

## **Blagojevic Asks for New Trial**

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Bosnian Serb convicted of crimes at Srebrenica claims original hearing was unfair.

Both the prosecution and defence this week appealed a 2005 decision convicting former Bosnian Serb Army, VRS, officers Vidoje Blagojevic and Dragan Jokic of playing a role in the Srebrenica massacre.

Blagojevic, then a commander of a local Bosnian Serb army brigade, was found guilty of aiding and abetting genocide by helping to facilitate the murder some 8,000 Muslim men and boys from the UN-protected enclave in 1995. Jokic was found guilty of aiding and abetting the crimes of extermination, murder and persecution. They were sentenced to 18 and 9 years respectively.

But Blagojevic's lawyer, Vladimir Domazet, told the appeals chamber this week that Blagojevic deserves a new trial. He said that the antagonistic relationship between Blagojevic and his previous lawyer, Michael Karnavas, had rendered the original trial unfair.

Blagojevic, who did not testify, told the court that he was "sabotaged" by Karnavas, who is the current president of the Association of Defence Counsel at the tribunal.

"He prepared nothing of use for my defence," said Blagojevic, who has also criticised Karnavas for refusing to consult with him when appointing co-counsel for the case. "I did not have a fair trial before this tribunal."

He would not let Karnavas examine him on the witness stand and tried to fire him during the trial.

Karnavas, meanwhile, said Blagojevic asked him if he would share his defence counsel fee in return for being hired, an illegal practice. The lawyer later withdrew the claim.

Domazet described the fee-splitting accusation as "serious" and "completely untrue".

"The breakdown in communication [between Blagojevic and Karnavas] resulted in an unfair trial, and warrants the granting of [Blagojevic's] appeal," he added.

Blagojevic's son, Aleksandar Blagojevic, has also vehemently protested the trial chamber's decision. In an unsolicited email to IWPR, he wrote that the conflict between Karnavas and his father resulted in Blagojevic being "a mere helpless observer of the 'trial' that [took] place".

However, the prosecution said that the conflict between Karnavas and Blagojevic didn't necessarily result in an unfair trial, saying that they were speaking before the case came to court and had discussed Blagojevic's response to the charges then.

The defence team for Jokic said their client, the former chief engineer in a local Bosnian Serb army

brigade, was not complicit in the murders of the Muslim men and boys from Srebrenica.

Jokic, who sent heavy machinery to dig mass graves for the victims, was only performing his duty, said his lawyer Peter Murphy.

He portrayed Jokic as a good man caught in the worst of circumstances who had no part in the massacre, claiming Jokic had not known about the murders until after they were committed.

Therefore, said Murphy, Jokic could not be guilty of aiding and abetting but was an accessory after the fact. He acknowledged that Jokic could not be charged with such an offence under the tribunal's statutes but maintained that no other charge was appropriate.

Murphy described the burial as "a matter of public health".

"If Mr Jokic had not done it, somebody else had to," he said. "Whatever language you choose to put on it, it was simply inevitable.

"There must be a line [that we can] draw somewhere. An already unlawful act only becomes worse if members of the public are afraid to intervene to make a situation better."

Addressing the appeals chamber, Jokic described burying the victims as his "duty as a man and officer".

He said he fought against "negative occurrences" throughout the war, including the robbery of and assaults on Bosnian Muslims.

But prosecutors said that "not a shred of evidence" had been presented at trial to support the claim that Jokic was acting in the public interest, and described the burials as "an essential component of the crime".

The prosecution alleged that Jokic played a key role in coordinating the burial operation and in keeping key players responsible for the murders informed.

Prosecutors also argued that neither Blagojevic nor Jokic had received harsh enough sentences, saying they may not have been the main architects of the massacre but that their crimes were grave nonetheless.

Domazet said it was difficult to dispute whether the sentence was appropriate when Blagojevic's entire trial was unfair.

However, he said that the prosecution had neglected to recognise that, although Srebrenica was a protected enclave, the UN hadn't prevented the 28th Army of Bosnia and Herzegovina from carrying out attacks against the Serbs.

Because of this situation, Domazet said Blagojevic was involved in a military attack rather than one against civilians. For merely following orders, he should not receive a heavy penalty, he added.

Murphy said that the trial chamber had taken Jokic's actions after the war into account when determining his sentence, noting that he helped de-mine certain areas and conducted a Muslim group safely through a minefield.

"Your honours have long, accumulated experience at the tribunal," said Murphy. "You know by now that the accused who come before you are a very diverse selection of people. It is certainly germane to consider whether the accused you are dealing with is an evil individual who willingly participated in crimes or, as sometimes happens, is basically a good man caught up in bad circumstances who now finds himself here."

The date for the appeals judgement has not yet been set.

Katherine Boyle is an IWPR reporter in The Hague.

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