

Vidoje Blagojevic and Dragan Jokic (IT-0260-T)

Author: IWPR

Status: Sentence Passed, Appeals Ongoing.

The Accused Vidoje Blagojevic, born June 22, 1950, in Bratunac municipality, Bosnia and Hercegovina, of Serb ethnicity. Was a Colonel commanding the Bratunac Brigade of the Drina Corps, Bosnian Serb Army, VRS, through Operation Krivaja 95, the taking of the Srebrenica enclave, and the subsequent criminal activities undertaken by the VRS and Bosnian Serb Interior Ministry, MUP, to deport or kill the Bosnian Muslim population. Arrested by SFOR on August 10, 2001, and transferred to tribunal custody on the same day.

Dragan Jokic, born August 20, 1957, in Grbavci, Zvornik municipality, Bosnia and Hercegovina, of Serb ethnicity. Was a Major commanding the engineering detachment of the Zvornik Brigade, Drina Corps, VRS, during Operation Krivaja 95 and subsequent criminal operations. As part of his normal duties, Jokic was also serving as the Brigade Duty Officer, responsible for running the headquarters and helping to convey orders and reports between units on July 14 and 15, when a great number of the alleged crimes were taking place. He surrendered on August 15 2001 and was transferred to the tribunal on the same day.

The Indictment Amended indictment, May 26, 2003. Vidoje Blagojevic is charged with Complicity to Commit Genocide (Articles 4(3)(e), 7(1), and 7(3) of the Statute of the Tribunal), Extermination, a Crime Against Humanity (Articles 5(b), 7(1), and 7(3)), Murder, a Crime Against Humanity (Articles 5(a), 7(1), and 7(3)), Murder, a Violation of the Laws or Customs of War (articles 3, 7(1), and 7(3)), Persecutions, a Crime Against Humanity (articles 5(h), 7(1), and 7(3)), and Forcible Transfer, an Inhumane Act and Crime Against Humanity (Articles 5(i), 7(1), and 7(3)). Dragan Jokic is accused of the same, excepting the charges of Complicity to Commit Genocide, and Forcible Transfer, and the charges made under Article 7(3) on all counts.

Proceedings Vidoje Blagojevic: Indicted (latest indictment, many incarnations preceded it) March 26, 2003. Initial Appearance August 16, 2001. Pleaded not guilty on all counts. Judgement, January 17, 2005. Sentenced to 18 years imprisonment for Complicity to Commit Genocide (Aiding and Abetting), Murder (as a Violation of the Laws or Customs of War and as a Crime Against Humanity), Aiding and Abetting Persecutions, and Inhumane Acts. Dragan Jokic: Indicted (latest indictment, as with Blagojevic many versions exist) March 26, 2003. Initial Appearance August 21, 2001. Pleaded not guilty on all counts. Judgement, January 17 2005. Sentenced to nine years in prison for Aiding and Abetting Extermination, Aiding and Abetting Murder (As a Violation of the Laws or Customs of War and a Crime Against Humanity), and Aiding and Abetting Persecutions.

Factual Allegations In its indictment, the prosecution made the case that Blagojevic, by way of his command of the Bratunac Brigade, was appraised of and responsible for the criminal actions of his subordinates, that he personally took part in a "Joint Criminal Enterprise" to deport or kill the Muslim population of the Srebrenica enclave, and that he personally "significantly assisted and facilitated the commission of the crimes". The prosecution makes the same allegations of participation in a Joint Criminal Enterprise against Jokic, and of aiding and assisting in the criminal acts, but not of command responsibility. The case against the accused was severely hampered when, shortly after the prosecution closed its portion of the trial, the trial chamber granted, in part, a motion by the defence to have the charges against the defendants dropped. The judges found that the prosecution had failed to present sufficient evidence to show that Blagojevic was part of a Joint Criminal Enterprise, or to show that he was personally involved in the crimes in any direct ways. The judges further ruled that the prosecution had not shown that Jokic personally planned, instigated, or ordered the crimes, that is, they dismissed most of the grounds for personal responsibility. However, elements of the allegations of personal responsibility remained against both defendants, and Blagojevic was still faced with charges of command responsibility.

Relevant Issues Alternate Chain of Command and The Status of the Defendants - The defence counsel in this trial relied heavily upon showing that their clients garnered very little respect in the VRS and that there was little they could have done, even if they had been respected by their fellow officers. The lawyers for Blagojevic made several cases on this point. Witnesses for the defence claimed that the situation in the Srebrenica enclave was so chaotic and communication was so poor that Blagojevic would not have been

able to control his own troops. Furthermore, the lawyers argued that the security detachment of Bratunac Brigade, which is implicated in the atrocities, was outside their client's control (in the end, the trial chamber found that although the security department did not always report to the brigade commander, in the case of the specific crimes being committed it would have had to). The defence for Jokic made the case that he was so bad a commander that he would have been unable to plot a genocide, or that alternatively, he was efficient but not sufficiently respected by his superiors to be included in any plot. In one testimony, the witness stated that "[Jokic] was kept at a distance" and another recalled that his superiors acted dismissively towards him. Furthermore, the witness stated that Jokic was not politically active, and not a member of the Serbian Democratic Party, which would have created yet another degree of separation between the defendant and many of his fellow officers. In the end, the Trial Chamber found Jokic guilty of aiding and abetting in various war crimes, a conclusion in no small part due to this defence strategy.

The Butler Report - Richard J. Butler, an American military analyst, compiled a military narrative and command overview of the Srebrenica operation, to determine what happened, what units were involved, and who was responsible. Originally, the report was tailored to the case against General Radislav Krstic, but it was revised to focus on some of the defendants who arrived later, including Blagojevic and Jokic. The report refers to numerous sources and lays down facts and timelines for the prosecution to base its case on. The report is worthy of individual note because it includes information about the military involvement in Srebrenica, and is specific to no certain case, instead providing valuable information for all the possible indictments.

Highlights The Testimony of Momir Nikolic - During the course of the trial, Momir Nikolic, who served under Blagojevic as the head of the security element of the Bratunac Brigade, gave testimony in accordance with a plea agreement he made with the prosecution. At the time of the plea agreement, a controversy came out over false statements that Nikolic had made to the prosecution, which did not appear in the Statement of Facts which accompanied the plea agreement. This indicated that Nikolic had lied to his own lawyers and to the prosecution about his involvement in the various criminal acts - specifically saying that he had ordered the massacre of more than 1,000 Bosnian Muslims at the Kravica Warehouse and had ordered another massacre at Sandici - in order to secure a better plea agreement. The prosecution had been made aware of the falsities in time to remove them from the document, but the incident still caused a stir.

On September 29, 2003, during Nikolic's cross-examination by Blagojevic's lawyer Michael Karnavas, the same issue was raised again. Karnavas began to attack Nikolic's credibility, accusing him of tailoring his plea statement to the needs of the prosecution, regardless of whether or not it was true. During the questioning, Karnavas became very heated, pounding the table and pointing his finger at the witness. He extrapolated Nikolic's previous lies to include statements he had made about Blagojevic having met with Generals Ratko Mladic and Radislav Krstic on a regular basis, which would have implicated Blagojevic in the greater conspiracy to commit genocide and the other crimes against the Bosniak population. Nikolic's lengthy and often sideways answers to Karnavas' questions made him appear an unsavoury character, something which, while not necessarily aiding the defence, certainly cast doubt on the procedures used by the prosecution in obtaining plea agreements and statements. Furthermore, in its final judgement, the trial chamber noted that it had "regarded with caution those aspects of Momir Nikolic's testimony that may implicate other persons, and particularly the accused, in criminal activity" -clearly showing the effectiveness of Karnavas' strategy of discrediting the witness.

Court Composition

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

Office of the Prosecutor Peter McCloskey Stefan Waespi Antoinette Issa Milbert Shin Salvador Viada

Defence Counsel Michael Karnavas and Suzana Tomanovic for Vidoje Blagojevic Miodrag Stojanovic and Branko Lukic for Dragan Jokic

Location: Bosnia and Herzegovina

Topic: Srebrenica Case Files

Focus: International Criminal Tribunal for the former
Yugoslavia

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