

## **Credibility of Gotovina Defence Witness Questioned**

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But defence dismisses prosecution claims about witness's alleged foul play as unfounded. Prosecutors in the case against former Croatian general Ante Gotovina have accused a witness testifying for the defence of taking part in efforts to conceal documents from the International Criminal Tribunal for the Former Yugoslavia, ICTY.

Boris Milas was the head of criminal investigations within the 72nd military police battalion in the Croatian army during the country's 1991-95 war and subsequently worked for the Security and Information Service, now known as the Military Security Agency, within the Croatian ministry of defence.

"Were you not involved in concealing documents in relation to the [Tihomir] Blaskic case at the ICTY?" prosecutor Prashanthi Mahindaratne asked the witness this week, reading extracts of an official report by the Croatian authorities into an operation allegedly aimed at protecting Croat indictees before the tribunal.

According to the prosecutor, the report showed that Milas had been involved in concealing documents from the court in the case of Blaskic, the Bosnian Croat military commander who was sentenced by ICTY appeals judges in 2004 to nine years' imprisonment for crimes in Bosnia during 1993.

However, Milas responded that he had already been investigated for his involvement in the operation and he had made it clear that he had been involved in receiving certain documents from Bosnia at the Lora naval base in Split, but was unaware of the contents or the significance of the documents.

"I never received a single document which I knew was a document sought by the tribunal. Not a single one," he said.

"I was not familiar with the contents of the documentation," he added.

The prosecutor also put it to the witness that he was involved in proofing defence witnesses in the Blaskic case - a charge that he also denied. He explained that he had provided premises for Blaskic's lawyer to conduct his witness proofing and that he had the task of bringing coffee and food to the witnesses.

Gotovina's defence team accused the prosecution of trying to discredit the witness without foundation. One lawyer, Luka Misetic, questioned the prosecution's basis for allegations about concealed documents and said that suggestions that the witness previously knew him or other members of the defence team without exploring any actual wrongdoing amounted to "innuendo".

"What we have seen is a collateral attack on the witness and the witness's credibility and moreover on the basis of an innuendo that there is some sort of manipulation with the witness's testimony on our part that we take strong objection to," Misetic told judges.

Mahindaratne denied the accusation.

“There were no innuendos,” she said. “It was a direct challenge of [the witness’s] credibility and his bias.”

Gotovina was the commander of the Croatian army’s Split military district during Operation Storm, a 1995 military offensive which prosecutors in The Hague allege resulted in the forced removal of about 200,000 Serbs from the Krajina region of Croatia. The former general is charged, along with two other senior generals, Ivan Cermak and Mladen Markac, with orchestrating the permanent removal of Serbs from Croatia between July and September that year.

Prosecutors allege that all three defendants were behind an orchestrated campaign of looting and destruction of property, including the torching of houses belonging to Serb civilians, as well as the unlawful killing and inhumane treatment of Serbs in the Krajina.

Responding to questions from the Gotovina defence earlier in his testimony, Milas gave weight to their case that their client did not have responsibility for the operations, and the alleged shortcomings, of the military police after Operation Storm.

Prosecutors allege in the indictment that during the summer of 1995 Gotovina was “exercising command and control over all units, elements and members of the HV (Croatian army) that comprised or were attached to the Split military district”.

However, the defence argue that their client, in his position as commander of the Split military district, had no control over the military police and this week asked the witness about the process of reporting criminal activity in the region.

“These reports were not sent to the command of the Split military district nor to the brigade commanders of the military district,” he said.

Misetic also questioned the witness about whether anyone else besides the commander of the battalion - Major Ivan Juric - was responsible for assessing the work of members of the military police and instigating promotions.

“No one else had even the possibility to assess my work,” the witness said.

Misetic also noted that a report compiled by Juric in the summer of 1995 stated that all military police in the 72nd battalion had carried out their tasks professionally and that all of them deserved to be commended.

The witness also offered a boost to the defence case by playing down the extent of the house burnings which took place across the region in the aftermath of Operation Storm. Misetic pointed to an August 16 report by Yasushi Akashi, at the time representative of the then United Nations Secretary General, Kofi Annan, discussing the situation in Croatia that stated that 200 houses had been burnt down since August 8, as well as many hectares of farmland torched and farm animals slaughtered.

The witness agreed that this would have been “approximately the right number” of houses that were burnt

down, but played down the extent of the crime.

“I would not find this to be a widespread phenomenon,” he said, explaining that it was in the context of a broad region.

“This was not a clear indication that this [house burning] occurred en masse because of the size of the area,” he said. “Otherwise I would have seen a greater number of buildings set on fire.”

In an effort to show that most crimes were committed by civilians rather than members of the Croatian military, Miletic presented a report by the commander of the military police, Mate Lausic, for the period August 1 to October 30, 1995 to the Croatian minister of defence, detailing the results of policing activities in the Krajina after Operation Storm.

In his report, Lausic stated that approximately 1,100 house burnings had been investigated by the civilian police, whereas only 15 had been conducted by the military police.

Milas explained that such crimes were only followed up by the military police if patrols or the civilian police had reason to believe they were committed by members of the armed forces.

“This makes me conclude that it was mostly the civilian police who received reports that houses were set on fire,” he said.

The presiding judge, Alphons Orie, questioned the witness further on the subject, asking specifically about the figure of around 1,100 house burnings noted in Lausic’s report.

“I have no reason to doubt that figure,” Milas said.

The witness also explained to the court this week why such a small number of criminal charges were filed by the military police after Operation Storm in 1995. He said that the main task of crime investigators within the Croatian military police during and after the offensive - as outlined in an August 3 order from Lausic - was processing crimes committed by Serb prisoners of war.

According to the witness, the object of the exercise was to obtain information from enemy prisoners of war about hidden weapon stocks of the Bosnian Serb army, as well as information about minefields or terrorists groups operating in Croatian territory.

“These would be the basic reasons due to which we were busy with that [investigation process of prisoners of war] on a daily basis,” he told the court.

The witness also testified that unless it was established that crimes such as the burning of houses and the theft of property had been committed by members of the Croatian army, then the task of investigation would fall under the civilian, rather than the military, police.

“The military police acts only in cases which fall under competence of military court,” he said.

Asked by Misetić if he had any reason to believe that Lausić was dissatisfied with the work of the military police after Operation Storm, the witness replied, “I did not have that feeling. No one would say so in a meeting or briefing.”

The defence teams of Gotovina’s co-accused, Ivan Čermak and Mladen Markač, declined to examine the witness.

The trial continues next week.

Simon Jennings is an IWPR reporter in The Hague.

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