

Oric Trial Drama

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Courtroom tensions heighten as prosecution and defence present closing arguments.

The trial of Srebrenica wartime commander Naser Oric - followed closely by the public in Bosnia and Serbia alike - drew to a close amid drama and controversy this week.

A tense atmosphere gripped the tribunal's biggest courtroom as the prosecutors and the defence presented their closing arguments with a passion and conviction rarely seen in this court, variously accusing each other of "misrepresentation of the facts", "playing in the shadows", "bending witnesses' testimonies", and "shamelessness".

Oric has been charged with both failing to punish soldiers who abused prisoners held in Srebrenica and launching attacks on Serb villages in eastern Bosnia in 1992 and 1993.

The audience watching the trial from the unusually full public gallery appeared to enjoy this fierce exchange of arguments. Even Oric - dressed in a neatly pressed dark grey suit and red tie - often struggled to hide his smile, clearly amused.

But when defence lawyer John Jones attacked the prosecution for their 18 years recommended sentence for the accused - something the prosecutors surprisingly failed to mention in court at the beginning of their arguments - his mood visibly changed.

And some of his supporters in Bosnia, especially Srebrenica survivors, had a hard time understanding why the prosecution asked for such a long sentence.

Hajra Catic, whose son was killed after the fall of the enclave in 1995, and who considers Oric as a saviour of Srebrenica, burst into tears when she heard the proposed sentence.

"If he gets that much, we'll know for a fact what we've suspected from the beginning - this is a political trial," she told IWPR.

But a man from Serbia, participating in Belgrade's B92 on-line debate on the end of Oric's trial, suggested that politics would work the other way round and that he wouldn't be surprised if the judges opted for a "symbolic sentence of a few years imprisonment".

"If a Serb were tried for the same crimes, he would be sentenced to at least 20 years in prison," he said angrily.

Oric was arrested by NATO troops in Bosnia, SFOR, in April 2003, shortly after his indictment was made public. This was despite his cooperation with the tribunal's investigators and repeated assurances by him that he would go to The Hague voluntarily if he was indicted. SFOR's explanation for the arrest at the time was that they feared "possible riot by the Srebrenica survivors, who might have prevented Oric's peaceful transfer to tribunal".

Oric, a charismatic young officer and the epitome of the Srebrenica resistance against the invading Bosnian Serb army during the 1992-95 war, undoubtedly enjoyed huge support among his fellow citizens, a significant number of whom, to this day, see him as an undisputed hero falsely accused of war crimes.

But for many Serbs in Bosnia and Serbia, he is the villain who terrorised Serbs in the villages around Srebrenica for years - which, they claim, provoked the wrath of the Bosnian Serb army in summer 1995 and led to the massacre of 7,000 Muslim men and boys.

Oric, 38, is charged on the basis of individual criminal responsibility for the cruel treatment and murder of at least six Serb prisoners in Srebrenica prison in 1992 and 1993, and for the wanton destruction of the Serb property in the villages around the town not justified by military necessity.

His indictment initially included six charges, but two of them - namely those for plunder of public or private property - were dropped on June 8, 2005, after judges agreed at the end of the prosecution case that there was no evidence to support them.

In spring 1992, Bosnian Serb forces ethnically-cleansed Muslim villages in the wider Srebrenica area as a part of larger operation to get control of eastern Bosnia. People from these villages then streamed into the town, and food and medical supplies soon became scarce.

Thousands of hungry, terrified refugees in the besieged enclave faced a major humanitarian crisis - not only were they exposed to daily shelling from Serb positions, but they were completely cut off from the rest of the world, without access to fresh supplies.

Prosecutors claim men under Oric's command started to raid nearby Serb villages to steal food, but in the process also "burned and destroyed [Serb] houses and barns", "killed their livestock", none of which was justified by military necessity.

It was during these raids, prosecutors claim, that many Serbs were taken prisoner and detained in Srebrenica, where they were "mistreated", "abused", and some of them killed.

They say Oric, who was appointed a commander of the Srebrenica armed forces in May 1992, "knew or had a reason to know" about the wanton destruction of Serb villages and the abuse and murders in the Srebrenica prison - yet did nothing to prevent the latter nor punish the perpetrators.

He was described by the prosecution this week as a "warlord drunk with power" and the "uncrowned king of Srebrenica".

The defence, on the other hand, has consistently claimed that none of this is true. Since the beginning of the trial, they presented Oric as a desperate, yet brave officer, a man who "found himself in the most difficult circumstances" and did the best he possibly could to prevent the slaughter of his fellow citizens by the "the murderous Bosnian Serb army".

They also asserted that he wasn't in overall charge of Bosnian forces in the enclave, as they were organised into separate groups led local leaders.

Even though the prosecutors agreed in their closing arguments that these local leaders were "highly independent individuals", they argued they were not just "a wild bunch" - as the defence had portrayed them - who couldn't be put under central command.

Prosecutor Gramsci Di Fazio said this week that his team had provided sufficient evidence during the trial that Oric coordinated these men, and that therefore he had effective control over them.

But Jones countered this, saying that coordination does not effective command and control - key part of the prosecution indictment.

Lead defence counsel Vasvija Vidovic said local commanders in Srebrenica often made decisions on launching attacks on nearby Serb villages by voting, and "Oric's vote was not worth more than anybody else's".

"Is this command, your Honours? No. This is decision-making equivalent to decision-making in a local commune", she said.

This was also confirmed by the testimonies of several prosecution witnesses, including former police chief in Srebrenica, Hakija Meholic who appeared in court in April last year.

But the prosecutors were adamant that in the period related to the indictment Oric demonstrated "de facto and de jure" command and control in military matters and "had effective control over his subordinates".

"[But] he chose not to exercise it," said prosecutor Patricia Sellers, adding that even if Oric "didn't actually know of the crimes", "he should have known".

Instead, she told the court, the accused decided not to "avail himself of the information because he didn't want to incur the wrath of his soldiers who were loyal to him", nor to "incur further heartache of Muslim civilians who had lost much during the war".

Central to the prosecution arguments was a meeting held in the village of Bajramovici on May 20, 1992, at which Oric was officially appointed commander of Srebrenica armed forces.

They say that the accused from then on "by virtue of his position and authority" commanded all units that were operating within his area of responsibility. That included 12 Serb villages that were listed in his indictment, which were allegedly destroyed by men under his control.

But the defence vigorously dismissed these claims and said Oric was commander "only on paper".

“According to the prosecution, the act of putting pencil to paper is a mystical event which transforms everything that is written into reality in the actual world,” said Vasvija Vidovic in her closing brief.

She then pointed out at the long list of witnesses - prosecution and defence alike - who testified about the situation in Srebrenica and who all told the court that the unified command in Srebrenica never actually came to life.

Ever since the trial of Oric started on October 6, 2005, it has been full of twists and turns.

From the beginning, the defence accused the prosecution of providing forged documents, whose origin was not confirmed by any of their witnesses. Their claims that it was not Oric’s signature on many of them resulted in the appearance of three handwriting experts - one for the defence, one for the prosecution and one for the judges - and they, predictably, disagreed.

Then the trial almost came to a halt last summer when the judges attempted to reduce the time and number of witnesses allotted to the defence. But the appeals chamber overruled that decision, ending a tense standoff and allowing Oric more time and witnesses.

Also, the issue of evidence which would have exonerated the accused - known as exculpatory evidence - returned again and again, as the defence accused the prosecution of presenting key evidence which went to the very core of the case too late for them to use in examination and cross-examination of the witnesses.

The prosecutors were warned by the judges that such conduct is “unacceptable”, but there were no further apparent sanctions.

What added to the controversy of the whole trial is that many of the prosecution witnesses appeared to provide testimonies which supported defence arguments. One Serb survivor of the alleged torture in the Srebrenica prison said in court that Oric “shouldn’t even been on trial, because he never did anything wrong”.

The defence case, on the other hand, was much as expected, in that they concentrated on a number of issues including that Oric, although commander of armed forces on paper, didn’t have effective control over his subordinates.

French law professor Rafaelle Maison, who was watching the closing arguments this week said she was “very dissatisfied with the whole case”, and especially with the prosecutor’s decision to demand 18 years imprisonment for Oric.

“To suggest that a person with such charges should receive such drastic punishment is almost incomprehensible,” she told IWPR.

But not all observers agree with this view.

“Eighteen years is not outrageous to ask for,” said Edgar Chen, of the Coalition for International Justice. “Certainly, the office of the prosecutor will always ask for more than it may hope to obtain, but we will have to wait for the judgment to see how many years, if any, Oric actually gets.”

The judgement in Oric case is expected at the end of June this year.

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Location: Serbia
Bosnia and
Herzegovina

Topic: Courtside

Focus: International Criminal Tribunal for the former
Yugoslavia

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