

Delic Trial Starts With Witness Controversy

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Prosecution warns of possible acquittal if more witnesses aren't allowed.

The trial of former Bosnian army chief Rasim Delic began this week amid protests from the prosecution about the number of witnesses they would be allowed to call.

Delic, 56, who was appointed commander of the Main Staff of the Army of Bosnia Herzegovina, ARBiH, in June 1993, faces charges in connection with crimes allegedly committed by Muslim volunteers in the ARBiH, known as Mujahedin, between 1993 and 1995.

Prosecutor Daryl Mundis asked the judges to delay the start of the trial, saying the prosecution couldn't prove its case because of the July 2 decision by judges to limit the number of prosecution witnesses to 55.

Mundis requested further time to allow the prosecution to prove why they needed 70 witnesses over 110 hours, despite the fact that a previous motion requesting a delay was denied by judges on July 5.

He told the court that it would be "irresponsible" for him to begin the trial and "risk the possibility" that the trial chamber would again deny his request, because "the likely outcome" if the prosecution were not allowed its full number of witnesses would be acquittal.

A heated debate between Mundis and the trial judges followed, with Judge Frederik Harhoff directly challenging Mundis' assertion that the amount of time and witnesses he had been given was insufficient.

Presiding Judge Bakone Moloto accusing Mundis of "putting a gun to the head of the chamber" by refusing to begin unless he was guaranteed that his request for more witnesses would be granted.

A 20-minute recess turned into several hours, but when the trial resumed Mundis was ready to begin.

He told the court that the case against Delic was about "values, decisions and inaction". Although Mundis conceded that the values Delic fought for were "noble" he asserted that Delic "had a duty to act. He failed in that act. As a result, crimes were committed".

Prosecutors allege that Delic was aware of the propensity of the Mujahedin to commit crimes, particularly against captured enemy combatants and civilians.

The indictment alleges he had authority over the Mujahedin and that he failed to investigate the crimes effectively or to punish the perpetrators as was his obligation as a commander under domestic and international law.

The charges stem from three incidents in which crimes were allegedly committed by the Mujahedin.

In the first incident, which is said to have occurred the day Delic assumed his post as army commander, the Mujahedin are alleged to have murdered between 35 and 40 Bosnian Croat civilians and captured members of the Croatian Defense Council following an attack by the ARBiH on the village of Maline.

Between July 21 and August 24, 1995, following an attack by the ARBiH on the town of Krcevine, the Mujahedin allegedly committed numerous crimes against captured members of the Bosnian Serb army, VRS, including beatings, torture with high-pressure air hoses and electric shocks and murder.

In one incident, the Mujahedin are said to have decapitated a VRS prisoner and forced all the other prisoners to kiss the severed head before hanging it from a hook on a wall in the room where the Serb prisoners were held.

Finally, following the capture by the ARBiH of formerly VRS-held territory on September 10, 1995, the Mujahedin allegedly beat and raped three female Serbian civilian prisoners, badly beat and murdered nearly all captured VRS soldiers and held an elderly Bosnian Serb civilian who died after being beaten and fed water mixed with petrol for several days.

Mundis played an audio clip from an interview conducted by Times reporter Andrew Hogg with Mujahedin leader Abdul Aziz. In the piece, Aziz discusses the support given to the Mujahedin by the ARBiH.

Hogg was called the next day as the prosecution's first witness.

A pre-trial brief from the defence indicates their strategy will focus on denying that Delic had effective authority over the Mujahedin during the indictment period.

The brief claims that Delic's command was based in Sarajevo, which was under heavy siege, placing him in what the brief terms "one of the most difficult military scenarios of all time".

According to the defence, Delic was fighting to preserve a "multi-ethnic, multi-religious, parliamentary democracy" against the onslaught of both Croat and Serb ethnic aggressors within and outside Bosnia.

The defence claims the ARBiH was not "anything close to being a functional force" for most of the indictment period, having only been formed after Bosnia's secession from Yugoslavia in 1992.

Among the problems cited are under-funding, lack of professional experience and that many units of the army only existed on paper and lacked even a formal system of ranks.

The Delic defence team denies that any of the crimes allegedly committed by the Mujahedin even occurred, with the exception of the murders at Maline on June 8, 1993, at which time, the defence claims, the Mujahedin were not under Delic's command.

They say Delic took responsible steps to investigate all crimes of which he was aware and attempted to

subject the Mujahedin to ARBiH control. Consequently, the defence claims, Delic does not bear any criminal responsibility for crimes the Mujahedin may have committed.

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