Apart from a few pitiful rifles, they have no weapons," Mladic said at the time.

The defense continues to examine Suad Smajlovic. Oric's defense lawyer, Vasvija Vidovic has called him "a very important witness" several times.

2005-12-10

THE HAGUE

ORIC WAS HATED AS MILOSEVIC'S BODYGUARD

A defense witness claims Oric never had a command role in Srebrenica. He was merely a "coordinator" who incurred the hatred of Srebrenica Muslims because of his pre-war job in the security of the former Serbian president.



◀ Suad Smajlovic, defense witness for Oric

Suad Smajlovic confirmed the prosecution claim that a meeting was held on 20 May 1992 in the village of Bajramovici - attended by the majority of the armed Muslim groups' leaders. Smajlovic is testifying as Naser Oric's defense witness. According to him, however, the Srebrenica TO Staff was not established that day, but merely a "coordination body" that was to coordinate the activities of the armed groups. Oric was elected the "chief coordinator" with a task of mediating among the leaders who kept squabbling with each other.

Oric then tried to take the leading military role in the Srebrenica region, but his attempts to appoint and remove the leaders of those armed groups ended in failure, the witness claims. Smajlovic himself, who was the leader of an armed group from Kazani, in Srebrenica, was the target of one such attempt, as he says. The fighters from his group opposed his dismissal and Oric had to stand down. "Go to Potocari and dismiss whom you please there, Suad remains our commander," the fighters from the Kazani group allegedly told Oric.

Apart from denying that Oric had any command function, the defense is trying to prove that the accused did not even have the kind of informal power that would be the result of the good reputation he allegedly had. "Not only was Oric not popular," the witness claims, "but because of his job before the war in Slobodan Milosevic's security, he incurred the hatred of the people of Srebrenica".

Suad Smajlovic's examination-in-chief ended today and the prosecution began the cross-examination.

2005-12-13

THE HAGUE

DISORGANIZED DEFENCE IN SREBRENICA

American officer in the UNPROFOR advance team did not see Naser Oric in Srebrenica in March 1993.

Lieutenant Colonel Rex Dudley, American intelligence officer, arrived in Srebrenica in March 1993 in the UNPROFOR advance team to make preparations for the subsequent arrival of General Morillon and the delivery of humanitarian aid to the enclave.

Testifying at the trial of Naser Oric, Dudley confirmed that he had found the exhausted and starving populace in Srebrenica. Those people were "ready to do anything" just to survive. With them were the few fighters who were trying to protect the people and defend the town surrounded by Bosnian Serb forces, the witness described.



◀ Rex Dudley, svjedok odbrane Orića

"I put the soldiers into three categories," Dudley said today, explaining that the first comprised professional, well-trained soldiers. The second category comprised reservists, fighters who had received some training but needed additional military training, while the third one comprised civilians who had taken up arms without even the most basic military training. The fighters in Srebrenica mostly belonged to the third category, Dudley said.

The same went for military equipment. Very few fighters had any uniforms. They did not wear any rank or unit insignia, the American officer confirmed. He added that he had seen "all kinds of weapons: from hunting rifles, mostly shotguns, to 22 mm caliber rifles, pretty much

useless in those conditions, to Kalashnikovs". The fighters, Dudley claims, resembled "partisans more than an organized army".

The American officer doesn't think that "any commander would be able to control the situation in Srebrenica". He described how the crowds of refugees, driven by hunger, had caused trouble all the time by foraging on their own. The fighters could do nothing to prevent them.

When asked by Orić's defense counsel, British attorney John Jones who the most important people in Srebrenica had been, Dudley said those had been the members of the War Presidency. He knew two of them. Apart from them, there were the leaders of the "semi-autonomous armed groups" and the police, who were "locally involved in maintaining law and order".

Dudley claims he doesn't remember having seen Naser Orić in Srebrenica, but that he heard his name several times. He could not identify him from the photograph shown to him by defense counsel. He did say that the soldier on the photograph had similar gear to that worn by American troops – from his belt to the camouflage uniform.

The defense will continue the examination of the American officer, in the presence of two representatives of the US government. This was stipulated as a condition for his testimony. The prosecution should complete the cross-examination by tomorrow.

2008-04-01

THE HAGUE

HARsher SENTENCE OR ACQUITTAL FOR ORIC

At the appellate hearing today in the Naser Orić case, the defense argued he should be acquitted. Orić was sentenced to two years in prison for crimes against Serb prisoners in Srebrenica in 1992 and 1993. According to the prosecution, Orić should receive a harsher sentence.



◀ Christine Dahl, tužiteljica na suđenju Naseru Oriću

In June 2006, Naser Orić was sentenced to two years in prison. The prosecution considers this sentence 'too mild' in view of the grave nature of crimes for which the former BH Army commander in Srebrenica was convicted. The defense calls for the acquittal of the accused of all charges; in its view, Orić was convicted on the basis of 'insufficient or unsustainable evidence'.

Orić spent fifteen months longer than his sentence in detention and was released immediately after the judgment was delivered. Today he didn't appear before the court; he availed himself of the 'right not to attend the appellate hearing', as confirmed by his counsel Vasvija Vidovic.

The Trial Chamber found Orić guilty of failure to prevent murder and cruel treatment of Serb prisoners in Srebrenica from 2 December 1992 to 20 March 1993. The judges concluded that after that date Orić no longer had effective control over the military police and thus wasn't responsible for the crimes committed by its troops.

The prosecution believes this is not a proper conclusion, pointing to the evidence called in the course of the trial, which showed that Orić should have known about the beatings of Serbian captives and other cruel treatment prior to 27 December 1992. As prosecutor Christine Dahl put it, 'he didn't care about that despite the risk of abuse for the captured Serbs'. She illustrated her argument with a recording of a beaten prisoner that Orić was able to see in November 1992.

[IMAGE]3319[/IMAGE]'The risk of abuse', as the prosecution put it, originated from the situation in Srebrenica. The Serb troops were attacking the enclave that was under siege and not allowing humanitarian convoys with food and medicine to pass. After that, 'it had to be clear to everybody that Serb captives could be exposed to abuse', Michelle Jarvis emphasized today for the prosecution.

The Trial Chamber erred when it took the 'horrendous circumstances' in Srebrenica as mitigating circumstance for Orić, giving them 'too much weight', the prosecution contends. According to prosecutor Jarvis, the international criminal law took a dangerous turn when the crimes committed by one party in the conflict were justified by 'the proper position held by that party and the fact that it fought for a just cause'.

[IMAGE]3317[/IMAGE]Orić's defense counsel John Jones supported the conclusion of the Trial Chamber on mitigating circumstances. However, in his belief, the Trial Chamber erred when it found that Orić had effective control over the military police. There is no evidence that the military police ever existed in Srebrenica at all. Orić's involvement with the alleged perpetrators of the crime in the Srebrenica police station can be described by the old British saying, 'I've danced with a man, who's danced with a girl, who's danced with the Prince of Wales', Jones said.

Errors in the judgment, according to the defense, were the result of the judges relying on the interview Orić gave to the OTP investigators in 2002. In their view, this interview didn't give an accurate picture of Orić's position and his role in the events he was charged with. Orić's interview was compromised by many mistakes in translation as well as by the fact that the investigators 'confused' Orić because they conducted the interview in an inappropriate manner.

The appellate hearing continues tomorrow when the parties will rebut the arguments and answer judges' questions.

2008-05-23

THE HAGUE

FINAL JUDGMENT FOR NASER ORIC

The final judgment in the appellate proceedings in the Naser Orić case will be delivered on 3 July 2008. Orić was sentenced to two years in prison by the Trial Chamber for crimes against Serbian prisoners in Srebrenica in 1992 and 1993.



◀ Naser Orić u sudnici Tribunala na zadnjem danu suđenja

In June 2006, Naser Orić was found guilty of failure to prevent murder and cruel treatment of Serbian prisoners in Srebrenica between 27 December 1992 and 20 March 1993. As it was announced by the Tribunal, on Thursday, 3 July 2008 the Appeals Chamber will deliver its judgment in the Orić case.

Both defense and the prosecution appealed against sentence. The defense called for the acquittal of the former commander of the armed forces in Srebrenica, while the prosecution wanted the conviction confirmed and a harsher sentence.

After the Trial Chamber delivered its judgment in this case in June 2006, Orić was released as he had spent

more than two years in the UN Detention Unit. He exercised his right not to attend the appellate hearing held in April 2008 and he can do the same for the delivery of the Appeals Chamber judgment.

If he decides to attend, the judges ordered, Orić must notify the ICTY Registry by 13 June 2008 so that necessary preparations for his attendance can be done. He will not spend any time in the UN Detention Unit.

2008-07-03

THE HAGUE

NASER ORIC'S CONVICTION REVERSED

According to the Appeals Chamber, the conviction of the former BH Army commander in the Srebrenica area for the crimes committed by his subordinates failed to meet two legal elements required to hold somebody criminally responsible under command responsibility. 'That's fate', Orić commented on the three years he spent in detention.

The Appeals Chamber reversed today the judgment delivered by the Trial Chamber in June 2006 sentencing Naser Orić to two years in prison for failure to prevent murder and cruel treatment of Serb prisoners in Srebrenica in late 1992 and early 1993.



◀ Naser Orić in front of the Appeal Chamber

The Trial Chamber convicted Orić of crimes committed by the military police, which was subordinate to him. In the opinion of the Appeals Chamber, this conviction failed to meet two legal elements required to hold somebody responsible under command responsibility. First of all, the Trial Chamber didn't clearly define the nature of criminal responsibility of Atif Krdžić, the only perpetrator subordinated to Orić that was actually identified by the prosecution. Also, the Trial Chamber didn't make a finding on whether Naser Orić knew or had reason to know that Atif Krdžić was about to or had engaged in criminal activity. The Appeals Chamber concluded that these errors of law invalidated the conviction of Naser Orić on the grounds of command responsibility.

Since neither party wanted a retrial and the prosecution admitted it didn't have any new evidence supporting the criminal responsibility of Orić's subordinates and his knowledge that they perpetrated crimes against Serb detainees, the Appeal Chamber concluded that a retrial would serve no purpose.

Judge Schomburg, reading out the appeals judgment today, underscored the 'doubtless fact that grave crimes were committed against Serbs detained in Srebrenica'. Also, Naser Orić's defence did not challenge that crimes were committed against Serb detainees. However, as the presiding judge stressed, 'proof that crimes have occurred is not sufficient to sustain a conviction of an individual for these crimes. Criminal proceedings require evidence establishing beyond reasonable doubt that the accused is individually responsible for a crime before a conviction can be entered.'

Judge Schomburg and Judge Daqun appended separate and partially dissenting opinions, while Judge Shahabuddeen appended a declaration.

After the appeals judgment was delivered Naser Orić said he was 'happy' to have his conviction reversed. 'That's fate', Orić commented about the three years he had spent in the Tribunal's Detention Unit. Orić's defence counsel Vasvija Vidovic stated that she had 'expected the acquittal'. The prosecution didn't comment on the latest judgment delivered by the Appeals Chamber.

2015-11-09

THE HAGUE

REQUEST TO TERMINATE PROCEEDINGS AGAINST ORIC

Naser Orić's defense has called on the Mechanism for International Criminal Tribunals to order the termination of the proceedings against the war-time commander in the BH Army. The charges against him were brought before the State Court in Sarajevo.

The defense of Naser Orić, who was tried by the Tribunal in The Hague, has asked Theodor Meron, the president of the Mechanism for International Criminal Tribunals, to appoint a panel of judges which would order the BH State Court to terminate the proceedings against the former BH Army commander in Srebrenica.

In the motion disclosed today, lawyers Vasvija Vidovic and John Jones have invoked Article 7 of the Mechanism's Statute, which stipulates that 'no person shall be tried before a national court for acts constituting serious violations of international humanitarian law under the present Statute for which he or she has already been tried by the ICTY, the ICTR, or the Mechanism'. Orić's defense has also invoked the Rules of Procedure which stipulate that if the president of the Mechanism receives reliable information that proceedings have been instituted before a national court against a person who has already been tried before one of the international tribunals, the president should issue a 'reasoned order' to 'permanently terminate' the proceedings.

The indictment against Naser Orić was submitted in late August 2015 to the BH State court, charging him with violations of international law and the Geneva Conventions. As a commander in the BH Army, the indictment alleges, Orić abused Serb detainees. The indictment also accuses Orić and Sabahudin Mihic of killing three prisoners - Slobodan Ilic, Milutin Milosevic and Mitar Savic - in Zalazje, Lolici and Kunjerac in 1992.

Those killings were not specifically listed in the Tribunal's indictment against Orić, but the proceedings in Sarajevo pertain to the same military activities which were the basis of the case in The Hague, the defense argues: the BH Army actions in Eastern Bosnia in 1992 and 1993. According to the defense, the fact that the crimes committed in that period were given a different legal qualification in the two indictments, issued in The Hague and in Sarajevo, is irrelevant.

Allegations related to the crimes listed in the BH indictment against Orić were available to the prosecutors in the Tribunal before the indictment was issued in The Hague, the defense claims. Consequently, they were covered by the proceedings before the Tribunal and Orić cannot stand trial for the same crimes in Sarajevo. Orić's defense has

urged the president of the Mechanism to appoint a panel of judges which will order the BH Court to terminate the proceedings.

In 2008, the Tribunal's Appeals Chamber reversed the trial judgment from June 2006, in which Naser Orić was sentenced to two years in prison for failing to prevent killings and for cruel treatment of Serb prisoners in Srebrenica in late 1992 and early 1993.

Orić was arrested in June 2015 in Switzerland under an arrest warrant issued by the public prosecutor's office in Serbia and was extradited to BH.

2015-11-13

THE HAGUE

CHINESE JUDGE TO RULE ON ORIĆ'S MOTION

Chinese judge Liu Daqun will rule on Naser Orić's motion in which he asked the Tribunal to order the BH State Court in Sarajevo to terminate the proceedings against the former BH Army commander in Srebrenica for war crimes.



◀ Liu Daqun, judge in the Tribunal

Theodor Meron, president of the Mechanism for International Criminal Tribunals, has decided that Chinese judge Liu Daqun will consider Naser Orić's motion in which he asked the Tribunal to order the termination of the proceedings against the former BH Army commander in Srebrenica. Orić has been indicted for war crimes by the BH State Court in Sarajevo. He has already been tried for war crimes by the ICTY. Judge Liu has recently been appointed the Tribunal's Vice-President and is expected to take office on 17 November 2015.

Invoking the Statute and the Rules of Procedure and Evidence of the Mechanism, Orić's defense lawyers Vasvija Vidovic and John Jones asked the Mechanism to appoint a panel of judges to order the State Court in Sarajevo to terminate the proceedings against their client. The provisions the defense has invoked stipulate that no one can be tried before a national court for acts he or she has already been tried for by an international tribunal. Instead of a panel of judges, the president of the Mechanism decided to appoint a single judge to consider the motion.

2015-12-11

THE HAGUE

THE HAGUE: ORIĆ CAN STAND TRIAL IN SARAJEVO

Liu Daqun, a judge of the Mechanism for International Criminal Tribunals, has rejected Naser Orić's motion in which he petitioned the Mechanism to order the BH State Court to terminate the war crime proceedings against him. Orić was the BH Army commander in Srebrenica during the war. The Chinese judge is not convinced that the BH State Court would try Orić for the same crimes that he has already been tried by the Tribunal.



◀ Naser Orić during the judgment and sentencing

Chinese judge Liu Daqun has dismissed the motion filed by Naser Orić's defense in which the Mechanism was asked to order the State Court in Sarajevo to terminate the proceedings on a number of war crimes charges against the former BH Army commander in Srebrenica. Orić's defense invoked the Statute and the Rules of Procedure and Evidence, arguing that a person cannot be tried a second time for the same acts that they have already been tried by an international tribunal. Orić's lawyers Vasvija Vidovic and John Jones urged the Mechanism to order the BH State Court to terminate the proceedings against their client. Judge Daqun was not convinced that the BH State Court had initiated the proceedings for the same crimes Orić had been tried by the Tribunal.

In his decision, Judge Daqun recalls that the Tribunal tried Orić for murder, cruel treatment, destruction of towns and villages not justified by military necessity as well as destruction of public and private property in BH in the period from 10 June 1992 to 20 March 1993. Orić was charged with command responsibility for the killing of Jakov Dokić, Dragan Ilić, Milislav Milovanović, Kostadin Popović, Branko Sekulić and Bogdan Zivanović between 6 February and 20 March 1993. On the other hand, the indictment against Orić issued by the BH State Court charges him with cruel treatment of prisoners of war, killing of Slobodan Ilić in the village of Zalazje and complicity in the murder of Milutin Milosević and Mitar Savić in May and December 1992 in the Bratunac municipality.

Orić's lawyers alleged that although the crimes listed in the Sarajevo indictment were not specifically alleged in the Tribunal's indictment they in fact pertained to the 'same military activities of the BH Army in Eastern Bosnia in 1992 and 1993 that were at the core of the case against Orić in The Hague'. Judge Daqun dismissed all the arguments submitted by Orić's defense.