

Momir Nikolic (IT-02-60/1)

Author: IWPR

Current Status: Trial Finished (Convicted), Appeals Ongoing

The Accused Momir Nikolic, a Serb, was born in Hrančin, Bratunac, Bosnia and Herzegovina, on February 20, 1955. He was Assistant Chief of Security and Intelligence for the Bratunac Brigade, Drina Corps, Bosnian Serb Army, VRS, at a time when the unit was engaged in legal and illegal operations in and around Srebrenica. He was arrested by SFOR on April 1, 2002 and transferred to tribunal custody the following day.

The Indictment Nikolic is charged with Genocide (Articles 4(3)(a) and 7(1)) or alternately Complicity in Genocide (Articles 4(3)(e) and 7(1)), Crimes Against Humanity (Murder (Articles 5(a) and 7(1)), Forcible Transfer (Articles 5(i), 7(1), and 7(3)), and Persecutions (Articles 5(h) and 7(1))), and Violations of the Laws or Customs of War (Murder (Articles 3 and 7(1))). Indicted March 26, 2002, Nikolic made his initial appearance on April 3, 2002, pleading not guilty on all counts. A plea agreement was reached on May 7, 2003, and Nikolic pleaded guilty to Count 5 of the indictment - Crimes Against Humanity. He was sentenced to 27 years' imprisonment on December 2, 2003.

Factual Allegations In the indictment the prosecutor alleges that Nikolic's position within the command structure of the Bratunac Brigade meant that he was responsible for the acts perpetrated by different members of that unit and other VRS personnel over whom he exercised control throughout the Srebrenica campaign and the movement of prisoners and executions that followed. Specifically, his command of the military police units of the Bratunac Brigade, which were heavily involved in the deportation, transfer, and execution of Bosnian Muslim civilians and POW, as part of his duties as Assistant Chief for Security and Intelligence, render him responsible for the crimes committed by members of those units. The specific charges cover everything from the forced transfer of Bosnian Muslim women and children from Potocari to areas outside VRS control - areas controlled by the Army of the Republic of Bosnia and Herzegovina, *AbiH* - to the piecemeal executions of Bosniak men in the process of transfer and the major massacres that define the genocide at Srebrenica. In his statement, given at the time of his plea agreement, Nikolic admits to having been present at meetings in which the planned executions were discussed openly, in addition to having been involved in the forced removal and transfer of civilians, and to having knowledge of the killings being committed by VRS forces.

Relevant Issues **Remorse:** During his trial and the various hearings that surrounded it, Nikolic consistently showed remorse for what he had done. However, this apparently did not affect his eventual sentencing to 27 years in prison, a term which far exceeded the recommendation made by the prosecution in the plea agreement. **Cooperation with the prosecution:** As with other defendants who have made plea agreements, Nikolic is cooperating with the prosecution. This cooperation has even extended beyond what was agreed upon, and Nikolic has brought to light previously unknown mass graves. **Over-zealousness:** During his interviews with the prosecution to settle his plea agreement, Nikolic made several false claims - stating that he had ordered and been present at two execution sites when he had not, and confirming that he was an unidentified figure in a photo shown to him by the prosecution, when in fact it was someone else. These falsities were uncovered and the claims were expunged from the final plea agreement, but the issue has proved to be a problem for the Office of The Prosecutor, OTP, who may face questions over Nikolic's veracity every time he testifies for them. In case of the Blagojevic/Jokic judgement, the bench made it clear that it had serious doubts about the portions of Nikolic's testimony in which he implicated anyone but himself. **Regarding Plea Agreements:** In their sentencing of the defendant, the judges far exceeded the sentence recommended by the prosecution in the plea agreement. This sort of deviation threatens to derail the whole plea bargain process as defendants realize that "pleading out" is no guarantee of a lighter sentence. The negation of the plea bargain option would greatly increase the amount of work the tribunal has ahead of it, since the prosecutor would have to try many more cases.

Court Composition: Trial Chamber I Judge Liu Daqun, Presiding Judge Volodymyr Vassylenko Judge Carmen Maria Argibay

The Office of the Prosecutor: Peter McCloskey Stefan Waespi Antoinette Issa Anne Davis

Defence Counsel: Veselin Londrovic Stefan Kirsch

Numerous appeals and motions have been filed in the Nikolic case since the plea agreement was reached, during which time the representatives of the OTP, the defence counsel, and the presiding judges have changed many times.

Court Documents:

[Initial Indictment](#)

[Amended Joinder Indictment](#)

[Plea Agreement](#)

[Consolidated Facts](#)

Location: [Bosnia and Herzegovina](#)

Topic: [Srebrenica Case Files](#)

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