

Kordic & Cerkez Trial: Historical Evidence

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As an expert in the history of Bosnia, and especially of its Muslims, Dr Donia testified about more or less the same issues in the summer of 1997 at the beginning of the trial of General Tihomir Blaskic (See Tribunal Update 34 and 38).

Last week Dr Donia basically dealt with four topics: the historical boundaries of the constituent parts of the former Yugoslavia (SFRY) and what was done in the 1990s to these lines, whether there was a "history of tribal hatred" in the Balkans, and about international armed conflict in Bosnia-Herzegovina.

Dr Donia went through various maps of Croatian, Serbian and Bosnian medieval kingdoms, and of Ottoman conquests. The point was to show that Bosnia existed as an entity (kingdom) even before the Ottomans and that at the time after the conquest Bosnia acquired more or less the shape it still has.

Bosnia was an identified country for 500 years and these boundaries encompassed different religions living inside. He also showed the changes of Bosnia's boundaries throughout the existence of old Yugoslavia, including the Banovina boundaries, the territory of the World War II NDH Croatian puppet state, and the 1993 Vance-Owen plan to divide Bosnia-Herzegovina into 10 ethnically defined "cantons."

Events in 1990s did not reflect some "ancient hatreds," he argued. That is "according to the expert witness, "a notion invented by the Western politicians who wanted to justify their inaction." The conflict basically represented a revival or invention of historical developments.

Franjo Tudjman wrote in the 1970s that Bosnia belonged to Croatia because of the Croat ethnic origin of the majority of Bosnian Muslims were Croats, thus making Croats a majority in Bosnia-Herzegovina. Tudjman considered Bosnian Muslims to be a part in the Croatian ethnic corpus, and their territory a part of Croatia's historical area.

According to Dr. Donia, Tudjman became more pragmatic in the 1990s and extended Croatia to the Banovina borders, which encompassed a part of Bosnia on the eve of World War Two. After he was elected President of Croatia in 1990, Tudjman supported and sponsored those Bosnian Croat leaders who held the line that the aspirations of Croats can be fulfilled only within a distinct territorial unit, and not within Bosnia.

Tudjman discussed the division of Bosnia with Milosevic in March 1991, which resulted in an agreement in principle, without specific dividing lines. From then on, Bosnian Croat leadership acted in response to those Tudjman's initiatives. That, according to Dr Donia, was the point when the Croatian agenda for division and annexation emerged.

Tudjman, the expert witness went on, met with Bosnian Croat leaders in June 1991 and gave directives for the establishment of separate Croatian communities in Bosnia-Herzegovina. The accused Dario Kordic was reported to be at the meeting.

Tudjman and the people around him played a leading role in the war. He negotiated on behalf of Bosnian Croats, he spoke on their behalf, and Croatia was providing substantial military and financial support to them, including troops. So, concluded Dr Donia, Croatia provided military and political leadership to

Bosnian Croats.

One more expert witness, sociologist Dr John Allcock, also testified, apart from Dr Donia, last week. He was also proving that the inter-ethnic conflict between the Croats and the Muslims was not caused by "deep-rooted mutual hatred", but was instead the result of a breakdown in the political and economic foundations of the former Yugoslavia. Tribunal Update will pick up his testimony in a later issue. Allcock's cross-examination was postponed after the defence asked for more time to study his statements and to prepare for questioning.

A part of the hearing was dedicated to a longstanding problem: how to speed up the trial of Kordic and Cerkez. The prosecutor alone has announced some 300 witnesses, whose questioning, judging by the present pace, may take at least a year.

Thus the prosecutor has proposed that investigative files containing the witnesses' statements, documents and photographs should be submitted to the court in the interest of accelerating the presentation of evidence, and that the investigator should appear as a witness and present a file.

The defence however opposes the idea and cites its right to cross-examine each prosecution witness, as statements given in the courtroom can differ from those given in the conversations with the investigators. It would not be possible to point out those differences if the court satisfied itself with the witnesses' written statements.

Defence Counsel Bozidar Kovacic said he believed that it would set a lower standard for the proving procedure than are accepted in the developed countries, while the Tribunal should be "a model for higher standards." He also noted that "a fair trial is more important than a fast trial," and announced his intention to appeal to the Appeals Chamber if the judges accept the prosecutor's proposal.

The Prosecutor also proposes that the defence could select witnesses from the 'package' to be summonsed for cross-examination. The defence argues that this would simply transfer the burden of proof from prosecution to defence.

The judges are obviously interested in accelerating the proceedings, but have not given their opinion. Last week Presiding Judge Richard May would only present the options open to the Trial Chamber - to accept the entire file, to reject the file in its entirety, or to accept some categories of proof that it contains.

Location: Balkans
Macedonia
Albania
Serbia

Focus: International Criminal Tribunal for the former Yugoslavia

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