

Judge Angered at Deronjic Prison Term

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Bosnian Serb's ten-year sentence is condemned as violating "the spirit of the tribunal".

The leading judge in the Miroslav Deronjic case strongly criticised the ten-year prison sentence handed down on March 30 to the former high-ranking Bosnian Serb politician as being too lenient.

Presiding judge Wolfgang Schomburg was so angered that he spoke out publicly against the decision, saying it violated "the mandate and the spirit of the tribunal".

"The sentence is not proportional to the crimes it is based on," Schomburg said. "The accused deserves ... no less than 20 years of imprisonment."

But the remaining two judges on the panel went along with the recommendations of the prosecutor, who suggested a maximum prison term of ten years. The disputed sentence seemed an apt conclusion to a case that has stirred controversy from its very beginning.

Deronjic, 49, was indicted for ordering the attack on the eastern Bosnian village of Glogova in May 1992. Almost 2,000 of its Muslim inhabitants were expelled and 65 unarmed local men were executed. Deronjic personally supervised the action.

At the time, he was the head of the local Serb Crisis Staff - a political/military body that coordinated the ethnic cleansing of the area.

Deronjic was arrested in 2002 and initially maintained his innocence. But last autumn he signed a plea agreement with the prosecutor's office and admitted his guilt. In return for this admission, the prosecutors agreed to propose a maximum sentence of just ten years.

The plea agreement was followed by a period of cooperation with the prosecutor's office. Deronjic submitted a 70-page witness statement describing in detail how the Belgrade government armed Bosnian Serbs and assisted in the ethnic cleansing of eastern Bosnia in the early months of the war.

Around a third of Deronjic's statement concerns the most horrific episode of the war - the massacre of some 7,000 Muslim men after the fall of Srebrenica enclave in July 1995. At the time, Deronjic held senior political position within the Bosnian Serb's ruling party and, according to his own admission, was aware of the preparations for the takeover and some of the killings.

After signing the plea agreement, Deronjic started to appear as a prosecution witness in many important trials - including that of Slobodan Milosevic. He also testified against the former Bosnian Serb leader Momcilo Krajisnik and four high-ranking Bosnian Serb officers accused of participating in the Srebrenica massacre.

Both the prosecution and the defence tried to present Deronjic's cooperation as the main argument in favour of the shorter sentence, but the judges weren't convinced.

Deronjic's testimony changed from trial to trial. And although the differences were mainly in the details of his own personal story, they were significant enough to arouse the suspicion of all three judges.

"The trial chamber takes into consideration the fact that the accused has testified in other proceedings before this tribunal. However, [it] has to recall that the accused himself acknowledged that he had given partly untruthful statements in his prior interviews with the prosecution," the judges explained in a summary of the verdict.

In his dissenting opinion, Judge Schomburg criticised the prosecutor's office for presenting only a "limited indictment", which "for unknown reasons limited to one day and to the village of Glogova only".

The ethnic cleansing in Bratunac municipality - for which Deronjic had responsibility - had continued after the events in Glogova, the judge warned.

But even the "limited indictment", he argued, deserved a greater sentence than that handed down, "The heinous and long planned crimes committed by a high-ranking perpetrator do not allow for a sentence of only ten years."

But the real bone of contention remained the fact that despite his obvious insiders' knowledge of the Srebrenica massacre, Deronjic was never indicted for his role in it. Evidence obtained by the tribunal and seen by IWPR corroborates that on the day that the enclave fell he was named civilian commissioner of Srebrenica - a function that would put him de jure in charge of the enclave's executed inhabitants.

The prosecutor's office maintains that it did not have enough evidence to bring charges against Deronjic but Judge Schomburg strongly criticised this attitude.

"It remains extremely questionable to me why Deronjic was not indicted as a co-perpetrator in the joint criminal enterprise leading to the horrific massacre at Srebrenica in 1995. It transpires on a prima facie basis that there should be enough reason to indict [him] for his participation in that massacre, based only on his own confession," the judge wrote in a longer version of his dissenting opinion.

But in the days after the judgment, the prosecutor's office remained adamant that it did not have enough firm evidence to issue a Srebrenica-connected indictment against Deronjic.

"When you bring an indictment you need to meet certain criteria ... and we just did not meet them for all the events [that Deronjic describes in his witness testimony]," spokesperson Florence Hartman said at a press conference.

The growing usage of plea agreements by the prosecutor's office seems to be one of the main issues the tribunal is grappling with. Such deals are useful, the prosecutors maintain, in speeding up cases and getting vital evidence from minor offenders in order to build more solid indictments against high-ranking ones.

Plea agreements seem increasingly to be a part of the tribunal's "completion strategy", according to which it is supposed to close by 2008, and end all investigations by the end of this year.

But some court insiders think that the extensive use of plea agreements may undermine the very essence of the tribunal - expediency, they warn, could take the upper hand over bringing justice and uncovering

the truth about the Yugoslav wars.

Plea agreements are extremely common in Anglo-Saxon countries, where a trial is perceived as a battle between two sides rather than a search for truth. But in many European, or civil law, countries they are seen almost as a form of undermining justice.

Judge Schomburg is extremely critical of plea agreements. He has already gone against the sentence limitation proposed by the prosecution - when he sentenced Bosnian Serb officer Momir Nikolic to 27 years imprisonment for his participation in the Srebrenica massacre instead of the 17 recommended by prosecutors.

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