

Milosevic Procees Beroepsstukken A 2

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

Case No. IT-01-51-I

THE PROSECUTOR OF THE TRIBUNAL

AGAINST

SLOBODAN MILOSEVIC

INDICTMENT

The Prosecutor of the International Criminal Tribunal for the former Yugoslavia, pursuant to her authority under Article 18 of the Statute of the International Criminal Tribunal for the former Yugoslavia ("the Statute of the Tribunal"), charges:

SLOBODAN MILOSEVIC

with **GENOCIDE, CRIMES AGAINST HUMANITY, GRAVE BREACHES OF THE GENEVA CONVENTIONS** and **VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR** as set forth below:

THE ACCUSED

1. **Slobodan MILOSEVIC**, son of Svetozar Milosevic, was born on 20 August 1941 in Pozarevac, in the present-day Republic of Serbia, one of the constituent republics of the Federal Republic of Yugoslavia ("FRY"). In 1964, he graduated from the Law Faculty of the University of Belgrade and began a career in management and banking. Until 1978, he held the posts of deputy director and later general director at *Tehnogas*, a major oil company in the then Socialist Federal Republic of Yugoslavia ("SFRY"). Thereafter, he became president of *Beogradska banka (Beobanka)*, one of the largest banks in the SFRY, a post he held until 1983.
2. **Slobodan MILOSEVIC**, joined the League of Communists of Yugoslavia in 1959. In 1984, he became Chairman of the City Committee of the League of Communists of Belgrade. In 1986, he was elected Chairman of the Presidium of the Central Committee of the League of Communists of Serbia and was re-elected in 1988. On 16 July 1990, the League of Communists of Serbia and the Socialist Alliance of Working People of Serbia united, forming a new party named the Socialist Party of Serbia ("SPS"). On 17 July 1990, **Slobodan MILOSEVIC** was elected President of the SPS and remained in that post except during the period from 24 May 1991 to 24 October 1992.
3. **Slobodan MILOSEVIC** was elected President of the Presidency of the then Socialist Republic of Serbia on 8 May 1989 and re-elected on 5 December 1989. After the adoption of a new Constitution, on 28 September 1990, the Socialist Republic of Serbia became the Republic of Serbia, and **Slobodan MILOSEVIC** was elected to the newly established office of President of the Republic of Serbia in multi-party elections, held in December 1990. He was re-elected to this office in elections held on 20 December 1992.
4. After serving two terms as President of the Republic of Serbia, **Slobodan MILOSEVIC** was elected President of the Federal Republic of Yugoslavia on 15 July 1997, beginning his official duties on 23 July 1997. Following his defeat in the Federal Republic of Yugoslavia's presidential election of September 2000, **Slobodan MILOSEVIC** relinquished his position on 6 October 2000.

INDIVIDUAL CRIMINAL RESPONSIBILITY

Article 7(1) of the Statute of the Tribunal

5. **Slobodan MILOSEVIC** is individually criminally responsible for the crimes referred to in Articles 2, 3, 4 and 5 of the Statute of the Tribunal as described in this indictment, which he planned, instigated, ordered, committed, or in whose planning, preparation, or execution he otherwise aided and abetted. By using the word "committed" in this indictment, the Prosecutor does not intend to suggest that the accused physically committed any of the crimes charged personally. "Committed" in this indictment refers to participation in a joint criminal enterprise as a co-perpetrator.
6. **Slobodan MILOSEVIC** participated in the joint criminal enterprise as set out below. The purpose of this joint criminal enterprise was the forcible and permanent removal of the majority of non-Serbs, principally Bosnian Muslims and Bosnian Croats, from large areas of the Republic of Bosnia and Herzegovina (hereinafter referred to as "Bosnia and Herzegovina"), through the commission of crimes which are in violation of Articles 2, 3, 4 and 5 of the Statute of the Tribunal.
7. The joint criminal enterprise was in existence by 1 August 1991 and continued until at least 31 December 1995. The individuals participating in this joint criminal enterprise included **Slobodan MILOSEVIC**, Radovan KARADZIC, Momcilo KRAJISNIK, Biljana PLAVSIC, General Ratko MLADIC, Borisav JOVIC, Branko KOSTIC, Veljko KADIJEVIC, Blagoje ADZIC, Milan MARTIC, Jovica STANISIC, Franko SIMATOVIC, also known as "Frenki," Radovan STOJICIC, also known as "Badza," Vojislav SESELJ, Zeljko RAZNATOVIC, also known as "Arkan," and other

known and unknown participants.

8. The crimes enumerated in Counts 1 to 29 of this indictment were within the object of the joint criminal enterprise. Alternatively, the crimes enumerated in Counts 1 to 15 and 19 to 29 were natural and foreseeable consequences of the execution of the object of the joint criminal enterprise and the accused was aware that such crimes were the possible outcome of the execution of the joint criminal enterprise.

9. In order for the joint criminal enterprise to succeed in its objective, **Slobodan MILOSEVIC** worked in concert with or through other individuals in the joint criminal enterprise. Each participant or co-perpetrator within the joint criminal enterprise, sharing the intent to contribute to the enterprise, played his or her own role or roles that significantly contributed to achieving the objective of the enterprise. The roles of the participants or co-perpetrators include, but are not limited to, the following:

10. Radovan KARADZIC was President of the Serbian Democratic Party of Bosnia and Herzegovina (*Srpska demokratska stranka Bosne i Hercegovine* or "SDS") throughout the period of the indictment. On 27 March 1992, KARADZIC became the President of the Bosnian Serb "National Security Council." On 12 May 1992, he was elected President of the three-member Presidency of the self-proclaimed Serbian Republic of Bosnia and Herzegovina (hereinafter referred to as "Republika Srpska") and remained in this position after the Presidency was expanded to five members on 2 June 1992. On 17 December 1992, KARADZIC was elected President of Republika Srpska and remained in that position throughout the period of this indictment. In his capacity as a member of the Bosnian Serb National Security Council, member of the Presidency, as President of Republika Srpska, and in his position of leadership within the SDS party and organs of the Republika Srpska government, Radovan KARADZIC, together with others, commanded, directed, or otherwise exercised effective control over the Territorial Defence ("TO"), the Bosnian Serb army ("VRS") and the police forces of Republika Srpska who participated in the crimes specified in this indictment.

11. Momcilo KRAJISNIK, a close associate of Radovan KARADZIC, was a member of the SDS Main Board from 12 July 1991. On 24 October 1991, the day of the founding of the "Assembly of the Serbian People of Bosnia and Herzegovina," (hereinafter referred to as the "Bosnian Serb Assembly") KRAJISNIK was elected its President. From 27 March 1992, KRAJISNIK was a member of the Bosnian Serb National Security Council. He became a member of the five-member Presidency on 2 June 1992. When the Bosnian Serb Assembly elected Radovan KARADZIC President of Republika Srpska on 17 December 1992, KRAJISNIK ceased to be a member of the Presidency, but continued to be one of the most important political leaders in Republika Srpska and remained the President of its National Assembly until 19 October 1996. In his capacity as a member of the Bosnian Serb National Security Council as a member of the Presidency of Republika Srpska, and in his position of leadership within the SDS party and organs of the Republika Srpska government, Momcilo KRAJISNIK, together with others, commanded, directed, or otherwise exercised effective control over the TO, the VRS and the police forces of Republika Srpska who participated in the crimes specified in this indictment.

12. Biljana PLAVSIC, a high-ranking SDS politician, on 28 February 1992, became one of two Acting Presidents of the Serbian Republic of Bosnia and Herzegovina, together with Nikola KOLJEVIC. As an Acting President, Biljana PLAVSIC became an *ex officio* member of the Bosnian Serb National Security Council. On 12 May 1992, she was elected as a member of the three-member Presidency and remained in this position after it was expanded to five members. When the Bosnian Serb Assembly elected Radovan KARADZIC President of Republika Srpska on 17 December 1992, it also elected Biljana PLAVSIC one of two Vice-Presidents, a position she held until 19 July 1996. In her capacity as Vice-President, member of the Bosnian Serb National Security Council as a member of the Presidency of Republika Srpska, and in her position of leadership within the SDS party and organs of the Republika Srpska government, Biljana PLAVSIC, together with others, commanded, directed, or otherwise exercised effective control over the TO, the VRS and the police forces of Republika Srpska who participated in the crimes specified in this indictment.

13. General Ratko MLADIC, a military career officer previously stationed in Macedonia and Kosovo, became the commander of the 9th Corps (Knin Corps) of the Yugoslav People's Army ("JNA") in June 1991 and participated in the fighting in Croatia. On 4 October 1991, the SFRY Presidency promoted him to Major General. Subsequently, in May 1992, he assumed command of the forces of the Second Military District of the JNA in Sarajevo. From 12 May 1992 until November 1996, he was the Commander of the Main Staff of the VRS and in this capacity, together with others, commanded, directed, or otherwise exercised effective control over the VRS and other units acting in co-ordination with the VRS who participated in the crimes specified in this indictment.

14. Borisav JOVIC was successively the Vice-President, President and then a member of the SFRY Presidency from 15 May 1989 until April 1992, as well as the President of the SPS from May 1991 until October 1992, and a high ranking official of the SPS until November 1995. Borisav JOVIC and Branko KOSTIC, the Vice-President and then Acting President of the Presidency of the SFRY, together with others during the relevant period, commanded, directed, or otherwise exercised effective control over the JNA and members of the TO and paramilitary units acting in co-ordination with, and under supervision of, the JNA.

15. General Veljko KADJJEVIC, as Federal Secretary for National Defence from 15 May 1988 until 6 January 1992, commanded, directed, or otherwise exercised effective control over the JNA and other units acting in co-ordination with the JNA.

16. General Blagoje ADZIC, in his capacity as JNA Chief of Staff from 1990 to 28 February 1992 and Acting Federal Secretary for National Defence from mid-1991 to 28 February 1992, Federal Secretary for National Defence from 28 February 1992 to 27 April 1992 and JNA Chief of Staff from 27 April 1992 to 8 May 1992, together with others, commanded, directed, or otherwise exercised effective control over the JNA and other units acting in co-ordination with the JNA.

17. Jovica STANISIC, in his capacity as chief of the State Security (*Drzavna bezbednost* or "DB") of the Republic of Serbia from March 1991 to October 1998, commanded, directed, or otherwise exercised effective control over members of the DB, who participated in the perpetration of the crimes specified in this indictment. In addition, he provided arms, funds, training, or other substantial assistance or support to Serb paramilitary units and police units that were subsequently involved in the crimes specified in this indictment.

18. Franko SIMATOVIC, also known as "Frenki," as head of the special operations component of the DB of the Republic of Serbia, commanded,

directed, or otherwise exercised effective control over agents of the DB who perpetrated crimes specified in this indictment. In addition, he provided arms, funds, training, or other substantial assistance or support to Serb paramilitary units and police units that were subsequently involved in the crimes charged in this indictment.

19. Radovan STOJICIC also known as "Badza" as Deputy Minister of Interior of Serbia and head of Public Security Service, commanded, directed or otherwise exercised effective control over special forces of the Serbian MUP and volunteer units who participated in the crimes specified in this indictment. In addition, he provided arms, funds, training, or other substantial assistance or support to Serb paramilitary units and police units that were subsequently involved in the crimes specified in this indictment.

20. Milan MARTIC, as "Secretary of the Secretariat of Internal Affairs" of the so-called Serbian Autonomous Region ("SAO") Krajina from 4 January 1991 until 29 May 1991; as "Minister of Defence" of the SAO Krajina from 29 May 1991 to 27 June 1991; and as "Minister of Internal Affairs" for the SAO Krajina (later "Republic of Serbian Krajina") from 27 June 1991 to January 1994, established, commanded, directed, and otherwise exercised effective control over members of his police force (referred to as "Martić's Police," "Martić's Militia," "Marticevci," "SAO Krajina Police" or "SAO Krajina Militia") who were subsequently involved in the crimes specified in this indictment.

21. Zeljko RAZNATOVIĆ, also known as "Arkan," in 1990 established and commanded the Serbian Volunteer Guard, a paramilitary unit commonly known as "Arkanovci" or "Arkan's Tigers," who during the time relevant to this indictment operated in Bosnia and Herzegovina and were involved in the crimes charged in this indictment. In addition, he maintained a significant military base in Erdut, Croatia, where he functioned as commander. Other paramilitary groups and TO units were trained at this base and were subsequently involved in the crimes charged in this indictment.

22. Vojislav SESELJ, as President of the Serbian Radical Party (SRS) from at least February 1991 throughout the time relevant to this indictment recruited or otherwise provided substantial assistance or support to Serb paramilitary units, commonly known as "Seseljčevci" or "Seselj's men," who perpetrated crimes as specified in this indictment. In addition, he openly espoused and encouraged the creation of a "Greater Serbia" by violence and other unlawful means, and actively participated in war propaganda and spreading inter-ethnic hatred.

23. From 1987 until late 2000, **Slobodan MILOSEVIC** was the dominant political figure in Serbia and the SFRY/FRY. He acquired control of all facets of the Serbian government, including the police and the state security services. In addition, he gained control over the political leaderships of Kosovo, Vojvodina, and Montenegro.

24. In his capacity as the President of Serbia and through his leading position in the SPS party, **Slobodan MILOSEVIC** exercised effective control or substantial influence over the above listed participants in the joint criminal enterprise and either alone or acting in concert with them and additional known and unknown persons effectively controlled or substantially influenced the actions of the Federal Presidency of the SFRY and later the FRY, the Serbian Ministry of Internal Affairs ("MUP"), the JNA, the Yugoslav Army ("VJ") and the VRS, as well as Serb paramilitary groups.

25. **Slobodan MILOSEVIC**, acting alone and in concert with other members of the joint criminal enterprise participated in the joint criminal enterprise in the following ways:

a) He exerted effective control over elements of the JNA and 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 VRS. These forces subsequently participated in the execution of the joint criminal enterprise through the commission of crimes which are in violation of Articles 2, 3, 4 and 5 of the Statute of the Tribunal.

c) He exercised substantial influence over, and assisted, the political leadership of 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, principally Bosnian Muslims and Bosnian Croats, from those municipalities.

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, principally Bosnian Muslims and Bosnian Croats, from those municipalities. He provided the financial, material and logistical support necessary for such 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. These special forces participated in the execution of the joint criminal enterprise through the commission of crimes which are in violation of Articles 2, 3, 4 and 5 of the Statute of the Tribunal.

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 through the commission of crimes which are in violation of Articles 2, 3, 4 and 5 of the Statute of the Tribunal.

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 Serb people 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, principally Bosnian Muslims and Bosnian Croats, from large areas of Bosnia and Herzegovina.

26. **Slobodan MILOSEVIC** knowingly and wilfully participated in the joint criminal enterprise, while being aware of the foreseeable consequences of this enterprise. On this basis, he bears individual criminal responsibility for these crimes under Article 7(1) of the Statute of the Tribunal, in addition to his responsibility under the same Article for having planned, instigated, ordered or otherwise aided and abetted in the planning, preparation and execution of these crimes.

Article 7(3) of the Statute of the Tribunal

27. **Slobodan MILOSEVIC**, while holding positions of superior authority, is also individually criminally responsible for the acts or omissions of his subordinates, pursuant to Article 7(3) of the Statute of the Tribunal. 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 to punish the perpetrators.

28. From at least March 1991 until 15 June 1992, **Slobodan MILOSEVIC** exercised effective control over the four members of the "Serbian Bloc" within the Presidency of the SFRY. These four individuals were Borisav JOVIC, the representative of the Republic of Serbia; Branko KOSTIC, the representative of the Republic of Montenegro; Jugoslav KOSTIC, the representative of the Autonomous Province of Vojvodina; and Sejdo BAJRAMOVIC, the representative of the Autonomous Province of Kosovo and Metohija. **Slobodan MILOSEVIC** used Borisav JOVIC and Branko KOSTIC as his primary agents in the Presidency and through them he directed the actions of the "Serbian Bloc." From 1 October 1991, in the absence of the representatives of the Presidency from Croatia, Slovenia, Macedonia and Bosnia and Herzegovina, the four members of the "Serbian Bloc" exercised the powers of the Presidency, including that of collective "Commander-in-Chief" of the JNA. This "Rump Presidency" acted without dissension to execute **Slobodan MILOSEVIC**'s policies. 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 forces in Bosnia and Herzegovina, were in constant communication and consultation with the accused.

29. On 27 April 1992, the Supreme Defence Council was formed. Throughout the time relevant to this indictment, **Slobodan MILOSEVIC** was a member of the Supreme Defence Council and exercised substantial influence and control over other members of the Council. The Supreme Defence Council and the President of the FRY had *de jure* control over the JNA and later the VJ. In addition to his *de jure* powers, at all times relevant to this indictment, **Slobodan MILOSEVIC** exercised *de facto* control over the JNA and the VJ through his control over the high ranking officers of these armies.

30. **Slobodan MILOSEVIC** is therefore individually criminally responsible, under Article 7(3) of the Statute of the Tribunal, for the participation of the members of the JNA and the VJ and other units under the supervision of the JNA and the VJ in the crimes described in this indictment.

31. From the time **Slobodan MILOSEVIC** came to power in Serbia, he exercised control over key officials in the Serbian MUP, among them Radmilo BOGDANOVIC and Zoran SOKOLOVIC, who were both, at different times, the Minister of Internal Affairs of Serbia. He also exercised control over Jovica STANISIC and Franko SIMATOVIC, both high-ranking officials in the DB. Through these officials, **Slobodan MILOSEVIC** exercised effective control over agents of the MUP, including the DB, who directed and supported the actions of the special forces and Serb paramilitary groups operating in Bosnia and Herzegovina. The accused **Slobodan MILOSEVIC** is therefore individually criminally responsible, under Article 7(3) of the Statute of the Tribunal, for the participation of the members of the Serbian MUP, including the DB, in the crimes described in this indictment.

THE CHARGES

COUNTS 1 and 2 GENOCIDE OR COMPLICITY IN GENOCIDE

32. From on or about 1 March 1992 until 31 December 1995, **Slobodan MILOSEVIC**, acting alone or in concert with other members of the joint criminal enterprise, planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation and execution of the destruction, in whole or in part, of the Bosnian Muslim and Bosnian Croat national, ethnical, racial or religious groups, as such, in territories within Bosnia and Herzegovina, including: Bijeljina; Bosanski Novi; Bosanski Samac; Bratunac; Brcko; Doboj; Foca; Sarajevo (Ilijas); Kljuc; Kotor Varos; Sarajevo (Novi Grad); Prijedor; Rogatica; Sanski Most; Srebrenica; Visegrad; Vlasenica and Zvornik. The destruction of these groups was effected by:

- a) The widespread killing of thousands of Bosnian Muslims and Bosnian Croats, during and after the take-over of territories within Bosnia and Herzegovina, including those listed above, as specified in **Schedule A** to this indictment. In many of the territories, educated and leading members of these groups were specifically targeted for execution, often in accordance with pre-prepared lists. After the fall of Srebrenica in July 1995, almost all captured Bosnian Muslim men and boys, altogether several thousands, were executed at the places where they had been captured or at sites to which they had been transported for execution.
- b) The killing of thousands of Bosnian Muslims and Bosnian Croats in detention facilities within Bosnia and Herzegovina, including those situated within the territories listed above, as specified in **Schedule B** to this indictment.
- c) The causing of serious bodily and mental harm to thousands of Bosnian Muslims and Bosnian Croats during their confinement in detention facilities within Bosnia and Herzegovina, including those situated within the territories listed above, as specified in **Schedule C** to this indictment. Members of these groups, during their confinement in detention facilities and during their interrogation at these locations, police stations and military barracks, were continuously subjected to, or forced to witness, inhumane acts, including murder, sexual violence, torture and beatings.

d) The detention of thousands of Bosnian Muslims and Bosnian Croats in detention facilities within Bosnia and Herzegovina, including those situated within the territories listed above, under conditions of life calculated to bring about the partial physical destruction of those groups, namely through starvation, contaminated water, forced labour, inadequate medical care and constant physical and psychological assault.

By these acts and omissions, **Slobodan MILOSEVIC** committed:

Count 1: GENOCIDE, punishable under Articles 4(3)(a) and 7(1) and 7(3) of the Statute of the Tribunal; or

Count 2: COMPLICITY IN GENOCIDE, punishable under Articles 4(3)(c) and 7(1) and 7(3) of the Statute of the Tribunal.

COUNT 3 PERSECUTIONS

33. From on or about 1 March 1992 until 31 December 1995, **Slobodan MILOSEVIC**, acting alone or in concert with members of the joint criminal enterprise, planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of persecutions of non-Serbs, principally Bosnian Muslims and Bosnian Croats, within the territories of Banja Luka; Bihac; Bijeljina; Bileca; Bosanska Dubica; Bosanska Gradiska; Bosanska Krupa; Bosanski Novi; Bosanski Petrovac; Bosanski Samac; Bratunac; Breko; Cajnice; Celinac; Doboj; Donji Vakuf; Foca; Gacko; Gorazde, Sarajevo (Hadzici); Sarajevo (Ilidza); Sarajevo (Ilijas); Kljuc; Kalinovik; Kotor Varos; Nevesinje; Sarajevo (Novi Grad); Sarajevo (Novo Sarajevo); Sarajevo (Pale); Prijedor; Prnjavor; Rogatica; Rudo; Sanski Most; Sekovici; Sipovo; Sokolac; Srebrenica; Teslic; Trebinje; Sarajevo (Trnovo); Visegrad; Vlasenica; Sarajevo (Vogosca) and Zvornik.

34. Throughout this period, Serb forces, comprised of JNA, VJ, VRS units, local TO units, local and Serbian MUP police units and paramilitary units from Serbia and Montenegro, attacked and took control of towns and villages in these territories. After the take-over, the Serb forces in co-operation with the local Serb authorities established a regime of persecutions designed to drive the non-Serb civilian population from these territories.

35. These persecutions were committed on the discriminatory grounds of political affiliation, race or religion and included:

a) The extermination or murder of thousands of Bosnian Muslim, Bosnian Croat and other non-Serb civilians, including women and the elderly, in those territories listed above, the details of which are set out in **Schedules A and B** to this indictment.

b) The prolonged and routine imprisonment and confinement of thousands of Bosnian Muslim, Bosnian Croat and other non-Serb civilians in detention facilities within and outside of Bosnia and Herzegovina, the details of which are set out in **Schedule C** to this indictment.

c) The establishment and perpetuation of inhumane living conditions against Bosnian Muslim, Bosnian Croat and other non-Serb civilians, within the above mentioned detention facilities. These living conditions were brutal and characterised by inhumane treatment, overcrowding, starvation, forced labour and systematic physical and psychological abuse, including torture, beatings and sexual assault.

d) The prolonged and frequent forced labour of Bosnian Muslim, Bosnian Croat and other non-Serb civilians, from these detention facilities. The forced labour included digging graves and trenches and other forms of manual labour at the frontlines.

e) The cruel and inhumane treatment of Bosnian Muslim, Bosnian Croat and other non-Serb civilians during and after the take-over of the municipalities specified above. Such inhumane treatment included, but was not limited to, sexual violence, torture, physical and psychological abuse and forced existence under inhumane living conditions.

f) The imposition of restrictive and discriminatory measures against Bosnian Muslims, Bosnian Croats and other non-Serbs, such as, the restriction of freedom of movement; removal from positions of authority in local government institutions and the police; dismissal from jobs; arbitrary searches of their homes; denial of the right to judicial process and the denial of the right of equal access to public services, including proper medical care.

g) The beating and robbing of Bosnian Muslim, Bosnian Croat and other non-Serb civilians.

h) The forcible transfer and deportation of thousands of Bosnian Muslim, Bosnian Croat and other non-Serb civilians, from the territories listed above, to locations outside of Serb held territories as described in paragraphs 40 and 41 and **Schedule D** to this indictment.

i) The appropriation and plunder of property belonging to Bosnian Muslim, Bosnian Croat and other non-Serb civilians.

j) The intentional and wanton destruction of homes, other public and private property belonging to Bosnian Muslims and Bosnian Croats, their cultural and religious institutions, historical monuments and other sacred sites, as described in paragraph 42.

k) The obstruction of humanitarian aid, in particular medical and food supplies into the besieged enclaves Bihac, Gorazde, Srebrenica and Zepa, and the deprivation of water from the civilians trapped in the enclaves designed to create unbearable living conditions.

By these acts and omissions, **Slobodan MILOSEVIC** committed:

Count 3: Persecutions on political, racial or religious grounds, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(h) and 7(1) and 7(3) of the Statute of the Tribunal.

COUNTS 4 to 7 EXTERMINATION, MURDER AND WILFUL KILLING

36. From on or about 1 March 1992 until 31 December 1995, **Slobodan MILOSEVIC**, acting alone or in concert with other members of the joint criminal enterprise, planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of the extermination, murder and wilful killings of non-Serbs, principally Bosnian Muslims and Bosnian Croats living in the territories of Banja Luka; Bihac; Bijeljina; Bileca; Bosanska Gradiska; Bosanska Krupa; Bosanski Novi; Bosanski Petrovac; Bosanski Samac; Bratunac; Brcko; Cajnice; Celinac; Dobo; Foca; Gacko; Sarajevo (Ilijas); Kljuc; Kalinovik; Kotor Varos; Nevesinje; Sarajevo (Novi Grad); Prijedor; Prnjavor; Rogatica; Rudo; Sanski Most; Sokolac; Srebrenica; Teslic; Visegrad; Vlasenica and Zvornik. The extermination, murder and wilful killings of these groups were effected by:

a) The killing of Bosnian Muslims, Bosnian Croats and other non-Serbs in their towns and villages, during and after the take-over of the territories listed above including those specified in **Schedule A** to this indictment.

b) The killing of Bosnian Muslims, Bosnian Croats and other non-Serbs in detention facilities and during their deportation or forcible transfers, including those specified in **Schedule B** to this indictment.

By these acts and omissions, **Slobodan MILOSEVIC** committed:

Count 4: Extermination, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(b) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 5: Murder, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(a) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 6: Wilful killing, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, punishable under Articles 2(a) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 7: Murder, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3 and 7(1) and 7(3) of the Statute of the Tribunal.

COUNTS 8 to 15 UNLAWFUL CONFINEMENT, IMPRISONMENT, TORTURE, WILFULLY CAUSING GREAT SUFFERING, OTHER INHUMANE ACTS

37. From on or about 1 March 1992 until 31 December 1995, **Slobodan MILOSEVIC**, acting alone or in concert with members of the joint criminal enterprise, planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of the unlawful confinement or imprisonment under inhumane conditions of Bosnian Muslims, Bosnian Croats and other non-Serbs within the territories of Banja Luka; Bihac; Bijeljina; Bileca; Bosanska Dubica; Bosanska Krupa; Bosanski Novi; Bosanski Petrovac; Bosanski Samac; Bratunac; Brcko; Cajnice; Celinac; Dobo; Donji Vakuf; Foca; Gacko; Kljuc; Kalinovik; Kotor Varos; Nevesinje; Prijedor; Prnjavor; Rogatica; Rudo; Sanski Most; Sokolac; Teslic; Visegrad; Vlasenica and Zvornik.

38. Serb military forces, comprised of JNA, VJ, VRS, TO and paramilitary units acting in co-operation with local police staff and local Serb authorities, arrested and detained thousands of Bosnian Muslim, Bosnian Croat and other non-Serb civilians from the territories listed above. These civilians were held in short and long-term detention, of which the major facilities are specified in **Schedule C** to this indictment.

39. The living conditions in these detention facilities were brutal and characterised by inhumane treatment, overcrowding, starvation, forced labour, inadequate medical care and systematic physical and psychological assault, including torture, beatings and sexual assault.

By these acts and omissions, **Slobodan MILOSEVIC** committed:

Count 8: Imprisonment, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(e) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 9: Torture, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(f) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 10: Inhumane acts, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(i) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 11: Unlawful Confinement, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, punishable under Articles 2(g) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 12: Torture, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, punishable under Articles 2(b) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 13: Wilfully causing great suffering, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, punishable under Articles 2(c) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 14: Torture, a **VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR** as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3 and 7(1) and 7(3) of the Statute of the Tribunal.

Count 15: Cruel Treatment, a **VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR** as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3 and 7(1) and 7(3) of the Statute of the Tribunal.

COUNTS 16 to 18 DEPORTATION AND INHUMANE ACTS (FORCIBLE TRANSFERS)

40. From on or about 1 March 1992 until 31 December 1995, **Slobodan MILOSEVIC**, acting alone or in concert with members of the joint criminal enterprise, planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of the unlawful forcible transfer, also qualifying as deportation where indicated hereinafter, of tens of thousands of Bosnian Muslim, Bosnian Croat and other non-Serb civilians from their legal domiciles in the territories of Banja Luka (deportation); Bihac; Bijeljina; Bileca (deportation); Bosanska Dubica; Bosanska Gradiska; Bosanska Krupa; Bosanski Novi; Bosanski Petrovac; Bosanski Samac (deportation); Bratunac; Breko; Cajnice; Celinac; Doboj; Donji Vakuf; Foca; Gacko (deportation); Sarajevo (Hadzici); Sarajevo (Ilidza); Sarajevo (Ilijas); Kljuc; Kalinovik; Kotor Varos; Nevesinje; Sarajevo (Novi Grad); Sarajevo (Novo Sarajevo); Sarajevo (Pale); Prijedor; Prnjavor; Rogatica; Rudo (deportation); Sanski Most; Sekovici; Sipovo; Sokolac; Srebrenica; Teslic; Trebinje; Sarajevo (Trnovo); Visegrad; Vlasenica; Sarajevo (Vogosca) and Zvornik (deportation), to other areas both inside and outside Bosnia and Herzegovina. The details of such acts and omissions are described in **Schedule D**.

41. In order to achieve this objective, Serb forces comprised of JNA, VJ, VRS and TO, paramilitary units acting in co-operation with local police staff, local Serb authorities and special forces of the Serbian Ministry of Internal Affairs under the effective control of **Slobodan MILOSEVIC** or other members of the joint criminal enterprise, subjugated villages and towns in Bosnia and Herzegovina and participated with members of the SDS in the disarming of the non-Serb population. The towns and villages, including areas in which the inhabitants complied and offered no resistance, were then attacked. These attacks were intended to compel the non-Serb population to flee. After taking control of the towns and villages, the Serb forces often rounded-up the remaining non-Serb civilian population and forcibly removed them from the area. On other occasions, the Serb forces in co-operation with the local Serb authorities imposed restrictive and discriminatory measures on the non-Serb population and engaged in a campaign of terror designed to drive them out of the territory. The majority of non-Serbs that remained were eventually deported or forcibly transferred from their homes.

By these acts and omissions **Slobodan MILOSEVIC** committed:

Count 16: Deportation, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(d) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 17: Inhumane Acts (Forcible Transfers), a **CRIME AGAINST HUMANITY**, punishable under Articles 5(i) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 18: Unlawful Deportation or Transfer, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, punishable under Articles 2(g) and 7(1) and 7(3) of the Statute of the Tribunal.

COUNTS 19 to 22 WANTON DESTRUCTION, PLUNDER OF PUBLIC OR PRIVATE PROPERTY

42. From on or about 1 March 1992 until 31 December 1995, **Slobodan MILOSEVIC**, acting alone or in concert with members of the joint criminal enterprise, planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of the wanton destruction and plunder of the public and private property of the Bosnian Muslim, Bosnian Croat and other non-Serb populations within the territories of Banja Luka; Bihac; Bijeljina; Bileca; Bosanska Dubica; Bosanska Gradiska; Bosanska Krupa; Bosanski Novi; Bosanski Petrovac; Bosanski Samac; Bratunac; Breko; Cajnice; Celinac; Doboj; Donji Vakuf; Foca; Gacko; Sarajevo (Hadzici); Sarajevo (Ilidza); Sarajevo (Ilijas); Kljuc; Kalinovik; Kotor Varos; Nevesinje; Sarajevo (Novi Grad); Sarajevo (Novo Sarajevo); Sarajevo (Pale); Prijedor; Prnjavor; Rogatica; Rudo; Sanski Most; Sekovici; Sipovo; Sokolac; Srebrenica; Teslic; Sarajevo (Trnovo); Trebinje; Visegrad; Vlasenica; Sarajevo (Vogosca), and Zvornik. This intentional and wanton destruction and plunder was not justified by military necessity and included:

a) The appropriation and plunder of property belonging to Bosnian Muslim, Bosnian Croat and other non-Serb civilians, including the coerced signing of documents relinquishing property rights.

b) The intentional and wanton destruction of homes and other property owned by Bosnian Muslim, Bosnian Croat and other non-Serb civilians. Such destruction was employed as a means to compel non-Serbs to flee their legal domiciles and to prevent their

subsequent return.

c) The intentional and wanton destruction of religious and cultural buildings of the Bosnian Muslim and Bosnian Croat communities including, but not limited to, mosques, churches, libraries, educational buildings and cultural centres.

By these acts and omissions, **Slobodan MILOSEVIC** committed:

Count 19: Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, punishable under Articles 2(d) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 20: Wanton destruction of villages, or devastation not justified by military necessity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3(b) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 21: Wilful destruction or wilful damage done to historic monuments and institutions dedicated to education or religion, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3(d) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 22: Plunder of public or private property, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3(c) and 7(1) and 7(3) of the Statute of the Tribunal.

COUNTS 23 to 29

MURDER, WILFUL KILLING, WILFULLY CAUSING GREAT SUFFERING, CRUEL TREATMENT, ATTACKS ON CIVILIANS

43. Between April 1992 and November 1995, **Slobodan MILOSEVIC**, acting alone or in concert with members of the joint criminal enterprise, planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparation, or execution of a military campaign of artillery and mortar shelling and sniping onto civilian areas of Sarajevo and upon its civilian population, killing and wounding thousands of civilians of all ages and both sexes.

44. In this time period, the Sarajevo Romanija Corps of the VRS, under the effective control of Radovan KARADZIC and General Ratko MLADIC, launched an extensive, forty-four month shelling and sniping attack on Sarajevo, mostly from positions in the hills surrounding the city with an unobstructed view of Sarajevo.

45. The Sarajevo Romanija Corps conducted a protracted campaign of shelling and sniping upon Sarajevo during which civilians were either specifically targeted or the subject of reckless fire into areas where civilians were known to have been. Among the victims of this campaign were civilians who were, amongst other things, tending vegetable plots, queuing for bread or water, attending funerals, shopping in markets, riding on trams, gathering wood. Specific instances of sniping are described in **Schedule E** attached to this indictment. Specific instances of shelling are set forth in **Schedule F**.

By these acts and omissions, **Slobodan MILOSEVIC** committed:

Count 23: Murder, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(a) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 24: Inhumane acts, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(j) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 25: Wilful killing, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, punishable under Articles 2(a) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 26: Wilfully causing great suffering, a **GRAVE BREACH OF THE GENEVA CONVENTIONS OF 1949**, punishable under Articles 2(c) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 27: Murder, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3 and 7(1) and 7(3) of the Statute of the Tribunal.

Count 28: Cruel treatment, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3 and 7(1) and 7(3) of the Statute of the Tribunal.

Count 29: Attacks on civilians, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Article 51 (2) of Additional Protocol I and Article 13 (2) of Additional Protocol II to the Geneva Conventions of 1949, punishable under Articles 3 and 7(1) and 7(3) of the Statute of the Tribunal.

GENERAL LEGAL ALLEGATIONS

46. All acts and omissions alleged in this indictment occurred on the territory of the former Yugoslavia.

47. At all times relevant to this indictment, a state of international armed conflict and partial occupation existed in Bosnia and Herzegovina.
48. All acts and omissions charged as Grave Breaches of the Geneva Conventions of 1949 occurred during the international armed conflict and partial occupation of Bosnia and Herzegovina. All such acts and omissions were committed against persons protected under the Geneva Conventions.
49. All acts and omissions charged relative to the destruction of property as Grave Breaches of the Geneva Conventions of 1949 involved "protected property" under the relevant provisions of the Geneva Conventions.
50. At all times relevant to this indictment **Slobodan MILOSEVIC** was required to abide by the laws and customs governing the conduct of armed conflicts, including the Geneva Conventions of 1949 and the Additional Protocols thereto.
51. All conduct charged as Crimes against Humanity was part of a widespread or systematic attack directed against the Bosnian Muslim, Bosnian Croat and other non-Serb civilian populations within large areas of Bosnia and Herzegovina.

ADDITIONAL FACTS

52. In November 1990, multi-party elections were held in Bosnia and Herzegovina. At the Republic level, the SDA ("*Stranka Demokratske Akcije* - Party of Democratic Action) the party of the Bosnian Muslims won 86 seats; the SDS, the party of the Bosnian Serbs, won 72 seats and the HDZ ("*Hrvatska demokratska zajednica* - Croatian Democratic Community) won 44 seats in the Assembly.
53. The central idea within the SDS political platform, as articulated by its leaders, including Radovan KARADZIC, Momcilo KRAJISNIK and Biljana PLAVSIC, was the unification of all Serbs within one state. The SDS regarded the separation of Bosnia and Herzegovina from the SFRY as a threat to the interests of the Serbs.
54. On 5 February 1991 the Assembly of the Republic of Serbia passed a "Law on Ministries" submitted by **Slobodan MILOSEVIC**. This law established twenty "Ministries" of the Serbian government, including the Ministry for Links with Serbs outside Serbia. This Ministry assisted the SDS to establish the Serb Republic of Bosnia and Herzegovina.
55. The results of the November 1990 elections meant that, as time went on, the SDS would be unable through peaceful means to keep the Republic of Bosnia and Herzegovina in what was becoming a Serb-dominated Yugoslavia. As a result, Serb people within certain areas of Bosnia and Herzegovina, with Serb majorities, began to organise themselves into formal regional structures that they referred to as "Associations of Municipalities." In April 1991 the Association of Municipalities of Bosnian Krajina, centred in Banja Luka, was formed.
56. In March 1991, the collective Presidency of the SFRY reached a deadlock on several issues including the issue of instituting a state of emergency in Yugoslavia. The representatives on the Presidency from the Republic of Serbia, the Republic of Montenegro, the Autonomous Province of Vojvodina, and the Autonomous Province of Kosovo and Metohija all resigned from their posts. In a televised address on 16 March 1991, **Slobodan MILOSEVIC**, in his capacity as President of the Republic of Serbia, declared that Yugoslavia was finished and that Serbia would no longer be bound by decisions of the Federal Presidency.
57. On 25 March 1991, **Slobodan MILOSEVIC** and Franjo TUDMAN met in Karadjordjevo and discussed the partition of Bosnia and Herzegovina between Serbia and Croatia.
58. On 25 June 1991, Slovenia and Croatia declared their independence. On 26 June, the JNA intervened in Slovenia. In the summer of 1991, fighting broke out in Croatia.
59. In August 1991 Radovan KARADZIC instituted a system of secret communication between the local boards of the SDS and the Main Staff and with the Republic of Serbia. This secret communication protocol was declared mandatory for the transmission of reports and orders.
60. From autumn 1991, the JNA began to withdraw its forces out of Croatia. Forces under the control of the JNA began to re-deploy in Bosnia and Herzegovina. Many of these troops were deployed to areas in which there was no garrison or other JNA facility.
61. As the war continued in Croatia it appeared increasingly likely that Bosnia and Herzegovina would also declare its independence from the SFRY. The SDS, realising it could not prevent the secession of Bosnia and Herzegovina from the SFRY, began the creation of a separate Serbian entity within Bosnia and Herzegovina. During the period from September to November 1991, several Serbian Autonomous Regions (SAO) were formed, some of them on the basis of the Associations of Municipalities referred to above.
62. On 12 September 1991, the Serbian Autonomous Region of Herzegovina was proclaimed. On 16 September 1991, the Autonomous Region of Krajina was proclaimed by the Assembly of the Association of Municipalities of Bosnian Krajina. By 21 November 1991, the Serbian Autonomous Regions and Autonomous Regions consisted of the Autonomous Region of Krajina, the SAO Herzegovina, the SAO Romanija-Birac, the SAO Semberija, and SAO Northern Bosnia.
63. On 3 October 1991, the four members of the SFRY Presidency from Serbia and Montenegro (Borisav JOVIC, Jugoslav KOSTIC, Sejdo BAJRAMOVIC and Branko KOSTIC) assumed the function of the SFRY Presidency, circumventing the roles and responsibilities of the Presidency members from Slovenia, Croatia, Bosnia and Herzegovina and Macedonia.

64. On 15 October 1991, at the meeting of the SDS Party Council the decision was reached to form a separate assembly, entitled the "Assembly of the Serbian People of Bosnia and Herzegovina" to secure Serb interests.

65. On or around 22 October 1991, **Slobodan MILOSEVIC**, together with other members of the joint criminal enterprise, continued to advocate for a unitary Serb state governed from Belgrade, Serbia. On the same date the "Rump Presidency" called for the mobilisation of reservists in Serbia and "other regions that want to stay in Yugoslavia."

66. On or about 26 October 1991, Radovan KARADZIC declared a full mobilisation of the TO and the formation of field units in the Serb Republic of Bosnia and Herzegovina.

67. On 24 October 1991, the Assembly of the Serbian People in Bosnia and Herzegovina, dominated by the SDS, decided to conduct a "Plebiscite of the Serbian People in Bosnia and Herzegovina" in order to decide whether to stay in the common state of Yugoslavia with Serbia, Montenegro, the Serbian Autonomous Region of Krajina, SAO Western Slavonia and SAO Eastern Slavonia, Baranja and Western Srem.

68. On 9 and 10 November 1991, the Bosnian Serbs held the plebiscite on the issue of whether Bosnia and Herzegovina should stay in Yugoslavia or become an independent state. The results overwhelmingly showed that the Bosnian Serbs wanted to stay in Yugoslavia.

69. On 21 November 1991, the Assembly of the Serbian People of Bosnia and Herzegovina, proclaimed as part of the territory of the federal Yugoslav state all those municipalities, local communities and populated places, in which over 50% of the people of Serbian nationality had voted, during the plebiscite, to remain in that state as well as those places where citizens of other nationalities had expressed themselves in favour of remaining in Yugoslavia.

70. On 11 December 1991, the Assembly of the Serbian People delivered a detailed request to the JNA to protect with all available means as "integral parts of the State of Yugoslavia" the territories of Bosnia and Herzegovina in which the plebiscite of the Serbian people and other citizens on remaining in a joint Yugoslav state had been conducted.

71. On 19 December 1991, the SDS issued instructions for the "Organisation and Activity of the Organs of the Serbian People in Bosnia and Herzegovina in Extraordinary Circumstances" which provided a plan for the SDS take-over of municipalities in Bosnia and Herzegovina.

72. On 9 January 1992, the Assembly of the Serbian People of Bosnia and Herzegovina adopted a declaration on the Proclamation of the Serbian Republic of Bosnia and Herzegovina. The territory of that republic was declared to include "the territories of the Serbian Autonomous Regions and Districts and of other Serbian ethnic entities in Bosnia and Herzegovina, including the regions in which the Serbian people remained in the minority due to the genocide conducted against it in World War Two", and it was declared to be a part of the federal Yugoslav state. On 12 August 1992, the name of the Bosnian Serb Republic was changed to Republika Srpska.

73. From 29 February to 2 March 1992, Bosnia and Herzegovina held a referendum on independence. At the urging of the SDS, the majority of Bosnian Serbs boycotted the vote. The referendum resulted in a pro-independence majority.

74. On 18 March 1992, during the 11th session of the Assembly of the Serbian People, a conclusion was reached to "prepare for the next session proposals for the take-over of power in the Republic of Serbian People of Bosnia and Herzegovina."

75. From March 1992 onwards, Serb regular and irregular forces seized control of territories within Bosnia and Herzegovina, including those specified in this indictment.

76. On 6 April 1992, the United States and the European Community formally recognized the independence of Bosnia and Herzegovina.

77. On 27 April 1992, Serbia and Montenegro proclaimed a new Federal Republic of Yugoslavia and declared it the successor state of the Socialist Federal Republic of Yugoslavia.

78. On 12 May 1992, at the 16th Assembly of the Serbian People in Bosnia and Herzegovina, Radovan KARADZIC announced the six strategic objectives of the Serbian People in Bosnia and Herzegovina. These objectives included the eradication of the Drina River as a border between the Serbian states. During the same session, General Ratko MLADIC told the Assembly that it would not be possible to separate Serbs from non-Serbs and have the non-Serbs simply leave the territory. He warned that attempting this process would amount to genocide.

79. On 15 May 1992, the United Nations Security Council in its resolution number 752 demanded that all interference from outside Bosnia and Herzegovina by units of the JNA cease immediately and that those units either be withdrawn, be subjected to the authority of the Government of the Republic, or be disbanded and disarmed.

Carla Del Ponte
Prosecutor

Dated this 22nd day of November 2001
At The Hague
The Netherlands

Schedule A
Killings not Associated with Detention Facilities

No	Municipality	Victims (Killed)	Date
1	Banja Luka	In Culum-Kostic, 5 non-Serbs were killed.	15-Aug-92
2	Bihac	In Orasce and Duljei, approximately 18 non-Serbs were killed.	20-22 Sep 92
3	Bijeljina	In Bijeljina, at least 48 Bosnian Muslim and/or Bosnian Croat men, women and children were killed.	1-2 Apr 92
4	Bosanska Gradiska	Killing of at least 4 Bosnian Muslim civilians near the market place in Bosanska Gradiska.	15-Aug-92
5	Bosanski Novi	In Blagaj Japra, 7 Bosnian Muslim men were killed during the expulsion of Bosnian Muslims.	09-Jun-92
		In Alici, 27 Bosnian Muslim men were killed.	23-Jun-92
6	Bosanski Petrovac	Killing of at least 2 Bosnian Muslims near Hujici.	20-Sept-92
7	Bratunac	In Glogova, approximately 65 Bosnian Muslim and Bosnian Croat civilians killed by members of the JNA, acting together with Serb paramilitary forces.	09-May-92
8	Brcko	In Brcko, approximately 12 Bosnian Muslim males and other non-Serbs were killed at the Hotel Posavina.	04-May-92
9	Celinac	Rifet MUJKANOVIC, shot to death by Serb soldier.	31-July-92,
		Killing of 2 non-Serb civilians by Serb soldiers.	2-Aug-92,
10	Doboj	In Gornja Grapska, approximately 34 Bosnian Muslim civilians were killed during shelling of village.	10-May-92
11	Foca	In DDjidjevo, at least 11 Bosnian Muslim men were executed by Serb soldiers.	20-Apr-92
		In Filipovici, at least 5 Bosnian Muslims were killed by Serb soldiers in a military warehouse.	26-Apr-92
		In Jelec, 18 Bosnian Muslims, including elderly people and 8 members of one family, were executed by JNA soldiers.	4-10-May-92
		In Brod, 14 Bosnian Muslim men from Trnovaca were executed by Serb soldiers.	22-Jun-92
12	Gacko	At least 5 non-Serbs killed in the village of Meduljici	17-June-92
		2 Muslim males killed by Serbs in a field near Mount Zelengora	18-June92

		At least 8 Muslims killed by Serb soldiers near Mount Zclengora	18-23-June-92
13	Kljuc	In Pudin Han, 11 Bosnian non-Serb civilians were killed during the Serb attack on the village.	27-May-92
		In Prhovo, 38 Bosnian Muslim villagers, including women and children, were killed by shooting and grenades.	01-Jun-92
		Near Peci, 9 Bosnian Muslim men were killed by Serb soldiers.	01-Jun-92
		In Velagici, approximately 100 Bosnian Muslim men were killed.	01-Jun-92
14	Kotor Varos	In Kotor Varos town, approximately 13 non-Serbs were killed in and around the Medical Centre.	25-Jun-92
		In a barn in Dabovci, at least 15 Bosnian Muslim men were killed.	Aug-92
		In Vrbanjci 7 Bosnian Muslim men were killed in and around the Alagic café.	25-Jun-92
		In Grabovica, a large number of Bosnian Muslim and Bosnian Croat detainees were held in the Grabovica School, beaten and never seen again.	Nov-92
15	Nevesinje	At or near Lipovaca and Dubrovaci, at least 34 Bosnian Muslim men, women and children were killed.	Jun-Jul-92
		Near Kiser, approximately 17 Bosnian Muslim civilians were killed by Serb soldiers.	mid July-92
16	Prijedor	In the Brdo region numerous non-Serbs were killed.	Jul-92
		In Hambarine and Behlici, at least 3 Bosnian Muslims were killed.	11-Jun-1-Jul-92
		In Kamicani, approximately 8 non-Serbs were killed in Mehmed Sahoric's house.	26-May-92
		In Jaskic, at least 19 Bosnian Muslim men were killed.	14-Jun-92
		In Biscani, about 40 non-Serbs were killed.	20-Jul-92
		In Carakovo, at least 19 Bosnian Muslims were killed.	23-Jul-92
		In Brisevo, at least 68 non-Serbs were killed during the attack.	24-Jul-92
		In Kipe iron ore mine (near Ljubija), at least 8 Bosnian Muslim men were executed.	25-Jul-92
		In Ljubija, at least 3 Bosnian Muslim men were executed at the football stadium.	25-Jul-92
		In Tomasica, 4 non-Serbs were killed.	03-Dec-92
17	Prajavaor	In Kremna, 8 Bosnian Muslim civilians from Derventa were killed.	Apr-92
		In Lisnja, 4 Bosnian Muslim men were executed.	May-92
18	Rudo	At least 50 non-Serb civilians killed during the take over in mass executions at Setovo, Vranj, Mrsovo and massacres in Srpci and Sjeverin.	May-92
		Approximately 40 elderly non-Serb civilians killed.	May-92

		In Omarska camp, hundreds of Bosnian Muslims and Bosnian Croats were killed.	May-Aug-92
		In Keraterm camp, approximately 150 non-Serbs were killed.	24-Jul-92
		On Vlasie mountain in Skender Vakuf municipality, approximately 200 Bosnian Muslim and/or Bosnian Croat males from Trnopolje camp were killed.	21-Aug-92
13	Rogatica	Near Crvenka, at least 10 Bosnian Muslim males from Visegrad were executed.	15-Jun-92
14	Rudo	At least one elderly Muslim man killed in detention facility in JNA barracks in Rudo.	In or around 1992
		At least one Muslim man killed in the detention camp in the JNA barracks.	In or around 1992
15	Sanski Most	Near Hrastova Glavica, approximately 100 non-Serb men taken from Keraterm and Omarska camps were killed.	05-Aug-92
		In Sanski Most town, at least 2 non-Serb men were killed in the Hotel Sana by Arkan's Tigers.	18-21-Sep-92
		At Sanakram ceramics factory, at least 10 non-Serb men were killed.	30-Sep-09-Oct-92
16	Sokolac	In village of Novoseoci, approximately 44 non-Serb men were detained and killed.	22-Sep-92
17	Teslic	In Teslic town, at least 5 non-Serb men were killed at the Territorial Defence building.	Jun-92
		In Pribinic camp, at least 7 or 8 non-Serb detainees were killed.	Jun-Oct-92
18	Vlasenica	At Susica camp, at least 6 non-Serb male detainees were killed.	21-23-Jun-92
19	Zvornik	At Ekonomija farm, Karakaj, approximately 6 non-Serb detainees were killed.	12-14-May-92
		At Novi Izvor building, at least 2 non-Serb male detainees were killed.	May-92
		At Celopek Dom Kulture, at least 30 non-Serb male detainees were killed.	9-Jun-26-Jun-92
		At Karakaj Technical School, approximately 110 Bosnian Muslim males were killed.	1-3-Jun-92
		At Gero's slaughter-house, approximately 190 non-Serb detainees were killed.	07-Jun-92
20	Novi Grad (Sarajevo)	Near Srednje, 47 Bosnian Muslim men from Rajlovac camp were killed	14-Jun-92

**Schedule C
Detention Facilities**

No	Municipality	Detention Camp	Dates
1	Banja Luka	Former JNA Barracks Mali Logor (Military Remand Prison)	Aug-Sep-92
		Viz Tunjice Penitentiary	Jun-Nov 92
		Manjaca Camp	Jun-Dec-92
2	Bihac	Traktorski Servis, Ripac (garages and houses)	Jul-Oct-92

3	Bijeljina	Batkovici Detention Centre	Jul-92-Jun-95
		New Slaughterhouse (Nova Klaonica)	From Mar 92
4	Bileca	SUP Detention facility.	10 June- 19 Dec 1992
		Student Hostel (Dacki Dom).	25 June - 5 Oct 1992
5	Bosanska Dubica	SUP Building	Jun-Sep 92
6	Bosanska Krupa	Petar Kocic Elementary School	Apr-Sep-92
		Jesenica Primary School	Apr-Sep-92
7	Bosanski Samac	Crkvina Camp	May - Oct 92
8	Bosanski Novi	Bosanska Kostajnica Police Station	May-Jul-92
		Mlakve Football Stadium	Jun-Jul-92
		Bosanski Novi Fire Station	Jul-Aug 92
9	Bosanski Petrovac	Kozila Camp	May-Aug 92
10	Brcko	JNA Barracks Brcko	Apr-Jul 92
		Luka Detention Centre	04-May-13-Jul-92
11	Bratunac	Vuk Karadzic School	Jul-92
12	Cajnice	Mostina Hunting Lodge	April, May 1992
		Cajnice SUP building.	June-July 1993
13	Celinac	Municipal building in Celinac	1-Aug-92
14	Doboj	Spreca Prison	Apr 92-Feb 93
		Percin's Disco (restaurant Kod Perco)	May - Aug-92
		Ammunition Warehouse, Bare	May-92
		SUP Station	May-Aug 92
		JNA Hangars near Bosanska Plantation (Bosanka Camp)	May-92- Jun-93
		Seslija Camp	Mar-Oct-93
15	Donji Vakuf	Vrbas Promet camp.	11-June-92
		"The House," a house across the street from the MUP building	07-June-92
		SUP building	16-June-92
		TO warehouse.	16-June-92
16	Foca	Foca High School (Srednjoskola Centur)	Jun-92

		Partisan Sports Hall	Jul-92
		Livade Camp	Apr-92
		KP Dom Prison	Apr-92 - Oct-94
17	Gacko	Dom Kulture Avtovac.	01-June-92
		SUP building	08-June 92 - 05-July-92
		Hotel connected to power plant	01-May-92
		Hotel "Metohija"	01-May-92
18	Kalinovik	Kalinovik School (primary/clementary).	Jul 92- Sept 92
		Gunpowder warehouse between Jelasica and JazicI.	5 July-5-Aug-92
19	Kljuc	Nikola Mackic Elementary School	May-92
20	Kotor Varos	Kotor Varos Prison	Jun - Nov-92
		Kotor Varos Sawmill	Jun-92
		Kotor Varos Police Station	May-Sep 92
		Kotor Varos Elementary School	Aug-Sep 92
21	Nevesinje	Central Heating Factory (Kilavci)	Jun-Jul 92
22	Prijedor	Omarska Camp	May - Aug-92
		Keraterm Camp	May-Aug-92
		Miska Glava	Jul-92
		Prijedor Barracks	May-Jun 92
		Trnopolje Camp	May-Dec-92
23	Prnjavor	Stari Mlin	Oct-92 - Mar-94
		Sloga Shoe Factory	May-Dec 92
		Ribnjak	Nov-92-Jan- 93
24	Rogatica	Veljko Vlahovic School	May-92 - Early-93
		Rasadnik	Jun-92 - Jun-93
25	Rudo	Basement of the cultural centre.	June-93 - Feb -94
26	Sanski Most	Krings Factory	May-Aug-92
		Hasan Kikic School	May - Jun-92
		Betonirka Cement Factory	May -Jul-92
		Boiler Room of Old Hotel.	21-Sep-95 to 25-Sep-95
27	Sokolac	KTK Leather Factory.	July- Dece 92

		"Slavisa Vajner Cica Elementary School.	
		Planja's house.	
		Cavarine.	
28	Teslic	Pribinic (old post office)	Jun-Oct 92
		TO Building	Jun-92
		SUP Building	Jun-92
29	Visegrad	Detention centre in tourist hotel in Vilina Vlas.	01-Ma-92
		Uzamnica, a former military warehouse and barracks.	Aug-92 - Oct-94
30	Vlasenica	Susica Territorial Defence Installation	Jun-92
31	Zvornik	Celopek Dom Kulture	May-Jul 92
		Karakaj Technical School	May-Jul 92
		Novi Izvor Building, Zvornik town	Apr-Sep-92
		Ekonomija Farm, Karakaj	Jun-Aug 92

Schedule D
Forcible Transfers

No	Municipality	Non-Serb Displaced Persons and Refugees	Deportations
TOTAL NUMBER EXPELLED - 268,050			
1	Banja Luka	19359	Hungary
2	Bileca	993	Montenegro
3	Bihac	2588	
4	Bijeljina	13159	
5	Bosanska Krupa:		
	- <i>Bosanska Krupa</i>	1439	
	- <i>Buzim</i>	389	
	- <i>Krupa na Uni</i>	1	
6	Bosanska Dubica	3310	
7	Bosanska Gradiska	7516	
8	Bosanski Novi	6288	
9	Bosanski Petrovac:		
	- <i>Bosanski Petrovac</i>	778	
	- <i>Petrovac</i>	unknown	

10	Bosanski Samac:		Croatia
	- <i>Samac</i>	1563	
	- <i>Domaljevac-Samac</i>	217	
11	Bratunac	8048	
12	Breko:		
	- <i>Breko</i>	14607	
	- <i>Ravne / Rahic</i>	1532	
13	Cajnice	2214	
14	Celinac	608	
15	Doboj:		
	- <i>Doboj</i>	18569	
	- <i>Doboj Istok</i>	405	
	- <i>Doboj Jug</i>	310	
16	Donji Vakuf	1729	
17	Foca:		
	- <i>Foca / Srbinje</i>	8258	
	- <i>Foca FBiH</i>	1039	
18	Gacko	1899	Macedonia
19	Gorazde:		
	- <i>Gorazde FBiH</i>	2563	
	- <i>Srpsko Gorazde</i>	1834	
20	Kalinovik	612	
21	Kljuc:		
	- <i>Kljuc</i>	3852	
	- <i>Kljuc / Ribnik</i>	26	
22	Kotor Varos	6870	
23	Nevesinje	1483	
24	Prijedor	20256	
25	Prnjavor	3490	
26	Rogatica	6650	
27	Rudo	1614	Macedonia
28	Sanski Most:		

	- <i>Sanski Most</i>	6257	
	- <i>Srpski Sanski Most</i>	221	
29	Srebrenica	25,000	
30	Sekovici	162	
31	Sipovo	1427	
32	Sokolac	2670	
33	Teslic	7789	
34	Trebinje:		
	- <i>Trebinje</i>	3116	
	- <i>Ravno</i>	201	
35	Visegrad	6690	
36	Vlasenica	6942	
37	Zvornik:		Hungary; Austria
	- <i>Zvornik</i>	15436	
	- <i>Sapna</i>	1335	
CITY OF SARAJEVO			
38	Ilidza:		
	- <i>Ilidza</i>	218	
	- <i>Srpska Ilidza</i>	60	
39	Novi Grad Sarajevo	9008	
40	Novo Sarajevo:		
	- <i>Novo Sarajevo</i>	7097	
	- <i>Srpsko Novo Sarajevo</i>	4	
41	Vogosca	2099	
GREATER SARAJEVO			
42	Hadzici	1390	
43	Ilijas	1889	
44	Pale:		
	- <i>Pale</i>	1697	
	- <i>Pale FBiH</i>	115	
45	Trnovo:		
	- <i>Trnovo RS</i>	744	

- Trnovo FBiH	415	
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Schedule E
Sarajevo Sniping Incidents

No	Incident	Date
1	Fadila ZGODIC, a woman aged 52 years, was shot and wounded in the hip while carrying bread near Darovalaca Krvi Street, presently Kolodvorska Street, in the area of Novo Sarajevo.	07-Nov-92
2	Anisa PITA, a girl aged 3 years, was shot and wounded in the right leg as she was taking off her shoes while on the porch of her residence on Zagrici Street in the Sirokaca area of Sarajevo.	13-Dec-92
3	The victim, a girl aged 9 years, was shot and wounded in the back as she played in the front garden of her house in the Sedrenik area of Sarajevo.	17-Apr-93
4	Muhamed HAZNADAREVIC, a man aged 52 years, was shot and wounded in the back and chest while trying to tend a vegetable plot in Slatinski Put 5, presently Slatinski Put 13, Kobilja Glava, north of Sarajevo.	25-Jun-93
5	Almasa KONJHODZIC, a woman aged 56 years, was shot dead near the junction of Dure Dakovica and Kranjcevic Street, presently Alipasina and Kranjcevic, while walking with her family.	27-Jun-93
6	Munira ZAMETICA, a woman aged 48 years, was shot dead while collecting water from the Dobrinja River in area of Dobrinja II and III.	11-Jul-93
7	Hajrija DIZDAREVIC, a woman aged 66 years, was shot dead in her apartment at Kranjcevic 11/5, presently Dzamijska Street, during her prayers.	On or about 17-07-1993
8	Mejra JUSOVIC, a woman aged 45 years, was shot and wounded while pulling a load of wood towards her home near Rasadnjak, Sedrenik area, Sarajevo.	24-Jul-93
9	Vildana KAPUR, a woman aged 21 years, was shot and wounded in the leg while transporting water home along Stara cesta, Hotonj area.	05-Aug-93
10	Nafa TARIC, a woman aged 35 years, and her daughter Elma TARIC, aged 8 years, were shot by a single bullet while walking together in Ivana Krndelja Street, in the centre of Sarajevo. The bullet wounded the mother in the left thigh and wounded the daughter on the hand and in the abdomen.	03-Sep-93
11	Sacir BOSNIC, a man aged 56 years, was shot dead while gathering wood across the road from the Hambina Carina Reservoir and adjacent to Zelengorska Street, presently Hambina Carina Street, at Sirokaca, Skenderija.	07-Sep-93
12	Edina TRTO, a woman aged 25 years, was shot dead while walking in front of Ivana Krndelja Street 6, presently Azize Sacerbegovic 12, Sarajevo.	26-Sep-93
13	Faruk KADRIC, a boy aged 16 years, was shot and wounded in the neck while riding as a passenger in his father's truck along Ante Babica Street, in the west end of Sarajevo.	04-Oct-93
14	Edin RAMOVIC, a man aged 29 years, was shot and wounded in the left upper arm while walking in Stara cesta Road, in the Bare area of Sarajevo.	07-Oct-93

15	Ramiz VELIC and Milan RISTIC, aged 50 and 56 years respectively, were wounded by a burst of gunfire while they were working clearing rubbish along Brace Ribara Street, presently Porodice Ribar Street, in the Hrasno area of Sarajevo.	02-Nov-93
16	Ramiza KUNDO, a woman aged 38 years, was shot and wounded in the left leg while she and another woman were returning from a water well carrying buckets of water near Brijesko Brdo Street, presently Bulbulistan Street, in the west end of Sarajevo.	02-Nov-93
17	Fatima OSMANOVIC, a woman aged 44 years, was shot and wounded in the right side of her face while she was carrying water in Brijesko brdo Street, presently Bulbulistan Street, in the west end of Sarajevo.	13-Nov-93
18	Sanija DZEVLAN, a woman aged 32 years, was shot and wounded while riding a bicycle across a bridge in Nikola Demonja Street, Dobrinja.	06-Jan-94
19	Edin HUSOVIC, a man aged 17 years, was shot and wounded in the abdomen while standing outside a pizza restaurant Seste Proleterske Brigade Street, presently Bulevar Mese Selimovica.	10-Jan-94
20	Hetema MUKANOVIC, a woman aged 38 years, was shot and killed in her apartment on the first floor of Obala 27. Jula 89/1, presently Alcja Lipa 64, in the Hrasno area of Sarajevo. At the time she was sitting with her husband and neighbours, drinking coffee by candlelight.	11-Jan-94
21	Ivan FRANJIC, a man aged 63 years, was walking with two others on Ante Babica Street in Vojnicko Polje, in the west end of Sarajevo. He was shot and wounded in the stomach while one of his companions Augustin VUCIC was shot and later died from his injuries.	13-Mar-94
22	Sadeta PLIVAC, a woman aged 53 years and Hajra HAFIZOVIC a woman aged 62 years, were both shot and wounded in their legs while passengers in a crowded bus near the junction of Nikolje Demonje and Bulevar AVNOJ, presently Nikolje Demonje and Bulevar Branioca Dobrinja, in Dobrinja.	25-May-94
23	Fatima SALCIN, a woman aged 44 years, was shot and wounded in the hand when walking with her father-in-law in Ive Andrica Street, in the Mojmiloo area of Sarajevo.	13-Jun-94
24	Sanela MURATOVIC, a girl aged 16 years, was shot and wounded in the right shoulder while walking with a girlfriend in Dure Jaksica Street, presently Adija Mulabegovica, in the west end of Sarajevo.	26-Jun-94
25	Jasmina KUCINAR, a pregnant woman aged 31 years, and her son Damir KUCINAR, aged 4 years, were lightly wounded in the legs by a shot penetrating a crowded tram in which they were travelling. The tram was travelling west on Zmaja od Bosne Street towards Alipasino Polje. Mensur JUSIC, a man aged 36 years, sustained a slight leg wound and Belma SUKIC nee LIKIC, a woman aged 23 years, was wounded in the left armpit in the same attack. The tram was near the Holiday Inn hotel at the time of the incident.	6-10-Jul-94
26	Rasid DZONKO, a man aged 67 years, was shot and wounded in the back whilst sitting watching television in his apartment situated at Milanka Vitomira Street, presently Senada Mandica Dende Street 5 in Vojnicko Polje, in the west end of Sarajevo.	17-Jul-94

27	Seid SOLAK, a boy aged 13 years, shot and wounded in the abdomen whilst window shopping with his mother and sister in Miljenka Cvitkovic Street, presently Ferde Hauptmana, in the Cengic Vila area of Sarajevo.	22-Jul-94
28	Alma CUTUNA, a woman aged 43 years, was wounded in the right upper leg while travelling on a tram on Zmaj od Bosne Street in Sarajevo.	08-Oct-94
29	Adnan KASAPOVIC, a boy aged 16 years, was shot in the chest and killed while walking in an alley adjoining Dordje Andrijevic Kuna Street.	24-Oct-94
30	Fata GUTA, a woman aged 59 years, was shot and wounded in the hand while she was going with jerri-cans to collect water from the Mosecanica spring in Gazin Han, to the east of Sarajevo.	08-Nov-94
31	Sanja SMJECANIN, a pregnant woman aged 28 years, was shot and wounded while travelling with her husband and sister-in-law in a car on Zmaj od Bosne Street.	09-Nov-94
32	Dzenana SOKOLOVIC, a woman aged 31 years, and her son Nermin DIVOVIC, a boy aged 7 years, were fired on while walking in Zmaj od Bosne Street. Ms. SOKOLOVIC was wounded with a bullet in the abdomen. The bullet passed through her and hit her son in the head, killing him. They had been walking home from Hrasno, where they had gone to collect firewood the previous day.	18-Nov-94
33	Hajrudin HAMIDIC, a man aged 52 years, was wounded in the arm and face when the tram he was driving westbound on Zmaj od Bosne was fired on.	21-Nov-94
34	Sanela DEDOVIC, a girl aged 12 years, was wounded in the left ankle while she was walking to school. The incident occurred at the junction of Sedrenik Street and Red'epa Gorusanovica Street, in the north east corner of Sarajevo.	22-Nov-94
35	Hafiza KARACIC, a woman aged 31 years and Sabina SABANIC, a woman aged 26 years, were both wounded in the right shoulder when the tram they were travelling on came under fire on Zmaj od Bosne, between the Technical School and Marshal Tito Barracks.	23-Nov-94
36	Lejla BAJRAMOVIC, a woman aged 24 years, was sitting in a friend's apartment in Franca Lehara Street, near the centre of Sarajevo, when she was shot in the head and killed. The shot came through the apartment window.	08-Dec-94
37	Dervisa SELMANOVIC, a woman aged 49 years, was shot and wounded in the right knee while she was gathering firewood in the backyard of a house in Sedrenik Street, in the north east end of Sarajevo.	10-Dec-94
38	Malkan PLEHO, a man aged 62 years, was shot and wounded in the right lower leg while climbing the front steps to his house in Sedrenik, in the north east end of Sarajevo.	11-Dec-94
39	Halid DEMIROVIC, a man aged 62 years, was shot and wounded in the right heel while he was gathering firewood on Pasino Brdo, in the north east corner of Sarajevo.	13-Dec-94
40	Senad KESMER, a man aged 31 years, Alma CEHAGIC, a woman aged 19 years, Alija HOLJAN, a man aged 55 years, and others, were shot and wounded while travelling in a westbound tram on Zmaj od Bosne Street. The tram was near the Tito Barracks at the time.	27-Feb-95

41	Azem AGOVIC, a man aged 46 years and Alen GICEVIC, a man aged 33 years, were shot and wounded while travelling in an eastbound tram on 7.maj od Bosne Street. The tram was near the Holiday Inn at the time.	03-Mar-95
42	Tarik ZUNIC, a boy aged 14 years, wounded in the hand while he was walking home from school at Sedrenik Street, in the north east of Sarajevo. He emerged from behind a protective screen, about 100 metres from home, when he was hit.	06-Mar-95
43	Vahid BALTA, a man aged 52 years, was walking with his wife in Sedrenik Street, in the north east of Sarajevo, when he was shot in the ankle.	06-Mar-95
44	A young man was crossing the junction of Nikole Demonje and Bulevar Avnoj Streets in the Dobrinja area, when he was shot in the left side and killed.	18-Mar-95
45	Semsa COVRK, a woman aged 27 years, was shot and wounded in the abdomen while walking in Josipa Krasa Street, Novi Grad, holding her young son's hand at the time.	03-May-95
46	A man was shot and killed in Dinarska Street, Hrasno Brdo.	13-May-95
47	Durgut COBIC, a man aged 80 years, was shot and wounded in the shoulder when he opened the balcony of his apartment door Kunovska Street 4/I, Dobrinja.	25-May-95

Schedule F
Sarajevo: Shelling Incidents

No	Incident	Date
1	Two shells were fired upon a crowd of approximately 200 persons who were watching and participating in a football game in a parking lot bordered on three sides by residential apartment blocks and on the fourth side by the Lukavica Road in Dobrinja 3B, a residential settlement. At least twelve people, including 3 children under the age of 15 years, were killed and at least 70 people, including 10 children, were wounded. The origin of fire was VRS-held territory approximately to the east-south-east.	01-Jun-93
2	An 82 mm mortar shell was fired upon about 100 civilians who were waiting to access a communal water pump in the front yard of a residence at 39 Hakije Turajlica (previously Aleja Branka Bulica then Spasenije Cane Babovic) in Dobrinja, a residential settlement. At least twelve people were killed and fourteen people were wounded. The origin of fire was VRS-held territory approximately to the west-north-west.	12-Jul-93
3	Three mortar shells landed in the area of Alipasino Polje, the first in a park behind, and the second and third in front of residential apartment buildings at 3 Geteova Street (previously Centinjska Street) and at 4 Bosanska Street (previously Klara Cetkin Street), where children were playing. The second and third shells killed six children under the age of 15 years and wounded one adult and four such children. The origin of fire was from VRS-held territory approximately to the west.	22-Jan-94
4	A salvo of three 120 mm mortar shells hit civilians in the Dobrinja residential area. The first landed to the front of a block of flats at Oslobodilaca Sarajeva Street hitting persons who were distributing and receiving humanitarian aid and children attending religious classes. The second and third landed among persons trading at a market in an open area to the rear of the apartment buildings at Mihajla Pupina Street and Oslobodilaca Sarajeva Street. Eight people, including 1 child under the age of 15 years, were killed and at least 18 people, including 2 children were wounded. The origin of fire was from VRS-held territory, approximately to the east.	04-Feb-94
5	A 120 mm mortar shell hit a crowded open air market called "Markale," situated in a civilian area of Old Town Sarajevo, killing 66 people and wounding over 140 people, including 3 children under the age of 15 years. The origin of fire was VRS-held territory approximately to the North-North-East.	05-Feb-94

6	A 120 mm mortar shell impacted on the Igman Road amongst a group of civilians at a bus stop. One person was killed and fifteen were injured. The origin of fire was Vojkovici VRS territory.	30-Oct-94
7	Three mortar shells struck Livanjska Street, a street of civilian dwellings. Two persons were killed and six were injured. The origin of fire was Poljine direction VRS territory.	08-Nov-94
8	One 120 mm mortar shell hit Partizanska Street 18 in Hrasnica. Two children aged eight years and two years were killed and three adults were injured.	17-Nov-94
9	An 82 mm mortar shell hit adjacent to a civilian dwelling killing an elderly man and injuring his elderly wife. The origin of fire was VRS territory.	12-Dec-94
10	Two 76 mm shells in quick succession hit a flea market in the old commercial quarter of Bascarsija in Old Town. Two persons were killed and seven were injured. The origin of fire was Trebevic, VRS positions.	22-Dec-94
11	A modified aircraft bomb hit a residential area in Hrasnica at the foot of Mount Igman destroying one dwelling, severely damaging eleven other dwellings. One person was killed and three injured. The origin of fire was Ilidza, VRS territory.	07-Apr-95
12	A 60 mm mortar shell hit a concrete area near the Sarajevo railway station. Seven people were injured. The origin of fire was Zlatiste, VRS territory.	12-Apr-95
13	A missile landed and exploded on the asphalt of Safeta Zajke street at approximately 9.45, killing two and injuring five people. The missile came from the southeast, direction of Lukavica.	24-May-95
14	A modified air-bomb landed at Majdanska Street bb. Two civilians were killed and six were wounded. The origin of fire was from the southeast VRS territory of Pavlovac.	24-May-95
15	A modified air-bomb struck a building near apartment blocks in Safeta Hodzica Street, destroying the top three floors of an apartment building. This explosion was followed by several artillery rounds landing in the same area. Serious damage was caused to a number of buildings. Two people were seriously injured and fifteen persons were slightly injured. The fire was determined to have come from VRS territory to the West/ Southwest.	26-May-95
16	At about 10.00 hours, a modified aircraft bomb was fired from the North West. The bomb landed and exploded on the building of the UMC and Oncology Department at Dositejeva street 4-a. There was a lot of damage and three persons were slightly injured.	16-Jun-95
17	At about 15.20 hours, a modified aircraft bomb, most probably fired from Lukavica, exploded next to 10, Trg Medjunarodnog Prijateljstva, slightly injuring seven people and causing considerable damage to neighboring buildings.	16-Jun-95
18	At 17.20 hours, a modified aircraft bomb was fired from the North West. It exploded on the builder house at Cobanija Street 7. Two people were wounded.	16-Jun-95
19	A 120 mm mortar shell struck a line of civilians, numbering approximately 50-70, waiting for water distribution in Marka Oreskovic Street, Dobrinja. Seven people were killed and twelve injured. The origin of fire was Nedzarici, VRS territory.	18-Jun-95
20	A projectile was fired into the street Bulevar Mese Selimovica, probably from the direction of Rajlovac. There were no victims.	29-Jun-95
21	At about 13.30 hours, a high impact missile landed just outside the house number 5 in Radenko Abazovica. It was fired from the Western part of the city (Ilidza - Rajlovac). There were no victims.	01-Jul-95

22	At about 21.30 hours, a rocket projectile with a concussion warhead exploded in Bunicki Potok street. Thirteen people were injured. The projectile came from Ilidza.	01-Jul-95
23	A 120 mm mortar shell hit close to a dwelling at Vrbanjusa 95 (a residential area). One boy was killed. The origin of fire was VRS territory in the South.	19-Jul-95
24	A rocket missile with concussion warhead, coming from the direction of Ilidza/ Blazuj, landed on the house Sokolovici, Bjelasnicka Street 54. Two persons were killed and eleven were lightly wounded.	23-Jul-95
25	A modified explosive device exploded at the staircase between the 2nd and the 3rd floor of the BITAS building in Zmaja od Bosne Street 64. One person died, another received light injuries. The origin of fire was VRS territory in the South West.	22-Aug-95
26	A 120 mm mortar shell landed in Mula-Mustafe Baseskije Street outside the entrance to the City Market. 43 people were killed and 75 were injured. The origin of fire was Trebevic, VRS territory.	28-Aug-95

		A number of Muslims killed on the hill of Vranja.	02-Aug-92
19	Sanski Most	In Iirustovo, at least 24 Bosnian Muslim women and children were killed.	31-May-92
		On or near Vrhpolje bridge, at least 13 Bosnian Muslim men from Begici were killed.	31-May-92
		In Sanski Most, a number of non-Serbs were killed near the Partisan cemetery.	22-Jun-92
		In Kenjari, 19 Bosnian Muslim men were killed in Dujó Banovic's house.	27-Jun-92
		In Budin, 12 members of one family were killed.	01-Aug-92
		In Donji Kruhari near Skrjevita, 5 Bosnian Croat men were killed.	02-Nov-92
		In Trnova near Sanski Most town, approximately 11 non-Serb men were executed by members of Arkan's Tigers.	20-Sep-95
		In Sasina, at least 65 non-Serb men were executed by members of Arkan's Tigers under the direct command of Arkan.	21-Sep-95
20	Sokolac	Approximately 7 non-Serb villagers killed by Serbs in massacre at Tocionik village.	21-Jul-92
		In the village of Meljine, 3 elderly non-Serb women killed.	31-Jul-92
		In the village of Zulj, two non-Serbs killed.	01-Aug-92
21	Srebrenica	Following the take-over of Srebrenica, several thousand Bosnian Muslim men were executed by Bosnian Serb forces, including at the following locations:	Jul-95
		1) Cerska Valley, approximately 150 Bosnian Muslim men;	13-Jul-95
		2) Kravica warehouse (Zvornik Municipality), approximately 1,000 Bosnian Muslim men;	13-Jul-95
		3) Orahovac (Zvornik Municipality), approximately 1,000 Bosnian Muslim men;	14-Jul-95
		4) Petkoveci Dam (Zvornik Municipality), approximately 1,500 - 2,000 Bosnian Muslim men;	14/15-Jul-95
		5) Branjevo Military Farm (Zvornik Municipality), approximately 1,000 - 1,200 Bosnian Muslim men;	16-Jul-95
		6) Pilica Cultural Dom (Zvornik Municipality), approximately 500 Bosnian Muslim men;	16-Jul-95
		7) Kozluk (Zvornik Municipality), at least 340 Bosnian Muslim men.	15/16-Jul-95
22	Visegrad	Near Vidova Gora, at least 11 non-Serbs, including women and children, were executed and thrown into the Drina.	Jun-92
		In Nova Mahala (Visegrad town), over 60 Bosnian Muslim and/or Bosnian Croat civilians from Koritnik were burnt to death in a house ignited by Serb paramilitaries led by Milan Lukic.	14-Jun-92

		In Bikavac settlement, approximately 70 Bosnian Muslim and other non-Serb civilians were burnt to death in a house ignited by Serb paramilitaries led by Milan Lukic.	27-Jun-92
23	Vlasenica	In Drum (Vlasenica town), approximately 22 Bosnian Muslim men were killed.	Jun-92
		In Zaklopaca, at least 58 Bosnian Muslim men, women and children were executed during the Serb attack on the village.	16-May-92
24	Zvornik	In Zvornik town, 15 Bosnian Muslim and Bosnian Croat males were executed by Arkan's soldiers.	09-Apr-92
		In Drinjaca, at least 55 Bosnian Muslim men were killed.	30-May-92
25	Ilijas (Greater Sarajevo)	In Ljesevo, 21 Bosnian Muslims were killed.	04-Jun-92

Schedule B
Killings Associated with Detention Facilities

No	Municipality	Victims (Killed)	Date
1	Banja Luka	In Manjaca camp, 2 non-Serb men were killed.	6-Jun-18-Sep-92
		At Manjaca camp, approximately 7 non-Serbs were killed after being transported from Hasun Kikic Sports Hall in Sanski Most.	03- or 04-Jun-92
		Between Krings camp and Manjaca camp, approximately 20 non-Serb men were killed during transportation between the camps.	04-Jul-92
		At Manjaca camp, at least 8 non-Serb men were killed in front of camp after their transportation from Omarska camp	06-Aug-92
2	Bileca	In SUP Detention facility, 2 non-Serb detainees killed.	25-Jun -18 Dec-92
3	Bosanska Krupa	In Petar Kocic Elementary School, approximately 11 non-Serb detainees were killed.	1-10-Aug-92
4	Bosanski Samac	In Crkvina camp, approximately 17 non-Serb detainees were killed.	06-May-92
5	Bratunac	In Vuk Karadzic school, at least 14 non-Serb men were killed.	10-16-May-92
6	Brcko	In Luka Camp, approximately 30-35 Bosnian Muslim detainees were executed.	11-16-May-92
7	Cajnice	At Mostina Hunting Lodge, 53 non-Serbs killed.	19-May-92
8	Foca	In Livade camp, a number of non-Serb detainees were killed.	13-18-Apr-92
		At KP Dom prison, at least 266 Bosnian Muslim detainees were killed.	Jun-Dec-92
9	Gacko	5 Bosnian men killed in the SUP building in Gacko.	3-Jul-92
10	Kalinovik	Approximately 23 Muslim men and boys from the Gunpowder warehouse shot in a field near Ratine.	05-Aug-92
11	Kljuc	In Biljani, at least 30 elderly Muslim men were killed.	10-Jul-92
12	Prijedor	In Trnopolje camp, at least 2 non-Serbs were killed.	28-May-Oct-92



UNITED NATIONS
International Tribunal for the Prosecution of Persons
Responsible for Serious Violations of International Humanitarian Law
Committed in the Territory of Former Yugoslavia since 1991

Case No. IT-99-37-PT
Date: 8 November 2001
Original: ENGLISH

IN THE TRIAL CHAMBER

Before:
Judge Richard May, Presiding
Judge Patrick Robinson
Judge Mohamed Fassi Fihri

Registrar: Mr. Hans Holthuis

Decision of: 8 November 2001

PROSECUTOR

v.

SLOBODAN MILOSEVIC

DECISION ON PRELIMINARY MOTIONS

The Office of the Prosecutor:

Ms. Carla Del Ponte
Mr. Daniel Saxon
Mr. Dirk Ryneveld
Ms. Julia Baly
Ms. Cristina Romano
Mr. Daryl A. Mundis
Mr. Milbert Shin

The Accused:

Slobodan Milosevic

Amici Curiae:

Mr. Steven Kay
Mr. Branislav Tapuskovic
Mr. Michail Wladimiroff

I. INTRODUCTION

1. This Trial Chamber of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 ("International Tribunal") is seized of two motions filed by the accused on 9 and 30 August 2001 (together "the Motions"). (1) The Office of the Prosecutor ("Prosecution") filed its responses on 16 August and 13 September 2001. (2) On 19 October 2001, the *amici curiae* appointed at the request of the Trial Chamber filed a brief elaborating upon those issues that had been raised by the accused in the Motions. (3) To which the Prosecution responded on 26 October 2001. (4) Both parties and the *amici curiae* were heard by the Trial Chamber on

29 October 2001.

2. On 30 October 2001, the Trial Chamber rendered an oral decision denying the Motions and indicated that a written decision would follow. The Trial Chamber now issues its written reasons for its ruling.

3. This Decision deals with all the arguments, written and oral, raised by the accused, the Prosecution, and the *amici curiae*. Although some of the arguments have been dealt with before in the International Tribunal, the Chamber has considered all of them very carefully. Indeed, any judicial body is bound to take seriously a challenge to the legality of its foundation. The Chamber notes the arguments of the *amici curiae* that the accused, who is defending himself, should be given "the benefit of arguments that are not explicitly raised by him, but which are inherent to the point of his objections and arguments". (5) There is obvious merit in that submission. However, in determining whether a particular submission qualifies as a preliminary motion within the terms of Rule 72 of the Rules of Procedure and Evidence of the International Tribunal ("Rules"), the Chamber is bound by the provisions of that Rule and the International Tribunal's jurisprudence in relation to its interpretation. (6)

1. II. DISCUSSION

1. The question of the binding effect of decisions of the Appeals Chamber

4. Notwithstanding the decision of the Appeals Chamber in the *Aleksovski case* (7) that decisions of the Appeals Chamber are binding on Trial Chambers, the *amici curiae* have submitted that "the case law of the Appeals Chamber is not *eo ipso* binding, but rather a matter of guidance for the Trial Chamber." However, although that clearly is not the case, (8) the Chamber considers it right that the issues raised in the motion on which the Appeals Chamber has ruled in the *Tadic Jurisdiction Appeal* (9) should be fully considered, and that it should give its own reasons for its conclusions.

2. Illegal foundation of the International Tribunal

(a) Constitutionality

5. The accused has argued that the International Tribunal is an illegal entity because the Security Council lacked the power to establish it. The *amici curiae* have supported these arguments, and have additionally asked that the arguments of the accused on the constitutionality of the International Tribunal be extended to include those arguments set out in paragraphs 27, 32, 41, 43, 44 and 55 of the *Tadic Jurisdiction Appeal*. The Chamber accedes to that request. The basis of the challenge to the constitutionality of the International Tribunal is that the Security Council is not empowered under Chapter VII of the Charter of the United Nations to establish an international criminal court.

6. The relevant provision is Article 41 of the Charter, which empowers the Security Council to adopt measures not involving the use of armed force to give effect to its decisions in order to discharge its obligation under Article 39 to maintain or restore international peace and security. Article 41 lists certain measures which may be taken by the Security Council. It is perfectly clear that the list is not exhaustive and that it is open to the Security Council to adopt any measure other than those specifically listed, provided it is a measure to maintain or restore international peace and security.

7. In the Chamber's view, the establishment of the International Tribunal with power to prosecute persons responsible for serious violations of international humanitarian law in the former Yugoslavia, and with the obligation to guarantee fully the rights of the accused, is, in the context of the conflict in the country at that time, pre-eminently a measure to restore international peace and security. Indeed, the role of the International Tribunal in promoting peace and reconciliation in the former Yugoslavia is highlighted in Security Council resolution 827 which established it. (10) The Appeals Chamber in the *Tadic Jurisdiction Appeal* arrived at the same conclusion and concluded that "the establishment of the International Tribunal falls squarely within the powers of the Security Council under Article 41". (11) Accordingly, the Chamber dismisses this ground.

8. The accused argues that the creation of an ad hoc court targeting one country "corrupts justice and law"; that an ad hoc court "violates the most basic principles of all law" and "that an international court established to prosecute acts in a single nation and primarily, if not entirely, one limited group is pre-programmed to persecute, incapable of equality". (12)

9. Human rights bodies have, on several occasions, pronounced on the legitimacy of ad hoc tribunals. (13) The decisions of these bodies establish that there is nothing inherently illegitimate in the creation of an ad hoc judicial body, and that the important question is whether that body is established by law, in the sense that, as it is stated in the *Tadic Jurisdiction Appeal*, it "should genuinely afford the accused the full guarantees of fair trial set out in Article 14 of the International Covenant on Civil and Political Rights". (14)

10. The International Tribunal meets this requirement in that the rights of the accused, comparable to those in the International Covenant on Civil and Political Rights ("ICCPR"), are entrenched in the International Tribunal's Statute, in particular, in Article 21.

11. Accordingly, this ground is dismissed.

(b) Independence

12. The challenge to the constitutionality of the International Tribunal on the basis of a lack of independence has been developed by the *amici*

curiae in paragraph 10 of the *Amici* Brief. They contend that the accused is arguing that the International Tribunal lacks independence because of the "apparent lack of independence of the Prosecutor in the decision to issue an indictment against him in the first place" (15). The Prosecution contends that the *amici curiae* have failed to demonstrate a lack of prosecutorial independence. It submits that to be urged by the Security Council in this way no more compromises its independence than when it is periodically urged by non-governmental organizations and other groups to commence investigations into crimes that fall within the jurisdiction of the International Tribunal. In effect, the Prosecution submits that "encouraging" does not equate to "instructing" (16).

13. Article 16, paragraph 2, of the Statute states:

The Prosecutor shall act independently as a separate organ of the International Tribunal. He or she shall not seek or receive instructions from any Government or from any other source.

14. Quite clearly, if it can be established that the Prosecutor has not acted independently, there would be a breach of that Article, and that would be particularly the case if there was *mala fides* on the part of the Prosecutor in indicting the accused.

15. In this case, there is not a scintilla of evidence advanced either by the accused or by the *amici curiae* to support the contention of any *mala fides* or abuse of power on the part of the Prosecutor in issuing an indictment against the accused. Certainly, the fact that the Security Council urged the Prosecutor to "begin gathering information related to the violence in Kosovo that may fall within its jurisdiction" (17) and that the accused was indicted by the Prosecutor following her investigations cannot vitiate the independence of the Prosecutor. That is no different from a government in a domestic jurisdiction setting a prosecutorial policy. In this regard, Article 18, paragraph 1, of the Statute obliges the Prosecutor to:

initiate investigations ex-officio or on the basis of information obtained from any source, particularly from Governments, United Nations organs, intergovernmental and non-governmental organizations. The Prosecutor shall assess the information received or obtained and decide whether there is sufficient basis to proceed.

What would impugn her independence is not the initiation of investigations on the basis of information from a particular source, such as the Security Council, but whether, in assessing that information and making her decision as to the indictment of a particular person, she acts on the instructions of any government, any institution or any person. There is no suggestion that the Prosecutor acted upon the instructions of any government, any body, or any person in her decision to indict the accused. Accordingly, this ground is dismissed.

16. Allied to those arguments is the submission of the *amici curiae* that in order to avoid the "criticisms of self determination of validity", the International Tribunal should seek an advisory opinion on the question of its competence from the International Court of Justice. In this regard, the Prosecution argues that the International Tribunal is not competent to request an advisory opinion from the Court. Furthermore, it submits that the Appeals Chamber in the *Tadic Jurisdiction Appeal* held that the International Tribunal was competent to adjudicate issues concerning its own jurisdiction (18).

17. The Chamber rejects the argument of the *amici curiae* and, in doing so, asserts that it need have no sensitivity concerning its jurisdiction to determine its own competence for, as the Appeals Chamber said in the *Tadic Jurisdiction Appeal*, the jurisdiction of a judicial body to determine its own jurisdiction "is a necessary component in the exercise of the judicial function" (19). Accordingly, the Chamber finds no merit in that submission.

3. Fair trial and protection of human rights

(a) Allegation of bias

BIAS = WARNING SIGN !!

18. The *amici curiae* contend that the accused, in arguing that the International Tribunal is either incapable of providing him with a fair trial or of protection of his fundamental human rights, is "implicitly asserting bias" (20). In any event, the accused himself has argued in relation to the International Tribunal that "the very psychology of the enterprise is persecutorial. Few judges appointed to serve on a Tribunal created under such circumstances will feel free to acquit any but the most marginal, or clearly mistaken accused, or to create an appearance of objectivity" (21).

19. The Chamber construes this argument as an allegation of bias on the part of the International Tribunal, and hence on the part of the Chamber itself. Although not falling within the ambit of Rule 72, the Chamber must consider an argument that the accused will not receive a fair trial on the ground that its members are biased. In the *Furundzija Appeal Judgement*, the Appeals Chamber held, in relation to a ground of appeal alleging bias, that the Appellant

could have raised the matter, if he considered it relevant, before the Trial Chamber, either pre-trial or during trial. On this basis, the Appeals Chamber could find that the Appellant has waived his right to raise the matter now and could dismiss this ground of appeal (22).

20. The only basis advanced by the accused for the allegation of bias is that mentioned above (23).

21. In *Furundzija*, the Appeals Chamber held that there were three ways in which bias on the part of a Judge could be established. First by proof of actual bias. Secondly, if the Judge has some interest, material or otherwise, in the matter being litigated. Thirdly, if a reasonable observer, properly informed, would reasonably apprehend bias (24).

22. In the circumstances of this case it is only the third criterion that would be relevant: nothing has been advanced, either by the accused or by the *amici curiae*, on the basis of which a reasonable observer, properly informed, would reasonably apprehend bias on the part of the Chamber. This ground is, therefore, dismissed.

(b) Alleged violation of the accused's right to privacy and freedom of expression

23. The *amici curiae* contend that a ban on any communication between the accused and the media violates his right to privacy and his freedom of expression. They also contend that, without a proper showing of grounds, this can easily be understood to be an expression of lack of independence of the International Tribunal. (25) The Prosecution contends that the accused's arguments in this respect are not jurisdictional in nature as they relate to the Rules of Detention (26) concerning communication matters. (27)

24. Not even the most liberal interpretation of Rule 72 could bring this submission within the scope of that Rule. It is not a preliminary motion. However, even if it were, such restrictions as are placed on an accused person in detention in relation to his freedom of expression fall squarely within the category of permissible limitations under the ICCPR, that is, that they are provided by law and are necessary for a variety of public interest considerations, including public order. (28) The European Convention on Human Rights provides for similar limitations on the right to freedom of expression. It states that the exercise of these freedoms may be subject to "such formalities, conditions, restrictions or penalties as are prescribed by law" and are necessary for a number of public interest considerations, including the prevention of disorder or crime. (29) Moreover, it must be noted that Principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides:

A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, *subject to reasonable conditions and restrictions as specified by law or lawful regulations.* (30) (Emphasis added.)

25. Accordingly, this ground is dismissed.

4. The contention that the accused is not amenable to the jurisdiction of the International Tribunal because of his former status as President of the Federal Republic of Yugoslavia and because of his illegal surrender by the Government of the Republic of Serbia in violation of domestic law

(a) Lack of competence by reason of his status as former President

26. The Chamber observes that this argument has not been raised explicitly by the accused. In the passage cited by the *amici curiae*, what is stated is that the International Tribunal "does not have jurisdiction over the person of President Milosevic". (31) The Chamber will, however, deal with the argument, since it has been raised by the *amici curiae*. The Prosecution has argued that Article 7, paragraph 2, of the Statute reflects customary international law and notes, in particular, that the International Criminal Tribunal for Rwanda convicted Jean Kambanda, the former Prime Minister of Rwanda, for his role in the genocide that occurred in that State in 1994. (32)

27. Article 7, paragraph 2, of the Statute provides that

the official position of any accused person, whether as Head of State or Government or as a responsible Government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

The *amici curiae* say that the accused must be understood to be denying the validity of that Article.

28. There is absolutely no basis for challenging the validity of Article 7, paragraph 2, which at this time reflects a rule of customary international law.

29. The history of this rule can be traced to the development of the doctrine of individual criminal responsibility after the Second World War, when it was incorporated in Article 7 of the Nuremberg Charter (33) and Article 6 of the Tokyo Tribunal Charter (34). The customary character of the rule is further supported by its incorporation in a wide number of other instruments, as well as case law.

30. As for instruments, the following may be mentioned: Article IV of the Convention for the Prevention and the Punishment of the Crime of Genocide; (35) Principle III of the Nuremberg Principles; (36) Article 6 of the Statute of the International Criminal Tribunal for Rwanda; (37) Article 6, paragraph 2, of the Statute of the Special Court for Sierra Leone; (38) Article 27 of the Rome Statute of the International Criminal Court ("ICC"); (39) and Article 7 of the Draft Code of Crimes against the Peace and Security of Mankind. (40)

31. Particular mention must be made of the Rome Statute of the ICC which, although not yet in force, has been signed by 139 States and now has 43 of the 60 ratifications required for its entry into force. This is a multilateral instrument of the greatest importance, which, even at this stage, has attracted fairly widespread support. The Chamber also attaches particular significance to the International Law Commission's Draft Code of Crimes against the Peace and Security of Mankind, prepared in 1996. The Chamber cites these two modern instruments as evidence of the customary character of the rule that a Head of State cannot plead his official position as a bar to criminal liability in respect of crimes over which the International Tribunal has jurisdiction.

32. Moreover, case law also confirms the rule: in the Nuremberg Judgement, it was said:

The principle of international law, which under certain circumstances, protects the representative of a State, cannot be applied to acts which are condemned as criminal by international law. The authors of these acts cannot shelter themselves behind their official position in order to be freed from punishment in appropriate proceedings ... the very essence of the Charter is that individuals have international duties which transcend the national obligations of obedience imposed by the individual State. He who violates the laws of war cannot obtain immunity while acting in pursuance of the authority of the State if the State in authorizing action moves outside its competence under international law. (41)

33. More recently in the Pinochet case, (42) the House of Lords held that Senator Pinochet was not entitled to immunity in respect of acts of torture and conspiracy to commit torture, alleged to have been committed in his capacity as a head of State. In particular, Lord Millett stated:

In future those who commit atrocities against civilian populations must expect to be called to account if fundamental human rights are to be properly protected. In this context, the exalted rank of the accused can afford no defence.

34. Accordingly, this ground is dismissed.

(b) Lack of competence by reason of his unlawful surrender

35. This ground is usefully developed by the amici curiae in paragraph 15. The argument is that the accused was unlawfully surrendered to the International Tribunal for the following reasons:

(a) The International Tribunal sent the arrest warrants to the authorities of the Federal Republic of Yugoslavia, not to the government of the Republic of Serbia. However, it was the latter that transferred the accused to the International Tribunal. That government had no power to act in such a manner.

(b) The Serbian government had no international obligation to cooperate with the International Tribunal.

(c) Article 18 of the Federal Constitution does not provide for the extradition or transfer of Yugoslav citizens to an international body.

(d) In the circumstances set out in (a), (b) and (c) above, his transfer is an abuse of process in that the procedures of the Federal Republic of Yugoslavia were bypassed and he was unlawfully transferred to the International Tribunal.

36. As to this matter, the Prosecution argues that it is a well-established principle of law that States may not rely on their national legislation to defeat their international obligations. In this regard, the Prosecution notes that the Federal Republic of Yugoslavia was under an international obligation, pursuant to Articles 9, paragraph 1, and 29 of the Statute to transfer the accused to the International Tribunal. (43)

37. Article 9, paragraph 4, of the ICCPR provides:

Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

38. This provision is not reflected in the International Tribunal's Statute. However, as one of the fundamental human rights of an accused person under customary international law, it is, nonetheless, applicable, and indeed, has been acted upon by this International Tribunal.

39. In *Barayagwiza*, (44) the Appeals Chamber of the International Criminal Tribunal for Rwanda stressed the importance of the right of the accused to invoke that provision, which in some common-law jurisdictions is called *habeas corpus*.

40. One of the essential features of the right of an accused person to challenge the legality of his detention is that such a challenge should be heard as promptly as possible. For that reason, the Chamber will treat this motion as the proceedings by which the accused is challenging the legality of his detention. The Chamber is in a position to do this because the challenge has been raised by the accused, and it has heard arguments on this question from all the parties, as well as the amici curiae.

41. At the hearing, the Prosecution contended that the Federal Republic of Yugoslavia "has no executing power; that is, all transfers, all decisions by the police or any binding measures taken are carried out by the Republic of Serbia [...] which executes and carries out the arrests and transfers, which is the case of the other accused who came from Belgrade." (45)

42. Rule 58 provides:

The obligations laid down in Article 29 of the Statute shall prevail over any legal impediment to the surrender or transfer of the accused or of a witness to the Tribunal which may exist under the national law or extradition treaties of the State concerned.

Handwritten notes:
TO COOPERATE
TO PROSECUTE
MARGINAL OF ICCPR 9-4 -> include witnesses! Will not make Chamber's decision
... will not make Chamber's decision
... will not make Chamber's decision

43. The question that arises here is whether that Rule is applicable, since the obligation under Article 29 was that of the Federal Republic of Yugoslavia, and not the Republic of Serbia.

44. The arrest warrants of the International Tribunal dated 24 May 1999 and 22 January 2001 were directed to the authorities of the Federal Republic of Yugoslavia, and were not issued to the government of the Republic of Serbia. The last dated arrest warrant was received by personal service on the Federal Minister of Justice in Belgrade on 6 April 2001. On 3 May, the President of the District Court in Belgrade announced that the Indictment, dated 22 May 1999, and the Decision on the Review of the Indictment, dated 24 May 1999, had been served on the accused. On 21 May 2001, the Minister of Justice confirmed to the Registrar of the International Tribunal that the Indictment had been served on the accused. The accused was then being held in custody in connection with a charge against him under the criminal law of the Republic of Serbia, which was unrelated to the charges in the Indictment issued by the International Tribunal. Before any further steps could be taken by the Federal Republic of Yugoslavia, then seized of the matter, the Serbian authorities transferred the accused to the custody of the International Tribunal on 28 June 2001.

45. The purpose of Rule 58 is to ensure that domestic procedures relating to the surrender and transfer of a person, from a State in respect of whom a request for arrest and transfer has been made, are not used as a basis for not complying with the request. The importance of complying with requests under Article 29 cannot be overstressed. The significance of this legal obligation is highlighted in the Report of the Secretary-General who said that "the establishment of the International Tribunal on the basis of a Chapter VII decision creates a binding obligation on all States to take whatever steps are required to implement the decision" and that "an order by a Trial Chamber for the surrender or transfer of persons to the custody of the International Tribunal shall be considered to be the application of an enforcement measure under Chapter VII of the Charter of the United Nations." (46)

46. That being the case, the Rule should be given an interpretation that takes full account of its purpose. Accordingly, the Chamber holds that, notwithstanding the fact that the surrender was made by the government of the Republic of Serbia, rather than the Federal Republic of Yugoslavia to whom the request was made, the provisions of Rule 58 apply and, consequently, the transfer was effected in accordance with the provisions of the Statute.

47. Article 27 of the Vienna Convention on the Law of Treaties is also relevant. It provides:

a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

The Statute of the International Tribunal is interpreted as a treaty. The Federal Republic of Yugoslavia has an obligation under the Statute to comply with the request to arrest and transfer the accused and, therefore, cannot rely on its internal law, namely the division of power as between the federal government and its States as a justification for failure to comply. Although it is the accused, and not the Federal Republic of Yugoslavia that is seeking to rely on the internal constitutional system of the Federal Republic of Yugoslavia, it follows that if the Federal Republic of Yugoslavia itself cannot rely on internal laws, then, *a fortiori*, neither can the accused. Accordingly, this ground is dismissed.

48. The *amici curiae* have expressly raised the doctrine of abuse of process. This doctrine was considered by the Appeals Chamber in the *Barayagwiza* case. Two points must be noted about that doctrine as it has developed in the case law of certain jurisdictions and also in the International Tribunal's jurisprudence. The first is that, if there is an abuse of process, it does not lead to a lack of jurisdiction on the part of the International Tribunal; what it raises is the question whether, assuming jurisdiction, the International Tribunal should exercise its discretion to refuse to try the accused. Secondly, the International Tribunal will exercise its discretion to refuse to try the accused if there has been an egregious breach of the rights of the accused.

49. As to the first, the case of *R. v. Horseferry Road Magistrates' Court, Ex parte Bennett* makes it clear that:

A court has a discretion to stay any criminal proceedings on the ground that to try those proceedings will amount to an abuse of its own process either (1) because it will be impossible (usually by reason of delay) to give the accused a fair trial or (2) because it offends the court's sense of justice and propriety to be asked to try the accused in the circumstances of a particular case. (47)

50. As to the second, paragraph 74 of the *Barayagwiza Appeal Decision* stressed that the discretionary power to dismiss a charge is exercised "in light of serious and egregious violations of the accused's rights would prove detrimental to the court's integrity".

51. In light of that jurisprudence, the Chamber holds that the circumstances in which the accused was arrested and transferred - by the government of the Republic of Serbia, to whom no request was made, but which is a constituent part of the Federal Republic of Yugoslavia, to whom the request for arrest and transfer was made - are not such as to constitute an egregious violation of the accused's rights. It should be noted that, in *Barayagwiza*, the Appeals Chamber did find an abuse of process but that was on the basis that he was detained for 11 months without being notified of the charges against him. (48) Consequently, the doctrine of the abuse of process is inapplicable, and this ground is dismissed.

5. Territorial jurisdiction

52. The *amici curiae* contend that the limitation on the territorial jurisdiction of the International Tribunal to the former Yugoslavia is discriminatory. This is a restatement of earlier arguments relating to the ad hoc nature of the International Tribunal and selective prosecutions. Those issues have already been addressed in paragraphs 9, 10, 13, 14 and 15 above. Accordingly, this ground is dismissed.

53. Accordingly, all the Motions are dismissed.

Done in English and French, the English text being authoritative.

Richard May
Presiding

Dated this eighth day of November 2001
At The Hague
The Netherlands

[Seal of the Tribunal]

- 1 - The accused initially filed a motion with the Registry dated 9 August 2001. See *Prosecutor v. Slobodan Milosevic*, Case No. IT-99-37-PT, Preliminary Protective Motion, 9 Aug. 2001 ("Preliminary Motion"). At the request of the accused, only those arguments set forth in paragraph 8 of the Preliminary Motion have been considered. Thereafter, on 30 August 2001, the accused filed an untitled document which sets forth his arguments relating, primarily, to the illegality of the International Tribunal ("Milosevic Motion").
- 2 - *Prosecutor v. Slobodan Milosevic*, Case No. IT-99-37-PT, Prosecution's Response to the "Preliminary Protective Motion" filed 9 August 2001, 16 Aug. 2001 ("Prosecution Response to Preliminary Motion"); Prosecution's Response to the "Presentation on the Illegality of the ICTY" filed by the accused Slobodan Milosevic on 30 August 2001, 13 Sept. 2001 ("Prosecution Response to Milosevic Motion").
- 3 - *Prosecutor v. Slobodan Milosevic*, Case No. IT-99-37-PT, *Amici Curiae* Brief on Jurisdiction, 19 Oct. 2001 ("Amici Brief").
- 4 - *Prosecutor v. Slobodan Milosevic*, Case No. IT-99-37-PT, Prosecution's Response to the "Amici Curiae Brief on Jurisdiction" filed 19 October 2001, 26 Oct. 2001 ("Prosecution Response to Amici").
- 5 - *Amici* Brief, para. 6.
- 6 - In this regard, the Chamber has taken into consideration the arguments of the Prosecution that, while an accused who is defending himself may be entitled to wide latitude in construing his arguments under Rule 72, there must be some limit on the issues that an accused may raise in challenging jurisdiction under that Rule. See Prosecution Response to *Amici*, para. 3.
- 7 - *Prosecutor v. Zlatko Aleksovski*, Case No. IT-95-14/1-A, Judgement, 24 Mar. 2000 ("Aleksovski Appeal Judgement").
- 8 - In this regard, the Chamber has noted the Prosecution's submissions at paragraph 6 of the Prosecution Response to *Amici* in which it recalled the Appeals Chamber finding in the *Aleksovski* case that "a proper construction of the Statute requires that the *ratio decidendi* of its decisions is binding on the Trial Chambers." *Aleksovski Appeal Judgement*, para. 113.
- 9 - *Prosecutor v. Dusko Tadic*, Case No. IT-94-1-AR72, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 Oct. 1995 ("*Tadic Jurisdiction Appeal*").
- 10 - U.N. Doc. S/RES/827 (1993). In this resolution the Security Council determines that the situation in the former Yugoslavia "continues to constitute a threat to international peace and security" and further states that it is convinced that "in the particular circumstances of the former Yugoslavia the establishment as an ad hoc measure by the Council of an international tribunal and the prosecution of persons responsible for serious violations of international humanitarian law would [...] contribute to the restoration and maintenance of peace".
- 11 - *Tadic Jurisdiction Appeal*, para. 36.
- 12 - *Milosevic Motion*, pp. 4 and 5.
- 13 - See, e.g., paragraph 4 of the General Comment of the Human Rights Committee on Article 14 of the ICCPR where it is stated: "[T]he Covenant does not prohibit [military or special courts which try civilians], nevertheless the conditions which it lays down clearly indicate that the trying of civilians by such courts should be very exceptional and take place under conditions which genuinely afford the full guarantees stipulated in Article 14", H.R. Comm. 43rd Sess., Supp. No. 40 at para. 4, U.N. Doc. A/43/40 (1988); *Cariboni v Uruguay*, H.R. Comm. 159/83, 39th Sess., Supp. No. 40, U.N. Doc. A/39/40; Inter-Am C.H.R., Annual Report 1972, OEA/Ser. P, ACI/doc. 305/73 rev. 1, 14 Mar. 1973, at 1; Inter-Am C.H.R., Annual Report 1973, OEA/Ser. P, ACI/doc. 409/74, 5 Mar. 1974 at 2-4 (as cited in the *Tadic Jurisdiction Appeal*, para. 45).
- 14 - *Tadic Jurisdiction Appeal*, para. 45.
- 15 - *Amici* Brief, para. 10.
- 16 - Prosecution Response to *Amici*, para. 9.
- 17 - Security Council resolution 1160, S/RES/1160 (1998), para. 17.
- 18 - Prosecution Response to *Amici*, paras 21 and 22.
- 19 - *Tadic Jurisdiction Appeal*, para. 18.
- 20 - *Amici* Brief, pp. 7-8.
- 21 - *Milosevic Motion*, pp. 6 and 7.
- 22 - *Prosecutor v. Anto Furundzija*, Case No. IT-95-17/1-A, Judgement, 21 July 2000 ("*Furundzija Appeal Judgement*"), para. 174.
- 23 - See *supra*, paragraph 18.
- 24 - *Furundzija Appeal Judgement*, para. 189.
- 25 - *Amici* Brief, para. 11.
- 26 - Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Tribunal or Otherwise Detained on the Authority of the Tribunal, IT/38/Rev. 8.
- 27 - Prosecution Response to *Amici*, para. 10.
- 28 - See Article 19(3) of the ICCPR.
- 29 - Article 10(2) of the European Convention on Human Rights.
- 30 - Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988.
- 31 - Preliminary Motion, p. 5.
- 32 - Prosecution Response to *Amici*, paras 12 and 13.
- 33 - Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, 82 U.N.T.S. 279.
- 34 - Charter of the International Military Tribunal for the Far East, Vol. 2, *The Records of the International Military Tribunal for the Far East* (R. John Pritchard ed.).
- 35 - Paris, 9 Dec. 1948, 78 U.N.T.S. 277.

- 36 - Principles of International Law Recognised in the Charter of the Nuremberg Tribunal and in the Judgement of the Tribunal, G.A.O.R., 5th session, Supp. No. 12, U.N. doc. A/1316 (1950).
- 37 - Security Council resolution 955 establishing the International Tribunal for Rwanda, U.N. Doc. S/RES/955 (1994).
- 38 - U.N. Doc. S/2000/915, 4 Oct. 2000.
- 39 - U.N. Doc. A/CONF. 183/9, 17 July 1998.
- 40 - International Law Commission, text adopted by the Commission at its forty-eighth session, from 6 May to 26 July 1996, G.A.O.R., 51st Sess., Supp. No. 10, U.N. Doc. A/51/10 ("Report of the International Law Commission").
- 41 - Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10; see Report of the International Law Commission, commentary (3) to article 7.
- 42 - Decision of the House of Lords dated 24 March 1999, *R. v. Bow Street Metropolitan Stipendiary Magistrate and others, ex parte Pinochet Ugarte*, (2000) 1 AC 147, (1999) 2 All ER 97, (1999) 2 WLR 827, (1999) 1 LRC at 588 - 89.
- 43 - Prosecution Response to *Amici*, paras 15 - 16.
- 44 - *Jean-Bosco Barayagwiza v. The Prosecutor*, Case No. ICTR-97-19-AR72, Decision, 3 Nov. 1999 ("*Barayagwiza Appeal Decision*"). This case was overturned by the Appeals Chamber on a review on grounds that do not in any way affect the validity of the Chamber's rulings as to the significance of the right of an accused to *habeas corpus*.
- 45 - Motion Hearing, 29 Oct. 2001, Transcript pages 62-63.
- 46 - Report of the Secretary-General pursuant to paragraph 2 of Security Council resolution 808 (1993), U.N. Doc. S/25704, paras 125 and 126.
- 47 - Decision of the House of Lords dated 24 June 1993, (1994) 1 AC 42, (1993) 3 All ER 138, (1993) 3 WLR 90, cited in the *Barayagwiza Appeal Decision*, para. 75 (emphasis supplied).
- 48 - *Barayagwiza Appeal Decision*, para. 86.

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

Case No. IT-99-37-PT

THE PROSECUTOR OF THE TRIBUNAL

16-10-2009

AGAINST

SLOBODAN MILOSEVIC
MILAN MILUTINOVIC
NIKOLA SAINOVIC
DRAGOLJUB OJDANIC
VLAJKO STOJILJKOVIC

SECOND AMENDED INDICTMENT

The Prosecutor of the International Criminal Tribunal for the former Yugoslavia, pursuant to her authority under Article 18 of the Statute of the International Criminal Tribunal for the former Yugoslavia ("the Statute of the Tribunal"), charges:

SLOBODAN MILOSEVIC
MILAN MILUTINOVIC
NIKOLA SAINOVIC
DRAGOLJUB OJDANIC
VLAJKO STOJILJKOVIC

with **CRIMES AGAINST HUMANITY** and **VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR** as set forth below:

ACCUSED

1. **Slobodan MILOSEVIC** was born on 20 August 1941 in the town of Pozarevac in present-day Republic of Serbia (hereinafter "Serbia"). In 1964, he received a law degree from the University of Belgrade and began a career in management and banking. **Slobodan MILOSEVIC** held the posts of deputy director and later general director at *Tehnogas*, a major gas company until 1978. Thereafter, he became president of *Beogradska banka* (*Beobanka*), one of the largest banks in the former Socialist Federal Republic of Yugoslavia (hereinafter "SFRY") and held that post until 1983.
2. In 1983, **Slobodan MILOSEVIC** began his political career. He became Chairman of the City Committee of the League of Communists of Belgrade in 1984. In 1986, he was elected Chairman of the Presidium of the Central Committee of the League of Communists of Serbia and was re-elected in 1988. On 16 July 1990, the League of Communists of Serbia and the Socialist Alliance of Working People of Serbia were united; the new party was named the Socialist Party of Serbia (hereinafter "SPS"), and **Slobodan MILOSEVIC** was elected its President. He continues to hold the post of President of the SPS as of the date of this indictment.
3. **Slobodan MILOSEVIC** was elected President of the Presidency of Serbia on 8 May 1989 and re-elected on 5 December that same year. After the adoption of the new Constitution of Serbia on 28 September 1990, **Slobodan MILOSEVIC** was elected to the newly established office of President of Serbia in multi-party elections held on 9 and 26 December 1990; he was re-elected on 20 December 1992.
4. After serving two terms as President of Serbia, **Slobodan MILOSEVIC** was elected President of the Federal Republic of Yugoslavia (hereinafter "FRY") on 15 July 1997 and he began his official duties on 23 July 1997. Following defeat in the September 2000 FRY Presidential elections, **Slobodan MILOSEVIC** stepped down from this position on 6 October 2000. At all times relevant to this indictment, **Slobodan MILOSEVIC** held the post of President of the FRY.
5. **Milan MILUTINOVIC** was born on 19 December 1942 in Belgrade in present-day Serbia. **Milan MILUTINOVIC** received a degree in law from Belgrade University.
6. Throughout his political career, **Milan MILUTINOVIC** has held numerous high level governmental posts within Serbia and the FRY. **Milan MILUTINOVIC** was a deputy in the Socio-Political Chamber and a member of the foreign policy committee in the Federal Assembly; he was Serbia's Secretary for Education and Sciences, a member of the Executive Council of the Serbian Assembly, and a director of the Serbian National Library. **Milan MILUTINOVIC** also served as an ambassador in the Federal Ministry of Foreign Affairs and as the FRY Ambassador to Greece. He was appointed the Minister of Foreign Affairs of the FRY on 15 August 1995. **Milan MILUTINOVIC** is a member of the SPS.
7. On 21 December 1997, **Milan MILUTINOVIC** was elected President of Serbia. At all times relevant to this indictment, **Milan MILUTINOVIC** held the post of President of Serbia.

8. **Nikola SAINOVIC** was born on 7 December 1948 in Bor, Serbia. He graduated from the University of Ljubljana in 1977 and holds a Master of Science degree in Chemical Engineering. He began his political career in the municipality of Bor where he held the position of President of the Municipal Assembly of Bor from 1978 to 1982.

9. Throughout his political career, **Nikola SAINOVIC** has been an active member of both the League of Communists and the SPS. He held the position of Chairman of the Municipal Committee of the League of Communists in Bor. On 28 November 1995, **Nikola SAINOVIC** was elected a member of the SPS's Main Committee and a member of its Executive Council. He was also named president of the Committee to prepare the SPS Third Regular Congress (held in Belgrade on 2-3 March 1996). On 2 March 1996, **Nikola SAINOVIC** was elected one of several vice chairmen of the SPS. He held this position until 24 April 1997.

10. **Nikola SAINOVIC** has held several positions within the governments of Serbia and the FRY. In 1989, he served as a member of the Executive Council of Serbia's Assembly and Secretary for Industry, Energetics and Engineering of Serbia. He was appointed Minister of Mining and Energy of Serbia on 11 February 1991, and again on 23 December 1991. On 23 December 1991, he was also named Deputy Prime Minister of Serbia. **Nikola SAINOVIC** was appointed Minister of the Economy of the FRY on 14 July 1992, and again on 11 September 1992. He resigned from this post on 29 November 1992. On 10 February 1993, **Nikola SAINOVIC** was elected Prime Minister of Serbia.

11. On 22 February 1994, **Nikola SAINOVIC** was appointed Deputy Prime Minister of the FRY. He was re-appointed to this position in three subsequent governments: on 12 June 1996, 20 March 1997 and 20 May 1998. **Slobodan MILOSEVIC** designated **Nikola SAINOVIC** as his representative for Kosovo. **Nikola SAINOVIC** chaired the commission for co-operation with the Organisation for Security and Co-operation in Europe (hereinafter "OSCE") Verification Mission in Kosovo, and was an official member of the Serbian delegation at the Rambouillet peace talks in February 1999. **Nikola SAINOVIC** stepped down from his position as Deputy Prime Minister of the FRY on or before 4 November 2000, when a new Federal Government was formed. At all times relevant to this indictment, **Nikola SAINOVIC** held the post of Deputy Prime Minister of the FRY.

12. **Colonel General Dragoljub OJDANIC** was born on 1 June 1941 in the village of Ravni, near Uzice in what is now Serbia. In 1958, he completed the Infantry School for Non-Commissioned Officers and in 1964, he completed the Military Academy of the Ground Forces. In 1985, **Colonel General Dragoljub OJDANIC** graduated from the Command Staff Academy and School of National Defence with a Masters Degree in Military Sciences. At one time he served as the Secretary for the League of Communists for the Yugoslav National Army (hereinafter "JNA") 52nd Corps, the precursor of the 52nd Corps of the Armed Forces of the FRY (hereinafter "VJ").

13. In 1992, **Colonel General Dragoljub OJDANIC** was the Commander of the 37th Corps of the JNA, later the VJ, based in Uzice, Serbia. He was promoted to Major General on 20 April 1992 and became Commander of the Uzice Corps. Under his command, the Uzice Corps was involved in military actions in eastern Bosnia during the war in the Republic of Bosnia and Herzegovina (hereinafter "Bosnia and Herzegovina"). In 1993 and 1994, **Colonel General Dragoljub OJDANIC** served as Chief of the General Staff of the First Army of the VJ. He was Commander of the First Army between 1994 and 1996. In 1996, he became Deputy Chief of the General Staff of the VJ. On 24 November 1998, **Slobodan MILOSEVIC** appointed **Colonel General Dragoljub OJDANIC** Chief of General Staff of the VJ, replacing General Momcilo Perisic. **Colonel General Dragoljub OJDANIC** was named Federal Minister of Defence on 15 February 2000 and served in this position until 3 November 2000. He was retired from military service by Presidential decree on 30 December 2000. At all times relevant to this indictment, **Colonel General Dragoljub OJDANIC** held the post of Chief of the General Staff of the VJ.

14. **Vlajko STOJILJKOVIC** was born in 1937 in Mala Krsna, in Serbia. He graduated from the University of Belgrade with a law degree, and then was employed at the municipal court. Thereafter, he became head of the Inter-Municipal Secretariat of Internal Affairs in Pozarevac. **Vlajko STOJILJKOVIC** served as director of the PIK firm in Pozarevac, vice-president and president of the Economic Council of Yugoslavia, and president of the Economic Council of Serbia.

15. By April 1997, **Vlajko STOJILJKOVIC** became Deputy Prime Minister of the Serbian Government and Minister of Internal Affairs of Serbia. On 24 March 1998, the Serbian Assembly elected a new Government and **Vlajko STOJILJKOVIC** was named Minister of Internal Affairs of Serbia. He is also a member of the main board of the SPS. **Vlajko STOJILJKOVIC** resigned from his post as Minister of Internal Affairs of Serbia on 9 October 2000. He is a deputy in the Federal Assembly's Chamber of Republics. At all times relevant to this indictment, **Vlajko STOJILJKOVIC** held the post of Minister of Internal Affairs of Serbia.

INDIVIDUAL CRIMINAL RESPONSIBILITY

Article 7(1) of the Statute of the Tribunal

16. Each of the accused is individually responsible for the crimes alleged against him in this indictment under Articles 3, 5 and 7(1) of the Statute of the Tribunal. The accused planned, instigated, ordered, committed, or otherwise aided and abetted in the planning, preparation, or execution of these crimes. By using the word "committed" in this indictment, the Prosecutor does not intend to suggest that any of the accused physically perpetrated any of the crimes charged, personally. "Committing" in this indictment refers to participation in a joint criminal enterprise as a co-perpetrator. The purpose of this joint criminal enterprise was, *inter alia*, the expulsion of a substantial portion of the Kosovo Albanian population from the territory of the province of Kosovo in an effort to ensure continued Serbian control over the province. To fulfil this criminal purpose, each of the accused, acting individually or in concert with each other and with others known and unknown, significantly contributed to the joint criminal enterprise using the *de jure* and *de facto* powers available to him.

17. This joint criminal enterprise came into existence no later than October 1998 and continued throughout the time period when the crimes alleged in counts 1 to 5 of this indictment occurred: beginning on or about 1 January 1999 and continuing until 20 June 1999. A number of individuals

participated in this joint criminal enterprise during the entire duration of its existence, or, alternatively, at different times during the duration of its existence, including the accused **Slobodan MILOSEVIC, Milan MILUTINOVIC, Nikola SAINOVIC, Dragoljub OJDANIC, Vljako STOJILJKOVIC** and others known and unknown.

18. The crimes enumerated in Counts 1 to 5 of this Indictment were within the object of the joint criminal enterprise. Alternatively, the crimes enumerated in Counts 3 to 5 were natural and foreseeable consequences of the joint criminal enterprise and the accused were aware that such crimes were the likely outcome of the joint criminal enterprise. Despite their awareness of the foreseeable consequences, **Slobodan MILOSEVIC, Milan MILUTINOVIC, Nikola SAINOVIC, Dragoljub OJDANIC, Vljako STOJILJKOVIC** and others known and unknown, knowingly and willfully participated in the joint criminal enterprise. Each of the accused and other participants in the joint criminal enterprise shared the intent and state of mind required for the commission of each of the crimes charged in counts 1 to 5. On this basis, under Article 7(1) of the Statute, each of the accused and other participants in the joint criminal enterprise bear individual criminal responsibility for the crimes alleged in counts 1 to 5.

Article 7(3) of the Statute of the Tribunal

19. **Slobodan MILOSEVIC, Milan MILUTINOVIC, Nikola SAINOVIC, Dragoljub OJDANIC** and **Vljako STOJILJKOVIC**, while holding positions of superior authority, are also individually criminally responsible for the acts or omissions of their subordinates, pursuant to Article 7(3) of the Statute of the Tribunal. 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 to punish the perpetrators.

20. **Slobodan MILOSEVIC** was elected President of the FRY on 15 July 1997 and assumed office on 23 July 1997. At all times relevant to this indictment, he held the post of President of the FRY.

21. As President of the FRY, **Slobodan MILOSEVIC** was President of the Supreme Defence Council of the FRY. The Supreme Defence Council consists of the President of the FRY and the Presidents of the member republics, Serbia and Montenegro. The Supreme Defence Council decides on the National Defence Plan and issues decisions concerning the VJ. As President of the FRY, **Slobodan MILOSEVIC** had the power to order implementation of the National Defence Plan and commanded the VJ in war and peace pursuant to decisions made by the Supreme Defence Council. **Slobodan MILOSEVIC**, as Supreme Commander of the VJ, performed these duties through commands, orders and decisions.

22. Under the FRY Law on Defence, as Supreme Commander of the VJ, **Slobodan MILOSEVIC** also exercised command authority over republican police units subordinated to the VJ during a state of imminent threat of war or a state of war. A declaration of imminent threat of war was proclaimed on 23 March 1999, and a state of war on 24 March 1999.

23. In addition to his *de jure* powers, at all times relevant to this indictment, **Slobodan MILOSEVIC** exercised extensive *de facto* control over numerous institutions essential to, or involved in, the conduct of the offences alleged herein. **Slobodan MILOSEVIC** exercised extensive *de facto* control over federal institutions nominally under the competence of the Assembly or the Government of the FRY. **Slobodan MILOSEVIC** also exercised *de facto* control over functions and institutions nominally under the competence of Serbia and its autonomous provinces, including the Serbian police force. **Slobodan MILOSEVIC** further exercised *de facto* control over numerous aspects of the FRY's political and economic life, particularly the media. Between 1986 and the early 1990s, **Slobodan MILOSEVIC** progressively acquired *de facto* control over these federal, republican, provincial and other institutions.

24. **Slobodan MILOSEVIC's de facto** control over Serbian, SFRY, FRY and other state organs stemmed, in part, from his leadership of the two principal political parties that ruled in Serbia from 1986 to 2000, and in the FRY from 1992 to 2000. From 1986 until 1990, he was Chairman of the Presidium of the Central Committee of the League of Communists in Serbia, then the ruling party in Serbia. In 1990, he was elected President of the Socialist Party of Serbia, the successor party to the League of Communists of Serbia and the Socialist Alliance of the Working People of Serbia. Throughout the period of his Presidency of Serbia, from 1990 to 1997, and as the President of the FRY, from 1997 to 2000, **Slobodan MILOSEVIC** was also the leader of the SPS.

25. Beginning no later than October 1988 and at all times relevant to this indictment, **Slobodan MILOSEVIC** exercised *de facto* control over the ruling and governing institutions of Serbia, including the MUP. Beginning no later than October 1988, he exercised *de facto* control over Serbia's two autonomous provinces - Kosovo and Vojvodina - and their representation in federal organs of the SFRY and the FRY. From no later than October 1988 until mid-1998, **Slobodan MILOSEVIC** also exercised *de facto* control over the ruling and governing institutions of the Republic of Montenegro (hereinafter "Montenegro"), including its representation in all federal organs of the SFRY and the FRY.

26. In significant international negotiations, meetings and conferences since 1989 and at all times relevant to this indictment, **Slobodan MILOSEVIC** was the primary interlocutor with whom the international community negotiated. He negotiated international agreements that were subsequently implemented within Serbia, the SFRY, the FRY, and elsewhere on the territory of the SFRY. Among the conferences and international negotiations at which **Slobodan MILOSEVIC** was the primary representative of the SFRY and FRY are: The Hague Conference in 1991; the Paris negotiations of March 1993; the International Conference on the Former Yugoslavia in January 1993; the Vance-Owen peace plan negotiations between January and May 1993; the Geneva peace talks in the summer of 1993; the Contact Group meeting in June 1994; the negotiations for a cease fire in Bosnia and Herzegovina, 9-14 September 1995; the negotiations to end the bombing by the North Atlantic Treaty Organisation (NATO) in Bosnia and Herzegovina, 14-20 September 1995; and the Dayton peace negotiations in November 1995.

27. As the President of the FRY, the Supreme Commander of the VJ, and the President of the Supreme Defence Council, and pursuant to his *de facto* authority, **Slobodan MILOSEVIC** is criminally responsible for the actions of his subordinates within the forces of the FRY and Serbia, which included, but were not limited to, the VJ, the Serbia Ministry of Interior (hereinafter "MUP"), military-territorial units, civil defence units and other armed groups operating under the authority, or with the knowledge, of the five accused or their subordinates who committed the crimes alleged in

counts 1 to 5 of this indictment.

28. **Slobodan MILOSEVIC**, as President of the FRY, Supreme Commander of the VJ and President of the Supreme Defence Council, is also, or alternatively, criminally responsible for the acts of his subordinates, pursuant to Article 7(3) of the Tribunal Statute, including, but not limited to, members of the VJ and the aforementioned personnel of other forces of the FRY and Serbia, for the crimes alleged in counts 1 to 5 of this indictment. In addition, **Slobodan MILOSEVIC**, pursuant to his *de facto* authority, is also, or alternatively, criminally responsible for the acts of his subordinates, pursuant to Article 7(3) of the Tribunal Statute, including, but not limited to, members of the VJ and employees of the MUP, for the crimes alleged in counts 1 to 5 of this indictment.

29. **Milan MILUTINOVIC** was elected President of Serbia on 21 December 1997 and remains President as of the date of this indictment. As President of Serbia, at all times relevant to this indictment, **Milan MILUTINOVIC** was the head of State. He represents Serbia and conducts its relations with foreign states and international organisations. He organises preparations for the defence of Serbia.

30. As President of Serbia, at all times relevant to this indictment, **Milan MILUTINOVIC** was a member of the Supreme Defence Council of the FRY and participated in decisions regarding the use of the VJ.

31. As President of Serbia, at all times relevant to this indictment, **Milan MILUTINOVIC**, in conjunction with the Republic of Serbia Assembly, had the authority to request reports both from the Government of Serbia, concerning matters under its jurisdiction, and from the MUP, concerning its activities and the security situation in Serbia. As President of Serbia, **Milan MILUTINOVIC** had the authority to dissolve the Republic of Serbia Assembly, and with it the Government, "subject to the proposal of the Government on justified grounds," although this power applies only in peacetime.

32. During a declared state of war or state of imminent threat of war, **Milan MILUTINOVIC**, as President of Serbia, could enact measures normally under the competence of the Republic of Serbia Assembly, including the passage of laws; these measures could include the reorganisation of the Government and its ministries, as well as the restriction of certain rights and freedoms.

33. In addition to his *de jure* powers, at all times relevant to this indictment, **Milan MILUTINOVIC** exercised extensive *de facto* influence or control over numerous institutions essential to, or involved in, the conduct of the crimes alleged herein. **Milan MILUTINOVIC** exercised *de facto* influence or control over functions and institutions nominally under the competence of the Government of Serbia and Assembly of Serbia and its autonomous provinces, including but not limited to the MUP.

34. In significant international negotiations, meetings and conferences since 1995 and at all times relevant to this indictment, **Milan MILUTINOVIC** was a principal interlocutor with whom the international community negotiated. Among the conferences and international negotiations at which **Milan MILUTINOVIC** was a primary representative of the FRY are: preliminary negotiations for a cease fire in Bosnia and Herzegovina, 15-21 August 1995; the Geneva meetings regarding the Bosnian cease fire, 7 September 1995; further negotiations for a cease fire in Bosnia and Herzegovina, 9-14 September 1995; the negotiations to end the NATO bombing in Bosnia and Herzegovina, 14-20 September 1995; the meeting of Balkan foreign ministers in New York, 26 September 1995; and the Dayton peace negotiations in November 1995. **Milan MILUTINOVIC** was also present at the negotiations at Rambouillet in February 1999.

35. Under the FRY Law on Defence, **Milan MILUTINOVIC**, as a member of the Supreme Defence Council, also exercised command authority over republican police units subordinated to the VJ during a state of imminent threat of war or a state of war. A declaration of imminent threat of war was proclaimed on 23 March 1999, and a state of war on 24 March 1999.

36. **Milan MILUTINOVIC**, as President of Serbia and a member of the Supreme Defence Council, is also, or alternatively, criminally responsible for the acts of his subordinates, pursuant to Article 7(3) of the Tribunal Statute, including, but not limited to, members of the VJ and the aforementioned personnel of other forces of the FRY and Serbia, for the crimes alleged in counts 1 to 5 of this indictment. In addition, **Milan MILUTINOVIC**, pursuant to his *de facto* authority, is criminally responsible for the acts of his subordinates, pursuant to Article 7(3) of the Tribunal Statute, including, but not limited to, members of the VJ and employees of the MUP, for the crimes alleged in counts 1 to 5 of this indictment.

37. **Nikola SAINOVIC** was re-appointed Deputy Prime Minister of the FRY on 20 May 1998. As such, he was a member of the Government of the FRY, which, among other duties and responsibilities, formulated domestic and foreign policy, enforced federal law, directed and coordinated the work of federal ministries, and organised defence preparations.

38. Prior to December 1998, **Slobodan MILOSEVIC** designated **Nikola SAINOVIC** as his representative for Kosovo. A number of diplomats and other international officials who needed to speak with a government official regarding events in Kosovo were directed to **Nikola SAINOVIC**. He took an active role in negotiations establishing the OSCE verification mission for Kosovo and he participated in numerous other meetings regarding the Kosovo crisis. At all times relevant to this indictment, **Nikola SAINOVIC** acted as the liaison between **Slobodan MILOSEVIC** and various Kosovo Albanian leaders. Pursuant to both his position as Deputy Prime Minister of the FRY and his role as **Slobodan MILOSEVIC**'s designated representative for Kosovo, **Nikola SAINOVIC** exercised effective control over numerous individuals and institutions essential to, or involved in, or responsible for, the conduct of the offences alleged herein.

39. **Nikola SAINOVIC**, pursuant to his *de facto* authority, is also, or alternatively, criminally responsible for the acts of his subordinates, pursuant to Article 7(3) of the Tribunal Statute, including, but not limited to, members of the VJ and employees of the MUP, for the crimes alleged in counts 1 to 5 of this indictment.

40. **Colonel General Dragoljub OJDANIC** was appointed Chief of the General Staff of the VJ on 24 November 1998. At all times relevant to this

indictment, he held the post of Chief of the General Staff of the VJ. As Chief of the General Staff of the VJ, Colonel General Dragoljub OJDANIC commanded, ordered, instructed, regulated and otherwise directed the VJ, pursuant to acts issued by the President of the FRY and as required to command the VJ.

41. As Chief of the General Staff of the VJ, Colonel General Dragoljub OJDANIC determined the organisation, plan of development and formation of commands, units and institutions of the VJ, in conformity with the nature and needs of the VJ and pursuant to acts rendered by the President of the FRY.

42. In his position of authority, Colonel General Dragoljub OJDANIC also determined the plan for recruiting and filling vacancies within the VJ and the distribution of recruits therein; issued regulations concerning training of the VJ; determined the educational plan and advanced training of professional and reserve military officers; and performed other tasks stipulated by law.

43. As Chief of the General Staff of the VJ, Colonel General Dragoljub OJDANIC - or other officers empowered by him - assigned commissioned officers, non-commissioned officers and soldiers, and promoted non-commissioned officers, reserve officers, and officers up to the rank of colonel. In addition, Colonel General Dragoljub OJDANIC nominated the president, judges, prosecutors, and their respective deputies and secretaries, to serve on military disciplinary courts.

44. Colonel General Dragoljub OJDANIC carried out preparations for the conscription of citizens and mobilisation of the VJ; co-operated with the MUP and the Ministry of Defence of the FRY in mobilising organs and units of the MUP; monitored and proposed measures to correct problems encountered during, and informed the Government of the FRY and the Supreme Defence Council about, the implementation of the mobilisation.

45. Colonel General Dragoljub OJDANIC, as Chief of the General Staff of the VJ, under the FRY Law on Defense, also exercised command authority over republican police units subordinated to the VJ 3rd Army during a state of imminent threat of war or a state of war. A declaration of imminent threat of war was proclaimed on 23 March 1999, and a state of war on 24 March 1999.

46. Colonel General Dragoljub OJDANIC, as Chief of the General Staff of the VJ, is also, or alternatively, criminally responsible for the acts of his subordinates, pursuant to Article 7(3) of the Tribunal Statute,

including, but not limited to, members of the VJ and the aforementioned personnel of other forces of the FRY and Serbia, for the crimes alleged in counts 1 to 5 of this indictment. In addition, Colonel General Dragoljub OJDANIC, pursuant to his *de facto* authority, is also, or alternatively, criminally responsible for the acts of his subordinates, pursuant to Article 7(3) of the Tribunal Statute, including, but not limited to, members of the VJ and employees of the MUP, for the crimes alleged in counts 1 to 5 of this indictment.

47. Vljako STOJILJKOVIC was named Minister of Internal Affairs of Serbia on 24 March 1998. At all times relevant to this indictment, Vljako STOJILJKOVIC held the post of Minister of Internal Affairs of Serbia. As head of a Serbian government ministry, Vljako STOJILJKOVIC was responsible for the enforcement of laws, regulations and general acts promulgated by Serbia's Assembly, Government or President.

48. As Minister of Internal Affairs of Serbia, Vljako STOJILJKOVIC directed the work of the MUP and its personnel. He determined the structure, mandate and scope of operations of organisational units within the MUP. He was empowered to call up members of the MUP reserve corps to perform duties during peacetime, and to prevent activities threatening Serbia's security. The orders which he and MUP superior officers issued to MUP personnel were binding unless they constituted a criminal act.

49. As Minister of Internal Affairs of Serbia, Vljako STOJILJKOVIC had powers of review over decisions and acts of agents for the MUP. He considered appeals against decisions made in the first instance by the head of an organisational unit of the MUP. Moreover, he was empowered to decide appeals made by individuals who were detained by the police.

50. On 8 April 1999, as Minister of Internal Affairs of Serbia, Vljako STOJILJKOVIC's powers during the state of war were expanded to include transferring MUP employees to different duties within the MUP for as long as required.

51. As Minister of Internal Affairs of Serbia, Vljako STOJILJKOVIC was responsible for ensuring the maintenance of law and order in Serbia.

52. Vljako STOJILJKOVIC, as Minister of Internal Affairs of Serbia, is also, or alternatively, criminally responsible for the acts of his subordinates, pursuant to Article 7(3) of the Tribunal Statute, including, but not limited to, employees of the MUP and the aforementioned personnel of other forces of the FRY and Serbia, for the crimes alleged in counts 1 to 5 of this indictment. In addition, Vljako STOJILJKOVIC, pursuant to his *de facto* authority, is also, or alternatively, criminally responsible for the acts of his subordinates, pursuant to Article 7(3) of the Tribunal Statute, including, but not limited to, employees of the MUP, for the crimes alleged in counts 1 to 5 of this indictment.

CHARGES

53. Following the commencement of the joint criminal enterprise, beginning on or about 1 January 1999 and continuing until 20 June 1999, Slobodan MILOSEVIC, Milan MILUTINOVIC, Nikola SAINOVIC, Dragoljub OJDANIC, Vljako STOJILJKOVIC and others known and unknown, planned, instigated, ordered, committed or otherwise aided and abetted in a deliberate and widespread or systematic campaign of terror and violence directed at Kosovo Albanian civilians living in Kosovo in the FRY.

54. The deliberate and widespread or systematic campaign of terror and violence directed at the Kosovo Albanian population was executed by forces

of the FRY and Serbia, acting at the direction, with the encouragement, or with the support of **Slobodan MILOSEVIC, Milan MILUTINOVIC, Nikola SAINOVIC, Dragoljub OJDANIC, Vlastko STOJILJKOVIC** and others known and unknown. Forces of the FRY and Serbia undertook the operations targeting the Kosovo Albanians 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. To achieve this objective, forces of the FRY and Serbia, acting in concert, engaged in well-planned and coordinated operations as described in paragraphs 55 through 61 below.

55. Forces of the FRY and Serbia, in a deliberate and widespread or systematic manner, forcibly expelled and internally displaced hundreds of thousands of Kosovo Albanians from their homes across the entire province of Kosovo. To facilitate these expulsions and displacements, forces of the FRY and Serbia intentionally created an atmosphere of fear and oppression through the use of force, threats of force, and acts of violence.

56. Throughout Kosovo, forces of the FRY and Serbia engaged in a deliberate and widespread or systematic campaign of destruction of property owned by Kosovo Albanian civilians. This was accomplished by the widespread shelling of towns and villages; the burning and destruction of property, including homes, farms, businesses, cultural monuments and religious sites; and the destruction of personal property. As a result of these orchestrated actions, villages, towns, and entire regions were made uninhabitable for Kosovo Albanians.

57. In addition to the deliberate destruction of property owned by Kosovo Albanian civilians, forces of the FRY and Serbia committed widespread or systematic acts of brutality and violence against Kosovo Albanian civilians in order to perpetuate the climate of fear, create chaos and a pervading fear for life. Forces of the FRY and Serbia went from village to village and, in the towns and cities, from area to area, threatening and expelling the Kosovo Albanian population. Kosovo Albanians were frequently intimidated, assaulted or killed in public view to enforce the departure of their families and neighbors. Many Kosovo Albanians who were not directly forcibly expelled from their communities fled as a result of the climate of terror created by the widespread or systematic beatings, harassment, sexual assaults, unlawful arrests, killings, shelling and looting carried out across the province. Forces of the FRY and Serbia persistently subjected Kosovo Albanians to insults, racial slurs, degrading acts and other forms of physical and psychological mistreatment based on their racial, religious, and political identification. All sectors of Kosovo Albanian society were displaced including women, children, the elderly and the infirm.

58. Thousands of Kosovo Albanians who fled their homes as a result of the conduct of the forces of the FRY and Serbia and the deliberate climate of terror that pervaded the territory of Kosovo joined convoys of persons that moved toward Kosovo's borders with the Republic of Albania (hereinafter "Albania") and the former Yugoslav Republic of Macedonia (hereinafter "Macedonia"). Along the routes to the border crossings, forces of the FRY and Serbia manned checkpoints where the displaced Kosovo Albanians were subject to further beatings, extortion, robbery, harassment, assaults, illegal arrests and killings. At other times, forces of the FRY and Serbia escorted groups of expelled Kosovo Albanians to the borders. By these methods, the forces of the FRY and Serbia maintained control over the movement of displaced Kosovo Albanians to the borders. Displaced Kosovo Albanians often arrived at the borders of Kosovo on foot in convoys of several thousand persons, or carried by tractors, trailers and trucks, as well as on trains, buses or trucks which were organized and provided by forces of the FRY and Serbia.

59. In addition, thousands of Kosovo Albanians who fled their homes and were thereby forcibly transferred as a result of the conduct of the forces of the FRY and Serbia and the deliberate climate of terror that pervaded the territory of Kosovo, were forced to seek shelter for days, weeks or months in other towns and villages, and/or in forests and mountains throughout the province. Some of these internally displaced persons remained inside the province of Kosovo throughout the time period relevant to this indictment and many persons died as a consequence of the harsh weather conditions, insufficient food, inadequate medical attention and exhaustion. Others eventually crossed over one of the Kosovo borders into Albania, Macedonia, Montenegro, or crossed the provincial boundary between Kosovo and Serbia. Forces of the FRY and Serbia controlled and coordinated the movements of many internally displaced Kosovo Albanians until they were finally expelled from Kosovo.

60. Throughout Kosovo, in a deliberate and widespread or systematic effort to deter expelled Kosovo Albanians from returning to their homes, forces of the FRY and Serbia looted and pillaged the personal and commercial property belonging to Kosovo Albanians. Forces of the FRY and Serbia used wholesale searches, threats of force, and acts of violence to rob Kosovo Albanians of money and valuables, and in a widespread or systematic manner, authorities at FRY border posts stole personal vehicles and other property from Kosovo Albanians being deported from the province.

61. In addition, throughout Kosovo, forces of the FRY and Serbia systematically seized and destroyed the personal identity documents and licenses of vehicles belonging to Kosovo Albanian civilians. As Kosovo Albanians were forced from their homes and directed towards Kosovo's borders, they were subjected to demands to surrender identity documents at selected points *en route* to border crossings and at border crossings into Albania and Macedonia. These actions were undertaken in order to erase any record of the deported Kosovo Albanians' presence in Kosovo and to deny them the right to return to their homes.

COUNT 1 DEPORTATION

62. The Prosecutor re-alleges and incorporates by reference paragraphs 55 - 61.

63. Beginning on or about 1 January 1999 and continuing until 20 June 1999, forces of the FRY and Serbia, acting at the direction, with the encouragement, or with the support of **Slobodan MILOSEVIC, Milan MILUTINOVIC, Nikola SAINOVIC, Dragoljub OJDANIC, Vlastko STOJILJKOVIC** and others known and unknown, perpetrated the actions set forth in paragraphs 55 through 61, which resulted in the forced deportation of approximately 800,000 Kosovo Albanian civilians. To facilitate these expulsions and displacements, forces of the FRY and Serbia deliberately created an atmosphere of fear and oppression through the use of force, threats of force and acts of violence, as described above in paragraphs 55 through 61. Throughout Kosovo, forces of the FRY and Serbia systematically shelled towns and villages, burned homes and farms, damaged and destroyed Kosovo Albanian cultural and religious institutions, murdered Kosovo Albanian civilians and sexually assaulted Kosovo Albanian women. These actions were undertaken in all areas of Kosovo, and these deliberate means and methods were used throughout the province, including the following municipalities:

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a. Orahovac/Rahovec: On the morning of 25 March 1999, forces of the FRY and Serbia surrounded the village of Celina/Celinë with tanks and armoured vehicles. After shelling the village, forces of the FRY and Serbia entered the village and systematically looted and pillaged everything of value from the houses, set houses and shops on fire and destroyed the old mosque. Most of the Kosovo Albanian villagers had fled to a nearby forest before the army and police arrived. On 28 March 1999, forces of the FRY and Serbia forced the thousands of people hiding in the forest to come out. After marching the civilians to a nearby village, the men were separated from the women and were beaten, robbed, and all of their identity documents were taken from them. The men were then marched to Prizren and eventually forced to go to Albania.

(i) On 25 March 1999, a large group of Kosovo Albanians went to a mountain near the village of Nogavac/Nagavë, also in Orahovac/Rahovec municipality, seeking safety from attacks on nearby villages. Forces of the FRY and Serbia surrounded them and on the following day, ordered the 8,000 people who had sought shelter on the mountain to leave. The Kosovo Albanians were forced to go to a nearby school and then they were forcibly dispersed into nearby villages. After three or four days, forces of the FRY and Serbia entered the villages, went from house to house and ordered people out. Eventually, they were forced back into houses and told not to leave. Those who could not fit inside the houses were forced to stay in cars and tractors parked nearby. On 2 April 1999, forces of the FRY and Serbia started shelling the villages, killing a number of people who had been sleeping in tractors and cars. Those who survived headed for the Albanian border. As they passed through other Kosovo Albanian villages which had been destroyed, they were taunted by forces of the FRY and Serbia. When the villagers arrived at the border, all their identification papers were taken from them. In the course of the expulsions, throughout the entire municipality of Orahovac/Rahovec, forces of the FRY and Serbia systematically burned houses, shops, cultural monuments and religious sites belonging to Kosovo Albanians. Several mosques were destroyed, including the mosques of *Bela Crkva/Bëllacërkvë*, *Brestovac/Brestovë*, *Velika Krusa/Krushë e Madhe* and others.

b. Prizren: On 25 March 1999 the village of Pirane was surrounded by forces of the FRY and Serbia, tanks and various military vehicles. The village was shelled and a number of the residents were killed. Thereafter, forces of the FRY and Serbia entered the village and burned the houses of Kosovo Albanians. After the attack, the remaining villagers left Pirane and went to surrounding villages. In the town of Landovica/Landovicë, an old mosque was burned and heavily damaged by forces of the FRY and Serbia. Some of the Kosovo Albanians fleeing toward Srbica/Sërbica were killed or wounded by snipers. Forces of the FRY and Serbia then launched an offensive in the area of Srbica/Sërbica and shelled the villages of Donji Retimlje/Reti e Ulët, Retimlje/Reti and Randubrava/Randobravë. Kosovo Albanian villagers were forced from their homes and sent to the Albanian border. From 28 March 1999, in the city of Prizren, forces of the FRY and Serbia went from house to house, ordering Kosovo Albanian residents to leave. They were forced to join convoys of vehicles and persons travelling on foot to the Albanian border. En route, members of the forces of the FRY and Serbia beat and killed Kosovo Albanian men, separated Kosovo Albanian women from the convoy and sexually assaulted the women. At the border all personal documents were taken away by forces of the FRY and Serbia.

c. Srbica/Skenderaj: Beginning on or about 25 March 1999, forces of the FRY and Serbia attacked and destroyed the villages of Vojnike/Voenjak, Leocina/Lecinë, Kladernica/Klladernicë, Turicevac/Turiçec and Izbica/Izbiçë by shelling and burning. Many of the houses, shops and mosques were destroyed, including the mosque in the centre of the village of Cirez/Qirez. Some women and children were taken away by members of the forces of the FRY and Serbia and held in a barn in Cirez/Qirez. The women were subjected to sexual assault, and their money and property were stolen. At least eight of the women were killed after being sexually assaulted, and their bodies were thrown into three wells in the village of Cirez/Qirez. On or about 28 March 1999, at least 4,500 Kosovo Albanians from these villages gathered in the village of Izbica/Izbiçë where members of the forces of the FRY and Serbia demanded money from these Kosovo Albanians and separated the men from the women and children. A large number of the men were then killed. The women and children were forcibly moved as a group towards Klina/Klinë, Dakovica/Gjakovë and eventually to the Albanian border.

d. Suva Reka/Suharekë: On the morning of 25 March 1999, forces of the FRY and Serbia surrounded the town of Suva Reka/Suharekë. During the following days, police officers went from house to house, threatening, assaulting and killing Kosovo Albanian residents, and removing many of the people from their homes at gunpoint. Many houses and shops belonging to Kosovo Albanians were set on fire and a mosque in Suva Reka/Suharekë was damaged. The women, children and elderly were sent away by the police and then a number of the men were killed by the forces of the FRY and Serbia. The Kosovo Albanians were forced to flee, making their way in trucks, tractors and trailers towards the border with Albania. While crossing the border, all of their documents and money were taken away.

(i) On 31 March 1999, approximately 80,000 Kosovo Albanians displaced from villages in the Suva Reka/Suharekë municipality gathered near Belanica/Bellanicë. The following day, forces of the FRY and Serbia shelled Belanica/Bellanicë, forcing the displaced persons to flee toward the Albanian border. Prior to crossing the border, all of their identification documents were taken away.

e. Pee/Pejë: On or about 27 and 28 March 1999, in the city of Pee/Pejë, forces of the FRY and Serbia went from house to house forcing Kosovo Albanians to leave. Some houses were set on fire and a number of people were shot. Soldiers and police were stationed along every street directing the Kosovo Albanians toward the town centre. Once the people reached the centre of town, those without cars or vehicles were forced to get on buses or trucks and were driven to the town of Prizren. Outside Prizren, the Kosovo Albanians were forced to get off the buses and trucks and walk approximately 15 kilometres to the Albanian border where, prior to crossing the border, they were ordered to turn their identification papers over to forces of the FRY and Serbia.

f. Kosovska Mitrovica/Mitrovicë: Beginning on or about 25 March 1999 and continuing through the middle of April 1999, forces of the FRY and Serbia began moving systematically through the town of Kosovska Mitrovica/Mitrovicë. They entered the homes of

Kosovo Albanians and ordered the residents to leave their houses at once and go to the bus station. Some houses were set on fire, forcing the residents to flee to other parts of the town. At least one of the mosques of the town was burned and damaged. Over a three-week period the forces of the FRY and Serbia continued to expel the Kosovo Albanian residents of the town. During this period, properties belonging to Kosovo Albanians were destroyed, Kosovo Albanians were robbed of money, vehicles, and other valuables, and Kosovo Albanian women were sexually assaulted. A similar pattern was repeated in other villages in the Kosovska Mitrovica/Mitrovicë municipality, where forces of the FRY and Serbia forced Kosovo Albanians from their homes and destroyed the villages. The Kosovo Albanian residents of the municipality were forced to join convoys going to the Albanian border via the towns of Srbica/Skenderaj, Pec/Pejë, Dakovica/Gjakovë and Prizren. *En route* to the border, forces of the FRY and Serbia officers robbed them of valuables and seized their identity documents.

g. Pristina/Prishtinë: Beginning on or about 24 March 1999 and continuing through the end of May 1999, Serbian police went to the homes of Kosovo Albanians in the city of Pristina/Prishtinë and forced the residents to leave. During the course of these forced expulsions, a number of people were killed. Many of those forced from their homes went directly to the train station, while others sought shelter in nearby neighbourhoods. Hundreds of ethnic Albanians, guided by Serb police at all the intersections, gathered at the train station and then were loaded onto overcrowded trains or buses after a long wait, during which time no food or water was provided. Those on the trains went as far as Deneral Jankovic/Hani i Elezit, a village near the Macedonian border. During the train ride many people had their identification papers taken from them. After getting off the trains, forces of the FRY and Serbia told the Kosovo Albanians to walk along the tracks into Macedonia since the surrounding land had been mined. Those who tried to hide in Pristina/Prishtinë were eventually expelled in a similar fashion. During the course of these forced expulsions, a number of people were killed and several women were sexually assaulted.

(i) During the same period, forces of the FRY and Serbia entered the villages of Pristina/Prishtinë municipality where they beat and killed many Kosovo Albanians, robbed them of their money, looted their property and burned their homes. Many of the villagers were taken by truck to the town of Glogovac/Gilgoc in the municipality of Glogovac/Gilgoc. From there, they were transported to Deneral Jankovic/Hani i Elezit by train and buses and walked to the Macedonian border. Others, after making their way to the town of Urosevac/Ferizaj, were ordered by forces of the FRY and Serbia to take a train to Deneral Jankovic/Hani i Elezit, from where they walked across the border into Macedonia.

h. Dakovica/Gjakovë: By March 1999, the population of the town of Dakovica/Gjakovë had increased significantly due to the large number of internally displaced persons who fled their villages to escape deliberate shelling by forces of the FRY and Serbia during 1998, and to escape the armed conflict between these forces and members of the Kosovo Liberation Army. The continual movement of these internally displaced persons increased after 24 March 1999 when, following violent expulsions in the town of Dakovica/Gjakovë, many internally displaced persons returned from the town of Dakovica/Gjakovë to the outlying villages, only to be expelled from these villages again by forces of the FRY and Serbia. Serb forces controlled and coordinated the movement of these internally displaced persons as they travelled from these villages to and from the town of Dakovica/Gjakovë, and finally to the border between Kosovo and the Republic of Albania. Persons travelling on foot were sent from the town of Dakovica/Gjakovë directly toward one of several border crossings. Persons travelling in motor vehicles were routed first towards the town of Prizren before approaching the border and crossing into the Republic of Albania.

(i) From on or about 24 March 1999 through 11 May 1999, forces of the FRY and Serbia began forcing residents of the town of Dakovica/Gjakovë to leave. Forces of the FRY and Serbia spread out through the town and went from house to house ordering Kosovo Albanians from their homes. In some instances, people were killed, and many persons were threatened with death. Many of the houses and shops belonging to Kosovo Albanians were set on fire, while those belonging to Serbs were protected. On 24 March 1999, the old mosque in Rogovo/Rogovë and the old historic quarter of Dakovica/Gjakovë, which included the bazaar, the Hadum Mosque and adjoining Islamic Library, were among the several cultural sites substantially and/or totally destroyed. During the period from 2 to 4 April 1999, thousands of Kosovo Albanians living in the town of Dakovica/Gjakovë and neighbouring villages joined a large convoy, either on foot or driving in cars, trucks and tractors, and moved to the border with Albania. Forces of the FRY and Serbia directed those fleeing along pre-arranged routes, and at checkpoints along the way most Kosovo Albanians had their identification papers and license plates seized. In some instances, Yugoslav army trucks were used to transport persons to the border with Albania.

(ii) In addition, during late March and April 1999, forces of the FRY and Serbia forcibly expelled the Kosovo Albanian residents of many villages in the Dakovica/Gjakovë municipality, including the villages of Dobros/Dobrosh, Korenica/Korenicë and Meja/Mejë. Many of these residents were subsequently ordered or permitted to return to their communities, only to be expelled again by forces of the FRY and Serbia. On or about the early morning hours of 27 April 1999, forces of the FRY and Serbia launched a massive attack against the Carragojs, Erenik and Trava Valleys (Dakovica/Gjakovë municipality), including the remaining residents of the aforementioned villages, in order to drive the population out of the area. A large number of soldiers and policemen were deployed, and several checkpoints were established. In Meja/Mejë, Korenica/Korenicë and Meja Orize/Orize, a large, and as yet undetermined, number of Kosovo Albanian civilian males were separated from the mass of fleeing villagers, abducted and executed. Throughout the entire day, villagers under direct threat from the forces of the FRY and Serbia left their homes and joined several convoys of refugees using tractors, horse carts and cars and eventually crossed into Albania. Forces of the FRY and Serbia confiscated the identity documents of many of the Kosovo Albanians before they crossed the border.

i. Gnjilane/Gjilan: Forces of the FRY and Serbia entered the town of Prilepnica/Prë rlepnicë on or about 6 April 1999, and ordered residents to leave, saying that the town would be mined the next day. The townspeople left and tried to go to another village but forces of the FRY and Serbia turned them back. On 13 April 1999, residents of Prilepnica/Prë rlepnicë were again informed that the

town had to be evacuated by the following day. The next morning, the Kosovo Albanian residents left in a convoy of approximately 500 vehicles. Shortly after the residents left, the houses in Prilepnica/Prilepnič were set on fire. Throughout the entire municipality of Gnjilane/Gjilan, forces of the FRY and Serbia systematically burned and destroyed houses, shops, cultural monuments and religious sites belonging to Kosovo Albanians, including a mosque in Vlastica/Vlastica. Kosovo Albanians in other villages in Gnjilane/Gjilan municipality were also forced from their homes. Thousands of displaced persons from villages such as Zegra/Zegër, Nosajc/Nosajc and Vladovo/Vladovë sought shelter in the village of Donja Stubla/Stubllë E Poshtme, located in the Vitina municipality. Many of these displaced persons from Gnjilane/Gjilan crossed Kosovo's boundary with the province of Serbia, where they suffered similar harassment and mistreatment to that which they experienced in Kosovo, before entering Macedonia. Others travelled directly to Macedonia. When the Kosovo Albanians reached the border with Macedonia, forces of the FRY and Serbia confiscated their identification papers.

j. Urosevac/Ferizaj: During the period between 24 March and 14 April 1999, forces of the FRY and Serbia shelled and attacked villages in the Urosevac/Ferizaj municipality, including Biba/Bibe, Muhadžer Prelez/Prelez i Muhaxherëve, Raka/Rakaj and Staro Selo, killing a number of residents. After the shelling, forces of the FRY and Serbia entered some of the villages, including Papaz and Sojevo/Sojevë, and ordered the residents to leave. Other Kosovo Albanians from Varos Selo/Varosh and Mirosavlje/Mirosalë fled their villages as the Serb forces entered. After the residents left their homes, the soldiers and policemen burned the houses. The displaced persons went to the town of Urosevac/Ferizaj, where most boarded trains which carried them to the Macedonia border crossing at Dencal Jankovic/Hani i Elezit. Serb forces directed the train passengers to walk on the railroad tracks to the border. Others travelled in convoys from Urosevac/Ferizaj to the same border crossing. At the border, Serb forces confiscated all of their documents.

k. Kacanik: Between March and May 1999, forces of the FRY and Serbia attacked villages in the Kacanik municipality and the town of Kacanik itself. This attack resulted in the destruction of houses and religious sites including, but not limited to, the mosques of Kotlina/Kotlinë and Ivaja/Ivajë.

(i) On or about 8 March 1999, forces of the FRY and Serbia attacked and partially burned the village of Kotlina/Kotlinë. On 24 March 1999, forces of the FRY and Serbia attacked Kotlina/Kotlinë again with heavy weapons systems and soldiers. Many of the male residents of Kotlina/Kotlinë fled into nearby forests during this attack, while forces of the FRY and Serbia ordered the women, children and elderly to board trucks which took them towards the town of Kacanik. Those who could not fit into the trucks were compelled to walk behind them towards Kacanik. A number of male residents of Kotlina/Kotlinë were killed during this attack, including at least 17 men whose bodies were thrown into wells. Before departing Kotlina/Kotlinë, forces of the FRY and Serbia burned the remainder of the village. Many of the survivors fled to Macedonia.

(ii) On or about 27 and 28 March 1999, forces of the FRY and Serbia attacked the town of Kacanik. Forces of the FRY and Serbia harassed, detained, beat, and shot many Kosovo Albanian residents of Kacanik. Thousands of persons fled to nearby forests and eventually walked across the border into Macedonia. Other displaced persons from the town of Kacanik and nearby villages walked to the village of Stagovo/Stagovë, where they boarded trains that took them to the Macedonia border.

(iii) On or about 13 April 1999, forces of the FRY and Serbia surrounded the village of Slatina/Slatinë and the hamlet of Vata. After shelling the village, infantry troops and police entered the village and looted and burnt the houses. During this action, 13 civilians were shot and killed. Following this attack, much of the population of Slatina/Slatinë fled to Macedonia.

(iv) On or about 25 May 1999, forces of the FRY and Serbia attacked the village of Dubrava/Lisnaje in the municipality of Kacanik. During the attack, forces of the FRY and Serbia killed several Kosovo Albanian residents of Dubrava/Lisnaje. Many residents of Dubrava/Lisnaje formed a convoy of tractors and trailers and fled to Macedonia. Other residents fled to other villages or into forests before eventually crossing the border into Macedonia.

l. Decani/Dečan: On or about 29 March 1999, forces of the FRY and Serbia surrounded and attacked the village of Beleg, and other surrounding villages in the Decani/Dečan municipality. Forces of the FRY and Serbia went from house to house and told villagers to leave their houses immediately. About 300 men, women and children were moved out of their homes and gathered in a nearby field in the village of Beleg. Forces of the FRY and Serbia ordered all men and women to undress and all their personal property was taken away. Men were separated from women and children and taken to the basement of an unfinished house near the field. Women and children were ordered to go to another house. During the night at least 3 women were sexually assaulted. The next day, forces of the FRY and Serbia told the villagers to leave the village in trucks and tractors and go to Albania.

m. Vucitn/Vushtri: On or about 27 March 1999, forces of the FRY and Serbia began to burn houses in the town of Vucitn/Vushtri and burned the main mosque in that town. On or about 2 May 1999, forces of the FRY and Serbia attacked a number of villages north-east of the town of Vucitn/Vushtri, including Skrovna/Skromë, Slakovec/Sllakofë, Cecelija/Ceceli and Gornja Sudimlja/Studime e Epërme. The villagers were forced out of their homes, and many of their houses, shops and religious sites were completely burnt. The villagers, as well as persons previously displaced from other communities in the Vucitn/Vushtri municipality, were forced to form a convoy of approximately 20,000 people travelling on the "Studime Gorge" road, in the direction of the town of Vucitn/Vushtri. During the night of 2-3 May 1999, forces of the FRY and Serbia harassed, beat and killed approximately 104 Kosovo Albanians and robbed the valuables of many others. Thousands of Kosovo Albanians in this convoy were detained by forces of the FRY and Serbia in the agricultural cooperative near the town of Vucitn/Vushtri. On or about 3 May 1999, forces of the FRY and Serbia at the agricultural cooperative separated Kosovo Albanian men of military age from women, children

and the elderly. The Kosovo Albanian women, children and elderly were directed to travel to Albania and a number of Kosovo Albanian men were forced to drive vehicles that carried the women, children and elderly to the Albanian border. The forces of the FRY and Serbia transported hundreds of Kosovo Albanian men of military age from the agricultural cooperative to a prison in the village of Smrkovrica/Smrakonë. After several weeks of detention in inhumane conditions where they were subjected to beatings, torture and murder, many of these Kosovo Albanian men were transported to the village of Zur/Zhur, near the Albanian border, and forced to cross the border into Albania.

By these acts and omissions, **Slobodan MILOSEVIC, Milan MILUTINOVIC, Nikola SAINOVIC, Dragoljub OJDANIC, Vljako STOJILJKOVIC** and others known and unknown, planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of:

Count 1: Deportation, a **CRIME AGAINST HUMANITY**, punishable under Article 5(d) of the Statute of the Tribunal.

COUNT 2 OTHER INHUMANE ACTS (FORCIBLE TRANSFER)

64. With respect to those Kosovo Albanians who were internally displaced within the territory of Kosovo, the Prosecutor re-alleges and incorporates by reference paragraphs 55 - 61 and, in particular, paragraph 59.

By these acts and omissions, **Slobodan MILOSEVIC, Milan MILUTINOVIC, Nikola SAINOVIC, Dragoljub OJDANIC, Vljako STOJILJKOVIC** and others known and unknown, planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of:

Count 2: Other Inhumane Acts (Forcible Transfer), a **CRIME AGAINST HUMANITY**, punishable under Article 5(i) of the Statute of the Tribunal.

COUNTS 3-4 MURDER

65. The Prosecutor re-alleges and incorporates by reference paragraphs 55 - 63.

66. Beginning on or about 1 January 1999 and continuing until 20 June 1999, forces of the FRY and Serbia, acting at the direction, with the encouragement, or with the support of **Slobodan MILOSEVIC, Milan MILUTINOVIC, Nikola SAINOVIC, Dragoljub OJDANIC, Vljako STOJILJKOVIC** and others known and unknown, murdered hundreds of Kosovo Albanian civilians. These killings occurred in a widespread or systematic manner throughout the province of Kosovo and resulted in the deaths of numerous men, women, and children. Included among the incidents of mass killings are the following:

a. On or about 15 January 1999, in the early morning hours, the village of Racak (Stimlje/Shtime municipality) was attacked by forces of the FRY and Serbia. After shelling, the forces of the FRY and Serbia entered the village later in the morning and began conducting house-to-house searches. Villagers, who attempted to flee from the forces of the FRY and Serbia, were shot throughout the village. A group of approximately 25 men attempted to hide in a building, but were discovered by the forces of the FRY and Serbia. They were beaten and then were removed to a nearby hill, where they were shot and killed. Altogether, the forces of the FRY and Serbia killed approximately 45 Kosovo Albanians in and around Racak. (Those persons killed who are known by name are set forth in Schedule A, which is attached as an appendix to this indictment.)

VERVALT

b. On or about 25 March 1999, forces of the FRY and Serbia surrounded and attacked the village of Bela Crkva/Bellacërkë (Orahovac/Rahovec municipality). Many of the residents of Bela Crkva/Bellacërkë fled along the Belaja River outside the village and were forced to seek shelter near a railroad bridge. As the forces of the FRY and Serbia approached the bridge, they opened fire on a number of villagers, killing 12 persons including 10 women and children. A two-year old child survived this incident. The forces of the FRY and Serbia then ordered the remaining villagers out of the streambed, at which time the men and older boys were separated from the elderly men, women and small children. The forces of the FRY and Serbia ordered the men and older boys to strip and then systematically robbed them of all valuables. The women and children were then ordered to leave towards an adjacent village called Zrze/Xërë. A doctor from Bela Crkva/Bellacërkë attempted to speak with a commander of the attacking forces, but he was shot and killed, as was his nephew. The remaining men and older boys were then ordered back into the streambed. After they complied, the forces of the FRY and Serbia opened fire on these men and older boys, killing approximately 65 Kosovo Albanians. A number of men and older boys survived this incident and other persons hiding in the vicinity also witnessed this incident. In addition, forces of the FRY and Serbia also killed six men found hiding in an irrigation ditch in the vicinity. (Those persons killed who are known by name are set forth in Schedule B, which is attached as an appendix to the indictment.)

c. On or about 25 March 1999, forces of the FRY and Serbia attacked the villages of Mala Krusa/Krusë e Vogel and Velika Krusa/Krusë e Mahde (Orahovac/Rahovec municipality). The villagers of Mala Krusa/Krusë e Vogel took refuge in a forested area outside Mala Krusa/Krusë e Vogel, where they were able to observe the forces of the FRY and Serbia systematically looting and burning their houses. The villagers subsequently took refuge in the house of Sedje Batusha, which is located on the outskirts of Mala Krusa/Krusë e Vogel. During the morning of 26 March 1999, forces of the FRY and Serbia located the villagers. The forces of the FRY and Serbia ordered the women and small children to leave the area and go to Albania. The forces of the FRY and Serbia detained and searched the men and boys and confiscated their identity documents and valuables. Subsequently, the forces of the FRY and Serbia ordered the men and boys, under threat of death, to walk to an unoccupied house in Mala Krusa/Krusë e Vogel. The forces of the FRY and Serbia forced the men and boys to enter the house. When the men and boys were assembled inside, the forces

of the FRY and Serbia opened fire with machine guns on the group. After several minutes of gunfire, the forces of the FRY and Serbia set fire to the house in order to burn the bodies. As a result of the shooting and fire, approximately 105 Kosovo Albanian men and boys died. (Those persons killed who are known by name are set forth in Schedule Q which is attached as an appendix to this indictment.)

O N D E R N E M I N G S R A A D I C C O

d. On or about 26 March 1999, in the morning hours, forces of the FRY and Serbia surrounded the vicinity of the BERISHIA family compound in the town of Suva Reka/Suharekë (Suva Reka/ Suharekë municipality). Tanks were positioned close to, and pointing in the direction of, the houses. The forces of the FRY and Serbia ordered the occupants out of one of the houses. Men were separated from women and children and six members of the family were killed. The remaining family members were herded towards a coffee shop by forces of the FRY and Serbia. Those family members were herded, along with three extended BERISHIA family groups, into the coffee shop. Forces of the FRY and Serbia then walked into the coffee shop and opened fire on the persons inside. Explosives were also thrown into the shop. At least 44 civilians were killed and others seriously wounded during this action. The bodies of the victims were dragged out of the shop and placed in the rear of a truck, which was then driven in the direction of Prizren. Three injured persons, thrown in among the other bodies, jumped out of the truck en route to Prizren. Property pertaining to at least six of the persons killed in the coffee shop was found in a clandestine mass gravesite at a Vlling range near Korusa/Korisha. In addition, identification documents pertaining to at least five of the persons killed in the coffee shop were found on bodies exhumed from a clandestine mass grave located in Batajnica near Belgrade, Serbia. (Those persons killed who are known by name are set forth in Schedule K, which is attached as an appendix to this indictment.)

e. On or about the evening of 26 March 1999, in the town of Dakovica/Gjakovë, forces of the FRY and Serbia came to a house at 134a Ymer Grezda Street. The women and children inside the house were separated from the men, and were ordered to overlegvergadering to overlegvergadering.
1. The opening of the FRY and Serbia to the overlegvergadering was held 6 Kosovo Albanian agenda were in the house. (The names of those killed are set forth in Schedule D, which is attached as an appendix to this indictment.)

2. Vaststellen notulen overlegvergadering 27 januari 1995 23/95

f. On or about 26 March 1999, in the morning hours, forces of the FRY and Serbia attacked the village of Padaliste/Padalishte (Istok/Janina). As the forces of the FRY and Serbia entered the village, they fired on houses and on villagers who attempted to flee. Eight members of the Beke IMERAJ family were forced from their home and were killed in front of their house. Other residents of Padaliste/Padalishte were killed at their homes and in a streambed near the village. Altogether, forces of the FRY and Serbia killed 10 persons, including 8 Kosovo Albanians from Padaliste/Padalishte. (Those persons killed who are known by name are set forth in Schedule L, which is attached as an appendix to this indictment.)

4. Werving en selectie *** [BC] mondeling

g. On or about 27 March 1999, forces of the FRY and Serbia shelled the village of Izbica/Izbicë (Srbica/Skenderaj municipality) with heavy artillery. In the morning hours, forces of the FRY and Serbia shelled the village from Izbica/Izbicë and surrounding villages took refuge in a meadow in Izbica/Izbicë. On 28 March 1999, forces of the FRY and Serbia surrounded the villagers and approached them, demanding money.

5. After the forces of the FRY and Serbia shelled the villagers' dwellings, the men were separated from the women and children. The men were further divided into two groups, one of which was sent to a nearby hill, and the other was sent to a nearby streambed. The forces of the FRY and Serbia then fired upon both groups of men and at least 116 Kosovo Albanian men were killed.

6. Also on 28 March 1999, the women and children gathered at Izbica/Izbicë were forced to leave the area and walk towards Albania. Two elderly disabled women were sitting on a tractor-trailer unable to walk. Forces of the FRY and Serbia set the tractor-trailer on fire and the two women were burned to death. (Those persons killed at Izbica/Izbicë who are known by name are set forth in Schedule I, which is attached as an appendix to this indictment.)

h. On or about the late evening of 1 April 1999 and continuing through the early morning hours of 2 April 1999, forces of the FRY and Serbia launched an operation against the Qerim district of Dakovica/Gjakovë. Over a period of several hours, forces of the FRY and Serbia forcibly entered houses of Kosovo Albanians in the Qerim district, killed the occupants, and then set fire to the buildings. Dozens of homes were destroyed and over 50 persons were killed. For example, in a house located at 157 Milos Gilie/Milosh Gilie Street, forces of the FRY and Serbia shot the occupants and then set the house on fire. As a result of the shootings and the fires set by the forces of the FRY and Serbia at this single location, 20 Kosovo Albanians were killed, of whom 19 were women and children. (The names of those killed at this location are set forth in Schedule G, which is attached as an appendix to this indictment.)

- Brief OR aan Dir. over Deeltijdregeling 56/95

i. On or about the early morning hours of 27 April 1999, forces of the FRY and Serbia launched a massive attack against the Kosovo Albanian population of the Carragojs, Erenik and Trava Valleys (Dakovica/Gjakovë municipality) in order to drive the population out of the area. A large number of forces of the FRY and Serbia were deployed, and several checkpoints were established. Throughout the entire day, villagers under direct threat from the forces of the FRY and Serbia left their homes and joined several convoys of refugees using tractors, horse carts and cars. In Meja/Mejë, Korenica/Korenicë and Meja Orize/Orize, a large, and as yet undetermined number of Kosovo Albanian civilian males were separated from the mass of fleeing villagers and abducted. Many of these men were summarily executed, and approximately 300 persons are still missing. Identity documents pertaining to at least seven persons who were last seen at Meja/Mejë on 27 April 1999 were found on bodies exhumed from a clandestine mass grave located in Batajnica, near Belgrade, Serbia. (Those persons killed who are known by name are set forth in Schedule I, which is attached as an appendix to this indictment.)

j. On or about 2 May 1999, forces of the FRY and Serbia attacked several villages north-east of the town of Vucitrn/Vushtri including Skrovna/Skromë, Slakovec/Sllakofe, Ceeeli/Ceeelija and Gornja Sudimlja/Studime e Epërme. The villagers were forced out of their homes, and many of their houses, shops and religious sites were completely burnt. They were subsequently forced into a convoy of approximately 20,000 people travelling on the "Studime Gorge" road, in the direction of the town of Vucitrn/Vushtri. In the course of these actions, forces of the FRY and Serbia harassed, beat and robbed Kosovo Albanians travelling in the convoy and killed approximately 104 Kosovo Albanians. (Those persons killed who are known by name are set forth in Schedule H, which is attached as an appendix to this indictment.)

+

Vervalt

Resultaten

agenda

HANGMAP

of the FRY and Serbia opened fire with machine guns on the group. After several minutes of gunfire, the forces of the FRY and Serbia set fire to the house in order to burn the bodies. As a result of the shooting and fire, approximately 105 Kosovo Albanian men and boys died. (Those persons killed who are known by name are set forth in Schedule G, which is attached as an appendix to this indictment.)

O N D E R N E M I N G S R A A D I C C O

d. On or about 26 March 1999, in the morning hours, forces of the FRY and Serbia surrounded the vicinity of the BERISHIA family compound in the town of Suva Reka/Suharekë (Suva Reka/ Suharekë municipality). Tanks were positioned close to, and pointing in the direction of, the houses. The forces of the FRY and Serbia ordered the occupants out of one of the houses. Men were separated from women and children and six members of the family were killed. The remaining family members were herded towards a coffee shop by forces of the FRY and Serbia. Those family members were herded, along with three extended BERISHIA family groups, into the coffee shop. Forces of the FRY and Serbia then walked into the coffee shop and opened fire on the persons inside. Explosives were also thrown into the shop. At least 44 civilians were killed and others seriously wounded during this action. The bodies of the victims were dragged out of the shop and placed in the rear of a truck, which was then driven in the direction of Prizren. Three injured persons, thrown in among the other bodies, jumped out of the truck en route to Prizren. Property pertaining to at least six of the persons killed in the coffee shop was found in a clandestine mass gravesite at a VI firing range near Korusa/Korisha. In addition, identification documents pertaining to at least three of the persons killed in the coffee shop were found on bodies exhumed from a clandestine mass grave located in Batajnica, near Belgrade, Serbia. (Those persons killed who are known by name are set forth in Schedule K, which is attached as an appendix to this indictment.)

e. On or about the evening of 26 March 1999, in the town of Dakovica/Gjakovë, forces of the FRY and Serbia came to a house at 134a Ymer Grezda Street. The women and children inside the house were separated from the men, and were rounded up to go to the camp. The men were taken to the camp. (The names of those killed are set forth in Schedule D, which is attached as an appendix to this indictment.)

1. The opening of the FRY and Serbia to the village of Gjakovë was a result of the actions of the forces of the FRY and Serbia.
2. Vaststellen notulen overlegvergadering 27 januari 1995 23/95

f. On or about 26 March 1999, in the morning hours, forces of the FRY and Serbia attacked the village of Padeliste/Padalishte (Istok/Đakovo municipality). As the forces of the FRY and Serbia entered the village, they fired on houses and on villagers who attempted to flee. Eight members of the Bekke IMERAJ family were forced from their home and were killed in front of their house. Other residents of Padeliste/Padalishte were killed at their homes and in a streambed near the village. Altogether, forces of the FRY and Serbia killed approximately 100 Kosovo Albanians from Padeliste/Padalishte. (Those persons killed who are known by name are set forth in Schedule I, which is attached as an appendix to this indictment.)

4. Werving en selectie *** (BC) mondeling

g. On or about 27 March 1999, forces of the FRY and Serbia shelled the village of Izbica/Izbicë (Srbica/Skenderaj municipality) with heavy artillery systems. The residents of Izbica/Izbicë and surrounding villages took refuge in a meadow in Izbica/Izbicë. On 28 March 1999, forces of the FRY and Serbia surrounded the villagers and approached them, demanding money. After the forces of the FRY and Serbia entered the villagers' streambeds, the men were separated from the women and small children. The men were further divided into two groups, one of which was sent to a nearby hill, and the other was sent to a nearby streambed. The forces of the FRY and Serbia then fired upon both groups of men and at least 116 Kosovo Albanian men were killed.

5. After the forces of the FRY and Serbia entered the villagers' streambeds, the men were separated from the women and small children. The men were further divided into two groups, one of which was sent to a nearby hill, and the other was sent to a nearby streambed. The forces of the FRY and Serbia then fired upon both groups of men and at least 116 Kosovo Albanian men were killed.
6. Also on 28 March 1999, the women and children gathered at Izbica/Izbicë were forced to leave the area and walk towards Albania. Two elderly disabled women were sitting on a tractor-trailer unable to walk. Forces of the FRY and Serbia set the tractor-trailer on fire and the two women were burned to death. (Those persons killed at Izbica/Izbicë who are known by name are set forth in Schedule J, which is attached as an appendix to this indictment.)

h. On or about the late evening of 1 April 1999 and continuing through the early morning hours of 2 April 1999, forces of the FRY and Serbia launched an operation against the Qerim district of Dakovica/Gjakovë. Over a period of several hours, forces of the FRY and Serbia forcibly entered houses of Kosovo Albanians in the Qerim district, killed the occupants, and then set fire to the buildings. Dozens of homes were destroyed and over 50 persons were killed. For example, in a house located at 157 Milos Gilic/Milosh Gilic Street, forces of the FRY and Serbia shot the occupants and then set the house on fire. As a result of the shootings and the fires set by the forces of the FRY and Serbia at this single location, 20 Kosovo Albanians were killed, of whom 19 were women and children. (The names of those killed at this location are set forth in Schedule G, which is attached as an appendix to this indictment.)

- Brief OR aan Dir. over Overeenkomst RBB 55/95
- Brief OR aan Dir. over Deeltijdregeling 56/95

i. On or about the early morning hours of 27 April 1999, forces of the FRY and Serbia launched a massive attack against the Kosovo Albanian population of the Carragojs, Erenik and Trava Valleys (Dakovica/Gjakovë municipality) in order to drive the population out of the area. A large number of forces of the FRY and Serbia were deployed, and several checkpoints were established. Throughout the entire day, villagers under direct threat from the forces of the FRY and Serbia left their homes and joined several convoys of refugees using tractors, horse carts and cars. In Meja/Mejë, Korenica/Korenice and Meja Orize/Orize, a large, and as yet unidentified, number of Kosovo Albanian civilian males were separated from the mass of fleeing villagers and abducted. Many of these men were summarily executed, and approximately 300 persons are still missing. Identity documents pertaining to at least seven persons who were last seen at Meja/Mejë on 27 April 1999 were found on bodies exhumed from a clandestine mass grave located in Batajnica, near Belgrade, Serbia. (Those persons killed who are known by name are set forth in Schedule I, which is attached as an appendix to this indictment.)

j. On or about 2 May 1999, forces of the FRY and Serbia attacked several villages north-east of the town of Vucitrn/Vushtri including Skrovna/Skromë, Slakovec/Sllakofë, Ceecli/Cceclija and Gornja Sudimlja/Studime e Epërme. The villagers were forced out of their homes, and many of their houses, shops and religious sites were completely burnt. They were subsequently forced into a convoy of approximately 20,000 people travelling on the "Studime Gorge" road, in the direction of the town of Vucitrn/Vushtri. In the course of these actions, forces of the FRY and Serbia harassed, beat and robbed Kosovo Albanians travelling in the convoy and killed approximately 104 Kosovo Albanians. (Those persons killed who are known by name are set forth in Schedule H, which is attached as an appendix to this indictment.)

k. On or about 22 May 1999, in the early morning hours, a uniformed person in the Dubrava/Dubravë Prison complex (Istok/Istog municipality) announced from a watchtower that all prisoners were to gather their personal belongings and line up on the sports field at the prison complex for transfer to the prison in Nis, Serbia. Within a very short time, hundreds of prisoners had gathered at the sports field with bags of personal belongings and lined up in rows to await transport. Without warning, uniformed persons opened fire on the prisoners from the watchtower, from holes in the perimeter wall and from gun emplacements beyond the wall. Many prisoners were killed outright and others wounded.

(i) On or about 23 May 1999, in the afternoon, forces of the FRY and Serbia threw grenades and shot into the drains, sewers, buildings and basements, killing and wounding many additional prisoners who had sought refuge in those locations after the events of the previous day. Altogether, approximately 50 prisoners were killed. (Many of the murdered prisoners remain unidentified, however, the names of those persons who are known to have been killed are set forth in Schedule J, which is attached as an appendix to this indictment.)

l. During the period between March 1999 and May 1999, forces of the FRY and Serbia launched a series of massive offensives against several villages in the municipality of Kacanik/Kacanik, which resulted in the deaths of more than one hundred civilians.

(i) On or about 24 March 1999, the village of Kotlina/Kotlinë was attacked by forces of the FRY and Serbia. In the course of the attack, most of the houses were burnt down and at least 17 persons were killed. Some of those killed were captured in the woods, executed and then thrown into wells. Explosives were thrown on top of the wells.

(ii) On or about 13 April 1999, forces of the FRY and Serbia surrounded the village of Slatina/Slatinë and the hamlet of Vata/Vata. After shelling the village, infantry troops and police entered the village and looted and burnt the houses. During this action, 13 civilians were shot and killed.

(iii) On or about 21 May 1999, the village of Stagovo/Stagovë was surrounded by forces of the FRY and Serbia. The population tried to escape toward the mountains east of the village. During this action, at least 12 persons were killed. Most of the village was looted and burnt down.

(iv) On or about 25 May 1999, forces of FRY and Serbia surrounded the village of Dubrava/Lisnaje. As the forces entered the village, the population was ordered to gather at the school and leave the village on tractors. Men were then separated from women and children. During this action 4 men were killed. In addition, 4 members of the Qorri family were killed while trying to escape toward the woods. (Those persons killed in the municipality of Kacanik who are known by name are set forth in Schedule L, which is attached as an appendix to this indictment.)

By these acts and omissions, **Slobodan MILOSEVIC, Milan MILUTINOVIC, Nikola SAINOVIC, Dragoljub ODANIC, Vlatko STOJILJKOVIC** and others known and unknown, planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of:

Count 3: Murder, a CRIME AGAINST HUMANITY, punishable under Article 5(a) of the Statute of the Tribunal

Count 4: Murder, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Article 2 of the Statute of the Tribunal and recognised by Article 3(1)(a) (murder) of the Geneva Conventions.

67. The Prosecutor re-alleges and incorporates by reference paragraphs 55 through 66 of the indictment.

68. Beginning on or about 1 January 1999 and continuing until 20 June 1999, the forces of the FRY and Serbia, acting in concert with the encouragement, or with the support of **Slobodan MILOSEVIC, Milan MILUTINOVIC, Nikola SAINOVIC, Dragoljub ODANIC, Vlatko STOJILJKOVIC** and others known and unknown, utilised the means and methods set forth in paragraphs 55 through 66 to execute a campaign of persecution against the Kosovo Albanian civilian population based on political, racial, and religious grounds. This persecution was limited to, the following means:

- a. The forcible transfer and deportation by forces of the FRY and Serbia of approximately 800,000 Kosovo Albanian civilians as described in paragraphs 55 through 66.
- b. The murder of hundreds of Kosovo Albanian civilians by forces of the FRY and Serbia as described in paragraphs 55 through 66.
- c. The sexual assault by forces of the FRY and Serbia of Kosovo Albanians, in particular women, including the sexual assaults described in paragraphs 57 and 63.
- d. The wanton destruction or damage of Kosovo Albanian religious sites. During and after the attacks on the towns and villages, forces of FRY and Serbia systematically damaged and destroyed cultural monuments and Muslim sacred sites. Mosques were



shangji, burned from dynamite throughout the province. Included among the incidents are the following: the damage and/or destruction of synagogues in Vushtri/Vushtri, Suva Reka/Suharekë, Celina/Celnë, Rogovo/Rogovë, Bela Crkva/Bellacërke, Curaj/Çuraj, Kabinak/Kabins, Ivaja/Ivajë, Brestovac/Brestove, Velika Krusa/Krushë e Mahde, Kosovska Mitrovica/Mitrovicë, Vlastica/Vlastica, Landivoc/Landovice and Dakovica/Çjakovë, as described in paragraph 63.

By these acts and omissions, Slobodan MILOSEVIC, Milan MILUTINOVIC, Nikola SAINOVIC, Dragoljub OJDANIC, Vlajko STOJILJEVIC and others known and unknown, planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of the following crimes:

Ingek.: 10 maart 1995

Gezien door:

Docrelaenen voor:

Datum: 6 maart 1995

Count 5: Persecutions on political, racial and religious grounds, a CRIME AGAINST HUMANITY, punishable under Article 5(h) of the Statute of the Tribunal.

GENERAL ALLEGATIONS

69. At all times relevant to this indictment, a state of armed conflict existed in Kosovo in the FRY.
70. All acts and omissions charged as crimes against humanity were part of a widespread or systematic attack directed against the Kosovo Albanian civilian population of Kosovo in the FRY.

Geachte mevrouw, meneer,

ADDITIONAL FACTS

In elk overlegvergadering en ondernemingsraad komen weleens spanningen voor en men kan verschillen van mening. Deze kunnen snel oplossen maar het veranderen in scherpe tegenstellingen. Er is soms van een conflict nog geen sprake. Maar de ene partij wil wel iets bereiken wat de ander niet wil, dat is duidelijk. De belangen liggen ver uiteen. Wat dan te doen als voorzitter en secretaris van de OR? Het is een kunst apart om dreigende conflicten en meningen verschilderend te bulgen om naar een oplossing te vinden. Dat is alstame period, the Socialist Republic of Serbia changed its name to the Republic of Serbia, the name of the Socialist Autonomous Province of Kosovo was changed to the Autonomous Province of Kosovo and Metohija (the name of the Socialist Autonomous Province of Montenegro was changed to the Republic of Montenegro).

Een eerste stap naar meer effectief optreden in de OR en het overleg is om te bieden een workshop "Conflict management". De zes constitutie-republics of the country Within Serbia, Kosovo and Vojvodina were given considerable autonomy including control of their educational systems, judiciary, and police. They were also given their own provincial assemblies, and were represented in the Assembly, the Constitutional Court, and the Presidency of the SFRY.

Deze op de praktijkgerichte workshop, georganiseerd door het FNV Centrum Ondernemingsraden, reikt u in het korte tijdsbestek van een dag veel ideeën en praktische handreikingen aan over conflicthantering. De workshop wordt geleid door een deskundige en ervaren trainer. Het programma heeft betrekking tot korte leidingen en voorleefeningen.

75. During the 1980s, Serbs voiced concern about discrimination against them by the Kosovo Albanian-led provincial government while Kosovo Albanians voiced concern about discrimination against them by the Serbian government. From 1981 onwards, Kosovo Albanians staged demonstrations, which were suppressed by SFRY military and police forces of Serbia.

76. In April 1987, Slobodan MILOSEVIC, who had been elected Chairman of the Presidium of the Central Committee of the League of Communists of Serbia in 1986, travelled to Kosovo. In meetings with local Serb leaders and in a speech before a crowd of Serbs, Slobodan MILOSEVIC endorsed a Serbian nationalist agenda. In so doing, he broke with the party and government policy, which had restricted nationalist expression in the SFRY since the time of its founding by Josip Broz Tito after the Second World War. Thereafter, Slobodan MILOSEVIC exploited a growing wave of Serbian nationalist in order to strengthen centralised rule in the SFRY.

77. In September 1987, Slobodan MILOSEVIC and his supporters gained control of the Central Committee of the League of Communists of Serbia. In 1988, Slobodan MILOSEVIC was elected Chairman of the Presidium of the Central Committee of the League of Communists of Serbia. From that influential position, Slobodan MILOSEVIC was able to further develop his political power.

P.S. Meldt u zich snel aan, aan beide workshops kan slechts een beperkt aantal personen deel nemen. Supportive of Slobodan MILOSEVIC's policies - the so-called "Anti-Bureaucratic Revolution" - took place in Vojvodina and Montenegro. These protests led to the ouster of the respective provincial and republican governments; the province of Vojvodina was annexed to the Socialist Autonomous Province of Serbia.

79. Simultaneously, within Serbia, calls for bringing Kosovo under stronger Serbian rule intensified and numerous demonstrations addressing this issue were held. On 17 November 1988, high-ranking Kosovo Albanian political figures were dismissed from their positions within the provincial leadership and were replaced by appointees loyal to Slobodan MILOSEVIC. In early 1989, the Serbian Assembly proposed amendments to the Constitution of Serbia which would strip Kosovo of most of its autonomous powers, including control of the police, educational and economic policy, and choice of official language, as well as its veto powers over further changes to the Constitution of Serbia. Kosovo Albanians demonstrated in large numbers against the amendments. In June 1989, a strike by Kosovo Albanian miners further increased tensions.

80. Due to the political unrest, on 3 March 1989, the SFRY Presidency declared that the situation in the province had deteriorated and had become a threat to the constitution, integrity, and sovereignty of the country. The government then imposed "special measures" which assigned responsibility for public security to the federal government instead of the government of Serbia.

81. On 23 March 1989, the Assembly of Kosovo met in Pristina/Prishtinë and, with the majority of Kosovo Albanian delegates abstaining, voted to accept the proposed amendments to the constitution. Although lacking the required two-thirds majority in the Assembly, the President of the Assembly nonetheless declared that the amendments had passed. On 28 March 1989, the Assembly of Serbia voted to approve the constitutional changes, effectively revoking the autonomy granted in the 1974 constitution.

82. At the same time these changes were occurring in Kosovo, **Slobodan MILOSEVIC** further increased his political power when he became the President of Serbia. **Slobodan MILOSEVIC** was elected President of the Presidency of Serbia on 8 May 1989 and his post was formally confirmed on 6 December 1989.

83. In early 1990, Kosovo Albanians held mass demonstrations calling for an end to the "special measures." In April 1990, the SFRY Presidency lifted the "special measures" and removed most of the federal police forces as Serbia took over responsibility for police enforcement in Kosovo.

84. In July 1990, the Assembly of Serbia passed a decision to suspend the Assembly of Kosovo shortly after 114 of the 123 Kosovo Albanian delegates from that Assembly had passed an unofficial resolution declaring Kosovo an equal and independent entity within the SFRY. In September 1990, many of these same Kosovo Albanian delegates proclaimed a constitution for a "Republic of Kosovo." One year later, in September 1991, Kosovo Albanians held an unofficial referendum in which they voted overwhelmingly for independence. On 24 May 1992, Kosovo Albanians held unofficial elections for an assembly and president for the "Republic of Kosovo."

85. On 16 July 1990, the League of Communists of Serbia and the Socialist Alliance of Working People of Serbia joined to form the Socialist Party of Serbia (SPS), and **Slobodan MILOSEVIC** was elected its President. As the successor to the League of Communists, the SPS became the dominant political party in Serbia and **Slobodan MILOSEVIC**, as President of the SPS, was able to wield considerable power and influence over many branches of the government as well as the private sector. **Milan MILUTINOVIC** and **Nikola SAINOVIC** have both held prominent positions within the SPS. **Nikola SAINOVIC** was a member of the Main Committee and the Executive Council as well as a vice-chairman; and **Milan MILUTINOVIC** successfully ran for President of Serbia in 1997 as the SPS candidate.

86. After the adoption of the new Constitution of Serbia on 28 September 1990, **Slobodan MILOSEVIC** was elected President of Serbia in multi-party elections held on 9 and 26 December 1990; he was re-elected on 20 December 1992. In December 1991, **Nikola SAINOVIC** was appointed a Deputy Prime Minister of Serbia.

87. After Kosovo's autonomy was effectively revoked in 1989, the political situation in Kosovo became more and more divisive. Throughout late 1990 and 1991 thousands of Kosovo Albanian doctors, teachers, professors, workers, police and civil servants were dismissed from their positions. The local court in Kosovo was abolished and many judges removed. Police violence against Kosovo Albanians increased.

88. During this period, the unofficial Kosovo Albanian leadership pursued a policy of non-violent civil resistance and began establishing a system of unofficial, parallel institutions in the health care and education sectors.

89. In late June 1991, the SFRY began to disintegrate in a succession of wars fought in the Republic of Slovenia (hereinafter Slovenia), the Republic of Croatia (hereinafter Croatia), and Bosnia and Herzegovina. On 25 June 1991, Slovenia declared its independence from the SFRY, which led to the outbreak of war; a peace agreement was reached on 8 July 1991. Croatia declared its independence on 25 June 1991, leading to fighting between Croatian military forces on the one side and the JNA, paramilitary units and the "Army of the Republic of Srpska Krajina" on the other.

90. On 6 March 1992, Bosnia and Herzegovina declared its independence, resulting in wide scale war after 6 April 1992. On 27 April 1992, the SFRY was reconstituted as the FRY. At this time, the JNA was re-formed as the VJ. In the war in Bosnia and Herzegovina, the JNA, and later the VJ, fought along with the "Army of Republika Srpska" against military forces of the Government of Bosnia and Herzegovina and the "Croat Defence Council." Active hostilities ceased with the signing of the Dayton peace agreement in December 1995.

91. Although **Slobodan MILOSEVIC** was the President of Serbia during the wars in Slovenia, Croatia and Bosnia and Herzegovina, he was nonetheless the dominant Serbian political figure exercising *de facto* control of the federal government as well as the republican government and was the person with whom the international community negotiated a variety of peace plans and agreements related to these wars.

92. Between 1991 and 1997, **Milan MILUTINOVIC** and **Nikola SAINOVIC** both held a number of high ranking-positions within the federal and republican governments and continued to work closely with **Slobodan MILOSEVIC**. During this period, **Milan MILUTINOVIC** worked in the Foreign Ministry of the FRY, and at one time was Ambassador to Greece; in 1995, he was appointed Minister of Foreign Affairs of the FRY, a position he held until 1997. **Nikola SAINOVIC** was Prime Minister of Serbia in 1993 and Deputy Prime Minister of the FRY in 1994.

93. While the wars were being conducted in Slovenia, Croatia and Bosnia and Herzegovina, the situation in Kosovo, while tense, did not erupt into the violence and intense fighting seen in the other countries. In the mid-1990s, however, a faction of the Kosovo Albanians organised a group known as *Ushtria Çlirimtare e Kosovës* (UÇK) or, known in English as the Kosovo Liberation Army (hereinafter the "KLA"). This group advocated a campaign of armed insurgency and violent resistance to the Serbian authorities. In mid-1996, the KLA began launching attacks primarily targeting Serbian police forces. Thereafter, and throughout 1997, Serbian police forces responded with forceful operations against suspected KLA bases and supporters in Kosovo.

94. After concluding his term as President of Serbia, **Slobodan MILOSEVIC** was elected President of the FRY on 15 July 1997, and assumed office on 23 July 1997. Thereafter, elections for the office of the President of Serbia were held; **Milan MILUTINOVIC** ran as the SPS candidate and was elected President of Serbia on 21 December 1997. In 1996, 1997 and 1998, **Nikola SAINOVIC** was re-appointed Deputy Prime Minister of the FRY. In part through his close alliance with **Milan MILUTINOVIC**, **Slobodan MILOSEVIC** was able to retain his influence over the Government of Serbia.

95. Beginning in late February 1998, the conflict intensified between the KLA on the one hand, and forces of the FRY and Serbia, on the other hand. A number of Kosovo Albanians and Kosovo Serbs were killed and wounded during this time. Forces of the FRY and Serbia engaged in a campaign of shelling predominantly Kosovo Albanian towns and villages, widespread destruction of property, and expulsions of the civilian population from areas in which the KLA was active. Many residents fled the territory as a result of the fighting and destruction or were forced to move to other areas within Kosovo. The United Nations estimates that by mid-October 1998, over 298,000 persons, roughly fifteen percent of the population, had been internally displaced within Kosovo or had left the province.

96. In response to the intensifying conflict, the United Nations Security Council (UNSC) passed Resolution 1160 in March 1998 "condemning the use of excessive force by Serbian police forces against civilians and peaceful demonstrators in Kosovo," and imposed an arms embargo on the FRY. Six months later the UNSC passed Resolution 1199 (1998) which stated that "the deterioration of the situation in Kosovo, Federal Republic of Yugoslavia, constitutes a threat to peace and security in the region." The Security Council demanded that all parties cease hostilities and that "the security forces used for civilian repression" be withdrawn.

97. In an attempt to diffuse tensions in Kosovo, negotiations between **Slobodan MILOSEVIC** and representatives of NATO and the OSCE were conducted in October 1998. An "Agreement on the OSCE Kosovo Verification Mission" was signed on 16 October 1998. This agreement and the "Clark-Naumann agreement," which was signed by **Nikola SAINOVIC**, provided for the partial withdrawal of forces of the FRY and Serbia from Kosovo, a limitation on the introduction of additional forces and equipment into the area, and the deployment of unarmed OSCE verifiers.

98. Although scores of OSCE verifiers were deployed throughout Kosovo, hostilities continued. During this period, international verifiers and human rights organisations documented a number of killings of Kosovo Albanians. In one such incident, on 15 January 1999, 45 unarmed Kosovo Albanians were murdered in the village of Raçak in the municipality of Stimlje/Shtime.

99. In a further response to the continuing conflict in Kosovo, an international peace conference was organised in Rambouillet, France beginning on 7 February 1999. **Nikola SAINOVIC**, the Deputy Prime Minister of the FRY, was a member of the Serbian delegation at the peace talks and **Milan MILUTINOVIC**, President of Serbia, was also present during the negotiations. The Kosovo Albanians were represented by the KLA and a delegation of Kosovo Albanian political and civic leaders. Despite intensive negotiations over several weeks, the peace talks collapsed in mid-March 1999.

100. During the peace negotiations in France, the violence in Kosovo continued. In late February and early March, forces of the FRY and Serbia launched a series of offensives against dozens of predominantly Kosovo Albanian villages and towns. The FRY military forces were comprised of elements of the VJ's 3rd Army, specifically the 52nd Corps, also known as the Pristina Corps, and several brigades and regiments under the command of the Pristina Corps. At all times relevant to this indictment, the Chief of the General Staff of the VJ, with command responsibilities over the 3rd Army and ultimately over the 52nd Corps, was **Colonel General Dragoljub OJDANIC**. At all times relevant to this indictment, the Supreme Commander of the VJ was **Slobodan MILOSEVIC**.

101. The police forces taking part in the actions in Kosovo were members of the MUP. At all times relevant to this indictment, all police forces employed by or working under the authority of the MUP were commanded by **Vlajko STOJILJKOVIC**, Minister of Internal Affairs of Serbia. Under the FRY Law on Defence, those police forces engaged in military operations during a state of war or imminent threat of war are subordinated to the command of the VJ, whose commanders, at all times relevant to this indictment, were **Colonel General Dragoljub OJDANIC** and **Slobodan MILOSEVIC**.

102. During their offensives, forces of the FRY and Serbia acting in concert engaged in a well-planned and co-ordinated campaign of destruction of property owned by Kosovo Albanian civilians. Towns and villages were shelled, homes, farms, and businesses were burned, and personal property destroyed. As a result of these orchestrated actions, towns, villages, and entire regions were made uninhabitable for Kosovo Albanians. Additionally, forces of the FRY and Serbia harassed, humiliated, and degraded Kosovo Albanian civilians through physical and verbal abuse. The Kosovo Albanians were also persistently subjected to insults, racial slurs, degrading acts based on ethnicity and religion, beatings, and other forms of physical mistreatment.

103. The unlawful deportation and forcible transfer of thousands of Kosovo Albanians from their homes in Kosovo involved well-planned and co-ordinated efforts by the leaders of the FRY and Serbia, and forces of the FRY and Serbia, all acting in concert. Actions similar in nature took place during the wars in Croatia and Bosnia and Herzegovina between 1991 and 1995. During those wars, Serbian military, paramilitary and police forces forcibly expelled and deported non-Serbs in Croatia and Bosnia and Herzegovina from areas under Serbian control utilising the same method of operations as were used in Kosovo in 1999: heavy shelling and armed attacks on villages; widespread killings; destruction of non-Serbian residential areas and cultural and religious sites; and forced transfer and deportation of non-Serbian populations.

104. On 24 March 1999, NATO began launching air strikes against targets in the FRY. The FRY issued decrees of an imminent threat of war on 23 March 1999 and a state of war on 24 March 1999. After the air strikes commenced, forces of the FRY and Serbia intensified their widespread or systematic campaign and forcibly expelled hundreds of thousands of Kosovo Albanians from Kosovo.

105. In addition to the forced expulsions of Kosovo Albanians, forces of the FRY and Serbia also engaged in a number of killings of Kosovo

94. After concluding his term as President of Serbia, **Slobodan MILOSEVIC** was elected President of the FRY on 15 July 1997, and assumed office on 23 July 1997. Thereafter, elections for the office of the President of Serbia were held; **Milan MILUTINOVIC** ran as the SPS candidate and was elected President of Serbia on 21 December 1997. In 1996, 1997 and 1998, **Nikola SAINOVIC** was re-appointed Deputy Prime Minister of the FRY. In part through his close alliance with **Milan MILUTINOVIC**, **Slobodan MILOSEVIC** was able to retain his influence over the Government of Serbia.

95. Beginning in late February 1998, the conflict intensified between the KLA on the one hand, and forces of the FRY and Serbia, on the other hand. A number of Kosovo Albanians and Kosovo Serbs were killed and wounded during this time. Forces of the FRY and Serbia engaged in a campaign of shelling predominantly Kosovo Albanian towns and villages, widespread destruction of property, and expulsions of the civilian population from areas in which the KLA was active. Many residents fled the territory as a result of the fighting and destruction or were forced to move to other areas within Kosovo. The United Nations estimates that by mid-October 1998, over 298,000 persons, roughly fifteen percent of the population, had been internally displaced within Kosovo or had left the province.

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105. In addition to the forced expulsions of Kosovo Albanians, forces of the FRY and Serbia also engaged in a number of killings of Kosovo

Albanians since 24 March 1999. Such killings occurred at numerous locations, including, but not limited to, Bela Crkva/Bellacërkvë, Mala Krusa/Krushë e Vogël, Velika Krusa/Krushë e Madhe, Dakovica/Gjakovë, Padaliste/Padalishitë, Izbica/Izbicë, Vucitrn/Vushtrri, Meja/Mcjë, Dubrava prison, Suva Reka/Suharekë, and Kacanik.

106. By June 1999, approximately 800,000 Kosovo Albanians, about one-third of the entire Kosovo Albanian population, had been expelled from Kosovo. Thousands more were believed to be internally displaced. An unknown number of Kosovo Albanians were killed in the operations conducted by forces of the FRY and Serbia.

107. On 3 June 1999, the FRY and Serbia accepted a document of principles towards a resolution of the crisis in Kosovo, which was presented to their representatives by Martti Ahtisaari, representing the European Union, and Viktor Chernomyrdin, Special Representative of the President of the Russian Federation. That document, which was followed by Security Council resolution 1244 (1999), provided for a political solution to the Kosovo crisis, including an immediate end to violence and a rapid withdrawal of FRY and Serbian military, police and paramilitary forces, and the deployment of international civil and security presence in Kosovo, under United Nations auspices.

108. On 9 June 1999, the Military Technical Agreement was signed between NATO, represented by General Sir Michael Jackson, and representatives of the VJ and the MUP, providing for the withdrawal of all forces of the FRY and Serbia from Kosovo. Under the terms of the Military Technical Agreement, the NATO bombing campaign against targets in the FRY would terminate upon the complete withdrawal of forces of the FRY and Serbia. On 20 June 1999, KFOR, the Kosovo Force, announced that the withdrawal of forces of the FRY and Serbia from the territory of Kosovo was complete.

Carla del Ponte
Prosecutor

Dated This Sixteenth Day of October 2001
The Hague
The Netherlands

Schedule A
Persons Known by Name Killed at Racak - 15 January 1999

<u>Name</u>	<u>Approximate Age</u>	<u>Sex</u>
ASIJANI, Lute	30	Female
AZEMI, Banush		Male
BAJRAMI, Ragip	34	Male
BEQIRI, Halim	13	Male
BEQIRI, Rizah	49	Male
BEQIRI, Zenel	20	Male
BILALI, Lutfi		Male
EMINI, Ajet		Male
HAJRIZI, Bujar		Male
HAJRIZI, Myfail	33	Male
HALLI, Skender		Male
HYSENAJ, Haqif		Male
IBRAHIMI, Hajriz		Male

IMERI, Murtez		Male
IMERI, Nazmi		Male
ISMALJI, Meha		Male
ISMALJI, Muhamet		Male
JAKUPI, Ahmet		Male
JAKUPI, Esref	40	Male
JAKUPI, Hajriz		Male
JAKUPI, Mehmet		Male
JAKUPI, Xhelal		Male
JASHARI, Jasher	24	Male
JASHARI, Raif	20	Male
JASHARI, Shukri	18	Male
LIMANI, Fatmir	35	Male
LIMANI, Nexhat	19	Male
LIMANI, Salif	23	Male
MEHMETI, Bajram		Male
MEHMETI, Hanumshah		Female
METUSHI, Arif		Male
METUSHI, Haki	70	Male
MUSTAFA, Ahmet		Male
MUSTAFA, Aslani	34	Male
MUSTAFA, Muhamet	21	Male
OSMANI, Sadik	35	Male
SALIHU, Jashar	25	Male
SALIHU, Shukri	18	Male
SHABANI, Bajrush	22	Male
SMAJLAI, Ahmet	60	Male
SYLA, Shercmet	37	Male
SYLA, Shyqeri		Male
XHELADINI, Bajram		Male
ZYMERI, Njazi		Male

Schedule B

Persons Known by Name Killed at Bela Crkva / Bellacërkvë - 25 March 1999

<u>Name</u>	<u>Approximate Age</u>	<u>Sex</u>
BEGAJ, Abdullah	25	Male
BERISHIA, Murat	60	Male
GASHI, Fadil	46	Male
MORINA, Musa	65	Male
POPAJ, Abdullah	18	Male
POPAJ, Agon	14	Male
POPAJ, Alban	21	Male
POPAJ, Bedrush	47	Male
POPAJ, Belul	14	Male
POPAJ, Ethem	46	Male
POPAJ, Hazer	77	Male
POPAJ, Hlyshi	37	Male
POPAJ, Irfan	41	Male
POPAJ, Isuf	76	Male
POPAJ, Kreshnik	18	Male
POPAJ, Lindrit	18	Male
POPAJ, Mehmet	46	Male
POPAJ, Mersel	53	Male
POPAJ, Nazmi	45	Male
POPAJ, Nisim	35	Male
POPAJ, Rrustem		Male
POPAJ, Sahid	40	Male
POPAJ, Sedat	47	Male
POPAJ, Shendet	17	Male
POPAJ, Vehap	58	Male
POPAJ, Xhavit	32	Male
SPAHIU, FNU (daughter of Xhemal)		Female
SPAHIU, FNU (daughter of Xhemal)		Female
SPAHIU, FNU (daughter of Xhemal)		Female
SPAHIU, FNU (daughter of Xhemal)		Female
SPAHIU, FNU (wife of Xhemal)		Female

SPAHIU, Xhemal		Male
ZIHUNIQI, Abein	37	Male
ZIHUNIQI, Agim	51	Male
ZIHUNIQI, Bajram	51	Male
ZIHUNIQI, Biladh	67	Male
ZIHUNIQI, Clirim	40	Male
ZIHUNIQI, Dardan	6	Male
ZIHUNIQI, Dardane	8	Female
ZIHUNIQI, Destan	68	Male
ZIHUNIQI, Eshref	55	Male
ZIHUNIQI, Fatos	42	Male
ZIHUNIQI, FNU	4	Male
ZIHUNIQI, FNU (wife of Clirim)		Female
ZIHUNIQI, FNU (son of Fatos)	16	Male
ZIHUNIQI, Hysni	70	Male
ZIHUNIQI, Ibrahim	68	Male
ZIHUNIQI, Kasim	33	Male
ZIHUNIQI, Medi	55	Male
ZIHUNIQI, Muhammet	70	Male
ZIHUNIQI, Muharrem	30	Male
ZIHUNIQI, Qamil	77	Male
ZIHUNIQI, Qemal	59	Male
ZIHUNIQI, Reshit	32	Male
ZIHUNIQI, Shemsi	52	Male

Schedule C

Persons Known by Name Killed at Mali Krusa / Krushë e Vogel – Velika Krusa / Krushë e Madhe - 26 March 1999

<u>Name</u>	<u>Approximate Age</u>	<u>Sex</u>
ASLLANI, Adem	68	Male
ASLLANI, Asim	34	Male
ASLLANI, Feim	30	Male
ASLLANI, Muharrem	66	Male
ASLLANI, Nexhat	27	Male
ASLLANI, Nisret	33	Male
ASLLANI, Perparim	26	Male

AVDYLLI, Bali	72	Male
AVDYLLI, Enver	28	Male
BATUSHA, Ahmet	38	Male
BATUSHA, Amrush	32	Male
BATUSHA, Asllan	46	Male
BATUSHA, Avdi	45	Male
BATUSHA, Bekim	22	Male
BATUSHA, Beqir	68	Male
BATUSHA, Burim	18	Male
BATUSHA, Enver	22	Male
BATUSHA, Feim	23	Male
BATUSHA, FNU (son of Ismail)	19	Male
BATUSHA, FNU (son of Zaim)	20	Male
BATUSHA, Haxhi	28	Male
BATUSHA, Lirim	16	Male
BATUSHA, Milaim	32	Male
BATUSHA, Muharrem	69	Male
BATUSHA, Njazi	39	Male
BATUSHA, Osman	65	Male
BATUSHA, Sefer	19	Male
BATUSHA, Sejdi	68	Male
BATUSHA, Skifer	22	Male
BATUSHA, Sulejman	46	Male
BATUSHA, Zaim	50	Male
HAJDARI, Abaz	40	Male
HAJDARI, Abedin	17	Male
HAJDARI, Halil	42	Male
HAJDARI, Halim	70	Male
HAJDARI, Hysni	20	Male
HAJDARI, Marsel	17	Male
HAJDARI, Nazim	33	Male
HAJDARI, Qamil	46	Male
HAJDARI, Rasim	25	Male
HAJDARI, Sahit	36	Male

HAJDARI, Selajdin	38	Male
HAJDARI, Shani	40	Male
HAJDARI, Vesel	19	Male
HAJDARI, Zenun	28	Male
LIMONI, Avdyl	45	Male
LIMONI, Limon	69	Male
LIMONI, Luan	22	Male
LIMONI, Nehbi	60	Male
RAMADANI, Afrim	28	Male
RAMADANI, Asllan	34	Male
RAMADANI, Bajram	15	Male
RAMADANI, FNU (son of Hlysen)	23	Male
RAMADANI, Hlysen	62	Male
RAMADANI, Murat	60	Male
RAMADANI, Ramadan	59	Male
RAMADANI, Selajdin	27	Male
RASHIKAJ, FNU	16	Male
RASHIKAJ, FNU	18	Male
RASHIKAJ, Refki	17	Male
SHEHU, Adnan	20	Male
SHEHU, Arben	20	Male
SHEHU, Arif	36	Male
SHEHU, Bekim	22	Male
SHEHU, Burim	19	Male
SHEHU, Destan	68	Male
SHEHU, Din	68	Male
SHEHU, Dritan	18	Male
SHEHU, Fadil	42	Male
SHEHU, Flamur	15	Male
SHEHU, FNU (son of Haziz)	20	Male
SHEHU, FNU (son of Sinan)	18	Male
SHEHU, Haxhi	25	Male
SHEHU, Haziz	42	Male
SHEHU, Ismail	68	Male

SHEHU, Ismet	40	Male
SHEHU, Mehmet	13	Male
SHEHU, Mentor	18	Male
SHEHU, Myftar	44	Male
SHEHU, Nahit	15	Male
SHEHU, Nehat	22	Male
SHEHU, Nexhat	38	Male
SHEHU, Sahit	23	Male
SHEHU, Sali	44	Male
SHEHU, Sami	24	Male
SHEHU, Sefer	44	Male
SHEHU, Shani	34	Male
SHEHU, Shefqet	38	Male
SHEHU, Sinan	50	Male
SHEHU, Veli	28	Male
SHEHU, Vesel	19	Male
SHEHU, Xhafer	38	Male
SHEHU, Xhavit	20	Male
SHEHU, Xhelal	13	Male
ZYLFIU, Afrim	22	Male
ZYLFIU, FNU (son of Halim)	18	Male
ZYLFIU, Halim	60	Male
ZYLFIU, Hamdi	62	Male
ZYLFIU, Hamit	22	Male
ZYLFIU, Hysen	50	Male
ZYLFIU, Njazim	24	Male

Schedule D
Persons Killed at Dakovica / Gjakove - 26 March 1999

<u>Name</u>	<u>Approximate Age</u>	<u>Sex</u>
BEGOLLI, Sylejman	48	Male
BYTYQI, Arif	72	Male
BYTYQI, Urim	38	Male
DERVISHDANA, Emin	31	Male
DERVISHDANA, Fahri	37	Male

DERVISHIDANA, Zenel 59 Male

Schedule F

Persons Known by Name Killed at Padalishtë / Padalishtë - 26 March 1999

<u>Name</u>	<u>Approximate Age</u>	<u>Sex</u>
IMERAJ, Afrim	2	Male
IMERAJ, Ardiana	13	Female
IMERAJ, Arijeta	11	Female
IMERAJ, Avdyl	67	Male
IMERAJ, Beke	53	Male
IMERAJ, Feride	21	Female
IMERAJ, Fetije	42	Female
IMERAJ, Florije	19	Female
IMERAJ, Hasan	63	Male
IMERAJ, Mihane	72	Female
IMERAJ, Mona	72	Female
IMERAJ, Muhamet	19	Male
IMERAJ, Nexhmedin		Male
IMERAJ, Rab	30	Male
IMERAJ, Rustem	73	Male
IMERAJ, Sabahat	21	Male
IMERAJ, Shehide	70	Female
IMERAJ, Violeta	17	Female
IMERAJ, Xhyfidane	14	Female

Schedule F

Persons Known by Name Killed at Izbica / Izbicë - 28 March 1999

<u>Name</u>	<u>Approximate Age</u>	<u>Sex</u>
ALUSHI, Jetullah	93	Male
AMRUSHI, Aslan (Q)		Male
BAJRA, Aslan	60	Male
BAJRA, Bajram	62	Male
BAJRA, Bajram C.		Male
BAJRA, Bajram S.	68	Male
BAJRA, Brahim	81	Male
BAJRA, Fazli	60	Male

BAJRA, Ilaz	70	Male
BAJRA, Sami		Male
BAJRAKTARI, Bislim		Male
BAJRAKTARI, Hajdar		Male
BEHRAMI, Demush	60	Male
BEHRAMI, Muharnet	76	Male
BEHRAMI, Nuredin	85	Male
DAJAKU, Asllan		Male
DANI, Dibran (A)		Male
DERVISII, Sali	61	Male
DERVISHI, Bajram		Male
DERVISHI, Ilaz	73	Male
DOCI, Musli		Male
DOQI, Ilamdi	42	Male
DRAGA, Ali	65	Male
DRAGA, Cen	68	Male
DRAGA, Hajriz	43	Male
DRAGA, Ismet		Male
DRAGA, Murat	68	Male
DRAGA, Rahim	70	Male
DRAGA, Rustem	81	Male
DRAGAJ, Zade		Male
DURAKU, Avdullah	55	Male
DURAKU, Bel (A)	81	Male
DURAKU, Dibran	65	Male
DURAKU, Rexhep	87	Male
EMRA, Muhamet		Male
FETAHU, Lah	67	Male
GASHII, Ibrahim	70	Male
GASHII, Ram		Male
HAJDARI, Halil		Male
HAJRA, Mehmet	65	Male
HALITI, Haliti		Male

HAXHA, Fejz	75	Male
HOTI, Ilazir	67	Male
HOTI, Qerim	42	Male
HOTI, Rifat	54	Male
HOTI, Rrustem	70	Male
HOTI, Tahir		Male
HOTI, Muhamet		Male
HOTI, Sadik	66	Male
HOTI, Shefqet (A)		Male
HOTI, Vehbi		Male
ISUFI, Zenel		Male
JETULLAHU, Beqir	27	Male
KAJTAZDI, Kajtas Z		Male
KELMENDI, Bajram		Male
KELMENDI, Jetullah		Male
KOTOORI, Ram		Male
KOTOORI, Brahim		Male
KOTOORI, Ilajzer		Male
KRASNIQI, Deli	77	Male
KRASNIQI, Mustaf		Male
KRASINIQI, Rrahim	69	Male
KUQICA, Azem		Male
LOSHI, Sami		Male
LOSHI, Jashar		Male
LOSHI, Selman		Male
MORINA, Halil	38	Male
MURSELI, Sokol (H)		Male
MUSLIU, Beqir	45	Male
MUSLIU, Ilaz	73	Male
MUSLIU, Shaban	87	Male
MUSLIU, Halit	62	Male
MUSLIU, Naim	23	Male
MUSLIU, Mehmet	46	Male

MUSTAFA, Hasan	70	Male
OSMANI, Azem	75	Male
OSMANI, Fatmir		Male
OSMANI, Hetem	70	Male
OSMANI, Muharrem	90	Male
QAKA, Pajazit (D)		Male
QALLAPEKU, Sabit		Male
QELAJ, Ismajl		Male
QELAJ, Rexhep	72	Male
QELAJ, Metush	68	Male
QUPEVA, Hamz	49	Male
RACI, Ramadan	56	Male
RAMAJ, Halit	60	Male
REXHIEPI, Muj		Male
SEJDIU, Mustaf		Male
SHABANI, Azem		Male
SHALA, Hysen A	65	Male
SHALA, Idriz		Male
SHALA, Isuf		Male
SHALA, Isuf		Male
SHALA, Muj	62	Male
SHALA, Sali		Male
SHALA, Zymer	63	Male
SHALA, Halim	63	Male
SHALA, Hijraz		Male
SHERIFI, Sadik		Male
SHPATI, Zeqir		Male
SPAHIU, Rizah		Male
SYLA, Ram		Male
TAHIRI, Ibrahim	83	Male
TEMAJ, Gani		Male
TEMAJ, Hamdi		Male
THAQI, Hamit B.	70	Male

THAQI, Ram H.		Male
THAQI, Ajet (D)		Male
THAQI, Sheremet		Male
UKA, Uke	80	Male
VELIQI, Zenel	75	Male
XHEMAJLI, Idriz	73	Male
XHEMAJLI, Qazim		Male
ZEKA, Jahir		Male
ZEKA, Milazim		Male
Unidentified Male		Male

Burned To Death at Izbica / Izbicë - 28 March 1999

FEJZA, Zyrc	61	Female
OSMANI, Zoje	70	Female

Schedule G
Persons Killed at Dakovica / Gjakovë - 2 April 1999

<u>Name</u>	<u>Approximate Age</u>	<u>Sex</u>
CAKA, Dalina	14	Female
CAKA, Delvina	6	Female
CAKA, Diona	2	Female
CAKA, Valbona	34	Female
GASHI, Hysen	50	
HAXHIAVIDIJA, Doruntina	8	Female
HAXHIAVIDIJA, Egzon	5	
HAXHIAVIDIJA, Rina	4	Female
HAXHIAVIDIJA, Valbona	38	Female
HOXHA, Flaka	15	Female
HOXHA, Shahindere	55	Female
NUÇ I, Manushe	50	Female
NUÇ I, Shirine	70	Female
VEJSA, Arlind	5	Male
VEJSA, Dorina	10	Female
VEJSA, Fetije	60	Female
VEJSA, Marigona	8	Female

VEJSA, Rita	2	Female
VEJSA, Sihana	8	Female
VEJSA, Tringa	30	Female

Schedule H

Persons Known by Name Killed at Vucitrn / Vushtrri - 2 May 1999

<u>Name</u>	<u>Approximate Age</u>	<u>Sex</u>
ABAZI, Musa	55	Male
ADEMI, H. Rrahman	26	Male
ALIU, Z. Ramadan	38	Male
ALIU, B. Remzi	55	Male
BEKTESHI, M. Afrim	23	Male
BEQIRI, Nezir	54	Male
BUNJAKU, M. Hysni	21	Male
FEJZULLAHU, Qamile	84	Female
FERATI, Xh. Istref	27	Male
FERATI, Milazim	20	Male
FERATI, Rifat	36	Male
FERIZI, M. Bislim	63	Male
FERIZI, B. Mihrije	63	Male
FERIZI, B. Ruzhdi	35	Male
GERGURI, B. Agim	38	Male
GERGURI, Sh. Enver	50	Male
GERGURI, S. Musli	45	Male
GERXHALIU, Fahri		Male
GERXHALIU, A. Ilaki	39	Male
GERXHALIU, H. Kadri	42	Male
GERXHALIU, H. Shaban	49	Male
GERXHALIU, I. Skender	43	Male
GERXHALIU, H. Zejnullah	42	Male
GERGURI, A Shukri	44	Male
GERGURI, M. Skender	26	Male
GERGURI, Sh. Naman	39	Male
GERGURI, N. Ramush	63	Male
GERXHALIU, B. Avdyl	43	Male
GERXHALIU, F. Avdyl	47	Male

GERXHALIU, B. Bajram	40	Male
GERXHALIU, A. Fatmir		Male
GERXHALIU, U. Fatmir	35	Male
GERXHALIU, I. Imer	42	Male
GERXHALIU, Sh. Nuhi	25	Male
GERXHALIU, H. Sejdi	39	Male
GERXHALIU, N. Xhevdet	18	Male
GJATA, Meriton	23	Male
GJATA, Sevdije	48	Female
GJATA, Tefik	44	Male
HAXHAJ, Bahri	28	Male
HAZIRI, Natije	27	Female
HYSENI, R. Agim	38	Male
HYSENI, B. Ali		Male
HYSENI, K. Beqir	40	Male
HYSENI, Kada	86	Female
HYSENI, Q. Hysen	26	Male
HYSENI, Q. Hysen	25	Male
HYSENI, D. Qazim	24	Male
HYSENI, Ramadan	18	Male
HYSENI, Rahman	61	Male
HYSENI, Q. Xhevdet	24	Male
IBISII, H. Selman	63	Male
IBISII, I. Sylejman		Male
IBISII, Rahim	72	Male
IBISII, Tafil	55	Male
KURTI, Bajram	43	Male
KONJUH, B. Afrim	29	Male
KONJUH, Z. Rexhep	40	Male
KRASNIQI, B. Shaban ⁶⁴	64	Male
KRASNIQI, R. Syle	70	Male
LUSHAKU, A. Ibadete	26	Female
LUSHAKU, H. Shehide	89	Female
MAXHUNI, Z. Driton	32	Male
MAXHUNI, F. Sabri	34	Male

MERNICA, Sh. Ali	49	Male
MORINA, Sh. Remzi	35	Male
MULAKU, A. Ekrem	32	Male
MULAKU, L. Xhavit	30	Male
MULI, I. Gani	21	Male
MULI, N. Asllan	49	Male
MULI, N. Ilazir	52	Male
MULIQI, L. Bajram		Male
MUSA, F. Islam	56	Male
MUSA, Kadrush	37	Male
MUSA, H. Nexhmi	54	Male
MUSLIU, M. Mehdi	24	Male
MUSLIU, Ragip		Male
MUZAQI, I. Besim	32	Male
MUZAQI, H. Salih	37	Male
PARDUZI, Shehide	84	Female
PECI, Murat		Male
POPOVA, A. Ismajl	29	Male
PRRONAJ, Sh. Enver	32	Male
PRRONAJ, Sh. Zymer	35	Male
RASHICA, I. Ali	45	Male
RASHICA, I. Deli	48	Male
RASHICA, S. Eshref	38	Male
REXHIEPI, I. Ahmet		Male
REXHIEPI, Ilaz		Male
REXHIEPI, Ismet	38	Male
SADIKU, H. Agim	23	Male
SHALA, R. Hamdi	26	Male
SFARQA, Shehide		Female
SFARQA, Sh. Sherif	43	Male
SFARQA, S. Skender	39	Male
TALIBI, Fetah	39	Male
TERNAVA, Fehmi	39	Male
TIKU, A. Sahit	68	Male
VERSHIJEVICI, Azemine	75	Male

VIDISHIQI, Faik	35	Male
XHAFI, Driton		Male
XHAFI, Nazif	55	Male
XHAFI, S. Veli	45	Male
ZHEGROVA, R. Naser	34	Male

Schedule I
Persons Known by Name Killed at Meja / Mejë - 27 April 1999

Name	Approximate Age	Sex
DEDA, Linton	16	Male
DEDA, Mark	47	Male
DEDA, Pashk	42	Male
DUZHMANI, Kole		Male
GAXHERRI, Brahim	38	Male
KABASHI, Andrush	18	Male
KABASHI, Arben	14	Male
KABASHI, Nikoll	32	Male
MALAJ, Blerim	15	Male
MALAJ, Vat	37	Male
MARKAJ, Bekim	23	Male
MARKAJ, Mark	65	Male
MARKAJ, Pashuk	38	Male
MARKAJ, Petrit	27	Male
MARKAJ, Prend	60	Male
NDREJAJ, Pashk	44	Male
PJETRI, Skender	27	Male
SELMANI, Sherif	66	Male

Schedule J
Persons Known by Name Killed at Dubrava / Dubravë Prison – 22 to 23 May 1999

Name	Sex
ADEMAJ, Hysen	Male
AGUSHI, Zahir	Male
AZEMI, Xhevet	Male

BRAHMI, Sahit	Male
BISTRICA, Xhevdid	Male
DOMONAGA, Ilir	Male
ELSHANI, Agim	Male
GASHI, Avni	Male
GJINI, Gjon	Male
GUTA, Napolon	Male
GUTA Muhedin	Male
HASAN RAMAJ, Zek	Male
(KCIRAJ), Zef	Male
KRASNIQI, Januz	Male
LEKAJ, Gani	Male
MEMLJA, Ramiz	Male
MULAJ, Mcte	Male
NIKOLI BIBAJ, Valentin	Male
PAQARIZI, Besim	Male
PROJAGJI, Lush	Male
QAMPUZ, Bashkim	Male
ZOSJA, Shaban	Male
RAMUSHI Zahir	Male
SPAHIA, Fejz	Male
SYLAJ, Dervish	Male
TAFILAJ, Muse	Male

Schedule K

Persons Known by Name Killed at Suva Reka / Suharekë - 26 March 1999

<u>Name</u>	<u>Approximate Age</u>	<u>Sex</u>
BERISHA, Afrim	24	Male
BERISHA, Altin	11	Male
BERISHA, Arta	18	Female
BERISHA, Avdi	43	Male
BERISHA, Besim	26	Male
BERISHA, Bujar	40	Male

BERISHA, Dafina	15	Female
BERISHA, Dorantina	4	Female
BERISHA, Drilon	13	Male
BERISHA, Edon	12	Male
BERISHA, Eron	1	Male
BERISHA, Fatime	37	Female
BERISHA, Fatime	48	Female
BERISHA, Fatmire	22	Female
BERISHA, Faton	27	Male
BERISHA, Flora	38	Female
BERISHA, Hajbin	37	Male
BERISHA, Hamdi	54	Male
BERISHA, Hanumusha	9	Female
BERISHA, Hanumusha	81	Female
BERISHA, Ilava	63	Female
BERISHA, Herolinda	13	Female
BERISHA, Ismet	2	Male
BERISHA, Kushtrin	11	Male
BERISHA, Lirije	24	Female
BERISHA, Majlinda	15	Female
BERISHA, Merita	10	Female
BERISHA, Mevlude	26	Female
BERISHA, Mihrije	26	Female
BERISHA, Mirat	7	Male
BERISHA, Musli	63	Male
BERISHA, Nefije	54	Female
BERISHA, Nexhat	43	Male
BERISHA, Nexhmedin	37	Male
BERISHA, Redon	1	Male
BERISHA, Sait	83	Male

BERISHA, Sebahate	25	Female
BERISHIA, Sedat	45	Male
BERISHA, Sherine	17	Female
BERISHA, Sofia	58	Female
BERISHIA, Vesel	61	Male
BERISHA, Vlorjan	17	Male
BERISHA, Zana	13	Female
BERISHA, Zefihe	50	Female

Schedule L

Persons Known by Name Killed at Kacanik - March to May 1999

Kotlina / Kotlinë - 24 March 1999

KUQI, Idriz	55	Male
KUQI, Ismail	21	Male
KUQI, Nexhadi	31	Male
KUQI, Xhemjal	22	Male
LOKU, Agim	31	Male
LOKU, Atan	28	Male
LOKU, Garip	47	Male
LOKU, Ibush	20	Male
LOKU, Ismajl	28	Male
LOKU, Izijah	19	Male
LOKU, Milaim	34	Male
LOKU, Naser R.	17	Male
LOKU, Sabit	20	Male
LOKU, Zymcr	67	Male
REXHA, FNU	16	Male
VLASHI, Salim.	42	Male
VLASHI, Vesel	55	Male

Slatina / Slatinë 13 April 1999

CAKA, Ilir Osman	15	Male
CAKA, Jakup Mustaf	37	Male
CAKA, Mahmut Hasan	45	Male
DEIDA, Qemajl	47	Male
ELFEZI, Nazmi	29	Male

ELEZI, Vesel	41	Male
LAMA, Ibrahim	52	Male
LAMA, Ilcbib	18	Male
LAMA, Ibrahim	52	Male
SALIHU, Izahir Ilaz	22	Male
SALIHU, Kernajl Ilaz	40	Male
SALIHU, Sabri Ilaz	38	Male
SHUQERIBER, Haliali	46	Male
<u>Stagovo / Stagovë - 21 May 1999</u>		
BELA, Baki	72	Male
DASHI, Hamdi	53	Male
DASHI, Ibrahim Avdi	31	Male
DASHI, Ramadan	58	Male
ELEZI, Bahrije R.	56	Female
GUDAQI, Fitim	7	Male
GUDAQI, Hanife	77	Female
GURI, Sevdije	54	Female
JALIA, Elife	83	Female
JALIA, Ramush	75	Male
MANI, Fahri	56	Male
RRUSHI, Ibush	59	Male
<u>Dubrava / Lisnaje 25 May 1999</u>		
QORRI, Arton Hajrush	17	Male
QORRI, Fatije Hajrush	7	Female
QORRI, Hajrush Mehmet		Male
QORRI, Rexhep Zejnulla		Male
TUSHA, Ali	17	Male
TUSHA, Xhemajl	39	Male
VISHI, Rrahim Beqir		Male
VISHI, Milaim Misim		Male

International Criminal Tribunal
for the former Yugoslavia



Tribunal Pénal International
pour l'ex Yougoslavie

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1 Monday, 29 October 2001

2 [Motion Hearing]

3 [Open session]

4 [The accused entered court]

5 --- Upon commencing at 9.32 a.m.

6 JUDGE MAY: Yes. Let the Registrar call the case.

7 THE REGISTRAR: Good morning, Your Honours. Case number

8 IT-99-37-PT and case number IT-01-50-1, the Prosecutor of the Tribunal

9 against Slobodan Milosevic.

10 JUDGE MAY: I'll hear the appearances, please.

11 MR. RYNEVELD: If it please the Court. Dirk Ryneveld, Senior

12 Trial Attorney for the Kosovo indictment, along with Madam Prosecutor

13 Carla Del Ponte and my colleague Hildegard Uertz-Retzlaff for the Croatia

14 indictment.

15 JUDGE MAY: Yes, Mr. Kay.

16 MR. KAY: Stephen Kay, Queen's Counsel of the bar of England and

17 Wales.

18 MR. WLADIMIROFF: Michail Wladimiroff, member of the bar of the

19 Netherlands.

20 MR. TAPUSKOVIC: [Interpretation] Branislav Tapuskovic, member of

21 the bar from Belgrade and an attorney from Belgrade, a member of the bar

22 of Serbia.

23 JUDGE MAY: The purpose of this hearing is to deal with four

24 matters which we will deal with in this order: First of all, the hearing

25 of argument on a number of motions; secondly, the reading of the Kosovo

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1 indictment and the accused to enter a plea on one count if necessary; the

2 Initial Appearance on the Croatia indictment; and finally a Status

3 Conference.

4 As to time, we have available today and, if necessary, tomorrow
5 morning. However, the reading of the indictments is going to take some
6 time, but nonetheless I hope it may be possible to finish today.

7 We begin with the motions hearing, and the matters to be
8 considered are these: First of all, a Prosecution motion for leave to
9 file a second amended indictment, and then various preliminary motions and
10 documents from the accused together with a brief on jurisdiction from the
11 amicus curiae.

12 We'll deal with these motions in this way: that first we will hear

13 the arguments of the Prosecution and the amicus on the motion to amend the
14 indictment; we will next hear the arguments of the amicus and then the
15 Prosecution on the preliminary motions; and finally we will hear the
16 accused on all motions.

17 We begin then with the Prosecution motion for leave to file a
18 second amended indictment, this is under Rule 50 of the Rules of Procedure
19 and Evidence, which provides that the Prosecutor may amend an indictment
20 after the assignment of a case to a Trial Chamber with the leave of the
21 Chamber, after having heard the parties.

22 It may be of assistance if I summarise the issues which are raised

23 under this motion. The motion states that the reasons for the amendment
24 are as follows: First, to reflect the link between killings in Kosovo and
25 the bodies found in mass graves near Belgrade; second, to add an

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1 additional count of forcible transfer - this relates to the Kosovo
2 Albanians who were internally displaced within Kosovo rather than actually
3 deported; thirdly, to break down the allegation of persecution in Count
4 4 - this amendment seeks to particularise the various persecutions and to
5 replace the earlier very general allegation.

6 Fourth, to add a new section on individual criminal responsibility
7 under Article 7(1) of the Statute. This is said to be an order to specify
8 what the motion calls "common purpose liability." As the Chamber

9 understands it, the amendment seeks to clarify the Prosecution case in
10 this respect and spell out that the Prosecution rely on a joint criminal
11 enterprise in which each of the accused participated. Fifthly, to add
12 three new sites from which the deportations took place and to expand on
13 others, adding more background, and this includes a number of allegations
14 of sexual assault and destruction which were carried out during the
15 deportation operations.

16 There are also various stylistic changes and the rearrangement of
17 some parts of the material.

18 Now, that's intended to be a brief summary of the scope of the
19 amendments, which on the whole, speak for themselves.

20 Now, I'm going to turn to the amicus first.

21 Mr. Wladimiroff, we got your letter of last Friday stating that
22 you wouldn't file a brief on this motion, but there might be some
23 procedural issues to be raised. Is there anything you want to raise on
24 this?

25 MR. WLADIMIROFF: We have no further observations at this stage,

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1 Your Honour, but maybe later on we may come back to the procedural aspects
2 of any amendment if given leave by the Court.

3 JUDGE MAY: We could hear you better if you were on your feet.

4 MR. WLADIMIROFF: I apologise.

5 JUDGE MAY: No. We heard that. So you don't want to make any
6 points about the amendment.

7 MR. WLADIMIROFF: Not at this stage, Your Honour.

8 JUDGE MAY: But there may be some subsequent issues which arise
9 out of it.

10 MR. WLADIMIROFF: That's right. That's right.

11 JUDGE MAY: Well, we can deal with them in the Status
12 Conference --

13 MR. WLADIMIROFF: That's right.

14 JUDGE MAY: -- when we will be timetabling the indictment.

15 MR. WLADIMIROFF: That's what we had in mind, Your Honour. Thank
16 you very much.

17 JUDGE MAY: Thank you. Very well. We will hear any submissions
18 from the accused on this issue in due course.

19 We go on to deal next with the preliminary motions, and in this
20 connection, we have the following motions and other documents, all of
21 which we've read: A motion from the accused of the 9th of August of which
22 he's asked us to consider paragraph 8 only, which we've done; a response
23 from the Prosecution filed on the 16th of August; a presentation, as it
24 was termed, filed by the accused on the 30th of August, relating mainly to
the alleged illegality of the Tribunal. This we will treat also as a

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1 motion. The brief of the amicus curiae on jurisdiction filed on the 19th
2 of October. This adopts and expands the arguments of the accused. And
3 finally, the response from the Prosecution of the 26th of October.

4 As to the argument, we'll hear the amicus first, then the
5 Prosecutor, and finally, the accused.

6 Who wants to start for the amicus?

7 MR. WLADIMIROFF: Thank you, Your Honour. Each of us will deal
8 with matters raised in the brief. We have not much to say in addition to
9 what we already wrote in our brief. We have some observations to make,
10 and I will start to do so.

11 First of --

12 JUDGE MAY: I should say, just to make it clear, that we've had
13 those submissions, for which we are grateful. We have had the chance to
14 read them, so there is no reason to repeat either what you've said or
15 indeed what the Prosecutor has said.

16 MR. WLADIMIROFF: That's exactly what we had in mind, Your
17 Honour. We are not here to repeat things that have already been written
18 or said.

19 The first observation I want to make deals with the position of
20 the amicus curiae and the position of the accused. We pointed out in our

21 brief that the accused should have full opportunity to express himself and
22 to make any statement that is relevant to argue his case. Here, perhaps
23 it would make sense -- perhaps I'll stop here, because while I'm talking,
24 all things happen here, and I have no clue what's going on. Perhaps I
25 should move a little bit to the right. There's little room here too, Your

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1 Honour, but we'll try to do it.

2 First of all, I want to say that the amicus curiae, during the
3 pre-trial position, each of us, we feel that we should not raise issues
4 that have not been raised by the accused. So at this stage, we feel
5 appropriate to react to issues that have been raised by the accused.

6 That's for the very reason that we do not want to replace him in terms of
7 raising issues. It's for the accused to raise the issue and we are there
8 to comment on that by assisting the Court in supplying legal reasoning for
9 the argument raised by the accused.

10 So in this approach we feel that the Court should allow the
11 accused the broadest possible room to manoeuvre to argue his case, and as
12 we have said in our brief, that also may include reasons which, on the
13 face of it, might not directly be legal reasons but, more or less,
14 political reasons, because the establishment of the Tribunal, his main
15 challenge, also includes, as we have set out, possible political reasons.

16 JUDGE ROBINSON: Mr. Wladimiroff, I have heard your explanation as
17 to the understanding of your role. I understand what you have said, but
18 in my view, it is perfectly open to the amici to raise any arguments that
19 they wish so long as it will assist the Chamber, and that is perfectly
20 clear from the motion, from the ruling that the Chamber gave. So I
21 understand what you have done, but for the purposes of the rest of the
22 trial, I think it is important that you understand that your role is a bit
23 wider than that. It is not simply to react to arguments raised by the
24 accused. You are there to assist the Chamber in the consideration of this
25 case.

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1 MR. WLADIMIROFF: We understand that, Your Honour. What I tried
2 to explain is at this stage, during pre-trial, having the first motion, we
3 feel that we should approach the matter in a very delicate and diplomatic
4 way, find our way through this method of not being overreactive to
5 anything that's going on or taking initiative where we have no idea what
6 the consequences are. So we start in a very moderate way and develop from
7 there. And that's the reason why we do not feel it appropriate to raise
8 issues at this stage, at the very beginning, that have not been raised by
9 the accused. We may do so later, but not at this stage, because we feel
10 it's for the accused to guide all of us, what he is looking for, what kind
11 of arguments he's looking for, to tell the Court what he is thinking, what
12 he wants. It's not for us to narrow that possibility. So we are very,
13 very, let's say, moderate at the very beginning, and we will develop from
14 there.

15 JUDGE ROBINSON: Very well. I understand the conservative
16 approach that you have taken, but please understand that your role is a
17 bit wider than that. Please proceed.

18 MR. WLADIMIROFF: We may come to that, Your Honour. I am
19 confident that at the end of the day, and that's more than today, I hope
20 that the amici curiae will be able to do what we have to do in the
21 interest of the accused and to assist the Court in finding the right
22 answers to issues that have been raised in this Court. But please allow
23 us to start as delicately as we can.
24 Perhaps I should move on to the next issue I want to touch on.
25 It's a very brief observation as well, because actually we feel everything

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1 has been said in our brief. That's the issue of whether previous
2 decisions of the Court or the Appeals Chambers are binding or not.
3 The amici curiae are perfectly aware of the decision in the
4 Aleksovski case, and we are also perfectly aware of what the Appeals
5 Chamber has said there. However, we also believe that whereas in the
6 Statute there is no guidance on the matter that we are now discussing, it

7 is not expressed by the Statute, nor by the Rules, how to deal with the
8 matter. It is, by itself, a matter of case law, how to understand the
9 issue.

10 The Appeals Chamber in the Aleksovski case found that generally,
11 in common law jurisdiction, there is more binding with previous decisions
12 than in civil law jurisdictions because there is no doctrine there. I
13 think there is some logic in that observation, because if law or a system
14 derives from a statutory system where most issues have been described in
15 the Statute, there's less reason to rely on previous decisions of courts
16 interpreting those statutes; while in common law, people take more
17 precedents from previous decisions and therefore the system of previous
18 decisions, the case law, is more important for the functioning of the
19 system itself.

20 Different from the Appeals Chamber, we feel that in the system of
21 the Tribunal, there is a Statute, there are Rules. One may argue that
22 those Rules may not be complete in terms of dealing with all possible
23 issues, but as a matter of fact, they are dealing with all possible issues
24 on a basis that may be different from what one would see in the Statute,
25 for example, on the European continent. But still there are Rules. The

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26 answers are in the Rules and in the Statute.

27 From that point of view, we argue that there is no need to rely on
28 previous decisions in the meaning that they are absolute -- they are
29 absolutely binding. We feel that previous decisions have the importance
30 of being authoritative and they should be of guidance for the Judges, and
31 they should follow them unless they may depart from them, so to say,
32 unless there are cogent reasons in the interests of justice not to do so.
33 So it is not an absolute thing, it is a relative thing.

34 Now, as we have said in our brief, we believe that, on the merits
35 of the case at hand, the Trial Chamber is free to depart from previous
36 decisions and to see whether there are any specific circumstances or
37 arguments raised by the accused or enlightened by the amicus curiae, and

13 therefore the Tadic appeals decision is of very authoritative importance
14 to this Trial Chamber but on the basis of guidance.

15 Now, if you carefully study what we have said, and you have done
16 so, you will realise that we are not actually challenging the Tadic
17 decision. We are following it, and we argue that on the basis of that
18 decision - we'll come to that later - we advise the Trial Chamber to ask
19 for an advisory opinion of the ICJ. We are not saying that the Trial
20 Chamber should rule differently to the Tadic appeals decision. And
21 actually, in the Tadic appeals decision, the issue has not been raised, so
22 it's a novelty.

23 Let me see if there is any other reason to make more observations
24 about this one.

25 The next issue will be discussed by Mr. Kay, and that is the issue

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13 English transcripts.

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1 of independence of the OTP or perhaps the Tribunal. So I will give him
2 the floor, if you agree with that.

3 JUDGE MAY: Just one moment. Could the Registrar come, please.

4 [Trial Chamber and Registrar confer]

5 JUDGE MAY: Yes, Mr. Kay.

6 MR. KAY: Thank you, Your Honour. I'm dealing with two matters in

7 relation to the brief of the amici curiae filed on the 19th of October.

8 The first of those matters is set out at paragraph 10 of our brief and

9 takes in paragraph 11, and then I'll go on to deal with paragraphs 12 and

10 13, which is the right of this Tribunal to try a head of state and so is,

11 therefore, an argument raised by the accused concerning the right of state

12 sovereignty.

13 Dealing with the first matter, it's quite clear from the points

14 raised by the accused in his correspondence and various documents that he

15 has asserted that this Tribunal is incapable of giving a fair trial

16 because of its failure in relation to impartiality. One of the key

17 fundamental principles for any valid court of law is the principle of

18 impartiality. Without there -- that, there can be no rule of law and no

19 ht to a fair trial.

20 'ate this point has been taken several times before in the

21 Tribunal, but that doesn't preclude him in being able to

22 n many respects, this argument of impartiality can be

23 . at the end of the brief filed which the amici

24 , concerns the right of these judges, so to speak, to

25 judge themselves in relation to their validity.

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1 Mr. Wladimiroff will be addressing you at the end of our
2 submissions on that last feature of the brief of the amici, which starts
3 at paragraph 19 and relates to the test of independence and the
4 proposition that for this court to be validated, it should be validated by
5 a principle organ of the UN, being the International Court of Justice. I
6 won't deal with that argument now as he will, but the point I make is that
7 this issue of impartiality is very much bound up within the validation of
8 the Tribunal.

9 The accused has stated, within the various documents, that the
10 pressure on this Tribunal from external sources to try him and others
11 makes the whole culture of the Tribunal unfair and biased against him, and
12 that's notwithstanding any issue that there may be concerning the right to
13 try him in the first place. The indictment that was issued against him in
14 1999, at the time of conflict, was as the result of the Security Council
15 urging the Prosecutor to take action in relation to events in Kosovo.
16 Before that time, it appears from the court records there was no public or
17 secret indictment against him. It wasn't until those political events in
18 1999 that the first indictment was issued as against him.

19 JUDGE MAY: The document on which you rely, I think was from the
20 Security Council in March 1998, according to my note.

21 MR. KAY: The 31st of March, 1998.

22 JUDGE MAY: Yes. The indictment didn't come until a year later.

23 MR. KAY: Yes.

24 JUDGE MAY: -- a year later.

25 MR. KAY: Obviously there's preparation of these matters. And

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1 when that indictment came out, the accused, at that time, was in the
2 middle of a situation of international conflict.

3 JUDGE MAY: It was merely urging the Prosecutor to investigate
4 violations of international humanitarian law. Are you saying that the

5 Security Council shouldn't have done that?

6 MR. KAY: It's a pressure upon the Prosecutor, whose job is
7 derived from the Security Council in the first place, that it would be
8 difficult to say that that party could, thereafter, act independently, and
9 that's the point that's being made here in the submissions of the
10 accused.

11 JUDGE ROBINSON: Mr. Kay, in order to substantiate that, wouldn't
12 you have to go a little further and show that that pressure was applied to
13 the Prosecutor in her decision to indict Mr. Milosevic? Is there any
14 evidence of that?

15 MR. KAY: With respect, I think it's for the Prosecutor to prove
16 there wasn't. It's impossible for an accused or a party in any other
17 position to prove a negative. We're simply not in possession of any of
18 the facts or any information.

19 JUDGE ROBINSON: But you are making the allegation of a breach of
20 independence. In my view, the onus is on you. You are alleging the lack
21 of impartiality on the part of the Prosecutor. The onus is on you to show
22 that lack of impartiality.

23 MR. KAY: What's being asserted here is that there is a suspicion,
24 a reasonable supposition that that could have been the position. As far
25 as the accused is saying within his documents, it would be the definite

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1 nature of the allegation.

2 If an assertion such as that is being made in relation to
3 jurisdiction, surely it's for the party who is seeking to establish the
4 jurisdiction to prove to the contrary. For an accused or any other person
5 to take such an argument on the basis of evidence that is not in his
6 possession and would probably never be in his possession in terms of
7 documents or material evidence, it really amounts to an impossibility.

8 JUDGE MAY: You've got to make some sort of showing that there is
9 an absence of impartiality or independence as a result of an urging by the
10 Security Council, not to prosecute this case but to investigate, as I say,

11 violations of international humanitarian law. It may be you can't take
12 the matter any further.

13 MK. KAY: No. Perhaps this is the sort of issue that when an
14 indictment is confirmed, in view of the general circumstances in which the
15 indictment arose, that the Prosecution should seek to justify the position
16 of the issuance of the indictment in the first place, and it may well be
17 that in the early procedural stages that that is when such a course should
18 have been taken on enquiry by the Court itself, the Confirming Judge,
19 Judge Hunt, in relation to the reasons for the issue of the indictment.
20 We have cited an example within our brief that arose in relation

21 to the manner of detention of the accused, which can be looked at as being
22 an example, if you like, of the kind of impartiality that he asserts. He
23 has been forbidden from speaking to the media or the press, whereas other
24 organs of the Tribunal are in a position to be able to do so. From his
25 perspective, that can be seen as an impartial regulation of the respective

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1 positions of the parties. But this issue of impartiality is fundamental
2 to his right to a fair trial, and in many respects, that's why we say the
3 proposition at the end of our brief is the proposition that is the true
4 test of validity.

5 Shall I turn now to the second argument that I'm dealing with?

6 Unless Your Honours have any further issues, outside of that which we've
7 written in our text concerning the issue of impartiality.

8 JUDGE MAY: No. If you'd like to go on.

9 MR. KAY: Thank you. This relates to the jurisdiction of the
10 Tribunal against him as an individual, as the former President of the
11 Federal Republic of Yugoslavia. The Court knows and the Prosecution has
12 cited, as indeed we cited the Article 7, subarticle (2) of the Statute
13 that states those acting in their official capacity as head of state may
14 be subject to the jurisdiction or be held criminally responsible for acts
15 before this Tribunal. However, this is an issue here that is probably the
16 oldest and most fundamental rule of the governance between states, and

17 that is the principle of state sovereignty.
18 History is full of examples of attempts to prosecute former heads
19 of state, as we have cited in our brief, none of which were put into
20 effect, and the position of President Milosevic here, one can say
21 properly, is now unique if not historic. The Prosecution, in their
22 response, have cited the case of Prime Minister Kambanda in relation to
23 the Rwanda Tribunal, but that was a plea of guilty and that was not an
24 issue that had to be decided by the Court itself upon this issue of state
25 sovereignty.

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As I said, the oldest and most fundamental principle that has, by
2 international customary law, governed the relationships between states,
3 which has in fact been inviolable, has been the issue that a state retains
4 its sovereignty and its leader cannot be put on trial for acts committed
5 in that official capacity of acting on behalf of the state.
6 JUDGE ROBINSON: Mr. Kay, you must be aware of the vast number of
7 instruments which contain a provision similar to Article 7(2), and I
8 believe you should be aware that by this time, the provision in Article
9 7(2) reflects a rule of customary international law.
10 With the development of the doctrine of individual criminal
11 responsibility, which commenced after the Second World War, a number of
12 instruments incorporated and reflected that principle; Article 7 of the
13 Nuremberg Charter, Article 6 of the Tokyo Tribunal Charter; Article 4 of
14 the Convention for the Prevention and Punishment of the Crime of Genocide;
15 and most recently Article 27 of the Rome Statute for the International
16 Criminal Court.
17 At this time, I'm at a loss as to how you could argue that the
18 principle in Article 7(2) is anything but a rule of customary
19 international law in relation to the kind of crimes with which the accused
20 is charged.

21 MR. KAY: Article 7(2), of course, arises from a Statute that
22 arose from the Security Council, and as one looks at the materials and

23 documents filed by the accused, his principal argument is that this was
24 not a tribunal that was set up by the General Assembly of the United
25 Nations but by the Security Council --

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1 JUDGE ROBINSON: That has nothing to do with the question of
2 whether what is in Article 7(2) reflects the rule of international
3 customary law. The fact that it came from the Security Council doesn't go
4 to that question.

5 What determines whether it is a rule of customary law is primarily
6 two things: state practice, how wide-spread the state practice is, and
7 principally the feeling among states that there is a legal obligation to
8 abide by that rule, the opinio juris. And all of the instruments I have
9 cited, including most recently the Rome Statute, clearly reflect this.
10 So I can't understand the argument coming at this stage. Perhaps
11 immediately after the Second World War, but not some 50 years after that.

12 MR. KAY: Of course, no previous heads of state have been subject
13 to a trial, and that is a point in itself probably worth making on this
14 issue. The international customary law in relation to state sovereignty
15 still retains itself as a principle. I take Your Honour's point that in
16 relation to these particular violations, that there have been a number of
17 moves within the international community for the trial of violations of
18 humanitarian law, and that has to be recognised.

19 JUDGE ROBINSON: Mr. Kay, let us take the recent case from your
20 own jurisdiction, the Pinochet case, where the House of Lords held that
21 Senator Pinochet was not entitled to immunity in respect to acts of
22 torture and conspiracy to commit torture alleged to have been committed in
23 his capacity as a head of state.

24 I would draw your attention particularly to what Lord Millett said
25 that:

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1 "In future, those who commit atrocities against civilian
2 populations must expect to be called to account if

3 fundamental human rights are to be properly protected.

4 In this context, the exalted rank of the accused can

5 afford no defence."

6 Another example of the state practice contributing to the

7 customary character of the rule reflected in Article 7 of the Tribunal's

8 Statute.

9 MR. KAY: Yes. And the interesting thing was, of course, Senator

10 Pinochet was returned to his own country and wasn't, in fact, extradited

11 to Spain in the event, and we in our brief cite the examples of Pinochet

12 and Noriega.

13 JUDGE ROBINSON: He was extradited or returned on grounds which

14 have nothing to do with the validity of the principle that we are

15 examining now.

16 MR. KAY: Yes. And a national decision doesn't bind an

17 international court.

18 JUDGE ROBINSON: It doesn't bind it, but it goes to the question

19 of the development of custom, of a customary rule of law. It is quite

20 clear that decisions of national courts can be considered in determining

21 whether a rule of customary law has developed. That's very evident, and

22 no citation is needed for that.

23 MR. KAY: And far be it for me in any way to diminish the standing

24 of my own House of Lords. But as far as that decision was concerned,

25 which also involved at one stage an issue of impartiality, which I have

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1 held myself back from, mentions earlier on, that decision by that national

2 jurisdiction which they said reflected international customary law, we

3 say, at the end of this brief, is an issue that another organ should

4 decide for this Court, an organ of long-standing international stature,

5 which is a United Nations organ with great experience in dealing with

6 international affairs and the affairs of the United Nations, which is the

7 International Court of Justice. The self-validation process that has been

8 evident within this Tribunal has led to the apparent feeling of

9 impartiality by those over whose affairs it seeks to regulate. I just say
10 that because of the time-honored maxim: Justice must not only be seen to
11 be done, it must be done as well. And the --

12 JUDGE ROBINSON: Your colleague is going to argue that point.

13 MR. KAY: Yes.

14 JUDGE ROBINSON: Don't preempt him.

15 MR. KAY: Far be it for me either. But the point here that this

16 issue of state sovereignty that the accused has raised on his own behalf

17 is a valid and historic argument that, if one looks at the history rather

18 than the political intent, has shown to be a rule that has been applied in

19 many circumstances. And that is what he is pleading on his behalf as a

20 valid reflection of international law.

21 JUDGE MAY: Mr. Kay, I think you've covered the points, unless

22 there's anything else you want to raise.

23 MR. KAY: I'm grateful, Your Honour.

24 MR. WLADIMIROFF: If I may, Your Honour, add to what Mr. Kay

25 said.

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1 Let's accept that Article 7(2) reflects international law if one
2 accepts that national developments altogether is an expression of a
3 growing understanding between nations and peoples, that such a custom is
4 the right expression of the law. But the real issue then is if Article
5 7(2) is supposed to reflect international -- to reflect a customary
6 international law, does the wording of Article 7(2) reflect international
7 law? Now, there we have a problem.

8 According to Article 7(2), if we deal with functional
9 responsibility, the test is, to say it very simply, knowledge or
10 awareness, power, and negligence or failure to correct. That may be right
11 for commanders, because there is enough evidence to argue that that test
12 is valid under international -- under customary international law, to see
13 whether a commander is assuming responsibility for what he did in that
14 capacity; but we wonder if such evidence is available if it comes to a
15 head of state.

16 When we argue here, is the test as provided in Article 7(2) the
17 right test to apply to a head of state? So if the Court will agree with
18 that, there is more to the test than what is in Article 7(2). In that
19 respect, Article 7(2) does not reflect customary international law.

20 Now, before moving on, let me reflect for a moment again on the

21 position of the amicus curiae. The Court has put it to Mr. Kay that if
22 you raise an issue, there should be a good showing. In general, we would
23 accept that, but we are not the Defence lawyers of Mr. Milosevic; we are
24 amicus curiae. And as I tried to explain at the very beginning, at this
25 stage, at this very stage, at the very beginning where we have been

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1 recently appointed, we react to objections, observations made by the
2 accused. Now, we tried to explain to the Court what the accused is
3 saying. So if there is a showing, the showing should be by the accused
4 and not on the amicus curiae.

5 What I'm saying here is the onus of a showing of the amicus curiae
6 may not necessarily be the same as the onus on the accused. We are not
7 one unit. It's not one thing, the defence, Mr. Milosevic, and the
8 amicus.

9 So if we argue -- actually, perhaps it's not argue. If we
10 translate what the accused says and we argue on the basis of that
11 translation what the meaning is, what perhaps the consequences might be
12 for your court and we advise the Court how to see it, to take into account
13 other arguments related to what the accused has said, it is a little bit
14 difficult to find out at this stage what exactly is the onus on us.

15 Perhaps we will find the right answers later on. At this stage, we
16 believe it's not quite clear if there is a full onus on us. That's a
17 matter to be studied.

18 JUDGE MAY: I think it was a figure of speech --

19 MR. WLADIMIROFF: I understand that.

20 JUDGE MAY: -- not a precise onus. We are all finding our way
21 with the position of amicus --

22 MR. WLADIMIROFF: I appreciate that.

23 JUDGE MAY: -- and the role.

24 MR. WLADIMIROFF: Thank you, Your Honour. Now, let me move on to
25 the issue I was going to cover. That is the advisory opinion.

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1 We have written in our brief that if one studies the literature on
2 the Appeals Chamber's decision in the Tadic case, one of the comments that
3 has been made is the issue of should a court consider its own
4 jurisdiction, its own competence?
5 I'm fully aware that the issue is a common issue in most
6 jurisdictions. At the end of a column, one judge at the end of it, for
7 example, Supreme Court, should judge its own competence -- competence.
8 Here we have a different situation. We are discussing not the
9 competence on the usual issues, but we are discussing the competence in
10 terms of the establishment, the legality of the establishment. That is
11 not a thing that usually is debated in the national setting at the end of
12 the column by, for example, a Supreme Court.
13 So I think some authors are right if they say it could perhaps
14 have been done better if someone else was to refute that.
15 So departing from that point, we believe that it is possible for
16 your Trial Chamber not to refer the case, as the Prosecution asserts, but
17 to consider the possibility of asking an advisory opinion and ruling
18 yourselves on the basis of that advisory opinion. It's your possibility
19 to rule on the matter, but we advise to split up in refining yourself to
20 the formal function of taking the decision but for the substance asking an
21 advisory opinion.

22 Now, under the Charter and under the Statute of the ICG -- the ICJ
23 as well, it is not impossible to do, either by asking it yourself if you
24 believe you've got an inherent authority to do so, or by asking the
25 General Assembly or the Security Council to allow you to do so. And the

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1 amicus curiae have found no precedent, no argument why you should not be
2 allowed to ask of such leave.
3 And actually, talking about showing, the Prosecution has not shown
4 there is any valid legal argument that would bar such a request. And we
5 have not seen or heard any argument which explains why the General
6 Assembly or why the Security Council would deny such a question.

7 So we believe it is a possibility which should be pursued, and we
8 believe the Trial Chamber seriously consider that avenue to see whether
9 the answers or the opinion of the ICJ would confirm or attribute or
10 perhaps not confirm the Tadic decision of the Appeals Chamber but is
11 heading for a totally different direction. And then at the end of the
12 day, I think there won't be any criticism any more, because then indeed, a
13 set of judges who are not in force have advised this Court how to proceed.
14 So we believe there's not reason to simply deny it. I think it's
15 a serious consideration to avoid any further criticism on the issue of
16 being independent or being impartial.

17 That's our submission on this issue. Thank you very much.

18 JUDGE MAY: Mr. Wladimiroff, we'll consider that. Yes, are there
19 any more submissions? Yes.

20 MR. TAPUSKOVIC: [Interpretation] Your Honours, I would not dwell
21 on matters which my learned colleagues Mr. Kay and Mr. Wladimiroff have
22 already addressed and explained very well how all three of us understand
23 our role as amici curiae. Our position is, in fact, that if the need
24 should arise, we might even separate our opinions and somebody may adopt a
25 separate opinion.

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26 What I would like to ask is just for a few minutes of attention,
27 as I come from a country of which the president, for a time, was Slobodan
28 Milosevic. And I have to submit here a few important points linked to my
29 position as a member of the amici curiae in such a case.
30 I am not saying that in my own country I am in jeopardy in any
31 physical sense, but from the moment I took over this duty as a member of
32 the amici curiae, there were all kinds of criticisms as to why I had
33 agreed to do this. Among other things, this was discussed in the Serbian
34 parliament. Of course I will not discuss that. There was also some
35 discussion at the Faculty of Law by all the law professors who had many
36 objections as to why I had decided to accept this highly responsible job,
37 the objection being that I am taking upon myself a enormous, an enormous

13 moral, professional, and historical role. I don't like big words,
14 highfalutin words. And this "historic" was used by others, not by me. I
15 was also criticised for accepting to be an amicus curiae in this case,
16 whereas those same law professors in Belgrade have offered their services
17 to this Tribunal to act as amici curiae.
18 I was particularly criticised from the moral standpoint, that I
19 had dishonoured the Serb morality because, as you may know or not, from
20 the middle of 1996 to the middle of 1997, I worked in a case, and I
21 considered that to have been a great honour. I was Defence counsel in the
22 Celebici case for Mr. Mucic. That case is in its final stages, and I
23 submitted the opening arguments. But the main criticism then was as a
24 Serb, I was defending a Croat in a case linked to a Muslim camp where the
25 victims were Serbs alone.

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1 I said then and I have to repeat that now, that all of us, Serbs,
2 Croats, and Muslims, should be pleased to have had such a person, because
3 he helped people not to have suffered more, and this should have been
4 appreciated by both Serbs, Muslims and Croats, that there was such a
5 person around. And at the time, I made a comparison with Schindler,
6 saying that he was a Schindler among the Croats.

7 However, here I am again in a position to be a part of this case,
8 when both I and the accused come from the same state and belong to the
9 same nation. Again the same criticisms and the same reproaches and risks
10 for myself.
11 I am profoundly convinced that I can perform the duty of amicus
12 curiae as required by my duties as a professional lawyer according to the
13 rules that apply throughout the world, and I am ready to bear full moral,
14 professional, and even, if you will, historical responsibility to
15 participate in these proceedings as an amicus curiae.
16 Believe me, I have had to make that statement because of the
17 situation I am in, and I hope you will not take it against me.
18 To complement what has already been said before coming to my

19 particular point, I think the principle of fairness is a universal
20 principle, and we have a court which in time, space, and personnel has
21 limited its jurisdiction to a small area on the globe. I'm quite
22 confident that this Chamber can absolutely be fair, within the framework
23 of the rules, but that level of fairness would be absolute if the validity
24 of those rules were to be universal. Until that is so -- and you know the
25 problems there are in the establishment of a permanent international

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1 court, and until this Statute becomes universal, we will not be able to
2 speak about absolute justice or fairness, which does not mean to say that
3 I am not confident that this Chamber may be able to achieve absolute
4 fairness, which perhaps will one day be achieved worldwide.
5 To come now to the problem raised by Slobodan Milosevic in his
6 correspondence and submissions, and that is he underlined in particular
7 that his surrender to this Tribunal was not legal, was unlawful. And
8 that brings me to the following issue: We cannot deny that at that point
9 in time, he had been lawfully in detention according to the laws of
10 Yugoslavia at the time. On the 28th of June, he was surrendered to this
11 Tribunal and arrested according to the laws of the country earlier on. We
12 also do not deny that he could have been surrendered by instruction of the
13 Judge of this Tribunal, because detention had been ruled.
14 However, who did the Tribunal or, rather, the Prosecution address
15 via the Tribunal because the Tribunal issued an arrest warrant for the
16 accused? Those requests mainly, or rather, entirely - they couldn't have
17 gone otherwise - through the federal bodies, on the 24th of May, 1999, and
18 on the 22nd of June, 2001, when Yugoslavia was again admitted to the
19 United Nations. And this request was addressed to the federal organs,
20 that is, the Federal Ministry of Justice, and giving primacy to the
21 Tribunal and the Rules of Procedure, was entirely in the hands of the
22 federal bodies of Yugoslavia. There is no dispute over that. There was
23 communication between the two, and the federal minister responded.
24 And what is most important of all, very soon the Federal Ministry

25 of Justice undertook to draft a law which was later transferred into a

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1 decree on cooperation with the Hague Tribunal. There is no law in
2 Yugoslavia on the extradition of a national to any foreign body. We have
3 a law of extradition of foreign nationals.

4 In view of that, the federal authorities undertook to pass a
5 regulation in the form of a decree or a law that would enable cooperation
6 with the Hague Tribunal. Therefore, what the Prosecution is alleging is
7 not true, and that is that the primacy of the Tribunal is such that
8 domestic legislation is totally unimportant. It cannot be unimportant.

9 The fact that that state, as a member of the United Nations, undertook to

10 pass regulations which would enable cooperation with the Hague Tribunal
11 precisely as stipulated by the Rules and Statute of this Tribunal.

12 And what happened then? Without waiting for that law to be
13 passed, or rather, on the very day when the decree on establishing
14 cooperation with the Hague Tribunal was in the final stages, whether it
15 was before the Federal Constitutional Court, on that same day, the
16 Republican Government decided to extradite Slobodan Milosevic to the Hague
17 Tribunal, and as doing so, it acted arbitrarily. You know very well the
18 provisions of international conventions. No one may arbitrarily
19 jeopardise anyone, that everything has to be done in accordance with a
20 certain procedure and according to a law. And Yugoslavia was investing
21 special efforts to overcome the problem.

22 You're aware of the Tadic case. Tadic was arrested in Germany.

23 Germany worked for four months on the adoption of a law on the basis of
24 which Tadic was extradited. So there was no reason not to wait, and this
25 is something that the current President of Yugoslavia insisted upon in

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1 particular, that legitimacy be given to everything. There was no need to
2 turn somebody into an ordinary object to be extradited. This was a
3 decision taken by the government of the republic, which was not a member
4 of the United Nations. It was only a member of the Federation, the

5 Republic of Serbia, and it had no obligation to implement anything linked
6 to international covenants to which Yugoslavia is a signatory. This is
7 something that only the federal government had the right to decide about,
8 federal organs through appropriate procedures, because they were doing
9 everything to have the law adopted as soon as possible, and on the basis
10 of that decree, to do what was necessary to establish cooperation with
11 this Tribunal and thus enable everything else after that.

12 By doing so, the state of the Federal Republic of Yugoslavia was
13 prevented from examining the instructions of the Judge of this Tribunal,
14 and this is something that it should have been allowed to do, to examine
15 the jurisdiction of this Tribunal and take the appropriate decision and
16 act accordingly. Because everywhere in the world, including in this case,
17 this procedure should have been respected, the right of the accused whose
18 extradition was requested should have been respected. Only from Republika
19 Srpska and now from Yugoslavia, people were extradited like objects, I
20 have to say that. All I'm saying is that laws have to be respected.

21 Now I come to my most important point. Slobodan Milosevic would
22 not have been delivered in this way, because I assume if everything had
23 been carried out according to procedure, the decree adopted, cooperation
24 established, had there not been very great international pressure - and

25 I'm sure that the Prosecution took part in this, and the Serbian

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1 government, when the law on cooperation with the Haque Tribunal was
2 adopted, the Serbian government arbitrarily made the decision it made - as
3 a result of such pressure on the national legislation, we now have
4 Slobodan Milosevic here in this courtroom, and on the basis of such
5 circumstances, it is not possible to base this case, and I mean the
6 Prosecution.

7 I must also say that I truly believe that you will devote special
8 attention to this, and I think this is perhaps the most pressing problem
9 to be addressed at this stage. Thank you.

10 JUDGE MAY: Thank you, Mr. Tapuskovic.

11 Now for the Prosecution. Who is going to address us? Madam
12 Prosecutor, we've seen your brief which covers the matter, if I may say,
13 very fully so we would be grateful if you could be fairly brief.

14 MS. DEL PONTE: Yes, Mr. President, Your Honours. I will be
15 speaking in French which the accused does not speak, but I will speak
16 slowly so that he can follow the English on the screen if he decides not

17 to make use of the headphones.

18 JUDGE MAY: He's got an interpretation which is being played to

19 him in Serbian.

20 MS. DEL PONTE: Thank you.

21 [Interpretation] I have to say that I had spoken in English in

22 order to accommodate the accused during the other hearings, especially

23 further to his refusal to put on a headset. But now, Mr. President and

24 Your Honours, for me it is essential to be able to communicate with this

25 Court in the other language of the Tribunal which comes more naturally to

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1 me and which allows me to express myself better in respect of the details,

2 without any ambiguities creeping in.

3 Mr. President and Your Honours, the accused Milosevic has said to

4 us and has written to us and has repeated at the hearings, and I quote,

5 "We are a nonexistent institution." This morning, the amici curiae have

6 illustrated and have gone into depth in respect of all the themes of this

7 preliminary motion, and I would like to say that since having heard them

8 this morning, I must say that they acted the way assigned counsel would

9 react.

10 But, Mr. President, I'm not going to ask that counsel be

11 assigned - things are as they are and I'm not going to insist - but I

12 would simply like to take this opportunity to tell you that we have tried

13 to get into contact with the amici curiae before this hearing. They

14 refused to do so; they did not wish to meet with us, which I lament, in

15 fact. This is to let you know what the problems are that we confront,

16 these procedural difficulties, difficulties in respect to being able to

17 prepare the trial.

18 JUDGE MAY: Let me deal with that. I don't know anything about

19 this. It's a matter for the amici the way that they choose to conduct

20 this case, it is not a matter for the Court. If they choose to meet with

21 the Prosecution, then that's a matter for them; but if they choose not to,

22 equally it's a matter of them, and certainly there will be no criticism of

23 them because of that.

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24 MS. DEL PONTE: [Interpretation] Mr. President, this was not a
25 criticism, it was simply a factual observation.

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1 I would also ask that you allow me to say that I have had a study
2 carried out on the right to self-representation. I have a study here, and
3 I should say that the problem is opened for me, and it is true that
4 customary international law does not contain the right to defend oneself
5 without counsel.

6 But I go back to the main point. The charges as -- the exchange
7 of briefs and responses in writing in respect of the preliminary motion on
8 jurisdiction, with all the things that follow upon that, is sufficiently
9 well known. But even if sometimes one should not always repeat things, I
10 would still like to repeat several of the most important points, the
11 principal points in respect, first of all, of the legitimacy of this
12 nonexistent institution.

13 We have already three appeals judgements: the Tadic appeals
14 judgement which, in fact, is an important judgement which deals with the
15 substance of all the arguments raised here; we have the Aleksovski
16 judgement which goes back and follows up on the Tadic judgement. And I
17 believe that the three principles which have been recalled by the Appeals
18 Chamber are untouchable here. By this I mean the establishment of a
19 hierarchy of the administration of justice by ruling on questions of fact
20 and law, the guarantee of the need for security and the foreseeability,
21 and the rule of international customary law, that is, the right to appeal,
22 which means, therefore, the accused's right to have all of these matters
23 dealt with in the same way.

24 For this reason, the Trial Chamber complies with the judgements of
25 the Appeals Chamber. The Appeals Chamber itself is following its own

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1 decisions, and we heard this morning through the amici curiae that the
2 exchange of these cases -- of these matters has been decided.

3 The judgement in Celebici really simply confirms what has already
 4 been set forth as a principle. And I would like to say to you, Your
 5 Honours, that we have no interest and no demands in respect of asking for
 6 outside opinions. This advisory opinion which has been the subject of
 7 great pressure is not necessary insofar as these decisions were already
 8 taken in previous cases.

9 We are requesting, Mr. President, that the accused Milosevic
 10 recognise our jurisdiction and the jurisdiction of this Tribunal. The
 11 international community has created this Tribunal with limited territorial
 12 jurisdiction, that's true, but we do not have temporal restriction as was
 13 said this morning. We are asking, Mr. President, Your Honours, we are
 14 asking for the power to begin a trial against Mr. Milosevic.

15 The three other principal reasons that I'm going to mention here
 16 are the Prosecutor's independence, because that is what is at stake here.
 17 In respect of the independence of the Court, there can be no challenge,
 18 because that's in law; and in respect that the Security Council urged the
 19 Prosecutor to do what she is doing must be an element which falls within
 20 the category of lack of independence.

21 I point out to the Tribunal Resolution 1160 of 31 March 1998,
 22 whereas the Prosecutor announced on the 10th of March, 1998, in public,
 23 that the investigation into what happened in Kosovo was going to begin.
 24 Therefore, I believe that that small press release of the 10th of March,
 25 1998 should be given the importance that it deserves.

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1 Likewise, if the Security Council requested or urged the
 2 Prosecutor, what does that really mean? It simply means that the
 3 Prosecutor should be reminded of her original mandate in respect of the
 4 resolution which established this Tribunal; and in the second place, being
 5 involved in opening an investigation does not mean that one is going to
 6 immediately issue an indictment.

7 In respect of the Prosecutor's discretionary powers,
 8 Mr. President, I cannot agree that this be put into question, and I have

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9 no justification to provide for saying that. I heard this morning what
10 was said. I don't have to provide any proof. This is a discretionary
11 power subject to the mandate from the Security Council, and that is it.
12 We are asking to be able to bring a trial against Mr. Milosevic, a
13 former head of state, and this is the second argument, former head of
14 state. Here people do not want to understand. People don't want to
15 understand that this Tribunal was established by the international
16 community explicitly in order to put an end to the impunity of the
17 powerful people, the heads of states, and, therefore, a review of their
18 individual criminal responsibility in the exercise of their function is
19 the task of this Tribunal.

20 Permit me to say, Mr. President, that outside the Tribunal there
21 are thousands of victims who are demanding justice. For this reason, no
22 immunity for anybody, when what is involved are war crimes, crimes against
23 humanity, and genocide. The Secretary-General's report to the Security
24 Council in respect of the establishment of this Tribunal leaves absolutely
25 no doubt on that issue, because we know that the heads of state entail

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1 more significant responsibility for serious violations of international
2 humanitarian law.

3 Today, Mr. President, this is the turn of the accused Milosevic,
4 who is complaining - my last point - about an illegal transfer. I
5 followed very carefully the transfer of the accused Milosevic, and I must
6 tell you that he was arrested pursuant to a national warrant of arrest in
7 his own country, and was transferred further to a decision of the
8 government of Yugoslavia, the Republic of Yugoslavia, on the basis of a
9 decree which was accepted and then suspended.

10 I am not going to go through the legislative CV of what happened
11 in Yugoslavia, but this has absolutely nothing to do with the
12 international obligation that we are familiar with, Article 29 of the
13 Statute. The only thing I say is that at the time Yugoslavia became a
14 member state of the United Nations, that obligation for Yugoslavia existed

15 further to the obligations that every state would have. So the decision
16 to transfer the accused was taken with full respect for the international
17 obligations.

18 One final point, Mr. President - you'll see that I was very
19 brief - is the fact that the amici curiae, the counsel, are asking to
20 allow him to speak. I must say that we have some problems in respect of
21 the review of the exculpatory documents because we do not have a person to
22 speak with. I believe that I should find -- I must find a solution, and I
23 call upon precedents in order to find that solution. Is it the accused
24 himself that's going to look through all the documents? I'm now speaking
25 about the application of Rule 68 which is just as important to me as any

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1 other application of the procedural Rules. All this is to say to you,
2 Mr. President, that I feel we must allow him to speak, that is, the
3 accused Milosevic, of course within the limits that we set forth.
4 I thank you, Mr. President.

5 JUDGE ROBINSON: Madam Prosecutor, if I understand the argument of
6 the amici on the question of transfer, it is that the obligation under
7 Article 29 of the Statute is an obligation of the state. In this respect,
8 they are saying that the arrest warrants were issued to the Federal
9 Republic of Yugoslavia when, in fact, the arrest and transfer were
10 effected by the government of Serbia.

11 In that circumstance, they would see, as I understand it, that
12 Rule 58 would not apply. Rule 58, as you know, is a Rule which says that
13 the obligations in Article 29 prevail over any legal impediment to the
14 surrender of an accused to the Tribunal.

15 Now, their contention is that the obligation is the obligation of
16 the Federal Republic. What was implemented was a transfer by the
17 Government of Serbia, and they contend that for that reason, the transfer
18 is illegal.

19 I raise this because you refer to Article 29, but what they're
20 saying is that Article 29 was not complied with and that Rule 58 would be

21 inapplicable.

22 What do you say to that?

23 MS. DEL PONTE: [Interpretation] Yes, Your Honour. As you know, in
24 the Yugoslav Federation, the central government of the Federation has no
25 executing power; that is, all transfers, all decisions by the police or

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1 any bindings measures taken are carried out by the Republic of Serbia, the
2 Republic of Serbia which executes and carries out the arrests and
3 transfers, which is the case of the other accused who came from Belgrade.
4 It is true that the decision is the one taken by the Federation.

5 Now, the decision itself -- itself of the transfer is the Federation and
6 Prime Minister Djindjic clearly mentioned the fact that the decision to
7 carry out the transfer was taken and accepted by the Federation, but the
8 very execution not only of the accused Milosevic of all things done by the
9 police and the arrests that is were carried out and transfers that were
10 made and searches, all of those fall within the province of the Republic
11 of Serbia, and that is why the transport itself was carried out by the
12 republic of Serbia.

13 JUDGE ROBINSON: You are saying that this was properly the
14 responsibility of the Government of Serbia, the transfer?

15 MS. DEL PONTE: [Interpretation] Yes, absolutely. It is the
16 Republic of Serbia which must execute the transfer.

17 JUDGE ROBINSON: In any event, I believe you would also say that
18 the matter of the internal constitutional organisation of a state is
19 irrelevant in a situation like this. There is a rule, Article 27 of the
20 Vienna Convention on the Law of Treaties which prevents a party from
21 invoking the provisions of its internal law as a justification for its
22 failure to perform a treaty obligation. There is a treaty obligation
23 here, and it must be performed.

24 In your brief, you -- I believe you mentioned that.

25 MS. DEL PONTE: [Interpretation] It is mentioned, that is, Rule 58

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1 of the Rules of Procedure and Evidence, it says that the obligations --
 2 [As read] in Article 29 of the Statute shall prevail [In English]
 3 [Previous translation continues] ... "any legal impediment to the
 4 surrender of transfer of the accused to the Tribunal which must exist
 5 under the national law or extradition treaties of the state concerned."

6 JUDGE ROBINSON: Thank you very much. The new point for me is
 7 what you say, that it was in fact the responsibility of the Government of
 8 Serbia to affect this transfer.

9 Perhaps we'll hear a response from that from the --

10 MS. DEL PONTE: [Interpretation] Yes.

11 JUDGE ROBINSON: Thank you.

12 JUDGE MAY: Madam Prosecutor, there is really two points that I
 13 want to cover before the adjournment. The first is this: You refer to
 14 customary international law not containing a right to defend oneself. I
 15 find that most surprising if it really does say that. It seems a
 16 fundamental right for anybody in a court to defend yourself. Maybe we can
 17 go into that at some other time.

18 The other point is the point about exculpatory evidence which of
 19 course is an important one, and it would seem to be sensible to discuss
 20 that during the Status Conference and decide what way of proceeding in

21 relation to obligations in relation to it.

22 MS. DEL PONTE: [Interpretation] Yes, Mr. President. As regards
 23 defending oneself, I can give you the study that I had carried out by my
 24 specialist. It's a few pages long. It's interesting to read. And as
 25 regards the rest, Mr. President, we have to discuss that at the

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1 appropriate time, because indeed it is important. Thank you very much,

2 Mr. President.

3 JUDGE MAY: Well, you can pass that document through. There is no

4 reason to say that we will be bound by it.

5 We will adjourn now until half past, when we'll hear the accused.

6 --- Recess taken at 11.05 a.m.

7 --- On resuming at 11.30 a.m.

8 JUDGE MAY: Mr. Milosevic, it's now your opportunity to address us

9 on the motions before us today. There's no need to repeat what's in the

10 written submissions because we've read all those. It's also your

11 opportunity to address us on the Prosecution motion to amend the

12 indictment, if there's anything you want to say about that, it's now your

13 chance to do so.

14 THE ACCUSED: [Interpretation] In the first place, I am not

15 submitting any motions to this Court because I do not recognise this

16 Court. If what I am saying into this microphone is considered by you to

17 be a submission on my part, that's up to you.

18 Secondly, with respect to amicus curiae, it is my understanding

19 that your explanation, when appointing the amicus curiae, was that thereby

20 a contribution would be made to a fair trial, if in such an illegal

21 proceedings one can talk of a fair trial. I think in doing so, you have

22 added a new concept to a set of new concepts, because now we are in a

23 situation when two teams are working for the cause of the same party. So

24 this could now be termed as the "Haque fair play."

25 As for this flood of new amendments and indictments, this deluge

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1 cannot flood and cover up the truth, because the truth is known to

2 millions of people.

3 I have heard here, as I heard on the previous occasion, some

4 concern because I am not reading the documents from this false indictment,

5 because allegedly I should know what I am charged with. Let me tell you,

6 I know very well what I am being accused of. I have been accused because

7 in a legal way and with legitimate means on the basis of the right to

8 self-determination that belongs to every nation, I defended my nation. I

9 had the honour to defend my nation from the criminal aggression carried

10 out against it, and to defend my people from terrorism whereby the Clinton

11 Administration cooperated closely with. And this is also something that

12 no one will be able to deny.

13 The truth cannot be sunk by any kind of flood of false

14 accusations. And I have no intention still to familiarise myself with the

15 contents of something that has been totally fabricated and that is far

16 from the truth.

17 As for the polemics I have been listening to as to who was

18 competent and who was not and whether a particular government should have

19 done something prior to another government, I wonder and am astonished
20 that not even the attorney from Belgrade, a member of the amicus curiae,
21 that he should be speaking about competencies while forgetting that no
22 government had the competence to enter into arrangements whereby the
23 Constitution of Serbia and the Constitution of Yugoslavia was being
24 violated.

25 I'm glad that the gentlemen from the amicus curiae are aware that

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1 they cannot speak on my behalf and that I have nothing in common with
2 them.

3 JUDGE MAY: Very well. Thank you.

4 [Trial Chamber confers]

5 JUDGE MAY: We will consider the motions, preliminary motions, on
6 which we've been addressed this morning. We've had the opportunity of
7 considering the application to amend the indictment, and I'll give our
8 ruling on that.

9 Rule 50 does not spell out any test to be applied in deciding
10 whether leave to amend an indictment should be given. However, the cases
11 in the Tribunal show that the fundamental question is whether the
12 amendment would cause injustice or prejudice to the accused if it were
13 granted.

14 In determining whether prejudice or injustice does arise, the
15 issues a Trial Chamber must have in mind include the right of the accused
16 to a fair and expeditious trial, including adequate time for preparation.
17 On the other hand, the Prosecution are entitled to amend an indictment
18 provided that the amendment is necessary and can be done without
19 prejudicing the accused's right to a fair and expeditious trial.
20 A Trial Chamber must balance these factors in coming to a
21 decision.

22 In the present case, the amendments substantially amount to the
23 addition of one count, the particularising of another count, the
24 particularising of a theory of responsibility together with a modest

25 increase in the factual allegations, to add a number of deportation sites

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1 to those already in the indictment, and to add some other factual

2 matters.

3 We have in mind that this is the second amendment to an indictment

4 which is already two years old, but any trial on this indictment is more

5 than three months away at least, and the accused, therefore, has adequate

6 time for preparation.

7 These amendments amount to a relatively insubstantial change in

8 the indictment and occasion no prejudice or unfairness to the accused. In

9 fact, they amount to an improvement by clarifying the Prosecution case, in

10 particular, on joint enterprise and persecution.

11 Accordingly, leave to amend the indictment will be granted.

12 [Further Initial Appearance]

13 JUDGE MAY: We now turn to the next stage, which is the reading of

14 the Kosovo indictment. The second amended indictment will now be read, as

15 Rule 62 provides, in a language which the accused speaks and understands.

16 Let the indictment be read.

17 THE REGISTRAR: [Interpretation] The Prosecutor of the

18 International Tribunal against Slobodan Milosevic and others. Second

19 Amended Indictment.

20 The Prosecutor of the International Criminal Tribunal for the

21 former Yugoslavia, pursuant to her authority under Article 18 of the

22 Statute of the International Criminal Tribunal for the former Yugoslavia,

23 charges Slobodan Milosevic and others with crimes against humanity and

24 violations of the laws or customs of war as set forth below.

25 Accused. Slobodan Milosevic was born on the 20th of August, 1941,

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1 in the town of Pozarevac in present-day Republic of Serbia. In 1964, he

2 received a law degree from the University of Belgrade and began a career

3 in management and banking. Slobodan Milosevic held the posts of deputy

4 director and later general director at Tehnoqas, a major gas company until

5 1978. Thereafter, he became president of Beogradska banka, one of the
6 largest banks in the former Socialist Federal Republic of Yugoslavia, the
7 SFRY, and held that post until 1983.

8 In 1983, Slobodan Milosevic began his political career. He became
9 Chairman of the City Committee of the League of Communists of Belgrade in
10 1984. In 1986, he was elected Chairman of the Presidium of the Central
11 Committee of the League of Communists of Serbia, and was re-elected in
12 1988. On the 16th of July, 1990, the League of Communists of Serbia and
13 the Socialist Alliance of the Working People of Serbia were united. A new
14 party was named the Socialist Party of Serbia, or the SPS, and Slobodan
15 Milosevic was elected its president. He continued to hold the post of the
16 President of the SPS as of the date of this indictment.

17 Slobodan Milosevic was elected President of the Presidency of
18 Serbia on the 8th of May, 1989, and re-elected on the 5th of December that
19 same year. After the adoption of the new constitution of Serbia on the
20 28th of September, 1990, Slobodan Milosevic was elected to the newly
21 established office of President of Serbia in multiparty elections held on
22 the 9th and 26th of December, 1990. He was re-elected on the 20th of
23 December, 1992.

24 After serving two terms as President of Serbia, Slobodan Milosevic
25 was elected President of the Federal Republic of Yugoslavia, or the FRY,

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1 on the 15th of July, 1997, and he began his official duties on the 23rd of
2 July, 1997. Following defeat in the September 2000 FRY presidential
3 elections, Slobodan Milosevic stepped down from this position on the 6th
4 of October, 2000. At all times relevant to this indictment, Slobodan
5 Milosevic held the post of President of the FRY.

6 Paragraphs 5 to 15 deal with other individuals; therefore, we
7 continue with the reading of the indictment as of paragraph 16.
8 Individual Criminal Responsibility.

9 Article 7(1) of the Statute of the Tribunal.

10 Each of the accused is individually responsible for the crimes

11 alleged against him in this indictment under Articles 3, 5, and 7(1) of
12 the Statute of the Tribunal. The accused planned, instigated, ordered,
13 committed or otherwise aided and abetted in the planning, preparation, or
14 execution of these crimes. By using the word "committed" in this
15 indictment, the Prosecutor does not intend to suggest that any of the
16 accused physically perpetrated any of the crimes charged personally.
17 "Committing" in this indictment refers to participation in a joint
18 criminal enterprise as a co-perpetrator. The purpose of this joint
19 criminal enterprise was inter alia the expulsion of a substantial portion
20 of the Kosovo Albanian population from the territory of the province of
21 Kosovo in an effort to ensure continued Serbian control over the
22 province. To fulfil this criminal purpose, each of the accused, acting
23 individually or in concert with each other, and with others known and
24 unknown, significantly contributed to the joint criminal enterprise using
25 the de jure and de facto powers available to him.

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1 This joint criminal enterprise came into existence no later than
2 October 1998, and continued throughout the time period when the crimes
3 alleged in Counts 1 to 5 of this indictment occurred, beginning on or
4 about the 1st of January, 1999 and continuing until the 20th of June,
5 1999. A number of individuals participated in this joint criminal
6 enterprise during the entire duration of its existence, or alternatively
7 at different times during the duration of its existence, including the
8 accused Slobodan Milosevic and others known and unknown.
9 The crimes enumerated in Counts 1 to 5 in this indictment were
10 within the object of the joint criminal enterprise. Alternatively, the
11 crimes enumerated in Counts 3 to 5 were natural and foreseeable
12 consequences of the joint criminal enterprise, and the accused were aware
13 that such crimes were the likely outcome of the joint criminal
14 enterprise. Despite their awareness of the foreseeable consequences,
15 Slobodan Milosevic and others known and unknown knowingly and wilfully
16 participated in the joint criminal enterprise. Each of the accused and

17 other participants in the joint criminal enterprise shared the intent and
18 state of mind required for the commission of each of the crimes charged in
19 Counts 1 to 5. On this basis, under Article 7(1) of the Statute, each of
20 the accused and other participants in the joint criminal enterprise bear
21 individual criminal responsibility for the crimes alleged in Counts 1 to
22 5.

23 Article 7(3) of the Statute of the Tribunal.

24 Slobodan Milosevic and other accused, while holding positions of
25 superior authority, are also individually criminally responsible for the

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1 acts or omissions of their subordinates pursuant to Article 7(3) of the
2 Statute of the Tribunal. A superior is responsible for the criminal acts
3 of his subordinates if he knew or had reason to know that his subordinates
4 were about to commit such acts, or had done so, and the superior failed to
5 take the necessary and reasonable measures to prevent such acts or to
6 punish the perpetrators.

7 Slobodan Milosevic was elected President of the FRY on the 15th of
8 July, 1997, and assumed office on the 23rd of July, 1997. At all times
9 relevant to this indictment he held the post of President of the FRY.

10 As President of the FRY, Slobodan Milosevic was President of the
11 Supreme Defence Council of the FRY. The Supreme Defence Council consists
12 of the President of the FRY and the Presidents of the member republics
13 Serbia and Montenegro. The Supreme Defence Council decides on the
14 National Defence Plan and issues decisions concerning the VJ or Yugoslav
15 army. As President of the FRY, Slobodan Milosevic had the power to order
16 implementation of the National Defence Plan and command the VJ in war and
17 peace, pursuant to decisions made by the Supreme Defence Council.

18 Slobodan Milosevic, as Supreme Commander of the VJ, performed these duties
19 through commands, orders, and decisions.

20 Under the FRY Law on Defence, as Supreme Commander of the VJ,
21 Slobodan Milosevic also exercised command authority over republican police
22 units subordinated to the VJ during a state of imminent threat of war or a

23 state of war. A declaration of imminent threat of war was proclaimed on
24 the 23rd of March, 1999, and a state of war, on the 24th of March, 1999.
25 In addition to his de jure powers, at all times relevant to this

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1 indictment, Slobodan Milosevic exercised extensive de facto control over
2 numerous institutions essential to or involved in the conduct of the
3 offences alleged herein. Slobodan Milosevic exercised extensive de facto
4 control over federal institutions nominally under the competence of the
5 assembly or the government of the FRY. Slobodan Milosevic also exercised
6 de facto control over functions and institutions nominally under the
7 competence of Serbia and its autonomous provinces including the Serbian
8 police force. Slobodan Milosevic further exercised de facto control over
9 numerous aspects of the FRY's political and economic life, particularly
10 the media. Between 1986 and the early 1990s, Slobodan Milosevic
11 progressively required de facto control over these federal, republican,
12 provincial, and other institutions.
13 Slobodan Milosevic's de facto control over Serbian, SFRY, FRY, and
14 other state organs stemmed in part from his leadership of the two
15 principal political parties that ruled in Serbia from 1986 to 2000, and in
16 the FRY from 1992 to the year 2000. From 1986 until 1990, he was Chairman
17 of the Presidium of the Central Committee of the League of Communists in
18 Serbia, then the ruling party in Serbia. In 1990, he was elected
19 President of the Socialist Party of Serbia, the successor party to the
20 League of Communists of Serbia and the Socialist Alliance of the Working
21 People of Serbia. Throughout the period of his Presidency of Serbia from
22 1990 to 1997 and as the President of the FRY from 1997 to the year 2000
23 Slobodan Milosevic was also the leader of the SPS.
24 Beginning no later than October 1988 and at all times relevant to
25 this indictment, Slobodan Milosevic exercised de facto control over the

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1 ruling and governing institutions of Serbia, including the MUP. Beginning

2 no later than October 1988, he exercised de facto control over Serbia's

3 two autonomous provinces, Kosovo and Vojvodina, and their representation

4 in the SFY and the FRY. From no later than October 1988 until mid-1998,

5 Slobodan Milosevic also exercised de facto control over the ruling and

6 governing institutions of the Republic of Montenegro, including its

7 representation in all federal organs of the SFRY and the FRY.

8 In significant international negotiations, meetings, and

9 conferences since 1989 and at all times relevant to this indictment,
10 Slobodan Milosevic was the primary interlocutor with whom the
11 international community negotiated. He negotiated international
12 agreements that were subsequently implemented within Serbia, the SFRY, the
13 FRY, and elsewhere on the territory of the SFRY. Among the conferences
14 and international negotiations at which Slobodan Milosevic was the primary
15 representative of the SFRY and FRY are the following: the Hague primary
16 representative of the FRY, the Paris -- the Hague Conference in 1991; the
17 Paris negotiations of March 1993; the International Conference on the
18 former Yugoslavia in January 1993; the Vance-Owen Peace Plan negotiations
19 between January and May 1993; the Geneva peace talks in the summer of
20 1993; the Contact Group meeting in June 1994; the negotiations for a
21 ceasefire in Bosnia-Herzegovina between the 9th and 14th of September,
22 1995; the negotiations to end the bombing by the North Atlantic Treaty
23 Organisation, NATO, in Bosnia-Herzegovina, from the 14th to the 20th of
24 September, 1995; and the Dayton peace negotiations in November 1995.
25 As the President of the FRY, the Supreme Commander of the VJ and

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1 the President of the Supreme Defence Council and pursuant to his de facto
2 authority, Slobodan Milosevic is personally responsible for the actions of
3 his subordinates within the forces of the FRY and Serbia which included
4 the VJ, the Republic of Serbia Ministry of Interior or MUP, military
5 Territorial Units, Civil Defence Units and other armed groups operating
6 under the authority or with the knowledge of the eight accused and their
7 subordinates who committed the crimes alleged in Counts 1 to 5 of this
8 indictment.

9 Slobodan Milosevic, as President of the FRY, Supreme Commander of
10 the VJ, and President of the Supreme Defence Council is also or
11 alternatively criminally responsible for the acts of his subordinates
12 pursuant to Article 7(3) of the Tribunal's Statute, including but not
13 limited to members of the VJ and the aforementioned personnel of other
14 forces of the FRY and Serbia for the crimes alleged in Counts 1 to 5 of

15 this indictment. In addition, Slobodan Milosevic, pursuant to his de
16 facto authority, is also or alternatively criminally responsible for the
17 acts of his subordinates pursuant to Article 7(3) of the Tribunal's
18 Statute, including members of the VJ and employees of the MUP, for the
19 crimes alleged in Counts 1 to 5 of this indictment.

20 Paragraphs 29 to 52 relate to other accused and, therefore, we
21 continue with the reading of this indictment with paragraph 53.

22 Charges. Following the commencement of the joint criminal
23 enterprise beginning on or about the 1st of January, 1999, and continuing
24 until 20th of June, 1999, Slobodan Milosevic and others known and unknown
25 planned, instigated, ordered, committed, or otherwise aided and abetted a

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1 deliberate and widespread or systematic campaign of terror and violence
2 directed at Kosovo Albanian civilians living in Kosovo in the FRY.

3 The deliberate and widespread or systematic campaign of terror and
4 violence directed at the Kosovo Albanian population was executed by the
5 forces of the FRY and Serbia acting at the direction, with the
6 encouragement, or with the support of Slobodan Milosevic and others known
7 and unknown. Forces of the FRY and Serbia undertook the operations
8 targeting the Kosovo Albanians with the objective of expelling a

9 substantial portion of the Kosovo Albanian population from Kosovo in an
10 effort to ensure continued Serbian control over the province. To achieve
11 this objective, the forces of the FRY and Serbia, acting in concert,
12 engaged in well-planned and coordinated operations as described in
13 paragraphs 55 to 61.

14 The forces of the FRY and Serbia, in a deliberate and widespread
15 or systematic manner forcibly expelled hundreds of thousands of Kosovo
16 Albanians from their homes and internally displaced them within Kosovo.
17 To facilitate these expulsions and displacements, forces of the FRY and
18 Serbia intentionally created an atmosphere of fear and oppression through
19 the use of force, threats of force, and acts of violence.

20 Throughout Kosovo, the forces of FRY and Serbia engaged in a

21 deliberate and widespread or systematic campaign of destruction of
22 property owned by Kosovo Albanian citizens. This was accomplished by the
23 widespread shelling of towns and villages, the burning and destruction of
24 property, including homes, farms, businesses, cultural monuments, and
25 religious sites, and the destruction of personal property. As a result of

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1 these orchestrated actions, villages, towns, and entire regions were made
2 uninhabitable for Kosovo Albanians.

3 In addition to the deliberate destruction of property owned by
4 Kosovo Albanian civilians, forces of the FRY and Serbia committed

5 widespread or systematic acts of brutality and violence against Kosovo
6 Albanian civilians in order to perpetuate the climate of fear, create

7 chaos and a pervading fear for life. Forces of the FRY and Serbia went

8 from village to village and in the towns and cities, from area to area,

9 threatening and expelling the Kosovo Albanian population. Kosovo

10 Albanians were frequently intimidated, assaulted, or killed in public view

11 to enforce the departure of their families and neighbours. Many Kosovo

12 Albanians, who were not directly forcibly expelled from their communities,

13 fled as a result of the climate of terror created by the widespread or

14 systematic beatings, harassment, sexual assaults, unlawful arrests,

15 killings, shelling, and looting carried out across the province. Forces

16 of the FRY and Serbia persistently subjected Kosovo Albanians to insults,

17 racial slurs, degrading acts and other forms of physical and psychological

18 mistreatment based on their racial, religious, and political

19 identification. All sectors of Kosovo Albanian society were displaced

20 including women, children, the elderly, and the infirm.

21 Thousands of Kosovo Albanians who fled their homes as a result of

22 the conduct of the forces of the FRY and Serbia and the deliberate climate

23 of terror that pervaded the territory the Kosovo, joined convoys of

24 persons that moved towards Kosovo's borders with the Republic of Albania

25 and the former Yugoslav Republic of Macedonia. Across the routes from the

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1 border crossings forces of the FRY and Serbia manned checkpoints where the
2 displaced Kosovo Albanians were subjected to further beatings, extortion,
3 robbery, harassment, assaults, illegal arrests, and killings. At other
4 times, forces of the FRY and Serbia escorted groups of expelled Kosovo
5 Albanians to the borders. By these methods, the forces of the FRY and
6 Serbia maintained control over the movement of displaced Kosovo Albanians
7 to the borders. Displaced Kosovo Albanians often arrived at the borders
8 of Kosovo on foot in convoys of several thousand persons, or carried by
9 tractors, trailers, and trucks, as well as on trains, buses, or trucks
10 which were organized and provided by forces of the FRY and Serbia.

11 In addition, thousands of Kosovo Albanians who fled their homes
12 and were thereby forcibly transferred as a result of the conduct of the
13 forces of the FRY and Serbia and the deliberate climate of terror that
14 pervaded the territory of Kosovo were forced to seek shelter for days,
15 weeks, or months in other towns and villages and/or in forests and
16 mountains throughout the province. Some of these internally displaced
17 persons remained inside the province of Kosovo throughout the time period
18 relevant to this indictment, and many persons died as a consequence of the
19 harsh weather conditions, insufficient food, inadequate medical attention,
20 and exhaustion. Others eventually crossed over one of the Kosovo borders
21 into Albania, Macedonia, Montenegro, or crossed the provincial boundary
22 between Kosovo and Serbia. Forces of the FRY and Serbia controlled and
23 coordinated the movements of many internally displaced Kosovo Albanians
24 until they were finally expelled from Kosovo. .
25 Throughout Kosovo, in a deliberate and widespread or systematic

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1 effort to deter expelled Kosovo Albanians from returning to their homes,
2 forces of the FRY and Serbia looted and pillaged the personal and
3 commercial property belonging to Kosovo Albanians. Forces of the FRY and
4 Serbia used wholesale searches, threats of force and acts of violence to
5 rob Kosovo Albanians of money and valuables. And in a widespread or
6 systematic manner, authorities at FRY border posts stole personal vehicles

7 and other property from Kosovo Albanians being deported from the
8 province.
9 In addition, throughout Kosovo, forces of the FRY and Serbia
10 systematically seized and destroyed the personal identity documents and
11 licenses of vehicles belonging to Kosovo Albanian civilians. As Kosovo
12 Albanians were forced from their homes and directed towards Kosovo's
13 borders, they were subjected to demands to surrender identity documents at
14 selected points en route to border crossings and at border crossings with
15 Albanian and Macedonia. These actions were undertaken in order to erase
16 any record of the deported Kosovo Albanians presence in Kosovo and to deny
17 them the right to return to their homes.

18 Count 1. Deportation.

19 The Prosecutor re-alleges and incorporates by reference paragraphs
20 55 to 61.

21 Beginning on or about the 1st of January, 1991, and continuing
22 until the 20th of June, 1999, forces of the FRY and Serbia, acting at the
23 direction, with encouragement, or with the support of Slobodan Milosevic,
24 and others known and unknown, perpetrated the actions set forth in
25 paragraphs 55 through 61, which resulted in the forced deportation of

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1 approximately 800,000 Kosovo Albanian civilians. To facilitate these
2 expulsions and displacements, forces of the FRY and Serbia deliberately
3 created an atmosphere of fear and oppression through the use of force,
4 threats of force, and acts of violence as described above in paragraphs 55
5 to 61. Throughout Kosovo, forces of the FRY and Serbia systematically
6 shelled towns and villages, burned homes and farms, damaged and destroyed
7 Kosovo Albanian cultural and religious institutions, murdered Kosovo
8 Albanian civilians, and sexually assaulted Kosovo Albanian women. These
9 actions were undertaken in all areas of Kosovo, and these deliberate means
10 and methods were used throughout the province, including the following
11 municipalities:

12 Orahovac. On the morning of the 25th of March, 1999, forces of

13 the FRY and Serbia surrounded the village of Celina with tanks and
14 armoured vehicles. After shelling the village, forces of the FRY and
15 Serbia entered the village and systematically looted and pillaged
16 everything of value from the houses, set houses and shops on fire, and
17 destroyed the old mosque. Most of the Kosovo Albanian villagers had fled
18 to a nearby forest before the army and police arrived. On the 28th of
19 March, 1999, forces of the FRY and Serbia forced the thousands of people
20 hiding in the forest to come out. After marching the civilians to a
21 nearby village, the men were separated from the women and were beaten,
22 robbed, and all of their identity documents were taken from them. The men
23 were then marched to Prizren and eventually forced to go to Albania.
24 On the 25th of March, 1999, a large group of Kosovo Albanians went
25 to a mountain near the village of Nogavac, also in Orahovac municipality,

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1 seeking safety from attacks on nearby villages. Forces of the FRY and
2 Serbia surrounded them, and on the following day, ordered the 8,000 people
3 who had sought shelter on the mountain to leave. The Kosovo Albanians
4 were forced to go to a nearby school, and then they were forcibly
5 dispersed into nearby villages. After three or four days, forces of the
6 FRY and Serbia entered the villages, went from house to house and ordered
7 people out. Eventually, they were forced back into houses and told not to
8 leave. Those who could not fit inside the houses were forced to stay in
9 cars and tractors parked nearby. On the 2nd of April, 1999, forces of the
10 FRY and Serbia started shelling the villagers, killing a number of people
11 who had been sleeping in tractors and cars. Those who survived headed for
12 the Albanian border. As they passed through other Kosovo Albanian
13 villages which had been destroyed, they were taunted by forces of the FRY
14 and Serbia. When the villagers arrived at the border, all their
15 identification papers were taken from them. In the course of the
16 expulsions throughout the entire municipality of Orahovac, forces of the
17 FRY and Serbia systematically burned houses, shops, cultural monuments,
18 and religious sites belonging to Kosovo Albanians. Several mosques were

19 destroyed, including the mosques of Bela Crkva, Brestovac, Velika Krusa
20 and others.
21 Prizren. On the 25th of March, 1999, the village of Pirane was
22 surrounded by forces of the FRY and Serbia with tanks and various military
23 vehicles. The village was shelled and a number of the residents were
24 killed. Thereafter, forces of the FRY and Serbia entered the village and
25 burned the houses of Kosovo Albanians. After the attack, the remaining

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1 villagers left Pirane and went to surrounding villages. In the town of
2 Landovica, an old mosque was burned and heavily damaged by forces of the
3 FRY and Serbia. Some of the Kosovo Albanians fleeing towards Srbica were
4 killed or wounded by snipers. Forces of the FRY and Serbia then launched
5 an offensive in the area of Srbica and shelled the villages of Donji
6 Retimlje, Retimlje, and Randubrava. Kosovo Albanian villagers were forced
7 from their homes and sent to the Albanian border. From the 28th of March,
8 1999, in the city of Prizren itself, forces of the FRY and Serbia went
9 from house to house ordering Kosovo Albanian residents to leave. They
10 were forced to join convoys of vehicles and persons travelling on foot to
11 the Albanian border. En route, members of the forces of the FRY and
12 Serbia beat and killed Kosovo Albanian men, separated Kosovo Albanian
13 women from the convoy, and sexually assaulted the women in view of
14 others. At the border all personal documents were taken away by forces of
15 the FRY and Serbia.
16 Srbica. Beginning on or about the 25th of March, 1999, forces of
17 the FRY and Serbia attacked and destroyed the villages of Vojnike,
18 Leocina, Kladernica, Turicevac, and Izbica by shelling and burning. Many
19 of the houses, shops, and mosques were destroyed, including the mosque in
20 the center of the village of Cirez. Some women and children were taken
21 away by members of the forces of the FRY and Serbia and held in a barn in
22 Cirez. The women were subjected to sexual assault, and their money and
23 property were stolen. At least eight of the women were killed after being
24 sexually assaulted, and their bodies were thrown into three wells in the

25 village of Cirez. On or about the 28th of March, 1999, a group of at

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1 least 4,500 Kosovo Albanians from these villages gathered in the village
2 of Izbica where members of the forces of the FRY and Serbia demanded money
3 from these Kosovo Albanians and separated the men from the women and
4 children. A large number of the men were then killed. The surviving

5 women and children were forcibly moved as a group towards Klina,
6 Djakovica, and eventually to the Albanian border.
7 Suva Reka. On the morning of the 25th of March, 1999, forces of
8 the FRY and Serbia surrounded the town of Suva Reka. During the following
9 days, police officers went from house to house, threatening, assaulting,
10 and killing Kosovo Albanian residents, and removing many of the people
11 from their homes at gunpoint. Many houses and shops belonging to Kosovo
12 Albanians were set on fire, and a mosque in Suva Reka was damaged. The
13 women, children, and elderly were sent away by the police, and then a
14 number of the men were killed by the forces of the FRY and Serbia. The
15 Kosovo Albanians were forced to flee, making their way in trucks,
16 tractors, and trailers towards the border with Albania. While crossing
17 the border, their documents and money were taken away.
18 On the 31st of March, 1999, approximately 80,000 Kosovo Albanians
19 displaced from villages in the Suva Reka municipality gathered near
20 Belanica. The following day, forces of the FRY and Serbia shelled the
21 village of Belanica, forcing the displaced persons to flee towards the
22 Albanian border. Prior to crossing the border, their identification
23 documents were taken away from them.
24 Pec. On or about the 27th and 28th of March, 1999, in the city of
25 Pec, forces of the FRY and Serbia went from house to house, forcing Kosovo

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1 Albanians to leave. Some houses were set on fire, and a number of people
2 were shot. Soldiers and police were stationed along every street,
3 directing the Kosovo Albanians towards the town center. Once the people
4 reached the center of town, those without cars or vehicles were forced to
5 get on buses or trucks and were driven to the town of Prizren. Outside
6 Prizren, the Kosovo Albanians were forced to get off the buses and trucks
7 and walk approximately 15 kilometres to the Albanian border where, prior
8 to crossing the border, they were ordered to turn their identification
9 papers over to Serb policemen.
10 Kosovska Mitrovica. Beginning on or about the 25th of March,

11 1999, and continuing through the middle of April 1999, forces of the FRY
12 and Serbia began moving systematically through the town of Kosovska
13 Mitrovica. They entered the homes of Kosovo Albanians and ordered the
14 residents to leave their houses at once and to go to the bus station.
15 Some houses were set on fire, forcing the residents to flee to other parts
16 of the town. At least one of the mosques of the town was burned and
17 damaged. Over a three-week period, the forces of the FRY and Serbia
18 continued to expel the Kosovo Albanian residents of the town. During this
19 period, properties belonging to Kosovo Albanians were destroyed, Kosovo
20 Albanians were robbed of money, vehicles, and other valuables, and Kosovo
21 Albanian women were sexually assaulted. A similar pattern was repeated in
22 other villages in the Kosovska Mitrovica municipality, where forces of the
23 FRY and Serbia forced Kosovo Albanians from their homes and destroyed the
24 villages. The Kosovo Albanian residents of the municipality were forced
25 to join convoys going to the Albanian border via the towns of Srbica, Pec,

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1 Djakovica and Prizren. En route to the border, forces of the FRY and
2 Serbia robbed them of valuables and seized their identity documents.
3 Pristina. Beginning on or about the 24th of March, 1999, and
4 continuing through the end of May 1999, Serbian police went to the homes
5 of Kosovo Albanians in the city of Pristina and forced the residents to
6 leave. During the course of these forced expulsions, a number of people
7 were killed. Many of those forced from their homes went directly to the
8 train station, while others sought shelter in nearby neighbourhoods.
9 Hundreds of ethnic Albanians, guided by Serb police at all the
10 intersections, gathered at the train station and then were loaded onto
11 overcrowded trains or buses after a long wait, during which time no food
12 or water was provided. Those on the trains went as far as Dzenegal
13 Jankovic village near the Macedonian border. During the train ride, many
14 people had their identification papers taken from them. After getting off
15 the trains, forces of the FRY and Serbia told the Kosovo Albanians to walk
16 along the tracks into Macedonia since the surrounding land had been

17 mined. Those who tried to hide in Pristina were eventually expelled in a
18 similar fashion. During the course of these forced expulsions, a number
19 of people were killed and several women were sexually assaulted.
20 During the same period, forces of the FRY and Serbia entered the
21 villages of Pristina municipality, where they beat and killed many Kosovo
22 Albanians, robbed them of their money, looted their property, and burnt
23 their homes. Many of the villagers were taken by truck to the town of
24 Glogovac, in the municipality of Glogovac. From there they were
25 transported to Dzenegal Jankovic and walked to the Macedonian border.

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1 Others, after making their way to the town of Urosevac, were ordered by
2 the forces of the FRY and Serbia to take a train to Dzenegal Jankovic,
3 from where they walked across the border into Macedonia.
4 Djakovica. By March 1999, the population of the town of Djakovica
5 had increased significantly due to the large number of internally
6 displaced persons who fled their villages to escape deliberate shelling by
7 forces of the FRY and Serbia during 1998, and to escape the armed conflict
8 between these forces and members of the Kosovo Liberation Army. The
9 continual movement of these internally displaced persons increased after
10 the 24th of March, 1999, when, following violent expulsions in the town of
11 Djakovica, many internally displaced persons returned from the town of
12 Djakovica to the outlying villages only to be expelled from these villages
13 again by forces of the FRY and Serbia. Serb forces controlled and
14 coordinated the movement of these internally displaced persons as they
15 travelled from these villages and -- these villages to and from the town
16 of Djakovica and finally to the border between Kosovo and the Republic of
17 Albania. Persons travelling on foot were sent from the town of Djakovica
18 directly toward one of several border crossings. Persons travelling in
19 motor vehicles were routed first towards the town of Prizren before
20 approaching the border and crossing into the Republic of Albania.
21 From on or about the 24th of March 1999, through the 11th of May,
22 1999, forces of the FRY and Serbia began forcing residents of the town of

23 Djakovica to leave. Forces of the FRY and Serbia spread out throughout
24 the town and went from house to house ordering Kosovo Albanians from their
25 homes. In some instances, people were killed and many persons were

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1 threatened with death. Many of the houses and shops belonging to Kosovo
2 Albanians were set on fire while those belonging to Serbs were protected.
3 On the 24th of March, 1999, the old mosque in Rogovo and the old historic
4 quarter of Djakovica, which included the bazaar, the Hadum mosque, and the
5 adjoining Islamic library were among the several cultural sites
6 substantially and/or totally destroyed. During the period from the 2nd to
7 the 4th of April, 1999, thousands of Kosovo Albanians living in the town
8 of Djakovica and neighbouring villages joined a large convoy either on
9 foot or driving in cars, trucks, and tractors and moved to the border with
10 Albania. Forces of the FRY and Serbia directed those fleeing along
11 pre-arranged routes and at checkpoints along the way most Kosovo Albanians
12 had their identification papers and licence plates seized. In some
13 instances, Yugoslav army trucks were used to transport persons to the
14 border with Albania.

15 In addition, during late March and April 1999, forces of the FRY
16 and Serbia forcibly expelled the Kosovo Albanian residents of many
17 villages of the Djakovica municipality, including the villages of Drobros,
18 Korenica, and Meja. Many of these residents were subsequently ordered or
19 permitted to return to their communities only to be expelled again by
20 forces of the FRY and Serbia. On or about the early morning hours of the
21 27th of April, 1999, forces of the FRY and Serbia launched a massive
22 attack against the Carragojs, Erenik, and Trava Valleys of the Djakovica
23 municipality, including the remaining residents of the aforementioned
24 villages, in order to drive the population out of the area. A large
25 number of soldiers and policemen were deployed and several checkpoints

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1 were established. In Meja, Korenica, and Meja Orize, a large and as yet
2 undetermined number of Kosovo Albanian civilian males were separated from

3 the mass of fleeing villagers, abducted and executed. Throughout the
4 entire day, villages under direct threat of the forces of the FRY and
5 Serbia left their homes and joined several convoys of refugees using
6 tractors, horse carts, and cars and eventually crossed into Albania.
7 Forces of the FRY and Serbia confiscated the identity documents of many of
8 the Kosovo Albanians before they crossed the border.
9 Gnjilane. The forces of the FRY and Serbia entered the town of
10 Prilepnica on the 6th of April, 1999 or thereabouts, and ordered residents
11 to leave, saying that the town would be mined the next day. The
12 townspeople left and tried to go to another village, but forces of the FRY
13 and Serbia turned them back. On the 13th of April, 1999, residents of
14 Prilepnica were again informed that the town had been evacuated by the
15 following day. The next morning, the Kosovo Albanian residents left in a
16 convoy of approximately 500 vehicles. Shortly after the residents left,
17 the houses in Prilepnica were set on fire. Throughout the entire
18 municipality of Gnjilane, forces of the FRY and Serbia systematically
19 burned and destroyed houses, shops, cultural monuments, and religious
20 sites belonging to Kosovo Albanians, including a mosque in Vlastica.
21 Kosovo Albanians and in other villages in Gnjilane municipality were also
22 forced from their homes. Thousands of displaced persons from villages
23 such as Zegra, Nosalje, and Vladovo sought shelter in the village of Donja
24 Stubla located in the Vltina municipality. Many of these displaced
25 persons from Gnjilane crossed Kosovo's boundary with the province of

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1 Serbia where they suffered similar harassment and mistreatment to that
2 which they experienced in Kosovo before entering Macedonia. Others
3 travelled directly to Macedonia. When the Kosovo Albanians reached the
4 border with Macedonia, forces of the FRY and Serbia confiscated their
5 identification papers.
6 Urosevac. During the period between 24th of March, and the 14th
7 of April, 1999, forces of the FRY and Serbia shelled and attacked the
8 villages in the Urosevac municipality, including Biba, Muhadzer Prelez,

9 and Star Selo, killing a number of residents. After the shelling, forces
10 of the FRY and Serbia entered some of the villages including Papaz and
11 Sojevo, and ordered the residents to leave. Other Kosovo Albanians from
12 Varos Selo and Mirosavlje fled their villages as the Serb forces entered.
13 After the residents left their homes, the soldiers and policemen burnt the
14 houses. The displaced persons went to the town of Urosevac where most
15 boarded trains which carried them to the Macedonian border, crossing at
16 Dzeneral Jankovic. Serb forces directed the train passengers to walk on
17 the railroad tracks to the border. Others travelled in convoys from
18 Urosevac to the same border crossing. At the border, Serb forces
19 confiscated all of their documents.

20 Kacanik. Between March and May 1999, forces of the FRY and Serbia
21 attacked villages in the Kacanik municipality and the town of Kacanik
22 itself. This had -- as a result, the destruction of houses and the mosque
23 in the Ivaja valley [sic].

24 On or about the 8th of March, 1999, forces of the FRY and Serbia
25 attacked and partially burned the village of Kottina. On the 24th of

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1 March, 1999, forces of the FRY and Serbia attacked Kottina again with
2 heavy weapon systems and soldiers. Many of the male residents of the
3 Kottina fled into nearby forests during this attack while forces of the
4 FRY and Serbia ordered the women, children, and elderly to board trucks
5 which took them towards the Kacanik. Those who could not fit into the
6 trucks were compelled to walk behind them towards Kocanik. A number of
7 male residents of Kottina were killed during this attack, including at
8 least 17 men whose bodies were thrown into wells. Before departing
9 Kottina forces of the FRY and Serbia burnt the remainder of the village.
10 Many of the survivors fled to Macedonia.

11 On or about the 27th and 28th of March, 1999, forces of the FRY
12 and Serbia attacked the town of Kacanik. Forces of the FRY and Serbia
13 harassed, detained, beat, and shot many Kosovo Albanian residents of the
14 Kacanik. Thousands of persons fled to nearby forests and eventually

15 walked across the border into Macedonia. Other displaced persons from the
16 town of Kacanik and nearby villages walked to the village of Staqovo where
17 they boarded trains that took them to the Macedonian border.

18 On or about the 13th of April, 1999, forces of the FRY and Serbia
19 surrounded the village of Slatina and the hamlet of Vata. After shelling
20 the village, infantry troops and police entered the village and looted and
21 burnt the houses. During this action, 13 civilians were shot and killed.
22 Following this attack, much of the population of Slatina fled to
23 Macedonia.

24 On or about the 25th of May, 1999, forces of the FRY and Serbia

25 attacked the village of Dubrava in the municipality of Kacanik. During

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1 the attack, forces of the FRY and Serbia killed several Kosovo Albanian
2 residents of the Dubrava. Many residents of Dubrava formed a convoy of
3 tractors and trailers and fled to Macedonia. Other residents fled to
4 other villages or into forests before eventually crossing the border into
5 Macedonia.

6 Decani. On or about the 29th of March, 1999, forces of the FRY

7 and Serbia surrounded and attacked the village of Beleg and other

8 surrounding villages in the Decani municipality. Forces of the FRY and

9 Serbia went from house to house and told villagers to leave their houses

10 immediately. About 300 men, women, and children were moved out of their

11 homes and gathered in a nearby field in the village of Beleg. Forces of

12 the FRY and Serbia ordered all men and women to undress and all their

13 personal property was taken away. Men were separated from women and

14 children and taken to the basement of an unfinished house near the field.

15 Women and children were ordered to go to another house. During the night,

16 at least three women were sexually assaulted. The next day, forces of the

17 FRY and Serbia told the villagers to leave the village in trucks and

18 tractors and go to Albania.

19 Vucitrn. On or about the 27th of March, 1999, forces of the FRY

20 and Serbia began to burn houses in the town of Vucitrn and burnt the main

21 mosque in that town. On or about the 2nd of May, 1999, forces of the FRK
22 and Serbia attacked a number of villages north-east of the town of
23 Vucitrn, including the villages of Skrovna, Slakovce, Cecelija, and Gornja
24 Sudimlja. The villagers were forced out of their homes and many of their
25 houses, shops and religious sites were completely burnt, the villagers, as

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1 well as persons previously displaced from other communities in the Vucitrn
2 municipality were forced to form a convoy of approximately 20.000 people -
3 travelling on the Studime Gorge road in the direction of the town of
4 Vucitrn. In the course of these actions, forces of the FRY and Serbia
5 harassed, beat, and robbed the Kosovo Albanians travelling in the convey
6 and killed approximately 104 Kosovo Albanians. Thousands of Kosovo
7 Albanians in this convoy were detained by forces of the FRY and Serbia in
8 the agriculture cooperative near the town of Vucitrn. On or about the 3rd
9 of May, 1999, forces of the FRY and Serbia, at the agriculture cooperative
10 separated Kosovo Albanian men of military age from women, children, and
11 the elderly. The Kosovo Albanian women, children, and elderly were
12 directed to travel to Albania, and a number of Kosovo Albanian men were
13 forced to drive vehicles that carried the women, children, and elderly to
14 the Albanian border. The forces of the FRY and Serbia transported
15 hundreds of Kosovo Albanian men of military age from the agriculture
16 cooperative to a prison in the village of Smrekovrica. After several
17 weeks of detention in inhumane conditions where they were subjected to
18 beatings, torture, and murder, many of these Kosovo Albanian men were
19 transported to the village of Zur near the Albanian border and forced to
20 cross the border into Albania.

21 By these acts and omissions, Slobodan Milosevic and others known
22 and unknown planned, instigated, ordered, committed, or otherwise aided
23 and abetted the planning, preparation, or execution of:
24 Count 1: Deportation, a crime against humanity, punishable under
25 Article 5(d) of the Statute of the Tribunal.

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1 Count 2: Other inhumane acts, forcible transfer.

2 With respect to those Kosovo Albanians who were internally
3 displaced within the territory of Kosovo, the Prosecutor re-alleges and
4 incorporates by references paragraphs 55 to 61 and, in particular,
5 paragraph 59.

6 By these acts and omissions Slobodan Milosevic and others known

7 and unknown planned, instigated, ordered, committed, or otherwise aided
8 and abetted the planning, preparation, or execution of:
9 Count 2: Other inhumane acts, forcible transfer, a crime against
10 humanity, punishable under Article 5(i) of the Statute of the Tribunal.
11 Counts 3 and 4: Murder.
12 The Prosecutor re-alleges and incorporates by reference paragraphs
13 55 to 63.
14 Beginning on or about January the 1st, 1999 and continuing until
15 the 20th of June, 1999, forces of the FRY and Serbia, acting at the
16 direction, with the encouragement, or with the support of Slobodan
17 Milosevic and others known and unknown murdered hundreds of Kosovo
18 Albanian citizens. These killings occurred in a widespread or systematic
19 manner throughout the province of Kosovo and resulted in the deaths of
20 numerous men, women, and children. Included among the incidents of mass
21 killings are the following:
22 On or about the 15th of January, 1999, in the early morning hours,
23 the village of Racak was attacked by forces of the FRY and Serbia in
24 Stimlje municipality. After shelling, forces of the FRY and Serbia
25 entered the village later in the morning and began conducting

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1 house-to-house searches. Villagers who attempted to flee from the forces
2 of the FRY and Serbia were shot throughout the village. A group of
3 approximately 25 men attempted to hide in a building but were discovered
4 by the forces of the FRY and the police. They were beaten and then were
5 removed to a nearby hill where they were shot and killed. Altogether, the
6 forces of the FRY and Serbia killed approximately 45 Kosovo Albanians in
7 and around Racak. Those persons killed who are known by name are set
8 forth in Schedule A which is attached as an appendix to this indictment.
9 On or about the 25th of March, 1999, forces of the FRY and Serbia
10 surrounded and attacked the village of Bela Crkva in Orahovac
11 municipality. Many of the residents of Bela Crkva fled along the Belača
12 River outside the village and were forced to seek shelter at a railroad

13 bridge. As the forces of the FRY and Serbia approached the bridge, they
 14 opened fire on a number of villagers, killing 12 persons including 10
 15 women and children. A two-year-old child survived this incident of the
 16 forces of the FRY and Serbia then ordered the remaining villagers out of
 17 the streambed, at which time the men and older boys were separated from
 18 the elderly men, women, and children. The forces of the FRY and Serbia
 19 ordered the men and older boys to strip and then systematically robbed
 20 them of all valuables. The women and children were then ordered to leave
 21 towards an adjacent village called Zrze. The doctor from Bela Crkva
 22 attempted to speak with the commander of the attacking forces, but he was
 23 shot and killed, as was his nephew. The remaining men and older boys were
 24 then ordered back into the streambed. After they complied, the forces of
 25 the FRY and Serbia opened fire on these men and older boys, killing

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1 approximately 65 Kosovo Albanians. A number of men and older boys
 2 survived this incident, and other persons hiding in the vicinity also
 3 witnessed this incident. In addition, forces of the FRY and Serbia also
 4 killed six men found hiding in an irrigation ditch in the vicinity. Those
 5 persons killed who are known by name are set forth in Schedule B, which is
 6 attached as an appendix to this indictment.

7 On or about the 25th of March, 1999, forces of the FRY and Serbia
 8 attacked the villages of Mala Krusa and Velika Krusa in Orahovac
 9 municipality. The villagers of Mala Krusa took refuge in a forest outside
 10 Mala Krusa, where they were able to observe the forces of the FRY and
 11 Serbia systematically looting and burning their houses. The villagers
 12 subsequently took refuge in the house of Sedje Batusha, which is located
 13 on the outskirts of Mala Krusa. During the morning of the 26th of March,
 14 1999, forces of the FRY and Serbia located the villagers. The police
 15 forces of the FRY and Serbia ordered the women and small children to leave
 16 the area and go to Albania. The forces of the FRY and Serbia detained and
 17 searched the men and boys and confiscated their identity documents and
 18 valuables. Subsequently, the forces of the FRY and Serbia ordered the men

19 and boys, under threat of death, to walk to an unoccupied house in Mala
20 Krusa. The forces of the FRY and Serbia forced the men and boys to enter
21 the house. When the men and boys were assembled inside, the forces of the
22 FRY and Serbia opened fire with machine-guns on the group. After several
23 minutes of gunfire, forces of the FRY and Serbia set fire to the house in
24 order to burn the bodies. As a result of the shootings and fire,
25 approximately had 105 Kosovo Albanian men and boys died. Those persons

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1 killed who are known by name are set forth in Schedule C, which is
2 attached as an appendix to this indictment.

3 On or about the 26th of March, 1999, in the morning hours, forces
4 of the FRY and Serbia surrounded the vicinity of the Berisha family
5 compound in the town of Suva Reka. Tanks were positioned close to and
6 pointing in the direction of the houses. The forces of the FRY and Serbia
7 order the occupants out of one of the houses. Men were separated from
8 women and children and six members of the family were killed. The
9 remaining family members were herded towards a coffee shop by forces of
10 the FRY and Serbia. Those family members were herded along with three
11 extended Berisha family groups into the coffee shop. Forces of the FRY
12 and Serbia then walked into the coffee shop and opened fire on the persons
13 inside. Explosives were also thrown into the shop. At least 44 civilians
14 were killed and others seriously wounded during this action. The bodies
15 of the victims were dragged out of the shop and placed in the rear of a
16 truck which was then driven in the direction of Prizren. Three injured
17 persons thrown in among the other bodies jumped out of the truck en route
18 to Prizren. Property pertaining to at least six of the persons killed in
19 the coffee shop were found in a clandestine mass grave site at a VJ firing
20 range near Korusa. In addition, identification documents pertaining to at
21 least five of the persons killed in the coffee shop were found on bodies
22 exhumed near a clandestine mass grave located in Batajnica near Belgrade
23 in Serbia. Those persons killed who are known by name are set forth in
24 Schedule K, which is attached as an appendix to this indictment.

25 On or about the evening of the 26th of March 1999, in the town of

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1 Diakovica, forces of the FRY and Serbia came to a house at 134a Ymer
2 Grezda Street. The women and children inside the house were separated
3 from the men and were ordered to go upstairs. The forces of the FRY and
4 Serbia then shot and killed the six Kosovo Albanian men who were in the
5 house. The names of those killed are set forth in Schedule D, which is
6 attached as an appendix to this indictment.

7 On or about the 26th of March, 1999, in the morning hours, forces
8 of the FRY and Serbia attacked the village of Padaliste, Istok
9 municipality. As the forces of the FRY and Serbia entered the village,
10 they fired on houses and on villagers who attempted to flee. Eight
11 persons of the Beke Imeraj family were forced from their home and were
12 killed in front of their house. Other residents of Padaliste village were
13 killed at their homes and in a streambed near the village. Altogether,
14 forces of the FRY and Serbia killed approximately 20 Kosovo Albanians from
15 Padaliste. Those persons killed who are known by name are set forth in
16 Schedule E, which is attached as an appendix to this indictment.

17 On or about the 27th of March, 1999, forces of the FRY and Serbia
18 attacked the village of Izbica with heavy weapons. At least 4,500
19 villagers from Izbica and surrounding villages took refuge in a meadow in
20 Izbica. On the 28th of March, 1999, forces of the FRY and Serbia
21 surrounded the villagers and approached them, demanding money. After the
22 forces of the FRY and Serbia stole the villagers' valuables, the men were
23 separated from the women and small children. The men were then further
24 divided into two groups, one of which was sent to a nearby hill and the
25 other was sent to a nearby streambed. The forces of the FRY and Serbia

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1 then fired upon both groups of men, and at least 116 Kosovo Albanian men
2 were killed on that occasion. Also on the 28th of March, 1999, the women
3 and children gathered at Izbica were forced to leave the area and to walk
4 towards Albania. Two elderly disabled women were sitting on a

5 tractor-trailer, unable to walk. Forces of the FRY and Serbia set the
6 tractor-trailer on fire, and the two women were burned alive. Those
7 persons killed in Izbica who are known by name are set forth in Schedule
8 F, which is attached as an appendix to this indictment.

9 On or about the late evening of the 1st of April, 1999, and in the
10 early morning hours of the 2nd of April, 1999, forces of the FRY and
11 Serbia launched an operation against the Qerim district of Djakovica.
12 Over a period of several hours, the FRY and Serbia forcibly entered houses
13 of Kosovo Albanians in the Qerim district, killing the occupants and then
14 setting fire to the buildings. Dozens of homes were destroyed and over 50
15 persons were killed. For example, in a house located at 157 Milos Gilic
16 Street, forces of the FRY and Serbia shot the 20 occupants and then set
17 fire to the house. As a result of the shootings and the fire set by the
18 forces of the FRY and Serbia at this single location, 20 Kosovo Albanians
19 were killed, of whom 19 were women and children. The names of those
20 killed at this location are set forth in Schedule G, which is attached as
21 an appendix to this indictment.

22 On or about the early morning hours of the 27th of April, 1999,
23 forces of the FRY and Serbia launched a massive attack against the Kosovo
24 Albanian population of the Carraçojs, Erenik and Trava Valleys of the
25 Djakovica municipality in order to drive the population out of the area.

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1 A large number of forces were deployed and several checkpoints were
2 established. Throughout the entire day, villagers, under direct threat
3 from the forces of the FRY and Serbia, left their homes and joined several
4 convoys of refugees using tractors, horse carts and cars. In Meja,
5 Korenica, and Meja Orize, a large, and as yet undetermined, number of
6 Kosovo Albanian civilian males were separated from the mass of fleeing
7 villagers and abducted. Many of these men were summarily executed, and
8 approximately 300 persons are still missing. Identity documents
9 pertaining to at least seven persons who were last seen at Meja on the
10 27th of April, 1999 were found on bodies exhumed from a clandestine mass

11 grave located in Batajnica, near Belgrade, Serbia. Those persons killed
 12 who are known by name are set forth in Schedule I, which is attached as an
 13 appendix to this indictment.

14 On or about the 2nd of May, 1999, forces of the FRY and Serbia
 15 attacked several villages north-east of the town of Vucitrn, including
 16 Skrovna, Slakovce, Ceceli, and Gornja Sudimlja. The villagers were forced
 17 out from their homes, and many of their houses, shops, and religious sites
 18 were completely burnt. They were subsequently forced into a convoy of
 19 approximately 20,000 people, travelling on the Studime Gorge road, in the
 20 direction of the town of Vucitrn. In the course of these actions, forces
 21 of the FRY and Serbia harassed, beat, and killed approximately 104 Kosovo
 22 Albanians. Those persons killed who are known by name are set forth in
 23 Schedule II, which is attached as an appendix to this indictment.

24 On or about the 22nd of May, 1999, in the early morning hours, a
 25 uniformed person in the Dubrava Prison complex of the Istok municipality

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1 announced from a watchtower that all prisoners were to gather their
 2 personal belongings and line up on the sports field at the prison complex
 3 for transfer to the prison in Nis, Serbia. Within a very short time,
 4 hundreds of prisoners had gathered at the sports field with bags of
 5 personal belongings and lined up in rows to await transport. Without
 6 warning, uniformed persons opened fire on the prisoners from the
 7 watchtower, from holes in the perimeter wall and from gun emplacements
 8 beyond the wall. Many prisoners were killed outright and others wounded.
 9 On or about the 23rd of May, 1999, in the afternoon, forces of the
 10 FRY and Serbia threw grenades and shot into the drains, sewers, buildings
 11 and basements, killing and wounding many additional prisoners who had
 12 sought refuge in those locations after the events of the previous day.
 13 Altogether, approximately 50 prisoners were killed. Many of the murdered
 14 persons remain unidentified; however, the names of those persons who are
 15 known to have been killed are set forth in Schedule J, which is attached
 16 as an appendix to this indictment.

17 During the period between March 1999 and May 1999, forces of the
 18 FRY and Serbia launched a series of massive offensives against several
 19 villages in the municipality of Kacanik, which resulted in the murder of
 20 over 100 civilians.

21 On or about the 24th of March, 1999, the village of Kottlina was
 22 attacked by the forces of the FRY and Serbia. In the course of the
 23 attack, most of the houses were burnt down and at least 17 persons were
 24 killed. Some of those killed were captured in the woods, executed, and
 25 then thrown into wells. Explosives were thrown on top of the wells.

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13 English transcripts.

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1 On or about the 13th of April, 1999, forces of the FRY and Serbia
 2 surrounded the village of Slatina and the hamlet of Vata. After shelling
 3 the village, infantry troops and police entered the village and looted and
 4 burnt the houses. During this action, 13 civilians were shot and killed.
 5 On or about the 21st of May, 1999, the village of Staqovo was
 6 surrounded by forces of the FRY and Serbia. The population tried to
 7 escape toward the mountains east of the village. During this action, at
 8 least 12 persons were killed. Most of the village was looted and burnt
 9 down.

10 On or about the 25th of May, 1999, forces of FRY and Serbia
 11 surrounded the village of Dubrava. As the forces entered the village, the
 12 population was ordered to gather at the school and leave the village on
 13 tractors. Men were then separated from women and children. During this
 14 action, four men were killed. In addition, four members of the Qorri
 15 family were killed while trying to escape towards the woods. Those
 16 persons killed in the municipality of Kacanik who are known by name are
 17 set forth in Schedule L, which is attached as an appendix to this
 18 indictment.

19 By these acts and omissions, Slobodan Milosevic, and others known
 20 and unknown, planned, instigated, ordered, committed or otherwise aided
 21 and abetted the planning, preparation, and execution of the following
 22 acts:

23 Count 3: Murder, a crime against humanity, punishable under
 24 Article 5(a) of the Statute of the Tribunal.

25 Count 4: Murder, a violation of the laws or customs of war,

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1 punishable under Article 3 of the Statute of the Tribunal, and recognised
 2 by Article 3(1)(a) (murder) of the Geneva Conventions.

3 Count 5. Persecutions.

4 The Prosecutor re-alleges from paragraphs 55 to 66 and

5 incorporates them into this count.

6 Beginning on or about the 1st of January, 1999, and continuing

7 until the 20th of June, 1999, the forces of the FRY and Serbia, acting at

8 the direction, with the encouragement, or with the support of Slobodan

9 Milosevic, and others known and unknown, utilised the means and methods

10 set forth in paragraphs 55 to 66 to execute a campaign of persecution

11 against the Kosovo Albanian civilian population based on political,

12 racial, or religious grounds. These persecutions included, but were not

13 limited to, the following means:

14 The forcible transfer and deportation by forces of the FRY and

15 Serbia of approximately 800,000 Kosovo Albanian civilians as described in

16 paragraphs 55 to 64.

17 The murder of hundreds of Kosovo Albanian civilians by forces of

18 the FRY and Serbia as described in paragraphs 65 to 66.

19 The sexual assault by forces of the FRY and Serbia of Kosovo

20 Albanians, in particular women, including the sexual assaults described in

21 paragraphs 57 and 63.

22 The wanton destruction or damage of Kosovo Albanian religious

23 sites. During and after the attacks on the towns and villages, forces of

24 FRY and Serbia systematically damaged and destroyed cultural monuments and

25 Muslim sacred sites. Mosques were shelled, burned and dynamited

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1 throughout the province. Included among the incidents are the following:

2 the damage and/or destruction of mosques in Vucitrn, Suva Reka, Celina,

3 Roqovo, Bela Crkva, Cirez, Kottina, Ivaja, Brestovac, Velika Krusa,

4 Kosovska Mitrovica, Vlastica, Landovice and Djakovica, as described in

5 paragraph 63.

6 By these acts and omissions, Slobodan Milosevic, and others known

7 and unknown, planned, instigated, ordered, committed or otherwise aided

8 and abetted the planning, preparation, and execution of the following

9 act:

10 Count 5: Persecutions on political, racial and religious grounds,
11 a crime against humanity, punishable under Article 5(h) of the Statute of
12 the Tribunal.

13 General Allegations.

14 At all times relevant to this indictment, a state of armed
15 conflict existed in Kosovo in the FRY. All acts and omissions charged as
16 crimes against humanity were part of a widespread or systematic attack
17 directed against the Kosovo Albanian civilian population of Kosovo in the
18 FRY.

19 Additional Facts --

20 JUDGE MAY: It's now 1.00, and that would be a convenient time to
21 adjourn. We will adjourn now for an hour and a half. Half past two.

22 --- Luncheon recess taken at 1.00 p.m.

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1 --- On resuming at 2.32 a.m.

2 JUDGE MAY: Let the reading resume.

3 THE REGISTRAR: [Interpretation] Additional Facts.

4 The Autonomous Province of Kosovo and Metohija is located in the
5 southern part of the Republic of Serbia, a constituent republic of the
6 FRY. The territory now comprising the FRY was part of the SFRY. The
7 Autonomous Province of Kosovo and Metohija is bordered on the north and
8 northwest by Montenegro, another constituent republic of the FRY. On the
9 southwest, the Autonomous Province of Kosovo and Metohija is bordered by
10 the Republic of Albania, and to the south, by Macedonia. The capital of
11 the Autonomous Province of Kosovo and Metohija is Pristina.
12 In 1990, the Socialist Republic of Serbia promulgated a new
13 Constitution which, among other things, changed the names of the republic
14 and the autonomous provinces. The name of the Socialist Republic of

15 Serbia was changed to the Republic of Serbia, the name of the Socialist
16 Autonomous Province of Kosovo was changed to the Autonomous Province of
17 Kosovo and Metohija, and the name of the Socialist Autonomous Province of
18 Vojvodina was changed to the Autonomous Province of Vojvodina. During
19 this same period, the Socialist Republic of Montenegro changed its name to
20 the Republic of Montenegro.

21 In 1974, a new SFRY Constitution had provided for a devolution of
22 power from the central government to the six constituent republics of the
23 country. Within Serbia, Kosovo and Vojvodina were given considerable
24 autonomy including control of their educational systems, judiciary, and
25 police. They were also given their own provincial assemblies, and were

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1 represented in the Assembly, the Constitutional Court, and the Presidency
2 of the SFRY.

3 In the 1981 census, the last census with near universal
4 participation, the total population of Kosovo was approximately 1,585,000
5 of which 1,227,000, or rather 77 per cent, were Albanians, and 210,000, or
6 13 per cent, were Serbs. Only estimates for the population of Kosovo in
7 1991 are available because Kosovo Albanians boycotted the census
8 administered that year. General estimates are that the population of
9 Kosovo during the time period relevant to this indictment was between
10 1,800,000 and 2,100,000, of which approximately 85 to 90 per cent were
11 Kosovo Albanians and 5 to 10 per cent were Serbs.

12 During the 1980s, Serbs voiced concern about discrimination
13 against them by the Kosovo Albanian-led provincial government while Kosovo
14 Albanians voiced concern about economic underdevelopment and called for
15 greater political liberalisation and republican status for Kosovo. From
16 1981 onwards, Kosovo Albanians staged demonstrations, which were
17 suppressed by the SFRY military and police forces of Serbia.

18 In April 1987, Slobodan Milosevic, who had been elected Chairman
19 of the Presidium of the Central Committee of the League of Communists of
20 Serbia in 1986, travelled to Kosovo. In meetings with local Serb leaders

21 and in a speech before a crowd of Serbs, Slobodan Milosevic endorsed a
22 Serbian nationalist agenda. In so doing, he broke with the party and
23 government policy which had restricted nationalist expression in the SFRY
24 since the time of its founding by Josip Broz Tito after the Second World
25 War. Thereafter, Slobodan Milosevic exploited a growing wave of Serbian

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1 nationalism in order to strengthen centralised rule in the SFRY.
2 In September 1987, Slobodan Milosevic and his supporters gained
3 control of the Central Committee of the League of Communists of Serbia.
4 In 1988, Slobodan Milosevic was re-elected as Chairman of the Presidium of
5 the Central Committee of the League of Communists of Serbia. From that
6 influential position, Slobodan Milosevic was able to further develop his
7 political power.
8 From July 1988 to March, 1989, a series of demonstrations and
9 rallies supportive of Slobodan Milosevic's policies - the so-called
10 "Anti-Bureaucratic Revolution" - took place in Vojvodina and Montenegro.
11 These protests led to the ouster of the respective provincial and
12 republican governments; the new governments were then supportive of and
13 indebted to Slobodan Milosevic.
14 Simultaneously, within Serbia, calls for bringing Kosovo under
15 stronger Serbian rule intensified and numerous demonstrations addressing
16 this issue were held. On the 17th of November, 1988, high-ranking Kosovo
17 Albanian political figures were dismissed from their positions within the
18 provincial leadership and were replaced by appointees loyal to Slobodan
19 Milosevic. In early 1989, the Serbian Assembly proposed amendments to the
20 Constitution of Serbia which would strip Kosovo of most of its autonomous
21 powers, including control of the police, education and economic policy,
22 and choice of official language, as well as its veto powers over further
23 changes to the Constitution of Serbia. Kosovo Albanians demonstrated in
24 large numbers against the proposed changes. Beginning in February 1989, a
25 strike by Kosovo Albanian miners further increased tensions.

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1 Due to the political unrest, on March the 3rd, 1989, the SFRY
2 Presidency declared that the situation in the province had deteriorated
3 and had become a threat to the constitution, integrity, and sovereignty of
4 the country. The government then imposed "special measures" which
5 assigned responsibility for public security to the federal government
6 instead of the Government of Serbia.

7 On 23rd of March, 1989, the Assembly the Kosovo met in Pristina,
8 voted to accept the proposed amendments to the Constitution, and with the
9 majority of Kosovo Albanian delegates abstaining. Although lacking the
10 required two-thirds majority in the Assembly, the President of the
11 Assembly nonetheless declared that the amendments had passed. On the 28th
12 of March, 1989, the Assembly of Serbia voted to approve the constitutional
13 changes, effectively revoking the autonomy granted in the 1974
14 constitution.

15 At the same time these changes were occurring in Kosovo, Slobodan
16 Milosevic further increased his political power when he became the
17 President of Serbia. Slobodan Milosevic was elected President of the
18 Presidency of Serbia on the 8th of May, 1989, and his post was formally
19 confirmed on the 6th of December, 1989.

20 In early 1990, Kosovo Albanians held mass demonstrations calling
21 for an end to the "special measures." In April 1990, the SFRY Presidency
22 lifted the "special measures" and removed most of the federal police
23 forces as Serbia took over responsibility for police enforcement in
24 Kosovo.

25 In July 1990, the Assembly of Serbia passed a decision to suspend

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1 the Assembly of Kosovo shortly 114 of the 123 Kosovo Albanian delegates
2 from that Assembly had passed an unofficial resolution declaring Kosovo an
3 equal and independent entity within the SFRY. In September 1990, many of
4 these same Kosovo Albanian delegates proclaimed a constitution for a
5 republic of Kosovo. One year later, in September 1991, Kosovo Albanians
6 held an unofficial referendum in which they voted overwhelmingly for

7 independence. On the 24th of May, 1992, Kosovo Albanians held unofficial
8 elections for an assembly and President for the republic of Kosovo.
9 On the 16th of July, 1990, the League of Communists of Serbia and
10 the Socialist Alliance of Working People of Serbia joined to form the
11 Socialist Party of Serbia, the SPS, and Slobodan Milosevic was elected its
12 President. As the successor to the League of Communists, the SPS became
13 the dominant political party in Serbia, and Slobodan Milosevic, as
14 President of the SPS, was able to wield considerable power and influence
15 over many branches of the government as well as the private sector. Milan
16 Milutinovic and Nikola Sainovic have both held prominent positions within
17 the SPS. Nikola Sainovic was a member of the Main Committee and Executive
18 Council as well as vice-chairman; and Milan Milutinovic successfully ran
19 for President of Serbia in 1997 as the SPS candidate.
20 After the adoption of the new constitution of Serbia on the 28th
21 of September 1990, Slobodan Milosevic was elected President of Serbia in
22 multi-party elections held on the 9th and 26th of December, 1990. He was
23 re-elected on the 20th of December, 1992. In December 1991, Nikola
24 Sainovic was appointed a Deputy Prime Minister of Serbia.
25 After Kosovo's autonomy was effectively revoked in 1989, the

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1 political situation in Kosovo became more and more divisive. Throughout
2 late 1990 and 1991, thousands of Kosovo Albanian doctors, teachers,
3 professors, workers, police, and civil servants were dismissed from their
4 positions. The local court in Kosovo was abolished and many judges
5 removed. Police violence against Kosovo Albanians increased.
6 During this period, the unofficial Kosovo Albanian leadership
7 pursued a policy of non-violent civil resistance and began establishing a
8 system of unofficial, parallel institutions in the health care and
9 education sectors.
10 In late June 1991, the SFRY began to disintegrate in a succession
11 of wars fought in the Republic of Slovenia, the Republic of Croatia, and
12 Bosnia and Herzegovina. On the 25th of June, 1991, Slovenia declared its

13 independence from the SFRY, which led to the outbreak of war. A peace
14 agreement was reached on the 8th of July, 1991. Croatia declared its
15 independence on the 25th of June, 1991, leading to fighting between
16 Croatian military forces on the one side, and the JNA, paramilitary units,
17 and the Army of the Republic of Srpska Krajina on the other.
18 On the 6th of March, 1992, Bosnia and Herzegovina declared its
19 independence, resulting in wide-scale war after the 6th of April, 1992.
20 On the 27th of April, 1992, the SFRY was reconstituted as the FRY. At
21 this time, the JNA was reorganised as the VJ. In the war in Bosnia and
22 Herzegovina, the JNA, and later the VJ, fought along with the Army of
23 Republika Srpska against military forces of the Government of Bosnia and
24 Herzegovina and the Croats Defence Council. Active hostilities ceased
25 with the signing of the Dayton peace agreement in December 1995.

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13 English transcripts.

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1 Although Slobodan Milosevic was the President of Serbia during the
2 wars in Slovenia, Croatia, and Bosnia and Herzegovina, he was nonetheless
3 the dominant Serbian political figure exercising de facto control of the
4 federal government as well as the republican government and was the person
5 with whom the International Community negotiated a variety of peace plans
6 and agreements related to these wars.

7 While the wars were being conducted in Slovenia, Croatia, and
8 Bosnia and Herzegovina, the situation in Kosovo, while tense, did not
9 erupt into the violence and intense fighting seen in the other countries.
10 In the mid-1990s, however, a faction of the Kosovo Albanians organised a
11 group known as Ushtria Clirimatore e Kosoves, the UCK, or known in English
12 as the Kosovo Liberation Army. This group advocated a campaign of armed
13 insurgency and violent resistance to the Serbian authorities. In
14 mid-1996, the KLA began launching attacks primarily targeting police --
15 Serbian police forces. Thereafter and throughout 1997, Serbian police
16 forces responded with forceful operations against suspected KLA bases and
17 supporters in Kosovo.

18 After concluding his term as President of Serbia, Slobodan
19 Milosevic was elected President of the FRY on the 15th of July, 1997, and
20 assumed office on the 23rd of July, 1997. Thereafter, elections for the
21 office of the President of Serbia were held; Milan Milutinovic ran as the
22 SPS candidate and was elected President of Serbia on the 21st of December,
23 1997. In 1996, 1997, and 1998, Nikola Sainovic was re-appointed Deputy
24 Prime Minister of the FRY. In part through his close alliance with Milan

25 Milutinovic, Slobodan Milosevic was able to retain his influence over the

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1 Government of Serbia.

2 Beginning in late February 1998, the conflict intensified between
3 the KLA, on the one hand, and the forces of the FRY and Serbia, on the
4 other. A number of Kosovo Albanians and Kosovo Serbs were killed and
5 wounded during this time. Forces of the FRY and Serbia engaged in a
6 campaign of shelling predominantly Kosovo Albanian towns and villages,
7 widespread destruction of property, and expulsions of the civilian
8 population from areas in which the KLA was active. Many residents fled
9 the territory as a result of the fighting and destruction or were forced
10 to move to other areas within Kosovo. The United Nations estimates that
11 by mid-October 1998, over 298,000 persons, roughly 15 per cent of the
12 population, had been internally displaced within Kosovo or had left the
13 province.

14 In response to the intensifying conflict, the United Nations
15 Security Council, or the UNSC, passed Resolution 1160 in March
16 1998 "condemning the use of excessive force by Serbian police forces
17 against civilians and peaceful demonstrators in Kosovo," and imposed an
18 arms embargo on the import of weapons into the FRY. Six months later the
19 UNSC passed Resolution 1199, dating to 1998, which stated that "the
20 deterioration of the situation in Kosovo, Federal Republic of Yugoslavia,
21 constitutes a threat to peace and security in the region." The Security
22 Council demanded that all parties cease hostilities and that the security
23 forces used for civilian repression be withdrawn.

24 In an attempt to diffuse tensions in Kosovo, negotiations between
25 Slobodan Milosevic and representatives of NATO and the OSCE were conducted

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1 in October 1998. An agreement on the OSCE Kosovo Verification Mission was
2 signed on the 16th of October, 1998. This agreement and
3 the "Clark-Naumann agreement," which was signed by Nikola Sainovic,
4 provided for the partial withdrawal of forces of the FRY and Serbia from

5 Kosovo, a limitation on the introduction of additional forces and
6 equipment into the area, and the deployment of unarmed OSCE verifiers.
7 Although scores of OSCE verifiers were deployed throughout Kosovo,
8 hostilities continued. During this period, international verifiers and
9 human rights organisations documented a number of killings of Kosovo
10 Albanians. In one such incident, on 15 January 1999, 45 unarmed Kosovo
11 Albanians were murdered in the village of Kacak in the municipality of
12 Stimlje.

13 In a further response to the continuing conflict in Kosovo, an
14 international peace conference was organised in Rambouillet, France
15 beginning on the 7th of February, 1999. Nikola Sainovic, the Deputy Prime
16 Minister of the FRY, was a member of the Serbian delegation at the peace
17 talks and Milan Milutinovic, President of Serbia, was also present during
18 the negotiations. The Kosovo Albanians were represented by the KLA and a
19 delegation of Kosovo Albanian political and civic leaders. Despite
20 intensive negotiations over several weeks, the peace talks collapsed in
21 mid-March 1999.

22 During the peace negotiations in France, the violence in Kosovo
23 continued. In late February and early March, forces of the FRY and Serbia
24 launched a series of offensives against dozens of predominantly Kosovo
25 Albanian villages and towns. The FRY military forces were comprised of

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1 elements of the VJ's 3rd Army, specifically the 52nd Corps, also known as
2 the Pristina Corps, and several brigades and regiments under the command
3 of the Pristina Corps. At all times relevant to this indictment, the
4 Chief of the General Staff of the VJ, with command responsibilities over
5 the 3rd Army and ultimately over the 52nd Corps, was Colonel General
6 Dragoljub Ojdanic. At all times relevant to this indictment, the Supreme
7 Commander of the VJ was Slobodan Milosevic.

8 The police forces taking part in the actions in Kosovo were
9 members of the MUP. At all times relevant to this indictment, all police
10 forces employed by or working under the authority of the MUP were

11 commanded by Vlastko Stojiljkovic, Minister of Internal Affairs of Serbia.
12 Under the FRY Law on Defence, those police forces engaged in military
13 operations during a state of war or imminent threat of war are
14 subordinated to the command of the VJ, whose commanders, at all times
15 relevant to this indictment, were Colonel General Dragoljub Ojdanic and
16 Slobodan Milosevic.
17 During their offensives, forces of the FRY and Serbia acting in
18 concert engaged in a well-planned and coordinated campaign of destruction
19 of property owned by Kosovo Albanian civilians. Towns and villages were
20 shelled, homes, farms, and businesses were burned, and personal property
21 destroyed. As a result of these orchestrated actions, towns, villages,
22 and entire regions were made uninhabitable for Kosovo Albanians.
23 Additionally, forces of the FRY and Serbia harassed, humiliated, and
24 degraded Kosovo Albanian civilians through physical and verbal abuse. The
25 Kosovo Albanians were also persistently subjected to insults, racial

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1 slurs, degrading acts based on ethnicity and religion, beatings, and other
2 forms of physical mistreatment.
3 The unlawful deportation and forcible transfer of thousands of
4 Kosovo Albanians from their homes in Kosovo involved well-planned and
5 coordinated efforts by the leaders of the FRY and Serbia, and forces of
6 the FRY and Serbia, all acting in concert. Actions similar in nature took
7 place during the wars in Croatia and Bosnia and Herzegovina between 1991
8 and 1995. During those wars, Serbian military, paramilitary, and police
9 forces forcibly expelled and deported non-Serbs in Croatia and Bosnia and
10 Herzegovina from areas under Serbian control, utilising the same method of
11 operations as were used in Kosovo in 1999: heavy shelling and armed
12 attacks on villages; widespread killings; destruction of non-Serbian
13 residential areas and cultural and religious sites; and forced transfer
14 and deportation of non-Serbian populations.
15 On the 24th of March, 1999, NATO began launching air strikes
16 against targets in the FRY. The FRY issued decrees of an imminent threat

17 of war on the 23rd of March, 1999 and a state of war on the 24th of March,
18 1999. After the air strikes commenced, forces of the FRY and Serbia
19 intensified their widespread or systematic campaign and forcibly expelled
20 hundreds of thousands of Kosovo Albanians from Kosovo.
21 In addition to the forced expulsions of Kosovo Albanians, forces
22 of the FRY and Serbia also engaged in a number of killings of Kosovo
23 Albanians since the 24th of March, 1999. Such killings occurred at
24 numerous locations, including, but not limited to, Bela Crkva, Mala Krusa,
25 Velika Krusa, Djakovica, Padaliste, Izbica, Vucitrn, Meja, the Dubrava

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1 prison, Suva Reka, and Kacanik.
2 By June 1999, more than 800,000 Kosovo Albanians, about one-third
3 of the entire Kosovo Albanian population, had been expelled from Kosovo.
4 Thousands more were believed to be internally displaced. An unknown
5 number of Kosovo Albanians were killed in the operations conducted by
6 forces of the FRY and Serbia.
7 On the 3rd of June, 1999, the FRY and Serbia accepted a document
8 of principles towards a resolution of the crisis in Kosovo, which was
9 presented to their representatives by Martti Ahtisaari, representing the
10 European Union, and Viktor Chernomyrdin, Special Representative of the
11 President of the Russian Federation. That document, which was followed by
12 Security Council Resolution 1244 from 1999, provided for a political
13 solution to the Kosovo crisis, including an immediate end to the violence
14 and a rapid withdrawal of FRY and Serbian military, police, and
15 paramilitary forces, and the deployment of international civil and
16 security presence in Kosovo, under United Nations auspices.
17 On the 9th of June, 1999, the Military Technical Agreement was
18 signed between NATO, represented by General Sir Michael Jackson, and
19 representatives of the VJ and the MUP, providing for the withdrawal of all
20 forces of the FRY and Serbia from Kosovo. Under the terms of the Military
21 Technical Agreement, the NATO bombing campaign against targets in the FRY
22 would terminate upon the complete withdrawal of forces of the FRY and

1 prison, Suva Reka, and Kacanik.

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3 of the entire Kosovo Albanian population, had been expelled from Kosovo.
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5 number of Kosovo Albanians were killed in the operations conducted by
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16 security presence in Kosovo, under United Nations auspices.

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18 signed between NATO, represented by General Sir Michael Jackson, and
19 representatives of the VJ and the MUP, providing for the withdrawal of all
20 forces of the FRY and Serbia from Kosovo. Under the terms of the Military
21 Technical Agreement, the NATO bombing campaign against targets in the FRY
22 would terminate upon the complete withdrawal of forces of the FRY and
23 Serbia. On the 20th of June, 1999, KFOR, the Kosovo Force, announced that
24 the withdrawal of forces of the FRY and Serbia from the territory of
25 Kosovo was complete.

1 JUDGE MAY: Yes, that completes the reading. Thank you.

2 It remains on this indictment for the new Count 2 to be put to the
3 accused for him to enter a plea.

4 Slobodan Milosevic, the new Count 2 charges, in relation to the
5 Kosovo Albanians who were internally displaced, you with other inhumane
6 acts, forcible transfer, punishable under Article 5(i) of the Statute of

7 the Tribunal. To that count, how do you plead, guilty or not guilty?
8 THE ACCUSED: [Interpretation] I wish to say to you that the very
9 text that we have just heard in itself shows that the indictment is false,
10 and also that the evidence looked for by Mr. Robinson in connection with
11 the impartiality of that indictment and the Prosecution for two reasons.
12 First of all --

13 JUDGE MAY: Mr. Milosevic --

14 THE ACCUSED: [Interpretation] -- the parties to the conflict are
15 being changed --

16 JUDGE MAY: -- we are not here to hear argument at the moment.

17 The only matter is for you to enter a plea of guilty or not guilty. In
18 the event -- in the event -- don't interrupt. In the event of your not
19 entering a plea, the Trial Chamber has a power to enter a plea of not
20 guilty. That we will do. You will have an opportunity, as you know quite
21 well, Mr. Milosevic, to address us at other times. Enter a plea of not
22 guilty to that count.

23 THE ACCUSED: [No interpretation]

24 JUDGE MAY: We shall move on to the next part of the hearing.

25 Mr. Milosevic, you've had your -- you will have your opportunity, as I've

Page 123

1 said, to address us. Now is not the time. The only matter for you to do
2 is to enter a plea. Now that has been dealt with. We will move on to the
3 next part of the hearing which concerns the reading of the Croatian
4 indictment.

5 Mr. Milosevic, will you be quiet, please.

6 We will go on to the next matter which is the hearing of the
7 Croatian indictment and the Initial Appearance on that.

8 Yes, Mr. Wladimiroff.

9 MR. WLADIMIROFF: May it please the Court. May I assume that the
10 Court takes the absence of a plea as a plea of not guilty?

11 JUDGE MAY: Yes. If I didn't say so, I make it plain that it's a
12 plea of not guilty.

13 --- Whereupon the Motion Hearing adjourned

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4 indictment.

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10 Court takes the absence of a plea as a plea of not guilty?

11 JUDGE MAY: Yes. If I didn't say so, I make it plain that it's a

12 plea of not guilty.

13 --- Whereupon the Motion Hearing adjourned

14 at 3.03 p.m. to be followed by the Initial

15 Appearance

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International Criminal Tribunal
for the former Yugoslavia



Tribunal Pénal International
pour l'ex Yougoslavie

Page 124

1 Tuesday, 30 October 2001

2 [Status Conference]

3 [Open session]

4 [The accused entered court]

5 --- Upon commencing at 9.34 a.m.

6 JUDGE MAY: The first matter to deal with this morning is the

7 preliminary motion or preliminary motions. We have taken the opportunity
8 to consider all of them during the adjournment. All will be dismissed,
9 and we shall give our reasons in writing shortly.

10 Now, turning to the Status Conference, we will begin with the

11 Prosecution. There are various matters to cover. We will then deal with
12 matters which the amicus wants to raise, and finally, we will deal with
13 the matters which the accused himself wishes to raise.

14 Beginning then with the Prosecution. There are obviously various
15 matters on which we would wish to be apprised. If I could summarise them
16 briefly: Plans for any other indictments and any applications arising,

17 the state of readiness of the Kosovo indictment, the trial estimate and
18 the number of witnesses. We would also wish to confirm the various dates
19 set and a date for trial. Also, exculpatory evidence in connection with
20 that indictment.

21 We would -- then turning to Croatia, the state of disclosure of
22 the supporting material, whether it's likely that there will be any
23 further amendments, and again, the number of witnesses and a time
24 estimate.

25 Madam Prosecutor.

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1 MS. DEL PONTE: [Interpretation] Thank you very much, Mr. President

2 and Your Honours.

3 In respect to the first question you asked, in fact, I'm glad that
 4 you asked me these questions. It makes my job easier knowing what it is
 5 you want to know yourselves. We will bring out the Bosnian indictment on
 6 Milosevic's responsibility next week. After having received the
 7 confirmation for that indictment, we will also present a written motion
 8 with reasons for the joining of the three indictments so that one trial
 9 can be held against the accused, Milosevic.

10 JUDGE MAY: You could do that within seven days if the final
 11 indictment is confirmed?

12 MS. DEL PONTE: Yes. Absolutely. We need a few days that we can

13 present our request, yes, Mr. President.

14 JUDGE MAY: Very well.

15 MS. DEL PONTE: [Interpretation] In respect of the Kosovo

16 indictment, that is, the second amended indictment -- actually, the third
 17 indictment -- all of the supporting materials include eight binders.

18 These -- six of these have already been provided -- that was in 1999 --
 19 three binders with the June 2001 amended indictment attached to that.

20 Therefore, there are two additional binders of exhibits which have not yet
 21 been translated into B/C/S but which we will give to the accused within
 22 the 30 days provided for in Rule 66(A)(i).

23 We consider -- in fact, we're sure that we will have a list of 228

24 witnesses to call to trial. One hundred and seventy-four will be asked to
 25 testify to the facts, whereas the others are experts. They're police

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1 officials or investigators, therefore witnesses who are called to testify

2 about the political aspects that are relevant to the investigation. Of

3 course, Mr. President, if we can apply Rule 92 bis, that would be of great
 4 assistance in shortening the witness list.

5 The exhibits which will be produced, we could say that we have got

6 thousands of documents. Right now, Mr. President, I can tell you that we

7 are going to produce 500 documents. One hundred and sixty-seven will be

8 extracts of video recordings, 775 photographs, 50 charts and sketches.

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9 30 maps on paper media, and an electronic map, 30 slides or other images
 10 showing movement, and about 21 reports, and hundreds of documents coming
 11 from the forensic police which will be produced during the presentation of
 12 the Prosecution's case.

13 As regards witnesses, we will, of course, also need protective
 14 measures, and I can imagine that we have, by now, identified 12 of them.

15 As I already said yesterday, the problem is the Prosecution's
 16 application of Rule 68, that is, disclosure of exculpatory material for
 17 the accused, and in particular what regards -- the meetings with the
 18 Defence counsel for the accused.

19 Rule 65 ter (iv), which says that the Pre-Trial Judge shall ask
 20 for discussions between the two parties so that the Prosecutor can meet
 21 his or her obligations, I have a problem with this. I have no one with
 22 whom I can speak, and therefore I cannot discuss, as it says in this Rule,
 23 the questions dealing with preparing the case, and in particular I would
 24 say that I cannot discuss the review of all these documents falling under
 25 Rule 68.

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1 I could also tell you, Mr. President, that the expected length for
 2 the presentation of the Prosecution's case is estimated to take 170 days,
 3 that is, 170 days, considering that for the witnesses called to testify as
 4 to the facts, the rhythm might be three witnesses a day, whereas as
 5 regards the witnesses testifying to the various connections, annexes, we
 6 would have to account for two days for each witness and for the expert
 7 witnesses and for the investigators. These estimates, of course, depend
 8 upon how long the cross-examination lasts.

9 I think that I have answered all the questions that you asked me
 10 in respect of the Kosovo indictment.

11 Now, moving to Croatia, in respect of the Croatian indictment, the
 12 supporting materials are to be found in 11 binders. The English version
 13 may be disclosed immediately; the B/C/S version will be ready within the
 14 30 days provided for by the Rules. For your information, we've got 3,000

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15 pages in English which must be translated.

16 The witnesses called to appear will be 255; almost 200 will be

17 asked to testify about the facts, and 55 about the connection between

18 Milosevic and the crimes committed. The experts called to testify will be

19 12: the military, political sciences, constitutional law, finance,

20 pathologists and other experts in exhumations, historians, and

21 archaeologists.

22 The exhibits submitted represent approximately 90 documents, which

23 can be considered as the essential documents. Nonetheless, we expect that

24 the other documents that are now being translated will be added to the

25 list of these exhibits. We also have additional evidence in the form of

Page 128

1 videotapes, photographs, and forensic reports which will also be

2 submitted, of course, if necessary, and therefore we consider that this

3 material has yet to be reviewed.

4 The expected length for the presentation of the Prosecution's case

5 is 170 days, counting an average of three or four days for each fact

6 witness and two to three days for the others. We also will have several

7 witnesses for whom we are concerned in respect of security issues, and

8 protective measures will be requested. To date, we have counted 20

9 witnesses for whom we are planning to ask for protective measures.

10 As regards the documentation falling within Rule 68, we're working

11 on that, and there, the same problem arises that we have for the

12 indictment for Croatia. And of course we are asking for as much time in

13 order to apply Rule 92 bis, Mr. President.

14 I believe that I have answered all your questions, Mr. President,

15 but we are here to answer any other questions you would like to ask.

16 Thank you very much.

17 JUDGE MAY: Thank you for that full report, and I would also like

18 to thank the Prosecution for dealing so promptly with the brief which the

19 amicus put forward, which was of assistance to the Trial Chamber.

20 Now, dealing with the matters you have raised, you told us on the

21 last occasion, Madam Prosecutor, that as far as the Kosovo indictment was
22 concerned, you were now trial-ready. May I take that to be the position?
23 MS. DEL PONTE: [Interpretation] Yes, Mr. President. In respect of
24 the Kosovo indictment, we are ready, ready for the trial, according to the
25 indications which you gave to us.

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1 JUDGE MAY: What is the position with the Croatia indictment?

2 MS. DEL PONTE: [Interpretation] As regards the Croatia indictment,
3 we need a few months. That means about four to five months.

4 JUDGE MAY: And can we anticipate any applications to amend that
5 indictment?

6 MS. DEL PONTE: [Interpretation] No. I can tell you,

7 Mr. President, that the two indictments will -- neither will be changed
8 any more. It won't be amended, not the Croatia indictment, not the Kosovo
9 indictment. It is definitive. We do not expect to touch anything further
10 unless -- of course, I've got to leave a little bit of space for myself
11 just in case there were extraordinary facts that come to light, but I do
12 not think so, Mr. President.

13 JUDGE MAY: Just on one technical matter: You referred to
14 hundreds of documents from the forensic police in relation to Kosovo. Are
15 these exhumation reports and the like?

16 MS. DEL PONTE: [Interpretation] Yes. Yes, Mr. President.

17 JUDGE MAY: Now, the dates which we have fixed in relation to
18 Kosovo were a pre-trial brief and the witness disclosure by the 26th of
19 November. I take it that you'll be in the position to meet those dates?

20 MS. DEL PONTE: [Interpretation] Yes, we are in a position to
21 respect those dates. I don't know whether the fact of the 30 days for the
22 confirmation of the last indictment will raise a problem and whether we
23 have to wait for those -- that time to be over. So it would be perhaps a
24 week after the 26th, but yes, we are ready.

25 JUDGE MAY: I think the 30 days will be up on the 28th of

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1 November. We can review the position, but for the moment, stick to that

2 date. If need be, we can look at it again.

3 MS. DEL PONTE: [Interpretation] Yes.

4 JUDGE MAY: And the date of the Pre-Trial Conference was the 9th

5 of January.

6 Now, Madam Prosecutor, I know that you have this application and

7 it's one, obviously, that we'll have to consider in due course, but

8 certainly as far as Croatia is concerned, and if your other indictment is

9 confirmed, obviously in relation to all three - and that's a matter which

10 the Trial Chamber will have to consider in due course when we've heard

11 submissions upon it and considered the application - but in order to

12 expedite matters, the Trial Chamber think it right to fix a date for the

13 start of the Kosovo indictment in any event, and the date which we fix is
 14 the 12th of February. That will be a month after the Pre-Trial
 15 Conference. Of course, if that has to be reviewed in due course because
 16 of other events, it can be reviewed, but we think it right that this
 17 matter comes to trial as expeditiously as possible, and one way to do that
 18 is to fix a date for the Kosovo indictment in any event.
 19 If, as I say, your application or any other event causes us to
 20 review that, we'll consider doing so, but you can take that as the date to
 21 work towards as far as Kosovo is concerned. So that means having
 22 witnesses ready and the like.

23 MS. DEL PONTE: [Interpretation] Yes, Mr. President. As I was
 24 saying, we are ready. I have one consideration only which I would like to
 25 express here.

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1 As the Prosecutor of this Tribunal, in respect of all those people
 2 who are in detention, I would not like the accused Milosevic to be given a
 3 preferential path. I have the chart of the detainees who are waiting for
 4 trial. I can tell you that we are ready, but as the Prosecutor of this
 5 Tribunal, I do not want it -- I would like it to be said that I would not
 6 like the accused Milosevic to be given special treatment in respect of the
 7 start of his trial as regards other detainees who are here and are also
 8 waiting for their trial to begin and are still in detention in
 9 Scheveningen.

10 It is this that I wanted to bring to your attention. But we are
 11 ready to begin with the next step, thinking about the motion that I have
 12 about -- that I'm going to raise about the Kosovo indictment. Yes,
 13 Mr. President, we are ready.

14 JUDGE MAY: Madam Prosecutor, as far as that matter which you
 15 raise, the Court, of course, is aware about the position with the other
 16 cases, and it's a matter for the Court to determine when cases should be
 17 tried, particularly having in mind how long people have been in
 18 detention. But another matter is cases being ready for trial, and some of

19 your trial cases aren't ready for trial, as we know, but this one is.
 20 Shall we move to the exculpatory evidence? Rule 68, beginning
 21 there, puts an obligation on the Prosecutor to disclose to the Defence the
 22 existence of material known to the Prosecutor which in any way tends to
 23 suggest the innocence or mitigate the guilt of the accused or may affect
 24 the credibility of Prosecution evidence.
 25 Now, that is a clear obligation on the Prosecution. And of

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1 course, in the normal case where an accused is represented, the Rule to
 2 which you referred comes into play and there is a meeting between the
 3 parties to discuss the issues, and in particular, it may be Rule 68. Now,
 4 in this case, that cannot apply, and therefore, the Prosecutor must deal
 5 with the matter alone.
 6 The approach which I suggest you take is to review the material
 7 using as broad a definition as you think right for exculpatory material,
 8 and if in doubt, disclose it to the accused but also to the amici, and
 9 they can make what you say think right of it.
 10 But the Rules are clear on the obligation. Usually, as I say,
 11 with the Defence being represented, it may be that this matter can be
 12 dealt with by way of discussion and some indication of what is relevant
 13 and what isn't can be given to the Prosecution. But that's not so in this
 14 case. There can't be any meetings, and the Prosecution have got to
 15 exercise their own discretion.
 16 MS. DEL PONTE: [Interpretation] Yes. Thank you, Mr. President. I
 17 think that would be a very good alternative solution. We will show those
 18 documents. And as regards exculpatory materials, I would say that we
 19 could work with the amici curiae in respect of the fact that it's
 20 impossible to discuss matters with the Defence. And I'm talking there
 21 about exculpatory materials which don't raise any particular problems.
 22 That means that I'll even go -- I'm a little bit even ahead of your
 23 proposal, that I will go discuss matters directly with the Defence, that
 24 is, discuss exculpatory materials.

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25 As regards the Croatia indictment, we have practically gathered

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1 everything together. There are approximately 700 documents to be
 2 reviewed, and it would be good to be able to do that with the amici
 3 curiae. As regards our work on Croatia, that is not yet finished. We
 4 will have more or less the same numbers, several hundred documents that
 5 have to be looked at.

6 JUDGE MAY: The first, the 700 was in relation to Croatia. Is
 7 that in relation to Kosovo, the 700?

8 MS. DEL PONTE: [Interpretation] Yes, for Kosovo.

9 JUDGE MAY: Well, no doubt that can be done.

10 MS. DEL PONTE: [Interpretation] Mr. President, the amici curiae
 11 were called as amici curiae for the Kosovo indictment. Of course I would
 12 like it also if the amici curiae could take care of the Croatian
 13 indictment.

14 JUDGE MAY: We'll be making that indication in due course, yes.
 15 Yes, that's obviously sensible.

16 MS. DEL PONTE: [Interpretation] Thank you, Mr. President.

17 [Trial Chamber confers]

18 JUDGE ROBINSON: Madam Prosecutor, I was interested in your
 19 estimate of the Prosecution's case for the Kosovo indictment, 170 days;
 20 and the Croatian indictment, I think you said pretty much the same number
 21 of days. Now, that's a total of 340 days for the Prosecution's case. We
 22 can presume that the Defence case would be perhaps something near to
 23 that. Maybe less, but I can't predict. The amici would also have an
 24 input where that is concerned.

25 Now, if we were to consider the indictment for Bosnia, that may be

Page 136

1 a little shorter, would it? Would that be shorter than 170 days, or are
 2 you in a position yet to say?

3 MS. DEL PONTE: [Interpretation] Your Honour, in respect of the
 4 length of the indictment, I cannot be specific, but it's more or less the

5 same length as the Croatian indictment. Maybe a little bit longer -- a
6 little bit shorter, rather. But we're doing our best.

7 JUDGE ROBINSON: So, in effect, if those three indictments were to
8 be tried together, we're looking at a total of about 500 days for the
9 Prosecution case. That would mean that if there was a trial of all these
10 indictments together, taking account of the time that the Defence would
11 need to present its case, the case would run at least three years; isn't
12 that right?

13 MS. DEL PONTE: [Interpretation] What you're saying is correct if
14 we had three different trials against Milosevic, because the facts which
15 we have and which we'll give you mean that these are separate trials. But
16 if the trials -- if there could be one trial for the three indictments, of
17 course we have witnesses who would be the same in all three trials. I'm
18 not talking about the crime-base witnesses, but the most important ones,
19 that is, those who are testifying about Milosevic as an individual, in
20 respect of his own participation. For Bosnia and Croatia, we've got the
21 same witnesses for all three episodes.
22 Now, regarding the crime base, we have a great many witnesses for
23 the crime base. But if I were to have a Defence counsel to work with, I
24 could be sure that I could be able to reduce the witnesses to a very, very
25 large extent. Enormously, in fact. Because I told you, out of the 228

Page 137

1 witnesses, 174 are testifying about the facts. Those are the crime-base
2 witnesses. So I have no defence counsel, and I cannot discuss the problem
3 with the Defence, but we would be able to carry out very, very important
4 reductions within the list of witnesses if we did.

5 JUDGE ROBINSON: I certainly take what you say into account and
6 hope that that could be done. In any event, we must await any application
7 that you may make in relation to the other cases. Thank you.

8 MS. DEL PONTE: [Interpretation] Thank you very much, Your Honour.

9 JUDGE MAY: Mr. Kay, are you dealing with the amici today?

10 MR. KAY: Yes.

11 JUDGE MAY: Let me say one or two things first.

12 MR. KAY: Yes.

13 JUDGE MAY: First of all, we will invite the Registrar to extend

14 your brief to cover the Croatia indictment.

15 MR. KAY: Yes.

16 JUDGE MAY: The other matters we would wish to hear about are

17 whether you anticipate filing any motions, any further motions, first of

18 all on Kosovo, and then any preliminary motions in relation to Croatia.

19 MR. KAY: Yes. You've dealt with the first issue we were going to

20 raise about the extension of the brief of the amici curiae.

21 Secondly, in relation to the Kosovo indictment, as yet we have no

22 motions extra to file. We will not, obviously, repeat the motions that we

23 filed under Rule 72 in relation to the Kosovo indictment for the Croatia

24 indictment, and we really have to wait till we've marshalled that material

25 to see if there are any further supplementary motions that we might take

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1 pre-trial. As yet, we don't know about that concerning the Croatia
2 indictment; that's not been something we've had time to digest.
3 JUDGE MAY: Besides Kosovo, are there any other motions you
4 anticipate?
5 MR. KAY: Not at the moment, and none that occur. If they did, we
6 would give notice to the Court, if they had any effects on the
7 timetabling; but at this stage there are none that come to mind.
8 Looking, really, at the issues as far as we're concerned, as the
9 point was made yesterday, we're not Mr. Milosevic's Defence counsel so we
10 won't be advancing, so to speak, a defence on instructions, which is an
11 issue Your Honours would well understand, because we wouldn't have those
12 instructions upon which to act and advance issues to the Court. That may
13 have an impact on the length of the trial and any scheduling.
14 We would, of course, be applying the order of the Court that
15 appointed us in the first place, which we've been paying particular
16 attention to because that's the very basis of our existence within this
17 courtroom and that's what we would be following.
18 In terms of the timing of the trial for the Kosovo indictment, the
19 date given of the 12th of February was something at this stage that we
20 don't see a problem with, because that's something we've had for a few
21 weeks now, we've been able to look at. There's further material maybe to
22 come, but again as far as the amici curiae are concerned, we're not acting

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23 here as Defence counsel in relation to the issues within that indictment.

24 We're here with a distinct role of performance which we would follow.

25 JUDGE MAY: I think that point needs to be underlined again so

Page 140

1 that the accused should hear it. He's heard it before.

2 MR. KAY: Yes.

3 JUDGE MAY: But what you cannot do is put forward a positive

4 defence case. You have a brief which is set out in the order. You can

5 make submissions open to the accused.

6 MR. KAY: Yes.

7 JUDGE MAY: You can cross-examine witnesses, as appropriate. You

8 can draw to the Trial Chamber's attention any exculpatory material - and

9 perhaps we can come back to that - and you can act in any way which you

10 consider appropriate in order to secure a fair trial.

11 Now, that's an important role but it is a limited one.

12 MR. KAY: Yes.

13 JUDGE MAY: And what it does mean is that no positive defence,

14 except one that can be gleaned from material which is provided to the

15 Court, can be put forward.

16 MR. KAY: Yes.

17 JUDGE MAY: You're not in a position to call witnesses, not in a

18 position to cross-examine on instructions. Only that can come from the

19 Defence --

20 MR. KAY: Yes.

21 JUDGE MAY: -- which means the accused.

22 MR. KAY: I'm glad Your Honour has raised this issue. From the

23 common law jurisdiction, this is something that we're very familiar with

24 and understand, because it's how the system works. We're here, really, to

25 consider those issues and make points on behalf of the accused that can be

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1 properly made within the scope of our duty.

2 When the Prosecutor this morning - and I forgive her for it; it's

A.C.

CROSS-EXAMINE

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A.C.

3 obviously a technical slip - referred to us as Defence counsel, I want to
 4 make it quite clear, we're not Defence counsel and that's not the basis of
 5 our appointment. We're here as amici curiae within a specific terms of
 6 reference that we have to follow. We can't go outside that terms of
 7 reference because we're here, appointed by the Court.

8 The accused, of course, may well advance issues on his own behalf
 9 and may well take a part in the proceedings if he so wishes, but that's a
 10 matter entirely for him. Particularly in the advancement of a defence
 11 case, that's something that the amici curiae are unable to perform on his
 12 behalf outside the scope of our appointment, because we do not have
 13 instructions as counsel appointed by him to follow his instructions.

14 What we have done to date so far was follow issues that were
 15 raised by him, as we said yesterday at the Rule 72 hearing, that we felt
 16 could properly be put before the Court for consideration. But Your Honour
 17 is right to stress our role here, because it does have an impact on the
 18 conduct of the case. But looking at it, we think that the 12th of
 19 February would be a date that we would be able to work to.

20 The scope of this task is becoming clearer to us by the day, and I
 21 think the reading of the Croatia indictment yesterday emphasised the scope
 22 of the task. We await to see the Bosnia indictment, and we are going to
 23 have to configure a team here to marshal the material and make sure that
 24 we are on top of the issues and can present them in accordance to our
 25 appointment in a way appropriate to the court order, but that is something

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1 we are considering amongst ourselves and we can get in hand shortly.
 2 The next matter I wanted to deal with, if Your Honour permits me
 3 to move on, is the disclosure of exculpatory material. There is no
 4 question here of the amici curiae not wanting to see the Prosecution for
 5 exculpatory material to be disclosed. I think there may have been a
 6 misunderstanding within the Prosecution team as to what we were interested
 7 in and what contact was made. It's quite clear within Your Honours'
 8 directions for the appointment of us that exculpatory material should be

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9 considered by us, and that is something that we would want to review and
10 go through.

11 Again, that would be in the absence of instructions from the
12 accused himself, but we would use our experience and judgement, and
13 perhaps we could guide the Prosecution, as best as we thought fit, on the
14 extent of the material to be disclosed to us, if we felt that there was
15 material that hadn't been disclosed that should have been disclosed. But
16 that's a matter we can't say about until we've reviewed at least the first
17 tranche of disclosure.

18 JUDGE MAY: Can I invite you to deal with that as expeditiously as
19 possible, because experience shows that with these documents, time is
20 going to be taken. And since the time before the date set for trial is
21 not extensive, we would invite you to get on it as soon as you possibly
22 can.

23 MR. KAY: We most certainly will, which is why we are reviewing
24 the scope of the team that we have, and we will be discussing matters with
25 the Registry in a way to make the performance of our tasks easier, perhaps

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1 easier than they will be in the future unless we take some action now
2 about it. But we have that very much in mind, and we're discussing it.

3 JUDGE MAY: Yes.

4 MR. KAY: As far as any other issues are concerned, if I may just
5 consult with the other amici.

6 [Amici curiae confer]

7 MR. KAY: Mr. Tapuskovic would like to address the Court briefly
8 on an additional matter, Your Honour, but for our part, I have nothing
9 further to advise the Court upon unless you wish me to deal with any
10 specific matter.

11 JUDGE MAY: No. Thank you, Mr. Kay.

12 Mr. Tapuskovic, yes.

13 MR. TAPUSKOVIC: [Interpretation] Thank you, Your Honours. I would
14 not have asked to speak had I not heard the comments by His Honour

15 Judge Robinson.

16 A primary thing for all these proceedings before this Tribunal is
 17 something that I always believed in, and that is a fair and expeditious
 18 trial. The way in which the Prosecution has worked so far, as an amicus
 19 curiae, I must express, to put it mildly, dissatisfaction, because we
 20 first had the Kosovo indictment, which was the last event in the series of
 21 events in Yugoslavia, and I simply cannot believe that the Prosecution now
 22 needs another four or five months to prepare everything else that is
 23 needed in connection with the Croatia indictment, especially as we now
 24 hear that there will be a Bosnia indictment. If the Prosecution continues
 25 in this manner, though logic tells us that this should have been something

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1 completed long ago, then we can expect this to be delayed further.
 2 So as an amicus curiae, I really must voice my dissatisfaction
 3 with such actions, because we will get involved in proceedings which can
 4 hardly be expeditious and effective, and thereby also one can ask how fair
 5 they can be.

6 It is true that, in all these indictments, many facts have been
 7 referred to, many events, and I must admit too that they emanate from the
 8 documents attached. But a very important fact that is not displayed in
 9 those documents is this criminal enterprise, and the Prosecution has not
 10 provided any evidence in support of that, this common enterprise. And I
 11 think that working in this way, we will not be able to meet the basic
 12 principle of the Statute of this Tribunal and that is to provide a fair
 13 and expeditious trial. Thank you.

14 JUDGE MAY: These are all matters which we will have to consider
 15 when and if the joinder application is made. The Prosecution will be able
 16 to put forward their arguments on that occasion, and the Chamber will hear
 17 from the amici and then make a decision.

18 Is there anything for the amici now, anything else?

19 MR. KAY: No, Your Honour.

20 JUDGE MAY: Thank you.

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21 Mr. Milosevic, as you know, the Rules provide that you should have
22 the opportunity to raise matters in relation to the status of your case
23 and your mental and physical condition. You've heard what's been said
24 about the timetable, about the Prosecutor's proposals. You've heard that
25 there will be an application in due course to join these indictments. At

→ MAY DUS

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13 English transcripts.

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1 this stage, it's not before the Court, we will have to address it in due
2 course, but if there are any matters you wish to raise about the case and
3 your condition, then this is your opportunity to do so.

4 THE ACCUSED: [Interpretation] I wish to request from you to
5 disqualify the Prosecutor for obvious reasons, among which I should
6 mention only two.

7 The first we heard yesterday loud and clear when the Kosovo
8 indictment was being read, that all the events took place between the 24th
9 of March and the beginning of June. And the second reason is that the
10 whole planet knows that it was precisely on the 24th of March that a
11 criminal aggression by NATO was carried out against Yugoslavia and went on
12 until the beginning of June.

13 It stems from the indictment, from what we heard, that NATO had
14 not committed -- that NATO did not commit aggression against Yugoslavia
15 but Yugoslavia committed aggression against itself and that the
16 consequences are 78 days and 78 nights of bombing of Yugoslavia during
17 which 22.000 tonnes of bombs were dropped on the country. And enormous
18 casualties provoked were not the consequences of NATO aggression but,
19 rather, the consequences of Yugoslavia's aggression against itself.
20 This shows that we are not talking only about partiality or bias,

21 because that would be a mild term. What we heard is worse than what we
22 could hear from the enemy, that is, from the NATO spokesmen.

23 So this is complete partiality. And if the Court can turn a blind
24 eye to the fact that from the 24th of March until the first week of June
25 this aggression took place, that there were a large number of victims,

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1 that 22.000 tonnes of bombs were dropped and that all this is being
2 attributed to Yugoslavia, which committed a crime against itself instead
3 of NATO doing it, then I think that even this court, which is an illegal
4 one, must take those facts into consideration. And if it refuses to take
5 them into consideration, then it becomes clear that this is no court but
6 just a part of the machinery to commit a crime against my country and my

7 people.

8 So if the latter is the case, if this flagrant bias and these
9 facts which speak for themselves and ignoring this, such a flagrant act as
10 this aggression, and if the Court will ignore these falsehoods presented
11 by the Prosecutor, and if you are really a part of that machinery, then
12 please read out those judgments that you have been instructed to read and
13 don't bother me and make me listen for hours on end to the reading of
14 texts written at the intellectual level of a seven-year-old child -- or
15 rather - let me correct myself - a retarded seven-year-old. Don't bother
16 me and read it out.

17 I think this has been a farce already. And after yesterday's
18 explanations that we heard about the way that Yugoslavia committed
19 aggression against itself and we see that the consequences of aggression
20 do not exist for the Prosecution, then this whole thing becomes clearly a
21 farce. And then please do what I suggest, and that will save you all your
22 procedural difficulties.

23 A second point I wish to make, a warning I wish to make, is that
24 this trial has a direct impact on inciting terrorism in Southern Serbia.
25 I wish to warn you that these past few days and months, Albanian

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1 terrorists in the south of Serbia are slaughtering, killing, plundering,
2 burning, and doing everything else exactly as they did in Kosovo. They
3 have been given wings, for as -- unlike the previous administration, this
4 one has proclaimed a war on terrorism. And the previous American
5 administration knew that bin Laden was in Albania two years after their
6 embassies were attacked, and they discussed that fact with me at the
7 time.

8 So please do not incite terrorism in Southern Serbia, because
9 people have suffered enough. And bear in mind that under that terror and
10 under the auspices of the United Nations, 33,000 people have been chased
11 out of Kosovo and Metohija, Serbs under the auspices of the United
12 Nations.

13 JUDGE MAY: We've heard that, and now -- rather, we've heard what
14 you've said. Is there anything you want to say about your physical and
15 mental condition?

16 THE ACCUSED: [Interpretation] Is that all that I have the right to
17 say?

18 JUDGE MAY: Yes.

19 THE ACCUSED: [Interpretation] Very well. Then I request from the
20 Court, since I have heard that the opposing party is insisting on me
21 having no privileges regarding an expeditious trial, which I hear you plan
22 to take some three years, I would like not to be discriminated against
23 either in terms of the treatment I am being given. So will you please
24 remove the cameras from my cell and remove the presence of your staff when
25 my family members visit me, because the explanation given for the cameras

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1 are nonsense. Apparently, they're monitoring me so that I should not
2 commit suicide, and I am saying here in this courtroom that I would never
3 commit suicide. First of all, because I do not wish to do that to my
4 family and my children; and secondly, I would never commit suicide because
5 I must struggle here to topple this Tribunal and this farce of a trial and
6 the masterminds behind it who are using it against people who are fighting
7 for freedom in the world.

8 So please switch off those cameras and remove the staff, because
9 this rule that can -- that envisages that this can be imposed for one
10 month is being abused as this has been imposed upon me for four months
11 through an abuse of power. So that is my request. I am not asking for
12 any privileges but, rather, not to be discriminated against at least as
13 far as these things are concerned.

14 As for the monitoring of telephone conversations, that's up to
15 you, and you are free to continue. Surely, if my family is present,
16 surely I don't need staff members attending because you can monitor my
17 conversations anyway. So, please, if you can meet that request for me.

18 JUDGE MAY: You are not the subject of any discrimination at all,

19 as you know well.

20 As for bringing your case to trial, that is the duty of this

21 Court, and we will ensure that your trial is brought on expeditiously and

22 is conducted fairly.

23 This hearing is adjourned.

24 --- Whereupon the Status Conference adjourned

25 at 10.32 p.m.

TO FILE WITHIN 30 DAYS ... !

8

R E M A R K S

with regard to the construction
of a preliminary motion on formal defects of the new
indictment against Slobodan Milosevic as extended by the
ICTY on 9 October 2001 concerning the events in Croatia

by Mr. N.M.P. Steijnen
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Zeist, the Netherlands

October 2001

I. GENERAL REMARKS

I.a. evidence of discriminate persecution policy

In this indictment the puppet-tribunal shows off once again fully his discriminate persecution policy. Already nearly two years ago the prosecutor has repeatedly pronounced in public with regard to the Blaskic case that the crimes assigned to Blaskic were actually to assign to the President at the time of Croatia Tudjman; that these crimes were brewed in the palace of Tudjman and that there was an abundant mass of evidence in order to indict not only Blaskic, but Tudjman as well for these alleged crimes.

In spite of these already two years ago existing abundance of evidence against the former President of Croatia Tudjman according to public statements of the prosecutor himself, the puppet-tribunal never proceeded to action against the former president of Croatia during his lifetime. Now he is dead, the prosecutor states that he certainly should have been indicted when he still was alive. The prosecutor seems to think that the world swallows such pernicious cynicism !

As long as the prosecutor do not place in position the same distorted construction of indictment, as set up against the Milosevic administration and leadership, against the Tudjman administration and leadership as well, for which latter there

was - as said in the statements of the puppets themselves - more than enough evidence already at least two years ago, the issuing of this indictment proves thoroughly the political and discriminate character of the charges against Milosevic administration and leadership by the puppets.

I.b. extreme falsification of history as foundation of the indictment

Just like the previous (extended) indictment, the newly created indictment concerning the events in Croatia obstructs the prospects of a effective defence by mystifying the state of armed conflict that were supposed to be to exist in Croatia during the timespan of this indictment.

The Prosecutor has tried as hard as she could to suppress that there was also a Croatian side on the theater of violence, which side was formed by Croatian military and irregulars.

She actually succeeded in totally and completely concealing these contesting parties in her new indictment, in the same manner as she also actually succeeded to manipulate completely out of view the NATO as a contesting party in Kosovo in her former indictment.

By these extreme and dazzling insolent falsification of the history, earlier with regard to Kosovo and now regarding Croatia, the tribunal shows merciless its true nature as an instrument manipulated by the western powers, which is meant in order to rewrite history in a way as prescribed by these western powers.

Meanwhile it is impossible to defend oneself effectively and properly against indictments based upon an extreme falsification of history, by which is given a complete false, wrongfull and manipulated image of the reality.

This falsification is deliberate and determined and goes so far as even to deny explicitly that there were atrocities committed by the Croat military and irregulars against the Serb population in the period before, during and after the secession of Croatia.

This impudent ly is layed down in par. 26 ad m, where is stated that mr. Milosevic should have committed the 'criminal act' of utilizing 'Serbian state-run media' in order 'to manipulate public opinion by spreading exaggerated and false messages of ethnically based attacks by Croats against Serb people (...)'.
'

Against such an indictment, deliberately demonizing one community and its leaders and presenting - absurd of character and totally contrary to any reality - the other community as

merely innocent victims, is likewise any decent defence beforehand impossible.

This all the more now it is a matter of fact, historically viewed, that there were first of all Croatian bestialities against the Serb population in Croatia and that following events were also triggered by that.

Also deliberately and determinedly concealed by the Prosecutor is the discrimination which the new Croatian constitution had in store for the non-Croatian population in Croatia and the fact that their equal rights as minority not in the least were guaranteed in the light of this secession.

A fact that is of great importance in the light of the legality and legitimacy of secession according to international law standards and in the light of the legality and legitimacy, also according legal standards, of those minorities to resist against such a secession.

As they actually have done.

Without even a gleam of legal argumentation the prosecutor sneaks into the indictment the basic assumption that the secession of Croatia in the way it took place were legal, that the acts of resistance against this secession by the non-Croatian population in Croatia were illegal and that the Yugoslav authorities were acting against some unspecified legal standard, already by any conduct whatsoever against this secession.

And any implicit appeal in this indictment on the recognition of Croatia by the EU, as far as this were supposed to be an, anyway unspoken, constituent of this indictment, falls through by the fact that there can be no doubt that the relevant norms on independence were not interpreted according to the traditional international positive law, that the members of the Badinter Commission were not specialists in the field of international law and that the whole procedure with regard to this Arbitration Commission reflected a clear will to internationalize this conflict that fitted in into the strategy of EC countries, especially Germany.

Thus Mr. Milosevic is supposed to defend himself also against charges, based upon such unspoken legal assumptions, whose legal rightness is completely unproved.

Such an indictment again makes a proper defence to an impossible quest.

I.c. The distorted character of this indictment

In this new indictment the prosecutor has resorted to an extremely distorted construction, which took the model of a pyramid.

At the top of this pyramid there is supposed to be Mr. Milosevic, who - according to par. 24 and 25 - as 'the dominant political figure', whatever this would mean, 'exercised effective control over the ...participants in the joint criminal enterprise'.

The prosecutor lets then, for the sake of convenience, dimly what would be the content of this 'effective control over the participants in the joint criminal enterprise' and how this 'effective control' would look.

This prevents an adequate defence

But, so the prosecutor continues, it could also be possible that Mr. Milosevic only exercised 'substantial influence over the...participants', whatever this would mean.

Here the doubts of the prosecutor and her need to cover herself bite each other to pieces.

For there is of course a whole world of difference between 'effective control over' and 'substantial influence over', whatever the exact content of these terms should be.

By the fact that she definitely refuses to commit herself to one of the both modes the prosecutor provides herself with an unlimited elbow-room to manoeuvre.

But with the same fact she makes it impossible for Mr. Milosevic to overlook the precise scope of the charges against which he has to defend himself.

This all the more in the light of the fact that even this puppet-tribunal couldn't possibly go so far to sentence someone for the acts committed by some other one, only because of the fact that he would have had a certain, but not more detailed amount, of influence on the perpetrator !

Then finally the prosecutor gets inescapably entangled in her own distorted construction.

First of all she states also - in par. 26 and in all the counts - that Mr. Milosevic was possibly acting 'alone' when he 'participated in the joint criminal enterprise'.

Every primary logic is missing here.

Either Mr. Milosevic was acting 'alone', or he 'participated in a joint criminal enterprise'.

Acting alone and at the same time participating in a joint enterprise is impossible.

So the diligence of the prosecutor in order to please her political masters goes so far that she even loses all sight on elementary logic.

Nobody can defend oneself against an indictment which lacks every intrinsical logic.

And secondly she scatters around 'command responsibilities' to all kind of persons, but finally ascribe these all to Mr. Milosevic.

So again she shatters every logic and mucks up the notion of 'command responsibly' .

In a way that prevents it to prepare a proper defence.

So let us view the allocation of 'command responsibly' with regard to the JNA, which the prosecutor succeed in presenting in this indictment.

As an example of her method of working.

In par. 10 it is stated that 'Borislav Jovic...and Branko Kostic, together with others, commanded, directed, or otherwise exercised effective control over the Yugoslav People's Army ("JNA")', while in par. 11 is stated, without any reservation, that general Veljko Kadijevic (solely) 'commanded, directed, or otherwise exercised effective control over the JNA'.

It is also general Blagoje Adzic, who - in par. 12 - is assigned by the prosecutor as the person who, 'together with others, commanded, directed or otherwise exercised effective control over the JNA'.

So the question is of course: how could it be possible that, while Veljko Kadijevic is assigned by the prosecutor as the one who should have to be commanding, directing and otherwise effective controlling the JNA, at the same time also all sorts of other people should be considered as commanding, directing and otherwise effective controlling the JNA ?

But this not the end.

During a part of the relevant period, Mr. Milosevic, by his alleged control over other persons within the presidency of the SFRY, was allegedly exercising 'effective control over the JNA' as its "Commander-in-Chief" of the JNA', as is stated in par. 30 of the indictment.

So this again raises the question: how could Veljko Kadijevic have 'commanded, directed or otherwise exercised effective control over the JNA', when at the same time Mr. Milosevic was exercising 'effective control over the JNA as its "Commander-in-Chief" ?

Or, the other way around, what does it suppose to mean that Mr. Milosevic, according to the prosecutor, should have to be considered as 'effective controlling the JNA', when at the same time, according to the same prosecutor, Veljko Kadijevic were to be considered as 'commanding, directing or otherwise exercising effective control over the JNA' ?

The same shambles is created by the prosecutor with regard to the allocation of 'command responsibility' concerning the so-called 'TO units' and 'volunteer units'.

Here again - under 11 - general Veljko Kadijevic is assigned, without any restriction, as the sole person who 'commanded, directed, or otherwise exercised effective control' over these units, while at the same time this commanding, directing or otherwise exercising of effective control also is layed down

at a number of other persons. Like, for instance, Borislav Jovic, general Blagoje Adzic (ad 10, 12 and 13) And also here again, in frontal collision with all logic and consistency, Mr. Milosevic is suddenly introduced as the one who, controlling all these people and others as well, 'effectively controlled...the TO staff ...as well as Serb volunteers' (ad 25).

While he even was allegedly acting possibly 'alone', when he 'directed, commanded, controlled ...the Serb-run TO staff, and volunteer forces..' (ad 28 under j).

Against such a mess, created by the prosecutor, nobody can make a honest defend.

II. FURTHER SPECIFIC REMARKS ON THE TEXT OF THE INDICTMENT

1. The unlimited elbow-room to manoeuvrer, the prosecutor provides herself with by stating under 5 that Mr. Milosevic should be declared individual criminal responsible for the alleged crimes, which 'he planned, instigated, ordered, committed, or in whose planning, preparation, or execution he otherwise aided and abetted' must be declared as contrary to a fair indictment, as long as is not indicated, with regard to alleged crime to alleged crime, whether he was planning, instigating, ordering the concerned alleged crime, or whether he was allegedly only aiding or abetting either the planning, either the preparation or the execution of the respective alleged crimes.

2. In par. 5 is stated: 'By using the word committed in this indictment the Prosecutor does not intend to suggest that the accused physically committed any of the crimes charged personally. Committing in this indictment refers to participation in a joint criminal enterprise as co-perpetrator.'

This clarifies nothing about the term 'committed'. The prosecutor has to explain which form this 'participation' should have taken in practice. Otherwise an adequate defense is impossible.

3. In par. 9 is stated by the prosecutor that Mr. Milosevic, in order allegedly to achieve his criminal objectives, was working 'in concert with' or 'through' other individuals and in this framework 'played his own role'. Unclear is what is meant by 'in concert with' and 'through' other individuals. What kind of factual acts by Mr. Milosevic are here envisaged ?

As long as is not explained by the prosecutor which specific deeds are referred to in this connection, Mr. Milosevic is not able to defend himself against these allegations.

4. The same applies to the outlines of his alleged 'own role' Mr. Milosevic is incriminated with and the alleged 'overall objective of the (criminal) enterprise' to which 'his own role' should 'significantly' contribute.

Unclear is what kind of acts are represented by 'his own role' and what should have to be considered as the 'overall objectives of the (criminal) enterprise'.

As long as this is not clarified by the prosecutor, a defence against this allegations would be impossible.

5. In what way the alleged so-called 'take-over of these areas', i.e. the so called SAO's SBWS, the SOA Western Slavonia and the SAO Krajina and RKS, as allegedly stated in par. 26 ad a should be considered as a crime ?
6. In par. 6 is stated that the purpose of Mr. Milosevic and the so-called 'joint criminal enterprise' would have been 'the forcible removal of the majority of the Croat and other non-Serb population', while in par. 26 under a is stated this the goal of Mr. Milosevic were 'the ..removal of the Croat and other non-Serb population'.

So the prosecutor don't even take pain to lay down a consistent allegation on this prominent point!

Thus the question is; has Mr. Milosevic to defend himself against the charge that he intended to remove forcible the whole non-Serbian population or to remove the majority of the non-Serb population ?

7. In par. 26 under d is stated by the prosecutor that 'These special forces (of the Serbian Ministry of Internal affairs) were created.. to assist in the execution of the purpose of the joint criminal enterprise through the commission of crimes..'

That the only task, or even the main task, of the creation of any statebody of the Serbian state should be, or should have been, the commission of crimes, is not only an infamous insult, but also a complete shot in the dark.

Against shots in the dark an effective defence is impossible.