

## TRIBUNAL IN HAGUE

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### The Judgement Against Naser Orić

There was a great deal of criticism against the International Criminal Tribunal for the former Yugoslavia (ICTY) following the court's judgement against Naser Orić, the former commander of the Bosnian Muslim armed forces in Srebrenica. On 30 June 2006, the Tribunal convicted Naser Orić of command responsibility for failing to prevent persons under his command from murdering four Serbian men and mistreating six others in Srebrenica in 1993. It sentenced him to two years in prison. Because Orić had spent more than that in detention, he was immediately released.

For almost a week after the judgement was rendered on 30 June 2006, the Serbian media and politicians up to the highest levels of government, expressed outrage at the two-year sentence. All the while, there was little mention of the judgement itself.

The judgement against Naser Orić established that a number of Bosnian Serb men were victims of murder and terrible mistreatment in the Srebrenica police station in 1992 and 1993, and it found Orić guilty of failing to prevent some of these crimes. The judgement also established that many Serb homes in several villages around Srebrenica were wantonly destroyed. Both the Prosecution and the Defence have appealed the judgement, as will be discussed below.

#### The Judgement

The trial against Naser Orić, which lasted from 6 October 2004 to 10 April 2006, dealt with allegations that forces under his command had murdered seven Bosnian Serb men and mistreated eleven others between September 1992 and March 1993. The trial also examined allegations that forces under his command wantonly destroyed and pillaged Bosnian Serb villages in the area around the town of Srebrenica between June 1992 and January 1993.

At that time, Srebrenica and some isolated areas around it were under Bosnian Muslim control. The area was surrounded by Bosnian Serb forces which subjected the town and other Bosnian Muslim-held land to military assaults. In the second half of 1992 and early 1993, several tens of thousands of refugees fled to Srebrenica. They lived crammed in horrid conditions inside the town: there was a critical shortage of food that threatened starvation, hygienic conditions were appalling, and people were living on the street in winter in freezing temperatures. During this time, Bosnian Muslims raided a number of Bosnian Serb villages and hamlets, mainly in search of food, but also to get weapons and military equipment (see Destruction of Villages and Plunder below).

On 20 May 1992, against a back-drop of Serbian military assaults and the absence of municipal authority, an informal group of Bosnian Muslim men, who had set up fighting groups in the area, established the "Srebrenica Territorial Defence Staff." They elected Naser Orić as its commander. The Bosnian army's Chief of Staff, Sefer Halilović, and Bosnian President Alija Izetbegović subsequently confirmed his appointment. On 1 July 1992, as part of an effort to restore law and order in Srebrenica, the Srebrenica Territorial Defence Staff established the Srebrenica military police, and appointed Mirzet Halilović as its commander. On 22 November 1992, he was replaced by Atif Krdžić.

Although on 3 September 1992, the Srebrenica Territorial Defence Staff was renamed the Srebrenica Armed Forces Staff, military authority in Srebrenica at the time was not incorporated under a single unitary command. Rather, fighting groups formed on territorial bases had local leaders who behaved independently. The Srebrenica Armed Forces that Orić commanded was not a fully organized army in other ways as well: it lacked weapons and uniforms; fighters lived with their families or in makeshift accommodation; and there were problems with communication, both within Srebrenica and beyond, because phone lines were severed, and they did not have adequate equipment or enough electricity.

#### Murders and Cruel Treatment in Srebrenica

Between 24 September 1992 and 16 October 1992 and again from 27 December 1992 to 20 March 1993, Bosnian Muslim fighters captured a number of Bosnian Serb men and detained them at the Srebrenica Police Station and a building behind the Srebrenica Municipal building. In addition to suffering the same appalling living conditions as the local population, they were also routinely and severely beaten while in detention, with five of them succumbing to their injuries (see Serb Victims of Beatings and Murder in Srebrenica).

The question the Tribunal addressed in its judgement against Naser Orić, was whether he had command

responsibility for these murders and beatings. That is, the Tribunal's Trial Chamber examined whether Orić had a superior-subordinate relationship to the perpetrators; whether he knew or had reason to know that his subordinates were about to commit a crime or had done so, and whether Orić failed to take necessary and reasonable measures to punish the perpetrators and prevent future crimes.

The perpetrators of these beatings and murders were a certain Kemal Mehmetović, known as Kemo, a certain Mrki, and a certain Beli, none of whom were members of the Srebrenica military police, and others who came from outside the Srebrenica police station. On one occasion the military police commander, Mirzet Halilović, beat one of the victims, Slavoljub Žikić.

The Tribunal found that from the moment the prisoners were detained, the Srebrenica military police assumed all duties and responsibilities relating to their treatment under international law, despite the fact that a number of the perpetrators were not among its members. Not only did its commander until 22 November 1992, Mirzet Halilović, not supervise the police station or its guards adequately, but he also contributed to the detainees' cruel treatment. The Tribunal also found that the detainees' treatment did not improve under his successor, Atif Krdžić.

The Trial Chamber did not find evidence that Orić had effective control over the military police before 22 November 1992 when Mirzet Halilović was in charge. Therefore, he was not in a position to fulfill his obligation to ensure that the prisoners in the Srebrenica police station were treated in accordance with international law. For this reason, it found him not guilty of the murder of Dragutin Kukić, and the cruel treatment of Nedeljko Radić, Slavoljub Žikić, Zoran Branković, Nevenko Bujanj and Veselin Šarac.

However, the Trial Chamber found that Orić did have effective control over the military police after 22 November 1992 when Atif Krdžić took over. At the time this change in command occurred, there was an attempt to restructure the military police. Documents showed that Krdžić as the new military police commander reported to Orić's chief of staff.

The Trial Chamber also found that Orić should have known that the prisoners in the Srebrenica police station who were held there from 27 December 1992 to 20 March 1993 could have been mistreated or murdered. The Trial Chamber had evidence that Orić visited the Srebrenica police station between 24 September and 16 October on at least two occasions, and that he knew that Dragutin Kukić had been murdered and that the other Serb detainees had been treated cruelly. Therefore, the Trial Chamber found that Orić had been put on notice that the Bosnian Serb prisoners were at risk and that he needed to monitor their situation.

In his interview with the Office of the Prosecutor in 2001, Orić is reported to have stated that the detention of prisoners was not on his mind because of the deteriorating military situation, and because others were responsible for dealing with it. The Trial Chamber found it to be unacceptable for a commander to delegate responsibility for the treatment of prisoners, and take no further interest in their condition, when he knows that prisoners have been treated cruelly and murdered in the past. Despite the fact that Orić did not operate in a well-structured army with adequate means of communication between superiors and subordinates, the Trial Chamber found that it was not impossible for him to prevent prisoners in the Srebrenica police station from being mistreated or murdered. Rather, the Trial Chamber found that he preferred not to give the matter any attention.

For this reason, the Trial Chamber found Naser Orić guilty of failing to take necessary and reasonable measures to prevent the murder of Dragan Ilić, Milisav Milovanović, Kostadin Popović, and Branko Sekulić, and the cruel treatment of Jakov Đokić, Ilija Ivanović, Ratko Nikolić, Rado Pejić, Stanko Mitrović and Mile Trifunović.

#### Destruction of Villages around Srebrenica

The Prosecution alleged that between June 1992 and January 1993, Bosnian Muslim armed forces under Orić's command and control burned and destroyed homes and other property in a number of villages surrounding Srebrenica that were inhabited mostly by Bosnian Serbs. It alleged that Orić knew or had reason to know that his subordinates were about to commit acts of wanton destruction, or that they did so, and that he failed to take measures to prevent such acts or to punish the perpetrators. The Prosecution alleged that Orić implemented a strategy of wanton destruction, that he instigated the perpetrators by failing to issue orders to prevent it, and that he personally took part in several attacks.

In order to hold an accused accountable for wanton destruction, the Prosecution must first prove that the destruction is serious and that it is widespread. In other words, it is not enough for windows in a few houses to be shattered. The destruction also cannot be justified by military necessity: that is, an object cannot be attacked if information available at the time shows that it is not being used for military purposes. The perpetrator must also act with the intent to destroy the property. It is also necessary to prove that the accused or forces under his command perpetrated the serious and widespread destruction: an accused cannot be held accountable if it was the opposing side's forces that contributed

substantially to the destruction.

The court acquitted Naser Orić of responsibility for destruction that occurred in the course of attacks on Dučići on 21 June 1992, Divovići on 5 October 1992, and Šiljkovići on 7 and 8 January 1993 because there was not enough evidence to establish that property was destroyed on a large scale.

The court acquitted Naser Orić of responsibility for destruction in several villages because it could not be sure that it was Bosnian Muslim forces that perpetrated it, as opposed to Bosnian Serb forces that resisted the attack.

- Fakovići on 5 October 1992: Bosnian Muslim fighters, including Orić, followed by thousands of Bosnian Muslim civilians, participated in the attack. Relatively well-armed village guards, Bosnian Serbs civilians and a Bosnian Serb military presence in Fakovići resisted the attack, and counter-attacked in the afternoon, including by shelling and bombing the area. The Bosnian Muslim fighters then withdrew together with some of the civilians, while other Bosnian Muslim civilians stayed to look for food and building materials. Although the Trial Chamber found that houses were damaged in Fakovići, no witness could confirm that it was Bosnian Muslims who did it. Rather, it is likely that the houses were destroyed from exchange of fire between Bosnian Muslims and Bosnian Serbs, and the Bosnian Serb shelling.

- Bjelovac and Sikirić from 14 to 19 December 1992: Again, Bosnian Muslim fighters, including Orić launched the attack, followed by thousands of Bosnian Muslim civilians. Again, relatively well-armed village guards, Bosnian Serb civilians, and a Bosnian Serb military presence in the area resisted despite being caught by surprise. In addition, at different times during 14 December 1992, two planes circled the area dropping bombs. Some of the houses that began to burn during the attack were set alight by Bosnian Muslims. In the next few days, the Bjelovac area alternately fell to Bosnian Muslims and Bosnian Serbs. By 18 December 1992, the majority of houses had been burned. The Trial Chamber could not be certain that the Bosnian Muslims were the ones who were responsible for enough of the destruction to be able to hold Orić accountable for it.

- Kravica on 7 and 8 January 1992: Bosnian Muslim fighters, including Naser Orić, followed by thousands of Bosnian Muslim civilians, attacked Kravica, as well as Šiljkovići and Ježestica, on these dates. Like in the other villages, guards, Bosnian Serb civilians and a Bosnian Serb military presence resisted the attack, including with artillery fire. Although property was destroyed on a large scale in Kravica, the Trial Chamber could not determine that it was Bosnian Muslims who were responsible. (Ježestica will be discussed below).

However, the Trial Chamber was satisfied that Bosnian Muslim forces were responsible for wanton destruction of a number of other villages. It found that Bosnian Muslim fighters and the civilians who followed them en masse, intentionally burned property on a large scale in attacks on the following villages:

- Ratkovići and Gornji Ratkovići on 21 June 1992: Bosnian Muslim fighters, followed by a crowd of Bosnian Muslim civilians did not meet any opposition in Ratkovići, but did meet resistance in Gornji Ratkovići. Bosnian Serbs fired on the attacking Bosnian Muslims from homes and barns, but with the exception of one barn, Gornji Ratkovići had not been set on fire during the attack. Following it, Gornji Ratkovići, Polimići and Dvorište, were ablaze. After they took the cattle out of the stables, Bosnian Muslim fighters and civilians set fire to all the barns and outbuildings in the fields near Polimići. Anticipating a counter-attack, the Bosnian Muslim fighters withdrew, but the Bosnian Muslim civilians stayed to look for food. By the end of the day, after the Serb counter-attack in the afternoon, all the buildings in the village of Ratkovići were burned to the ground, while in Gornji Ratkovići, Polimići and Dvorište, as one witness put it, "there were no roofs left [and] [t]here was [one] hundred percent damage."

- Brađevina on 27 June 1992: Bosnian Muslim fighters, followed by a crowd of Bosnian Muslim civilians, were met with no resistance. In the course of the attack, the fighters torched houses after taking goods out of them. The Bosnian Muslim civilians joined them in torching stables and burning livestock in the meadows. Eventually, all the buildings in Brađevina were set on fire, with the exception of those used to store grain and food. Like in the attack on Ratkovići and Gornji Ratkovići, Bosnian Muslim civilians remained in the area to search for food.

- Ježestica 8 August 1992 and again on 7 and 8 January 1993: Bosnian Muslim fighters, followed by a crowd of Bosnian Muslim civilians participated in the 8 August 1992 attack on Ježestica. Although a number of Bosnian Serb village guards and some civilians resisted the attack, they eventually withdrew. A number of Bosnian Muslims, some of whom were in uniform, set fire to houses, leaving approximately half of the houses in the hamlet burned down. Most of the destruction occurred after the Bosnian Serbs had withdrawn.

On 7 January 1993, Orthodox Christmas morning, Bosnian Muslim fighters, including Orić, attacked

Ježestica (as well as Kravica and Šiljkovići, which are discussed above). Like in other attacks, they were followed by several thousand Bosnian Muslim civilians. Bosnian Serbs resisted, firing from houses and from the hills. After house-to-house fighting, the Bosnian Serbs eventually withdrew. Bosnian Muslim fighters and civilians entered houses searching for food and other items. The Trial Chamber found that Bosnian Muslim fighters and civilians deliberately set fire to homes and haystacks, and that most of the destruction occurred after the Bosnian Serbs had withdrawn. After the attack ended on 7 January, Orić withdrew with some of the Bosnian Muslim fighters. However, armed Bosnian Muslims remained in the area until 12 January.

The Trial Chamber acquitted Naser Orić of command responsibility for failing to prevent or punish destruction that occurred during attacks on all these villages (responsibility under article 7(3) of the ICTY Statute). Although the Trial Chamber heard evidence that Bosnian Muslim fighters and civilians were responsible for this destruction, there is almost no evidence to further identify the perpetrators, and to prove that Orić had real control over them. Legally, Orić was considered as the superior to all the Bosnian Muslim armed groups in the Srebrenica area when these four attacks occurred. However, in practice, the Trial Chamber only found evidence that Orić exercised effective control over his own fighting group from Potočari. It did not find evidence that he had effective control over the other fighting groups, or the mass of civilians that followed them. As the Trial Chamber explained, "[t]he picture that emerges from the evidence is not one of an organized army with a fully functioning command structure, but one of local groups remaining relatively independent and voluntary and a mass of uncontrollable civilians that were present at every attack."

The Trial Chamber also acquitted Naser Orić of responsibility for instigating and/or aiding and abetting destruction that occurred during the attack on Ježestica on 7 and 8 January 1993 (responsibility under article 7(1) of the ICTY Statute). Orić personally participated in this attack, and the Trial Chamber was convinced that he knew Bosnian Muslims, primarily civilians, were destroying Bosnian Serb property. However, it did not find evidence that he instigated it. In fact, evidence suggested that Orić opposed such conduct.

The Trial Chamber also did not find that he aided and abetted the destruction. It did not find evidence that his own fighting group was involved in committing destruction. It also did not find evidence that he could have prevented other fighting groups from destroying property, or aiding and abetting civilians to do so. There was not enough evidence to prove that Orić was even able to communicate with other fighting groups during the attack. Nor did the Trial Chamber find that Orić could have prevented the massive numbers of civilians—who were present before, during and after the attacks—from destroying property. The Trial Chamber found that the civilians were beyond any control.

#### Plunder

The Office of the Prosecutor had also charged Naser Orić with responsibility for instigating, aiding and abetting, and failing to prevent or punish plunder of cattle, furniture and television sets (responsibility under articles 7(1) and 7(3) of the Tribunal Statute). On 8 June 2005, at the end of the Prosecution's case against him, the Trial Chamber acquitted Orić of these charges because it found that the Prosecution had not presented enough evidence to be able to convict him.

The Prosecution never charged Orić with responsibility for plundering food, but tried to argue that plundering cattle was different because it could not be consumed immediately without processing. The Trial Chamber found that under normal circumstances seizing livestock would be considered plunder. However, it found that the circumstances in Srebrenica were not normal. The city was completely surrounded by Bosnian Serb forces and under siege, and the population was isolated and starving. The Trial Chamber found that the mass of people who were looting food and cattle were doing it because of "the urgent need for survival at a point in time when survival was critical." In relation to plunder of furniture and television sets, the Trial Chamber found that there was not enough evidence to show that it was serious.

#### The Sentence

The Trial Chamber found Naser Orić guilty of failing to prevent the murder of four men and the cruel treatment of six others and sentenced him to two years in prison. Because Orić had spent three years in detention prior to and during his trial, he was immediately released.

In coming to its sentence, the Trial Chamber took into account the vulnerability of the victims. It also took into account the following mitigating circumstances: the fact that Orić cooperated to a certain extent with the Prosecution; that he expressed some remorse; that he was prepared to surrender to the Tribunal if indicted; that at 25 years of age, Orić was young at the time the crimes were committed; his family circumstances; acts of consideration to Serb detainees; co-operation with the NATO force in Bosnia and Herzegovina (SFOR); his general attitude toward the proceedings; and lastly, the general circumstances in Srebrenica and those relating to Orić and the crimes that were committed.

In relation to this last point, the Trial Chamber explained that at the age of 25, without any relevant military or administrative experience, Orić was elected the commander of armed forces in the Srebrenica area. These armed forces consisted of poorly trained voluntary groups of fighters, with few weapons. They did not form a proper army and did not have an effective link to the Bosnian army and government authorities. Not only did local leaders of these fighting groups act independently, but they also considered Orić inexperienced and did not respect his authority. In these circumstances, Orić faced militarily superior Serb forces that had Srebrenica surrounded, and a town that was in a state of general chaos: pre-war authorities had fled, and law and order had collapsed under pressure from an unmanageable influx of refugees, and critical shortages of food and other essentials.

#### The Appeals

Both the Prosecution and Orić's defense filed appeals to the judgement, both of which are still pending.

#### The Prosecution's Appeal

Among its arguments, the Prosecution claims that the Trial Chamber was wrong to acquit Orić for crimes committed in the Srebrenica police station from 24 September to 16 October 1992. The Prosecution argued that Orić had responsibility for the Srebrenica military police not just from 27 December 1992 to 20 March 1993, which is what the Trial Chamber found, but also from 24 September to 16 October 1992. It argued that the Trial Chamber ignored the significance of Orić's role in creating the Srebrenica military police and appointing its first commander, Mirzet Halilović. The Prosecution stated that the Trial Chamber was right in convicting Orić for failing to prevent the murders and cruel treatment that occurred from 27 December 1992 to 20 March 1993, but that it was wrong to acquit him of failing to punish those crimes.

The Prosecution also stated that the Trial Chamber was wrong to acquit Orić of instigating the wanton destruction in Ježestica on 7 and 8 January 1993. The Prosecution argues that international law required Orić to forego an attack that he knew would result in substantial and deliberate destruction of civilian property.

The Prosecution also appealed Orić's sentence, arguing that it was based on the failure to recognize Orić's full responsibility for crimes that were committed, and that it was based on factors that do not qualify as mitigating circumstances. For this reason, the Prosecution finds the sentence to be manifestly inadequate.

#### The Defence's Appeal

The Defence on the other hand, appealed the judgement in order to acquit Orić of his conviction for failing to prevent the murders and cruel treatment that occurred from 27 December 1992 to 20 March 1993, and clear his name. Among its points of argument, the Defence asserts that no reasonable Trial Chamber could come to the following conclusions: first, that Orić had effective control over the military police after November 1992; second, that the guards in the places where the victims were detained were military police; third, that the military police was responsible for the murders and cruel treatment; and fourth that Orić had knowledge that crimes had been committed.

The Defence also challenged that Dragan Ilić, Branko Sekulić, Milisav Milovanović, Kostadin Popović and Dragutin Kukić were in fact murdered. It argued that the evidence showed that Dragan Ilić, Branko Sekulić, Milisav Milovanović died of illness, that Kostadin Popović died in action, and that Kemo did not intend to kill Dragutin Kukić.

#### Conclusion

Naser Orić's responsibility for the crimes he was charged with before the ICTY will only be finally determined once the Appeals Chamber has pronounced on these and other points of appeal made by the Prosecution and the Defence. However, what can be said at this point is that the Trial Chamber has established that a number of Bosnian Serb men were victims of cruel treatment in the Srebrenica police station. The judgement has also established that homes in four predominantly Serb villages around Srebrenica were wantonly destroyed. These are facts that are based on a sober evaluation of the evidence.

[NOTE TO EDITOR: INSERT FOLLOWING TEXT IN BOX]

#### Serb Victims of Beatings and Murder in Srebrenica

The following Bosnian Serb men were held in the Srebrenica Police Station and/or a building behind the Municipal Building where they were beaten, often and severely. A number of them died from their injuries.

24 September 1992 and 16 October 1992

Dragutin Kukić, a 58 year-old security guard at a local bauxite mine, was captured on 24 September 1992 by Bosnian Muslim fighters during combat and taken to the police station in Srebrenica. The next day, a man called Kemal Mehmetović, known as Kemo, and a man called Mrki beat him. Mehmetović was

a member of one of the local fighting groups and notorious for his violence. After Kukić cursed their "ustasha mothers," Kemo took a wooden log and forcefully hit Kukić in the chest. He died instantly, and attempts to revive him failed. The next day, Kemo threw Kukić's body into a water reservoir outside Srebrenica after firing a few shots at it. On appeal, the Defence argued that the evidence showed that Kemo did not intend to kill Kukić and that, therefore, his death cannot be considered murder.

Nedeljko Radić, a 41 year-old air compressionist at the bauxite mine, was captured during combat on 24 September 1992. While held in Srebrenica, he was assaulted with wooden poles and iron bars, and had his teeth smashed. Kemo forcibly extracted Nedeljko Radić's teeth with rusty pliers and then urinated in his mouth, supposedly to disinfect the wound.

Slavoljub Žikić, a 67 year-old post office manager, joined the other detainees on 5 October 1992. He had his teeth in his upper jaw broken, as well as one of his shoulders. His ribs were fractured, and he has impaired hearing and digestive problems. He stated that on several occasions the detainees were forced to beat each other.

Zoran Branković, a 17 year-old security guard at the bauxite mine, was smashed against a block of concrete outside the police station. His body was covered in blood and foam was seeping out of his mouth. The abuse he was subjected to left him hospitalized.

Nevenko Bubanj, also a security guard at the bauxite mine was captured during combat on 24 September 1992. He was beaten so severely he could neither stand up nor lie down. A few days after his release on the Yellow Bridge, he succumbed to his injuries in the Zvornik hospital.

Veselin Šarac, a 54 year-old employee at the bauxite mine, was captured during combat on 24 September 1992. He was interrogated by an individual who beat him until he lost consciousness.

Radić, Žikić, Branković, Bubanj and Šarac were exchanged on 16 October 1992.

15 December 1992 and 20 March 1993

Jakov Đokić was captured on 17 May 1992 upon his return from military service. The 21 year-old was held in horrible conditions, and sometimes beaten, in a stable near Cerska for almost eight months before being taken to Srebrenica in January 1993. Already in poor physical condition, Đokić was regularly beaten with various objects, including sticks and rifle butts, leaving him bruised and bloody. He was last seen alive on 21 March 1993.

Ilija Ivanović, a 31 year-old plumber by trade, was captured while fleeing an attack on a nearby village. He was stabbed with knives and beaten all over his body with rifle butts, metal rods and baseball bats, until he fell into a state of unconsciousness. His cheekbone, nose and teeth were broken, and his ribs fractured. Around 27 February 1993, he and Ratko Nikolić (see below) were exchanged. At the time the judgement against Orić was rendered, Ivanović was partially disabled and under permanent medical supervision.

Ratko Nikolić, a 47 year-old watchman by trade, was beaten into a state of unconsciousness. He suffered five broken ribs and lost some of his teeth as a result of being kicked and stomped on. Around 27 February 1993, he was exchanged together with Ilija Ivanović.

Rado Pejić, a 36 year-old farmer, was beaten with wooden sticks, wooden poles, baseball bats, metal bars, knives, and rifle butts to the point that he could barely walk. One of his assailants lit his beard on fire. His body weight dropped to some 30 kilograms. He was released to UNPROFOR soldiers on 21 March 1993 and was subsequently hospitalized for several weeks.

Stanko Mitrović, who was physically and mentally handicapped, was beaten with sticks, poles, bats, bars, and rifle butts. His assailants beat him on his way to the toilet and specifically targeted his disabled limbs. On numerous occasions he fell into unconsciousness as a result of his beatings. He was exchanged on 6 February 1993.

Mile Trifunović, a 72 year-old Serb civilian, was captured on or about 16 January 1993. His granddaughter, Svetlana, who was detained in a separate cell in the same building in Srebrenica, said that she heard her grandfather crying out in pain several times and observed that his face was severely bruised. Trifunović was exchanged in February 1993 and a few days later he died at a hospital in Užice, Serbia.

Dragan Ilić, who was 18 years old at the time, was captured in the summer of 1992 and held in a stable in Cerska for several months before he was transferred to Srebrenica. When he arrived there, already in poor physical condition, he was severely beaten. He died between 9 February and 20 March 1993. The

Defence argued on appeal that he died of illness.

Milislav Milovanović, a 43 year-old skilled flotation worker at a local mine, was captured by Bosnian Muslims on 24 December 1992. He was beaten and kicked everyday. He was covered in blood and looked black and blue. In February 1993, a youth between 16 and 20 years old questioned Milovanović about missing flour. The youth then beat him repeatedly on the chest. Milovanović succumbed to the injuries. On appeal, the Defence argued that he died of pneumonia.

Kostadin Popović, was captured during combat in Kravica on 7 January 1993 and transferred to Srebrenica. The 46 year-old was beaten with various objects, leaving him bleeding and black and blue all over his body. After severe beatings, Popović died around 7 February 1993. The Defence argued on appeal that he died in action.

Branko Sekulić, was captured on 30 June 1992 during combat. The 26 year-old was detained for some time in the stable in Cerska, where he was held in terrible conditions and severely mistreated. He was transferred to Srebrenica on horseback because of his poor physical condition. He was routinely beaten and as a result was hospitalized in February 1993. He was released on 3 March 1993 due to lack of space. He died on or about 19 March 1993. The Defence argued in its appeal that he died of illness.

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1 This is not the first time that the Tribunal has been criticized for issuing low sentences. For example, many Bosnian Muslim victims from the Keraterm camp in Prijedor, Bosnia and Herzegovina, were disappointed with the five and three year sentences given to Damir Došen and Dragan Kolundžija, Bosnian Serb shift commanders in the camp.

2 See "Prosecutor v. Naser Orić, Second Amended Indictment," filed 1 October 2004, ICTY Case No. IT-03-68-PT online at: <http://www.un.org/icty/indictment/english/ori-2ai041004e.htm>.

3 Judgement, paragraph 602.

4 "Prosecutor v. Naser Orić, Summary of Judgement," online at: <http://www.un.org/icty/pressreal/2006/p1094e-summary.htm>

5 This is the only one of the four attacks for which the Trial Chamber determined that Bosnian Muslim forces perpetrated large scale destruction that Orić was charged with responsibility under article 7(1) in addition to article 7(3)

6 Under Rule 98bis, the Trial Chamber can acquit the accused at the close of the Prosecution's case if the Prosecutor has not provided enough evidence to be able to convict him.

7 Prosecutor v. Naser Orić, Transcript of proceedings, 8 June 2005, page, 9030, lines 9-10, online at: <http://www.un.org/icty/trans68/050608IT.htm>.