

Defence Attacks Evidence in Srebrenica Case

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But prosecutors try to prove their objections to two interviews being submitted as evidence are groundless. A prosecution investigator this week appeared in the trial of seven Bosnian Serb military and police officials to defend two interviews he conducted with Ljubomir Borovcanin which the suspects' lawyers argue are inadmissible as evidence.

Defence counsel Aleksandar Lazarevic said that transcripts of two interviews with Borovcanin should not be admitted because the defendant had not been clearly advised of his status as a suspect or that his words could be used against him in court.

Lazarevic also said his client should not have been interviewed without his lawyer present for the first part of one of the interviews.

Former tribunal investigator Alastair Graham, also an inspector with the British police, testified in the trial of Borovcanin, Ljubisa Beara, Vujadin Popovic, Drago Nikolic, Vinko Pandurevic, Radivoje Miletic and Milan Gvero.

Graham interviewed Borovcanin on February 20, 2002 and March 11, 2002, and on both occasions was accompanied by prosecutor Peter McCloskey and an interpreter.

He was adamant that on each occasion, he had warned Borovcanin of his status as a suspect. He recalled telling him at the interview that he had the right to an attorney and the right to remain silent.

Any questions could be answered by listening to it. "The advice that I gave [Borovcanin] is on the tape," said Graham.

During the first interview Borovcanin's attorney arrived late. Graham said he made clear Borovcanin had a right to an attorney but the suspect had wanted to go ahead without legal counsel.

"In the interviews, I was trying to be totally fair and honest. I thought I was being perfectly clear," said Graham.

But during the cross-examination, Borovcanin's counsel said that not only had his client been without an attorney for a full three hours, but had also been unaware of the capacity in which he was being interviewed.

"It was Mr. Borovcanin who was not aware of his legal position in the proceedings, nor had he been regularly and completely advised of the rights that he had on the basis of his status," said Lazarevic.

Lazarevic claimed that Graham told his client that he was a "possible suspect" instead of just a suspect -

advice which had left Borovcanin unaware of his status and legal rights.

"Such a person when deciding to give an interview or not must be clearly advised of their status," said the lawyer.

Lazarevic also said his client received "inadequate interpretation" during the interview.

Fellow defendant Ljubisa Beara's lawyer Christopher Meek questioned Graham about how much advice he gave Borovcanin concerning his right to have an attorney present.

While Natasa Ivanovic, lead counsel for fellow suspect Radivoje Miletic, pointed out that Graham specifically told Borovcanin how important it was that he tell the truth.

"Before the tribunal - in the tribunal - were you in the habit of telling suspects that it was important to them to tell the truth?" she asked Graham.

She told Graham that she did not understand why it was necessary to remind someone to tell the truth if there was no suspicion that he was doing otherwise.

"Just to make them understand that that is what is hoped for from the interview - to establish the truth. Not everybody does tell the truth," Graham told the court.

The defence teams reiterated their arguments on Thursday afternoon during the final oral submissions.

"At no time was it clearly stated to him that he did not have to speak to the Office of the Prosecutor at all, and that right includes that at any point he was free to stop and leave the interview," said Lazarevic.

When Lazarevic had finished, Meek told the court that the simple fact that Borovcanin voluntarily gave the interview, was not enough to make it admissible.

"If any trial is worth conducting, it's worth conducting fairly, and the courts that apply this principal become stronger and not weaker. This statement should not be admitted," concluded Meek.

But prosecutor Julian Nicholls insisted that Graham went out of his way to inform Borovcanin of his rights and that the accused was an educated man, aware of his status.

"It's completely unambiguous. He understood his rights, and he waived them," he told the court.

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