

## **Blaskic Trial: 'Aggression In An Internal Conflict'**

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The judges were, however, unwilling to return to their school days to hear the professor's lecture on differences between the internal and international armed conflict.

After a short deliberation, they directed the witness to speak not of international humanitarian law, but of the facts on relations between Croatia and Bosnia and Herzegovina that are relevant to determining the character of the conflict. Professor Degan however, found it difficult to contain himself from continuing along his plotted course.

He not only chose to teach the Tribunal's judges law, but also offered to do the judging for them by repeatedly stating that defendant Blaskic is "innocent". This forced the presiding Judge Claude Jorda to issue him with a public warning.

The Prosecution contends that the Croat-Muslim conflict in Central Bosnia in 1993 was of an international character, due to the direct involvement of the Croatian armed forces. In presenting its case, the Prosecutor called a number of witnesses and submitted supportive evidence.

Both the witnesses and the evidence would be corroborated, the Prosecutor argues, by documents which have so far unsuccessfully been sought by the Tribunal - first by "subpoena duces tecum", and then by "binding orders" - from Croatian military archives as well as those belonging to the so-called Croatian Community of Herzeg-Bosnia.

Six out of the total of 20 counts of the indictment depend on the judges' determination of the character of conflict in Blaskic's area of responsibility at the time. These six counts charge Blaskic with grave breaches of the Geneva Conventions, which, according to the Jurisdiction Decision of the Tribunal's Appeals Chamber in the case of Dusko Tadic, may only occur in a situation of an international armed conflict.

Starting with the definition of international armed conflict given in the Geneva Conventions, Professor Degan declared that not a single element of that definition was present in the Croat-Muslim conflict of 1993: there was no formal declaration of war; the two sides did not admit to the state of war between them and there was no partial or complete occupation of territory by either of the sides.

Professor Degan also named additional conditions which are necessary for a state of war to exist between states, and claimed that these were not satisfied either: diplomatic relations between Croatia and Bosnia-Herzegovina were not suspended; their bilateral agreements were not cancelled out or put on hold; at no point was trade suspended, nor did the treatment accorded Bosnian refugees in Croatia become any different as a result of that conflict.

On the contrary, Professor Degan said, throughout the conflict which the Prosecutor claims was international, Croatia continued supplying humanitarian assistance to Bosnia and Herzegovina, and its ports and airports were entry points for weapons destined for the Bosnian Army, in clear violation of United Nations arms embargo. "This was a unique case in history that a belligerent side had provided supplies and armaments for the opposing side," Professor Degan exclaimed.

Not denying the presence of armed forces of the Republic of Croatia in Bosnia and Herzegovina, and their

assistance provided to Croatian Defence Council (HVO) forces of Bosnian Croats, Professor Degan admitted that even if this may have been an "illegal military intervention," it stopped short of an international armed conflict.

He quoted examples of such "illegal" interventions that were made without mandate of the Security Council, naming the US interventions in Grenada, Panama and Dominican Republic, as well as the Soviet intervention in Czechoslovakia in 1968. All of these were, Professor Degan said, "individual acts that do not automatically amount to a state of war, or an international armed conflict."

Upon the Prosecutor's insistence that the Bosnian government had admitted having been at war with Croatia, and following the presentation of a series of documents that outline Bosnian condemnation of Croatian aggression, the still witness held on to his assertion that not all acts of aggression or illegal armed intervention amount to international conflict. In response to that Judge Mohammed Shahabuddeen asked whether the deployment of the Croatian Army in Bosnia and Herzegovina "would still be just an illegal intervention ... if it was proved that Croatia and Serbia reached a secret agreement on the division of Bosnia in 1991?"

"The definition of the political causes of conflict would change," the witness conceded, "but it would still be internal."

The judge then asked whether it was true that two schools of thought on Croatian involvement in Bosnia co-existed in Croatia at the time, one in favour of co-operation with the Bosnian Army in joint operations against the Bosnian Serbs, the other being only for the assistance to Bosnian Croat forces, the HVO, in its struggle against Bosnian Muslims and the Bosnian Army. "Both political relations within Bosnia and Herzegovina, and the relations between Croatia and Bosnia and Herzegovina, were in fact even more complex," replied Professor Degan. He went on to compare the conditions in Bosnia with the situation in Lebanon during the civil war there, when internal divisions existed within each of the fighting factions.

"Within Croatia, as well as in Bosnia itself, there were factions that favoured the division of Bosnia while at the same time in some parts of the country [people] continued nurturing good relations between Croats and Bosniaks." Whereas some Croats from Sarajevo and the Bosnian Posavina region in the North of the country did not wish to see the segmentation of Bosnia, "certain factions in Herzegovina [in the South - South-West of the country] may have wished to see the unification with Croatia."

General Blaskic was indicted for atrocities committed by HVO forces while under his command in the Lasva River Valley in Central Bosnia. This, according to Professor Degan, means that the conflict could not have possibly been of international character since the entire region was surrounded by territory in control of the Bosnian Army, which prevented the Croatian Army from aiding the local HVO units.

The witness concluded his statement with an assertion that the defendant is "not guilty" of grave breaches of the Geneva Conventions, provoking presiding Judge Jorda to warn him that "he is not Blaskic's advocate" and direct him to remain within the matter he was invited to testify on.

The trial of general Blaskic is to be continued on 11 January 1999.

**Location:** Serbia  
Croatia  
Bosnia and  
Herzegovina

**Focus:** International Criminal Tribunal for the former  
Yugoslavia

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