

## **Brdjanin Case Ends**

**Author:** [Karen Meirik](#)

Prosecution and defence arrive at very different conclusions from the same evidence.

The four-year trial of Radoslav Brdjanin – one of the top Bosnian Serb officials in the area which housed the infamous Prijedor detention camps – came to an end last week.

Brdjanin - who led the Crisis Staff of the Autonomous Republic of Krajina, ARK, at time when the region was gripped by a ruthless campaign of ethnic cleansing and brutality in the notorious Keraterm, Omarska and Manjaca camps - had been on trial accused of genocide, crimes against humanity and violations of the laws and customs of war since January 2000.

Prosecutor Joanna Korner described the defendant as one of the major propagandists of the Bosnian Serb leadership. According to her, his announcement that no more than two per cent of non-Serbs would be allowed to live in Banja Luka paved the way for the genocide campaign that followed.

But the defence team of John Ackerman and David Cunningham used broadly the same evidence to portray Brdjanin as a powerless politician who simply happened to be in the wrong place at the wrong time. In addition, Ackerman argued that the defendant had actually saved a group of 1,860 Muslims in his hometown of Celinac.

Throughout the trial, the defendant maintained he had no knowledge of the crimes committed in the detention centres around Prijedor - even though witnesses and television coverage confirmed that the politician had visited the Omarska camp.

One broadcast admitted as evidence showed Brdjanin after he had visited the latter. He said, "What we have seen in Prijedor is a job well done. And it's a pity people in Banja Luka haven't seen it yet." After commending the Prijedor authorities, he is seen to add, "All Turks will shake with fear ... if they do not obey the laws of our Serbian state!"

The prosecution used such statements to support their contention that Brdjanin had played a leading role in the propaganda campaign that led to genocide in the Bosnian Krajina.

However, Ackerman protested the prosecution's use of Brdjanin's speeches and public statements. "There's not one word in the indictment about it," the defence counsel said. "And yet their entire closing brief in this case relies very heavily upon them."

Ackerman explained that the prosecution could easily have added the statements to the indictment, which has been changed six times during the proceedings. This was but one example of "remarkable negligence", he argued.

Korner strongly disputed this allegation. "This indictment is known in the tribunal as the most detailed ever," she said to Ackerman in her final rebuttal, pointing out that "propaganda" was already mentioned in a couple of paragraphs.

Aside from a large number of speeches and interviews given by Brdjanin which were decried as

“incitement”, the court was not shown a lot of tangible evidence to establish a direct link between the defendant and the ethnic cleansing that took place in the Krajina in 1992.

Therefore, Korner addressed the judges about the value of circumstantial evidence, since it paints a picture of the actual context of the alleged crimes.

“It has been said that circumstantial evidence is often the best evidence,” Korner argued.

Presiding judge Carmel Agius agreed, saying, “I have quoted this in various earlier judgements.”

A survivor’s account of a mass killing was only one of many chilling testimonies used by Korner to demonstrate the ethnic cleansing that took place. Considering the large number of closed-door sessions during the proceedings, the judges must have listened to many more.

The defence did not contest the mass killings nor the horrors that took place in the Prijedor camps - about which Brdjanin reportedly said, “If Hitler, Stalin and Churchill could have working camps, so can we. After all, this is a war.”

But Korner claimed the regional ARK crisis staff, which was installed in May 1992, was the responsible political organ, having been given authority over the various municipal crisis staffs.

The prosecutor described the municipal crisis staff personnel as “big fish in small ponds” who were very reluctant to give up their power. The fact that they did surrender their autonomy, Korner argued, proved that Brdjanin’s crisis staff had a lot of authority.

But the defence tried to prove that the ARK crisis staff was not taken seriously by the municipal leaders. “The evidence shows that fewer than 12 per cent of ARK decisions were actually implemented,” Cunningham argued, drawing from the information provided by the prosecution’s expert witness Patrick Treanor.

Throughout both their closing arguments, prosecution and defence alike based their cases on the same evidence. It was their interpretation of the material that led them to their diametrical conclusions of Brdjanin being either a politician who would stop at nothing to achieve his goals or a manipulated man who was willing but unable to save non-Serbs.

An intercepted telephone conversation between the Bosnian Serb political leader Radovan Karadzic and Brdjanin gave a clear example of how prosecution and defence interpreted the same evidence.

In one excerpt, Karadzic reproached Brdjanin for bothering him, saying, “You keep calling me about every little matter.” Brdjanin promised not to do this any more. Then Karadzic reassured him by saying, “You have all the power in the Krajina. Why don’t you exercise this power!”

Where the prosecution used this example to prove Brdjanin’s authority, Cunningham said it proved how his client was “belittled” and “not taken seriously”.

The discrepancy between interpretations continued when both parties spoke of Brdjanin’s attitude towards

non-Serbs in the region.

The prosecution alleged that the defendant was a leader of the ethnic cleansing campaign, but his defence portrayed him as a life-saver who made no distinctions based on ethnic background at all.

“On the contrary,” Ackerman said, “It appears that he was able to prevent extreme activities in Celinac, and in Banja Luka. Where he had no significant influence, [such as Kotor Varos and Prijedor], things were terrible.”

Both parties referred to the January 16, 2004 testimony of defence witness Mehmed Talic, who testified that Brdjanin had helped him when his daughter was stranded in Kotor Varos during the Muslim holiday of Bajram in 1992.

“The Muslims and Croats [in Kotor Varos] had already fled,” Talic told the court. “There was shooting from the Muslim side ... Nobody could enter or leave. The telephones were cut, and I was worried about the situation ... So I went to see Mr Brdjanin, and he helped me out.”

Reportedly Brdjanin arranged a car and a driver for Talic, as well as the necessary documents to pass the Serbian checkpoints.

In her closing argument, Korner used Talic’s testimony as an example of Brdjanin’s authority – and argued that this proved his key position in the genocidal events that followed.

However, Ackerman used the same evidence to point to Brdjanin’s inability to prevent what was happening. He pointed out that the permit was signed by a governmental depute, Mile Maksimovic, because Brdjanin didn’t have the authority to issue such a pass.

After hearing the closing remarks of both parties, Judge Agius assured prosecution and defence that nearly 25,000 pages of transcript - “the testimonies, the documents tendered, the arguments submitted, our notes” - would be studied carefully.

The verdict is expected by the end of August.

Karen Meirik is an IWPR reporter in The Hague.

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