

**Korana Bridge  
County Court in Karlovac**

**Defendant: Mihajlo Hrastov, member of the Ministry of the Interior of the Republic of Croatia**

**Court: County Court in Karlovac, Republic of Croatia**

**Crime: illegal killing and wounding of the enemy, Article 124 of the Basic Criminal Law of the Republic of Croatia**

**Trial chamber: judge Marijan Janjac (the presiding judge), judges Josip Perković and Deniz Pancirov-Parcen (members of the chamber)**

**County Prosecution: Ljubica Fiškuš-Šumonja**

**Authorized attorneys: Luka Šušak and Dražen Plavec**

**Defense attorneys: Igor Meznarić and Krešimir Vilajtović**

**Indictment: KT – 48/91**

**Case number: K – 7 /03**

**Indictment**

According to the charges from the indictment, Mihajlo Hrastov, a member of the Ministry of the Interior of the Republic of Croatia, on 21 September 1991, used his automatic rifle to shoot and kill 13 reservists of the Yugoslav National Army (YNA) at the Korana Bridge in Karlovac and thus committed a criminal act of illegal killing and wounding of the enemy as stated in Article 124 of the Basic Criminal Law of the Republic of Croatia. So far, two trials of Mihajlo Hrastov were held before the County Court in Karlovac and both times the verdict of not guilty was brought with the explanation that the defendant had used the rifle in self-defense. However, the Supreme Court of the Republic of Croatia overruled these verdicts both times. The second time the verdict was overruled on 9 May 2004 and the case was returned to the court of first instance. The indictment does not list Svetozar Šarac, one of the surviving YNA reservists from the Korana Bridge although there is evidence that he had been wounded at the time the crime had been committed. Defendant Hrastov, who is still employed by the Ministry of the Interior of the Republic of Croatia, is at this, his third trial, remanded on bail.

**20 September 2004**

The third retrial of Mihajlo Hrastov began on 20 September 2004 before the trial chamber of the Country Court in Karlovac presided by judge Marijan Janjac. The summons to appear in court as a witness was answered by Željko Pereško and Josip Ribar, while Goran Čerkez and Darko Grujić did not answer the summons. Then the witnesses were warned about their rights and obligations at the time of presenting their testimonies in accordance with Articles 234, 236 and 238 of the Law on Criminal Procedure of the Republic of Croatia.

The prosecutor, Ljubica Fiškuš-Šumonja, read the indictment against Mihajlo Hrastov who stated that he had received and understood the indictment. Defendant

Hrastov added that he did not feel guilty but he did not want to present his defense immediately but would do so before the end of the trial. One of the authorized attorneys of the plaintiffs, Luka Šušak, representing plaintiff Svetozar Šarac who had testified at the previous trial, asked, before the first witness was heard, for the findings and the opinion of the expert witness, ballisticsian Damir Čatipović, to be removed from the case documents. In the words of attorney Šušak, the verdict cannot be based on the findings and the opinion of expert witness Čatipović, in view of the fact that his engagement had violated the provision of Article 250, Paragraphs 1 and 2, of the Law on Criminal Procedure, as he is employed by the police the same as the defendant. Attorney Šušak pointed out that Šarac's name had been omitted from the description of the facts on the basis of this testimony although he had been wounded on the Korana Bridge at the time this crime had been committed. Attorney Šušak said that the state prosecutor, Mladen Bajić, and the president of the Supreme Court of Croatia, Ivica Crnić, have been informed about the fact that that this provision of the Law on Criminal Procedure has been violated in this and in some other cases, and that this indictment had been made deficient from the beginning. He noted that the ballistic expertise relies on the medical expertise which has also been made at the expense of Šarac and that Šarac's injuries had not been inflicted by an explosive device but by a gunshot. To corroborate his claim, attorney Šušak submitted to the court the findings of an expert witness from Slovenia concerning Svetozar Šarac which confirms his claim and asked for the trial to be recessed so that the indictment could be completed in a manner which would include Svetozar Šarac as a plaintiff. The attorney added that Šarac had not been examined at all and that a medical expertise should be carried out. Prosecutor Fiškuš-Šumonja and the defense attorneys of defendant Hrastov were against the motion and pointed out that there was no need to take into account medical expertise from Slovenia. Following that, the trial chamber brought a decision rejecting the motion of the authorized attorney of the plaintiffs, Luka Šušak, and proceeded with the hearing of the witnesses.

Witness **Željko Pereško** stated that he would confirm his previously given statement and that he, due to the passage of time, could not remember the details. At the time of the events referred to in the indictment, Pereško was the commander of the 2nd platoon of a special unit of the Ministry of the Interior. In his words, on that particular day, 21 September 1991, they had received an order to halt enemy formations, disarm them and take them to the police station. Upon arrival to the bridge, they found two military vehicles on the other side and, while the negotiations about the surrender were carried out, two enemy tanks arrived to the football stadium from the direction of Logorište. Poreško pointed out that they had disarmed the first group of prisoners without a problem and that the search was carried out superficially and quickly. In his words, hand grenades and knives were found on the enemy soldiers. Poreško pointed out that he had taken part in escorting the first group of prisoners while the second group was escorted by his colleagues wearing stocking masks with holes for the eyes. During the negotiations which, in the words of the witness, were strenuous and took about four hours, the enemy commander, Mile Peurača, held in his hand a hand grenade with the fuse removed,

while on a vehicle a machine gun was mounted and leveled at the members of the Croatian police. Pereško pointed out that at one moment he had heard the shooting and the curses from the other side of the bridge and, when he had gone there, he had seen enemy soldiers lying on the bridge.

Asked by Luka Šušak, the authorized attorney of the plaintiffs, who had ordered them to go to the Korana Bridge, the witness replied that the order had arrived from the assistant to the Karlovac police chief of staff. In an answer to the second question of Šušak's, whether the chief of staff had been informed about what had happened at the Korana Bridge, the witness said that he had not been informed. Answering the question posed by Krešimir Vilajtović, an attorney of the defendant, Hrastov, whether anyone had been injured in the first group of prisoners, the witness said that no one had been injured.

The question of Luka Šušak, the authorized attorney of the plaintiffs, whether the witness had an impression that the YNA reservists had seemed frightened caused laughter in the courtroom and the witness answered that he had not had such an impression and that it would be better for him to ask them.

In his testimony, witness **Josip Ribar**, a former member of a special unit of the Ministry of the Interior, pointed out that, on 21 September 1991, he had taken part in the prevention of the enemy soldiers entering Karlovac. His task was to cross the bridge and use his hand-held rocket launcher to stop the tanks. In his words, there was shooting all around, shells were falling, snipers were shooting from the town. The witness returned to the bridge where there were three or four captured soldiers, several members of the guards and members of the Civil Protection units. The witness added that the captured soldiers had been moved to the police station and that he had not returned to the bridge again.

In his answer to the question posed to him by Luka Šušak, an authorized attorney of the plaintiffs, the witness said that they had received an oral command to go to the Korana Bridge, but he did not remember when, because it was the matter of an attack on Karlovac. Ribar added that it all happened at night, at the bridge, and that he, like all his colleagues, had worn a stocking mask with holes for the eyes.

After the testimony of Josip Ribar the statements of 17 witnesses given at the previous trial were read; while the trial chamber, with the consent of the parties to the process, decided to hear direct testimonies of the witnesses Goran Čerkez and Rudolf Brlečić. In addition, the Court heard the letter of the Institute for Forensic Medicine and Criminological Expertise dated 22 September 1991, the report on the identification of the victims submitted by the Police Department of Karlovac on 23 September 1991, the excerpts from the medical records of Svetozar Šarac and Dušan Mrkić, the findings of the expert witness for mono-dactyloscopy of the Police Department of Karlovac dated 24 September 1991, the autopsy proceedings, the minutes of the expertise of the Center for Criminological Expertise of the Ministry of the Interior of the Republic of Croatia dated 24 September 1991, the

new and additional findings of ballisticsian Damir Tomašek and the report by "colonel Boro Ercegovic".

Luka Šušak, an authorized attorney of the plaintiffs, moved that the findings and the opinion of the expert witness, ballisticsian Damir Tomašek, be removed from the case documents because they were inexpert and were based on the opinion and the findings of Dr. Škavić. Šušak stressed again that Šarac's wound was not inflicted by an explosive device, but by a gunshot. Prosecutor Fiškuš-Šumonja reacted and said that the motion was groundless because the authorized attorney for the plaintiffs had been, already on 11 November 2002, informed, by the then deputy of the county prosecutor, Grga Peršin, about the reasons why Svetozar Šarac could not be entered into the indictment as one of the plaintiffs.

When the authorized attorney of the plaintiffs, Šušak, asked to read Article 250 of the Law on Criminal Procedure of the Republic of Croatia, the attorneys of the defendant, Hristov, left the courtroom, as a sign of protest, and returned when the trial chamber was about to bring the decision concerning Šušak's motion.

The trial chamber brought a decision whereby the motion of the authorized attorney of the plaintiffs was rejected, and then a decision whereby the main trial was adjourned until 9 o'clock in the morning, on 22 September 2004.

## **22 September 2004**

The trial of Mihajlo Hrastov continued on 22 September 2004, at 9 o'clock in the morning, before the trial chamber of the County Court in Karlovac. The court's summons to appear before the court as a witness was answered by doctor Zlatko Grkačić, Joso Vuković and expert witness Damir Tomašek. In view of the fact that the trial chamber had subpoenaed witness Goran Čerkez because he has not answered the summons to appear in court as a witness on 20 September 2004, his wife, Irena Čerkez, appeared in court and said that Goran Čerkez was in the Netherlands, where he worked, and that she had no knowledge about which town he was in. Judge Janjac asked Irena Čerkez whether she had any idea of how one could get in contact with her husband and asked her to try and get his address. Before the questioning of the witness began, Luka Šušak, an authorized attorney for the plaintiffs, pointed out that he was in possession of the knowledge that Svetozar Šarac was not invited to testify on 23 September 2004, that his health condition was bad, but that it was still possible that he would testify. Also, Šušak remarked that in the minutes of the trial held on 20 September 2004, in the fourth paragraph, it was wrongfully inserted that he had said to the chief state prosecutor, Mladen Bajić, and to the president of the Supreme Court, Ivica Crnić, that they were familiar with the fact that, in this case, the provision of Article 250 of the Law on Criminal Procedure was violated, in view of the fact that what he had said was that they had been familiar with the practice, in a large number of cases, that Article 250 of the Law on Criminal Procedure was being violated.

At the beginning of the hearing of doctor Zlatko Grkačić, judge Janjac stated that the witness had given his testimony at the previous trial. Doctor Grkačić pointed out that he would stick to the statement he had given earlier. In his words, he had been the director of the Karlovac hospital in 1991 and 1992 when some 1800 wounded persons were there so he had to organize transports to other hospitals. Upon a suggestion by the head of surgery, after he had received the lists of the wounded persons, he organized the transport of the wounded to Zagreb, Varaždin and Čakovec. Grkačić pointed out that he had no knowledge about the operation performed on witness Šarac, nor about the injuries of witness Šarac. Asked by the prosecutor whether he remembered the family name Šarac, the witness answered that he did not, because there were 1800 wounded persons at the hospital. The prosecutor then asked the witness whether he remembered that it was the issue of the persons wounded at the Korana Bridge whereupon he answered that he remembered there was some talk about them but he had not gone to see the wounded persons.

At the beginning of the hearing of witness **Joso Vlahović**, judge Janjac stated that Vuković had given his statement at the previous trial and asked him about what he remembered concerning the issue of the case. Although he pointed out that a lot of time had gone by, Vuković decided to tell what he knew. In his words, he was in the premises of the Karlovac police where he had been at dinner, around 19:00 or 20:00 hours when he saw a commotion and heard that the army and the chetniks were attacking. As he was a driver, he took a vehicle, a Pinzgauer, and drove to the bridge together with his colleagues. When they arrived to the bridge, they parked the vehicle on the left-hand side and he took a position on the right-hand side, in a little trench. In Vuković's words, he and his colleagues were armed with both handguns and rifles. As the shooting was intensive and the shells were falling on the road, Vuković went down under the bridge where he hid near the boats and a pile of garbage. The witness pointed out that he had been scared of the shooting and of the shells and that he did not remember how long he had been under the bridge. After the shooting had abated, he saw the arrival of a truck, known as Tamić. Vuković pointed out that there were the corpses, too, which he, together with other policemen, had put into the truck. When judge Janjac asked him whose corpses those had been, the witness said that those had been the corpses of the "chetniks". In his words, from the pockets of the killed persons they were loading onto the truck, there fell out wallets, small change, cockades, cigarette lighters, hand grenades, cigarettes and the like. After they had loaded the corpses onto the truck, the witness took his vehicle and returned to the police station.

Asked by the prosecutor if he knew how many corpses there were, the witness answered that he did not count them, nor did he remember anyone issuing the order to load them onto the truck. When questioned by the prosecutor, Vuković said that, under the bridge, he could not recognize the shooting, as there was shooting all around. He added that the corpses were a bit further from the truck, that is, in the middle of the bridge, so the policemen had to pull them toward the truck. Vuković pointed out that he was sure the corpses were not grouped, but that he did not know

whether they had been scattered "all over the bridge". In Vuković's words, he did not know who drove the truck, nor who owned it, but he was sure it did not belong to the Ministry of the Interior of the Republic of Croatia, as the Ministry did not have such vehicles at that time.

When questioned by Luka Šušak, an authorized attorney of the plaintiffs, Vuković said that, from the direction of Rakovac (a part of Karlovac across the Korana Bridge), "it was falling on all sides, like rain, from all types of armaments". In his answer to a separate question posed by Šušak - whether he knew of any of the Croatian soldiers having been killed at the Korana Bridge - the witness said that he did not. Vuković pointed out that he did not know whether, during the shooting at the bridge, anyone had jumped into the river and that he had seen snipers shooting from the direction of Rakovac, from the apartment buildings. At the end, answering the question by an authorized attorney of the plaintiffs, the witness said that he did not know of the existence of a radio communication between the Police Department of Karlovac and the policemen at the Korana Bridge and that he, personally, did not have it.

The trial continued with the hearing of a ballistic expert witness, engineer **Damir Tomašek**, who confirmed his findings and his opinion given upon the demand by the court. Asked by the prosecutor whether he had studied the earlier findings and opinion given by the previous expert witness, Čatipović, Tomašek answered that he had. Asked by the prosecutor whether it was possible for the bullets used by defendant Hrastov (ULTIMAX firearms) to fragment on hitting a hard surface, the expert witness gave a positive answer and added that injuries which might be inflicted by these fragments would depend on where the body was hit and on the shape of the fragments themselves and said that an expert witness in the field of medicine could better describe the types of injuries.

The authorized attorneys of the plaintiffs protested the expertise of engineer Tomašek because he was employed by the Institute for Criminological Expertise of the Ministry of the Interior of the Republic of Croatia where the defendant, Hrastov, was also employed.

Asked by the defense attorney, Vilajtović, the expert witness said that a human bone was a kind of hard surface and added that it was possible for the bullet to fragment when hitting a human bone. Tomašek qualified his testimony and said that he had seen only the bottom of a single cartridge and had examined only one bullet, while the other bullets were examined by engineer Čatipović. Toward the end of his testimony, Tomašek pointed out that, on the basis of what he had seen, a pistol had not been used in the crucial event, nor is a pistol mentioned in the findings of expert witness Čatipović. In addition, Tomašek pointed out that he would have felt much more comfortable answering the questions had he been on the crime scene after the reconstruction had been done.

Following the hearing of expert witness Tomašek, judge Janjac announced that the trial would continue on 23 September 2004, at 9 o'clock in the morning, when witnesses Šarac and Čerkez should be heard and when a decision should be brought concerning the motions of the authorized attorneys of the plaintiffs to hear witnesses Dušan Mrkić and Branko Mađarac.

### **23 September 2004**

The trial of Mihajlo Hrastov continued on 23 September, at 9 o'clock in the morning, before the trial chamber of the same composition. Judge Janjac stated that the authorized attorney of the plaintiffs, Luka Šušak, was not present, and warned the TV teams to shoot what they wanted and stop disturbing the further course of the proceedings. After that, it was stated that witness Svetozar Šarac had not appeared in the court, that the summons had not been delivered although it had been sent by diplomatic pouch. Judge Janjac pointed out that the statement of Svetozar Šarac given at the previous trials was among the case documents, but that it would be beneficial if he were to be heard before the court once again. Also, judge Janjac announced the setting of the date of the reconstruction of the events at the Korana Bridge (in the meantime, the previous appearance of the bridge had been changed) which must be attended by witnesses Goran Čerkez and Danko Grujić.

The prosecutor, Fiškuš-Šumonja, suggested the hearing of witnesses Nebojša Jasnić, Dušan Mrkić and Branko Mađarac and pointed out that, unless they appeared at the trial, she would give up on their statements. She added that there was a cassette which "allegedly showed" that Mađarac and Jasnić had been at the bridge, and that this way it would be possible to ascertain whether this was the truth or not. The prosecutor promised to submit to the court, within eight days, the addresses of these witnesses and, after that, to submit the motion and the demand for the reconstruction of the event to be carried out.

Judge Janjac informed the parties to the proceedings that the members of the Police Department in Karlovac had appeared in court ten minutes before the beginning of the trial and had informed him that they had not been able to follow the court's warrant and bring in Goran Čerkez because they did not find him at his home and at the places he usually frequented.

The attorney of the defendant, Krešimir Vilajtović, moved for Nebojša Jovanović, the author of the book *On to Zagreb* to be heard as an impartial witness because he had been in Karlovac, had fought in the Serb units and had described, in his book, what had happened in Karlovac.

The trial chamber brought a decision whereby it accepted the motion to hear the following witnesses: Dušan Mrkić, Nebojša Jasnić and Branko Mađarac, to ensure the presence of witness Goran Čerkez, to hear witness Grujić, witness Nebojša Jovanović, witness Rudolf Brlečić, and to summon again witness Svetozar Šarac.

The decision adjourned the proceedings and the new ones would be scheduled in writing.

### **14 March 2005**

The continuation of the main proceedings on 14 March 2005 was monitored by the observers of the regional team, an observer of the Croatian national team, a representative of a local non-governmental organization, the Committee for Human Rights, OSCE representatives as well as the representatives of the media.

At the beginning of the proceedings, judge Janjac stated that the summoned witnesses, Goran Čerkez, Rudolf Brlečić and Darko Grujić, had appeared in court, while Nebojša Jasnić and Branko Mađarac had not. The summons was properly delivered to Nebojša Jasnić, while the summons addressed to Mađarac had been returned with the word "departed" stamped on it. Following that, the defense attorney of the defendant, attorney Vilajtović, informed the trial chamber that, on Friday, 11 March 2005, Hrastov had been admitted to the neuropsychiatric department for treatment. Namely, in the words of Vilajtović, a permanent change had occurred in the ability of the defendant, with the initial diagnosis of a "reactive neurosis". The defense attorney added that he could not predict how long the treatment of the defendant would last and that even the doctor who had admitted the defendant to the hospital could not predict that.

Judge Janjac informed those present that the trial could not be held in the absence of defendant Hrastov so he would adjourn the trials scheduled for 14 and 15 March 2005. On 15 March Svetozar Šarac was supposed to testify; security measures had been foreseen for his appearance. Then the trial chamber brought a decision to adjourn the trial and decided "to ask for an official estimate of a competent physician of the department where the defendant had been admitted for treatment on the possible length of the treatment".

Luka Šušak, an authorized attorney of the plaintiffs, added to the case documents the health record of witness Svetozar Šarac from the prison hospital in Zagreb and moved that expert witness Josip Škavić be summoned to the next trial. Šušak pointed out that the expert opinion of a doctor from Ljubljana about Šarac's injuries should be delivered to Škavić. After that, Šušak moved that a military ballistic expertise be carried out as the injuries to the crime victims were inflicted by military armaments. The task of the ballistic expert would be to answer the question whether 13 YNA reservists could have been hit by a single firearm and what the size of the bullet dispersion was.

Authorized attorney Šušak moved for a video tape to be shown before the trial chamber, the tape which, according to the former deputy of the county prosecutor in Karlovac, was among the case documents. Allegedly, on the tape it is possible to see that the plaintiffs, Bižić and Stipić, were injured with a knife. The trial chamber brought a decision to decide about the motion in the course of the proceedings.

Also, authorized attorney Šušak moved for these proceedings to be conducted by a trial chamber the members of which would be professionals, judges with long-time experience in criminal proceedings (which is in accordance with the provisions of the Law on the Application of the Statute of the International Criminal Court and the Prosecution of the Crimes against the international law of war and the international humanitarian law). Judge Janjac failed to enter the motion into the minutes; he just commented upon it and asked the authorized attorney not to talk about it.

### **Observers' remarks**

The interest of the public in this case was very great. It is necessary to call attention to the behavior of Goran Čerkez who should have testified. Actually, while the authorized attorney of the plaintiffs, Luka Šušak, was presenting his motions, Čerkez was uttering comments all the time. When a hearing of an expert witness was suggested, Čerkez and some other persons from the audience said, in a loud voice: "why not invite expert witnesses from Belgrade".

As for the procedure itself, it should be noted that judge Janjac had failed to enter into the minutes of the proceedings the motion by the authorized attorney for the plaintiffs, Luka Šušak, for this case to be tried by judicial professionals with long-time experience in criminal proceedings. In our opinion, this is a serious breach of the criminal procedure as the motion may not be rejected without entering the record of the rejection into the minutes.

Besides, we believe that the trial chamber made a mistake when it decided to ask for an estimate of the length of the treatment of Hrastov. Namely, we are of the opinion that an expertise of the current health situation of Hrastov and his ability to stand trial. Also, we think that the expertise should be carried out by an expert witness outside the Karlovac hospital.