

MILOSEVIC Case Information Sheet(IT-02-54) "Bosnia and Herzegovina"

5 April 2005

The Indictment "Kosovo"

Factual allegations:

The Second Amended Indictment, confirmed on 29 October 2001, alleges that, between 1 January 1999 and 20 June 1999, forces of the FRY and Serbia acting at the direction, with the encouragement, or with the support of the Accused, executed a campaign of terror and violence directed at Kosovo Albanian civilians.

It is alleged that the operations targeting the Kosovo Albanians were undertaken with the objective of expelling a substantial portion of the Kosovo Albanian population from Kosovo in an effort to ensure continued Serbian control over the province. The Indictment goes on to describe a series of well-planned and coordinated operations undertaken by the forces of the FRY and Serbia.

Approximately 800,000 Kosovo Albanian civilians were expelled from the province by their forced removal and subsequent looting and destruction of their homes, or by the shelling of villages. Surviving residents were sent to the borders of neighbouring countries. En route, many were killed, abused and had their possessions and identification papers stolen. Furthermore, specific massacres allegedly committed by Serb forces in places such as Djakovica/Gjakovë, Suva Reka/Suharekë, Racak/Reçak, Bela Crkva/Bellacërkë, Mala Krusa/Krusë e Vogël, Velika Krusa/Krushë e Madhe, Padaliste/Padalishtë, Izbica/Izbicë, Vucitrn/Vushtrri, Dubrava/Dubravë Prison complex, Meja/Mejë and Kacanik/Kacanik are listed in the Indictment.

The Accused are charged by virtue of their positions, as follows:

Slobodan Milosevic as President of the FRY, Supreme Commander of the VJ, President of the Supreme Defence Council and pursuant to his de facto authority;
Milan Milutinovic as President of Serbia, member of the Supreme Defence Council and pursuant to his de facto authority;
Dragoljub Ojdanic as Chief of General Staff of the VJ;
Nikola Sainovic as Deputy Prime Minister of Serbia;
Vlajko Stojiljkovic as Minister of Internal Affairs of Serbia.

Charges:

The Indictment charges Slobodan Milosevic, Milan Milutinovic, Dragoljub Ojdanic, Nikola Sainovic and Vlajko Stojiljkovic on the basis of individual criminal responsibility (Article 7(1) of the Statute) and superior criminal responsibility (Article 7(3) thereof) with:

- one count of violations of the laws or customs of war (Article 3 - murder), and
- four counts of crimes against humanity (Article 5 – deportation; murder; persecutions on political, racial or religious grounds; other inhumane acts)

The Indictment "Croatia"

Factual allegations:

The Second Amended Indictment was filed by the Prosecution on 26 July 2004 and ordered the operative Indictment by the Trial Chamber on 28 July 2004. According to the Indictment, Slobodan

The Accused

Slobodan MILOSEVIC,

born on 20 August 1941 in Pozarevac, Serbia, Federal Republic of Yugoslavia (hereinafter "FRY").

Arrested: 1 April 2001 in Belgrade by local authorities.

Transferred to ICTY: 29 June 2001.

Initial Appearances:

3 July 2001, "not guilty" plea entered for all counts on the "Kosovo" indictment.

29 October 2001, "not guilty" plea entered for all counts on the "Croatia" indictment.

11 December 2001, "not guilty" plea entered for all counts on the "Bosnia" indictment.

Trial ongoing - Defence case

Slobodan Milosevic (self-representation, see [Judicial Supplement No. 41](#))

See also case Milutinovic et al. (IT-99-37)

Milosevic participated in a "joint criminal enterprise" between at least 1 August 1991 and June 1992. The purpose of this enterprise was the forcible removal of the majority of the Croat and other non-Serb population from approximately one-third of the territory of the Republic of Croatia, an area he planned to become part of a new Serb-dominated state. This area included those regions that were referred to by Serb authorities as the "Serbian Autonomous District ("SAO") Krajina", the "SAO Western Slavonia", and the "SAO Slavonia, Baranja and Western Srem" (collectively referred to by Serb Authorities after 19 December 1991 as the "Republic of Serbian Krajina ("RSK")) and "Dubrovnik Republic".

It is alleged that, during the above period, Serb forces, comprised of the Yugoslav People's Army ("JNA") units, local Territorial Defence ("TO") units and TO units from Serbia and Montenegro, local and Serbian Ministry of Internal Affairs ("MUP") police units and paramilitary units, attacked and took control of towns, villages and settlements in the territories listed above. After the take-over, the Serb forces, in cooperation with the local Serb authorities, established a regime of persecutions designed to drive the Croat and other non-Serb civilian population from these territories. This regime included the extermination or murder of hundreds of Croat and other non-Serb civilians, including women and elderly persons, the deportation or forcible transfer of at least 170,000 Croat and other non-Serb civilians and the confinement or imprisonment under inhumane conditions of thousands of Croat and other non-Serb civilians. As a result, virtually the whole of the Croat and other non-Serb civilian population were forcibly removed, deported or killed in the "Serbian Autonomous District ("SAO") Krajina", the "SAO Western Slavonia", and the "SAO Slavonia, Baranja and Western Srem" regions. Further, public and private property in all the relevant areas was intentionally and wantonly destroyed and plundered, including homes, religious, historical and cultural buildings.

According to the Indictment, during the relevant period, Slobodan Milosevic was President of the Republic of Serbia and as such exercised effective control or substantial influence over the participants of the joint criminal enterprise and, either alone or acting in concert with others, effectively controlled or substantially influenced the actions of the Federal Presidency of the Socialist Republic of Yugoslavia ("SFRY") and later the Federal Republic of Yugoslavia ("FRY"), the Serbian MUP, the JNA, the Serb-run TO staff in the relevant territories, and the Serb volunteer groups.

Charges:

The Indictment charges **Slobodan Milosevic** on the basis of individual criminal responsibility (Article 7(1) of the Statute) and superior criminal responsibility (Article 7(3) thereof) with:

- nine counts of grave breaches of the 1949 Geneva Conventions (Article 2 thereof - wilful killing; unlawful confinement; torture; wilfully causing great suffering; unlawful deportation or transfer; extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly),
- 13 counts of violations of the laws or customs of war (Article 3 thereof - murder; torture; cruel treatment; wanton destruction of villages, or devastation not justified by military necessity; destruction or wilful damage done to institutions dedicated to education or religion; plunder of public or private property; attacks on civilians; destruction or wilful damage done to historic monuments and institutions dedicated to education or religion; unlawful attacks on civilian objects), and
- 10 counts of crimes against humanity (Article 5 thereof - persecutions on political, racial or religious grounds; extermination; murder; imprisonment; torture; inhumane acts; deportation; inhumane acts (forcible transfers)).

The Indictment "Bosnia and Herzegovina"

Factual allegations:

Individual Criminal Responsibility (Article 7(1) of the Statute)

According to the Amended Indictment filed on 22 November 2002 and confirmed on 21 April 2004, from 1987 until late 2000, Slobodan Milosevic was the dominant political figure in Serbia and the SFRY/FRY. It is alleged that Slobodan Milosevic, acted alone and in the joint criminal enterprise in the following ways:

- (a) He exerted effective control over the elements of the Yugoslav People's Army ("JNA") and the Yugoslav Army ("VJ") which participated in the planning, preparation, facilitation and execution of the forcible removal of the majority of non-Serbs, principally Bosnian Muslims and Bosnian Croats, from large areas of Bosnia and Herzegovina.
- (b) He provided financial, logistical and political support to the Bosnian Serb Army ("VRS"). These forces subsequently participated in the execution of the joint criminal enterprise.
- (c) He exercised substantial influence over and assisted the political leadership of the "Republika Srpska" in the planning, preparation, facilitation and execution of the take-over of municipalities in Bosnia and Herzegovina and the subsequent forcible removal of the majority of non-Serbs.
- (d) He participated in the planning and preparation of the take-over of municipalities in Bosnia and Herzegovina and the subsequent forcible removal of the majority of non-Serbs. He provided the financial, material and logistical support for such a take-over.
- (e) He participated in the formation, financing, supply, support and direction of special forces of the Republic of Serbia Ministry of Internal Affairs ("MUP"). These special forces participated in the execution of the joint criminal enterprise.
- (f) He participated in providing financial, logistical and political support and direction to Serbian irregular forces or paramilitaries. These forces participated in the execution of the joint criminal enterprise.
- (g) He controlled, manipulated or otherwise utilised Serbian state-run media to spread exaggerated and false messages of ethnically based attacks by Bosnian Muslims and Croats against Serbs intended to create an atmosphere of fear and hatred among Serbs living in Serbia, Croatia and Bosnia and Herzegovina which contributed to the forcible removal of the majority of non-Serbs.

Superior Criminal Responsibility (Article 7(3) of the Statute)

The Indictment further alleges that Slobodan Milosevic, while holding positions of superior authority, is also responsible for the acts and/or omissions of his subordinates, pursuant to Article 7(3) of the Statute. A superior is responsible for the criminal acts of his subordinates if he knew or had reason to know that his subordinates were about to commit such acts or had done so, and the superior failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators.

According to the Indictment the Federal Presidency had effective control over the JNA as its "Commander-in-Chief" and other units under the supervision of the JNA. Generals Veljko Kadijevic and Blagoje Adzic, who directed and supervised the JNA in Bosnia and Herzegovina, were in constant communication and consultation with the Accused.

On 27 April 1992, the Supreme Defence Council was formed. As a member of the Supreme Defence Council and as President of the FRY, Milosevic had *de jure* and *de facto* control over the JNA and later the VJ.

The Indictment also alleges that Milosevic exercised control over key figures in the Serbian MUP as well as in the State Security (*Drzavna bezbednost, DB*). The MUP and the DB directed the actions of the special forces and Serb paramilitary groups operating in Bosnia and Herzegovina.

Charges:

The Indictment charges **Slobodan Milosevic** on the basis of individual criminal responsibility (Article 7(1) of the Statute) and superior criminal responsibility (Article 7(3) thereof) with:

- Two counts of genocide and complicity in genocide under Article 4 of the Statute;
- Ten counts of crimes against humanity involving persecution, extermination, murder, imprisonment, torture, deportation and inhumane acts (forcible transfers) under Article 5 of the Statute;
- Eight counts of grave breaches of the Geneva Conventions of 1949 involving wilful killing, unlawful confinement, torture, wilfully causing great suffering, unlawful deportation or transfer, and extensive destruction and appropriation of property under Article 2 of the Statute, and;
- Nine counts of violations of the laws or customs of war involving *inter alia* attacks on civilians, unlawful destruction, plunder of property and cruel treatment under Article 3 of the Statute.

The Proceedings

Amicus curiae:

On 30 August (for the Kosovo case), 30 October (for the Croatia case) and 23 November 2001 (for the Bosnia case), the Trial Chamber issued orders inviting the Registrar to designate counsel to appear before it in the three cases as *amicus curiae* considering that it is "*desirable and in the interests of securing a fair trial*", that an *amicus curiae* be appointed as permitted by Rule 74 of the Rules of Procedure and Evidence, "*not to represent the accused but to assist in the proper determination of the case*". The *amicus curiae* are to assist the Trial Chamber by:

- 1) Making any submissions properly open to the accused by way of preliminary or other pre-trial motion;
- 2) Making any submissions or objections to evidence properly open to the accused during the trial proceedings and cross-examining witnesses as appropriate;
- 3) Drawing to the attention of the Trial Chamber any exculpatory or mitigating evidence; and
- 4) Acting in any other way which designated counsel considers appropriate in order to secure a fair trial.

On 6 September, 7 November and 27 November 2001, the Registrar of the Tribunal, Mr. Hans Holthuis, appointed Mr. Steven Kay QC, Mr. Branislav Tapuskovic and Prof. Michail Wladimiroff to act as *amici curiae* in the three cases.

On 10 October 2002, the Trial Chamber instructed the Registrar to revoke the designation of Prof. Michail Wladimiroff as *amicus curiae*. On 22 November 2002, it designated Mr. Timothy McCormack to act as *amicus curiae*.

On 27 June 2003, the Trial Chamber ordered that the appointment of Branislav Tapu{kovi} as an *Amicus Curiae* was to end at the conclusion of the Prosecution case. The appointment of Mr. Steven Kay as *Amicus Curiae* continued and Ms. Gillian Higgins was appointed as *Amicus Curiae* effective on the start of the Defence case.

Joinder:

On 1 February 2002, the Appeals Chamber ordered that the three Indictments concerning Kosovo, Croatia and Bosnia and Herzegovina be tried together in one single trial.

Trial:

The trial commenced on 12 February 2002 with evidence relevant only to the charges relating to Kosovo. The Prosecution concluded its case regarding Kosovo on 11 September 2002. On 26 September 2002, the Prosecution started the presentation of its case regarding Croatia and Bosnia

and Herzegovina. It rested its case on 25 February 2004. The Defence case commenced on 31 August 2004 (see Press Release No. [870](#)).

On 12 April 2004, the Secretary-General of the United Nations, Mr. Kofi Annan, signed an order appointing Lord Bonyom as a Judge of the International Criminal Tribunal for the former Yugoslavia. Lord Bonyom, whose appointment is effective as of 1 June 2004, replaces Richard May who retired due to ill-health (see Press Release No. [838](#)).

Trial Chamber III:

Judge Patrick Robinson (Presiding), Jamaica
Judge O-Gon Kwon, South Korea
Judge Iain Bonomy, United Kingdom

Counsel for the Prosecutor :

Geoffrey Nice
Hildegard Uertz-Retzlaff
Dermot Groome
Dirk Ryneveld

Counsel for the Defence:

Steven Kay
Gillian Higgins

Amicus Curiae:

Timothy McCormack