

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

Case No. IT-03-68-T

IN TRIAL CHAMBER II

Before:

Judge Carmel Agius

Judge Hans Henrik Brydenholt

Judge Albin Eser

Registrar:

Mr. Hans Holthuis

Date filed:

17 June 2005

THE PROSECUTOR

v.

NASER ORIC

THIRD AMENDED INDICTMENT

The Office of the Prosecutor:

Mr. Jan Wubben

Counsel for the Accused

Ms. Vasvija Vidovic

Mr. John Jones

**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE
FORMER YUGOSLAVIA**

THE PROSECUTOR OF THE TRIBUNAL

AGAINST

NASER ORIC

THIRD AMENDED INDICTMENT

The Prosecutor of the International Criminal Tribunal for the former Yugoslavia, pursuant to her authority under Article 18 of the Statute of the International Criminal Tribunal for the Former Yugoslavia (hereafter: Statute of the Tribunal) charges:

NASER ORIC

With VIOLATIONS OF THE LAWS OR CUSTOMS OF

WAR, as set forth below:

THE ACCUSED

1. **Naser ORIC**, son of Dzemal and Hata (née MUSTAFIC), was born on 3 March 1967 in Potocari, municipality of Srebrenica, Republic of Bosnia and Herzegovina (hereafter: Bosnia and Herzegovina).
2. **Naser ORIC** was attached to the special unit for atomic and chemical defence of the Yugoslav People's Army (hereafter: JNA) during his mandatory service in the Federal Republic of Yugoslavia (hereafter: FRY) during 1985 and 1986. He left the JNA with the rank of Corporal.
3. **Naser ORIC** is a former police officer. In 1988, he completed a six month training course in Zemun and served in Savski Venac in Belgrade as a trainee policeman. As a member of the police unit for special actions, he had courses for two more years. In 1990, **Naser ORIC** was deployed to Kosovo as a member of a police unit for special actions of the Ministry of the Interior of the Republic of Serbia. Thereafter, he returned to Belgrade. On 5 August 1991, he was transferred to a Police Station in Ilidza, on the outskirts of Sarajevo. In late 1991, **Naser ORIC** was moved to the Police Station in Srebrenica and on 8 April 1992 was made the Police Chief of the Potocari Police sub-station.
4. On 17 April 1992, the Potocari Territorial Defence (hereafter: TO) was established and **Naser ORIC** became its Commander. The command area of the Potocari TO encompassed the local commune areas of Potocari, Likari, Caus, Zalazje and Azlica.
5. On 20 May 1992, the Srebrenica Municipal TO Staff was formed and Naser Oric was appointed Commander. On 27 June 1992, Sefer HALILOVIC, Chief of the Supreme Command Staff of the Army of Bosnia and Herzegovina (hereafter: ABiH) officially confirmed **Naser ORIC** as the Commander of the Srebrenica TO Headquarters (hereafter: HQ). **Naser ORIC** commanded all units subordinated to the Srebrenica TO HQ. On 8 August 1992, **Naser ORIC's** position as Commander of the Srebrenica TO HQ was re-confirmed by the Presidency of Bosnia and Herzegovina. On 3 September 1992, the Srebrenica TO HQ was re-named the HQ Srebrenica Armed Forces. **Naser ORIC** remained the Commander.

6. **Naser ORIC** became a member of the War Presidency in Srebrenica upon its creation on 1 July 1992. He was appointed in his capacity as Commander of the Srebrenica TO HQ.
7. **Naser ORIC's** command was further extended when he was appointed the Commander of the Joint Armed Forces of the Sub-Region Srebrenica in early November 1992. His command encompassed the geographical regions of several municipalities, namely: Srebrenica, Bratunac, Vlasenica and Zvornik in Eastern Bosnia.
8. On 1 January 1994, all units under the command of **Naser ORIC** were named the 8th Operative Group Srebrenica HQ of the ABiH.
9. On 12 July 1994, **Naser ORIC** was promoted to the rank of Brigadier.
10. In early 1995, the 8th Operative Group Srebrenica HQ was re-named the ABiH 2nd Corps 28th Division. **Naser ORIC** remained its Commander until he left the ABiH in August 1995.
11. Sometime before 1 March 1994, **Naser ORIC** was awarded the "Golden Lily", the highest award given by the Chief of Staff of the Supreme Command of the ABiH. On 15 April 1993, **Naser ORIC** received a Certificate of Merit, again from the Chief of Staff of the Supreme Command of the ABiH.

INDIVIDUAL CRIMINAL RESPONSIBILITY

Article 7(1) of the Statute of the Tribunal

12. **Naser ORIC**, is individually responsible, pursuant to Article 7(1) of the Statute of the Tribunal, for the crimes of wanton destruction of cities, towns or villages not justified by military necessity as alleged in this indictment. Individual criminal responsibility includes planning, instigating, ordering, committing or otherwise aiding and abetting in the planning, preparation or execution of any acts or omissions set forth in this indictment. **Naser ORIC's** continued failure to take reasonable measures to prevent wanton destruction of cities, towns or villages and to punish the perpetrators who committed such crimes, as well as his active involvement in the attacks during which such wanton destruction was caused, instigated the commission of the crimes and aided and abetted the perpetrators of these crimes.

Article 7(3) of the Statute of the Tribunal

13. **Naser ORIC** was bound by the ABiH Disciplinary Regulations, in particular those gazetted on 13 August 1992 to implement the rules relating to the investigation of war crimes.
14. Following the common practice of the ABiH to use a variety of regulations and instructions of the former JNA, **Naser ORIC** by virtue of his authority and duties as a Commander, was, *inter alia*, responsible for the preparation, direction and implementation of combat activities. **Naser ORIC** also exercised his authority as a Commander by negotiating and being actively involved in the exchange of Serb detainees.
15. At all times relevant to the charges in this indictment, by virtue of his position and authority as Commander, **Naser ORIC** commanded all units that were operating within his area of

responsibility. This includes all units involved in combat activities in the municipalities of Srebrenica and Bratunac, in particular the combat activities in Ratkovici on 21 and 27 June 1992, Jezestica on 8 August 1992, Fakovici on 5 October 1992, Bjelovac between 14 and 19 December 1992 and Kravica on 7 and 8 January 1993 and all units including the Military Police involved in the detention and custody of Serb individuals in Srebrenica.

16. **Naser ORIC** demonstrated both *de jure* and *de facto* command and control in military matters in a manner consistent with the exercise of superior authority, by issuing orders, instructions and directives to the units, by ensuring the implementation of these orders, instructions and directives and bearing full responsibility for their implementation.
17. **Naser ORIC** exercised effective control over his subordinates.
18. **Naser ORIC**, whilst holding the positions set out in this indictment is criminally responsible as a superior for the acts of his subordinates, pursuant to Article 7(3) of the Statute of the Tribunal. A superior is responsible for the acts of his subordinate(s) if he knew or had reason to know that his subordinate(s) were about to commit such acts or had done so and the superior failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof. Accordingly, **Naser ORIC** is criminally responsible under Article 7(3) of the Statute of the Tribunal for all crimes charged in this indictment.

GENERAL ALLEGATIONS

19. All acts and omissions alleged in this indictment occurred between 10 June 1992 and 20 March 1993 on the territory of Bosnia and Herzegovina.
20. At all times relevant to this indictment, a state of armed conflict existed on the territory of Bosnia and Herzegovina.
21. At all times relevant to this indictment, **Naser ORIC** was required to abide by the laws and customs governing the conduct of armed conflicts, including the Geneva Conventions of 1949 and Additional Protocols thereto. Furthermore, **Naser ORIC** was responsible for ensuring those military units under his command and control respected and applied these rules of international law. Moreover, **Naser ORIC** was obliged by superior order, namely the order of the Presidency of Bosnia and Herzegovina dated 23 August 1992, to initiate proceedings for legal sanctions against individuals under his command and control who had violated the international laws of war.

CHARGES

COUNTS 1-2 (MURDER AND CRUEL TREATMENT)

22. Between 24 September 1992 and 20 March 1993, members of the Military Police under the command and control of **Naser ORIC** detained several Serb individuals in the Srebrenica Police Station and in the building behind the Srebrenica Municipal Building.
23. These detainees were subjected to physical abuse, serious suffering and serious injury to body and health, and inhumane treatment by the guards and / or by others with the support

of the guards. In some instances, prisoners were beaten to death. Physical abuse included beatings by various objects including wooden sticks, wooden poles, steel pipes, metal bars, baseball bats, rifle butts, bare fists, kicking with boots and forced teeth extractions with rusty pliers. These beatings and physical abuse caused severe pain and injuries such as fractured bones, severe injuries to limbs and broken teeth. On numerous occasions, detainees were beaten into a state of unconsciousness. They were confined in overcrowded and unsanitary conditions.

24. Cruel treatment:

- a. Between 24 September 1992 and 16 October 1992, the following Serb individuals were detained under conditions described as in paragraph 23, at the Srebrenica Police Station:
 - i. Nedeljko RADIC, born 15 July 1951, was assaulted with various objects including wooden poles and iron bars. He was punched and kicked all over his body. He was beaten about the head with an iron bar. His teeth were forcibly extracted using rusty pliers. A soldier urinated into his injured mouth and he was forced to swallow the urine. He bled from his mouth and his nose. His teeth were broken and his ribs were fractured.
 - ii. Slavoljub ZIKIC called Drago, born 18 May 1935, was punched with fists and kicked with boots. He was also beaten with rifle butts. In some instances, he was beaten into a state of unconsciousness. His ribs were fractured and his teeth in his upper jaw were broken. One of his shoulders was broken. As a consequence of the beatings, his hearing and vision are badly impaired.
 - iii. Zoran BRANKOVIC, born in 1975, Nevenko BUBANJ called Slavenko, date of birth unknown and Veselin SARAC, born 17 November 1938, were punched and kicked all over their bodies. They were beaten with various objects including wooden poles and iron bars.
- b. Between 15 December 1992 and 20 March 1993, the following Serb individuals were first detained in the Srebrenica Police Station and later transferred to the building behind the Srebrenica Municipal Building. They were detained under the conditions described in paragraph 23:
 - i. Ilija IVANOVIC, born 1 February 1962, was beaten with bare fists, wooden poles, metal bars, baseball bats and kicked with boots. He was stabbed with knives. He was beaten all over his body. His ribs were fractured; his teeth, his nose and his cheekbone were broken. His head was smashed against the metal bars on the door and on concrete walls. On numerous occasions, as a result of these beatings, he fell into a state of unconsciousness.
 - ii. Ratko NIKOLIC, born 12 July 1945, (a Serb civilian), was subjected to severe beatings. He was beaten with wooden poles, baseball bats, and metal bars. He was kicked and punched and stabbed with knives. As a result of these beatings his ribs were fractured and on numerous occasions he fell into a state of unconsciousness.

- iii. Rado PEJIC called Miso, born 27 March 1956, (a Serb civilian), was subjected to severe beatings. He was beaten with wooden sticks, wooden poles, baseball bats, metal bars and rifle butts. He was punched and kicked and beaten all over his body. On numerous occasions, he was beaten into a state of unconsciousness. As a result of the beatings and inhumane treatment he lost such a significant portion of his body weight that he was unable to walk and had to be exchanged on a stretcher.
- iv. Stanko MITROVIC called Cane, date of birth unknown and Mile TRIFUNOVIC, born in 1920, (all Serb civilians), were subjected to severe beatings. They were beaten with wooden sticks, wooden poles, baseball bats, metal bars and rifle butts. They were kicked and punched and beaten all over their bodies. On numerous occasions, they were beaten into a state of unconsciousness.

25. Killings:

- a. On or about 25 September 1992, Dragutin KUKIC, born 12 May 1934, a Serb, who was detained in the Srebrenica Police Station under the conditions described in paragraph 23, was beaten to death.
- b. Between 6 February and 20 March 1993, the following Serb individuals, who were detained in the building behind the Srebrenica Municipal Building under the conditions described in paragraph 23, were killed: Jakov DOKIC, born in 1972, Dragan ILIC, born in 1975, Milisav MILOVANOVIC called Mico, born in 1950, Kostadin POPOVIC, born 20 September 1947 and Branko SEKULIC, born 1 January 1967.

26. **Naser ORIC** from about September 1992 to August 1995 knew or had reason to know that his subordinates were about to plan, prepare or execute the imprisonment, killing and/or cruel treatment of Serbs detained at the Srebrenica Police Station and the building behind the Srebrenica Municipal Building, or had done so, and he failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

By these acts and omissions **Naser ORIC** committed:

COUNT 1: MURDER, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Articles 3 and 7 (3) of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

COUNT 2: CRUEL TREATMENT, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Articles 3 and 7(3) of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions.

**COUNTS 3 and 5
(WANTON DESTRUCTION OF CITIES, TOWNS OR VILLAGES, NOT
JUSTIFIED BY MILITARY NECESSITY)**

27. During the period May 1992 to February 1993, Muslim armed units engaged in various military operations against the Army of the Serbian Republic of Bosnia and Herzegovina (hereafter: VRS) forces in Eastern Bosnia. In the course of such operations, Muslim armed units in the Municipalities of Bratunac, Srebrenica and Skelani, burnt and otherwise destroyed a minimum of fifty predominantly Serb villages and hamlets. As a result, thousands of Serb individuals fled the area.
28. Between 10 June 1992 and 8 January 1993, units under the command and control of **Naser ORIC**, engaged in various combat activities against VRS forces in Eastern Bosnia.
29. In the course of such combat activities, Bosnian Serb buildings, dwellings, and other property in predominantly Serb villages, were burnt and destroyed as detailed in paragraphs 30 to 35.
30. On 21 and 27 June 1992, the village of Ratkovici including the surrounding hamlets of Bradjevina, Ducici, and Gornji Ratkovici were attacked. The Srebrenica TO, Osmace TO, Kragljivoda TO, Skenderovici TO and Biljeg TO participated in this attack.
31. On 8 August 1992, the village of Jezestica was attacked. The Potocari TO, Suceska TO, Skenderovici TO and Osmace TO participated in this attack.
32. On 5 October 1992, the village of Fakovici including the surrounding hamlet of Divovici, were attacked. The Potocari TO, Osmace TO, Suceska TO, Company Stari Grad, Skenderovici TO and Kragljivoda TO participated in this attack. **Naser ORIC** commanded and partook in the attack.
33. Between 14 and 19 December 1992, the village of Bjelovac and the adjoining hamlet of Sikirici were attacked. Staff of the Joint Armed Forces of the Sub-Region Srebrenica, Company Stari Grad, Company Srebrenica from Independent Battalion Srebrenica, Brigade Potocari, Brigade Suceska, Brigade "3 Maj" Kragljivoda, Independent Battalion Osmace, Company Pustumulici of the Srebrenica Independent Battalion, Independent Battalion Skenderovici, 114th East Bosnian Brigade, Independent Battalion Voljavica, Independent Battalion Biljeg, 1st Cerani Detachment, Company Kazani from Independent Battalion Srebrenica and Independent Battalion "5 Juli" Tokoljaci participated in this attack. **Naser ORIC** commanded and partook in the attack.
34. On 7 and 8 January 1993, the village of Kravica and two nearby villages, Siljkovici and Jezestica, were attacked. The Company Stari Grad, Brigade Potocari, Brigade Suceska, Brigade "3 Maj" Kragljivoda, Independent Battalion Osmace, Company Pustumulici of the Srebrenica Independent Battalion, 6th Detachment Kamenica, 114th East Bosnian Brigade, Independent Battalion Voljavica, Independent Battalion Biljeg, and 1st Cerani Detachment participated in this attack. **Naser ORIC** commanded and partook in the attack.
35. In the course of these attacks in Eastern Bosnia between 10 June 1992 and 8 January 1993, units under the command and control of **Naser ORIC**, unlawfully destroyed Bosnian Serb property including buildings and dwellings. These incidents of unlawful and wanton destruction not justified by military necessity, include the following villages and hamlets on or about the dates indicated:

Ratkovici (Srebrenica Municipality) June 1992

Bradjevina (Srebrenica Municipality) June 1992

Ducici (Srebrenica Municipality) June 1992

Gornji Ratkovici (Srebrenica Municipality) June 1992

Jezestica (Bratunac Municipality) August 1992

Fakovici (Bratunac Municipality) October 1992

Divovici (Bratunac Municipality) October 1992

Bjelovac (Bratunac Municipality) December 1992

Sikirici (Bratunac Municipality) December 1992

Kravica (Bratunac Municipality) January 1993

Jezestica (Bratunac Municipality) January 1993

Siljkovici (Bratunac Municipality) January 1993

36. **Naser ORIC** from about June 1992 to August 1995, knew or had reason to know that his subordinates were about to commit such wanton destruction or had done so, in the specified villages and hamlets on or about the dates indicated above, and failed to take necessary and reasonable measures to prevent such acts or punish the perpetrators thereof.

By these acts and omissions **Naser ORIC** committed:

COUNT 3: WANTON DESTRUCTION OF CITIES, TOWNS OR VILLAGES, NOT JUSTIFIED BY MILITARY NECESSITY, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Articles 3(b) and 7(3) of the Statute of the Tribunal.

37. In addition, **Naser ORIC** implemented a strategy of wanton destruction to achieve his objectives. Accordingly, he did not make any or sufficient orders to prevent such wanton destruction. **Naser ORIC** failed to address the issue of wanton destruction at the debriefings of operations. He personally took part in the attacks in Fakovici (5 October 1992), Bjelovac (between 14 and 19 December 1992) and Kravica and Jezestica (7 and 8 January 1993). **Naser ORIC** continuously failed to make any or sufficient orders to prevent wanton destruction. These acts and omissions, instigated the commission of the crimes and aided and abetted the perpetrators to commit such unlawful and wanton destruction not justified by military necessity in the attacks in Fakovici (5 October 1992), Bjelovac (between 14 and 19 December 1992) and Kravica and Jezestica (7 and 8 January 1993).

By these acts and omissions **Naser ORIC** committed:

COUNT 5: WANTON DESTRUCTION OF CITIES, TOWNS OR VILLAGES, NOT JUSTIFIED BY MILITARY NECESSITY, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Articles 3(b) and 7(1) of the Statute of the Tribunal.

Carla Del Ponte
Prosecutor

Dated this 17th day of June 2005
At The Hague
The Netherlands

ANNEX

ADDITIONAL HISTORICAL AND POLITICAL FACTS

1. The events alleged in this indictment took place against the background of the break-up of the former Socialist Federal Republic of Yugoslavia (hereafter: SFRY).
2. Bosnia and Herzegovina declared its independence on 3 March 1992. The European Community recognised Bosnia and Herzegovina on 6 April 1992. On 22 May 1992, the United Nations admitted Bosnia and Herzegovina as a member State.
3. With the disintegration of the SFRY, a cadre staff consisting of former JNA officers began to prepare for the defence of Bosnia and Herzegovina. On 8 April 1992, the Presidency of Bosnia and Herzegovina transformed the existing Socialist Republic of Bosnia and Herzegovina TO into the TO of Bosnia and Herzegovina. On 15 April 1992, the new TO Staff ordered the creation of the Main TO HQ, which acquired full command and control over existing units.
4. On 8 April 1992, the Presidency of Bosnia and Herzegovina proclaimed an "Immediate Threat of War".
5. On 20 May 1992, the Presidency of Bosnia and Herzegovina passed the Decree on the Armed Forces of Bosnia.
6. On 20 June 1992, a "State of War" was declared by the Presidency.
7. On 18 August 1992, the President of the Presidency of Bosnia and Herzegovina made a "Decision on the establishment of the ABiH Corps". The document outlined the division of Bosnia and Herzegovina into five military areas of responsibility known as Corps and defined the municipalities which fell within each Corps.

8. One such Corps was the 2nd Corps with its HQ in Tuzla. The following municipalities were listed under the ABiH 2nd Corps area of responsibility: Banovici, Bijeljina, Bosanski Brod, Bosanski Samac, Bratunac, Brcko, Derventa, Doboje, Gracanica, Gradacac, Kalesija, Kladanj, Lopare, Lukavac, Maglaj, Modrica, Odzak, Orasje, Srebrenica, Srebrenik, Sekovici, Teslic, Tesanj, Tuzla, Ugljevik, Vlasenica, Zvornik and Zivinice.
9. On 23 August 1992, the Presidency of Bosnia and Herzegovina issued an order on the adoption of the "Rules of the International Laws of War by the Armed Forces of Bosnia and Herzegovina". This order came into force on 5 September 1992. The order stipulated the following:
 - a) All unit commanders and individual members of the Armed Forces were responsible for putting the rules into practice;
 - b) Senior officers were to take steps prescribed in the rules against anyone who breached the laws;
 - c) All members of the Armed Forces were to undergo training in order to familiarise themselves with the rules;
 - a. The planning and preparation of military actions by the Armed Forces were to comply with the rules and laws.
1. On 12 September 1991, the Serbian Autonomous Region of Herzegovina was proclaimed. On 16 September 1991, the Assembly of the Association of Municipalities of Bosnian Krajina proclaimed the Autonomous Region of Krajina. By 21 November 1991, the Serbian Autonomous Regions (hereafter: SAO) and Autonomous Regions consisted of the Autonomous Region of Krajina, the SAO Herzegovina, the SAO Romanija/Birac, the SAO Semberija, and the SAO Northern Bosnia.
2. On 15 October 1991, at the meeting of the SDS Party Council, a decision was made to form a separate assembly entitled the "Assembly of the Serbian People of Bosnia and Herzegovina" to secure Serb interests.
3. On 24 October 1991, the Assembly of the Serbian People in Bosnia and Herzegovina, dominated by the SDS, decided to conduct a "Plebiscite of the Serbian People in Bosnia and Herzegovina" in order to decide whether to stay in the common state of Yugoslavia with Serbia, Montenegro, the Autonomous Region of Krajina, SAO Western Slavonia and SAO Eastern Slavonia, Baranja and Western Srem.
4. On 9 and 10 November 1991, the Bosnian Serbs held the plebiscite. The results overwhelmingly showed that the Bosnian Serbs wanted to stay in Yugoslavia.
5. On 11 December 1991, the Assembly of the Serbian People made a request to the JNA to protect with all available means as "integral parts of the State of Yugoslavia" the territories of Bosnia and Herzegovina in which the plebiscite of the Serbian people and other citizens on remaining in a joint Yugoslav state had been conducted.
6. On 9 January 1992, the Assembly of the Serbian People of Bosnia and Herzegovina adopted

a declaration on the Proclamation of the Serbian Republic of Bosnia and Herzegovina. The territory of that Republic was declared to include "the territories of the Serbian Autonomous Regions and Districts and of other Serbian ethnic entities in Bosnia and Herzegovina, including the regions in which the Serbian people remained in the minority due to the genocide conducted against it in World War II", and it was declared to be a part of the Federal Yugoslav state. On 12 August 1992, the name of the Bosnian Serb Republic was changed to Republika Srpska.

7. From 29 February to 2 March 1992, Bosnia and Herzegovina held a referendum on independence. At the urging of the SDS, the majority of Bosnian Serbs boycotted the vote. The referendum resulted in a pro-independence majority.
8. On 27 March 1992, the Serbian Republic of Bosnia and Herzegovina was formally proclaimed in Pale.
9. From late March 1992, Bosnian Serb forces began to seize physical control of the municipalities that had been declared part of the "Serbian State".
10. On 27 April 1992, Serbia and Montenegro proclaimed a new FRY and declared it the successor state of the SFRY.
11. On 12 May 1992, the Bosnian Serb Assembly voted to create the VRS, effectively transforming the JNA units remaining in Bosnia and Herzegovina into commands of the new army. The JNA, which had been re-named the Yugoslav Army during the SFRY's reconstitution as the FRY in April 1992, continued to have strong links with the VRS. It provided critical combat, financial and logistical support to military operations carried out by the VRS against the non-Serb population in Bosnia and Herzegovina.