

VIEW FROM THE HAGUE

THE ONLY ONE INDICTED FOR COMMANDING

On Monday, 31 January 2005, the trial of Bosnian Army general Sefer Halilović began before the International Criminal Tribunal for the former Yugoslavia. Halilović stands accused for crimes committed against Croatian civilians in the villages of Grabovica and Uzdol as part of an operation referred to in the indictment as "Neretva-93".

According to the indictment, the main purpose of the Operation was to capture territory held by the Bosnian Croat forces (HVO) from Bugojno to Mostar thereby ending the blockade of Mostar. In order to achieve these aims the ABiH would launch offensives within this area. The indictment further states that Halilović was Deputy Commander and Chief of the Bosnian Army Supreme Command Staff between July and November 1993 as well as Chief of the Supreme Command Staff and that in August 1993 he was appointed Head of an Inspection Team and commander of Operation "Neretva-93". As such he was the most senior military commander for that operation in the field.

The indictment further alleges that Halilović was intimately involved with the planning and implementation of the Operation and that it was he who ordered the deployment of units of the 9th Motorised and 10th Mountain Brigades from the 1st Corps in Sarajevo, to Herzegovina even though he knew that both of these units had notorious reputations for being criminal and uncontrolled in behaviour.

According to the indictment, operation "Neretva-93" took the BH Army through the villages of Grabovica and Uzdol. Although Grabovica was taken in May of that year, the 9th Motorized Brigade only arrived there in September. In the few days following their arrival, all in all 33 Bosnian Croat civilians were murdered by the BH Army forces. Among the victims were women, children and elderly. Their names are listed in the indictment. On 14 September 1993, forces under Halilović's command attacked the village of Uzdol. During the course of the attack, twenty-nine Bosnian Croat civilians were killed. Again, among the victims were women, children and elderly and their names are also listed in the indictment.

The indictment alleges that Sefer Halilović failed to take effective measures to prevent the killings of civilians in Grabovica. The indictment also alleges that Halilović failed to carry out an order from his superior to identify the perpetrators of the killings in Grabovica and Uzdol and to punish them. Like all accused, Halilović is presumed innocent and he will have a full opportunity to defend himself against these charges with the assistance of a team of lawyers.

According to international law, military commanders have a duty to undertake all reasonable measures within their authority to protect civilian life and property. If units under their command commit crimes against civilians, they are duty-bound to investigate those crimes and see to it that the perpetrators are punished. They also must take measures to prevent crimes against civilians from happening in the future. The indictment alleges that Halilović failed on all these points, which is why he has been indicted for so-called command responsibility.

In Serbia and Montenegro, the Tribunal has frequently been accused of indicting Serbs "only on the basis of command responsibility." However, whereas all other ICTY indictees who are charged with command responsibility are also charged with being actively involved in perpetrating crimes -- planning, committing, ordering, aiding or abetting -- Sefer Halilović is the only Tribunal indictee who is charged solely on the basis of failing to comply with his duties as a commander.

Military commanders wield tremendous power: they have at their disposal dozens or even hundreds of armed individuals who are duty-bound to obey their orders. This gives military commanders tremendous power over life and death. This is why this power is accompanied by a greater responsibility – responsibility for the actions of one's subordinates. Military commanders must ensure that means of force are directed at enemy soldiers bearing arms, not at civilian men, soldiers who have laid down their arms, women, children or the elderly.

Outreach Programme

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