

Nikolic

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Appeals chamber hears claims that jail term was excessive.

Both prosecution and defence argued this week for a reduction in the 27-year sentence which has been handed down to Momir Nikolic, a captain in the Bosnian Serb army, VRS, who pleaded guilty to involvement in the murder of almost 8000 men and boys after the fall of Srebrenica in 1995.

“Everything I did was on the basis of superior orders and I never did anything of my own accord,” said Nikolic at the appeals hearing to reconsider his sentence.

Nikolic had pleaded guilty to one count of crimes against humanity and agreed to testify against fellow officers. The prosecutors had recommended that he serve a sentence of 15 to 20 years.

At the hearing this week, before five appeals chamber judges, prosecution and defence insisted that the 27-year jail term was “excessive”, and pointed to clear disparities between Nikolic’s sentence and those of others convicted in relation to the same events.

“I’m at a loss to explain the sentence disparity,” said prosecutor Peter McCloskey, who had negotiated the plea agreement with Nikolic as part of his work on a range of trials connected with the events at Srebrenica over the last nine years at the tribunal.

The prosecutor pointed out that Nikolic was the first Bosnian Serb army officer to stand up before the world and take responsibility for what had happened at Srebrenica. His decision to testify also influenced his fellow Bosnian Serb officer Dragan Obrenovic, who pleaded guilty shortly afterwards, but later received a sentence of 17 years.

McCloskey said Nikolic’s guilty plea had helped to foster reconciliation in Bosnia, and he described how many Bosnian Muslim acquaintances had told him that it was an “incredible relief” to hear someone admit what had happened.

“There is no question that what he did was important for the people of Bosnia,” said McCloskey.

The other prosecutor Peter Kramer suggested that Nikolic’s sentence may have come at “an unfortunate time”, because at that point only one other person had been sentenced at the tribunal for their role at Srebrenica – General Radislav Krstic, who was given a 46-year sentence for aiding and abetting genocide.

Krstic’s sentence was later reduced on appeal to 35 years.

The VRS overran the UN safe area of Srebrenica on July 11, 1995 and within the following week expelled all of its inhabitants. It first imprisoned and then killed nearly 8,000 Muslim men and boys, burying them in mass graves scattered across the area.

Some eight days after the Nikolic ruling, his colleague Dragan Obrenovic was sentenced to 17 years, with “not a word of explanation for the disparity”, said Kramer.

Nikolic then testified in the trial of Vidoje Blagojevic, his superior officer, who showed no remorse and pleaded not guilty to charges including aiding and abetting genocide, according to the prosecutor. He was sentenced to 18 years.

“No credit was given to Momir Nikolic for his cooperation and no credit for his guilty plea” said Kramer.

He pointed out that whereas Obrenovic and Blagojevic had command responsibility, Nikolic had none. “It doesn’t make any sense,” he told the court.

Nikolic’s defence Rock Tansey used many of the same arguments. He also addressed the trial chamber’s criticisms of Nikolic in its judgement: it had said he had been “evasive” when answering questions, had previously made false statements and questioned his sincerity.

Only one example of Nikolic’s evasiveness was given in the judgement which the defence described as an “astonishing” omission, saying the lack of detail was “deeply disturbing”.

Tansey also said that it was Nikolic himself who had told the prosecutor about his earlier false statements.

He argued that the appeals chamber should “exclude entirely” any factors for which the trial chamber provided no examples and gave Nikolic the maximum credit for his cooperation with the prosecution.

Nikolic himself took the stand at the end of the hearing and expressed his “sincere remorse and regret” for the crimes committed after the fall of Srebrenica.

He stressed that he himself had never issued any orders with regard to the massacre nor incited anyone to kill, “I did not have the authority or power...I did not have subordinate units”.

He said he didn’t want to minimise his responsibility for the events, but rather to have his role properly assessed.

“I am prepared to testify at forthcoming trials,” he added.

A joint trial is planned at The Hague for nine Bosnian Serb senior army and police officers for their roles in the Srebrenica massacre.

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