



In 1993, a year after the war in Bosnia broke out, the Republic of Bosnia-Herzegovina lodged an appeal with the International Court of Justice against the Federal Republic of Yugoslavia, alleging that the country was committing genocide against it. The wheels of international justice turn slowly, especially at the ICJ (an arbitration court with no coercive power and little competence in international criminal law) and the ruling was not handed down until February 2007. It found against Bosnia and in favour of Serbia on almost every single count, especially on the central charge that Yugoslavia had somehow controlled the Bosnian Serbs.

The ICJ ruling also systematically dismissed the Bosnian Muslims' claims that Bosnian Serb forces were trying to wipe them out as a nation. The Bosnians adduced a massive amount of material from the grisly to the ridiculous. Some of this material has since been found to be untrue, such as a the famous claim that a Bosnian Serb camp guard forced one Muslim inmate to bite off another inmate's testicles; other claims were always absurd, such as that genocide was demonstrated when Bosnian Serb soldiers caused "mental harm" to Muslims by forcing them to make the sign of the cross.

But even where the Court found that abuses had occurred, it did not classify them as genocide - with one famous exception. Along the hundreds of pages of claims about genocide allegedly perpetrated over many years by the Bosnian Muslims in 1993 (they submitted new claims in 1996) only the massacre at Srebrenica in July 1995 is left standing. It and it alone has been classified as genocide by the International Criminal Tribunal for the former Yugoslavia, and consequently by the ICJ too (which simply follows the ICTY's rulings).

But what is the evidence for the finding that genocide was committed at Srebrenica? I am not asking this question in the useful sense in which it has been asked (and answered) by investigators such as Jonathan Rooper. I am asking what evidence was submitted in court at the ICTY in support of this uniquely successful claim.

Germinal Civikov is a native of Bulgaria who lives in The Hague and Cologne. His book, "Srebrenica: Der Kronzeuge" (Wien: Promedia, 2009) is written in a limpid and often humorous style. Its findings are devastating. Civikov explains that the ICTY ruling that genocide was committed at Srebrenica on the orders of the Bosnian Serb leadership is based on the testimony of a single witness, a self-confessed perpetrator of one of the massacres called Drazen Erdemovic. Civikov's discussion of the "crown witness" and his evidence reads like a detective thriller: in fact, it should be made into a film.

Erdemovic originally surfaced in 1996 after he had been arrested in Yugoslavia for war crimes. He contacted the Prosecutor in The Hague because he believed that he would be given immunity from prosecution in return for evidence. Transferred to The Hague, he was himself charged with crimes against humanity, to which he pleaded guilty having admitted taking part in a massacre of 1,200 Muslim civilians of which personally killed about 100. For this act of mass murder, Erdemovic was given a 10 year prison sentence by the ICTY, reduced to 5 years on appeal because he had cooperated so well with the Prosecutor. But there was never any trial because he pleaded guilty and so he was never cross-examined. He was released from prison shortly after his conviction, since he was considered to have served most of his sentence already, and he now lives with a protected identity in a North West European country. This mass murderer could well be your neighbour.

Civikov's interest in the case was aroused when he started to reflect on the veracity of Erdemovic's testimony. The prisoners, he claimed, were shot in groups of 10. They were bussed in, taken off the busses, marched to the execution spot in a field several hundred metres away, frisked for their possessions, and shot. Arguments broke out between the executioners and the victims; the executioners drank and quarrelled; there were some moving scenes such as when Erdemovic tried to save an old man but eventually had to kill him like the others. Quite simply, Civikov reasoned, it is not possible to kill 1,200 people this way in 5 hours unless one assumes that each group of 10 men was killed in 2.5 minutes. Even if it had taken only 10 minutes to kill each group, itself an achievement, it would instead have taken some 20 hours to kill so many people. If you do the maths you will see that he is right.

Throughout the thirteen years since Erdemovic has been telling his story in four different trials, not one of the ICTY judges ever did this simple calculation or questioned the veracity of his account. Instead, Erdemovic was summoned back again and again from his new life to tell his story. On several occasions, he named his seven co-perpetrators. At one of the earlier hearings, a judge asked the Prosecutor whether these other men were going to be apprehended and he was told that they would be. But not only has the Office of the Prosecutor never tried to arrest or even question these men, one of them (the unit commander) lives in Belgrade and had given interviews to the Serbian press while another was arrested on a different matter in the United States without any extradition request ever being made against him by The Hague. It is as if the Prosecution is determined to prevent anyone else from giving his account of events.

Apart from the admission about the massacre, the key point about Erdemovic's testimony is that he alleges that his unit acted on orders from the Bosnian Serb leadership. Yet as Civikov shows with excruciating attention to detail, Erdemovic's own statements about the command structure

in his little platoon are self-contradictory and untrue. He claims that he was forced to commit this massacre and that the orders came from one of his co-perpetrators, Brano Gojkovic. But as Civikov shows, and as even the Prosecution at one point had to admit, this Gojkovic was an ordinary soldier who could not give orders to anyone. Instead, as Civikov also demonstrates, it turns out that Erdemovic himself was a sergeant (he lied to the contrary in Court, claiming that he had been stripped of his rank) while another of the perpetrators was a lieutenant. It is obviously impossible for a private to give orders to two officers and other soldiers to commit war crimes. But if this evidence is faulty, then how valuable is Erdemovic's claim that Gojkovic's orders came from the Bosnian Serb HQ in Pale?

Erdemovic has presented himself, including in the media, as a pathetic victim of the Bosnian war. He did what he did because he had to. A sort of novel has even been written about him, as have newspaper articles, in which he is elevated to the status of a holy fool. Civikov wades through years of evidence, spanning a decade, to show that in fact Erdemovic is a pathological liar, as well as a callous murderer. He was not a conscripted soldier who was forced to fight, but instead a mercenary who fought on all three sides in the Bosnian civil war. He was not forced, on pain of death, to commit the massacre, as he claimed in court. On the contrary, Civikov shows that his unit was on leave when the massacre was committed. He was not the victim of a later murder attempt to prevent him from testifying, as he also said in court, but instead a criminal and a thug who quarrelled over money with his fellow murderers and who, by his own admission, is prone to blind fits of violence and anger. During his time in the other Bosnian armies (Croat and Muslim) he had evidently been an unscrupulous war profiteer who extracted money from people in return for their safe passage.

Civikov has convinced me that the following is what really happened. Erdemovic belonged to a mercenary unit which was on leave after the fall of Srebrenica. On 15 July 1995, someone evidently offered him and some other mercenaries on leave a lot of money (gold, in fact) to commit a war crime, in this case a massacre of prisoners. In other words, the Bosnian Serb authorities had nothing to do with it - and hence the ludicrous story about the private giving orders. (Perhaps he was the one with the cash.) The mercenaries then hijacked busses of prisoners which were on their way to be exchanged by the Bosnian Serb authorities - to the horror of the unsuspecting bus drivers, and of course of the prisoners themselves - and murdered them. A few days later, there was a fight in a bar over the money and the former comrades starting shooting at each other: Erdemovic was hit in the stomach and later sentimentalised the scar in Court by lifting up his shirt to claim that they had tried to kill him to prevent him from testifying. Escaping from this situation by fleeing into Yugoslavia, he was unexpectedly arrested by the Yugoslav authorities from whom he managed to escape by securing his transfer to The Hague, where his self-interest in receiving a light sentence, coupled with his ability to spin yarns, made him a perfect Prosecution witness. The Prosecution won out on the deal because it gained "proof" of both genocide and command responsibility - which enabled it to go after the "big fish" like Karadzic and Mladic in headline prosecutions - while Erdemovic won out too because he has not only been let off for mass murder, but has also

been given a new life, a house and presumably some sort of income. This, I repeat, is the witness on whose evidence alone the finding of genocide at the ICTY is based.

Outstanding questions remain. Who offered the mercenaries money and why? Civikov's book is scrupulously rooted in documentary evidence and there is no documentary evidence to support a clear answer to this question. However, there are speculations and Civikov discusses them. As Milosevic said during his own gripping cross-examination of Erdemovic - gripping because, whenever he started to get close to the truth, Judge Richard May intervened to prevent him from pursuing his line of questioning - there were reports in Serbia of a rogue French secret service unit operating on the territory of the former Yugoslavia and later involved in a plot to overthrow him, known as "Operation Spider". There had also been reports that these people had been present at Srebrenica. The West, it is implied, "needed" a big atrocity at Srebrenica, and it was indeed immediately following the fall of that town - and thanks largely to pressure exerted by the French president, Jacques Chirac, who took the lead on the matter - that NATO intervened and bought an end to the Bosnian war. As it bombed Bosnian Serb targets, the Americans helped Croatia to launch "Operation Storm" in which over a quarter of a million Serbs were driven out of the Krajina. Defeated and marginalised as war criminals, the Bosnian Serb leaders were barred from attending the peace conference at Dayton, where a deal was imposed by the Americans.

Funnily enough, evidence seems to have just emerged that the Croatian authorities manufactured a pretext for Operation Storm. Is it true? Did the same thing happen with Srebrenica? One thing is sure: manufacturing pretexts for military action is the oldest trick in the book. Please read Civikov's book if you can read German: it is brilliant.

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