

**“SREBRENICA: THE STAR WITNESS”
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БЕОГРАД

2010

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THE STAR WITNESS**

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translated from the German
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BELGRADE

2010

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Introduction

On 25 August 2003, the Bosnian Croat, Dražen Erdemović, appeared as a Prosecution witness in the trial of the former Yugoslav president, Slobodan Milošević, at the International Criminal Tribunal for the former Yugoslavia in The Hague. As a member of a special unit within the Bosnian Serb army, and together with seven other members of this unit, Erdemović is said to have shot between 1,000 and 1,200 Bosnian Muslim civilians on 16th July 1995 at Branjevo Farm near the village of Pilica north of Srebrenica. Milošević was accused, among other things, of responsibility for genocide of the Bosnian Muslims. Erdemović's testimony pertained to this genocide, which is said to have been perpetrated in the days following the fall of Srebrenica on 11th July 1995 and in various places including on the land of Branjevo Farm near Pilica. Erdemović's testimony gave no clues at all about whether or to what extent Milošević was responsible for these acts. Erdemović only confirmed that the mass murder had in fact taken place at Branjevo Farm. For the personal responsibility of Milošević, the Prosecution said it intended to provide further evidence. This has never been produced. Nonetheless, the special importance of Erdemović's testimony lies in the fact that he is the only direct perpetrator who has confirmed, in the witness box, that there was a mass shooting of Bosnian Muslim civilians by members of the Bosnian Serb army. On the basis of his admission of guilt in 1996, Erdemović was sentenced to five years in prison by the Hague tribunal. After three and a half years, he was released. Now he has been used as a star witness in several trials both before and after the Milošević trial, all of which concern the accusation that genocide was committed against Bosnian Muslims after the fall of Srebrenica.

Erdemović's testimony on 25 August 2003, which I observed carefully, seemed to me to be very problematic. It is simply impossible to shoot 1,200 people in barely five hours in the manner stated by the witness. You can do the sums on your fingers, although the judges never displayed any doubt about the figures. Other inconsistencies also came up in the cross-examination which Milošević was allowed to conduct under heavy restrictions. The judges reacted to Milošević's questioning with increasing nervousness, they disallowed several questions and urged the accused to conclude his cross-examination quickly. In reality, there should have been no difficulty clearing up these inconsistencies because the witness had named all his co-perpetrators giving their Christian names and surnames. But when Milošević asked how the witness explained the

fact that he was the only one who had been made to take responsibility for the massacre at Branjevo Farm, the judge cut him off. Judge Richard May said that was no question for the witness. Evidently the accused had touched on a very sensitive issue for the Prosecution.

How very interesting. We are dealing here with the worst crime committed in Europe since the Second World War, and which has been categorised by the Tribunal as genocide, but no one is even allowed to ask a question about the other perpetrators of one of the biggest massacres. I resolved to study closely all the available documents on the Erdemović case and I read them with increasing astonishment. His description of the mass murder at Branjevo Farm is, in its numerous variants, so full of contradictions that the more one reads, the more one wonders what he is actually trying to hide by telling such obviously unbelievable tales. One seeks in vain for any explanation of the fact that the judges who listened to Erdemović as a witness in several trials have never once questioned his credibility, and on only one occasion have they ever asked whether the Prosecutors intend to question or indict his co-perpetrators.

Dražen Erdemović was arrested in Serbia on 3rd March 1996. When he was first questioned by the Yugoslav authorities, he immediately gave the names of his seven co-perpetrators, as well as the name of the head of his company, on whose orders the mass murder was supposedly carried out. An indictment was quickly initiated against Erdemović by the Yugoslav criminal justice system, but on 30th March he was handed over to the Tribunal in The Hague where, as a defendant and later as a Prosecution witness in several other trials, he repeatedly gave again all the names of his co-perpetrators. To this day not a single one of these people has been prosecuted as a perpetrator or questioned as a witness. This book is an attempt to find out why not.

After his first admission of guilt on 31 May 1996 in The Hague, Erdemović was proclaimed unfit for questioning for an indefinite period. He was said to be suffering from post-traumatic stress disorder. But on 5th July 1996, this man who was supposedly unfit for questioning appeared as a Prosecution witness in a hearing against Radovan Karadžić and Ratko Mladić. It was on the basis of Erdemović's evidence at this hearing that the judges issued their international arrest warrant against the two Bosnian Serb villains. Was this the reason why the judges failed to see that his account was manifestly unbelievable? The question immediately also arises whether this single perpetrator would have appeared before the Tribunal at all if the Yugoslav police had not arrested him first and launched a prosecution against him.

There are more questions in this book than answers, and for good reason. Transparency is not exactly the Tribunal's greatest virtue. What takes place in the Tribunal's numerous "half-closed" or "closed" sessions, from which the public is excluded, is known only to a few people. We would know what actually happened at Branjevo Farm on 16 July 1995 only if all the perpetrators were questioned, but that is exactly what has never been done. Everyone knows that a wise man's question contains half the answer. One thing at least should be clear: in its search for the truth, the Yugoslav Tribunal does not behave ac-

according to the traditions of the rule of law. Would it be acceptable in a normal criminal trial for a judge to hand down an extremely lenient sentence to a perpetrator on the basis of his admission of guilt, but not even to question his co-perpetrators? Would not all the media then come down on this judge like a ton of bricks and demand to know what on earth was going on? Maybe the judge does not want the man's confession to be thrown into doubt by statements from the co-perpetrators. Or is there even more to it than that? Do these other perpetrators perhaps have something to say which the public is not supposed to hear? Are perpetrators perhaps being protected, instead of being prosecuted according to the law?

In the case of Erdemović, however, the public apparently does not want to know anything about this either. It rejoices when a certain Radovan Karadžić is at last brought to trial and that he will most probably be sentenced to life in prison. In the Karadžić trial, Erdemović will presumably once again step out of his new protected identity for the duration of a court session, in order to give evidence for the fifth time, as a protected and invisible Prosecution witness, about the shooting of 1,200 Bosnian Muslim civilians at Branjevo Farm. This evidence has incidentally been proclaimed by the Tribunal to be "established truth beyond reasonable doubt" which therefore cannot be debated. It would be senseless to question it — and that is exactly what we are going to do.

I would like to express my sincere gratitude to Professor Werner Sauer of the University of Graz for having read the manuscript critically and for his numerous valuable suggestions.

On quotes: sources for all the quotes from the Tribunal's transcripts and from Prosecution hearings outside the courtroom are given in the index of sources at the back of the book. The figures and page numbers for quotes from the transcripts refer to the documents published in English on the Tribunal's web site. Quotes from hearings held outside the courtroom — these are the "interviews" conducted with Erdemović in two languages by the Prosecution investigators, and are not publicly available — are given with the date and then the page number of the English and Serbo-Croat versions in brackets. Relevant extracts from these documents have been reproduced in the Appendix.

(Translator's note: the vast majority of the quotations are taken verbatim from the English language transcripts of the Tribunal, or from the English versions of the respective official documents. In some cases, however, the Serbian and the English versions of these documents differ. On occasions, phrases spoken in the Serbian original but omitted from the English transcript have been included in this translation. Where this has been done, it has been flagged up in the footnotes.)

“We weren’t mercenaries, we were professionals.”

Such was the headline of an interview which appeared in the Bosnian Serb newspaper, *Nezavisne Novine*, on 21 November 2005. It was a remarkable interview in many respects. The interviewee who wants to go down in history as a professional and not as a mercenary is Milorad Pelemiš, the commander of a unit in the Bosnian Serb army (VRS) which did indeed make history in the summer of 1995 under the name “10th Sabotage Unit”. We learn from the interview that the said Milorad Pelemiš has not gone into hiding, but that he lives a perfectly normal life undisturbed with his wife and son in Belgrade. For the interview, he meets the journalist in a pub called “Kod Čike” in New Belgrade. When asked whether the investigators in The Hague know where he lives, Pelemiš replies that they most certainly do but that he has no cause to worry.

The person who first makes public the name of the commander of the 10th Sabotage Unit of the Bosnian Serb Army is the Bosnian Croat, Dražen Erdemović, who as a member of this unit makes horrible admissions in 1996 to several newspapers and to two judicial authorities. Erdemović says that on 16 July 1995, at Branjevo Farm near Pilica in Bosnia, where pigs were bred for the Bosnian Serb Army, he took part in the shooting of 1,200 Bosnian Muslim prisoners from Srebrenica. Erdemović names seven other members of this unit who he says also took part in the killing, as well as the name of his commander, this very same Milorad Pelemiš, from whom the order to shoot the prisoners is supposed to have come. Erdemović says that he does not know how many of the prisoners he shot himself, but that it must have been between 70 and 100. On the basis of his admission that he had not only participated in an act of mass murder, but also that he had committed mass murder himself, Erdemović was eventually sentenced on 5 March 1998 to just 5 years in prison by the International Criminal Tribunal for the former Yugoslavia. Of these, he had to serve only 3½ years, since the time he had spent in detention and trial was counted as part of the total sentence. But with his conviction, the story about the execution of 1,200 Muslim civilians became the single most important direct proof of a war crime which the Yugoslav Tribunal has proclaimed to be “genocide of the Bosnian Muslims”. Meanwhile, the commander of the 10th Sabotage Unit of the VRS, Milorad Pelemiš, who is supposed to have ordered this act of mass murder, lives undisturbed in Belgrade and gives interviews to the press. Carla del Ponte, the long-serving Chief Prosecutor of the Tribunal, was evidently so taken up with the hunt for Karadžić and Mladić that she could not get interested enough in this Pelemiš even to question him as a witness. In any case, Pelemiš says he is not worried.

- NN:* Have the Hague investigators ever questioned you?
Pelemiš: No, never.
NN: Do they know your address?
Pelemiš: They probably know my address. It's no secret (...)
NN: Are you afraid of The Hague?
Pelemiš: No. Why should I be?¹

This is not all. Erdemović, to this day, is the only witness who provides proof for the murder of 1,200 Muslim civilians as an actual perpetrator even though, first as an accused and then as a Prosecution witness in several trials, he names his accomplices loud and clear. They are Franc Kos, Marko Boškić, Zoran Goranja, Stanko Savanović, Brano Gojković, Alexander and Vlastimir Golijan. All these names have been known to the Office of the Prosecutor at the Yugoslav Tribunal at least since August 1996. According to the transcripts, the judges learn about this remarkable state of affairs during the hearing on 19 November 1996, following a direct question put to Prosecutor Harmon as to whether Erdemović has given the names of his co-perpetrators when he testified about his crime. Harmon replies:

Harmon: Each time the identity of the perpetrators was known to Mr. Erdemović, he told us their identity. The officer in charge of the Unit, who ordered the murder in Srebrenica, is Lieutenant Pelemiš who is in charge of the 10th Sabotage Unit. The members of the execution group who were involved in the incidents on 16th at the farm, their names were also given by Mr. Erdemović; the head of that group being Brano Gojković. The other members being Aleksandar Cvetković, Marko Boškić, Zoran Goranja, Stanko Savanović, Vlastimir Golijan, Franc Kos, and he himself, Dražen Erdemović. Now, the 10th Sabotage Unit was under the command of Colonel Salapura. (3, p. 209f)²

However, the indictment against Dražen Erdemović is based exclusively on his own admissions. The Office of the Prosecutor has to this day never questioned a single one of his co-perpetrators, even though most of them have never gone into hiding. On the matter of the murder of 1,200 people by 8 perpetrators at the Branjevo Farm, we have to date only the account of Dražen Erdemović.

On the basis of his confession, Dražen Erdemović was originally sentenced to 10 years in prison in November 1996. So the judges took his account of the mass murder to be true. There is no other account. When Erdemović gave evidence in 1996, the judges were incidentally still amazed that the prosecutors had no other perpetrators to present. Judge Jorda asked why the Office of the Prosecutor thought the evidence of only one perpetrator was enough. Where were the others? At the time, the prosecutor reassured the judges, telling them not to

¹ "Bili smo profesionalci, a ne placeni" ('We were professionals, not mercenaries') in *Nezavisne Novine* (Banja Luka), 21 November 2005.

² The figures and the page numbers refer to the transcripts listed in the Appendix.

worry, they were working on it. But to this day, Judge Jorda's question has never been put a second time by the Tribunal.

Eight years later, in April 2004, a Bosnian Croat named Marko Boškić was arrested in Peabody, USA, near Boston. He was accused of having caused a hit and run car crash while drunk. But on the basis of a tip-off to the police in Massachusetts, it was established that Boškić had fought in the Bosnian war as a member of an infamous unit of the Bosnian Serb army, a fact he had hidden from the US authorities when he filled out his immigration form in 1996. Boškić had therefore given false information about himself, a serious offence in the United States which can be punished with several years in prison. In addition, it was suggested that he had participated in mass murder at Srebrenica in 1995. It was quickly established that Boškić was one of the eight co-perpetrators Erdemović had named as having taken part in the mass execution at Branjevo Farm. Boškić fully confessed to the FBI investigators that he had indeed taken part in this massacre. But when journalists at the Tribunal wanted to know whether the Office of the Prosecutor would be applying for Boškić's extradition to The Hague, they were told that, no thanks, the Tribunal was overburdened and did not have the capacity to put him on trial. Anton Nikiforov, the spokesman for the Office of the Prosecutor, stated on 27 August 2004 that the prosecutor had to concentrate on going after "the big fish".³ Evidently a man who personally took part in the murder of 1,200 people does not count as a big fish. But why does the Office of the Prosecutor, led by Carla del Ponte, not want even to question a single one of Erdemović's co-perpetrators, let alone indict them?

Just imagine if eight hooligans beat a tramp to death in the streets of Amsterdam and then threw his body into a canal. One of them later hands himself over to the police, admits his guilt and names his accomplices. He receives a mild sentence. The police, meanwhile, show no interest whatever in the other seven. Just imagine how politicians and the media would tear the police to pieces. But in the case of Erdemović we are dealing, according to his account, with the murder of 1,200 people! What sort of judicial authority is this which calls itself International Tribunal for War Crimes in the former Yugoslavia, and which claims that it is prosecuting war criminals according to international standards? No justice without truth, they say. What sort of truth is this tribunal interested in finding — truth which, they say, is the basis for all justice?

In his interview, Milorad Pelemiš claims, among other things, that he was not there on the day of the mass murder, 16 July 1995. He knew nothing about it, he was in hospital, it can all be easily checked. It is true that Dražen Erdemović also says that Pelemiš was not present at the massacre, but he claims that as commander he gave the order to shoot the prisoners. Marko Boškić claimed to the investigators in Boston that, a day before the massacre, Pelemiš had forced him at gunpoint to join the execution commando.⁴ This is only one of the dozens

³ "Peabody Man Won't Face UN Tribunal," *The Boston Globe*, 28 August 2004.

⁴ "War crimes suspect charged in Boston," *The Boston Globe*, 27 August 2004.

of contradictions which crop up in Erdemović's testimony whenever you compare it with the accounts of others.

What exactly did happen at Branjevo Farm near Pilica on 16 July 1995? Who gave the order for the Muslim prisoners to be shot? How were the members of the execution commando recruited? How was the shooting carried out? How many victims were there? Who were the perpetrators of this crime, and what is their individual responsibility? In order to even begin to answer these questions, one would first have to question all those involved. On the basis of such questioning, one would expect the Tribunal to launch criminal prosecutions against all the perpetrators. Instead of this, the Tribunal relies on the admission of guilt of this single Dražen Erdemović, whose credibility is moreover very questionable, and then raises his admission to the level of a firmly established truth. The Tribunal is supposed to find out the truth and to see that justice is done. What on earth is going on?

The Story of Dražen Erdemović

Born in 1971 in the village of Donja Dragunja near Tuzla, Dražen Erdemović goes to a training college where he qualifies a locksmith. But he never exercised this trade. Instead, he is called up for military service in December 1990, he is trained as a military policeman in the Marshal Tito barracks in Belgrade, and he does his military service in this capacity in the region of Vukovar, just as Yugoslavia is collapsing. After a year of regular military service and a further four months as a reservist, Erdemović returns home in March 1992. After that, things start to boil up in Bosnia too. Bosnian Muslims, Serbs and Croats are amassing weapons and setting up their own armies. The first clashes occur in May and the Yugoslav People's Army (JNA), which at the time was the only legal armed force in Bosnia-Herzegovina, sends Erdemović a call-up which he ignores. He later tells the judges in The Hague repeatedly, on 19 and 20 November 1996, that he did not want to join any army any more and that he did not want to wage war on any side. In May 1992 he also receives a call-up from the Muslim controlled Army of Bosnia and Herzegovina, which he does obey. He had to do it, he says, he had no other choice. In the autumn of 1992, an army of Bosnian Croats (HVO) is also set up and Erdemović immediately joins this one instead. He is offered a job as a military policeman, which is what he had been trained to do by the JNA. He did not want to do it, he declares. He wanted to keep as far away from the war as possible. But as a military policeman he could stay behind the front lines and serve only at checkpoints. He protests several times that he never wanted to wage war or shoot people. Anyway, he says, as a military policeman for the HVO, he helped many Serbs to escape. He is a good man at heart, he helped Serbs from Tuzla and the surroundings to flee into Republika Srpska (the Bosnian Serb Republic). However, he gets caught helping these people to escape and is arrested. Prison threatens. He uses a short break in his detention in November 1993 to move to Republika Srpska with his Serbian wife. When the judges ask why he deserted the Bosnian Croat army (HVO), Erdemović says in The Hague on 19 November 1996:

Why did I leave the HVO? Because when I helped a group of Serb civilians, most of them were women and children, they arrested me. Soldiers from the HVO arrested me, and they beat me up and they harassed me as if I had killed the entire world. I helped women and children, that is why. (III, p. 189)

As a Croat among Serbs, Erdemović claims that he had no rights whatever and that his life was in danger. He says he did not even have enough money to

live on. That is why he offered his services to the Bosnian Serb army in April 1994. He says again that he had not wanted to. He simply had no other choice. He could have been arrested on the street and accused of being a Croatian spy, he wanted to save his own life, he had to think of his wife and child. At the military office in Bijeljina, they suggested he join a small unit which was they said was composed of Croats, Muslims and Slovenes, where he would be in good hands. Thus in his appearance as a witness on 4 May 2007, he says the following:

Before I arrived, I heard in Bijeljina that a unit was established, made up of Croats, Muslims and one Slovene, so I went to the military department in Bijeljina and they agreed that the best thing for me to do would be to join that unit because there are other people of my ethnicity in that unit, and that's how I decided to join that unit. (IX, p. 10933f.)

Erdemović also states quite explicitly that the unit was ethnically mixed when he appears as a Prosecution witness in the trial of Slobodan Milošević in 2003:

Milošević: What was the ethnic composition of this unit of yours, this detachment of yours? On the basis of what you've been saying here, it was my understanding that it was a multi-ethnic detachment.

Erdemović: Yes. At first when this unit was established, there were only Croats there, one Muslim, and one Slovene. These Croats helped the Serbs to get out of Tuzla, to territory held by the army of Republika Srpska. Afterwards, in October, the unit expanded and then it was joined by Serbs too who came from all parts of Republika Srpska. (VIIIa p. 25186; VIIIb, p. 322)⁵

So it is certainly a very remarkable unit of the Bosnian Serb army which Erdemović joins. Erdemović says the unit undertook mainly reconnaissance missions in enemy territory. He says he reported to the commander of the unit and that the commander had asked other Croats for information about him. These others had described him as a good and honest person. This commander had thereupon taken him on and immediately given him the rank of sergeant. That is how Dražen Erdemović ended up in the 10th Sabotage Regiment of the Bosnian Serb army. Under this commander everything was ok, says Erdemović. But in October 1994, Milorad Pelemiš took over as commander of the unit. He recruited numerous Serbs into the unit and opened the door to nationalism. As a Croat, Erdemović says he immediately entered into conflict with Pelemiš and with Colonel Petar Salapura. As head of reconnaissance in the Bosnian Serb army, Salapura had been in charge of the 10th Sabotage Unit. As commander of a squad, Erdemović says that once he did not carry out an operation because it would have caused civilian casualties. This was a risk he was simply not pre-

⁵ VIIIa refers to the English language transcript of the Milošević trial, VIIIb to the Serbian version.

pared to take. Several Bosnian soldiers had died and the unit had also suffered losses. So Erdemović called the operation off and laid out his reasons in a report. A few days later, Colonel Salapura came and insulted Erdemović, calling him a liar and stripping him of his rank.

On several days after from the main headquarters Colonel Petar Salapura arrived (*sic*). He was the main intelligence officer in the headquarters. We were invited, myself and other Commanders who were there, and the meeting was mainly about my behaviour and the behaviour of certain other individuals. They told me that I was lying, that I could not behave that way, that I had let a prisoner go, that I had saved one prisoner's life (and that is the man who is going to testify today), that I was refusing orders and so on. That is when I was demoted. (III, p. 182f.)

Thus demoted to the rank of ordinary soldier, Erdemović says he then had to put up with all sorts of harassment from his commanding officer. On 10th July 1995, his unit received an order to go into action. No one wanted to tell him, an ordinary soldier, where the operation would take them. It was only when they arrived that he learned it had to do with the capture of Srebrenica. In the town, they had met at most one hundred civilians. Before the troops marched in, the Company Chief Pelemiš had given an order not to shoot at any civilians and not to commit any crimes against the civilian population.

Yes, there was an order that we should not harm civilians, that soldiers should not harm civilians. So, as I could see it at that time, soldiers were not shooting at civilians who had surrendered. (III, p. 183f.)

In spite of this, a while later, Pelemiš had apparently ordered a soldier to slit a young Muslim man's throat on the street, just because he was of military age. A few days afterwards, Erdemović again received an order to go into action. On 16 July 1995 in the morning, the commander Branjo Gojković had told him to join a group of another seven soldiers and to follow the car of a lieutenant colonel whom he did not know. Again Erdemović says he had had no idea where this operation would take him or what it would involve. It was only when they arrived at a farm near the village of Pilica that Commander Gojković told them what their task was: they were going to shoot civilians from Srebrenica who were about to arrive in buses. Erdemović said that he strongly opposed this. "Are you mad?" he shouted. No one supported him. Branjo Gojković was the commander and he decided everything. As a simple soldier, Erdemović had to carry out his orders. When he contested the order, Gojković told him to hand over his weapon and join the prisoners so that he could be shot alongside them. Erdemović says again that he had no choice, he had to obey. In this way, from 10 am until 3 pm, they shot 1,200 civilians at Branjevo Farm. Then Erdemović was ordered to carry out another shooting mission. After they had finished with the 1,200 civilians, the unknown lieutenant colonel ordered them to shoot a further 500 captives in the village of Pilica, and then Erdemović had said no. Some

members of the group had supported him, at which point the lieutenant colonel ordered a different unit to carry out the shooting. But Erdemović was to pay dearly for his insubordination. A few days later, on 22 July 1995, a soldier from his unit shot at him several times on the orders of Pelemiš and Salapura. They wanted to kill him because they suspected that he would go to the Tribunal and testify about the shooting of the civilians.

Capture and transfer

On 3 March 1996 in the small Serbian town of Bečej near Novi Sad, the Bosnian Croat Dražen Erdemović and the Bosnian Serb Radoslav Kremenović are arrested by the police. The two young men, 25 and 29 years old, are citizens of Bosnia, whatever that means at this time, and as members of the Bosnian Serb army they are also citizens of Republika Srpska. Whatever that means. However, it is claimed that Kremenović is also a citizen of the Federal Republic of Yugoslavia. At the time of their arrest, both Erdemović and Kremenović are still members of a special unit of the Bosnian Serb army, the 10th Sabotage Unit. Several days before their arrest, both men were trying to make contact with the Yugoslav Tribunal in The Hague. For this purpose they eagerly rang the US embassy, which must have come to the attention of the State Security Service (DB).

Erdemović and Kremenović want to go to the Tribunal to testify about the mass murder of Muslim civilians from Srebrenica. This massacre was allegedly perpetrated by their unit, and Erdemović had personally taken part in this crime. According to some reports in the Yugoslav media, his desire to denounce his superiors was stronger than his fear of the consequences of such self-accusation. The hostility to which both men had been subjected by both their commanding officers was the determining factor in their decision. Their company commander, Milorad Pelemiš, and the Chief of Military Intelligence of the Bosnian Serb Army, Colonel Petar Supara, had treated both men badly. In the end, Erdemović had even been thrown out of his own flat in the Bosnian town of Bijeljina. On 26 February 1995, Erdemović had fled to his friend Kremenović who had a flat in Bečej. There both of them decide to take revenge on their persecutors by testifying about the mass murder of Muslim civilians from Srebrenica at The Hague Tribunal. This is, for instance, what the Belgrade news agency AIM reports on 13 March 1996. One assumes that the single source for this report was a story about the Erdemović case which had appeared in the French newspaper, *Le Figaro*, under the headline “Bosnia: the confession of a war criminal”.⁶

Erdemović feels the desire to appear before the Tribunal especially strongly following a telephone conversation with his family in Bijeljina. He is told that people are looking for him and that someone is out to kill him. He must flee abroad if he wants to remain alive. In the meantime, Erdemović has arranged for his wife and child to stay with relatives in Tuzla, while he himself is

⁶ Bosnie: la confession d'un criminel de guerre, *Le Figaro* (Paris), 8th March 1996.

in the military hospital in Belgrade having treatment for for serious wounds he suffered in a shoot-out in a café in Bijeljina. (Erdemović is later to present this event to the Tribunal as a murder attempt carried out by someone trying to prevent him from testifying at The Hague about the massacre.) Kremenović, meanwhile, seems to have contacted two foreign journalists. One is called Duda, the other Dada, and they are both staying at the luxury Intercontinental Hotel in Belgrade. Kremenović had explained his friend Erdemović's problems to them and left them his phone number. Shortly thereafter, Dada had called and said that she was coming with a journalist from the American TV network, ABC, called Natasha. Erdemović could tell his story to this Natasha and she would record it on video.

Erdemović tells all this to the investigating judge Tomislav Vojnović in Novi Sad. The transcript of the interrogation, dated 6th March 1996 is a very important and informative document whose numerous amusing passages provide a good example of Erdemović's penchant for spinning yarns. The Belgrade press reports at the time that Erdemović and Kremenović wanted to present their desire to testify at The Hague to a Western diplomat. So they get the phone number of the American embassy from directory enquiries and ring up several times. They introduce themselves as soldiers of the Bosnian Serb army who have important information to reveal, and who want to meet a diplomat and a journalist. But the person who answers the phone is very guarded. He says that no diplomat is currently available to speak to them. And as far as a journalist was concerned, he suggests that they choose one themselves from the list of foreign correspondents in Belgrade. The list in question is in alphabetical order, and that is why Erdemović and Kremenović first ring the American broadcaster, ABC. But ABC reacts guardedly as well. The lady on the phone tells them that there is no reporter currently available but that she will pass their case onto ABC headquarters in New York and get back to them. But Erdemović and Kremenović then also add a condition: they will give an interview only if they can both be brought to The Hague to testify as witnesses there. The lady takes down Kremenović's phone number and the two friends wait in Bečej for further developments.

ABC headquarters in New York ask Vanessa Vasić-Jeneković, who works for the magazine *War Report*, to conduct the interview. She brings her friend Renaud Girard with her, who is a reporter for the Paris newspaper, *Le Figaro* and who also would like to do a piece about the two renegade soldiers. They go to the Fantast Hotel for the interview, a Romantic establishment some 10 km from Bečej where there is currently no one staying and which used to be known as Dundjerski Castle. It seems the perfect place for a confidential discussion. Vanessa Vasić-Jeneković and Renaud Girard assure their interlocutors that ABC has in the meantime informed the Hague Tribunal about their case. Nothing will stand in the way of their transfer to The Hague if they present themselves to a Western embassy and ask for asylum there. By this time it is midnight. In order to complete the rest of the plan as quickly as possible, the four agree to meet again in the same place at 8.30 the following morning. Erdemović and Kre-

menović then drive back to Bečej in Giraud's car, while Vanessa and her French colleague drive back to Belgrade. But the next day the two wait in vain at the Castle Hotel "Fantast" for Erdemović and Kremenović. Worried, Renaud Girard and an interpreter drive to Kremenović's flat at 50, Rade StanisMatićSt. in Bečej. The flat is empty. The Serbian police had arrived at 3 a.m. and taken the two self-confessed criminals away. Evidently the police was also curious to know what they had to say. The reporters try in vain to find out from the police where the two are. Renaud Girard expresses concern in his article dated 8 March 1996 about what will happen next and whether the Hague Tribunal will ever be able to interview Dražen. He concludes his piece by warning Belgrade to take its duties seriously and work with the Tribunal.

In addition, the video cassette on which Vanessa Vasić-Jeneković recorded Erdemović's and Kremenović's confession has disappeared. She checks her bag in on a flight to London but it vanishes from the luggage conveyor belt at Belgrade airport and ends up in an office of the Yugoslav secret police. Stupidly, Mrs Vasić-Jeneković has not made a copy. Events then unfold quickly. On 6 March an indictment is issued in Novi Sad against Erdemović and Kremenović. Erdemović is strongly suspected of having shot 1,200 Muslim citizens, acting together with seven other members of the 10th Sabotage Unit, near the village of Pilica in Bosnia & Herzegovina. This constitutes a war crime according to Article 142 of the Yugoslav penal code. Kremenović is accused of having hidden someone whom he knew to be under suspicion of having committed a capital crime. Kremenović is also accused of owning illegal weapons. His flat seems to be something of a depot for arms and explosives. After the opening of a criminal procedure against the two in Novi Sad, the Hague Tribunal and its political patron swing into hectic activity. On 7 March, the Spokesman of the United States Department of State, Nicholas Burns, telephones the Serbian government and asks them to transfer the two accused war criminals to The Hague Tribunal. On 8 March, the Chief Prosecutor of the Tribunal, Richard Goldstone, applies to the Yugoslav authorities for the transfer of Erdemović, so that he could be questioned in various trials. Goldstone says that this soldier has admitted to having shot countless Muslims on the direct order of his commanders. Here we can catch a glimpse of what actually interests the Chief Prosecutor: not the personal guilt of Erdemović, for which he would have to answer, but instead his role as a witness against his commanders, on whose orders he had acted according to his own admission. The very same day, the prosecutor in Novi Sad officially launches proceedings against Dražen Erdemović and Radoslav Kremenović. They are both accused of having committed war crimes in Bosnia. On 12 March, the Deputy Chief Prosecutor of the Hague Tribunal, Graham Blewitt, accompanied by the US Assistant Secretary of State, John Shattuck, and some officials from the Tribunal, arrive in Belgrade to negotiate with the government about closer cooperation. With the agreement of the Serbian Minister of Justice, Arandjel Markicevic Blewitt is allowed to question the two detainees separately as witnesses. He declares that the two had served as Bosnian Serb soldiers under General Ratko Mladić, and that they are prepared to testify against him as

witnesses. Blewitt emphasises that Erdemović's account was extremely credible. He will therefore accept no excuses from Belgrade to avoid their transfer to The Hague. Shattuck and Blewitt also express their confidence that the Serbian president, Slobodan Milošević, is ready for closer cooperation with the Tribunal. On 30 March, Erdemović and Kremenović are flown to The Hague in a Yugoslav plane and handed over to the Tribunal, which is exactly what they themselves wanted. On 22 March, Kremenović is released and allowed to return to Belgrade. His presence as a witness is no longer necessary, says Goldstone.

It is impressive how strenuously the Yugoslav Tribunal sets to work to get Dražen Erdemović transferred to The Hague as quickly as possible, and yet how unwilling the same Tribunal will later be to apply for even a single one of his accomplices to be handed over. The statements of the Prosecution and media reports from this period also reveal that the main interest lies not in the alleged perpetration by Erdemović and Kremenović of a grisly crime, nor in the satisfaction that they are now getting their just deserts, but instead — and above all — in the fact that they will be used as witnesses against the Bosnian Serb president, Radovan Karadžić and the commander of the Bosnian Serb army, Ratko Mladić. Thus for instance we read in a report by Reuters news agency on 14 March 1996,

Radoslav Kremenović and Dražen Erdemović have according to their own words admitted to killing Muslims in the UN safe area of Srebrenica, where up to 8,000 people have been missing since the Serbs overran the town. They were arrested this month in Serbia. It is assumed that both men are decisive witnesses to the killings. The Yugoslav Tribunal has indicted the Bosnian Serb president, Radovan Karadžić, and the military commander General Ratko Mladić for their role in the events at Srebrenica and other crimes.

Incidentally, from the Serbian point of view, Erdemović and Kremenović have not been handed over to the Hague Tribunal, but instead only "lent" for questioning, following an agreement with the Yugoslav Foreign Ministry. Yugoslavia's diplomatMatićrepresentative in The Hague, Djordje Lopičić, makes this clear when he addresses the Tribunal on 28 May 1996. Erdemović and Kremenović have been merely lent to The Hague for 60 days, he says, because criminal proceedings are already underway against them in Novi Sad. Djordje Lopičić says that an application for Erdemović's actual extradition to the Tribunal should be made to the Yugoslav Ministry of Justice, the competent authority. (Kremenović has by this time been released, on 22 May.) Lopičić also emphasises that Erdemović is not a citizen of Yugoslavia and that therefore there is nothing to prevent his extradition to The Hague, providing it is applied for properly. The Tribunal shows not the slightest interest in his objections. With disarming arrogance, the spokesman for the Tribunal, Christian Chartier, says that even if there had been such an agreement, it no longer applies.⁷ By 29 May 1996, an indictment is issued against Erdemović, along much the same lines as

⁷ See "Exstradicija" in the Belgrade weekly, *NIN*, 8th March 1996

the proceedings opened against him in Novi Sad. On 11 June, the Yugoslav authorities hand over to the Tribunal all the results of their ongoing investigations into the Erdemović case. But the Court in Novi Sad might as well forget about its own indictment now. So everything has turned out for the best and Erdemović in the end will be required to spend less than three and half years in prison for his participation in the murder of 1,200 people.

Erdemović's nagging conscience

Erdemović maintains several times that he wanted to hand himself over to the Tribunal in order to salve his conscience, for instance in his testimony for the Prosecution in the trial against Karadžić and Mladić on 5 July 1996.

Judge Jorda : My last question. Why did you want to testify? What feeling underlies that and what do you feel now that you are before the International Criminal Tribunal?

Erdemović : I wanted to testify because of my conscience, because of all that happened because I did not want that. (II, 854 f.)

This sounds plausible. One can understand that someone who has shot unarmed people starts at some point to be nagged by his conscience. However, we also learn that Dražen Erdemović has for some reason or other ended up in a situation in which his neck is on the line. He has, or so he claims, every reason to fear that someone is out to kill him and he is looking for a safe place for himself and his family. During a fight in a bar, someone called Stanko Savanović, who belonged to the same special unit as Erdemović and who had taken part in the same massacre, had got out his pistol and shot several times at Erdemović and at two other members of the unit. This was his friend Kremenović and another friend whose identity Erdemović does not reveal. These two get off with light wounds but Erdemović is badly wounded in the chest and stomach, so much that his life was in danger. It was a miracle that he survived at all, and he underwent several serious operations in the military hospital in Belgrade. He has Kremenović to thank for the fact that he was operated on in Belgrade because it was he who took him there. (IV, 232f.) At some point we learn that Kremenović is a lieutenant and deputy to Pelemiš, the company commander. Erdemović says he is convinced that the shooting was carried out on the orders of the company commander, in order to get him out of the picture. We will come back to this part of his story later. After the shooting, his other pals from the unit also pursued him with death threats. So besides his conscience, this basic need to survive must also have driven him to salve his conscience in The Hague, far away from Milorad Pelemiš and Petar Salapura. As a witness in The Hague, he is at least out the reach of these henchmen.

But is there perhaps a further reason why he wants to be a witness at the Tribunal? There certainly is. The Prosecution at the ICTY offers protection programmes to certain witnesses. These programmes allow the witness and his family to get new identities and a new, socially protected life in another country.

There must be several witnesses at The Hague whose consciences were prompted by such protection programmes. Erdemović seems to have been very well informed about this. As one can see from the article in *Le Figaro* by Renaud Girard, Erdemović even knew about a very specific possibility which this programme offers to certain “protected” witnesses, namely that nothing in their testimony can be used to incriminate themselves. So a perpetrator can accuse others with evidence without incriminating himself with it. In other words, if someone is prepared to testify about a serious war crime in which he has himself taken part, he can walk free with a new identity after having given evidence as a “protected witness”. So the nagging conscience remains a personal issue, for unfortunately there is nothing that the witness protection programme of the Tribunal can do to salve it — but that is quite another matter.

Off to The Hague to salve his conscience

“Far away from indiscreet ears, he wants to salve his conscience” (*Loin des oreilles indiscreètes, il veut soulager sa conscience*). Thus writes Renaud Girard about his interviewee in *Le Figaro* on 13 March 1996. So it is all about Dražen Erdemović’s tormented conscience. The story which Erdemović tells and which Renaud Girard summarises for his newspaper is an important document in the case. At first sight, its content corresponds to Erdemović’s confession to the Tribunal, according to which 1,200 Bosnian Muslim civilians from Srebrenica were shot on a farm near Pilica. But the devil is in the detail, as we shall soon see. Renaud Girard incidentally also reports something which only he and no one else learned from Erdemović. In his interview with *Le Figaro*, Erdemović says that he took part in a massacre of prisoners at Nova Kasaba on 11 July 1995, and that this occurred under the command of a certain Brano Gojković, the same Brano Gojković whom we have already encountered as a co-perpetrator at the mass execution at the Branjevo Farm on 16 July 1995.

Far away from indiscreet ears, he wants to salve his conscience. Dražen tells of a massacre which followed the capture of Srebrenica on 11 July 1995, as if the scene was taking place in the garden outside the hotel: “Our leader, Brano Gojković, orders 10 Muslims to line up with their backs to us. We are ourselves lined up 10 metres behind them. Brano’s friends, who had been with him at the stadium in Nova Kasaba, start to shoot. Everyone follows suit. I took aim and shot. I had set my Kalashnikov to fire single shots. In a few seconds they were all dead.”⁸

This murder appears neither in the indictment nor in any of the dozen testimonies Erdemović has given to the Tribunal. No Prosecutor has ever asked him about it in any of the numerous interviews he has given to the Prosecution. On 11 July 1995, Erdemović was in any case involved in the capture of Srebrenica and so he cannot have been in Nova Kasaba. The story was probably a freebie he gave to the French reporter. Erdemović told him what he wanted to hear and what his newspaper was happy to publish. This is an early proof of Erdemović’s love of fantasy, with which it is essential to reckon. The figure of Brano Gojković is also striking, whom Erdemović calls “our leader” (“*notre chef*”), for he appears here for the first time and will cast, so to speak, a long shadow.

⁸ “Bosnie: La confession d’un criminel de guerre”, *Le Figaro*, 8th March 1996.

But this article contains something that cannot be found anywhere else or in any other form: the claim that Dražen Erdemović has already concluded an agreement with the Prosecution at the Tribunal, according to which no indictment can be issued against him and he can settle in a Western country.

Dražen has reached an agreement with an investigator at the Tribunal: in return for his evidence he will be allowed to settle in a Western country with his family. He will enter the box as a witness, not as an accused, and will thus escape all punishment.⁹

The author too evidently thinks that this is especially important. In the summary of his article entitled “*Bosnie: la confession d’un criminel de guerre*”, Renaud Giraud refers to the agreement and he does so expressly as a claim made by Erdemović:

The former soldier who recounts these facts has negotiated an agreement with the Tribunal in The Hague. In exchange for a promise of immunity and for the opportunity to settle in a Western European country with his family, he is ready to tell all.¹⁰

And to be sure that there is no misunderstanding, the text says for a third time:

Our special correspondent has taken down the confessions of a soldier who participated in the massacre of 1,200 Muslims after the fall of Srebrenica. In return for a promise of immunity, he was ready to come to The Hague to give evidence.¹¹

In other words, Dražen Erdemović is certain that as a Prosecution witness he can give evidence in which he incriminates himself as a perpetrator, without have to fear any consequences in the criminal law for himself. We do not know who gave him this assurance, but he must have got it from somewhere for how else would Renaud Girard have made the claim? Immunity in return for the incrimination of others — this must have encouraged Erdemović to dare to undertake the journey to The Hague to salve his conscience. It must have been a bitter disappointment for him when he was presented to the judges as an accused instead. Did he perhaps want to say something about this when the judge first allowed him to speak, as an accused, on 31st May 1996? What a shame that he was immediately interrupted. When Judge Jorda asked him whether he understood that he could be defended equitably and in public before the Tribunal, and whether he understood the scope of these terms, the accused Dražen Erdemović says he first wants to make a statement:

Erdemović: Your Honour, allow me to explain. Before the indictment was issued against me ...

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

Unfortunately he is immediately interrupted.

Judge Jorda: Excuse me, Mr. Erdemović, for the moment, like everybody in this Tribunal, I am following rules which are the Rules of our Statute, the Rules of the International Tribunal. This is a procedure which is applied for all accused. (I, p. 19 f.)

One can well understand Erdemović's disappointment. The Prosecution does indeed offer its witnesses immunity from prosecution if they can provide a substantial contribution to the truth as the Prosecution understands it.¹²

The public cannot see these anonymous witnesses at all if they give evidence in "closed session". When they give evidence in a "partially closed session", multicoloured squares flicker on the screen in place of their face. Instead of their voice, one hears only an unintelligible electronic croak. Dražen Erdemović might well have been one of these unnamed people if only he had not had the bad luck to have been arrested by the Yugoslav police, and to have been questioned by the Yugoslav judicial authorities, before he was able to travel to The Hague to salve his conscience. After all the turmoil of his capture and confession in Novi Sad, a trial had to be launched against him in The Hague.

Erdemović's remorse — the remorse of a man who was supposedly forced on pain of death to shoot Muslim civilians, and who now wants to salve his conscience as a witness — has already given rise to several literary flowerings. There is for instance the touching essay by Slavenka Drakulić, "A Day in the Life of Dražen Erdemović".¹³

Would Erdemović have wanted remorsefully to salve his conscience by a confession if there had not been this promise of immunity by the Tribunal? We do not know. What we do know is that Erdemović does indeed think that he will get off without punishment, and that he would be able to build a new identity for himself and his family, by putting himself at the disposal of the Tribunal as a Prosecution witness and by providing first hand proof, i.e. as one of the perpetrators, of the fact that 1,200 people were murdered on the orders of the Bosnian Serb army. As the star witness for the genocide of the Bosnian Muslims, he may well have thought that he would have honestly deserved it.

¹² There are two examples of this in the Milošević trial. On 9 January 2003, the protected witness K-2 stated that he had been involved in the murder of Željko Ražnjatović, the leader of a famous paramilitary group known as "Arkan", on 15 January 2000. When on the basis of this statement, the judicial authorities in Belgrade said they wanted to question K-2, they were told that he was a lifelong protected witness of the Tribunal and that he therefore could not be questioned by any other authority. And on 20 February 2003, Dragan Vasiljković, a witness for the Prosecution in the Milošević trial, stated that the Prosecution had been prepared to guarantee him immunity from prosecution for war crimes and other crimes he had committed, if he would agree to testify against Milošević.

¹³ Slavenka DRAKULIĆ: *Keiner war dabei. Kriegsverbrechen auf dem Balkan vor dem Gericht* (Vienna: 2004). It is not made clear in the essay why Mrs Drakulić adopted for her essay the title of the famous novel by Alexander Solzhenitsyn, "A Day in the Life of Ivan Denisovich."

The Indictment

My name is Dražen Erdemović. I was born in Tuzla in 1971. I am a Croat by nationality. Before coming to The Hague, I was an inhabitant of the Republika Srpska. (I, p. 18f.)

We see a young man in a brightly striped shirt who looks shyly around and who has difficulty sitting still. It is 31 May 1996, the day of the first hearing in Erdemović's guilty plea hearing for war crimes and crimes against humanity. It must be a bitter disappointment for him to have to enter the courtroom as an accused and not just as a protected witness for the Prosecution. On the other hand, there is no doubt that he has so far got off more lightly than he would have done if he had gone on trial in Yugoslavia. We do not know what has happened or been agreed in his talks with the investigators and prosecutors. But if the agreement did exist which Renaud Girard reported, then it is certainly no longer valid. It is possible that his arrest in Yugoslavia got in the way and that the proceedings started against him in Novi Sad messed everything up. Even his transfer to The Hague got into the media. As a result, it was no longer possible to use Erdemović in the usual way as an anonymous "protected witness" with immunity from prosecution. That is why there had to be a guilty plea hearing.

"Guilty plea" is a procedure in the Anglo-Saxon system of common law where a prosecutor and an accused agree on an admission of guilt which the Prosecution submits to the judges in the form of an indictment. On the basis of it, the judges decide what sentence to hand down. In continental legal systems, this procedure is controversial. It is a shortened form of criminal proceeding in which there is the usual hearing of evidence does not take place. There is also no real cross-examination in which the admission is examined and tested. The advantages and disadvantages of this procedure and its use in international criminal law have been discussed heatedly in the specialist literature, as a result of the astonishingly light sentence Erdemović was given. Laymen should stay out of such debates as far as possible. But it should be clear even to a layman that Erdemović's admission would never have made it through a traditional criminal procedure, with the hearing of evidence and cross-examination. This much is obvious after a first reading of his story in its various forms. Erdemović has told his story several times: to the reporters Vanessa Vasić-Jeneković and Renaud Girard, to the Yugoslav police and judicial authorities, to the investigators and Prosecution of the Hague Tribunal, in his own guilty plea hearing, and as a witness for the Prosecution in five trials: on 5 May 1996 against Radovan Karadžić and General Ratko Mladić; on 22 May 2000 against the Bosnian-Serb

general Radislav Krstić, who was sentenced to 46 years for genocide at Srebrenica; on 25 August 2003 against the former Yugoslav president Slobodan Milošević; on 7 and 8 May 2007 against Vujadin Popović and seven other officers of the Bosnian-Serb army; and on 6 July 2009 in the trial of General Momčilo Perišić. So there is enough material to check the credibility of the story and to look into the relevance of its individual components.

During the first guilty plea hearing on 31 May 1996, the prosecutor Eric Östberg read out the indictment. It contains, if you like, the shortest possible summary of the deed which Erdemović admits committing:

On or about 16th July 1995, Dražen Erdemović and other members of his unit were informed that bus loads of Bosnian Muslim civilian men from Srebrenica, who had surrendered to Bosnian Serb military or police personnel, would be arriving throughout the day at this collective farm. On or about 16th July 1995, buses containing Bosnian Muslim men arrived at the collective farm in Pilica. Each bus was full of Bosnian Muslim men, ranging from approximately 17–60 years of age. After each bus arrived at the farm, the Bosnian Muslim men were removed in groups of about 10, escorted by members of the 10th Sabotage Detachment to a field adjacent to farm buildings and lined up in a row with their backs facing Dražen Erdemović and members of his unit. On or about 16th July 1995, Dražen Erdemović did shoot and kill and did participate with other members of his unit and soldiers from another brigade in the shooting and killing of unarmed Bosnian Muslim men at the Pilica collective farm. These summary executions resulted in the deaths of hundreds of Bosnian Muslim male civilians. (I, p. 22)

How very circumspect the prosecutor is, whereas one expects him to give the precise number of victims! Why does he refer to “other members of his unit” when we are dealing with the seven accomplices whom Erdemović has named? Why the uncertainty about the date, “on or about 16 July”? It is said that the soldiers “were informed” that bus loads of Bosnian Muslims were coming: who informed them? And how could they be “civilian men” if they had “surrendered”? Surely it is only soldiers who “surrender”. But what is really striking about the indictment is the very careful estimate of the numbers of victims. In all the stories Erdemović has told to date — to the ABC TV station, to *Le Figaro*, and then to the Yugoslav police and judicial authorities — the figure of 1,000 to 1,200 is given for the number of Bosnian Muslims shot. The investigators for the Prosecution have interviewed Erdemović several times, the prosecutor has worked out the plea agreement with him, and Erdemović has named this figure again and again. Even in his later statements as a prosecution witness, Erdemović speaks repeatedly of 1,000 to 1,200 victims. What is the reason for the prosecutor’s carefulness now? Why has this figure not made its way into the indictment? Does it perhaps appear a little too high for the prosecutors? We know only that the prosecutors do not know themselves, because Prosecutor Östberg admits in his explanations that:

These executions at the farm resulted, as we heard in the indictments, in the death of hundreds of Muslim men. Dražen Erdemović was a member of this squad who had the task to execute the people and, indeed, he did do what he was tasked to do, and took part in the execution of these people which we have no exact figure of, but we are talking about hundreds of Muslim men. (I, p. 27)

So they do not know how many were killed. And how could they possibly know if they do not want to question anyone else who might know? And because the figure given by the accused is difficult to believe, the prosecution speaks of “hundreds” of victims. So something between 100 and 900? This lack of knowledge, incidentally, will not prevent the judges, several months later, from putting the figure of 1,200 in their judgement after all — mind you without any proof, then or now, apart from the accused’s own claim.

A further problem is the date of the massacre at Branjevo Farm. In all the statements he made before his transfer to The Hague — in the interview with ABC and *Le Figaro*, in his questioning by the Serbian authorities on 3 and 6 March 1996 — the date of 20 July 1995 is given again and again as that of the shooting. But in the indictment, for the first time, the shooting is said to have taken place on 16 July 1995. Had Erdemović made a mistake about the date up till then? And Kremenović too? What explanation is there for this sudden shift of four days? This question is not even asked in the courtroom. It is not until the Milošević trial, when on 25 August 2003 the accused was given very limited time to cross-examine Erdemović, that he is asked why he has moved away from the date of 20 July 1995 in The Hague and has given the date of the mass murder as 16 July 1995 instead. Erdemović replies that he deliberately gave a false date to the reporter from ABC, Vanessa Vasić-Jeneković, because he had not trusted her. He had later repeatedly given the same false date to the Serbian police and judicial authorities. He says he had known that the police had the video of his interview with the journalists and he wanted to avoid inconsistencies. And so why did Kremenović give the wrong date as well? For the same reason. Erdemović said that in fact it was Kremenović who has advised him to give the false date to the reporters. A very plausible explanation, to be sure. (VIIIa, p. 25234f.)

However, there is one important point on which Erdemović’s story never varies, and it is that the victims were shot in groups of 10.

A confession withdrawn

At this stage in the proceedings, the accused is expected to confirm the prosecutor's version of events, plead guilty, and wait for the judges to decide on the appropriate sentence. Naturally they want to know a little more about the accused — who he is, what is the background and context of his deed, and also how he feels about it now. But the elements of the crime themselves, as presented, are not subject to any examination and there is also no hearing of evidence, not even in the form of a cross-examination. The judges assume that the Prosecution must have done its work conscientiously for the Prosecution is, as we know, as much obliged to seek out the truth as the judges are.

On the basis of the elements of the crime, the Prosecution has raised two alternative charges against Erdemović: crimes against humanity (this includes murder) and “violations of the laws and customs of war”. Erdemović has to decide whether he pleads guilty to the first or the second charge. If he pleads guilty to one, then the Prosecution withdraws the other. But if the accused pleads not guilty, then a whole new prosecution will be launched against him. The judges therefore want to be sure that the accused understands the guilty-plea procedure correctly. Thus they repeatedly explain to Erdemović all the particularities of the procedure and draw his attention to the consequences of his various possible decisions. Erdemović decides to plead guilty to “crimes against humanity”. He has already discussed this with his lawyer, Jovan Babić. Thereupon Prosecutor Östberg summarises the elements of the crime again and in the process emphasises, for the first time, that the soldiers were “ordered” to go to the farm and that they had been given their “task” there, namely to shoot the people brought in buses. (“The soldiers ordered to this farm were given the task to summarily execute those civilian men who were brought on the buses.”) And then something unexpected happens: asked whether he has anything to add, the accused declares:

Erdemović: Your Honour, I had to do this. If I had refused, I would have been killed together with the victims. When I refused, they told me: “If you are sorry for them, stand up, line up with them and we will kill you too.” I am not sorry for myself but for my family my wife and son who then had nine months, and I could not refuse because then they would have killed me. That is all I wish to add. (I, p. 32).

In other words, Erdemović, who has just pleaded guilty, suddenly pleads not guilty. He says that he was forced to do it, that he had not wanted to do it, that he had to do it because otherwise he would have been killed and he had to

think of his wife and child. (One might add — not the wives and children of the people he killed.) With this, Erdemović brings the proceedings into a considerable state of confusion. Even the judges are confused, for they are testing the guilty plea procedure for the first time and are quite inexperienced in it. Concerned, the presiding judge, Claude Jorda, asks the accused if he knows what he is now doing and if it is clear to him that there will be different consequences for him depending on whether he pleads guilty or not guilty. Is he guilty or not? After some to and fro, Erdemović again confirms that he is pleading guilty to crimes against humanity.

However, Erdemović's sudden earlier "admission of innocence" will later play a considerable role in the appeals procedure. It will present the judges with a major jurisprudential challenge because in this case it is possible to argue that he acted under duress. The question continues to be discussed in the specialist literature to this day.

From this point on, Erdemović is to repeat the story about his refusal in several different versions, when he appears as a Prosecution witness, and he is to name Brano Gojković as the person who forced him to shoot on pain of death. How much of it is true we do not know because the prosecutors at The Hague have never shown the slightest interest in Brano Gojković. One assumes that they would not even be interested in him if he were offered up on a plate for questioning. Even the judges are evidently not interested in the other perpetrators either. It is only later, in the hearing of 19 November 1996, that they summon up the courage to ask the prosecutor carefully where Dražen Erdemović's accomplices are and why they have not been indicted. They are willingly satisfied with an explanation which in fact says nothing because they have in fact accepted the assertions made by Erdemović, which were in the indictment, as the basis of their judgement — without subjecting them to any examination. A layman might say that it is as if the Prosecution had produced the proof at the same time as the charge.

From one army to another

Already during the first hearing, Erdemović's story contains several contradictions which a normal criminal judge would not accept. It becomes really interesting, though, when one notices that the Prosecution, which is just as obliged to seek out the truth as the judges are, does not pick up these contradictions in order to get closer to the truth. In some cases, it even seems that the Prosecution is collaborating with the accused to whitewash over some of his contradictions in order to hide them from the judges and thereby also from the public at large. At the same time, there is the unexplained fact that the Prosecution shows no desire to question any of the men who committed the same deeds as the ones Erdemović has admitted to, if only to clarify these contradictions. The question why not comes urgently again and again to the fore, because Erdemović's testimony is the most important direct proof for what has been classified as the genocide of the Bosnian Muslims.

In view of the fact that the Prosecution does not want to question any of Erdemović's accomplices, the only way to get closer to the truth is to read very carefully the Tribunal's transcripts and the records of the interviews conducted in the Erdemović case. The transcripts have been made available to the public on the Tribunal's web site. There are first the hearings in Erdemović's own trial, on 31 May and 19 and 20 November 1996. Then, as has already been mentioned, Erdemović has appeared five times as a Prosecution witness in other trials, in order to tell his story as proof for the genocide of the Bosnian Muslims. These are the trials of Radovan Karadžić and Ratko Mladić on 5 June 1996, against General Radislav Krstić on 22 May 2000, against Slobodan Milošević on 25 August 2003, against Vujadin Popović and others on 4 and 7 May 2007, and against General Momčilo Perišić on 6 July 2009.

Access to the records of the questioning of Erdemović outside the courtroom is more difficult. These include his first interrogation by the Serbian investigating judge, Tomislav Vojnović, which took place in Novi Sad on 6 March 1996. Very informative too are the so-called "interviews" conducted by the investigators at The Hague on 24 April 2006, on 25 June 1996 and on 6 November 1996. All these records document interesting narrative strategies by the accused, assumptions and presumptions of the investigators — which will be later confirmed or not as the case may be — and also things the Prosecution has understood but which, for certain reasons, it does not want to reveal to the public or to the judges. But the interviews also provide a forum for the man being questioned to present a quite different image of himself from that which he gives in the courtroom, and one can see that Dražen Erdemović is accomplished at this

art. He wants something from the Tribunal, and the Tribunal — i.e. the Prosecution — wants something from him.

Therefore it is worth comparing the records of the first two interviews in the Erdemović case: the one on 6 March 1996 in Novi Sad and the one on 24 April 1996 in the Scheveningen prison in The Hague. The first record is a monologue, drawn up by the judge and signed by Erdemović. The second is an interview conducted by the investigators, Jean-René Ruez and Peter Nicholson, with Erdemović, in the presence of his lawyer, Jovan Babić. However, at the time this interview was conducted, the investigators had not seen the written record of Erdemović's questioning by their Serbian colleague.

Erdemović does not tell the investigating judge in Novi Sad or the investigators in The Hague that his first call up on or immediately after 15 May 1992 came from the Yugoslav People's Army (JNA), at that stage the only legitimate military force in the country. It is only at the hearing of 20 November 1996 that we hear him say this:

Then I was called to the army — and I forgot to tell you last time; when I came back from Belgrade I received call up papers from the barracks in Tuzla which was controlled by the JNA. I received that paper, and I went there together with — I took the paper and I told them, "Well, gentlemen, I do not want to go to any army. I do not want to take part in any war. I have seen a war. I do not know what it is. I have done my military service. I have done my year," so I just throw away that paper and I left. But nobody came to arrest me because at that time problems started between the JNA and the Ministry of the Interior of Bosnia and Herzegovina. (IV, p. 261)

In May 1992, Erdemović also gets a call-up from the Muslim controlled Army of Bosnia and Herzegovina (ABiH). He explains to the investigating judge in Novi Sad, that "Muslim policemen mainly from extremist parties" had put pressure on him to join up because, as a Croat during his military service in Vukovar, he had allegedly been on the Serbian side. But Erdemović says he refused to join the "Muslim army". For months he had hidden by staying with friends and family in order to escape conscription by the Muslim army. (p. 2, p. 3). He evidently hopes to score points with the Serbian judge by giving this explanation. He gives a similar explanation to the investigators in The Hague: he says the Muslims wanted him to join their army but that he refused. So the Muslims harassed him because of his military service with the JNA and they searched his house for weapons. But he stood firm and refused to join the ABiH (the Muslim army) because he did not want to shoot at soldiers from the JNA.

In reality, Erdemović joined the Muslim ABiH without any problems in July 1992, when he was assigned to a mortar unit. He does not explain this, though, until the Mladić-Karadžić trial on 5 July 1996:

When I left my military service the war had begun in the Republic of Bosnia-Herzegovina, and I was called up sometime in July 1992 to join the army of Bosnia-Herzegovina and I did. (II, p. 833).

This must have been an unpleasant surprise for the Prosecutor. It is simply not on for an accused to hide something from the investigators who are priming him for the forthcoming trial, and then reveal it to the judges. At the hearing in the Krstić trial on 22 May 2000, in which Erdemović appears as a witness for the Prosecution, the Prosecutor Mark Harmon asks for a short explanation from him, just to be on the safe side.

Harmon: Now, did you eventually join the Armija, the army of the Bosnian Muslim government?

Erdemović: Yes. I think it was in July 1992, I got a call-up to report to the barracks in Tuzla.

Harmon: Did you respond to that call-up?

Erdemović: I did.

Harmon: Did you serve in the Armija from July of 1992 until approximately October of 1992?

Erdemović: Yes.

Harmon: Could you describe your duties and responsibilities while you were serving in the army.

Erdemović: I was a member of a reconnaissance unit on mortars.

Harmon: Where did you serve the majority of your time?

Erdemović: In a position above Gornja Tuzla or Upper Tuzla.

Harmon: Were you on the front lines most of the time?

Erdemović: Yes. Yes, but as a reconnoitre.

Harmon: Now, when you came to the Tribunal initially and you had a conversation with an investigator from my office, Jean-Rene Ruez, did you tell him that you had served in the ABiH?

Erdemović: No.

Harmon: Subsequently, when you testified publicly under oath at the Rule 61 hearing in 1996, did you then testify about your service in the ABiH?

Erdemović: Yes. (VII, p. 3070)

It would be interesting to know why Erdemović at first hid the fact that he served on the frontline in the Army of Bosnia and Herzegovina. But no one asks him this question. He could never have scored points at The Hague with his anti-Muslim attitudes, as he might have been able to do with the Serbian investigator in Novi Sad. Possibly Erdemović thought that the Prosecutor's Office in The Hague had a record of his interrogation in Novi Sad and he did not want to contradict himself. When one reads all these documents, however, it quickly becomes apparent that Erdemović hides the truth as a matter of principle, even when

it is not necessary to do so. In certain cases he maybe has a strategy, but he also often spins yarns just for the sake of it. This makes him an extremely unreliable witness whose evidence would never stand up against serious cross-examination. The investigators therefore have every reason to be worried about him.

At some point in the autumn of 1992, a Bosnian Croat army (the HVO) is also created in Tuzla. Erdemović joins it immediately. He is offered a job as a military policeman, which is what he had been trained as in the Yugoslav People's Army (the JNA). Erdemović explains this switch between armies by saying that he wanted to avoid actually fighting by becoming a military policeman. He protests several times that he does not like waging war or shooting at people. A further advantage of the HVO must also have been the fact that the pay was better and that, unlike the ABiH, the soldiers received food rations. But above all, as a military policeman, Erdemović could "help" many Serbs. We hear these identical words in both reports. Being a good bloke, Erdemović says he helped many Serb civilians from Tuzla and the surrounding areas to flee to Republika Srpska. He slipped through the front lines over Mount Majeвица into the Serb controlled part of Bosnia. He helped the Serbs to escape, Erdemović says modestly when questioned in Novi Sad. But in the interview in The Hague, he changes the emphasis: When he was in the HVO, Erdemović says, "I took part in no crimes when I was there, on the contrary I helped Serbs who wanted to go across from Tuzla to the Republika Srpska." Unfortunately his superiors in the HVO took a different view when they caught him carrying out this lucrative help, which some people call people smuggling. The 76 Serbian civilians who had wanted to flee the part of Bosnia controlled by Muslims and Croats had to return to Tuzla. Erdemović himself was arrested. We learn further from the questioning in Novi Sad that the Muslims had beaten and mistreated him. They had wanted to know how many Serbs he had helped to cross the lines in this way. A month and a half later, Erdemović tells the investigators in The Hague that the Muslims did *not* beat him. He said it was the Croats who beat and mistreated him.

Erdemović tells the rest of his story in more or less the same terms in both interviews, with only minor tactical variations according to whether he is talking to the Yugoslav investigating judge or the investigators in The Hague. There follows his flight into Republika Srpska with his wife and child, his complaints about the ungrateful Serbs whom he helped to cross the border but who now turned their back on him, his further flight into the Federal Republic of Yugoslavia where, although there was no fighting, he could not have survived financially with his wife and child. (A naïve observer could be forgiven for thinking that a qualified locksmith would be able to find work anywhere.) So he prefers to go back to Republika Srpska, where his wife had relatives, and where there was a chance he might find a proper job. Some friends had told him that a new unit in the Bosnian Serb army had been set up in Bijeljina to which some Croats and a Muslim had been recruited. These were all people who had fled the Muslim terror, he tells the Serbian investigating judge. The military command and the Bosnian Serb soldiers had welcomed him as a good bloke. He tells the

investigators in The Hague that the unit was composed of eight men: six Croats, a Muslim and a Slovene. They operated behind enemy lines and carried out attacks on bridges, military depots and artillery stations belonging to the Muslim government army. Until the capture of Srebrenica, the unit had never been tasked with killing people. In April 1994, Erdemović was recruited to this unit — the 10th Sabotage Unit of the Bosnian Serb army.

This, in short, is the prehistory of Dražen Erdemović with its variations, as he told it in the first two interviews. We will return later to further variable secondary narratives and details. But the basic elements of the main story about the massacre of 1,200 Muslim civilians at Branjevo Farm near Pilica on 16 July 1995 remain unchanged and free of contradictions throughout all the interviews and hearings, in the sense that the teller does not contradict himself with significant changes when he repeats the story. The main problem with its credibility is “technical”: whether it is possible to shoot 1,200 people in five hours, especially in the way described by Erdemović.

The disrupted line of command: I

A further crucial difficulty which, to this day, the Prosecution has never managed to overcome is the command structure within the execution commando which committed mass murder on the orders of the General Staff of the Bosnian Serb army, and as the final link in the chain of command. The difficulty looms in the very first two interviews, in Novi Sad and in The Hague. In Novi Sad, Erdemović names as commander of the unit a private soldier, Brano Gojković. Every time he mentions his name, he calls him commander or commanding officer. This immediately raises the question whether he means commander in the military sense, because among the members of this unit there are soldiers who are senior to Gojković in rank. How could Gojković be in command? In the interview in The Hague on 24 April 1996, conducted by the investigators Ruez and Nicholson in the presence of the lawyer, Babić, the question comes up about the line of command in the 10th Sabotage Unit: the head of the unit is Milorad Pelemiš; his deputy is Lieutenant Kremenović; the leader of the Vlasenica platoon is some Lieutenant Lule whose full name Erdemović does not know; and the leader of the Bijeljina platoon, to which Erdemović belongs, is Lieutent Franc Kos. A little later, Erdemović describes the situation at Branjevo Farm. An anonymous lieutenant colonel apparently took the unit there in order to shoot civilians. Investigator Ruez asks Erdemović whether Gojković took over command at this point and Erdemović answers that, yes, when the anonymous Lieutenant Colonel left, Gojković took command. Does he know the names of the other members of the unit, asks Ruez, who suddenly starts to get suspicious. Erdemović lists them. The first name he gives is that of Franc Kos. The lawyer Babić asks astonished, "That commander? Gojković and another one?" There thus arises an almost unintelligible confusion of questions and explanations during which Erdemović replaces one unbelievable explanation with another:

Ruez: Brano Gojković, wasn't he normally under the orders of Franc Kos?

Erdemović: No, Brano Gojković was from the Vlasenica platoon. I do not know why he was appointed commander on that occasion. And who appointed him and why.

Ruez: All the other members of this team were usually under the command of Franc Kos?

Erdemović: Only myself, Zoran, Stanko and Marko Boškić were under Franc Kos' orders. Cvetković Aleksandar was there too.

Ruez: Dražen, Marko and Stanko ...

Interpreter: And Zoran. Have you got the last one, that is Alexander Cvetković?

Nicholson: Aleksandar is the first name?

Ruez: The first name.

Babić: Zoran, Marko and? What was the last one called? Cvetković Aleksandar?

Erdemović: He was not under our command. He was in Vlasenica.

Nicholson: So which ones were under Kos' orders?

Ruez: Under Kos's orders Zoran ...

Interpreter: Zoran, Stanko, Marko and Dražen.

Erdemović: And the others were from Vlasenica (the Vlasenica platoon).¹⁴

Erdemović's lawyer demonstrates with his astonished question that this is the first time he has heard that his client's platoon commander was part of the execution unit. Is he saying there were two commanders, Kos *and* Gojković? With this, Erdemović's story loses all credibility. The investigator Ruez asks for an explanation and Erdemović gives it to him: he and three other soldiers from the Bieljina platoon were under the command of Franc Kos, the commander of the Bieljina platoon, while the others were under the command of Gojković. This makes the story even more unbelievable than before, but Ruez ultimately behaves as if it were indeed possible that in one unit some people were under the command of Franc Kos and the rest under Gojković. What else can he do because otherwise he would have to call the whole of Erdemović's story into question? Is it Ruez's task to establish the truth or to sustain an unbelievable story? (Interestingly, in the English language version of the interview report, the lawyer Babić's astonished first question is missing!) And then Erdemović adds that he did not know why Gojković was then appointed commander, by whom or how. It is important to remember this point because later Erdemović is to say that he knows exactly who appointed Gojković commander: the company chief, Pelemiš.

Instead of questioning even one of the other perpetrators in order to achieve some clarity, Ruez seeks refuge in a semi-pragmatic solution. He tries to clarify the matter along the lines that only the four soldiers from Franc Kos' platoon were under his command while the others from the Vlasenica

¹⁴ See p. 25f. of the English version of the transcript, p. 17 of the Serbian version. The two transcripts differ. Among other things, in the Serbian version, the last remark is attributed to the interpreter; in the English version to Erdemović. The word "platoon" at the end is missing from the English version but present in the Serbian. The remarks by the lawyer, Jovan Babić, ("That commander? Gojković and the other one?") are missing from the English version.

platoon were not. At the end, however, he accepts that all eight were under the command of the soldier Brano Gojković after all: “Did the Lt Col spoke only to Brano or did he speak also to Franc Kos?” Answer: “Only Brano.” “So ... once the Lt Col is gone, Brano gives you the instructions to the team.” This how Ruez explains the situation. (ibid.)

But the problem is still nowhere near being cleared up. To say that an ordinary soldier can give orders to the commander of a platoon is just as absurd as saying that a unit with eight men can have two commanders, a lieutenant and an ordinary soldier. There is something fundamentally wrong with the line of command as presented by Erdemović, and this calls his whole story into question. But the Prosecution needs this story for the coming trial against Radovan Karadžić and Ratko Mladić. It needs a unit with a clear line of command which receives orders from the General Staff and carries them out. It does not need a bunch of mercenaries who have just been thrown together. Is this perhaps the reason why the investigator Jean-René Ruez does not want to know what is going on with these contradictions by the star witness?

Questioning someone who is unfit to be questioned

In the “sentence hearing”, which is divided up into two sittings, the judges want to question the accused in greater detail in order to be able to arrive at the appropriate judgement. At issue is obviously not the elements of the crime. These are what they are. Instead, they want to ask Erdemović about himself and his story, and they want to know what led him to commit his deed. Two witnesses for the accused are also to be heard, who will testify about his good character. But the judges deem it necessary first to commission a psychological and psychiatric report on the accused. He gives the impression of being confused, and it is soon apparent that his mental state is unstable and a cause for concern. The hearing is set for 8 and 9 July. But the report is delivered on 27 June 1996 and unfortunately it states that the accused is unfit to be questioned. The psychiatrists establish that Erdemović is suffering from serious post-traumatic disorder. As a result, he cannot appear before the court and he must be spared further questioning. The doctors say that they will review his mental health in six or nine months to see if it has improved enough for him to be questioned again. There is nothing to be done, so the judges suspend the proceedings. The next hearings and the judgement will take place in November 1996 once the mental condition of the accused has stabilised.

However, the fact that the accused is unfit to be questioned does not seem to prevent him from appearing as a witness one month later. On 5 July 1996, Dražen Erdemović, whom the psychiatrists have proclaimed to be unfit to be questioned, appears as the star witness in the trial of Radovan Karadžić and Ratko Mladić. The call of justice simply does not allow this trial to be delayed until such time as the two miscreants are actually apprehended. The procedure, therefore, takes place in the absence of the two accused (in reality it is a hearing) and Dražen Erdemović is allowed to present his totally untested story as proof of the guilt of Mladić and Karadžić for the murders committed at Srebrenica. By confirming that the mass murder, to which he has confessed, was committed on the orders of the General Staff of the Bosnian Serb army, Erdemović provides the basis for the international arrest warrant issued against the two criminals.

Specialists should be left to think about the procedural and technical particularities of the trial against Karadžić and Mladić in the absence of the accused. Rule 61 of the Rules of Procedure of the Yugoslav Tribunal provides for such hearings. But the main issue at this hearing is Dražen Erdemović’s story, which he will tell the first time in the witness box. Himself an “accused”, Erdemović is now being questioned as a “witness for the Prosecution”, and by the same judges — Claude Jorda, Elizabeth Odio Benito and Fouad Riad — who only

short while earlier declared him unfit to be questioned on the basis of a medical report. Before his sentence is determined in his guilty-plea procedure, which has in any case been suspended for an indefinite period, Erdemović is now being asked if he would kindly testify as a Prosecution witness in another trial. This is a trial which is of the greatest possible importance. And to make sure that everything goes off smoothly, Erdemović is called as a witness by the very same prosecutors who issued the indictment against him, namely Eric Östberg and Mark Harmon. Nothing can go wrong if the presiding judge, Jorda, explains how it is that the accused, whom he has himself declared unfit to be questioned, is fit to be questioned as a Prosecution witness in another trial over which he is also presiding:

I would like things to be quite clear. The sentencing procedure has been deferred because we have asked for some further medical information. But now you are here as a witness for the Prosecution. You have indicated that you are willing to testify. Your counsel, with your agreement and with your interests at heart, also wished you to testify. There are some very specific Rules within our Rules of Procedure and Evidence that state that an accused may, of course, testify and that might be taken into consideration in future deliberations. (II, p. 831 f.)

What the judge says is not quite right. The medical report saying that Erdemović is unfit to be questioned was made available on 27 June 1996. But here, at the beginning of the Karadžić-Mladić trial on 5 July, the judge is saying that further medical information has been requested. Moreover, not only does the judge have no objections to the fact that the Prosecutor calls a clinically certified psychologically unstable accused as a Prosecution witness in another trial, he also makes a point of reassuring Erdemović that in “future deliberations” — i.e. with respect to his own sentence — his evidence as a witness for the Prosecution “might be taken into consideration”.

The Accused as Witness for the Prosecution

The Prosecution finds nothing objectionable in using an accused as a witness in another trial before the judgement and sentence have been handed down in his own case. It is also perfectly normal practice to let someone know that he has the status of a suspect and then to question this potential accused as a witness. Such a person is thus used as a Prosecution witness in another trial before his own indictment is issued — or not, as the case may be. As a result, the suspect certainly knows how he is supposed to behave as a witness. Experience shows that this sequence of events has a salutary effect on the readiness of an accused to produce the truth, as the Prosecution understands it, in the other trial. For the Tribunal, this procedure seems to have proved its worth.¹⁵

After all, there is no truth without justice, as the Chief Prosecutor of the Tribunal is fond of saying.

During the examination-in-chief, conducted by the Prosecutor, Mark Harmon, on 5 July 1996, Erdemović's story is heard for the first time in the courtroom so that the public gets to hear it too. We hear that Erdemović was born in Tuzla in Bosnia as a Croat in 1971. Before he was drafted into the Bosnian Serb army, he did his military service in the Yugoslav People's Army, the JNA. In March 1992, his military service over, he returns home but war then breaks out in Bosnia and all ethnic parties create armies. In April, Erdemović reports for duty with the Army of Bosnia and Herzegovina (ABiH). This is the Muslim controlled army. Three months later, he joins the HVO, the army of the Bosnian Croats. He stays there longer, until November 1993, when he clears off to Republika Srpska and joins the Bosnian Serb army shortly afterwards. It is a fascinating case of swapping uniforms in the middle of the supposedly ethnic Bosnian civil war. The prosecutor, Harmon, shows however not the slightest interest in his witness' untypical wanderings through the armies of all three warring factions. It is only at the end of the session that Judge Riad asks the witness incidentally what *pushed* him, as a Croat, to join the army of the Bosnian Serbs. Erdemović's answer is that he had no choice, that he had to look after his pregnant wife and make enough money to live off.

¹⁵ For instance, in the Milošević trial there were several witnesses for the Prosecution against whom indictments had already been issued (among others, Milan Babić, a politician from the so-called Serb Republic of Krajina, who committed suicide after being convicted) or who had the status of suspect and were expecting an indictment to be issued at any moment (among others, General Aleksandar Vasiljević, head of the Military Intelligence service, KOS, who ended up being spared an indictment).

Judge Riad: Sorry to add this, you mentioned that in April 1994 you joined the army of Bosnian Serbs. You, being a Croat, what pushed you to join this army?

Erdemović: Your Honour, the war in Bosnia-Herzegovina was quite awful. First, I was in the army of the Bosnian Muslims, then of the Bosnian Croats and at the end of the Bosnian Serbs. I did not want to join the army, but I had no other choice. I had to join the army to have somewhere to stay, because I had my wife with me who was pregnant and that was the only motive, I did not have anywhere to go, to join the army. (II, p. 854 f.)

There is no doubt that Erdemović is not a Croatian nationalist for otherwise he would not have joined the army of the Bosnian Serbs. As a Croat he could in any case not be a Serbian or Muslim (Bosnian) nationalist. Besides, his father was a Serb and his mother a Croat, as he mentions in passing. Also his wife is a Serb. Erdemović is someone who at the time was called “a Yugoslav”, and not just because of his ethnic origin. So what does he have to do with this ethnic-nationalist war in which he constantly changes sides? Erdemović gives a very plausible explanation which unfortunately no one listens to properly. He says he had no choice, he needed to feed his family, he had to earn enough to live on. Erdemović’s profession is locksmith, but after he left his training college he never once exercised this trade. Circumstances were just like that, he says. As a soldier in the Yugoslav People’s Army, he learned a new trade, war came and this new trade turned out to be more interesting and better paid. In other words, in the Bosnian civil war, Erdemović was a mercenary. The 10th Sabotage Unit, incidentally, is also a mercenary unit, whose original composition reflected the Yugoslavia of the time when it was composed of a dozen men: a Slovene (Franc Kos), several Croats and Muslims and a few Serbs. All this we learn from Erdemović himself, although later. These soldiers are interested in money, not in this or that national cause. This is in no way to denigrate mercenaries: after all many democracies have professional armies, and in any case why should a nationalist who murders out of conviction be a better person than a mercenary who does his work almost like a profession? It is simply a matter of fact, but one has to bear it clearly in mind, or else much remains inexplicable in the whole affair, and not just Erdemović’s wandering from one army to another.

All this is of no interest whatever to the Prosecutor, he has dedicated himself to seeking another truth and so he wants to bring the accused as quickly as possible round to the only question which is at issue here, namely whether the accused as a member of a special unit of the Bosnian Serb army was under the command of the General Staff of the Bosnian Serb Army (VRS), whose chief was General Ratko Mladić. What is at stake in this hearing is nothing less than an international arrest warrant against Mladić and Karadžić, and Erdemović has to provide the proof that the mass murder at Branjevo Farm was committed on the orders of General Mladić. So the witness confirms that he was recruited to

the 10th Sabotage Unit of the VRS in April 1994, and that this unit was assigned to the Chief of Staff and the General Head Quarters of the Army of Republika Srpska in Han Pijesak.

Harmon: At the time of the Bosnian Serb attack on Srebrenica, who was the commanding officer of the 10th Sabotage unit?

Erdemović: Its Commander was Milorad Pelemiš.

Harmon: To whom in the Bosnian Serb Army chain of command did Lieutenant Pelemiš report?

Erdemović: He accounted to Colonel Salapura of the army of Republika Srpska.

Harmon: Where was Colonel Salapura assigned?

Erdemović: I thought I said he was reconnaissance officer in the headquarters of the army of Republika Srpska.

Harmon: When you say the “headquarters”, are you saying that he was assigned to the intelligence centre of the main staff at Han Pijesak?

Erdemović: Yes.

Harmon: So, as I understand it, Mr. Erdemović, your particular sabotage unit was directly subordinate to the main staff of the Bosnian Serb Army in Han Pijesak; is that correct?

Erdemović: Yes, yes, it is. (II, p. 835f.)

With this, the line of command is described very clearly. It leads via Pelemiš and Salapura to General Mladić in Han Pijesak, and it should therefore be proven that General Mladić is responsible for the murders at Srebrenica. Would Colonel Salapura and Lieutenant Pelemiš not be competent witnesses to answer the question who gave orders to the 10th Sabotage Unit? Instead, a psychologically disturbed and apparently demoted sergeant is asked instead. In their judgement, the judges are later to praise Erdemović explicitly for his testimony, which contributed to the issuing of the international arrest warrant against Mladić and Karadžić, and when reflecting on his sentence they do indeed take into account and recognise his evidence.

The order to kill — issued by a private

The nature and composition of the 10th Sabotage Unit seems to interest the prosecutor only very slightly when Erdemović gives evidence in the hearing on 5 July 1996. This really is a pity. We learn anyway that at the beginning this unit was composed of Bosnian Croats and Muslims and that later, when several Serbs were recruited, it reached the size of a small company, with 60 or 70 men. This Sabotage Unit, made up of two platoons, mainly undertook operations on enemy territory, like blowing up bridges or destroying artillery stations. There had also been missions to capture and liquidate members of the enemy forces behind the front lines, something Erdemović is less keen to mention but which can be found in the record of the interview conducted in Novi Sad. During the interview in The Hague, on the other hand, he vehemently denies that there were such operations. He says that he had at first been the commander of the 1st Group of this unit with the rank of sergeant, but that later he had been demoted because he had refused to carry out an order which could have led to casualties.

Harmon: What were your duties and responsibilities in that unit?

Erdemović: At the outset, I engaged in reconnaissance in the territory familiar to me, that is, in the direction of the town of Tuzla. Later on after that, I became the Sergeant. I was the Commander of the 1st Sabotage group in Bijeljina.

Harmon: Ultimately, when you left that unit, was the highest rank that you achieved the rank of Sergeant?

Erdemović: Yes, I only wish to say that I spent two — that for two months I was the Commander of the group and I had the rank of a Sergeant, but I ended up being demoted because I disagreed with some decisions of my superiors. They demoted me and I was also no longer the Commander of the 1st Sabotage group. After some disagreements, after a mission which I had said I did not want that mission accomplished because it concerned, because it would involve human casualties, human victims. (II, p. 834 f.)

That is what he says. According to the first judgement handed down in his case on 29 November 1996, there is apparently neither any document, nor any confirmation by a witness, about the rank and demotion of Erdemović. (One is tempted to add that it is the Prosecution that ensured there was no confirmation by a witness.) The company commander of the 10th Sabotage Unit is Lt. Milorad Pelemiš whose immediate superior was Col. Petar Salapura, an intelligence of-

ficer with the General Staff of the Bosnian Serb army in Han Pijesak. Now the witness needs only to testify about the massacre, which his unit is supposed to have carried out on the orders of the high command of Bosnian Serb army with General Ratko Mladić at its head. The Prosecutor moves on to this but unfortunately the witness' testimony suffers a small glitch.

Harmon: Mr. Erdemović, I now would like to turn your attention to 16 July (1995) and ask you whether on that day you and other soldiers in your unit received orders to participate in a special detail?

Erdemović: No, no. I was not conveyed personally any of those orders, but the Commander who was commanding at the time may have issued that order to somebody about that particular task. (II, p. 839)

Is that all clear? Who might this somebody be who is supposed to have given the order about "that particular task"? With a new question, which is not supposed to be suggestive and which therefore sounds rather funny, the Prosecutor offers his witness a second chance to clarify the issue about the order and who received it.

Harmon: Did you receive orders at all that day from anybody in relation to a task or a mission that ultimately you went on?

Erdemović: Yes.

Harmon: From whom did you receive that order?

Erdemović: From the group Commander, Brano Gojković.

Harmon: Was he of normal rank? I am sorry, let me rephrase that question. Did he normally give your unit orders to perform certain missions or was this an exception?

Erdemović: Yes, it was an exception. (II, p. 840)

How interesting. The witness calls Brano Gojković a group commander. The Prosecutor knows full well that Gojković is a private soldier. He also knows the earlier interview with the witness and his investigators, and it is clear to him that it does not sound very convincing to call this Gojković a group commander who gives orders to the other soldiers. And not just any old orders but the order to commit a very serious crime. The question about Gojković's rank and his authority to issue orders ("Was he of normal rank?") slipped out by accident. "Sorry," he says and then conceals his slip by "rephrasing the question" and asking whether it was normal that a private soldier like Gojković gave orders, or whether this was just an exception. Erdemović promptly confirms that it was indeed an exception. So that's that. This 10th Sabotage Unit must have been a remarkable troop in which an ordinary soldier, even as an exception, can take command of a unit in which there is a lieutenant present. These are strange issues, all of which could be cleared up if only the other participants could be questioned. But this has never happened. Erdemović does try to present this rather tricky matter in a slightly more acceptable light when he mentions briefly

that the orders in fact came from a mysterious lieutenant colonel who acts in the background and who communicates from time to time with the private soldier, Brano Gojković. By obeying the order of Private Brano Gojković, the execution squad is in fact carrying out the orders of a lieutenant colonel whom nobody knows and who has never even introduced himself to the men. All this we have to take from Erdemović because there is no other source.

Up until this point, Erdemović has given no information at all to the judges about the soldiers who lined up with him and get ready to shoot prisoners under the command of Gojković. The Prosecutor asks whether he can name them and Erdemović does so: Franc Kos, Marko Boškić, Zoran Goronja, Stanko Savanović, Brano Gojković, Aleksandar Cvetković and Vlastimir Golijan. What the judges do not yet know, but what the investigators and the Prosecutor have in the meantime established, is that Franc Kos, a Slovene, is the commander of the first platoon of the 10th Sabotage Unit. With 60 men, this unit is the size of a company and is composed of two platoons, the Bijeljina platoon and the Vlase-nica platoon. Franc Kos, who has the rank of First Lieutenant, is the commander of the Bijeljina platoon, to which Erdemović also belongs. Very wisely, Erdemović does not explain all this to the court until four years later, on 22 May 2000, when he appears as a witness for the Prosecution in the trial of General Radislav Krstić. By this time, he has already served out a very light sentence and has got everything over and done with. How could Erdemović make it believable that for this “special detail”, as the Prosecutor calls it, Brano Gojković, as a simple soldier, became the platoon leader’s commander? This is why he does not mention Franc Kos’ rank, and every time refers to Gojković as “our commander”. This also explains the very careful questioning by Prosecutor Harmon as soon as he approaches this tricky subject. And when a judge asks a direct question about it, the investigator, who in this session has taken the witness stand, disguises the tricky issue in the following way:

Judge Riad: What about superiors, did he tell you who his superiors were?

Witness Ruez: Yes, he gave the name of the leader of the execution squad as well as the names of the seven other members of the Unit. (III, p. 160)

Not a word about the fact that one of these names is that of Erdemović’s real commander, the platoon commander. The whole tricky issue is bracketed out. The accused and the accuser together present the judges with a false story. Is this perhaps the reason why no one wants to question or indict any of Erdemović’s accomplices?

Cross-examined and contradicted by no one, Erdemović sticks to his story according to which Gojković is “the commander of the group” and gives orders to the execution squad.

The Deed

Eight members of the 10th Sabotage Unit of the Bosnian Serb army met on the morning of 16th July 1995 at Branjevo Farm near Pilica not far from Zvornik: Franc Kos, Marko Boškić, Zoran Goronja, Stanko Savanović, Brano Gojković, Aleksandar Cvetković, Vlastimir Golijan and Dražen Erdemović. There is also an unidentified Lieutenant Colonel and two military policemen, whom we can leave aside for the moment since they quickly leave and are not involved in the massacre. After some whispering with the lieutenant colonel, who then leaves, Brano comes back to the group and informs them that buses are about to arrive carrying Muslims from Srebrenica whom they must shoot. Shortly thereafter, around 10 o'clock, the first bus arrives. Inside are men between the ages of 17 and 70, accompanied by two military policemen. Most of the men in the first bus have their hands tied and are blindfolded, but not in the later buses. When the first bus arrives, Gojković indicates how the shootings are to be carried out: the two policemen each take a group of 10 men out of the bus, whereupon Brano Gojković and Vlastimir Golijan lead them off to the place of execution. This is located in a field which is either 50–100 or 200 metres from the buses, depending on which of Erdemović's versions you read. The rest of the unit is waiting there. Each group of 10 men is taken to this spot and made to stand, with their backs turned, about 20 metres from the unit. Then Brano Gojković gives the order to fire. In all his court appearances, Erdemović confirms that they always brought a group of 10 men for execution. Later the Prosecutor asks about the number of buses which drove up on this day at uncertain intervals. Erdemović says he does not know exactly but it must have been between fifteen and twenty, he says (II, p. 845). Were the people in every bus dealt with in the same way, he is asked? Were they all executed at this farm? That is how it was, confirms Erdemović. But he says something very interesting about the behaviour of the bus drivers and it is important to notice this:

Prosecutor: Let me ask you, Mr. Erdemović, what was the attitude of the bus drivers who drove the victims to Pilica farm?

Erdemović: They were horrified. I think those people, those men, did not know that they were being driven to the execution ground. They probably thought they were being led for exchange and that is what this man that I talked to, the one between 50 and 60, actually told me, that it had been promised them. (II, p. 848)

Is it not remarkable that the Prosecutor betrays not the slightest further interest in this statement? What might have horrified the bus drivers? Is it really

the case, as the witness thinks, that the bus drivers has been given the task of taking the prisoners, accompanied by two military policemen, to be exchanged for Serb prisoners? What gave him grounds for thinking that? It is well known that in the Bosnian war there were regular exchanges of prisoners between the warring parties. Could it be possible that there had been an order from the military leadership to drive the prisoners to be exchanged and that, in contravention of this order, the buses were stopped on the way to the border and diverted to the farm in order to shoot the prisoners?¹⁶ And could that be the reason why the bus drivers were horrified? If so, this would throw a very different light on the whole affair. But the prosecutor thinks that it is not worth asking any further questions about the horrified reaction of the bus drivers, and he escapes by moving on to the next question. It is a real pity that no judge is curious about the attitude of the bus drivers either. To put it mildly, the search for truth has been ill served. Could it be that the Prosecutor is not interested in exploring this possibility because it would weaken the proof that the prisoners were shot on the orders of General Mladić? If there really had been an order to exchange the Muslim prisoners for Serb ones, who gave the order and who failed to carry it out? Questions and more questions. Are these questions not put because the prosecutors and the judges want only the proof that this massacre occurred on General Mladić's orders, and because they therefore do not want to know anything which might lead them away from this proof? These are all of course speculations, but none of them would be necessary if the prosecutors had fulfilled their duty to seek the truth and had questioned other perpetrators as well.

The prosecutor then wants to know when the last bus arrived. Erdemović says he does not know exactly but that it must have been between 3.30 pm and 4 pm. He does remember, though, that with the last bus a group of 10 soldiers from Bratunac arrived to help out. They took over the shooting of the men in the last bus and behaved differently from the way his own group behaved. They beat the prisoners with iron bars, they insulted and humiliated them, they forced them to kneel and to pray in the Muslim manner before shooting them. Erdemović seems to be sincerely outraged by this. (On the other hand, he told the investigating judge in Novi Sad on 6 March 1996 that it was the soldiers from his unit who had insulted, humiliated and beaten then men, although he himself had not done this.) Then he tells how he tried to save an old man. This man had claimed that he had many Serbian friends, he had leafed through his note book and shown Erdemović several phone numbers of these friends. Erdemović had then tried in vain to convince his commander Brano Gojković not to shoot this man. But Gojković had not wanted there to be any surviving witnesses, at which point Vlastimir Golijan took the man away and shot him. Erdemović had been unable to prevent it, he found the whole thing quite shocking. He had also argued with Vlastimir about the old man but it had made no difference. How much of this is true? Gojković and Golijan would know but no one has asked

¹⁶ Slobodan Milošević was the first to confront the star witness with this question in his cross-examination on 25th August 2003.

them. And so Erdemović against takes the opportunity to talk about himself and about how he had desperately tried to disobey Gojković's order to shoot. At the same time, he tries to make the command position of Gojković more believable. Asked whether he had obeyed the order to shoot, Erdemović declares:

Erdemović: Yes, but at first I resisted and Brano Gojković told me if I was sorry for those people that I should line up with them; and I knew that this was not just a mere threat but that it could happen, because in our unit the situation had become such that the Commander of the group has the right to execute on the spot any individual if he threatens the security of the group or if in any other way he opposes the Commander of the group appointed by the Commander Milorad Pelemiš.

Harmon: OK. (II, p. 845)

So the company commander, Milorad Pelemiš, had appointed Private Brano Gojković as group commander, and given him the right to shoot on the spot anyone who contradicted him. And the Prosecutor accepts this explanation of Erdemović's with a simple "OK".

Asked how many prisoners in total his group and the group from the Bratunac brigade shot at the farm, Erdemović answers repeatedly that it must have been between 1,000 and 1,200. The corpses had all been left lying in the field where they fell. 1,200 corpses in a field, just imagine. Ditch-diggers would come and bury them all on the spot, someone said. And then the secret lieutenant colonel pops up again from somewhere. Yes, he must of course have seen the corpses. No, he had made no comment about it. But he had said that in the Cultural Centre in the village of Pilica there were another 500 Muslims from Srebrenica and that they all had to go there to complete that task too. At this, Erdemović said no, loud and clear. Remarkable. At first, Erdemović does not dare to disobey Private Gojković but then he refuses to obey the order given by a lieutenant colonel. Enough is enough, Erdemović had said, he did not want to kill anyone, he was not a "robot for the extermination of people"! (II, p. 850). Other members of the group supported him. Which ones, Prosecutor Harmon suddenly wants to know, and Erdemović names Franc Kos, Marko Boškić and Zoran Goronja. The Prosecutor then asks why he refused at this point and Erdemović replies resolutely, "Because I just could not take it any more!" If only he had summoned up this courage earlier, one thinks as an observer in the public gallery. The group from Bratunac was then happy to take care of the shooting of the 500 Muslims in Pilica.

In conclusion, the presiding judge in the case against Karadžić and Mladić, Claude Jorda, wants to know, just to be sure, why Erdemović was willing to give evidence. In response, he receives at first an admission of a sense of guilt. ("I wanted to testify because of my conscience." II, p. 824.) But in the very next sentence he takes it back again: he had had to chose between his own life and the lives of others, and if he had lost his own life it would not have changed the fate of these people because their fate had been sealed by someone in a higher

position than him. (II, p. 855). Maybe that is true, the observer thinks in the public gallery, but this someone relied on people like Erdemović.

The prosecutor closes with a question about the shooting in the bar which took place in Bijeljina when Erdemović went home after the massacre at Branjevo Farm. Had he been badly wounded? Erdemović confirms that he was. The prosecutor then wants to know who shot at him. Erdemović replies that it was Stanko Savanović who had claimed at Branjevo Farm that he had killed between 200 and 300 prisoners. Then the judges also want to ask the visibly exhausted witness some questions. Would he like to take a break? No, says Erdemović, he would rather it was all over quickly because he was finding it all very hard. (II, p. 852) The judges show understanding for this, but they seem to have completely forgotten that he is suffering from post-traumatic stress disorder and that he is unfit to be questioned. So there should not be too many questions. One of Judge Riad's questions is why Stanko shot him. He did not shoot him alone, Erdemović elaborates, but also two of his colleagues who also opposed the orders of the commander and other members of the unit. Someone, probably Brano Gojković, must have reported Erdemović to the Company Commander Pelemiš for his stubborn behaviour during the shooting, and Pelemiš must have thought to himself: one day, this Erdemović will testify against me. And that's just what I'm doing now, Erdemović adds proudly.

Judge Riad: This is my last question. You said that after you left Pilica farm you were shot at by this man called Stanko. Why did he shoot at you?

Erdemović: Well, my assumption is that someone, one of those men (and I think it was Gojković Brano), had conveyed to the Commander of my unit my behaviour at the farm and that probably they had reached the conclusion that I just could not stand it and that, perhaps, I do not know, that I might do what I am doing today, that is, testifying against it. (II, 853)

In the second hearing in his own case, on 19 November 1996, Erdemović is to give the judges a rather different explanation: he was shot at because he had been disobedient at Branjevo Farm and he had initially opposed the order to shoot. Asked by the judge why he did not simply refuse to obey the order, Erdemović pulled his shirt up and showed the scars from the shooting: "I will show you what I got because I refused this order in Pilica." (III, p. 197). Is this explanation any more convincing than the first? And finally, as a witness in the Milošević trial, testifying on 25 August 2003, Erdemović is to claim that he cannot remember at all why his colleague Stanko Savanović shot him. He just cannot remember. (VIIIa, p. 25222, VIIIb, p. 348.)

A little arithmetic

In its later variants, which he presents first as an accused and later as a witness for the Prosecution, Erdemović embellishes his story with new narrative details which may improve its literary quality but not its credibility. Among all the contradictions, inconsistencies and other variables, there is one invariable element: the shooting of between 1,000 and 1,200 Muslim prisoners at Branjevo Farm in groups of 10. Outside the courtroom, however, in the so-called interviews with the investigators (which are in fact interrogations) Erdemović says that he does not know himself how many prisoners were shot at Branjevo Farm on 16 July 1995. When he was first questioned on 6 March 1996 in Novi Sad, he told the investigating judge, Tomislav Vojnović, that maybe 15 or 20 buses had driven up. As far as victims were concerned, he did not know exactly but he “estimated” it must have been about 1,200. (p. 6, p. 6). The transcript of the interview with the investigators in The Hague on 24 April 1995 quickly makes it clear why the indictment speaks so carefully of “hundreds of Bosnian Muslims”. When the investigator, Jean-René Ruez, asks Erdemović if he has any idea how many people were executed, Erdemović replies that he cannot say exactly. He thinks it could have been 1,200 but that he really does not know. He was thinking of the number of buses and besides some of the soldiers said how many people they had shot themselves. (p. 6, p. 5) Several times, Erdemović indicates that he shot between 70 and 100 people himself. According to the transcript, he says however that he did not count them, it was a terrible thing for him, how could he possibly have counted them. “Fewer than 10 or more than 50?” Ruez asks. “Not less than 10 but I really cannot give an exact figure.” (p. 33f.; p. 22).

If we summarise the story of the massacre once again and add in the later variants, this should contribute to a little clarity. On 16th July 1995, eight perpetrators shot 1,200 Muslim prisoners or civilians at a farm near the village of Pilica, 40 km North of Srebrenica. The first bus with between 50 to 60 prisoners arrived between 10 am and 11 am. In this first bus, the prisoners are bound and blindfolded, but not in the later buses. The place of execution is about 50, 100 or in later versions 200 metres from the bus, in a field. The eight perpetrators first stand in a line between the bus and the execution spot. The prisoners are fetched out of the buses in groups of 10. They are made to empty their pockets and to throw their identity cards into the corner of a nearby garage. Then the victims are led past the perpetrators to the place of execution and made to stand with their backs to them. The executioners have meanwhile lined up in parallel to the victims at a distance of 20 metres. Then on Brano Gojković’s command, they open fire on the victims with their Kalashnikovs set to fire single shots. At the

end, they check whether all the victims are dead and any still alive are finished off with a pistol. It is usually Stanko Savanović who takes care of this. At that point, the executioners again stand in a line next to the bus while Brano Gojković and Vlastimir Golijan fetch the next group of 10 out of the bus.

In all his statements, Erdemović explicitly confirms that this same procedure was used for every group. Every time only 10 victims are fetched out of the bus. With the last group from the first bus, they experimented with a M-84 machine gun. Brano Gojković and Aleksandar Cvetković had the idea of using this heavy machine gun to speed up the work. But most of that group of 10 were only wounded. They then all had to be finished off with a pistol, which was a complete waste of time. Some of the executioners could also not stand the screaming and imploring of the wounded any longer, and a long argument broke out. So after the second or third group the machine gun was put away and they returned to the tried and tested method, Kalashnikovs set to fire single shots. Erdemović had also spent a long time talking to an old man who said he had Serbian friends. The man had leafed through his note book and shown him several phone numbers of his friends, at which point Erdemović had wanted to save the old man's life and tried in vain to convince his superior, Brano Gojković, not to shoot this man. But Gojković had not wanted any witnesses to survive and he had the man shot after all. At some point after the second or third bus the drink ran out and so the driver Cvetković got into his car and went off to get more supplies. At 1pm or at 2 pm or at 3 pm, depending on the statement, a group of about 10 soldiers arrived from Bratunac to help out. They greeted them, they shook hands, some of them knew each other personally. Then Erdemović and the rest of his group did not want to continue and they remained slightly to one side while the group from Bratunac finished off the shooting. The executioners from Bratunac took the time to beat the victims, to insult them and to humiliate them. For instance, they were made to kneel down and pray in the Muslim manner. Erdemović also noticed that these soldiers knew several of the victims personally. One of them tried to escape but they ran after him, caught him and shot him. All that takes time. In the meantime they were drinking slivovitz and smoking, and by 3 pm or so they had finished with the 1,200 victims. They just left the bodies lying where they fell, group by group, so that by the end the field must have been covered with up to 1,200 corpses. Just imagine.

Let us assume that they shot a group of 10 every 10 minutes. Even this would be an extremely short time span in view of all the details given about the procedure. In total there would have been 120 groups of 10 prisoners. If they are supposed to have shot group after group within a time of 10 minutes each, which is already an unreasonable tempo, then it would need at least 20 hours to shoot 1,200 people. No judge would normally fail to make this simple calculation. But not the judges of the Hague tribunal. In several hearings, they have accepted that 1,200 people were shot in groups of 10 in less than 5 hours. This would mean that 120 groups were shot in 300 minutes, i.e. a new group was fetched out of the bus, that each prisoner was forced to empty his pockets emptied and throw

away his identity card (which must have been a bit of a problem for those prisoners whose hands had been tied), that the groups of 10 were then chased 100 or 200 metres to a field where they were first shot before being checked to see if they were dead — all this every 2½ minutes. And then in the meantime, the soldiers drank, they beat the prisoners and they argued among themselves. In a normal criminal trial whose purpose is to find out the truth, the judges would themselves have gone to the scene of the crime and have someone show them how all this is supposed to be possible.

The Tribunal staunchly refuses to question Erdemović's accomplices and thereby to test his obviously incredible story. Far away from The Hague, however, one of these accomplices has given a statement about this: Marko Boškić, who was arrested in Peabody near Boston in the USA in April 2004. Questioned by the FBI, Boškić admitted that he had participated in the massacre and claimed that the prisoners were shot in groups of four or five.¹⁷ This would be 240 groups which they would have shot in 300 minutes, i.e. twice as fast as in Erdemović's account. Did someone want to avoid Boškić being transferred to the Tribunal?

A squad of 8 men is supposed to have shot 1,200 prisoners in groups of 10 within 5 hours, and a private soldier is supposed to have led this unit, during which he gave orders to his own platoon commander who is in the same squad. In other words, Dražen Erdemović's story must have taken place, if at all, quite differently from the way he tells it.

¹⁷ See *The Boston Globe*, 10th March 2005: "Marko Boškić, a Peabody construction worker accused of being a war criminal, admitted to federal agents last year that he helped kill busloads of unarmed Muslim men in an infamous July 1995 massacre in a field outside the town of Srebrenica. The men were led out of the bus and lined up to be 'liquidated with automatic rifles', Boškić wrote in a six-page statement to FBI agents in Boston while being interrogated last August; 'First, they started to shoot and I didn't want to join, but they forced me to shoot,' Boškić said, according to an FBI account of the interview last summer. He admitted using a rifle to gun down prisoners who were taken off buses in groups of four or five, the FBI said."

At The Place of Truth

In her literary transfiguration, “A Day in the Life of Dražen Erdemović,” which Slavenka Drakulić apparently wrote on the basis of her conversations with her tragic hero, she tells the story of Dražen Erdemović and of the old man whose life he had tried in vain to save. He had taken this man aside, offered him a cigarette and given him a glass of orange juice. (Why no slivovitz, which flowed plentifully, one might ask? Just because the old man was a Muslim?) From Mrs Drakulić we also learn that the two men, the murderer and his victim, spent a long time discussing their unhappy lot together. It goes as follows. The old man says, “We all lived together, Muslims, Serbs and Croats. What has happened to us ordinary people? Why have we allowed this to happen?” “Yes, really, what has happened to us?” says Dražen. “If only someone could explain it to me. I don’t understand it any more than you do.” It goes on like this for a little longer but Dražen Erdemović can do nothing for the old man. The writer expresses the tragedy of the innocent guilty man in two short sentences: “It sounded awful. But it was the truth.” Mrs Drakulić seems to have complete confidence in Erdemović. But does Erdemović have confidence in her? He gave the reporter from the US station, ABC, Vanessa Vasić-Jeneković, a false date for the shooting because he did not trust her, and he gave false names for his accomplices to Mrs Drakulić. So the cruel commander Gojković is called Pero here, while Erdemović constantly plies another, who has the Croatian name Ivan, with home-made slivovitz. But there is no Pero and no Ivan among the eight accomplices whom Erdemović lists on several occasions. Possibly the whole scene is an example of poetic licence, whether on the part of Erdemović or Drakulić. But exclusively for Mrs Drakulić, Erdemović recounts another shocking scene which he has not divulged to any investigator or judge.

As he taking another long swig, Dražen watched out of the corner of his eye as a short boy got out of one of the buses. He was not wearing a blindfold and Dražen could see his face, although he had sworn to himself that he would no longer look at the faces of the prisoners. This made his work difficult. The boy may have been fifteen years old, perhaps younger. He was naked above the waist and his pale skin was exposed to the sun. He scrutinised the soldiers and then the dead bodies in the field. His eyes grew ever bigger as if he could not take it all in. ‘But he is only a boy,’ murmured Dražen mainly to himself and he tried not to stand behind him. When the prisoners knelt down before the unit, Dražen heard the boy’s voice, just before the order to open fire. “Mama,” he whispered, “Mama.” On this day Dražen had witnessed

how men begged for their lives, how children cried, how soldiers were promised money, cars and even houses. Many of them swore, some of them sobbed. But this boy called for his mother, the way children do when they wake from a bad dream and seek comfort. Although the boy had been dead for a minute, Dražen thought he could still hear his voice.¹⁸

This sounds like nothing else than an attempt to win a peace literature prize. Wolfgang Petritsch, an Austrian diplomat who from 1999 to 2002 was High Representative of the international civil administration in Bosnia-Herzegovina, was so impressed by Slavenka Drakulić's essay that he read it out on a public occasion in Vienna.¹⁹ First, though, Slavenka Drakulić spoke, and she delivered a paean of praise to the Tribunal of the kind that one gets only from true poets. Mrs Drakulić elevated the Tribunal to an almost metaphysical place of truth and announced: "There is no truth about this war other than that which comes from the Tribunal in The Hague." The Hague is not just a symbol of justice but truth itself; The Hague is the only place where the truth appears in a judicial procedure, while everything else which one hears is just ideology and politics, i.e. manipulation. In a certain sense one would like to agree with her.

But part of Mrs Drakulić's poetic truth is the pink welt on Dražen Erdemović's right index finger. ("He has killed perhaps seventy people and got a welt from it. Suddenly that seemed so funny to him that he burst out in hysterical laughter.") Mrs Drakulić also elevates the Tribunal to a Place of Truth by having her hero undertake a quick mental calculation and thereby make the figure of 1,200 people shot appear quite authentic: "When Dražen looked at his watch, he was shocked. They had taken only 15 minutes to kill more than sixty people." Poetry and truth: they had dragged 6 groups of 10 out a bus, taken their papers off them, chased them 100 – 200 metres through a field and shot them, all in 15 minutes. That means that one group was shot after another every 2½ minutes. Mrs Drakulić is not just a good writer, she can count too. Does anyone still doubt that they shot 1,200 people in five hours?

¹⁸ Slavenka DRAKULIĆ, *Keiner war dabei*, Vienna 2004, p. 111 f.

¹⁹ Slavenka Drakulić in Conversation with Wolfgang Petritsch, www.kreisky.org/kreiskyofurm/pdfs/rueck/238.pdf

How many were shot?

At the hearing in Dražen Erdemović's trial on 19 November 1996, the prosecutor, Mark Harmon, presents the evidence for the events at Branjevo Farm which is supposed to confirm the facts contained in the accused's admission of guilt. For this purpose, he questions as a witness his own chief investigator, Jean-René Ruez, who starts by showing some aerial photographs. On the basis of information provided by Erdemović, these photographs were apparently taken by "the relevant services" and put at the disposal of the Tribunal. It is well known that aerial photos have to be professionally "read" and interpreted, since a layman will see next to nothing on them. So Ruez explains to the judges what you can see in the pictures. One photo was taken on 17 July 1995, one day after the massacre, and several corpses can be seen on it, as well as what is possibly a mass grave in the course of being dug. Another photo, taken on 27 September 1995, shows "traces of work", explains Ruez. So around the end of August / early September, exhumations had taken place, which were still underway on the photo and yet "despite the work seen here", Ruez emphasises, 153 bodies were exhumed at this site by the investigators. (III, p. 135)

So the material evidence for the massacre at the Branjevo Farm consists of 153 corpses and a few photos taken by secret services, which are supposed to prove that there must have been many more corpses.²⁰

Since Bosnia was at this time, as military experts claim, under permanent satellite surveillance, one wonders why there are no aerial photographs of the actual exhumations themselves or of the reburial of bodies. Why are there no pictures of people and machines digging up bodies and loading them onto trucks, instead of just "traces" of their work? Perhaps there is a convincing answer to these questions, if only someone would put them. But in this court no one does.²¹

²⁰ On the considerable unreliability of the photographs supplied by to the Tribunal by the then US Secretary of State, Madeleine Albright, see Cees WIEBES, *Intelligence and the War in Bosnia, 1992 – 1995*, (Münster-Hamburg-London: Lit Verlag, 2003) p. 348 f. There was also a good example of the manipulation of public opinion on 5th February 2003, when the then US Secretary of State, Colin Powell, tried to convince the United Nations Security Council, by using such photographs, that Iraq was secretly producing weapons of mass destruction. One could see in his expression at the time that he was ashamed of what he was doing.

²¹ There are several well founded critical questions about this in the essay published on the Internet by Werner Sauer, "Srebrenica and das Video" (Srebrenica and the Video), www.labourneustria.at/archiv41.htm

The chief investigator has a further piece of evidence. Dražen Erdemović did see 60 buses, says Ruez, “excuse me, 20 buses” with 60 prisoners in each, during the execution which lasted until 3 pm. So for the figure of 1,200 shot the number of buses which Erdemović is supposed to have seen is decisive. Asked about this, Erdemović generally says that he does not know exactly but that it must have been between 15 and 20. When investigator Ruez asked him in the interview on 24 April 1996 how many buses in total had arrived, he replied, “I can’t answer that question, I did not count them, I don’t know what to say.” (p. 6, p. 5.²²) So this is what counts as proof in the Place of Truth.

To shoot 153 unarmed civilians remains a very serious war crime. All those who took part in it need to face trial. This figure has two big “advantages” in comparison to 1,200. First, there is material evidence for it; secondly it is indeed possible to shoot 15 groups of 10 prisoners in 5 hours, while drinking, smoking, squabbling, experimenting with a machine gun and beating and humiliating the victims. The only problem is that this figure is too small on which to base a claim of genocide against the Bosnian Muslims — a genocide which the media present as without doubt the greatest crime committed on European soil since the end of the Second World War.

²² As often, the Serbian and English versions of the same transcript differ slightly.

The disrupted line of command: II

As we have seen, until his appearance as a Prosecution witness in the Krstić trial on 22 May 2000, Erdemović hides the fact that one of his accomplices was an officer. The Prosecutors keep quiet too. Had they perhaps not had the time to look into the personal details of all the perpetrators? On the contrary, at the early stage of the investigations, they examined these extensively and were genuinely astonished when they discovered that one of the eight soldiers who apparently shot the prisoners under the command of Brano Gojković was a lieutenant and even commander of the Bijeljina platoon to which half of the perpetrators belonged (see “The disturbed order of command: I”). It is well known that an accused is allowed to remain silent if something he says will incriminate him or make his case more difficult. But the Prosecutor is duty bound to seek the truth just as much as the judges are. In the process of establishing the truth (and a criminal trial is about nothing else) it is a punishable offence to withhold important information from the judges. This applies even to prosecutors.

On 6 November 1996, the chief investigator Jean-René Ruez and his colleague, Peter McCloskey, conduct a second interview with Dražen Erdemović, the purpose of which is to prepare the accused for his forthcoming questioning by the judges. On 19 November 1996, an important hearing in the guilty-plea procedure is due to take place. Erdemović will have to answer questions from the judges convincingly and without excuses. Above all, he must not get caught up in contradictions. So McCloskey gives him a piece of good advice: “It is actually much better for the lawyers that you answer that way in court because then we can control how much information the court sees. And we will be able to tell them the whole story as it needs to be best presented by our judgement.” (p.2, p.2) Then Ruez puts a question which suddenly betrays his almost insurmountable scepticism. Quite unexpectedly, he asks about this Franc Kos, the head of the Bijeljina platoon. Could Erdemović explain to him — “if there is any explanation”, he says — how it came about that Gojković was the commander in the presence of the platoon leader, Franc Kos? How is Erdemović to explain that? The investigator’s question positively drips with suspicion:

I would like you to explain to me — if there is any explanation like that — how when the killing squad was composed, the leader of this group was Brano Gojković, having inside the group, people who were either team leaders during the Srebrenica operation or even, talking about Franc Kos, the chief of the Bijeljina platoon? How do you explain this role of Brano Gojković? (p. 4, p. 4)

Erdemović obviously has great difficulty with this and he does not manage to explain it other than by saying that the company commander Pelemiš and Brano Gojković were close. Ruez finds this too meagre an explanation. He asks whether Gojković could perhaps have been more than a simple soldier in the Vlasenica platoon. Erdemović says that he does not know, and anyway how could he know such a thing. Ruez seems at first to accept this but comes back to the issue a little later on. Franc Kos, Ruez remarks, must have been “quite upset” that he did not himself have the command of the execution squad (p. 27, p. 27). He was not upset, Erdemović replies, Kos was OK. But he was the only officer present, Ruez again says, surprised. Well, Erdemović says, Kos had only been made an officer because he was clever, because he knew how to handle explosives and because he could show and teach things to the soldiers. Kos hadn’t been the kind of person who always wanted to be an officer, it was all the same to him, “they” had simply handed out ranks as they wanted, someone had to be platoon commander and Kos had made a good impression, he hadn’t been like the others who were always chasing women, he had behaved quietly and never said a word out of place. (p. 27f, p. 27). If that is not convincing, then what is?

The good lieutenant Franc Kos, nicknamed Slovenac (“the Slovene”) spent several hours that day shooting unarmed prisoners even though as an officer he must know that this is a serious war crime. As an officer, he knows that ordinary soldiers are also forbidden to obey orders which are obviously a crime. And this order to commit a war crime is supposed to have been given to this officer by an ordinary soldier! Perhaps Franc Kos could explain the situation himself, he seems to be living a quiet life as a plumber in Bijeljina. But no one asks him.

At the hearing two weeks later, on 19 November 1996, Ruez takes the witness stand and presents the judges with the results of his enquiry in the Erdemović case. His considerable scepticism seems to have vanished. On the contrary, when asked he reassures the judges that Erdemović’s statement corresponds in every respect to the investigations he has carried out.

There are no contradictions in what Dražen Erdemović has said and what we have found independently in the course of the investigation. There is nothing that conflicts with what he has said. As regards all the topics we have broached, he has provided us with full information. (III, p. 153)

In answer to the judge’s question whether Erdemović has mentioned the names of his superiors, the investigator Ruez again fails to mention the fact that one of the co-perpetrators is Erdemović’s own platoon commander:

JUDGE RIAD: What about superiors, did he tell you who his superiors were?

THE WITNESS: Yes, he gave the name of the leader of the execution squad as well as the names of the seven other members of the Unit. (III, p. 160)

And when Erdemović is himself questioned in the witness box by the judges, he explains:

The Commander of the group was Brano Gojković. I was a member of that group, a soldier, and seven other soldiers were also members of that group. (III, p. 185)

Commander Gojković with seven other members of the groups, OK? The judges do not need to know that one of these seven other soldiers is Lieutenant Kos, the platoon commander of the Bijeljina platoon. And thanks to the teamwork between the accused and the prosecutors, they never find out.

Four years later, on 22nd May 2000, Dražen Erdemović is again used as a prosecution witness, this time in the trial against General Krstić. For the first time, the judges hear that Franc Kos is a lieutenant and a platoon commander, and that therefore one of the eight perpetrators was an officer. It is striking that in Erdemović's testimony, Brano Gojković now no longer appears as a commander or commandant, as Erdemović used to call him. Pelemiš is said to have ordered the shooting, while Brano Gojković simply transmitted or delivered the order:

Harmon: From whom did you receive the assignment?

Erdemović: Brano Gojković came and told us, told me, Franc Kos, and Zoran Goronja that we should prepare for our assignment. And when he asked him who said that we should go, he said that the order had been issued by Pelemiš. (VII, p. 3116).

Erdemović also reduces the so-called Commander Gojković to the role of a simple intermediary in the Milošević trial three years later: "Brano Gojković just said that Pelemiš had said that we were going into action." (VIIIa, p. 25150) Erdemović needed the cruel "Commander Gojković" for as long as his sentence had not been fixed, and for as long as he excused himself by saying that he had been compelled to obey orders. By this stage, however, he has long since served out his short prison term.

Rank and resistance

So on 16th July 1995, the company commander Pelemiš transmitted an order via Brano Gojković that Erdemović, Franc Kos and the others should prepare themselves for an assignment. What would Pelemiš himself say about this? He would probably say that on 16th July 1995 he was lying in hospital with a fractured skull and broken ribs after a serious accident. He would certainly produce papers from the hospital to prove it. Is that why no one wants to question him? In the hearing on 22 May 1996, when he appears as a Prosecution witness in the trial of Karadžić and Mladić, Erdemović also claims that the company commander Pelemiš appointed Gojković group commander and that he was to shoot anyone who refused to obey orders. What would Pelemiš say to that? No one wants to question him. All we have is what he says in his interview for *Nezavisne Novine* on 21 November 2005. Pelemiš says he thinks Erdemović had psychological problems. In October 1995, he had informed his superiors that Erdemović urgently needed psychiatric treatment. Pelemiš also affirms quite explicitly that it was impossible for Erdemović to have been under the command of Brano Gojković:

NN: During the trial, Erdemović claimed that Brano Gojković ordered the murders, He also belonged to the 10th Unit and was therefore under your command.

Pelemiš: That is impossible, because the only junior officer in that platoon was Erdemović who was a Sergeant Major. Gojković was a ordinary soldier.²³

Would Pelemiš confirm before the court, whether as an accused or as a witness, what he said in his interview, namely that at Branjevo Farm, Erdemović was still a sergeant of the First Section of the Bijeljina Platoon of the 10th Sabotage Unit? That Erdemović had therefore not been stripped of his rank, as he claims in all the versions of his story? We cannot know because the Tribunal does not want to know.

Erdemović has given a series of contradictory accounts about his promotion and demotion. On several occasions, for instance in the hearing on 19 November 1996, he claims that he was given the rank of sergeant as soon as he joined the 10th Sabotage Unit in April 1994 (III, p. 181). But in his interview with the investigating magistrate in Novi Sad on 6 March 1996, he said that he

²³ “Bili smo profesionalci, a ne placenici” (“We were professionals, not mercenaries”) in *Nezavisne Novine* (Banja Luka), 21st November 2005.

had been given the rank of sergeant (*vodnik*) on 1 February 1995 and been given command of the first group of the first platoon (p. 4, p. 4). On 7 March 1995, as group commander, he had received an order from the company commander Pelemiš, to liquidate some reconnaissance soldiers from the 2nd Muslim brigade not far from Tuzla near Mount Majeveca. This operation would have cost the lives of many civilians and Erdemović says that that is just what he did not want. So he called off the operation was demoted as a result. So first he became a sergeant in April 1994, then on 1 February 1995. In the interview with The Hague investigators on 6 November 1996, when the investigator Peter McCloskey quoted this part of the Yugoslav judicial report to him, Erdemović said it was all untrue. On the contrary, on that day, 1 February 1995, he had in fact been demoted for refusing to obey an order (p. 10, p. 10). He had told some lies to the Yugoslav investigating magistrate, Erdemović says in this interview. Thereupon he tells the same story which he had served up in Novi Sad: on 7 March 1995, i.e. one month after his apparent demotion, he had been given, as group commander, the task of liquidating or capturing two Muslim reconnaissance officers but he had failed to carry out the assignment and therefore been demoted. So had he not been demoted after all by the time of this assignment? Franc Kos also belonged to his group, he says, which does not make the story any more credible because, as has been shown, Kos was already by that time a lieutenant. Erdemović contradicts himself non-stop but this does not seem to bother the investigators in the slightest, probably because they are fed up with it themselves. The story that Erdemović tells about his rank and his demotion is a tissue of contradictions which cannot be untangled. But astonishingly, he seems to get it past the judges and even to have success, as can be seen from the judgement delivered on 29 November 1996.

The accused emphasised that he lost his rank two months after having received it, mainly because he had refused to carry out a mission likely to cause "civilian losses". He asserted that after this demotion, he was no longer in a position to oppose the orders of his superiors ...

The Trial Chamber notes the fact that during the hearings of 5 July and 19 and 20 November 1996, the accused declared that he had been given the rank of sergeant and had acted as the commander of a small unit. It also notes the fact that, according to Dražen Erdemović's own statements, he lost his rank before committing the acts ascribed to him. It observes, however, that no document has established precisely his rank in the military hierarchy. (V, paragraphs 79 and 92)

This last sentence sounds odd. In the interview of 6 November 1996, the investigator Ruez remarks in passing that his office has received numerous documents about Erdemović's military service from Belgrade. Was there not a single one which would show his rank? At any rate, on 16 July 1995 at Branjevo Farm Dražen Erdemović does not want to have been a sergeant. Because if he had had a rank, then he would also have had a choice, he says. He would have been able to oppose the order, he would have been able to refuse Brano Gojković's com-

mand to shoot and to convince the others to do likewise. But, he says, he had been demoted to the rank of an ordinary soldier and thereby the fate of the prisoners was sealed. Goodness only knows what he might have been able to do if only he had had a rank! In the hearings of 19th and 20th November 1996, Erdemović offers the judges several versions of his failure to oppose the order.

Had I been the Commander of the group, then I tell you, quite frankly, I would have refused that assignment with an explanation, I will (*sic*) try to find an explanation for the command; I would have tried. I will tell what you this explanation would have been. I would have said that this was a crime, that this is punishable and I would have primarily persuaded my colleagues that people are held accountable for that kind of thing, that this is not a minor affair, that people lose their lives. That is how I would explain this. Then they would help me when I would report to Pelemiš. They would defend me. But I was not Commander then, regrettably. An idiot was Commander, an idiot — not a fool, an idiot. A fool is good and honest, but an idiot is an idiot. (IV, p. 292)

When he had had a rank, he had saved people and not killed anyone, Erdemović says and as proof he tells another story. In August 1994, when he still had a rank, he and his commando had captured a military policeman from the Bosnian Croat army (HVO), who was simply in the wrong place at the wrong time. It would have been easy to bump him off there and then. But Erdemović recognised the man as a former colleague. He knew him from the days when he had himself been a military policeman in the HVO. So he did not allow him to be shot. As a sergeant he had simply got his way. The prisoner was released after a few hours and they even gave him a packet of cigarettes when he left. Erdemović was a sergeant then and so he could afford to be generous. (III, p. 203) In the hearing of 20 November 1996, the thankful man whom he had saved appeared as a witness for the Defence. As an anonymous witness X, he confirmed this nice story to the judges. Had there been a special reason why Erdemović spared his life, asked Judge Riad. Was it perhaps because they came from the same country? Witness X says he does not know. Maybe it was because they had belonged to the same unit. Because they had spent three or four months together in the military police (IV, p. 245). One can behave decently when one has a rank.

Incidentally, Erdemović also quotes this story as one of the reasons for his demotion. Anticipating the testimony of his witness, he says on 19 November 1996 that he was demoted because he had released a prisoner during an operation, namely this Witness X. Someone must have sneaked on him to Colonel Salapura.

On several days after from the main headquarters Colonel Petar Salapura arrived (*sic*). He was the main intelligence officer in the headquarters. We were invited, myself and other Commanders who were there, and the meeting was mainly about my behaviour and the behaviour of certain other individuals. They told me that I was lying, that

I could not behave that way, that I had let a prisoner go, that I had saved one prisoner's life (and that is the man who is going to testify today), that I was refusing orders and so on. That is when I was demoted. (III, p. 182 f.)

Erdemović says one thing and then another about when and why he was supposedly demoted, but these inconsistencies do not seem to bother anyone in the court. This is very odd. He also gives an impressive account of how Salapura insulted him and stripped him of his rank. It must have been in March 1995 when Colonel Salapura, the chief of intelligence in the headquarters and the immediate superior of the company commander, Pelemiš, came to Bijeljina in order to discipline this stubborn and unreliable Croatian sergeant. (IV, p. 269).

However, there are later statements by witnesses which decisively contradict Erdemović's claim that he had been a simple private soldier at the time of the massacre at Branjevo Farm. On 8 June 2004, Colonel Petar Salapura appears as a Defence witness in the trial of Vidoje Blagojević and Dragan Jokić. He says that the first he heard about the massacre at Branjevo Farm was when the media reported about Erdemović and his confession of guilt. (XII, p. 10,526) Later Salapura does not waste any further words on Erdemović, a man whom he is supposed to have personally demoted. Still more surprising is the reticence of the prosecutor, Peter McCloskey, who is leading the cross-examination of Witness Salapura. McCloskey knows Erdemović's problematic story inside out and he knows about the contradictory accounts he has given about his demotion. Here he is cross-examining a man who is supposed to have personally demoted Erdemović for disobedience. Will Salapura confirm this? Did he indeed demote Sergeant Erdemović? The prosecutor apparently not want to know anything about it. He simply does not ask him this question. Maybe he does not want to be told what Salapura would presumably have answered, namely that he never demoted Erdemović. The credibility of the star witness must not be damaged. This is a very peculiar way of judicial truth-seeking.

Three years later, on 21 August 2007, witness Dragan Todorović appears at The Hague. He is an important witness for the Prosecution in the trial of Vujadin Popović and other senior officers of the Bosnian Serb army. Dragan Todorović also belonged to the 10th Sabotage Unit, but he never served in the Vlasenica military base which lies a few kilometres north-west of Vlasenica in a place called Dragaševac. Dragan Todorović was responsible for logistics in the 10th Sabotage Unit. When the Bijeljina platoon or the Vlasenica platoon were given an assignment, the necessary weapons, munitions and other equipment were fetched from Corporal Todorović. This is what happened on 15 July 1995 when in the absence of the commander Pelemiš, there was a lot of shouting as a group was put together for an assignment. Todorović remembers Erdemović very well as an officer: he was the second in seniority after Lieutenant Franc Kos. He remembers equally well that Brano Gojković was a private who could not give orders to anyone. Asked whether Brano Gojković had commanded the group, the witness replies: "I know that Mr. Gojković did not have an order (*sic*)²⁴, that he didn't have a rank, that he could not command any member of the

sabotage unit. He could not issue, he was not in a position to issue any orders to any of the soldiers there.” (XIV, p. 14,041)

The statements made by Salapura and Todorović about Erdemović are incidental by-products of other trials. This only makes them more credible. These statements are precisely not made out of self-interest, because in these trials the question of Erdemović’s rank is of no importance whatever. But they throw a new light onto the whole affair and that is why we will come back to them again later. The refusal of the Office of the Prosecutor to establish the truth in the Erdemović case by arresting and questioning his accomplices makes these two statements especially valuable.

On 25 August 2003, Geoffrey Nice, the lead Prosecution counsel in the Milošević trial, calls Dražen Erdemović as a witness. He first shows a short video. It must be October 1995, we see General Radislav Krstić, commander of the Drina Corps of the Bosnian Serb Army, congratulating the soldiers of the 10th Sabotage Unit on the occasion of an anniversary celebration. He uses the sort of empty rhetoric which is usual on such occasions.

Radislav Krstić: Soldiers of the Sabotage Detachment, Serbian heroes! Allow me to salute you myself in the name of the members of the Drina Corps as well as the name of the commander of the main staff and congratulate you on the day of the formation of the unit.

Soldiers: Thank you.

Radislav Krstić: With your activities so far, you have demonstrated how a soldier of the army of Republika Srpska should fight. You have completed all of your tasks very successfully until now, without losses, which is a worthy achievement. We are in a situation—

At this point the tape cuts off. Then Nice asks his witness whether he was himself present at this ceremony, to which Erdemović replies:

I was not lined up at the time. I was sitting on the sidelines because I had been wounded. I couldn’t stand on my feet. And then some people were ... Then I was given the rank of reserve sergeant. Franc Kos, commander of the Bijeljina platoon, got the rank of reserve lieutenant, I think; second lieutenant, I think also other people. I can’t remember now. (VIIIa, p. 25164: VIII b, p. 308)

Under the direction of the lead prosecutor, a short sketch is performed which is most entertaining. Following the video, Erdemović recounts something which is not in the video at all, namely that on the occasion of this anniversary celebration he was promoted to the rank of sergeant. So why was the video played? Obviously only to give the framework for that what the tape precisely does not show, namely the double promotion of Dražen Erdemović and Franc Kos. It is a shame that the promotion itself was not filmed and that Erdemović has to tell us about it. First Pelemiš tries to kill him for disobedience or whatever,

²⁴ i.e. “did not have the authority to give orders”, “was not in command”.

and then barely three months later, at this ceremony, he makes him a sergeant. We have to believe Erdemović because there is a video recording of the ceremony which we have just all seen and Mr Nice is going to submit it as evidence. Then he asks Erdemović to identify someone in a photograph of the ceremony and Erdemović says, "It's Franc Kos, the commanding officer of the Bijeljina platoon." So his platoon commander. And Prosecutor Nice adds in confirmation, "Who was promoted as you've described." Why was he promoted to that which he had always been, lieutenant and platoon commander? In a marvellous display of teamwork, the star witness and the prosecutor conjure up a parallel reality for the judges which is based neither on the video nor on anything else apart from the star witness' own words, and the judges accept it all. There is only possible purpose for this game of mirrors, and it is to suggest to the judges that Franc Kos and Dražen Erdemović were not promoted to their ranks until this ceremony. And so the problem is finally solved of the command structure in an execution squad in which a private soldier, Brano Gojković, gives the orders.

This video document had incidentally been shown to Erdemović once already. On 7 December 2002, the prosecutor McCloskey and the investigator, Bruce Bursik, conduct an interview with the star witness in a "secure location" in order to prepare him for future appearances. Among other things they play him this video. Erdemović identifies several members of the 10th Sabotage Unit and also mentions that he was present but that he had remained on the sidelines because he was wounded. He gives an extensive account of the ceremony but says not one word about being made a sergeant.²⁵ On 25 August 2003, however, Geoffrey Nice has his witness say that he and Franc Kos were promoted at this ceremony, from which one is supposed to conclude that Erdemović must have been a private soldier before that, and that the story about his demotion is therefore true.

And then, lo and behold, a little while later, Prosecutor Nice presents his witness with a document which the judges missed in their judgement of 29 November 1996. It is Erdemović's contract with the VRS (Bosnian Serb Army) dated 1 February 1995. In the contract it states quite clearly that Erdemović is a member of the Bosnian Serb army with the rank of sergeant. Nice presents this document, which has suddenly turned up, with the following words:

Next exhibit, tab 22, is a contract on admission of persons to the army of Republika Srpska on a fixed-term contract. It sets out your name, your rank as sergeant, your duties, and again it is a document signed, as we can see at the end, by Mladić. The date it gives for the starting of your engagement is February 1995. That doesn't accord with your recollection. Can you explain why it only dates from February 1995? (VIIIa, p. 25166; VIIIb, p. 309).

Erdemović has repeatedly stated in The Hague that he was demoted on 1 February 1995, for instance when questioned on 6 November 1996 (p. 10, 10).

²⁵ See "Information Report", 13th December 2002.

Nice wants to know whether he can explain why this date does not correspond to his earlier statements. Erdemović cannot explain it. "I cannot explain because I did not receive any explanations then as to the date." (VIIIa, p. 25166; VIIIb p. 309). You have got to hand it to him, it is a very funny way explanation. Prosecutor Nice finds it satisfactory. One way or another, Erdemović was demoted later and it was as a private soldier that he had taken part in the massacre, for otherwise he could not have been promoted to the rank of sergeant at the ceremony in October 1995. What a lot of effort to avoid any danger for the credibility of his story!

Let us summarize: when he was questioned for the first time in Novi Sad on 6 March 1996 by investigating magistrate Tomislav Vojnović, Erdemović gave 1 February 1995 as the date when he was appointed commander of the 1st Sabotage group with the rank of sergeant (*vodnik*) (p. 4, 4). By contrast, at his interview in Scheveningen on 6 November 1995, he denied this date. Erdemović told investigator Jean-René Ruez that he had not been promoted on 1 February 1995 but demoted. (p. 10, 10) He said that he had told the Serbian investigator several untruths. Now it turns out that it is the other way around. It is quite clear from his contract that he lied to the investigators in The Hague but gave the right date to the Serbian magistrate. Things are never easy with this star witness. In his love of story-telling, Erdemović says first one thing and then another but the document is what it is and one can only wonder what Geoffrey Nice was trying to achieve when he suddenly conjured this document out of his sleeve. It was certainly not in order to question the credibility of his witness and his earlier statement in this, the Place of Truth.

On 11 November 1996, the Yugoslav authorities handed over all the documents from their investigations into the Erdemović case to the Office of the Prosecutor in The Hague. This document was probably one of them. During his interview on 24 April 1996, Erdemović lists the personal papers he had with him when he was arrested in Serbia and mentions his contract with the VRS. In this contract obviously stands what rank he had, namely sergeant. This immediately explains why, in his first interview, he claimed that he had been demoted at some point before 16 July 1995 and then repeated this story in different contradictory versions. How else could he make it believable that he as a sergeant had been forced to obey orders given by Private Gojković? By June 1996 at the latest, the prosecutors in the Erdemović case must have received this contract in which the rank of the star witness is stated and which Geoffrey Nice, the lead prosecutor in the Milošević trial, quoted to the court on 23 August 2003. But in their judgement of 29 November 1996, the judges say that there is no document which proves what rank Erdemović had in the military hierarchy.

How can one explain this? Did the Prosecutors in this, the "place of truth", perhaps simply conceal this document from the judges?

Resistance and attempted murder

Dražen Erdemović says that he resisted the order given by commander Gojković to shoot the prisoners but that, gosh, what could he do, as a simple soldier he had to obey the commander's orders or else the commander would have had him shot. This shattering story within the story of Dražen Erdemović was widely reported in 1996 when the media still sent a few correspondents to The Hague. The media also said that Erdemović had been the victim of an attempted murder as a result of his resistance. For example, the Hamburg weekly, *Die Zeit*, sent one of its editors, Constanze Stelzenmüller, to The Hague to report on the hearing in the Karadžić-Mladić trial when proceedings started against both men in their absence in 1996. She was especially struck by the story of the star witness, Dražen Erdemović. A Croat, Erdemović deserts and moves to Pale because of his pregnant Serbian wife, where he was "press-ganged" into the Bosnian Serb army.²⁶ "Otherwise we would have had nowhere to live," the shocked Frau Stelzenmüller quotes the young man stammering, close to tears. She immediately sees who is the victim here. She mentions Erdemović's later "resistance" to the shooting and also the price that he had to pay for it. This after all is the Place of Truth and the Truth has appeared in the form of a young Croat forced to commit genocide by the Serbs. The reader will forgive here a long quotation from this journalistic report, simply because it is so captivating with its clear understanding of matters — and also so representative of the information which comes out of the Tribunal to this very day:

The way that he struggles with words, while seated on the bright blue witness chair at The Hague tribunal, makes it seem as if Erdemović wants with all his strength to free himself from a heavy burden: by revealing the truth. Hesitatingly and often inaudible, Erdemović recounts how he was sent with his unit to a farm near Pilica. What they had to do there became clear when buses started to arrive: fifteen or twenty, all full of men. "They were lined up in front of us in groups of ten and we had to shoot them. I refused and was told that if I felt sorry for these people I could stand next to them. I knew that this was no

²⁶ Frau Stelzenmüller is mistaken here. As a witness for the Prosecution in the Milošević trial on 25 August 2003, Erdemović explained as follows how he joined the Bosnian Serb army: "I went to the military department in Bijeljina, I said I was a Croat and that I wanted to join a unit, and they told me that it would be best to join a unit that had already been formed of several Croats and Muslims, and that is what I did." (VIII, p. 25130). There can be no question of him having been forced to join.

empty threat.” The soldier says that his comrades thought the same thing — no one dared to speak a word of resistance at this moment ... “I could not do otherwise than to go along with the killing,” Erdemović turns imploringly to the judges. “If I had refused, it would have not have made any difference to the fate of the victims. Their fate had been decided on long ago by others.” ... But at the end of this summer’s day he did rebel once again. When all the buses were empty and the ground was covered with corpses, the troop leader announced, “There is more work waiting in the Pilica town hall — 500 Muslims.” “Then I said, ‘I am not an execution robot.’ Other comrades agreed with me.”

...

This later resistance nearly proved to be his undoing. The braggard Stanković was set on him and wounded him so badly that it was only thanks to the intervention of his superior that he was sent to Zagreb for an operation which saved his life. “Do you have any idea why they shot at you?” the Prosecutor finally asks Erdemović. “Yes, I believe that my troop leader reported my behaviour to my commander. They were presumably afraid that I would do what I am doing now: testifying against the perpetrators.”²⁷

Not for a second does Frau Stelzenmüller doubt the truthfulness of what is being served up from behind bulletproof glass at The Place of Truth. And why should she? She is reporting correctly and verbatim what she has seen and heard. Only when she gets to the bit about her tragic hero’s operation does a small mistake slip in. The star witness articulates quite clearly that he was taken for his operation to the military hospital in Belgrade. A wounded Croat treated in Belgrade? Perhaps Frau Stelzenmüller thought she had heard wrongly and silently corrected it by putting Zagreb instead.

Erdemović tells the story of his resistance in the hearing in his own trial on 31 May 1996 and again on 5 July 1996 as a Prosecution witness in the Mladić-Karadžić trial. At first he had opposed the shooting, he says, whereupon Gojković (“the commander of the group, appointed by the Commander Milorad Pelemiš”, III, p. 845) threatened to have him shot: “If you are sorry for them, stand up, line up with them and we will kill you too.” (I, p. 32) In the guilty-plea hearing on 19 November 1996, the threat is expressed slightly differently. Erdemović is told to put down his gun and stand with the prisoners: “If you do not wish to, if you — you can just go and stand in the line together with them. You can give us your rifle.” (III, p. 185). A day later, on 20 November 1996, Erdemović repeats the threat but it contains a surprising new element which is not easily to understand: “If you do not wish to do it, stand in the line with the rest of them and give others your rifle so that they can shoot you.” (IV, p. 231). A little later Erdemović recounts his commander’s supposed threat a third time but in this version it has two components: either I will shoot you, or you give your gun to the prisoners and they will shoot you:

²⁷ Constanze Stelzenmüller, “Der General war überall” in *Die Zeit* 29/1996.

I said, “People, I do not want this, are you normal?” Nothing. “Mr. Erdemović” — this is what Brano told me — “if you do not want to, stand with them so that I, so that we can kill you too or give them weapons so that they can shoot you.” (IV, p. 293)

In the version given on 22 May 2000 in the trial of General Krstić, Gojković’s threat takes on a surprisingly different complexion:

“If you won’t do it, stand up with them or give them your rifle, and you will see whether they will shoot you.” (VII, p. 3125).

Is that still a threat? How is one to imagine its actual implementation? To crown it all, Erdemović repeats this sentence in the Milošević trial on 25 August 2003 when he has Gojković say:

“You join them and line up and give them your rifle and see whether they will shoot at you.” (VIIIa, p. 25154; VIIIb, p. 301)

This threat simply does not make sense. If it had actually been made in this way, no one would have taken it seriously. Whatever the truth, on 31 May 1996 Gojković’s threat is ““If you are sorry for them, stand up, line up with them and we will kill you too”; on 22 May 2000, by contrast, it is: “If you won’t do it, stand up with them or give them your rifle, and you will see whether they will shoot you.” It is a significant difference yet no one confronts Erdemović over this new variant of his story. Here it is no longer a commander who is threatening to have a soldier shot for refusing to obey and order. Instead, it is a situation where there is no military hierarchy and in which one person, who wants to break out of the group solidarity, is put under pressure: he should give his weapon to the people who are going to be shot to see what would happen “then”! Erdemović’s story develops from one hearing to the next: indeed it is a development in which both the teller and the prosecutor are involved.

Because of his resistance, Pelemiš is supposed to have ordered an attempt on Erdemović’s life. Constanze Stelzenmüller too reports that a soldier from the group of perpetrators, Stanko Savanović, shot Erdemović because somebody had reported his resistance to the company commander and he had been afraid that Erdemović would testify against the perpetrators (II, p. 853).

Later Erdemović says he wasn’t the only one this Stanko shot. He had shot two further members of the unit who had also, as he claims, opposed the commander’s orders. We learn more about this from the questioning carried out with the star witness on 24 April 1996, which is a sort of rehearsal for his appearance in the Mladić-Karadžić trial. In this interview, Erdemović first says that he has no idea why he was shot. But in the rest of the interview the following versions of the apparent murder attempt appear. He says there were three victims of the murder attempt: himself, because he had opposed the massacre the most strongly, Radoslav Kremenović, who as a lieutenant and deputy to the company commander Pelemiš had refused to carry out an assignment, and Zijad Žigić, a Muslim, who belonged to Kremenović’s group and who had also refused the assignment. After the massacre at Branjevo Farm on 16 July, Erdemović says he

spent most of his time at home with his wife and child. On 22 July, he left the flat in order, as he says, to relax psychologically for a bit in the town. On the same day the group arrived in Bijeljina which had refused to carry out an assignment about which Erdemović knows nothing. Kremenović was there, a good friend of his. They all went to a disco. Kremenović told him about a meeting in Vlasenica and what had happened there: they had refused to carry out the assignment, that they had asked to be split off from the Vlasenica people, you shouldn't do the sort of things they had done in Srebrenica. Savanović was one of the party in the disco. They drank a lot. After midnight they left the disco. Because they were a bit tipsy they went into the late night bar next door to carry on the conversation. And suddenly, after hardly half an hour, Savanović pulled out his pistol and started to shoot: first at Žigić and Kremenović, then also at Erdemović. This is a very different scenario from a premeditated murder attempt. Whereas Žigić and Kremenović were only lightly wounded, Erdemović was hit by three bullets. However, one wonders why Savanović shot the other two first if the plan was to kill Erdemović. Then it turns out that someone shot back. A friend of Žigić called Mladen pulled his gun out and shot Savanović in the stomach. He survived his wounds too, Erdemović reports.

And now for the version which the judges get to hear on 20 November 1996: after the massacre on 16 July 1996, Erdemović started to drink. He didn't spend much time at home with his family. (In the previous version, he spent most of his time at home with his family.) On 22 July, his friend Radoslav Kremenović, a lieutenant and deputy to the company commander Pelemiš, returned from having refused to carry out an assignment with his group. Erdemović suggests that Kremenović had refused to do what they had done in Srebrenica. "They are not going to take me — they are not going to use me for their dirty business," Kremenović had said to him. But he doesn't know anything further about what the assignment was. (Erdemović had said in his interview in Novi Sad that Kremenović had been given the task of blowing up a dam.) At that point, Erdemović apparently shouted, "I have been abused!" Further, Kremenović had confided in him that there would be a meeting the next day at which demands would be made for all the nationalists to be expelled from the Vlasenica platoon, and for Pelemiš to be sacked. (In the earlier version, this meeting had already taken place.) That very night, Erdemović says, Savanović shot him, Kremenović and another colleague, to make the connection clear between the shooting and the imminent revolt against Pelemiš. When they left the café, it was already midnight. Erdemović had been fairly drunk and wanted to go home. But Kremenović wanted to carry on talking. Who knows, he said hinting darkly, what might happen the next day. So, Erdemović resumes on 20 November 1996, Stanko Savanović shot a Croat, a Muslim and a Serb. Obviously a nationalist murder attack ! (IV, p. 233). (Where exactly the shooting took place is not very clear in this version, it seems to have been in the street.) The previous day, Erdemović even treats the judges to a little performance. When Judge Riad asks him why he did not simply refuse to shoot at Branjevo Farm, he says: "Your Honour, I have to apologise now, especially to the ladies present, and I will

show you what I got because I refused this order in Pilica.” Then Erdemović stands up and pulls his shirt off. “That is it,” he says and shows the scar where he was shot. The judges are left speechless. (III, p. 197).

And this is the version of the story about the murder attempt which Erdemović told the Serbian investigating magistrate on 6 March 1996:

On the evening of 22 July, the company leader Kremenović arrived from an assignment with his group. We met in the town. When I asked if they were all still alive, he answered that they were alive because they had refused to carry out the assignment. I do not know exactly what sort of an assignment it was, I know that it had something to do with blowing up some dam. After that we went to a discotheque in Bijeljina where we drank and stayed until midnight, when we then went to a night bar in Bijeljina, and there in the night bar, I do not know why, there was an argument between Stano Savanović and Živko Mičić. I really do not know what the reason was for this argument. At one point Mičić put his pistol aside and suggested they settle their score with their fists and he even landed a punch on Stanko. But Stanko got out his gun and shot Živko Mičić, me and Kremenović. He wounded all three of us, only Mičić and Kremenović were wounded in the arm while I got three bullets in my stomach and in my shoulder. (p. 7, p. 7)

Erdemović also does not tell the Serbian investigating magistrate that the apparent perpetrator, Stanko Savanović, also got shot in the stomach. And as far as this Živko Mičić is concerned, it is in fact Zijad Žigić, who is first mentioned in the version of the murder attempt story which Erdemović served up for the investigators in The Hague. During the civil war, Zijad Žigić had taken a Serbian name. A resident of Bijeljina, Zijad Žigić alias Živko Mičić was later, according to newspaper reports, very active in the criminal underworld. He is said to be responsible for at least 10 murders, according to a report in the Belgrade newspaper *Blic* dated 13 February 2008. Not that he is going to answer for these murders at the Tribunal, even though there would be plenty of grounds for that. Stanko Savanović, on the other hand, was sentenced to three and a half years in prison by a Belgrade court in 2004 for people trafficking, rape and other crimes. But he has just as little need to worry about being prosecuted for the massacre at Branjevo Farm. That is all by the by. But how Erdemović turns this brawl and shoot-out between a few drunken mercenaries into an attempt on his life as a result of his supposed resistance during the shooting of the prisoners is simply marvellous. It ought to be presented to Frau Constanze Stelzenmüller for her admiration too.

Contradictions on the eve of the massacre

The ordinary soldier Brano Gojković is supposed, as an exception, to have been in command of the shooting squad on 16 July 1995. To this squad belong, among others, Lieutenant Franc Kos and Sergeant Dražen Erdemović. Erdemović tries to make the incredible story more plausible by saying that he had been stripped of his rank shortly before this crime, and by hiding the fact that Franc Kos is an officer. From the transcripts of the interviews, we learn that the investigators and the prosecutors knew very early what rank and function Franc Kos had. But in the courtroom, they have not breathed a single word about this. They have therefore effectively collaborated with Erdemović's presentation of the events. It is obvious why Erdemović gave a false account: he says that as a private soldier he could not oppose the orders given by the supposed commander, Gojković. And why did the Prosecution silently support this false version of events? Obviously, it wanted to preserve the credibility of its star witness intact. But what the Prosecution above all wanted to preserve was the picture of a unit standing and acting under military command. This unit is supposed, by shooting the prisoners, to have carried out an order it had received, via the line of command, from the general staff in Han Pijesak. However, there is no military command structure in the world in which a sergeant and a lieutenant can act under the orders of a private. Not even as an exception.

Erdemović does not say very much about how the execution squad was put together. The events leading up to 16 July 1995 can be summarised on the basis of his statements as follows: "On 10 July, Erdemović goes 'to work,' in other words he reports for duty as required at 8 am at the barracks in Bijeljina. The platoon commander, Franc Kos, tells him to get ready because there is going to be an assignment. As a simple soldier, he has to obey, says Erdemović. So he fetches his gun and goes off on the assignment. In his statement on 4 May 2007, when he appeared as a Prosecution witness in the Popović trial, Erdemović says that he then quickly went home again to put on the proper field uniform and to pack what he needed "for personal hygiene". They set off without him knowing where they are going, because ordinary soldiers are never told anything — as Erdemović often repeats. (IX, p. 10,939). It is 10 pm by the time they reached the woods around Srebrenica, where they stayed the night. The next morning, they move with other units into the by now almost totally deserted town. There meet no resistance and almost no people at all, at most 200 elderly people came out of their houses. The company commander Pelemiš, who was in command, explicitly warned his soldiers not to attack the civilian population under any circumstances:

McCloskey: Did he (i.e. Pelemiš) give you any other special instructions about how to treat civilians?

Erdemović: Yes. He said that we were not to shoot at the civilians in any case and that we were to direct them in front of us towards the stadium. (IX, p. 10944).

A little later, Erdemović repeats Pelemiš' order: "As I already said, that we shouldn't shoot for no reason, that we should be calling to the people to come out of their houses. He told us not to fire at civilians." (IX, p. 10,945). Shortly thereafter, a man runs suddenly out of a house and Pelemiš orders a soldier to slit his throat. Just because he was a Muslim of fighting age, explains Erdemović. The soldier, a certain Zoran (nicknamed Maljić), obediently did so on the spot with a knife. This Pelemiš is not very consistent, one thinks to oneself as an observer in the public gallery. He had just repeatedly told his soldiers not to harm civilians! What a shame that no one wants to question Pelemiš himself about this. After the capture of the town, General Ratko Mladić is expected to arrive. Pelemiš turns to Erdemović and says, "Dražen, take four men and go back to the southern part ... When General Mladić comes into town, let us know by radio communication that he is entering town." (IV, p. 290). In a moment of epic self-forgetfulness, the supposedly demoted Erdemović is suddenly again a sergeant taking orders from the company commander, before he quickly remembers and corrects himself with the words "— no, not to me, he told somebody else". Who else is Pelemiš supposed to have meant when he said, "Dražen"? Was there maybe another Dražen? The judges listened to all this without any apparent interest and without even noticing this slip by the star witness. Soon Erdemović sees three cars arriving, inside one of which he recognises General Mladić. He then signals this by radio to his company commander. Mission accomplished.

Apart from this, nothing special happens in Srebrenica that day, as far as Erdemović can tell. Erdemović cannot understand how they can have besieged this town for so long. It must have been 4 pm when Pelemiš gathered his men together again to tell them that the assignment had been completed. They would spend the night in Srebrenica and return to Vlasenica the next morning. On the way back, it is 12 July 1995, the truck breaks down in which Erdemović and his group are driving. When they arrive back in Vlasenica very late, Erdemović learns that the vehicle in which Pelemiš and two other soldiers were travelling had overturned and that one of them had been killed. Erdemović says he had got on well with the soldier who died, Dragan Koljivrat. So he decides to accompany the body to its final resting place. Koljivrat had incidentally belonged to the same troop whose "*vodnik*" Erdemović had been. On 13 July, Erdemović is one of the six soldiers who bring the 25 year-old's remains back to his parents. Trebinje, the town of his birth, lies on the border with Croatia, 20 km from Dubrovnik. It is a long and tiring journey because the war means they have to take a mountain route. They return to the Vlasenica camp on 15 July at 5am, sleep the whole day and on 16 July in the morning, Brano Gojković comes and orders Erdemović to prepare for a special assignment.

This last scene before the massacre comes in several different versions with changes of emphasis. On 6 March 1996, Erdemović tells the Serbian investigating magistrate in Nov Sad that Pelemiš personally ordered the members of the group to report to the military police in Zvornik. The commander of the group had been Brano Gojković, and only he had known what the assignment was:

Erdemović: On 20 July in the morning, when we got up, we received from Pelemiš an order for a new assignment with the military police in Zvornik, that is, we had to report to the military police in Zvornik. The commander of the group was Brano Gojković and he knew what sort of assignment it was. (p. 5, p. 5)

The date of 20 July instead of 16 July, given to the Serbian investigating judge, will remain a remarkable contradiction until the end. Erdemović tells a slightly different story on 24 April 1996. A soldier called Brano Gojković came to him in the morning of 16 July and told him that there was an order that he and six further soldiers should undertake a special task. Erdemović and the others had had no idea what it was about:

Erdemović: On the morning of the 16th, a soldier called Brano Gojković from Vlasenica came after I got up, a soldier came, Brano Gojković and told me that myself and six other soldiers had been ordered from a special detail.

Ruez: Gojković?

Interpreter: Yes.

Erdemović: At that time I didn't know and not of us knew we were going, and nor did anyone else. (p. 5, p. 4)

In the story Erdemović tells on 5 May 1996 in the Karadžić-Mladić trial, he emphasises that there is a “commander” and an “order”. There is the commander, Brano Gojković, who gives the orders, although these orders in fact come from the Centre for Military Intelligence at the General Staff in Han Pijesak. This is clearly emphasised because what is at issue here is an international arrest warrant for Mladić and Karadžić.

Harmon: Mr. Erdemović, I now would like to turn your attention to 16th July and ask you whether on that day you and other soldiers in your unit received orders to participate in a special detail?

Erdemović: No, no. I was not conveyed personally any of those orders, but the Commander who was commanding at the time may have issued that order to somebody about that particular task.

Harmon: Did you receive orders at all that day from anybody in relation to a task or a mission that ultimately you went on?

Erdemović: Yes.

Harmon: From whom did you receive that orders?

Erdemović: From the group Commander, Brano Gojković.

Harmon: Was he of normal rank? I am sorry, let me rephrase that question. Did he normally give your unit orders to perform certain missions or was this an exception?

Erdemović: Yes, it was an exception. First of all, our detachment was divided into two platoons of Vlasenica and Bijeljina. He was with the Vlasenica one and he issued no orders to the Bijeljina platoon. I do not know about Vlasenica.

Harmon: Mr. Erdemović, where did your orders normally come from when? I say “your orders”, I am talking about the orders that were directed to your unit.

Erdemović: They came from the intelligence centre of the main staff in Han Pijesak. (II, p. 839–840)

At the guilty-plea hearing on 20 November 1996, the line of command is no longer so important. In the story which Erdemović tells then, the main point is his plea of having acted under duress:

When I came back from the funeral on 16th in the morning, I tell you Pelemiš did not tell me directly but Brano Gojković came and said, “Erdemović, Kos Franc and Goronja Zoran, get ready. You going on to a mission.” So what could we do? I asked when we would be going home. He said, “You are going on a mission. What kind of a home are you talking about?” So I had to go on this mission, I had to. (IV, p. 292)

In the story Erdemović tells on 22 May 2000 at the Krstić trial, where he mentions Franc Kos’ rank for the first time, he drops Gojković’s commanding tone of voice.

Brano Gojković came and told us, told me, Franc Kos, and Zoran Goronja that we should prepare for our assignment. And when he asked him who said that we should go, he said that the order had been issued by Pelemiš. (VII, p. 3116)

It is striking that Gojković is no longer called either commander or commandant. “Brano organised everything for us to pack, take all the equipment necessary for the operation. He was the leader,” says Erdemović. (VII, p. 3118). Even that is not true: the witness Dragan Todorović will later decisively refute this claim and he is in a position to know. He personally handed out the ammunition from the depot, and he did not get Private Gojković to sign for it but instead Lt. Franc Kos (XIV, p. 14037) And in the Milošević trial on 25 August 2003, Brano Gojković is nothing more than an intermediary. The prosecutor Geoffrey Nice asks, “On the 16th of July, did Brano Gojković inform you of new instructions?” to which Erdemović replies, “Yes,” before adding, “Brano Gojković just said that Pelemiš had said that we were going into action.” (VIIIa, p. 25150; VIIIb, p. 259)

Eleven years later

On 4 May 2007, Dražen Erdemović again told his story in the witness box. His transfer to The Hague and the first version of his story are now eleven years in the past. For the last seven years he had been living with a new and “protected” identity somewhere in northwest Europe. In this appearance before the Hague Tribunal, it is once again an accusation of genocide which is at issue, this time against seven senior officers in the Bosnian Serb army (VRS): Vujadin Popović, Ljubića Beara, Vinko Pandurević, Drago Nikolić, Ljubomir Borovčanin, Milan Gvero and Radivoje Miletić. Peter McCloskey is the lead prosecutor and he knows the Erdemović story in all its different versions. He was present at the very first interview in 1996 and over the years, trial by trial, he has reared him as a prosecution witness for accusations of genocide. It is now seven years since Erdemović started his new life with a new identity and an unburdened conscience. His testimony is given in a relaxed and rather bored manner, it has become a routine. Everything is as before: the star witness clearly explains the command structure of his unit which reaches up to Han Pijesak. The trip to Srebrenica on 10 and 11 July 1995 comes up, Franc Kos commanded the Bijeljina platoon and then in Srebrenica Milorad Pelemiš took over, his order not to shoot civilians is mentioned, and then follows the order to kill a young Muslim. They spend the night of 12 July in two houses on the edge of the town and in the morning they set off for Vlasenica. On the way the truck breaks down, Erdemović arrives back at the base very late and finds out only on 13 July in the morning that his company commander’s vehicle overturned not far from Vlasenica and that a soldier died in the accident. The long journey to Trebinje with Dragan Koljivrat’s body follows, the funeral is on 14 July, and on 15 July at 5am they get back to Vlasenica. At last Erdemović collapses exhausted into bed.

On 24 April 1996, Erdemović told investigators Jean-René Ruez and Peter Nicholson that all seven went straight to sleep as soon as they got back in the morning of 15th July (p. 4, p. 5). He says he must have slept for 24 hours because from 10 to 15 July he had been on assignment almost continuously. On another occasion in this interview, Erdemović says that he slept at the Vlasenica camp until 5 pm. On that day, he says, the whole unit — the Bijeljina platoon, to which Erdemović belongs, and the Vlasenica platoon — had been at the camp. Including the company commander, Pelemiš:

Ruez: So you spent in fact a normal day in Vlasenica without learning anything about the events of the previous days?

Erdemović: I was really tired and I slept until something like 5 pm.

Ruez: All the platoon of your unit was present in Vlasenica that day?

Erdemović: Yes.

Nicholson: And was all of the unit present?

Erdemović: The whole unit, yes.

Nicholson: Does that include your commander Pelemiš and the deputy commander Kremenović?

Erdemović: Pelemiš was there but Kremenović wasn't. Kremenović hadn't been to Srebrenica at all. (p. 19, p. 13)

This passage needs to be remembered and compared to what witnesses Colonel Salapura and Dragan Todorović are later to say.

On 4 May 2007, in his appearance at The Hague in the trial against Vujanin Popović and others, Erdemović sticks to the broad outlines of his earlier account. On 15 July 1995, he had arrived back in Vlasenica early in the morning, having hardly slept since 10 July. Then he had slept through until 16 July until Brano Gojković had come into the dormitory and told him, Franc Kos and Zoran Goronja to fetch their weapons get ready for an assignment. (IX, p. 10,962 f.) It is odd that a certain Gojković should issue orders to these three, since Franc Kos has just been mentioned as platoon commander (IX, p. 10,941). The judges show no surprise. Prosecutor McCloskey and what happened next and Erdemović replies, "We did that, and maybe after half an hour we set off from Dragaševac, our unit's base, towards Zvornik." (IX, p. 10,962). And then he again gives the names of his seven accomplices. Strangely no one is surprised when he once more says Franc Kos was one of them. He had just replied to a question by Prosecutor McCloskey by saying that Franc Kos was the platoon commander, "in charge of our detachment" (IX, p. 10941). No one seems to notice this inconsistency. Then the question is put who was in command of the execution squad.

McCloskey: Who was in charge?

Erdemović: Brano Gojković.

McCloskey: What was his rank, if any?

Erdemović: From what I know, he didn't have a rank. (IX, p. 10963)

This careful reply to the question about Gojković's rank is remarkable: as far as he knew, he had no rank. It is as if he does not want to exclude the possibility that he might perhaps have had a rank after all. It is even more remarkable that a soldier without any rank can be in command of a lieutenant and platoon commander, and that this absurdity bothers neither the prosecutor nor the judges. But also not one of the lawyers of the seven accused express a view on this after the star witness has finished giving evidence! Everyone seems to be convinced of the credibility of the star witness. Then McCloskey clarifies for the judges the no less problematic matter of Erdemović's demotion, whose rank is no longer referred to as sergeant but as corporal:

McCloskey: What was your rank or position at that time in the unit?

Erdemović: Before that, I was a corporal in the Army of Republika Srpska. I was a corporal in the 10th Sabotage Detachment, and because of conflicts between me and Milorad Pelemiš, who was the commander of our unit, he stripped me of the rank. I was actually the commander of a group in the Bijeljina platoon, but at that moment I was just a regular soldier. (IX, p. 10693)

It is irrelevant whether one translates the Serbian rank “*vodnik*” as “sergeant” or “corporal”. What is striking is that Colonel Salapura is no longer mentioned, although in all his previous statements, Erdemović said that Salapura personally demoted him from the rank of sergeant for disobedience. Even this difference from the star witness’ earlier accounts seems to bother no one. The Prosecutor then asks further how the ordinary soldier Gojković came to be in charge of the unit.

McCloskey : And did you know who had given Brano Gojković the command of this unit?

Erdemović : He said that Pelemiš came and said to get ready, so I conclude, on the basis of that, that Pelemiš told Brano what needed to be done. (IX, p. 10963)

On this meagre basis of knowledge, Erdemović not only claims that Gojković had been put in charge of the execution squad by the company commander Pelemiš but also that, that morning, as the execution squad was on its way to Pilica, Pelemiš himself had been in the Vlasenica camp.

McCloskey: Before you left on this assignment, did you see any officers like Pelemiš or anyone above him around Vlasenica, where you guys were staying?

Erdemović: That morning, Pelemiš was there, but the night when we returned to Vlasenica from Srebrenica, this was on the 12th at night, Major Pećanac was there. (IX, p. 10963).

Pelemiš was there that morning, says Erdemović. Is that an answer to the concrete question whether he had in fact “seen” Pelemiš? It is as if no one wants to know exactly.

Further contradictions about what happened on the day before the massacre

On 15 July 1996, the day before the massacre at Branjevo Farm, the whole unit had been at the Vlasenica camp, says Erdemović. He had slept the whole day and on 16 July, when he was ordered to get ready for an assignment, Pelemiš had been there, Erdemović had seen him.

That is what Erdemović says on 4 May 2004 as a witness in the trial of Vujadin Popović and others. But it is fascinating what Erdemović said about the same events in his interview on 25 June 1996. In this relatively short interview, the investigators wanted to clarify exactly when and how often Erdemović had seen his company commander between 12 and 16 July 1995, that is, between Pelemiš' accident and the departure of the execution squad to Pilica. On that occasion, Erdemović says that he had also seen Pelemiš on 15 July. The investigator, Jean-René Ruez, does not really want to believe it and he asks Erdemović again, "So, did you see him on 15 July?" Yes, in the afternoon, when Erdemović got up, after he had come back that morning from Trebinje and had gone to bed exhausted. Then he had seen Pelemiš. He had had a bandage on his head but otherwise he had not been badly wounded, says Erdemović. Had he looked OK, had he spoken normally, had he behaved normally? Apparently the investigators had in the meantime obtained other information about Pelemiš' condition and whereabouts. Yes, he looked normal, he had not been badly wounded, says Erdemović repeatedly:

Ruez: Do you remember seeing Pelemiš also that day, the 15th?

Erdemović: I can't remember precisely but I did see him then exactly when I returned or it may have been two or three hours later. I don't think I saw him ... I saw him afterwards when I got up, because we arrived about five in the morning.²⁸

Ruez: So you saw him on 15th?

Erdemović: Yes but late in the afternoon when I got up.

Ruez: How was he physically?

²⁸ The Serbian transcript translates as follows: "I cannot remember but I do not think that I saw him when I came back but maybe two or three hours later when I got up, then I saw him, because we arrived early in the morning, around 5 o'clock we arrived from Trebinje, around 5 or 6 o'clock." (p. 4)

Erdemović: Normal.

Ruez: Did he had bandage (*sic*) on his head?

Erdemović: He didn't have plaster, he didn't suffer any serious wounding.

Ruez: He speaked (*sic*) normally and behaved normally?

Erdemović: Yes (p. 5, p. 4)

In the same interview, Erdemović claims that he also saw Pelemiš before he drove to Trebinje on the morning of 13 July to bury the unfortunate Koljivrat. Pelemiš had had a white bandage on his head but otherwise there was nothing wrong.

Ruez: Do you know if Pelemiš has (*sic*) been wounded during this accident?

Erdemović: A little bit in his head.

Ruez: Did you see him after the accident?

Erdemović: Yes.

Ruez: How was he physically?

Erdemović: He had a wound, he had some plaster on his head.

Ruez: He was already healed? I mean, somebody already took care of him?

Erdemović: I came later, we were late because our vehicle was (*sic*) broken down and we were late about seven hours.

Ruez: But when you arrived in Vlasenica you saw Pelemiš and Pelemiš seemed to be OK.

Erdemović: He had just the bandage or plaster. I heard what happened.

Ruez: And after that you went to the funeral in Trebenje (*sic*).

Erdemović: Yes (p. 4, p. 4)

To sum up, Erdemović claims to have seen Pelemiš three times between 12 and 16 July 1995: first, after the accident with his vehicle on 12 July at 4pm and before his departure for Trebinje early in the morning on 13 July; second, on 15 July, after Erdemović got up and following his return from Trebinje; and third, on 16 July, before the execution squad set off for Pilica. What a pity that no one wants to question Pelemiš. Because in his interview for *Nezavisne Novine* on 21st November 2005, he says the following:

On 12 July (1995) at around midday we set off, about 30 men, for Vlasenica, where we had a training centre. We drove in a Dutch UNPROFOR armoured personnel carrier which we had bought in Srebrenica. A few hundred metres away from our base at Vlasenica, a truck with a trailer came towards us. Because of the APC, he probably

thought that we were UNPROFOR, the trailer swung in our direction and hit the APC. I was inside with two other soldiers. We crashed into a slope. Soldier Dragan Koljivrat was killed. Soldier Mladen was also wounded, he broke his leg. I had broken ribs and a wound to the head when the vehicle overturned. That all happened on 12 July around 4pm. I was taken unconscious to the hospital in Vlasenica. Because it was full of wounded people, I was transported that same night from Vlasenica to Seković where I stayed until 21 July and then I went to Belgrade where I was looked after at home ... On 23 July I broke off my sick leave and returned to my unit.²⁹

Pelemiš says they bought the Dutch APC in Srebrenica. That must be a joke, the vehicle had obviously been captured from the Dutch battalion "Dutchbat". Pelemiš was driving it without sufficient proficiency. Later he claims that investigators from the Tribunal had consulted documentation from the hospital and checked where he had been on 16 July. If this is all true, then Erdemović cannot have seen him on 16 July. Nor on 15 July either, when he apparently spent the whole day asleep. And not immediately after the accident and before his departure for Trebinje either, because Pelemiš had been taken to hospital unconscious. Maybe Pelemiš is lying as well, because he carelessly says somewhat later in the interview that he saw Erdemović for the last time on 12 July around 4 pm, when he gave the unit 10 days' leave. He says he did not see Erdemović again until October after he, Erdemović, came out of hospital:

As far as Srebrenica is concerned, I saw him (Erdemović) for the last time on 12 July at 4pm when I put them (the unit) on leave, and in October when he returned to the unit after being treated in hospital.³⁰

So was Pelemiš unconscious on 12 July at 4pm or not? Which of the two is telling the truth, we do not know. But it would be easy to clarify. One would need only to put the two next to each other as is usual when trying to establish the truth in a criminal procedure. But who knows what might come out of such a meeting. Or perhaps someone does know, and that is precisely why Pelemiš has not been questioned.

²⁹ "Bili smo profesionalci, a ne placenici", ("We were professionals, not mercenaries,"), *Nezavisne Novine*, Banja Luka, 21st November 2005.

³⁰ Ibid.

Witness Dragan Todorović and the riddle of 15 July 1995

Naturally Pelemiš wants to distance himself as much as possible from the massacre his soldiers committed. It is possible even to manipulate hospital documents for this purpose. But there is another witness who confirms Pelemiš' absence in hospital: the logistics corporal of the 10th Sabotage Detachment, Dragan Todorović, who testified as a Prosecution witness two months after Erdemović, on 21 August 2007, in the same trial of Vujadin Popović and others. Dragan Todorović's testimony fundamentally trashes the story Erdemović tells about how the execution commando was recruited. His testimony is all the more convincing because it did not come out the way the Prosecution intended. Rather, it came up as a by-product of his main testimony, which dealt with the question whether the accused Vujadin Popović had been present in the Vlasenica camp on 15 July 1995 or not. Todorović incidentally seems to know Erdemović rather well. When Prosecutor McCloskey unexpectedly asks him about Erdemović right at the beginning of the examination-in-chief, the witness is able to tell us various things about him. We learn also that the Vlasenica soldiers had always been rather suspicious of the people from the Bijeljina platoon, to which Erdemović belonged, because they were mainly Muslims and Croats. The two groups did not particularly like one another:

McCloskey: Can you tell us who Franc Kos was?

Todorović: He was a member of the Bijeljina group, of the Bijeljina Platoon. I did not communicate with him much. I did not know him. The unit was of a mixed composition. I'm talking about the Bijeljina Platoon. It consisted of Muslims, Croats. There was a Slovenian, there were people from Serbia, and in Vlasenica, we were a Serb platoon, all the people bore Serbian names, and that's why we did not really trust them. (XIV, p. 13998 f.)

We learn the following from Todorović: on 10 July 1995 he went to Srebrenica with a few logistics soldiers and on 11 July took part in the capture of the by then largely deserted town. "We entered the city or the town without any resistance." (XIV, p. 14,003) He spends the night of 12 July with his logistics group outside the town, and the next morning they start off on their return journey very early. In the Vlasenica camp, which is in a village called Dragaševac near Vlasenica, they have to prepare everything in time for the return of the troops: warm food and water and all the other stuff. Todorović gets back to

the camp with the other soldiers by noon and they set to work. A few hours later, they hear that one of the vehicles has overturned just outside Vlasenica and that one person has been killed and two wounded. One of the wounded was the company commander Pelemiš. Todorović hurries to the scene of the accident where other soldiers are already taking care of the wounded, while he drives the dead Dragan Koljivrat to hospital where his death is formally recorded. After that, he calls the dead man's parents and organises everything for the funeral. The next day, 13 July, seven soldiers including Todorović and Erdemović set off for Trebinje in a black Volkswagen minivan. Trebinje is Koljivrat's birthplace and his parents still live there. Dragan Koljivrat's body is brought in a refrigerator truck which follows along behind them. Todorović gives a more extensive and impressive account than Erdemović of the long journey, of the funeral on 14 July, of the parents' grief and of the return journey to Vlasenica where they arrive on 15 July between 10 and 11 in the morning (XIV, p. 14011). Not around 4 or 5 in the morning, as Erdemović claims (VII, p. 3115). The car is parked, the soldiers are relieved and Todorović goes off in search of the company commander Pelemiš, because he has brought some presents for him from the parents of the dead soldier. And he realises:

He wasn't there. I asked a soldier at the gate where Mr. Pelemiš was, and he told me that he was either in Bijeljina or at the hospital in Belgrade. (XIV, p. 14011 — 2).

So Todorović claims Pelemiš was not there. This is 15 July, Erdemović has just got back to the Vlasenica camp with Todorović and the other soldiers, and was sent on leave along with the others. A short while later, the witness Todorović reports, Major Dragomir Pećanac arrives. Todorović had known him briefly as a security officer but did not know exactly what he did. At any rate, Pećanac was always to be seen near General Ratko Mladić. Then Todorović witnessed a violent argument which broke out between this Pećanac and a soldier by the name of Zoran Obrenović. Pećanac shouted at Obrenović and demanded that he provide him with some men for a certain job. Todorović was very surprised, since Major Pećanac had no authority over the 10th Sabotage Detachment. Only Pelemiš had the authority to send men on an assignment, no one else. (XIV, p. 14028) After shouting at Obrenović, Pećanac then also shouted at the soldier Brano Gojković (XIV, p. 14040 — 1). He also demanded that he provide him with some men. Todorović had tried to quieten them down but when he asked what they were arguing about, Pećanac just ignored him and left the camp. Brano Gojković managed to put together a group of men out of the soldiers who were there and Todorović gave them the ammunition from the depot which was usual for an assignment: two Zolja missile launchers, an M-84 machine gun, a box of ammunition, water bottles and rations for 48 hours. The Hague judges have the receipt signed by Franc Kos. The Prosecutor asks why he got Kos to sign for the equipment. Because he had a rank, answers Todorović, and indeed was the most senior. After that, the group left the camp in a minivan, seven or eight men with the driver. The company commander had not been present, he

says, without his agreement no one was allowed to leave the camp, but Pećanac had evidently taken the responsibility upon himself. (XIV p. 14039). Who was in the group, asks the Prosecutor, and the reply again undermines the credibility of the star witness Erdemović:

McCloskey: Okay. You've — can you tell us some of the soldiers that you — that left that day in the minivan?

Todorović: Franc Kos, I believe that he took the duty of the leader, although the other one³¹ shouted at Brano but Brano did not have a rank. He was a foot soldier. Then there was Gojković, I believe. Selanović. Boris Popov. Marko Boškić. And Mr. Dražen Erdemović who joined the group a bit later. (XIV, p. 14040)

Franc Kos had been in command, opines Todorović and he names further Gojković, Selanović, Boris Popov, Marko Boškić and Dražen Erdemović who joined the group a bit later. This group left the camp in the same black minivan in which they had driven Koljivrat's funeral.

The Prosecutor does not seem to be completely satisfied with his witness. Who shouted at whom? Could the witness please explain a little more clearly to the judges what they were arguing about? The witness tries. The whole argument had been about an order which only Pećanac knew about. It had all been about the recruitment of some soldiers who were to be sent somewhere on a mission. But he did not know what the mission was. Perhaps they were going to carry out some operation or other, maybe to protect an important person or to secure a road. No one had told him and he was not allowed to ask questions about it. At the time there had been a big offensive by the Bosnian Muslim army, maybe this assignment had something to do with that. Then the witness lists quite concretely what he knew and what he did not know:

I only know that they left the base, that they had been equipped for a mission but I don't know where they went. I know that Mr. Gojković did not have an order, that he didn't have a rank, that he could not command any member of the Sabotage Detachment. He could not issue, he was not in a position to issue any orders to any of the soldiers there. (XIV, p. 14041).

Eleven years is a long time. Who in the courtroom apart from McCloskey still remembers what the star witness Dražen Erdemović recounted about commander Gojković and about how he wanted to have him shot at Branjevo Farm for disobeying orders? McCloskey listens to the account of his new witness without batting an eyelid and then repeats the question which he had already put to his star witness Erdemović, "Who was in charge of the group?" The answer he receives ruins Dražen Erdemović's testimony — but who cares about that now in 2007?

³¹ i.e. Pećanac.

Franc Kos, who was a second lieutenant signed for the equipment. If he hadn't been there it would have been Dražen Erdemović who would have signed for a document like this. (XIV, p. 14041)

Because, one might add, Dražen Erdemović was the second member of the group who had a rank. He had in fact not been demoted, as he had claimed in all his statements. McCloskey tries to call his witness' account into doubt, which is very problematic because Todorović is precisely "his" witness, a witness for the Prosecution. If he wants to cross-examine him in order to undermine his credibility, then he would first have to declare him a "hostile witness". That is what the rules of procedure demand. But that could lead to other undesired consequences. So he tries to obtain at least a confirmation that Erdemović joined the group under duress — but he obtains precisely the opposite:

McCloskey: And you had mentioned that Dražen Erdemović had joined this group a little later. Can you tell us what you know about that, the circumstances about Erdemović being a member of the group?

Todorović: Well, he didn't want to stay on his own in the base. The intervention squad had already left. Some of the troops were on furlough.³² Instead of going to Bijeljina on his own, he joined the group that left the base. (XIV, p. 14041–2)

In order to avoid further damage, McCloskey merely draws attention to the fact that Dražen Erdemović was the only member of this group who had made the long journey to Trebinje. Erdemović had been on the road all night and must have been exhausted, so he had probably been forced to take part in this assignment. Todorović replies that they hadn't been carrying stones. There had been two drivers in the group and Erdemović had slept the whole time in the car. McCloskey makes one last attempt to elicit an acceptable response from his witness and fails again:

McCloskey: But Erdemović was the only one that had gone to Trebinje that went on this mission on the 15th?

Todorović: He volunteered. He wanted to avoid staying on his own in the base. Nobody selected him. Nobody picked him. He volunteered. (XIV, p. 14042)

To demonstrate the discrepancy, let us recall just two statements in court by Erdemović which he made one after another within an hour on 20 November 1995:

So I came back in the evening of 15th, me and the colleagues who went with me to the funeral. So in the morning of 16th I got up and Gojković, Brano, who at the time was the Commander of the Unit, he told us to get into a vehicle to carry out an assignment ... (IV, p. 228)

When I came back from the funeral on 16th (*sic*) in the morning, I tell you Pelemiš did not tell me directly but Brano Gojković came and said,

³² i.e. on leave.

'Erdemović, Kos Franc and Goronja Zoran, get ready. You going on to a mission.' So what could we do? I asked when we would be going home. He said, 'You are going on a mission. What kind of a home are you talking about?' So I had to go on this mission, I had to. (IV, p. 292)

Erdemović says nothing about an assignment on 15 July. In not a single one of his dozen statements does he say a single word about it. He speaks exclusively about an assignment on 16 July, when the shooting of the 1,200 prisoners at Branjevo Farm is supposed to have taken place. He says that he slept on 15 July. Once Erdemović presumably made a mistake when he said that he did not return from the funeral in Trebinje until the morning of 16 July (above). 15 July 1995 seems to be a problem for him. But not for the Prosecutors or the judges at The Place of Truth.

However, the problem remains, whether the judges are aware of it or not, and it is as follows: on 21 August 2007, Dragan Todorović had to confirm, as a witness for the Prosecution, that the accused Vujadin Popović, deputy chief of security of the Drina Corps of the Bosnian Serb army, was in the Vlasenica Camp of the 10th Sabotage Detachment on 15 July 1995. His testimony therefore concerns Erdemović only indirectly. The prosecutor is McCloskey, who is extremely well acquainted with the Erdemović case. On 15 July 1995, Todorović witnessed a remarkable recruitment of soldiers of the 10th Sabotage Detachment to an assignment in the absence of their commander. Erdemović took part in this assignment, and of his own free will, by literally running after the recruited group. Todorović does not know what the assignment was, but the composition of the group and the weapons it received remind one of the execution squad which carried out the massacre at Branjevo Farm one day later, on 16 July 1995. Erdemović claims that he spent the whole of 15 July asleep and in not one of his dozen statements does he say anything about an assignment on this day. Not even on 4 and 7 May 2007, when he testified three months before Todorović as a Prosecution witness in the same trial. Which of the two is telling the truth about 15 July 1995? Was Erdemović perhaps involved in another massacre the day before the one at Branjevo Farm? Or has Todorović maybe made a mistake about the date and meant to say 16 July 1995?

It fell to the SENSE news agency to solve this problem. SENSE is based in the Tribunal and funded by the European Commission, the Open Society Institute of George Soros, the governments of the Netherlands and of the Federal Republic of Germany, and other donors. The chief editor, Mirko Klarin, has since 1998 undertaking the public task of publishing reports in Serbo-Croat and English on the trials under way. In its report on the Popović trial dated 21 August 2007, we read:

Did the accused Vujadin Popović take part in the deployment of a firing squad in the execution of more than 1,000 Bosniak prisoners at the Branjevo farm on 16 July 1995?

Dragan Todorović is the first witness after the summer break at the trial of the seven Bosnian Serb military and police officers charged with

crimes in Srebrenica and Zepa. In July 1995, he was in the 10th sabotage Detachment of the Republika Srpska Army (VRS). Todorović was in the Vlasenica platoon and was tasked with providing logistics support to the 10th Detachment, which was directly subordinate to the VRS Main Staff.

The second platoon in the 10th Detachment was from Bijeljina and was composed of people of various ethnic backgrounds — Slovenes, Bosniaks, Croats and Serbs. The Vlasenica section 'did not trust them all that much', Todorović said. Dražen Erdemović was in the 10th Detachment. He has given evidence several times about the role the 10th Sabotage Detachment played in the execution of some 1,000 Bosniak prisoners at the Branjevo farm on 16 July 1995. Erdemović pleaded guilty to taking part in the crime and has served his five year sentence.

Today, Todorović confirmed that a group of seven or eight members of the detachment, including Erdemović, had been taken from the Dragaševac base on 16 July 1995, at the request of Major Dragomir Pećanac, chief of Mladić's personal security detail.³³

Mirko Klarin must have thought that Dragan Todorović got the date wrong when he wrote this article on 21 August 2007. Todorović spoke always and only about 15 July 1996, but he must have in fact meant 16 July because that is the date of the massacre about which Erdemović has testified. So Mirko Klarin simply "corrected" the date and, even in the headline, turned 15 July into 16 July. This is true of both the English and Serbo-Croat versions of his report. According to Mirko Klarin, Todorović simply witnessed the preparations for the massacre on 16 July 1995 and therefore confirmed Erdemović's testimony. Maybe one should correct the Tribunal transcript too and put 16 July instead of 15? Then any danger to the credibility of the star witness, Dražen Erdemović would be avoided. Does anyone still want to know why we finance independent news agencies like SENSE and what they are for?

Let us summarize: Todorović observed how on 15 July 1995 in the Vlasenica camp, on the orders of a certain Major Dragomir Pećanac, a squad of seven or eight men was put together and left the camp for an unknown assignment in a black VW minivan.³⁴ Todorović thinks that this group was led by Franc Kos since he was the most senior and he therefore had to sign for the ammunition. Dražen Erdemović and Brano Gojković also belong to this group. But Todorović also gives two names which Erdemović has never mentioned: someone called Selanović and a Boris Popov. The squad that left the camp on 15 July 1995 does not seem to be the identical to the group of the perpetrators of 16

³³ www.sense-agency.com, 21st August 2008.

³⁴ General Dragomir Pećanac, former adjutant to General Ratko Mladić and his chief of staff in the General Staff of the Bosnian Serb army, seems according to media reports to be living today in Belgrade, where he runs a security firm. He could certainly throw light onto the affair, for instance about the sort of assignment which he, as Major Dragomir Pećanac, ordered on 15 July 1995. But obviously there is no need for him to do so at the Yugoslav Tribunal.

July 1995, whom Erdemović names in his statements. At that point, Todorović travelled to Srebrenica to collect supplies. When he came back late that night, he noticed that the group with Franc Kos, as he puts it, must have come back from their assignment, because the black minivan is parked in its proper place. But he did not see the soldiers. Todorović presumes they went into town, for all the cafés were still open. The next morning, 16 July, he also saw no one from this group. That did not surprise him because the whole unit was on leave until 18 or 19 July. Todorović claims to have no idea what the squad did on 16 July.

According to Todorović, therefore, Erdemović did *not* spend the whole of 15 July sleeping until the next morning, he could *not* have seen Pelemiš who was not there, Brano Gojković had *not* been the commander of the group, and no one forced Erdemović to join it. Besides the whole troop was not at the Vlasenica camp at this time, as Erdemović claims. Many were on leave, says Todorović, and Erdemović ran after “Kos’ group” because otherwise he would have been all alone in the camp and he did not want that.

Does anyone still want to know why in The Place of Truth no one wants to know anything about star witness Dražen Erdemović’s co-perpetrators?

In conclusion this too: on 7 May 2007, lawyer Nenad Petrušić begins his cross-examination of Erdemović, prosecution witness in the trial of Vujadin Popović and others. He asks whether the witness knows the name Dragan Todorović. Is he familiar with the name, does the name mean anything to him? Does he perhaps know someone with this name? “I cannot remember the name,” replies Erdemović. (X, p. 11,001). What a pity. The long trip to Trebinje, the desperate parents of Draga Koljivrat and the long nighttime journey back to Vlasenica, two nights out of six spend in a black VW minivan, all undertaken by both Dražen Erdemović and Dragan Todorović together. All for nothing. After all that, they no longer know one another.

Colonel Petar Salapura and the massacre committed on leave

We can see what a single witness can do with Dražen Erdemović's story. And this is a witness who observed the events of 15 July at some distance and who was not even questioned about the Erdemović case. How would it be if someone was questioned who participated in the events as a co-perpetrator? What would remain of Erdemović's story? Thanks to the Tribunal, we can only speculate about this.

Dražen Erdemović says he does not know Dragan Todorović, even though they belonged to the same unit and spent three days in the same car together. But he does know Colonel Petar Salapura and not only because, as the "big boss" of his unit, he is said to have personally demoted him. Interestingly, this former Colonel Petar Salapura comes to the Tribunal not as an accused but as a witness. Salapura is a Defence witness in the trial of Vidoje Blagojević and Dragan Jokić, two senior officers in the Bosnian Serb army. The star witness, Dražen Erdemović, affirms several times that Salapura had direct command responsibility for the massacre at Branjevo Farm. But this seems to have no effect. When the investigator, Jean-René Ruez, asks Erdemović in the interview of 24 April 1996 whether he can imagine that Pelemiš and Salapura did not know about the massacre of Muslim civilians, the star witness replies decisively, "No one could give us an order bypassing Salapura." (p. 47, p. 30)³⁵ If Erdemović is telling the truth, there is no explanation for the fact that Salapura has not been indicted or at least questioned. He is, after all, no "small fish" as the Prosecution called Marko Boškić when it rejected his transfer to The Hague. And if Erdemović is not telling the truth, then his story is perjury. But his story is repeatedly used as proof of genocide against Bosnian Muslims, in several different trials at the Tribunal. The international arrest warrant issued against Radovan Karadžić and Ratko Mladić was based on it. Yet apparently the story does not incriminate Colonel Salapura sufficiently. How interesting.

On 8 and 9 June 2004, Petar Salapura is a defence witness in the Blagojević and Jokić trial. His testimony is only indirectly connected with Erdemović's story. The former head of the intelligence service of the Bosnian Serb army says that he first heard of Erdemović's story when it was reported in the media. Concerning operations carried out by the 10th Sabotage Detachment, he

³⁵ This is what Erdemović says in the Serbo-Croat version of the report. In the English language version he says, "Nobody else could give us any orders."

in his capacity as chief of intelligence could only make suggestions and recommendations. As an intelligence officer, he could give no orders to this unit. Whom should we believe? Erdemović has said several times that Salapura personally demoted him. Salapura says he had no power to give orders to the unit. He could make only suggestions and applications for individual reconnaissance operations carried out by this unit, he says. (XII, p. 10,524). Salapura is here under oath at The Place of Truth, and yet no one asks him whether or not he did in fact demote Sergeant Erdemović because he had released a Croat military policeman in August 1994. Or for any other reason at all. On a dozen occasions, Erdemović claims that he was demoted by Salapura personally, and that his unit was under his direct command. Erdemović's testimony is important proof in five trials, and yet no one now confronts the witness Salapura with the claims made by the star witness Erdemović. How come there is so much that no one wants to know? It is a strange court indeed.

Apparently even the lawyer Michael Karnavas finds it strange that the Office of the Prosecutor has so far shown no interest in witness Petar Salapura. Karnavas is leading the Defence of Blagojević. He asks his witness whether the Office of the Prosecutor has ever wanted to know from him what he has to say about Srebrenica and the 10th Sabotage Detachment. No, says Salapura, he has noticed no interest on their part. (XII, p. 10,521.)³⁶

Then he recounts what he knows about the role of the 10th Sabotage Detachment in the capture of Srebrenica. He even knows about the accident which befell the company commander Pelemiš. He knows that a soldier died in the accident and that some people were wounded, including the company commander himself. On 13 July Salapura had telephoned the Vlasenica camp. He had wanted to speak to the company commander Pelemiš but in vain. A soldier told him on the phone that Pelemiš was being treated for his wounds. Only the guards were in the camp, all the soldiers were away, they were on leave, they had all been given 10 days off. (XII, p.10,523). Prosecutor McCloskey cannot believe it. When he starts his cross-examination of the witness the next day, he cuts straight to the quick and asks the witness to confirm whether it is indeed his testimony that the soldiers of the 10th Sabotage Detachment who participated in the massacre at Branjevo Farm were in fact on leave, that they were on holiday when they committed murder. Yes, the witness confirms. McCloskey asks how he knows this. Perhaps he is expecting that the witness will again refer to his telephone conversation with some soldier or other. That would be easy to deal with. But Salapura has another source for his assertion:

Salapura: Well, because I had received information once I arrived at the command post in Han Pijesak that the elements which had taken part in fighting back in Srebrenica had been released and allowed to go

³⁶ Salapura is being modest. Naturally he knows that the Office of the Prosecutor has him down as a member of a "joint criminal enterprise" which with General Ratko Mladić at the top it has used as the basis for severan indictments and which constitutes work in progress. Whoever belongs to it has the status of a suspect.

on leave. The commander had been injured and was on sick leave, and the other troops were allowed to go on leave. Only the guards remained.

McCloskey: And when did you find that information out?

Salapura: On the 13th, on the evening of the 13th. (XIII, p. 10,582.)

McCloskey makes every effort to unsettle the witness and to make it seem as if the claim is not important. But Salapura answers every question with the greatest clarity, and the Prosecutor has to make do with the fact that on 16 July 1995 the eight men at Pilica had been on holiday for several days, like the other members of the 10th Sabotage Detachment who had been involved in the capture of Srebrenica.

Incidentally, Colonel Salapura is here confirming in the witness box what the company commander Milorad Pelemiš had already claimed in 2005 in his interview for *Nezavisne Novine*: “On the morning of 12 July we received notice that we were on leave until 22 July and that people should go off on holiday and get some rest, because we had been on assignment for 15–20 days.”³⁷ Witness Dragan Todorović also mentions, although in general terms, that on 15 July 1995 several soldiers were on leave and that they did not have to rejoin their unit until 18 or 19 July. (XIV, p. 14,045).

It is striking that star witness Erdemović, in his dozen statements, has never mentioned this holiday on one single occasion. Prosecutor McCloskey must have noticed this, since he was present at most of the interviews with Erdemović. How does he explain Erdemović’s silence about his holiday and about the operation on 15 July 1995 in which, according to Todorović, he took part, one day before the massacre at Branjevo Farm? Will McCloskey now call the credibility of his star witness into doubt? No he won’t.

So what is the upshot of all this, if it is indeed true? How is one to classify this group, these eight men, who although they belonged to the 10th Sabotage Detachment were in fact on leave on the day of the crime and had been released from duty for 10 days? Let us look at the whole picture more closely, using the information gleaned from the evidence given by Todorović and Salapura, as well as from later admissions by Erdemović.

A certain Dragomir Pećanac, chief of security to General Ratko Mladić, appears in the Vlasenica camp on the afternoon of 15 July 1995. The company commander, Pelemiš, is absent and Pećanac has no authority over the 10th Sabotage Detachment. Nonetheless, he demands of Zoran Obrenović and later from Brano Gojković, both of them ordinary soldiers, that they supply him with soldiers for some mission or other. There are only a few soldiers left in the camp because they are on leave. After a violent argument, during the course of which Obrenović refuses the order, Gojković accepts the task and gets together a group of seven or eight soldiers. Because he is a private soldier, he must have have

³⁷ “Bili smo profesionalci, a ne placenici”, (“We were professionals, not mercenaries,”), *Nezavisne Novine*, Banja Luka, 21st November 2005.

found some way to recruit them. One of them is the platoon commander Franc Kos who, as the highest ranking member of the group, signs for the usual equipment — weapons, ammunition and provisions. A little later, Erdemović also joins the group. The group gets into a VW minivan and leaves the camp. It seems this could be the same group of perpetrators which we know from Erdemović's story. Even the Prosecutor steers the witness in this direction. Erdemović speaks of an olive green VW minivan and Todorović of a black one, but people can make mistakes. The weapons given to Kos, including an M-86 machine gun, seem to be the same as those which the group of perpetrators had at Branjevo Farm. On the other hand, this is standard issue weaponry, as Todorović says and he is one to know. The group is not absolutely the same as the group of perpetrators, because Todorović names two soldiers whom Erdemović does not mention. Maybe Todorović has made a mistake here too. If only there were not this difference of one day. The minivan with Kos and Erdemović which Todorović observed left the camp on 15 July 1995 in the afternoon. But Erdemović got into the minivan which was to take him to Branjevo Farm on 16 July 1995 in the morning. Even Mirko Klarin's editorial intervention does not help.

What sort of a squad is it, composed of eight soldiers who are on leave but who are nonetheless hanging about the camp, whom some major signs up to a free-time assignment in the absence of their commanding officer? A major Pećanac who was not the soldiers' superior, and whom the ground has now swallowed up? How come, if he is on leave, was Erdemović sitting around in the camp instead of going home to his wife and child in Bijeljina? Was there perhaps some way of earning extra money by working a sort of overtime? And what sort of a squad is it in which the military hierarchy is suspended, to which a lieutenant and a sergeant belong but in which the private soldier who signed them up is in command? What has this group got to do with a military squad with a command structure and which is part of a line of command? Nothing. They are just a bunch of criminal mercenaries. How are we to know that they acted on the orders of General Ratko Mladić? Why do they have to have acted on the orders or anyone, especially since they were on holiday? Does anyone even want to know? If so, then where are the other members of the bunch? Why are they not even questioned?

On the First and the Last

The question where Erdemović's co-perpetrators are and when they will be presented to the judges is first put in the courtroom at the hearing of 19 November 1996. It is also to be the last time that a judge puts it. Let us have a slightly closer look at this passage.

Prosecutors Eric Östberg and Mark Harmon present the evidence they have to offer in Erdemović's guilty-plea procedure to Judges Claude Jorda (the presiding judge), Elizabeth Odio Benito and Fouad Riad, and in the presence of Erdemović's lawyer, Jovan Babić. Their most important witness is the investigator, Jean-René Ruez. His testimony deals with the admission of guilt taken down from Erdemović, as well as with the results of his own investigations *in situ* into the events described in the confession. As proof, he presents the post-mortem examinations carried out on the 153 exhumed bodies, photographs, and several of the ever so irrefutable satellite images provided by the American secret services. Ruez summarises Erdemović's admission of guilt and explains the pieces of evidence. But the judges want to know more. They ask for various details, and in response they receive explanations like this one:

As far as I recall from our investigation of what we have done in this case, the foundation for this information is the things we were told by Erdemović. That is the only source. (III, p. 150–1)

The presiding judge asks for information about what sort of unit the 10th Sabotage Detachment was and gets the same sort of answer again:

All I can tell you about this unit is based on Dražen Erdemović's statements. I do not know whether it is made up of volunteers or whether people were compelled to join it. Dražen Erdemović only told us about his own situation. (III, p. 152)

It is astonishing how Ruez, as an investigator for the Prosecution, does not want to know anything other than what Erdemović wants to tell him. Does he for instance really not know that the 10th Sabotage Detachment was a unit of mercenaries? This is all rather complicated for the judges, who are running a guilty-plea procedure for the first time here, in which the admission of the accused is a sufficient basis for their judgement. So a declaration by the investigator in place of an answer is very welcome. Ruez says he does not think that Erdemović has concealed any information from him. (III, p. 153). One is tempted to ask how he knows that, but he does not say that he knows it, only that he thinks it. "There are no contradictions in what Dražen Erdemović has said and what we have found independently in the course of the investigation. There is nothing that

conflicts with what he has said. As regards all the topics we have broached, he has provided us with full information.” (III, p. 153)

But somehow the judges are not prepared immediately to abandon the idea that the admission of a single perpetrator is not sufficient proof, especially not for such a serious crime. So the presiding judge carefully asks whether other investigations are underway concerning Erdemović and his superiors. “Your Honour, there certainly are,” replies Prosecutor Harmon. “Our investigations are comprehensive.” (III, p. 154). These investigations, the prosecutor says, focus on a number of high ranking individuals who bear responsibility for the executions in and around Srebrenica. The presiding judge thanks the prosecutor and seems to be satisfied. But then, a little later, Judge Riad summons up the courage to ask further questions. He wants to know about Erdemović’s immediate superior, about the one who was in control of the situation at Branjevo Farm (III, p. 160). The judge obviously means Brano Gojković, whom Erdemović repeatedly calls the commander. But the investigator does not answer the judge about what he has asked and the following exchange arises:

Investigator Ruez: Well, the names of the perpetrators have already been stated in the course of this public hearing in July. Dražen Erdemović has always given the name of the participants in the atrocities, that is to say, he has given the names of his fellow soldiers, the names of the people who ever participated in the atrocities.

Judge Riad: What about superiors, did he tell you who his superiors were?

Ruez: Yes, he gave the name of the leader of the execution squad as well as the names of the seven other members of the Unit.

Judge Riad: The head of that Unit, where is he? What do we know about him?

Ruez: He should still be at Bijeljina right now.

Judge Riad: There is no means to carry out an investigation about it? Maybe Mr. Harmon. Can I repeat the question?

Prosecutor Harmon: Yes please, your Honour.

Judge Riad: As far as the superiors of Mr. Erdemović are concerned or the direct superiors, do you have any information concerning him and is there an investigation on the way?

Harmon: By virtue of the information provided to us by Mr. Erdemović, we have the identifications of the some of the superiors and our investigation is focused on those individuals as well as others. As I mentioned previously, your Honour, our investigations are ongoing in relation to this event. They have not concluded. (III, p. 160 — 174)

Judge Riad thanks him and the Prosecutor thinks that he is got away with this evasive answer. But the presiding judge has paid attention and wants to add

to his colleague's question. In the name of his colleagues, he says that he wants to emphasise that they are surprised that no indictments have been issued against these people, for instance against the leader of the execution squad:

Judge Jorda: I would like to supplement the question that my colleague asked you. We can state that we are somewhat surprised that Dražen Erdemović is here before this Tribunal, because he himself confessed to the crimes that he committed, but since in the end you place a great deal of weight on his words, which we all do, we can in fact be surprised that there has not yet been an accusation or an indictment made against one of these people, for example, the head of execution squad. A little while ago I was speaking about the Lieutenant Colonel, but what about the other executives? We could go very high up in the chain of command. It is natural for Erdemović to be tried here, but you are putting a lot of weight on his words having to do with himself but we are surprised — I am now no more speaking about the Lieutenant Colonel about whom you gave us some evidence, but about the other people who were there. For example, the head of execution squad, he is identified, he is named and the Tribunal really has to ask the question. It is not at all, Mr. Prosecutor, being done in order to criticise the way you work in your office, but it is simply because we must try a man and, in order to try a man, he must be placed within the total scope of the events which took place. (III, p. 174–175).³⁸

Almost imploringly, the judge begs the Prosecutor to do his duty and to indict the other perpetrators. He is challenging the Prosecution to make clear what is going on. The Prosecutor says that the evidence presented enables the court to put Erdemović, his role in the events, and his relationship to other individuals, into perspective. In answer to the question whether the Prosecution intends to issue further indictments, he says that the matter is obviously under discussion in his Office but that he would prefer not to discuss this matter publicly in court at this time. You can almost hear him saying, “Mind your own business!”

The presiding judge, Claude Jorda, tells Prosecutor Harmon that the judges have noted his answer. (III, p. 175). It is 19 November 1996? One wonders if the judge has kept his notebook.

³⁸ See p. 165 — 166 for the French original. <http://www.icty.org/x/cases/erdemovic/trans/fr/961119IT.htm> A small typing error has crept into the English transcript which has been corrected in the quotation above (“We could go very up in the chain of command” for “On pourrait remonter très haut, d’ailleurs.”)

The judgement

On 29 November 1996, the judges of Trial Chamber I, Claude Jorda (presiding), Elizabeth Odio Benito and Fouad Riad sentence the Bosnian Croat Dražen Erdemović to 10 years in prison for “crimes against humanity”. He must have felt quite dreadful. He had admitted to shooting personally between 70 and 100 prisoners. That would mean that, for every 7 or 10 people he killed, he would have to serve one year in prison. Dražen Erdemović appealed against the sentence, saying that he had not been properly informed about the guilty plea procedure and that he had pleaded guilty to “crimes against humanity” by mistake. This is a form of culpability which explicitly includes murder. He could instead have chosen to plead guilty to “violations of the laws and customs of war”. On the basis that Dražen Erdemović had not been properly and sufficiently informed of his rights, his Defence lodges an appeal against this sentence on 23 December 1996. On 7 October 1997, the Appeals Chamber decides to send the matter back to another Trial Chamber so that Dražen Erdemović can choose the right guilty plea. In the course of the new hearing, the Prosecution withdraws the count of “crimes against humanity”, on 14 January 1998, Dražen Erdemović pleads guilty to the count of “violations of the laws and customs of war”. On 5 March 1998, the new Trial Chamber sentences him to five years in prison. For someone who had been offered the prospect of immunity from prosecution, as can be deduced from Renaud Girard’s article in *Le Figaro*, even this incredibly mild sentence must have been a disappointment.

The second Trial Chamber judgement, of 5 March 1998, handed down by Judges Florence Ndepele Mwachande Mumba, Mohammed Shahabuddeen and Wang Tieya makes interesting reading, especially sections 16 and 17 entitled “Mitigating factors” and “Duress”. It is here that we find the justification for what is, to a layman anyway, an incredibly light sentence. But justifications like this do nothing to dissipate the layman’s astonishment:

The accused is a locksmith by training and was drawn into the maelstrom of violence that engulfed the former Yugoslavia. He has professed pacifist beliefs and claims to have been against the war and nationalism. He claims that he had to join the BSA in order to feed his family. In July 1995, he was a private in the 10th Sabotage Detachment where he was not in a position of command. He was, apart from a two month period as a sergeant in that unit, a mere footsoldier whose lack of commitment to any ethnic group in the conflict is demonstrated by the fact that he was by turns a reluctant participant in the Army of the Republic of Bosnia-Herzegovina, hereinafter referred to as the “ABH”,

the Croatian Defence Council, hereinafter referred to as the “HVO”, and the BSA. The possibility of his being a soldier of fortune has not been suggested by any of the parties. (Section 16 i).

So, drawn into the maelstrom of violence (the judges are careful not to speak of a civil war), the man of “pacifist beliefs”, Dražen Erdemović, has nothing better to do than to try out the armies of all three warring parties, one after the other. And this in turn is supposed to mean that he was not “a soldier of fortune”. What a euphemism for a mercenary, which is what he most certainly was. The judges also accept as a mitigating factor that, at the time of the massacre, Dražen Erdemović was a “mere footsoldier” without rank, “a private,” after having had the rank of sergeant for two months. So the whole epic about his demotion stays nicely out of the picture. As a simple soldier, Erdemović could not disobey Gojković’s order to commit murder: “The Trial Chamber finds that there was a real risk that the accused would have been killed had he disobeyed the order. He voiced his feelings, but realised that he had no choice in the matter: he had to kill or be killed.” (Section 17). A further mitigating factor is the character of the accused. The Trial Chamber quotes the view of the Defence, according to which Erdemović was “a victim of the whirlwind of war and a victim of his own deeds.” One would have to have a heart of stone not to agree. But perhaps there would not have been this “maelstrom” and this “whirlwind” of the Bosnian civil war without Erdemović and his fellows? No one wants to know, least of all the judges. But what the judges do know is that Erdemović helped Serbian civilians from the Tuzla region to flee to Republika Srpska, and that he had thereby proved that he is a good man. It is certainly true that several good men on all sides in the Bosnian civil war made good money out of offering this sort of help. If he had not been caught, the good Erdemović would never have come to earn his keep elsewhere from the war.

But the mitigating factor which counts most of all is Erdemović’s cooperation with the Office of the Prosecutor. The judges’ praise is intertwined with that of the Prosecutor: they approvingly quote investigator Ruez saying, “The collaboration of Dražen Erdemović has been absolutely excellent,” and add, “These are words rarely spoken by the Prosecution of an accused.”³⁹

The judges try, as far as is still possible, even to outdo the Prosecutor by praising the fact that Erdemović has named “his commanders and fellow executioners”. One only wonders what for. Is it perhaps so that they are not arrested by mistake and transferred to the Tribunal? This is 5 March 1998: it is nearly a year and a half since Judge Jorda noted that indictments were soon to be issued against the accomplices Erdemović has identified by name.

³⁹ Prosecutor v. Dražen Erdemović, Trial Chamber judgement, 5 March 1998, Section 16 iv, read out in Court on that date.

The French connection

On 25 August 2003, Dražen Erdemović appears as a Prosecution witness in the trial against the former president of Yugoslavia, Slobodan Milošević. As usual, the star witness' role is to incriminate people who are accused of genocide. But he himself, as a direct perpetrator of an act of mass murder, which has been proclaimed genocide by the Tribunal, has not been accused of genocide nor even of murder, even though according to his own admission he is personally supposed to have shot between 70 and 100 people. Instead, he has been accused and convicted only of "violations of the laws and customs of war". But he is allowed to incriminate people like General Krstić and Milošević for genocide, in spite of the fact that they did not even know about what he did at Branjevo Farm.

For reasons which are explained in closed session (i.e. from which the public is excluded), the cross-examination of the star witness has to be over very quickly on 25 August 2003. This time pressure apparently has something to do with the fact that the witness is busy, we hear before the monitor in the courtroom falls silent, with something in some country where he is now, as they say, leading a new life with a new identity and a salvaged conscience, and from where he comes from time to time to The Hague, to The Place of Truth, to tell his story from behind a screen, his voice electronically altered. For Dražen Erdemović is a protected witness, and we know his shy face only from the sessions where he once sat as an accused. Does he earn his keep as a locksmith in his new life, in the trade which he learned as Yugoslavia was collapsing but which he never practised because you could get along better being a mercenary in the civil war?

The prosecutor, Geoffrey Nice, sets to work quickly. But astonishingly, his first question to the star witness is what he thinks about the claim that the French secret service had something to do with the Srebrenica massacre. The accused Milošević had earlier hinted at this possibility. No, says Erdemović, he knows nothing about that, and with that this surprising matter is dealt with. (VIIIa, p. 25123) With his further questions Nice deals, in a matter of fact and routine way, with the well-known main points of the star witness's story. The witness is just as matter of fact when he confirms the individual questions, or says that he does not know. The prosecutor's goal is to elicit statements from the witness which indicate Belgrade's involvement in the Bosnian civil war, for the purpose of the whole examination is to produce evidence that Milošević shares responsibility for the genocide of Bosnian Muslims. But the examination yields very meagre results. Erdemović says that he was never aware of any policemen or secret service personnel from Serbia anywhere in Bosnia. The various other forms of support given by Belgrade to the Bosnian Serbs, which he is happy to

confirm, are hardly worth mentioning. The examination-in-chief reaches its climax when Chief Prosecutor Nice presents his star witness's mercenary contract, which includes his rank as sergeant. (VIII, p. 25,166.)

After this, the accused Slobodan Milošević gets extremely limited time for cross-examination. It will be remembered mainly for the questions he is not allowed to ask. But the questions which he can ask but which the witness does not want to answer are also worthy of attention. History will also recall how the presiding judge, Richard May, intervenes every time a question by the accused leads too far or endangers the credibility of the star witness.

Slobodan Milošević has conducted better cross-examinations in the past, when even the protective hand of the judge was not enough to prevent him from humiliating Prosecution witnesses. He accords an important place in his cross-examination to an affair which has been forgotten in the meantime, but which hit the headlines before his own fall from power under the name of "Operation Spider". Many of his questions to the star witness deal with this affair, and he uses up much of his limited time in the cross-examination without being able to achieve very much with this witness.

On 11 November 1999, Yugoslav Petrušić, Milorad Pelemiš, Branko Vlačo, Rade Petrović and Slobodan Orašanin are arrested in Belgrade. This is the same Pelemiš who was company commander of the 10th Sabotage Detachment of the Bosnian Serb Army, and who according to Erdemović is supposed to have ordered the massacre at Branjevo Farm. Under the name "Spider", this group is accused of hatching various plots to assassinate President Slobodan Milošević. It is also accused of carrying out terrorist attacks, murders and other crimes in Srebrenica, Kosovo and elsewhere on the orders of the French secret services. As the then Minister for Information, Goran Matić, announces at a press conference on 25 November 1999, this group had been in Kosovo during the NATO war against Yugoslavia, where it committed several crimes against the Albanian civilian population in order to incriminate the Yugoslav leadership. According to Matić, the men arrested had been members of the 10th Sabotage Detachment of the Bosnian Serb Army, a multi-ethnic unit which had committed war crimes in Srebrenica in 1995 and which had in fact been under the control of the French secret services. Matić specifically mentions the murder of 1,200 Muslim civilians edmitted by Erdemović.⁴⁰

Jugoslav Petrušić, also known as "Colonel Yugo Dominik", is a former member of the French Foreign Legion with dual French and Yugoslav citizenship. Petrušić claims to be working for the French *Direction générale de la sécurité extérieure* (DGSE) which is very probably true but which is not confirmed officially by France.⁴¹ As Matić further indicates, in 1996, i.e. after the

⁴⁰ See "Cudesni svet spijunaza. Afera 'Pauk'" ("The wonderful world of espionage. The "Spider" affair") in *Vreme* (Belgrade), 4th December 1999.

⁴¹ In the trial of the former President of Serbia, Milan Milutinović, witness Branko Gajić, former Deputy Chief of Yugoslav Counterespionage, confirmed that according to his office Yugoslav Petrušić had worked for the French secret services since 1986.

end of the war in Bosnia, Petrušić had, together with Milorad Pelemiš, recruited some 180 mercenaries for the French secret service and taken them to Zaire (Congo) to fight in the civil war there on the side of President Mobutu. The whole affair was financed by the French telecommunications company “Geo-link”, for which the government in Belgrade says it has proof.⁴²

Known as “The French Connection”, this whole business is an impenetrable tangle of truths, half-truths and fantasies, as is always the case when secret services are involved. What signal did Belgrade want to send to Paris by bigging up this “French lead”? How reliable is the basis for the claim that ex Foreign Legionnaires staged the murders at Srebrenica on the orders of the French secret services? If all the known perpetrators were to be questioned, then maybe some light could be shed on the matter. But this has never occurred. There remain therefore only the publicly available court documents, and from them the following can be gleaned:

On 12 May 2000, the Belgrade District Court issued indictments against the five men. They were accused, among other things, of espionage for the French secret services during the Kosovo war, and also for the murder of two unidentified Albanians. But the indictment no longer speaks of any planned attack against Milošević. And not of the murders at Srebrenica either. The judgement is handed down on 13 November 2000, shortly after Milošević was overthrown on 5 October. Yugoslav Petrušić, 38, Milorad Pelemiš, 36, Slobodan Orašanin, 44, Branko Vlačo, 28 and Rade Petrović, 26, are acquitted of spying against the Federal Republic of Yugoslavia. Even the accusation of the double murder, against Petrušić, Pelemiš and Petrović, is rejected for lack of evidence. Orašanin got one year for the illegal possession of weapons, and Pelemiš got a year and a half for extortion and illegal possession of weapons. So the court considered that only the extortion had been proved in which Petrušić, Pelemiš, Vlačo and Petrović forced two Kosovo Albanians to give them 20,000 deutsche Marks by mistreating and threatening them. The judgement is handed down exactly one year after the men’s arrest, and they are released on the spot. Later, however, the High Court annulled this judgement on the basis that the lower court did not have jurisdiction, and the case was passed to a court martial. This court martial also at first said that it did not have jurisdiction and, because bureaucracy is like that, the case did not come to trial again until years later, this time before the military department of the Belgrade District Court. By this stage, new evidence had come to light. On 22 January 2009, Yugoslav Petrušić, Milorad Pelemiš, Branko Vlačo, Rade Petrović and Slobodan Orašanin went on trial again for espionage, double murder, extortion and illegal possession of weapons. The same day, the trial was again abandoned. According to reports, the judge had accepted an application by the Defence, made with the agreement of the Prosecution, to return the trial to the status of a “judicial pre-investigation,”

⁴² Several French newspapers, such as *Le Monde* on 30th November 1999 and *Libération* on 3rd December 1999, reported on how Petrušić and the French secret services organised the involvement of Pelemiš and other mercenaries from the 10th Sabotage Unit in the war in Congo.

because the evidence for an actual trial was lacking. No date has been set for any new trial.

Milošević, meanwhile, seems to be convinced that there was a secret service conspiracy behind the killings at Srebrenica. And why not? The indictment against him claims that he led a conspiracy to create a Greater Serbia, and the judges have taken it seriously. They also do not find the allegation in the least ridiculous that, as leader of this Greater Serbia conspiracy, he set up a genocide in Bosnia. On the contrary, during the examination-in-chief, Prosecutor Geoffrey Nice spent several hours asking his star witness Dražen Erdemović about it in order to obtain evidence for the accusation of genocide against Milošević. But when Milošević in his cross-examination asks the star witness about people with French passports and about secret meetings with French generals, the judges say it is irrelevant, not serious, and a complete waste of time. In reality, though, Milošević does not even expect that Erdemović will be able to tell him anything further about Yugoslav Petrušić or a certain Philippe Rondeau, nor about the French telecommunications firm, “Geolink”. His questions are intended to be heard far beyond the courtroom, for instance in Paris, and they are intended to make his repeated threats credible that he will, when the time comes, illuminate the secret service machinations with which the genocide in Bosnia was staged.

But at some point, presiding Judge May gets fed up and does not want to listen to this any longer. The accused reacts very emotionally: “Mr. May, I will prove — I don’t have to do that through this witness — what is the background of this and that the French and other intelligence services were involved and that the perpetrators of the crime were promised — “ (VIIIa, p. 25216). Judge May interrupts him again and says in an almost conciliatory tone, “We’ll hear all about your evidence in due course, but let’s finish this witness, please.”

Milošević will not have time to make good on his promise, nor will Judge May have time to listen to it or, if necessary, to switch off Milošević’s microphone: Judge May died of a sudden illness on 1 July 2004, and Slobodan Milošević followed him on 11 March 2006.

Revenge and money?

However, the cross-examination is not as fruitless as it might appear on the basis of the above. Quite the contrary. But to make progress, all those involved in the massacre would have to be questioned, which is exactly what never happens. Milošević can do nothing about that. Nonetheless, this is the very first time that Dražen Erdemović's story has been subject to a cross-examination and its unbelievableness becomes clear right at the very beginning. Milošević says that he listened to what the witness said in the examination-in-chief. If he has understood correctly, a certain Brano Gojković, a member of the same unit, had been in command, whereas the witness claims that this Gojković had received his orders from an unknown Lieutenant Colonel in the Drina Corps. Was that right? Yes, the star witness confirms. Did his unit belong to the Drina Corps, Milošević asks further? No, says the star witness, at which point the accused demonstrated the absurdity of what is being claimed with a rhetorical question:

An unidentified lieutenant colonel from the Drina Corps comes and orders you to kill a thousand persons and you carry out that order. Is that what you're trying to say? Can any normal person believe that? (VIIIa, p. 25185, VIIIb, p. 321⁴³)

The witness makes every effort to make this absurdity acceptable with a tangle of explanations : probably, he says in a fairly confused sentence, Gojković went and found this colonel in Zvornik, on Pelemiš' orders, so the colonel did not come to see them but the other way around. The star witness chokes on an incomprehensible sentence until the judge helps him out : "Next question, please." But the question about the motive for the deed continues to preoccupy the accused, it seems that he really wants to find an explanation for this otherwise senseless massacre. Was perhaps revenge the motive? The star witness had said on 5 July 1996 that one of the perpetrators, Savanović, had bragged about having personally shot 250 prisoners because he wanted to get revenge for the fact that Muslims had killed his brother. Was it perhaps revenge? "Did someone perhaps give him orders to kill out of revenge?" Milošević asks maliciously. (VIIIa, p. 25,194). "That's what he was saying," stammered with star witness as an answer. "Make up your mind," Milošević drives on. "What was the reason for doing such a senseless thing? Do you have any explanation?" (VIIIa, p. 25194, VIIIb, p. 326). The Prosecutor hurries to help him out. "Your Honour, I think the suggestion that the witness is in some way being inconsistent in his answers is

⁴³ In the English translation, the transcript reads, "Can a normal person do that?"

wholly unsupported by the questions put and really unfair. I'm not sure if you've got the passage that he's quoting from." The relevant passage is quickly found and the Prosecutor reads it out:

We can see how it was that the witness came to give the answers that the accused is relying on. "What was the attitude of other members of your particular unit who participated in the executions?" led to the answer, "Well, the attitude of individual members was almost like mine, that this should not be done. I do not know. Whereas individuals did what they did with some kind of revenge." Asked if there were those who boasted, he said there were. "Can you expand?" He then gave the account of the person who said that the Bosnian Muslims had killed his brother who was 17. That's the way it emerged and there is no question of any inconsistency on the part of the witness. (VIIIa, p. 25196.)

"That's exactly what I quoted!" the accused Milošević protests. He says he was only asking the witness about his statement. But the presiding judge May has now switched off Milošević's microphone. He can read everything for himself, there will now be an adjournment.

Could money be the motive? From the documents put at his disposal by the Prosecution, Milošević can see that several times money is mentioned which had been promised to the perpetrators, and which had indeed been paid to some of them after the massacre. Erdemović first mentions it in the interview on 24 April 1996: he had heard that his company commander Pelemiš had promised "gold from Srebrenica" for the shootings:

Back in Bijelina I heard stories people were saying how many people they had killed, a soldier who was close to our Commander told me that the Commander had promised for these killings some gold from Srebrenica but I don't know what came of that. This is something I didn't see, this is something I just heard from someone in our unit who told about it. After a few days in Bijeljina, more precisely on 22nd in the night, a person from our unit shot three bullets at me in a café. I do not know why, no one explained it to me. He said it was not deliberate, I do not know. (p. 7, p. 5 f.)

It is indeed a great pity that no one at the Tribunal wants to know about this gold. Pelemiš, for instance, ought to know more about it, but no one wants to question him let alone indict him. Milošević tackles this delicate subject by asking how much the star witness earned as a soldier in the 10th Sabotage Detachment, but he does not get an answer:

Milošević: Did you receive a salary?

Erdemović: We did. Sometimes we didn't.

Milošević: What was your salary?

Erdemović: I can't remember now.

Milošević: Not even roughly?

Erdemović: Not even roughly.

Milošević: Quite incredible that you can't even remember how big your salary was.

Erdemović: It's not quite incredible. I can't remember, and I don't want to say something and I don't want it to turn out later on that I said something that was wrong. If I knew, I would tell you. (VIIIa, p. 25205; VIIIb, p. 334f.)

Erdemović seems to be well prepared for this cross-examination. He does not remember how much his salary was, not even roughly, there is nothing to be done. After all, it is seven years since he was in the 10th Sabotage Detachment. Then Milošević continues with the "French Connection", about which the witness naturally knows nothing. Milošević does it, though, so that his questions, which at first seem out of place, lead into a question whether the witness knows anything about a discussion at which the representative of the Muslim government and the French general Janvier had apparently agreed to give up Srebrenica without a fight. During this discussion, according to Milošević, "Some money was mentioned that was supposed to be paid to your detachment for doing this dirty work?" Did the witness know about this? "This is the first time I hear of this," the witness replies, as was to be expected. (VIIIa, p. 25210; VIIIb, p. 338). But Milošević refuses to let go, he has got to where he wants to be: does the witness really know nothing of any money or gold? Yes, he has heard about it, Erdemović replies to everyone's astonishment. What had he heard about it, the accused asks, who is himself surprised, and Erdemović explains:

I heard that afterwards, Pelemiš and individuals from Vlasenica shared some money and that they found some gold. Now, whether that's true or something, I don't know, but I heard about this while I was still at the military medical hospital.⁴⁴ (VIIIa, p. 25210; VIIIb p. 338f.)

"Who did they get this money from that you say they shared?" Milošević asks further. Erdemović does not know and then Milošević plays his trump card:

All right. I want to remind you that you said to the journalist of ABC news, Vanessa Vasić-Janeković, a statement that the massacre in Pilica took place on account of money, and you even said that somebody promised Pelemiš 12 kilogrammes of gold for carrying out this massacre in Pilica. (VIIIa, p. 25210; VIIIb, p. 339)

Erdemović's face cannot be seen. He stammers, "I said — I said what I said to you just now, that I heard that later, while I was in hospital. I don't know exactly."⁴⁵ Vanessa Vasić-Jeneković, whose video cassette with the interview with Erdemović on 2 March 1996 had disappeared from the luggage conveyor belt at Belgrade airport, seems to have spoken herself to the investigators in The

⁴⁴ In Serbian: "in hospital at the VMA." VMA is the military medical academy in Belgrade.

⁴⁵ The English text reads: "I don't know this exactly, that I heard all of that."

Hague on 8 March 1996. Milošević has her statement. Then he quotes the relevant passage: “In the same way, he (i.e. Erdemović) also explained that someone had promised Pelemiš 12 kg of gold for the massacre in Pilica and that Pelemiš was aware of this promise before the massacre had taken place.” (VIIIa, p. 25211; VIIIa, p. 339⁴⁶). Then the presiding judge May intervenes. Had Erdemović indeed spoken to this journalist? Does he remember this or not? (VIIIa, p. 25211; VIIIb, p. 339) Erdemović could have said, “No,” that he did not remember, as would have been expected, but evidently he did not understand that Judge May was offering him a helping hand. Had he indeed said that Pelemiš had promised gold for this massacre? Judge May repeats the question to be sure. Yes, he had heard of it, replies the witness. When he was in hospital, then he had heard, beforehand he had known nothing. In the meantime, Milošević has struck lucky again, he quotes another statement by Erdemović in which he mentions that his wife visited him in hospital.⁴⁷ She told him that she by chance she had met Pelemiš’ girlfriend on her way there and that the girlfriend had told her how Pelemiš and his friends from Vlasenica had ordered heavy gold chains from a jeweller, how they had spent time in Belgrade hotels, bought cars and how there was talk of gold. And then he strikes with the decisive question:

Milošević: So what do you know about this, Mr. Erdemović? Did these people — were these people killed because the perpetrators were paid to commit this massacre?

Erdemović: I don’t know how to answer that question. I wasn’t paid at all, but the persons that I mentioned, I heard that they had done all that, and that is probably all true.

Erdemović: And they received the money, and they were your superiors, weren’t they?

Erdemović: Yes, Pelemiš and certain individuals from Vlasenica. (VIIIa, p. 25213; p. 340)

It is important to note this answer by the star witness. This cross-examination has yielded considerable results and it leads to the following speculation: the group of perpetrators consists of four mercenaries from the Vlasenica platoon and four from the Bijeljina platoon. The mercenaries from the Vlasenica platoon, who are mainly Serbs, do not really trust their colleagues from Bijeljina because they are mainly Croats and Muslims. We know this, for example, from witness Dragan Todorović. It is possible that the four from Vlasenica shared out among themselves the money or the gold which was perhaps paid for the mas-

⁴⁶ The English transcript is wrong here. It says, “And then she also says that somebody explained that somebody had promised Pelemiš...” but the Serbian version says “In the same way, he explained that somebody had promised Pelemiš...”

⁴⁷ VIIIa, p. 25212; VIIIb, p. 340. The English transcript is again wrong. The passages about the wife are recorded as if Erdemović spoke them in court. In the Serbian original, these quotes from Erdemović are in fact taken by Milošević from an earlier statement he made and recorded in the court document whose references Milošević cites.

sacre. This created bad blood and perhaps explains the shootout on 20 July 1995 in the late-night bar in Bijeljina where Erdemović was badly wounded. On that occasion, Savanović from the Vlasenica platoon, who shot him, was himself also shot in the stomach. Later in the cross-examination Milošević asks questions about the shooting. He asks the witness to explain why this Stanko Savanović shot him and what the reason was for the argument. The following three-way conversation arises in which the interventions of Judge May are worth noting:

Erdemović: I cannot remember why he shot at us. He knows why he did. I cannot say. Again, I'm saying only the things I know.

Milošević: But you do know that he shot at you. That's what you said yourself now. Why did he shoot at you?

Judge May: He just said he doesn't know. He cannot remember.

Milošević: Mr. May, he describes an incident in a coffee bar, obviously where there was a number of members of this so-called 10th Sabotage Detachment that had carried out this crime. So one of these colleagues of his that he, the witness, mentions as one of the perpetrators, shoots at three of them, and I'm asking him why. There must have been a reason.

Judge May: This is the way time goes. He just said he doesn't remember. Let's move on. (VIIIa, p. 25222 ; VIIIb, p. 348)

Why does Judge May not want to know what Erdemović is trying to hide behind his loss of memory? In his first statement on 5 July 1996 in the Karadžić–Mladić trial, Erdemović said that this event was an attempt to kill him, arranged by Pelemiš, so that he would not go to the Tribunal to testify against him. (II, p. 853). This is completely unbelievable because, as soon as he was halfway back on his feet after being badly wounded, Erdemović returned to Pelemiš in Bijeljina. He took part in the anniversary celebrations of his unit and was apparently even promoted by Pelemiš on that occasion. (VIIIa, p. 25164; VIIIb, p. 308). So what can the real reason have been for this shooting? Why does Judge May not want to refresh Erdemović's memory by having Stanko Savanović questioned, the man who shot him and who later continued his criminal activities undisturbed in Belgrade? The Tribunal knows where he lives, they do not even have to look for him. For at the very moment Richard May is protecting the star witness Erdemović from further questions by Milošević, there is a trial going on in the District Court in Belgrade against Stanko Savanović and others against the illegal trade of girls from Moldova to Italy where they were forced to work as prostitutes. Savanović is also accused of extortion and rape. As can be learned from the press, Savanović rejects the accusation of rape by saying that he had been rendered impotent by wounds to his stomach and his genitals.⁴⁸ This is presumably the wound to the stomach which he got at the same shooting on 22 July 1995. Quite apart from that, he could have testified about the massacre on 16 July 1995 at Branjevo Farm, which he took part in

⁴⁸ *Glas novosti*, Belgrade, 3rd July 2003.

with Erdemović. He could also have explained whether they had been rewarded for the massacre with money and 12 kg of gold. And whether he has diddled Erdemović and his other mates when the time came to share out the dosh. But Judge May does not want to know the reason for the shoot-out.

Given the Tribunal's reluctance to get to the bottom of the matter, we are left with officially unconfirmed rumours that the perpetrators were rewarded with money and gold for the massacre on 16 July 1995, and that when the money was shared out some of them were cheated and that this led to the shooting in the late-night bar on 22 July. We do not know this for certain, for the single reason that no one wants to question Savanović and his buddies about it. But in his interview on 6 November 1996, which was a discussion to prepare the hearing in his own case on 19 November, Erdemović told the investigators something which, against the backdrop of these speculations, should make one prick up one's ears:

Erdemović: I decided to testify against Pelemiš and Salapura and that is now over and done with. That's the kind of person I am. I am a good person. I like to help. I think I helped you in several things. But if I see that somebody is trying to spin me along or, excuse my language, fucking around with me, then I can be, you know — angry. And then I'll be, then I couldn't care less. Now I couldn't care less. (p. 8, p.8⁴⁹)

⁴⁹ The English version differs slightly from the Serbian original.

Madness on command

So the Tribunal does not want to know whether money and gold played a role in the massacre at Branjevo Farm. Assuming that the indications which point to this prove credible, this would immediately raise the question who paid and what possible interest they could have had in undertaking such an act of madness, as Milošević calls it. For in the Bosnian civil war, which was itself already an act of madness, and leaving aside all the atrocities, prisoners were exchanged and not killed. Killing so many prisoners would be mad also in a practical sense: in the middle of a large and successful offensive by Muslim and Bosnian-Croat forces, the Bosnian Serbs have nothing better to do than to use their meagre resources to shoot thousands of prisoners, to bury them and then to rebury the corpses a second and third time in mass graves.

A while after Milošević has established the lunacy of carrying out a command by an unidentified officer (“Can any normal person believe that?”) he asks again who is supposed to have ordered this act of madness, and to whom. The star witness’s explanations get more and more embarrassing:

Milošević: Tell me, Mr. Erdemović, under whose command was your 10th Sabotage Detachment?

Erdemović: Under the command of the Main Staff, the department for security and safety and intelligence.

Milošević: Very well. Tell me, did anyone from that department or from the Main Staff order you to kill those people?

Erdemović: I said earlier on, and I will repeat, I personally was ordered to do it by Brano Gojković.

Milošević: But you mentioned an unknown lieutenant colonel who gave such orders to Brano Gojković.

Erdemović: Yes, but I am saying as far as I’m concerned who gave me the order, but I do also know that this lieutenant colonel couldn’t give me — us such an order if Pelemiš had not allowed it or somebody from the Main Staff.

Milošević: I understand Pelemiš was a commander of your detachment. He was not from the Main Staff. Are you saying that a lieutenant colonel that you don’t know was a mediator between Pelemiš and his unit?

Erdemović: I don’t know who this lieutenant colonel was, whether he was a mediator or whether he asked our unit or anything like that. I

can't explain that because I don't know that. (VIIIa, p. 25199; VIIIb, p. 329f)

To sum up: a lieutenant colonel whom the soldiers do not know and who has no authority to give orders to the 10th Sabotage Detachment, gives the order to commit a terrible war crime but he does not give the order directly but instead via the private soldier Gojković, while these soldiers, as has been mentioned several times, were under regular orders not to shoot at civilians. And nonetheless they carry out this mad order, delivered by an intermediary! One would love to have a judge who would intervene at this point and ask the witness just how stupid he thinks the judges are. But it seems that such a judge cannot be found at the Yugoslav Tribunal.

In the Karadžić-Mladić trial on 5 July 1996, Erdemović gave the evidence on which the international arrest warrant against the two villains was based, when he answered the question who had given the order to commit the massacre. It was enough to say that the 10th Sabotage Detachment's orders came from the General Staff of the Bosnian Serb Army. But there was no cross-examination at this hearing. Here, by contrast, the star witness, who has got into difficulties under cross-examination, says quite clearly that what he really knows is only what a soldier without rank called Brano Gojković is supposed to have ordered him to do — he who at that time probably had the rank of sergeant himself. Does anyone still want to know why Milošević was at the outset allowed only a very short time for this cross-examination? As a matter of fact, you can find the answer in this exchange:

Milošević: [Interpretation] In that case, I must protest categorically, because this is a witness who according to his own admission killed more than a hundred people. He is attributing this to various backgrounds, and there's not enough time for him to be cross-examined. He cannot remain. I can't understand that explanation, and I don't think the public will either.

Judge May: You have heard the ruling. It takes account of his evidence. Now, so far you haven't challenged very much of it. That is the crucial point, not the witness's background but how much of his evidence that you actually challenge. So far there's been very little. So 50 minutes should be more than adequate. But let's not waste time by discussing it further.

Milošević: [Interpretation] I assume that it is quite clear to you and to everybody else that neither Serbia nor I have anything to do with these events in Srebrenica, Mr. May. But if that is not challenging the testimony, then that's up to you, as everything else is. (VIIIa, p. 25198 ; VIIIb, p. 329)

If any observer has got the impression that Milošević has indeed very severely undermined the credibility of the star witness in his cross-examination, then he must be mistaken, according to Judge May.

The inadmissible question

But the cross-examination of the star witness Dražen Erdemović is instructive above all because of the questions which the presiding judge, Richard May, forbids him from asking.

Milošević has noticed a remarkable statement the star witness made in the Karadžić-Mladić trial on 5 July 1996. When asked how the bus drivers behaved during the shooting at Branjevo Farm, Erdemović says they were horrified because they thought that they were driving their passengers to be exchanged for other prisoners. Milošević asks whether it is true that the bus drivers really did not know what was intended for the prisoners. Has he understood correctly that they thought they were driving them to an exchange of prisoners? Erdemović says that he cannot answer this question, he does not know. Thereupon, after some searching, Milošević reads out the relevant passage. He starts by quoting the question put to the witness:

“ ‘May I ask you, Mr. Erdemović, what was the position of the drivers of the buses who were taking the victims to the Pilica farm?’ And then your answer, and now you say you don’t know about this: ‘Well, they were appalled because I think that these people did not know that they were taking them to be executed. They probably thought that they were taking them for an exchange, the exchange that had been promised them. That’s what this man told me, the man I talked to, the man who was between 50 and 60 years of age.’ ” (VIIIa, p. 25224; VIIIb, p. 349)

This quotation throws the star witness into considerable confusion and the following exchange arises:

Erdemović: Yes. Yes, you’ve read it just now. I said that that’s what I thought. I did not know that for sure.

Milošević: But you say yourself that according to the impression you got, they did not know that they were driving them there; that they were appalled.

Erdemović: Yes, but that’s my opinion, it’s not that somebody said that to me definitely, “We thought that they were going for an exchange.” This person who was 60 years old said to me that they thought they were going to an exchange. (VIIIa, p. 25224; VIIIb, p. 349)

Thereupon Milošević states quite openly what he is getting at: was it not indeed the case that the bus drivers thought they were driving the prisoners to an

exchange, but that Erdemović and his comrades stopped the buses and shot the prisoners?

Erdemović: That's not correct.

Milošević: So what you said is not correct.

Erdemović: No; what you said is not correct.

Milošević: So now it seems that these drivers knew that they were taking these people to their execution, and you say —

Judge May: You're confusing the witness. Now, he's told you what he's said. Let's move on to another point. (VIIIa, p. 25225; VIIIb, p. 350)

The question as to why the bus drivers were horrified is only confusing the witness, the judge does not want to hear this question any more.

A further question which the presiding judge finds out of order concerns the conviction handed down to the star witness by the Tribunal. He had come to Yugoslavia on 26 February 1996, and only a few days later the police arrested him for the very same crime which is now the subject of his testimony. Is that correct, asks Milošević? The witness confirms that it is. He confessed to participating in the shooting of 1,200 people of which he had personally killed about 100. Can the witness confirm this? He does. So, Mr Erdemović, Milošević presses on, there is no question that you personally killed a hundred people and that you took part in the shooting of more than a thousand, and that for that you got five years in prison. Yes, says Erdemović. Judge May interrupts the cross-examination and asks Prosecutor Nice what the offence was for which Erdemović was convicted. Nice says he cannot immediately find the indictment, but that Erdemović was indicted and convicted of violations of the laws and customs of war. Then Milošević asks again, "Mr. Erdemović, there's no dispute over the fact that you personally killed 100 men and participated in the killing of more than a thousand men." You can see from Judge May's expression that the accused is slowly getting on his nerves. The witness replies, a little insulted, that he never denied that this is what he had done. Only now does Milošević make clear what he is getting at: "As we heard from Mr. Nice, you were charged here for violation of the laws and customs of war, not even for murder. Isn't that right, Mr. Erdemović? Violations of the laws and customs of war?" Before the witness can answer, Judge May intervenes in a slow and rather solemn voice to say that he does not think the witness can help with this. It is a legal technicality, says Judge May. (VIIIa, p. 25176; VIIIb, p. 317). In the meantime, Mr Nice has found the indictment and plea agreement and he asks for a few moments before giving it to Mr May. But the accused is not prepared to wait, he wants to make the full absurdity of the issue clear to the judges: here is a witness, Erdemović, who is supposed to produce the proof against him, Milošević, of precisely that for which a prosecution was launched against Erdemović in Yugoslavia ! How dare they bring a witness here who ... but he does not get any further. Judge

May forbids the use of such words. If he has questions for the witness, he should put them. And Milošević asks, “So, Mr. Erdemović, in your agreement, this so-called Prosecution, though you said that you had killed more than a hundred men, withdrew the charge of murder. What do you think were the reasons for this?” Judge May again takes over and gives an answer which he is to use several times on this day: “It’s not for him to say. That’s for the Prosecution to say.” (VIIIa, p. 25179; p. 318). But Milošević cannot contain his indignation. “Very well, Mr. May. I think it’s up to you too probably, because it is quite unbelievable that you should call such a witness here who, on the basis of an agreement –“ Mr May tells the accused to confine himself to questions. Very well, says Milošević, he continues for a while to get worked up about the plea agreement and then asks:

Milošević: Tell me, how much time did you spend in prison altogether for all these acts you were charged with and condemned for?

Erdemović: I can’t remember. (VIIIa, p. 25181; VIIIb, p. 319)

The witness cannot remember how much he earned in the 10th Sabotage Detachment, he cannot remember why Stanko Savanović shot at him, and Judge May supports him in his unknowing as far as he can. And indeed he can. The witness thinks that he is in good hands with Judge May. Why should he not say he does not know how long he was in prison? On the other hand, it is not a proper question because Milošević knows exactly how long Erdemović was in prison, three and half years in total. He is determined to show his indignation and demonstrate to the whole world what is possible in this Tribunal. Until Judge May stops him with a decisive argument:

Milošević: Isn’t it quite clear to everyone that for such a mass execution you received five years only on condition that you accuse others? Is that right? It’s not a problem – the problem is not your testimony, the problem is the lies.

Erdemović: Lies about what? What?

Erdemović: Saying that this had been done following orders from the Main Staff of the army of Republika Srpska. That is what you’re alleging.

...

Judge May: No. He can’t answer that. The witness can’t answer that. (VIIIa, p. 25181; p. VIIIb, 320)

Milošević still does not give up, that is not his style. So he tries right at the end of the cross-examination to get the witness to answer. But Judge May reacts quickly and categorically.

Milošević : In view of the fact that you knew what you did, in Serbia or before any court that you can imagine in the world, for this massive

killing that you yourself confessed to committing, would you have been sentenced to such a sentence that you received here?

Judge May: That's not a proper question, not for the witness. (VIIIa, p. 25238; VIIIb, p. 357)

The third question which Judge May disallows with his iron argument is essentially the same question which a judge once put to a prosecutor, and on which he received an assurance which the judge then noted so that it would not remain an empty promise. The judge was called Claude Jorda and the Prosecutor was Mark Harmon. The question was put on 19 November 1996 during the examination of the accused Erdemović, as he then was. Six years later, the accused Slobodan Milošević asked the star witness Dražen Erdemović the following:

Milošević: Do you know that any one of the participants in this crime in Srebrenica was held accountable or investigations conducted against them or put on trial or searched for, except for you?

Erdemović: I don't know. I can't answer that question. I'm not the person to decide who would be tried, investigated, or where or when.

Milošević: Doesn't it seem to be rather strange that only you who was arrested by the Yugoslav —

Judge May: It's not for the witness to answer that. (VIIIa, p. 25215; VIIIb, p. 342)

So that is the question which Milošević is not allowed to put and Erdemović is not allowed to answer. The question which no judge at The Place of Truth wants to burden the Prosecution with. And while people from The Hague regularly whip up public opinion with the call for Mladić and Karadžić, Franc Kos, Marko Boškić, Zoran Goronja, Stanko Savanović, Brano Gojković, Aleksandar Cvetković and Vlastimir Golijan can all sleep peacefully in their beds. None of them must endanger Dražen Erdemović's story.

The last performance

This is how a cross-examination goes when, as in the case of Milošević, the accused defends himself and does not entrust his Defence to a lawyer. In not a single one of Erdemović's other appearances as a witness, where the accused was always represented by a lawyer, has any lawyer ever made a serious attempt to undermine his credibility.

Erdemović's last performance to date was on 6 July 2009 in the trial of the former chief of the Yugoslav general staff, Momčilo Perišić. Prosecutors Mark Harmon and Bronagh McKenna present their witness in a factual and routine way and put a few new emphases. Perišić's case turns on the military support which Belgrade is said to have given to the Bosnian Serbs, and the witness is happy to confirm the corresponding questions by the prosecutor. Otherwise, Erdemović repeats his old story, but this time in a tighter and smoother version. So, for instance, we hear nothing about his supposed demotion nor anything about the attempt on his life which the company commander Pelemiš is supposed to have ordered. The judges do not ask any difficult questions. At the beginning, Ms McKenna says that the witness participated in the summary execution of hundreds of unarmed Bosnian men. When she later asks the witness about the number of victims, Erdemović replies, "I do not know and I do not wish to know, but I think it was about 1,000 people." So how many exactly? No judge wants to know. The question where Erdemović's accomplices are, and why they have not been questioned, also does not appear to interest anyone, fourteen years after Judge Jorda first put the question in vain. Even Perišić's lawyer, Gregory Guy-Smith, does not seem interested. Yet it is his professional duty to do everything he can to call the witness' credibility into question. One would expect Guy-Smith to use the cross-examination to pick up the most important contradictions and inconsistencies in Erdemović's earlier statements, so as to push him into a corner. This does not happen. Erdemović is not even cross-examined about what he said in the examination-in-chief. So for example, we hear the star witness declare the following:

McKenna: I'd like to move now to July 1995 and the operation to take over Srebrenica. Where were you on the morning of 10th July, 1995?

Erdemović: I was in the barracks in Bijeljina.

McKenna: And what instructions, if any, did you receive that morning?

Erdemović: The commander of the Bijeljina platoon whose name was Franc Kos told us that we should go home and collect our personal

hygiene kit and a change of uniform, if anybody wanted to have an extra one. He told us that we were about to embark on a mission. (XI, S. 7950)

So far, so good. Franc Kos is “the commander of the Bijeljina platoon”, a lieutenant who gives Erdemović the order to get ready for a mission. But a few minutes later, when Erdemović is asked about the composition of the execution squad, Franc Kos appears in an altogether different light:

McKenna: I'd like to turn your attention now to the events of the 16th of July, 1995. Where were you on the morning of the 16th?

Erdemović: I was in Vlasenica, in the house where the Vlasenica Platoon was billeted.

McKenna: And what instructions, if any, did you receive that morning?

Erdemović: I and another member of my unit who was also on the Bijeljina Platoon were in a room where we slept in the house, and Brano Gojković said that we should get ready and that we would be embarking on a mission.

McKenna : From whom did he receive this order?

Erdemović: From Lieutenant Milorad Pelemiš.

McKenna : Who is Brano Gojković?

Erdemović: Brano Gojković is a member of the Vlasenica Platoon and also a member of our unit.

McKenna : Which soldiers received this assignment?

Erdemović: I did, Zoran Garanja, Stanko Savanović, Marko Boškić, Vlastimir Golijan, Alexander Cvatković Franc Kos.

McKenna : How many soldiers in total?

Erdemović: Eight. (XI, S. 7959)

What a transformation! Now the platoon commander, Franc Kos, is just one of the soldiers under the command of a certain Brano Gojković. Even though as a lieutenant he is the most senior of the group and the only officer, Erdemović lists his name at the end. And this Gojković, a soldier with no rank at all, gives orders to him, a lieutenant! What exactly is going on here? Was Guy-Smith not listening properly? Why does he not ask the witness to explain this inconsistency? Such a question would have devastating consequences for the credibility of his testimony. So why does he not ask it? What sort of a lawyer is he?

Otherwise Guy-Smith asks the star witness all sorts of questions — how much was he paid for his services as a mercenary, what sort of tasks did he have to undertake, what he can say about the 12 kg of gold which, as he claims, the company commander Pelemiš is supposed to have received for the massacre. But just no questions which might endanger his credibility as a witness. Erdemović seems to be sacred.

An alternative story

Eight perpetrators are said to have shot between 1,000 and 1,200 prisoners in less than five hours and in groups of 10. The mere acceptance that this is possible shows that we are not dealing here with an investigation into what actually happened. The judges have also tirelessly lent credibility to the story that Erdemović was forced to take part in the shooting and they reckoned duress to be a mitigating factor. As the simple soldier to which he had been demoted, Sergeant Erdemović had to obey the order given by a private called Brano Gojković. The judges explicitly confirm that Dražen Erdemović's story in all its various forms is sufficiently consistent. On closer inspection, they in fact mean only his account of the mass shooting, and at the same time they do not have the story confirmed by a single one of the other seven perpetrators. Nothing is allowed to damage the credibility of this story, on which the international arrest warrant against Mladić and Karadžić was based.

But if you read all the available documents on the Erdemović case carefully, a highly contradictory and incredible story comes to light. Not even the date of the massacre is certain, for in all the documents from the Yugoslav authorities only 20 July 1995 is mentioned. Both Erdemović and Kremenović give this date not only when questioned in Novi Sad, but also in their interview with the journalists Vanessa Vasić-Jeneković and Renaud Girard. Erdemović gives a different date to the investigators in The Hague, 16 July 1995, and his explanation for this change is totally unconvincing. Would the other perpetrators confirm this date? No one wants to know. In addition, witness Dragan Todorović testifies about an assignment on 15 July 1995, which Erdemović never mentions once and which contradicts all his statements about what happened that day. In their first judgement, the judges say that no document exists which confirms Erdemović's rank. But on 25 August 2003, Prosecutor Geoffrey Nice presents Erdemović's contract with the Bosnian Serb Army in which his rank as sergeant is stated. The only thing which remains unconfirmed and contradictory is what Erdemović says about his demotion. So much for the coherence with which the judges and the prosecutors credit his story.

Let me therefore propose a short alternative story. The Bosnian Croat, Dražen Erdemović, joins the civil war in April 1992. He refuses to obey the call-up from the Yugoslav National Army (JNA) but in July 1992 he chooses the Bosnian Muslim army where he serves in a mortar unit. In October 1992, he moves from this army into the Bosnian Croat army, where as a military policeman he is no longer on the front line and where he has better terms and conditions. As a military policeman he also has the opportunity to earn money

on the side by smuggling Serb civilians out of the Muslim and Croat controlled part of Bosnia into the Serb part. The judges are later to recognise this as a mitigating factor when it comes to sentencing, because he had always taken every opportunity to “help” people. Unfortunately he gets caught in this human trafficking by his superiors and is arrested. He is released for a short while and flees to Republika Srpska with his Serb wife in November 1993, where after wandering around for a bit he offers his services to the Bosnian Serb army (VRS). In April 1994 he is sent into a small unit of mercenaries which has been set up in Bijeljina by a certain Zoran Manojlovic. Composed of Croats, Muslims and one Slovene, this unit of experienced mercenaries, who know the area, carries out acts of sabotage behind enemy lines on the orders of the General Staff of the VRS. What they earned for this is not clear. According to unconfirmed claims, they were paid per assignment, with the fee varying between 2,000 and 4,000 deutsche Marks depending on the length and difficulty of each mission.⁵⁰ As several Serbs joined, this Sabotage Detachment grew in October 1994 to the size of a company and Lieutenant Milorad Pelemiš became its commander. On 1 February 1995 all members received an official contract with the VRS. From Dražen Erdemović’s contract it is clear that he had the rank of sergeant and the role of a *vodnik*, i.e. of a group commander. His supposed demotion is nothing but an invention concocted to exonerate himself, and which Erdemović later uses to pretend that he acted under duress as a simple soldier during the shooting of the prisoners.

A few days after the capture of Srebrenica, there are several mass shootings of Muslim prisoners. The troop which is supposed to have carried out the shooting at Branjevo Farm on 16 July 1995 consists of soldiers who reported for the job of their own free will. The military hierarchy is suspended, they are even officially on leave, and they shoot the prisoners presumably because they are paid to do so. There is no question of Sergeant Dražen Erdemović having acted under duress or under the supposed command of a private soldier called Brano Gojković. Nonetheless, Dražen Erdemović refuses to take part in a further shooting assignment, the order for which is said to have come from a mysterious lieutenant colonel. Erdemović says he simply said “No” to this officer, he did not want to do any more, and he simply sat down. The lieutenant colonel just lets him sit and hands over the shooting of the prisoners in the Pilica House of Culture to others.

A few days after this massacre, there is a shoot-out between some mercenaries in a late night bar in Bijeljina. Erdemović presents this as a contract killing attempt against him, ordered by Salapura and Pelemiš to prevent him from testifying against them in The Hague. It is more likely that when it came to being paid for the massacre, some of them felt that they had been passed over or

⁵⁰ The only source on this is the newspaper *Bosnia Report* published by the “Bosnian Institute” in London. In its September – November 2005 issue, it published under the headline “Mlađić’s monster finally talks” an interview with an anonymous mercenary whom one suspects of being Zijad Žigić alias Živko Mičić. His account should be read with a very large pinch of salt since it is evidently untrue in many details.

cheated and that, in the heat of the drunken argument, they pulled out their guns. The rumours that 12 kg of gold and large sums of money had been shared out in connection with the Srebrenica killings come up several times in the story of Dražen Erdemović, while he claims to have received nothing. Badly wounded and in despair, Erdemović at some point decides to offer his services to the Yugoslav Tribunal after learning about the Tribunal's witness protection programme. Whether he did indeed receive an assurance that he would have immunity from prosecution, as Renaud Girard reports, we do not know. But he must have told Renaud Girard that, for why would the journalist invent it. In any case, the Tribunal does have the practice of giving Prosecution witnesses immunity from prosecution. This is what Erdemović reckoned with. The fact that his calculations went wrong is simply due to the fact that he was arrested and then prosecuted by the Yugoslav police before he could get to the Tribunal to make himself useful, as one of the many anonymous and immune witnesses for the Prosecution. That is why he had to be indicted and left to starve in a Norwegian prison cell for a whole three and a half years for the 70 to 100 murders he admits committing.

Conclusion

At the end of October 2009, the Serbian translation of this book was launched at the Belgrade book fair. Several newspapers, a Belgrade radio station and the national television channel, RTS (Radio-Television Serbia), carried reports on it. One month later, on 3 December 2009, the doorbell rings at 6 o'clock in the morning at Milorad Pelemiš' flat on the 11th floor of an apartment block in New Belgrade. At the door stand the deputy chief prosecutor for war crimes, accompanied by several officials. Mrs Pelemiš tells them that unfortunately her husband is not at home. He left two days ago and she does not know where he is. The officials show her a search warrant and they go through the flat in the presence of Mrs Pelemiš and her young son. They take away papers, discs, a computer and a mobile phone. The media reported that the authorities wanted to question Pelemiš in connection with General Ratko Mladić who remains at large. Some newspapers said that the war crimes prosecutor had acted on the basis of claims made during the Perišić trial. In July 2009, indeed, a certain Dražen Erdemović had severely incriminated Pelemiš and that is why they wanted to arrest him. But Milorad Pelmis has vanished without trace. For ten years he has been living with his wife and child on the 11th floor of this apartment block and now he has simply gone. What a pity. The commander of the 10th Sabotage Unit will now not be able to tell us whether it is true, as Erdemović claims, that he received money and gold for the assignment carried out by his soldiers and, if so, from whom.

To this very day, the Tribunal has never shown any interest in Erdemović's co-perpetrators. This fact alone calls into question whether the tribunal is pursuing its task as set down in Resolution 827 of the United Nations Security Council dated 25 May 1993: to prosecute serious crimes committed on the territory of the former Yugoslavia since 1991. It is impossible to take seriously the excuse it gave for rejecting the transfer of Marko Boškić, for instance. Or rather, one can take it very seriously indeed, as an indication that the UN war crimes tribunal in fact has other priorities than those laid down in Resolution 827 when it comes to prosecuting those responsible for serious war crimes committed on the territory of the former Yugoslavia. One can only speculate as to what these other priorities are.

In the days when one still heard about her, the former chief prosecutor of the tribunal, Carla del Ponte, complained, according to media reports, that the prosecution of war criminals remained a fundamentally political issue in today's world. But for many years it was Mrs Del Ponte herself who pushed forward the political exploitation of international criminal justice. It is nice to hear this now

from the chief prosecutor's own mouth, even if she dared say it only after her term in office had come to an end. However, surely it is she who is personally responsible for the fact that, to this day, the accomplices of Dražen Erdemović have never even been (publicly) questioned. Did her decision perhaps have something to do with political interests and requirements? The chief justice who is apostrophised as "the angel of justice" and "the voice of the victims" has not said a word about this. She does not even mention it in her controversial book, "The Hunt,"⁵¹ in which she is at pains to ensure her reputation as an independent jurist who is supposed to have stood up to the powerful people of this world.

If Dražen Erdemović's story is true — and it is, according to the records of the tribunal — then it is difficult to avoid the impression that people have been protected who are strongly suspected of involvement in the murder of 1,200 people on 16 July 1996. With all its half truths, outright lies and unbelievable assertions, the story of Dražen Erdemović appears to cover up the truth of what happened at Branjevo Farm more than it reveals it. And as if the prosecutors and the judges had an interest in this cover-up, they ensure that no one other than Erdemović testifies about it at first hand. One can only wonder what it is that they have to cover up. The rumours about money and secret service machinations behind the Srebrenica murders provide ample food for such speculations.

That the Yugoslavia tribunal, in spite of all its assurances, is in fact working under political control should be clear to anyone who has studied its *modus operandi* closely and without prejudice. The decisions about who is and who is not to be indicted seem to be taken not according to the demands of criminal justice but instead on the basis of political motives, as incidentally are the acquittals too. You do not need the belated admissions of Carla del Ponte and her spokesperson, Florence Hartmann, to come to this conclusion, and it is superfluous to count up the numerous proofs of this now. That professional judges and prosecutors behave in this way is just as sad as that public opinion seems uninterested in the fact that there are political interests at play behind the façade of international criminal justice in The Hague, and that these interests are dressed up in the form of judicial rulings.

Is the failure to prosecute Erdemović's accomplices also the result of a political decision? Does the tribunal refuse to prosecute the other members of the execution squad because any interviews with them would ruin the already unbelievable statements by the star witness for Srebrenica? Or is it because it does not want political and secret service machinations behind the Srebrenica murders then also to be revealed? The shadowy "French connection" has already suggested some of this, in the cross-examination of the star witness conducted by Slobodan Milošević and limited by Judge Richard May, at which Erdemović was assiduously unable to remember anything. Maybe future research will cast some light on the matter. This account is limited to the case of Erdemović alone: it is an individual case, a drop in the ocean perhaps. But, to use a well-known metaphor by the German poet Friedrich Klopstock, it is a drop which reflects a

⁵¹ Carla DEL PONTE, *La caccia. Io e I criminali di Guerra*, Milan 2008.

whole world — the brave new world of international criminal justice, established since 1993 in the form of the United Nations War Crimes Tribunal at The Hague.

Appendix

- I. First session in trial of Dražen Erdemović, 31 May 1996,
<http://www.icty.org/x/cases/erdemovic/trans/en/960531ID.htm>
- II. Hearing in trial of Radovan Karadžić & Ratko Mladić, 5 July 1996,
<http://www.icty.org/x/cases/karadzic/trans/en/960705it.htm>
- III. Second session in trial of Dražen Erdemović 19 Nov 1996.
<http://www.icty.org/x/cases/erdemovic/trans/en/961119IT.htm>
- IV. Continuation of Second session in trial of Dražen Erdemović, 20 November 1996, <http://www.icty.org/x/cases/erdemovic/trans/en/961120ED.htm>
- V. Sentencing judgement in trial of Dražen Erdemović, 29 November 1996,
<http://www.icty.org/x/cases/erdemovic/tjug/en/erd-tsj961129e.pdf>
- VII. Dražen Erdemović's evidence for the Prosecution in trial of Radislav Krstić, 22 May 2000,
<http://www.icty.org/x/cases/krstic/trans/en/000522it.htm>
- VIIIa. Dražen Erdemović's evidence for the Prosecution in the trial of Slobodan Milošević, 25 August 2003, in English,
http://www.icty.org/x/cases/slobodan_milosevic/trans/en/030825ED.htm
- VIIIb. Dražen Erdemović's evidence for the Prosecution in the trial of Slobodan Milošević, in Serbian, 25 August 2003, in Serbian:
http://www.hlc-rdc.org/uploads/editor/file/Transkripti/Milošević/transkripti%20po%20danima/HT%20VII%20Milošević%2039/39_07_Ponedeljak,%2025.%20avgust%202003.%20-%20Svedok%20Draž%20Erdemović.pdf
- IX. Dražen Erdemović's evidence for the Prosecution in the trial of Vujadin Popović et. al., 4 May 2007.
<http://www.icty.org/x/cases/popovic/trans/en/070504ED.htm>
- X. Continuation of Erdemović's evidence in the trial of Popović et. al., 7 May 2007. <http://www.icty.org/x/cases/popovic/trans/en/070507IT.htm>
- XI. Dražen Erdemović's evidence for the Prosecution in the trial of General Momčilo Perišić, 6 July 2009:
<http://www.icty.org/x/cases/perisic/trans/en/090706ED.htm>
- XII. Colonel Petar Salapura's evidence for the Defence in the trial of Vidoje Blagojević and Dragan Jokić, 8 June 2004,
http://www.icty.org/x/cases/blagojevic_jokic/trans/en/040608IT.htm
- XIII. Continuation of Colonel Salapura's evidence for the Defence in the trial of Blagojević and Jokić, 9 June 2004,
http://www.icty.org/x/cases/blagojevic_jokic/trans/en/040609ED.htm
- XIV. Dragan Todorović's evidence for the Prosecution in the trial of Vujadin Popović et. al., 21 August 2007,
<http://www.icty.org/x/cases/popovic/trans/en/070821ED.htm>