Milosevic _ Staout

Nue procedures / Arts

en EVRM 01-01-2003

DOET DENKEN AAN de "Loyaliteitsverklaring"
zoals die door de overheid van studenten werd
geëist
→ velen deeden achteraf niet dit
weigeren

[illegible] heeft nu de bewijs gedaan
zowel op de ene als op de
andere rechter [illegible]
[illegible] onafhankelijke [illegible]
[illegible] → [illegible]

→ heeft dat niet

→ heeft voor ICTY [illegible]
eigen [illegible] [illegible] [illegible]
art 8 lid 4 EVRM.

Een proces tegen de Staat
voor een <u>verbod</u> om
nog langer het Tribunaal
te beschouwen als een
art 6 - rechtbank

van holst en steijnen

From: Ward Ferdinandusse <ferdinandusse@jur.uva.nl>
To: van holst en steijnen <n.h.van.holst@freeler.nl>
Sent: woensdag 22 augustus 2001 04:25
Subject: Re: pleidooi Mi

Beste Nico,

Helaas heb ik het te druk om me echt in de materie te verdiepen. Ik moet het daarom laten bij een paar opmerkingen uit de losse pols. Ik geef maar gewoon het commentaar dat in me opkomt, ook als dat alleen een andere keuze van stijl betreft.

1) Ik denk dat je argumentatie beter tot zijn recht komt bij neutraler taalgebruik (gewoon tribunaal ipv schijn- of NAVO-tribunaal etc.), met deze toon maak je het de rechter ook gemakkelijker om je betoog terzijde te schuiven als zijnde 'politiek', iets wat voor de rechtbank natuurlijk de prettigste beslissing is.
2) Ik zou beginnen met een kort, helder overzicht van de argumentatie, en dan pas uitgebreid op ieder punt ingaan. Dat maakt het makkelijker die punten in hun verband te zien.
3) Ik zou wat betreft rechtsmacht meer nadruk leggen op het feit dat Milosevic zich niet uitsluitend in de ruimten van het tribunaal bevindt. Of Nederland nu wel of niet de Nederlandse wetgeving terzijde kan stellen voor die ruimten is in zekere zin van weinig belang. Op het moment dat Milosevic voet zet op Nederlandse bodem op weg naar die ruimten, en als hij van de gevangenis naar het tribunaal wordt gereden, bevindt hij zich buiten die ruimten en mag de Nederlandse rechter hem niet negeren. Dit is tot op zekere hoogte vergelijkbaar met de situatie rond een ambassade (denk aan Klaas de Jonge in Zuid-Afrika; als men niet naar binnen mag, kan men zich altijd buiten opstellen).
4) Als je wilt beargumenteren dat het Tribunaal eenzijdig is, kun je nog verwijzen naar het Final Report to the Prosecutor inzake mogelijke vervolging wegens de NAVO-bombardementen, mn par. 90 waarin wordt gesteld dat bij de beoordeling van een mogelijke vervolging ervan uit is gegaan dat de NAVO-verklaringen over het algemeen eerlijk en betrouwbaar waren. Voorwaar een privilege dat niet alle verdachten is gegund!

Republiek

Het spijt me dat ik je niet beter van dienst kan zijn, ik wens je succes.
Vriendelijke groeten,

Ward Ferdinandusse

PERSVERKLARING N.A.V. UITSPRAAK IN EERSTE AANLEG
MR.MILOSEVIC - STAAT DER NEDERLANDEN -31-8-2001

De uitspraak in eerste aanleg maakt duidelijk dat de Nederlandse rechter het geven van rugdekking aan het marionettentribunaal belangrijker heeft geacht dan het bieden van rechtsbescherming voor fundamentele rechten.
Daarmee heeft hij het handhaven van verondersteld diplomatiek fatsoen tot zijn primaire taak verheven, waar hem gevraagd was het recht te beschermen. Hij heeft immers gemeend, namens Nederland als gastland, het zogenaamde Joegoslavië Tribunaal, d.w.z. deze institutie, in bescherming te moeten nemen. Terwijl het zijn taak was om de mensenrechten in bescherming te nemen.

In elk geval onderstreept het vergeefse appèl dat Milosevic op bescherming van zijn mensenrechten heeft gedaan nog eens uitdrukkelijk welk geweldig gat de instelling van dit zogenaamde tribunaal heeft geslagen in het waarborgen en zeker stellen van de fundamentele rechten van alle huidige en toekomstige slachtoffers van dit zogenaamde tribunaal.

In strijd met de grondslagen van de Verenigde Naties dringt - voor het eerst in de geschiedenis - de Veiligheidsraad, via dit zogenaamde tribunaal, rechtstreeks de persoonlijke rechtssfeer van burgers binnen.
Maar van het gelijktijdig scheppen van rechtswaarborgen voor de getroffenen bij dit binnendringen in die persoonlijke rechtssfeer is echter in het geheel geen sprake geweest.

De Nederlandse rechter heeft het nog eens menen te moeten bevestigen: wie door het zogenaamde tribunaal wordt gezocht, opgepakt, opgesloten en berecht, is volkomen - met huid en haar - overgeleverd aan de luimen van dit zogenaamde tribunaal.

Kan de eerste de beste gedetineerde die zich door de Staat bij zijn detentie onheus bejegend voelt, daartegen een kort geding aanhangig maken bij de onafhankelijke rechter, als men zich in de klauwen van het marionetten-tribunaal bevindt dan ontbreekt die rechtsbescherming.
Maakt het pseudo-tribunaal inbreuken op de mensenrechten, dan wordt men door de Nederlandse rechter verwezen naar ditzelfde pseudo-tribunaal voor rechtsbescherming.
Datzelfde zogenaamde tribunaal dat dus aldan beschuldigd wordt van het schenden van fundamentele rechten, dat zelf de wetten en regels heeft gemaakt en dat ze ook nog eens zelf uitlegt en toepast !
Aldus afrekenend met de peiler van de rechtsstaat sinds de Franse Revolutie: de scheiding tussen wetgevende, rechtsprekende en bestuurlijke macht.

Van Mr. Milosevic kan niet verwacht worden dat hij, wat betreft zijn rechtsbedeling, instemt met deze terugval naar de donkere Middeleeuwen. Naar de tijd dat wetgever, bestuurder, rechter en beul één en dezelfde instantie waren.
Zoals het pseudo-tribunaal herintroduceert.

Een terugval naar Middeleeuwse rechtstoepassing die ook de Nederlandse rechter heel gewoon schijn te vinden.
Althans als het om Mr. Milosevic gaat.

Mr. Milosevic gaat dan ook in hoger beroep.
Dit is overigens al als uitgangspunt aangekondigd tijdens de persconferentie die mijn collega en medewerker Mr. Christopher Black aan de vooravond van dit kort geding heeft gegeven.

Dit kort geding vormt dan ook slechts een eerste stap.
Een eerste stap op weg naar de Europese Mensenrechten-hoven in Straatsburg en Genève.
Om de rechtmatigheid van dit marionetten-tribunaal te laten toetsen. Te laten beoordelen door onafhankelijke rechterlijke instanties. Die het hoogste gezag vormen op het gebied van de mensenrechten-bescherming.

Op die weg naar de Mensenrechten-hoven in Straatsburg en Genève groeit intussen het dossier van mensenrechten-schendingen begaan door dit marionettten-tribunaal voortdurend aan.
Dit dossier zal uiteindelijk integraal en compleet aan deze Mensenrechten-hoven worden voorgelegd.

De nieuwste mensenrechten-schending door het pseudo-tribunaal is de manier waarop de advocaten van Mr. Milosevic worden bejegend.
De advocaten die door Mr. Milosevic zijn aangewezen ter behartiging van zijn juridische procedures in Joegoslavië zowel als hier in Nederland tegen de Nederlandse Staat wordt stelselmatig een vertrouwelijke en onbelemmerde toegang tot Mr. Milosevic ontzegd.
Dat vormt een bespotting van de rechten van de verdediging, die personen in elk beschaafd land toekomt.
Als er door het pseudo-tribunaal voor deze advokaten al toegang tot Mr. Milosevic wordt verleend, dan is dat uitdrukkelijk bij wijze van gunst. En kleven er aan zo'n bezoek voortdurend een aantal tribunaal-functionarissen vast. Zodat van vertrouwelijkheid geen sprake kan zijn.

De maat is wat dit betreft meer dan vol.
Een nieuw kort geding voor de Nederlandse rechter is hierover in voorbereiding.
De sommatie voor een vrij en onbelemmerd kontakt op vertrouwelijke basis tussen advocaten en Mr. Milosevic met het oog op deze lopende rechtsprocedures is inmiddels door de president van het pseudo-tribunaal Jorda van de hand gewezen.

Het is natuurlijk volstrekt absurd - maar tevens tekenend voor de kneveling van de fundamentele rechten van Mr. Milosevic door dit marionetten-tribunaal - dat bij besprekingen tussen de advocaten en mr. Milosevic ter voorbereiding van dit kort geding <u>tegen</u> het marionetten-tribunaal een aantal vertegenwoordigers <u>van</u> dit pseudo-tribunaal voortdurend afluisterend en controlerend aanwezig zullen zijn !

De Nederlandse sectie van het team van de verdediging van Milosevic

.9p

Uitnodiging

DEBATTERIJ
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Debat over de rechtsgeldigheid van het Joegoslavië-tribunaal
'I consider this tribunal a false tribunal'

Debatterij organiseert op woensdag 29 augustus van 20.00 tot 22.30 uur een discussie over het Internationaal Strafhof voor het voormalig Joegoslavië. Aanleiding voor het debat in het discussiecentrum aan de Prinsestraat 37 in Den Haag is verweer van de verdachte Slobodan Milošević dat hij dit tribunaal als een 'false' tribunaal beschouwt.

Een doorbraak voor de internationale rechtsorde, zo omschrijven de voorstanders van het Joegoslavië-tribunaal de overdracht van Milošević aan het Tribunaal. Pure chantage, weerspreken de tegenstanders. Milošević is voor drie miljard door de Servische regering 'verkocht' aan het VN-tribunaal. Het Tribunaal is een politiek tribunaal, niet gebaseerd op de internationale rechtsorde maar op macht, vinden sommige juristen. Is het Joegoslavië-tribunaal een verlengstuk van de rechtspraak in Neurenberg na de Tweede Wereldoorlog of is het te zien als het voorportaal van het Internationale Strafhof (in Den Haag)?

De berechting van de ex-president van Joegoslavië heeft in ons land de tongen losgemaakt. Velen zijn opgelucht dat er nog wel degelijk iets als een internationale rechtsorde is en gewelddadige leiders niet onbeperkt hun gang kunnen gaan. Toch kleeft er juridisch gezien een luchtje aan de overdracht van Milošević aan het Tribunaal: gebruikelijke procedures lijken met voeten getreden. De Servische premier Zoran Djindjić heeft een uitspraak van het Joegoslavische Constitutionele Hof over de rechtmatigheid van de uitlevering niet afgewacht. De Joegoslavische president Vojislav Koštunica is zelfs niet van te voren geïnformeerd over de uitlevering.
Meer in het algemeen vragen sommigen zich af of het Internationale Strafhof zijn 'slachtoffers' niet selectief uitkiest. Daarbij is al meermalen het woord overwinnaartribunaal gevallen. De VS heeft duidelijk gemaakt dat geen Amerikaan ooit voor het Internationale Strafhof zal verschijnen.

De discussie bij Debatterij richt zich onder andere op de rechtsgeldigheid van het Tribunaal, de vraag of verdachten van dit tribunaal rechtmatig zijn aangehouden en welke (nationale/internationale) rechter zich mag uitspreken over oorlogsmisdadigers en andere grove schenders van de mensenrechten. Gespreksleider van de avond is Frans Bauduin die van 1997 tot en met 1998 uitgeleend werd aan het Joegoslavië-tribunaal. Hij was daar verantwoordelijk voor de sectie *'Getuigen en slachtoffers'*. Vanaf 1988 is hij vice-president van de rechtbank te Amsterdam.

De forumleden zijn:
Mischa Wladimiroff (advocaat van de eerste verdachte (**Tadic**) bij het Joegoslavië-tribunaal)
Leo van Heijningen (advocaat van **Pieter Menten)**
Lars van Troost (coördinator Politieke Zaken **Amnesty International**)
Karel Glastra van Loon (schrijver van **'De laatste oorlog'** en polemist)
Liesbeth Zegveld (advocaat, met **Britta Böhler** diende zij strafklacht in tegen **Zorreguieta**)
Luc Walleyn (advocaat in Brussel, voert procedure tegen premier **Sharon** van Israël)

Wanneer	: woensdag 29 augustus 2001
Tijd	: 20.00 tot 22.30 uur
Locatie	: Debatterij, ingang Prinsestraat 37
Toegang	: gratis
Informatie	: www.debatterij.nl

Wij raden u aan tijdig voor het debat aanwezig te zijn.

DEBAT IN HET CENTRUM

W R I T O F S U M M O N S

S. MILOSEVIC VERSUS THE STATE OF THE NETHERLANDS

1. Whereas at the abduction of plaintiff out of the Federal Republic of Yugoslavia fundamental human rights of plaintiff were gravely violated;

2. Whereas after all by this abduction the basic rights that are due to every person regarding an intended extradition are blatantly infringed;

3. Whereas the State of the Netherlands has a heavy joint responsibility for this violation of basic human rights of plaintiff and by reason of this fact is liable for the concerned actions in tort imposed upon plaintiff;

4. Whereas because of the deprivation of liberty, plaintiff is subdued, also fundamental human rights of plaintiff are violated, that do present protection against arbitrary deprivation;

5. Whereas the State of the Netherlands also carries a direct co-responsibily for this deprivation of freedom, imposed upon plaintiff in breach of the basic legal standards;

6. Whereas the State of the Netherlands considers itself as bound, without any reservation, to the law of 1994 with regard to the installation of the so called tribunal in the Netherlands;

7. Whereas, from this point of view, the legal circumstances, under wich plaintiff is forced to undergo custody, constitutes also a severe violation of his fundamental rights;

8. Whereas also on itself the so called tribunal lacks all legal base and therefore also its usurpation of jurisdiction is void;

9. Whereas in all important human rights treaties a penal court only then is being considered as lawfull, when it is democratically legitimazed, wich element is lacking for the so called tribunal;

10. Whereas the most fundamental pillar of international law is the principle of equality and equal rights of all peoples and states and a so called tribunal, only directed against a small faction of the world community, is totally contradictory to this fundamental concept of international law, wich makes the so called tribunal also void;

11. Whereas, even in case of any judgment that this should be different, nevertheless the so called tribunal couldn't be considered as an independant and impartial legal institution, according to the standards of Article 6 of the European Convention on Human Righst, by virtue of its shameless NATO-friendliness en NATO-dependence, his criminal arrest policy, his unremitting violation of basis human rights regarding to kidnapping, his overt discriminating prosecution policy, his so called rules of own concoction, his manner of conduct of the cases, his pattern of behaviour, his public statements and the origin of many of his funds;

11. Whereas therefore the exercise of legal competence of this institute upon plaintiff is only carried through unlawfully, under illegal coercion and contradictory to fundamental human rights of plaintiff;

12. Whereas the whole concept that this institute should judge by his self about his competence and legitimacy is a sad joke;

13. Whereas the State of the Netherlands is also, and not in the last place, deeply involved by granting this so called tribunal a place on Dutch territory, by co-operation with and by facilitating of this institute;

14. Whereas plaintiff invokes the legal protection of the Dutch judge against the violation of his rights, he is exposed on as a result of the actions of the so called tribunal, as well as against the jurisdiction the so called tribunal intend to pose upon him illegally;

15. Whereas after all the Dutch judge is the competent judge regarding legal protection on human rights of all people being on Dutch territory;

16. Whereas Article 13 of the European Charter on Human Rights states that the <u>national</u> judge must give acces in case of violation of human right abuse, so that this due acces to the Dutch court involves also on itself another basic human right that plaintiff is also explicitly claiming;

19. Whereas plaintiff as a (former) head of State can claim immunity, even if the so called tribunal should be considered as a competent and legitimate penal institution, wich is not the case;

16. Whereas the ruling that the so called tribunal doesn't recognise any immunity is as void as the establishing of the so called tribunal itself - it's not up to the Security Council or to the so called tribunal to decide about immunities, but to the international law;

17. Whereas plaintiff claims that the State of the Neterlands should ensure, without any further delay - or to make every necessary effort for this -, that plaintiff will be immediately and unconditionally released, or will be immediately and unconditionally repatriated to the Federal Republic of Yugoslavia, according to the following demands;

IN CONSEQUENCE OF WHICH :

The President of the District Court in the Hague is requested:

to order that the State of the Netherlands should proceed to the unconditional release of plaintiff, within 8 hours after the announcement of the verdict;

Alternatively

to order that the State, within 24 hours after the announcment of the verdict, should proceed to repatriate plaintiff or to make him repatriate to the territory of the Federal Republic of Jugoslavia;

More alternatively

to order that the State, without any delay, should explicitly urge the immediate and uncondional release of plaintiff at all relevant international institutes and embodiments;

Further alternatively

to order that the State, without any delay, should explicitly urge the immediate repatriation of plaintiff to the territory of the Federal Republic of Yugoslavia at all relevant international institutes and embodiments;

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PRESS RELEASE AT THE INTERIM INJUNCTION PROCEEDINGS OF MILOSEVIC VERSUS THE STATE OF THE NETHERLANDS

The so-called tribunal is not only after ex-president Milosevic. Let there be no misunderstanding about this. In the person of ex-president Milosevic, the so-called tribunal wants to put the whole people of Yugoslavia on trial.

The legal construction set up for this by the so-called tribunal must be clear to everybody.

The first step has been that the Security Council pretended to have waived the immunity of heads of state in the former Yugoslavia.

The second step is then the charges against ex-president Milosevic. The accusations brought against him concern acts that he is alleged to have committed in his capacity as head of state.

The third step is that he will be convicted by the puppet tribunal – and who doubts that the conviction is a foregone conclusion – , which will also implicitly convict the Federal Republic of Yugoslavia as such.

After all, according to the current status of international law, such a conviction of ex-president Milosevic as former head of state will ipso facto also make the Yugoslavian State liable under civil law for the consequences of the alleged crimes which have then been declared to be "proved".

Subsequently, huge claims for compensation can be expected against the Federal republic of Yugoslavia and the separate republics. And this for many years to come, as in the case against Iraq.

And exactly as in the case of Iraq, these claims for damages will keep the peoples of the Yugoslavian republics in poverty.

That is the price demanded by NATO from the Iraqi people, which has dared to oppose the West. And it is the same punishment which NATO, via this puppet tribunal, has in store for the peoples of the Yugoslavian republics. Because also Yugoslavia dared to oppose NATO.

The message sent out from this is clear. For all the countries of the world: resistance against NATO carries a deadly price. Also for the entire people of the country that dares to offer resistance against the absolute NATO dominance.

In order to achieve this, the puppet tribunal is the appropriate precision instrument in the specific case of Yugoslavia. With its assistance the blame can be passed around without limitation. For instance, at the height of the NATO aggression against Yugoslavia, an absurd accusation was brought against Milosevic. But, when a few months later the public prosecutor in the Blaskic case repeatedly indicated in no uncertain terms in the media that in this case sufficient evidence had been put forward to indict president Tudjman, no such indictment occurred.

So, it is not the people of Croatia that NATO wants to see on trial, but the people of the Federal Republic of Yugoslavia.

The absurdity of the hurriedly constructed accusation of the puppet tribunal against ex-president Milosevic is already apparent at first sight when we consider an important part of it.

When the charges were put together there were an estimated 740,000 displaced persons in Kosovo.

Ex-president Milosevic is accused by the puppet tribunal that all have been expelled by his orders, all 740,000.

That accusation by the puppet tribunal came at the height of the NATO aggression. While each day NATO carried out hundreds of bombardments on targets in Kosovo. And while on the ground a virulent civil war was raging between the Yugoslavian army and the UCK.

So, according to the philosophy of the tribunal, those direct acts of war by NATO from the air and by its UCK allies on the ground would not have resulted in a single refugee! ALL displaced persons were put to flight by Milosevic!

How lunatic and alien this accusation is becomes immediately clear when we consider the present situation in Macedonia. There the direct acts of war in a 'low intensity-conflict' of limited scope have already led to almost 100,000 refugees, according to recent figures from the UNHCR.

But the gruesome war waged by NATO and its UCK allies in Kosovo did not result in a single displaced person, so the puppet tribunal wants us to believe. They were all Milosevic's fault.

The puppet tribunal could not have shown a better picture of its own complete servility to NATO!

By turning over ex-president Milosevic to the so-called tribunal, Djindjic has in fact handed over the whole population of the Federal Republic of Yugoslavia to the puppet tribunal.

And *with* him the whole population is put on trial.

So, the defence of ex-president Milosevic concerns much more than only the defence of the ex-president himself. It concerns the defence of the whole population of the Federal Republic of Yugoslavia. Against which the NATO aggression continues. Now with other means. Legal means. That is to say: by perverting and corrupting the law, in particular also international law.

For this the puppet tribunal has been parachuted from above into international law. Whereby the superpowers pretend that such a thing can be done just like that. Apparently on the pretext: 'power is law'. But in doing so, the mature nature and force of current international law are underestimated.

In due course, it will reject and throw up this perverse implant.

With the Milosevic case, the legal battle against this legal monster gets a new dimension and is raised to a higher level. We will now first of all head towards the European courts of human rights in Geneva and Strasbourg. In order to have this NATO monstrosity and its acts tested on its legitimacy. And also in order to bring a definitive end to the sad farce that this puppet tribunal believes that itself can only exclusively decide about its own legitimacy. For also here it applies, and this with the greatest urgency: quis custodiat custodientes?

The team of defence lawyers of ex-president Milosevic.

van holst en steijnen

From: Despotovic, Ruza <despot@wish.net>
To: Nico & Neeltje Steijnen <n.h.van.holst@freeler.nl>
Sent: dinsdag 3 juli 2001 09:26
Subject: Fw: verdediging

----- Original Message -----
From: K. Peschel
To: despot@wishmail.net
Sent: Tuesday, July 03, 2001 1:40 AM
Subject: verdediging

KORACI KOJE TREBA PREDUZETI U ODBRANU MILOSEVICA I SRBIJE

1. Prvo, sada nije **primarno** da se sto bolje pripremi Miloseviceva odbrana pred Tribunalom, vec sto je bolje moguca odbrana protiv samog Tribunala i holandske drzave na cijoj teritoriji se nalazi Tribunal i sa kojim je ona potajno u zaveri.(napad-ofanziva)

2. Ko sto je poznato **legalnost** (pravovaljanost) ovoga suda je sporna, a osporava se **takodje** i od strane velikog broja strucnjaka na podrucju medjunarodnog prava.

3. Pitanje **legalnosti** treba razmatrati sa dva aspekta.

a) Prvo, pitanje je da li organ kao sto je Savet bezbednosti uopste ima pravo da osniva takav tribunal. Ima pravnih strucnjaka koji na ovo pitanje odgovaraju negativno, izmedju ostalih u Holandiji je to prof Ruter (clanak u "Nederlandse Juristen Blad NJB" od 16 decembra 1993) i prof de Waard (raznim publikacijama). Medjutim, ima i mnogo pravnih strucnjka koji nisu Holandjani i koji zauzimaju isti stav.

b) Drugo, cak i kad bi se zauzeo stav da savet bezbednosti ima pravo da osnuje takav sud, cime bi taj sud se **nacelno** mogao smatrati legalnim, **nacin** na koji je organizovan i kako funkcionise ovaj sud - cine ge **ipak** nelegalnom ustanovom.

Drugim recima: ako tribunal ne funkcionise kao **nezavisan** i **nepristrasan** sudski organ, kao sto je to, na primer, odredjeno u cl. 6 Evropske Povelje o pravima coveka, onda tribunal ipak ostaje **nelegalni** organ.

Mnogobrojni pokazatelji ukazuju na to da tribunal niti radi kao **nezavisan** i **nepristrasan** organ, niti je kao **takav** osnovan.

4. Cak i kad bi se prihvatio stav da je Savet bezbednosti imao pravo da osnuje tribunal, to jos uvek ne znaci da je tribunal zaista **legalan** sud.
Za tako nesto, tribunal treba da se ponasa kao **nezavisan** i **nepristrasan** organ. A to on ne cini.

5. Odbrana g. Milosevica treba **prvenstveno** da spori legalnost Tribunala i to putem **obe** linije; 1. Savet bezbednosti nije imao pravo da osnuje ovaj sud, 2. ukoliko bi uopste Savet bezbednosti **imao** to pravo, on se ne ponasa kao **nezavistan** i **nepristrasan** organ.

6. U medjuvremenu je vec **sam** Tribunal doneo izreku o **sopstvenoj** legitimnosti, i to po prvoj liniji, naime o pitanju da li je Savet bezbednosti bio ovlascen da takav tribunal osnuje.
Prirodno, Tribunal je dosao do zakljucka da je osnivanje Tribunale bilo **legalno.**
Nemoguce je od sudija koji su prvo konkurisali za sudiju kod Tribunala ocekivati da odjednom izjave da Tribunal nema zakonsko pravo na opstanak.!
I zbog toga nema puno smisla da odbrana g. Milosevica **ponovo** osporava legalnost samog Tribunala.

6A. **Jedini razumni nacin** da se ospori legalnost Tribunala predstavlja vodjenje **posebnog** pravnog postupka protiv holandske drzave.
Ona je svakako odgovorna za cinjenicu da na njenoj teritoriji jedan privid suda goni ljude i namce kazne.

Holandska drzavu treba pozvati zbog ovoga na odgovrnost i to **sto pre to bolje.** To je moguce i putem pravnog postupka protiv holandske drzave a pred holandskim sudom.

7. U ovom postupku zahtev treba da bude, naime u vezi sa njim - da holandski sudija nalozi drzavi da odmah okonca svaku saradnju holandskih organa sa Tribunalom i da uz to nalozi da drzava cini napore za ubrzanjem neposrednog pustanja na slobodu svih pritvorenika ovoga Tribunala na njenoj teritoriji.

7A. Naravno izgledi da holandski sudija udovolji ovom zahtevu nisu veliki, ali ova cinjenica ne treba da bude odlucujuca kod procene da li je pozeljno ovakav zahtev postaviti holandskom sudiji.
U slucaju odbijanja ovakvog zahteva od strane holandskog sudije, jos uvek postoji mogucnost pravnog leka na visi sud.

Podizanje ovog postupka ima dve **ogromne** prednosti: 1. pitanje legalnosti Tribunala ostaje dugo vremena aktuelno (prisutno) i visi nad glavom Tribunala kao Damoklov mac;
2. Na kraju, moze se pitanje legalnosti Tribunala postaviti pred Sudovima za ljudska prava u Zenevi i Strazburu.

Na ovaj nacin, putem ovakvog postupka, dolazi se do toga da se odluka o legalnosti Tribunala donosi
o gde joj je i mesto - kod najvise sudske ustanove za ljudska prava u Evropi.
ako predlozeni pravni put daje sigurnost da **sto je brze moguce** sudovi za ljudska prava donesu pravnu ocenu
legalnosti Tribunala.

Ovde se radi o odluci **trecestepene sudske ustanove**, i to svakako ne beznacajne kada se radi o ljudskim pravima.
A to je sasvim nesto drugo nego sto je donosenje **sopstvene ocene** o sopstvenom legitimitetu koju je do sada doneo Tribunal.
naime, besmislica je da iskljucivo sam Tribunal odlucuje o svojoj legitimnosti, kao sto je to do sada bio slucaj!

9. Kao sto je napomenuto, mogucnost da ce holandski sudija da se postavi **frontalno** protiv Tribunala nije velika, to je prvo sa cime treba racunati.
Ali **sporedni rezultati** koji se time mogu postici - nisu za zanemariti; oni su prilicni.
Pre svega, time sto se ide svaki put na visu sudsku instancu - pitanje legitimnosti Tribunala je **neprekidno** "pred sudijom" i time opstojava kao sporno pitanje.
Drugo, tada postoji mogucnost da se na kraju i to **sto je brze moguce** presuda o legitimnosti ovoga Tribunala pred Evropskim sudom za ljudska prava.

10. Gorenavedeni pravni postupak g. Milosevica protiv holandske drzave pred holandskim sudom bi, **osim toga** posluzio da se i niz drugih pitanja postavi holandskom sudiji.

To su pitanja u vezi sa **bitnom povredom** ljudskih prava - za lica koja su pritvorena od strane Tribunala, **kkao i jos** izvestan broj drugih pitanja koja su ranje pomenuta.

11. Pre svega radi se o specificnoj vrsti zakonitosti u vezi sa **istraznim zatvorom** kod Tribunala.
Stavljanje u istrazni zatvor predstavlja meru lisavanja **Sustinu** ljudskih prava predstavlja cinjenica da niko ne moze proizvoljno da bude lisen slobode. Da bi neko bio lisen slobode potrebno je da je to izricito **zakonom** regulisano. To propisuje i hoilandski ustav.

Za holandske osumnjicene koji su u istraznom zatvoru zakonski je regulisano pitanje u vezi sa njihovim lisavanjem slobode.

12. Ali zatvorenici Tribunala ne potpadaju pod nadleznost holandskog sudije.
Prilikom donosenja Zakona o uskladjivanju 1994 godine, da bi se rad Tribunala uskladio u holandski pravni sistem, o ovome je bilo opsirno reci.
Ali, posle duge diskusije u parlamentu, odluceno je da se zahtev postavljen u ustavu, da se lisavanje slobode koje vrsi Tribunal zakonski resi, jednostavno zanemari.

13. Ignorisanje ustava je u vrlo retkim slucajevima mozda i moguce. Ali sa cime dame i gospoda u holandskoj vladi i parlamentu nisu vodili racuna - to je da medjunarodni ugovori o ljudskim pravima postavljaju **isti** zahtev. Dakle, zabranjeno je nekoga pritvoriti bez postovanja prethodne **zakonske procedure.**
Isti zahtev, ali ne na osnovi holandskog ustava, vec na osnovi **medunarodnih konvencija o ljudskim pravima** u svakom slucaju nije se mogao ignorisati (zanemariti).

14. **U vezi sa tim** moguce je u predlozenom postupku pred holandskim sudijom postaviti i **drugi zahtev** uz vec prethodno razmotreni zahtev.
Naime, da holandski sudija odredi da je holandska drzava duzna da se zalozi da g. Milosevic bude **pusten na slobodu** posto se on nalazi u **istraznom zatvoru** koji nije regulisan zakonom is hodno tome **on je nezakonito** lisen slobode.

15. **Trece** pitanje koje je je takodje vrlo vazno za ocenu zakonitosti pritvaranja g. Milosevica i koje bi trebalo podneti holandskom sudiji na ocenu je sledece.

Shodno cl.9 stav 4 Medunarodne konvencije o gradjanskim i politickim pravima - svaka zemlja koja lisava gradjane slobode je duzna tim gradjanima da omoguci pristup sudu, kako bi ovaj ocenio pravovaljanost postupka za lisavanje slobode.

To znaci, kao sto je i u slucaju Zakona o uskladjivanju
opsirno bilo na dnevnom redu holandskog parlamenta, da kod izrucenja - lice kome preti izrucenje **uvek mora imati pravo na zalbu kod domaceg (nacionalnog) suda.**

16.Ovde se dakle radi o ljudskom pravu koje je zagrantovano medjunarodnom konvencijom.
Sve "civilizovane" zemlje poznaju zakonske odredbe, koje kod preteceg izrucenja priznaju pravo zalbe kod nacionalnog suda. I Holandija i Jugoslavija imaju takve odredbe.

17. Ali ono sto se sada desilo, da je g. Milosevic, koji se kod jugoslovenskog suda pozvao na te odredbe i na Uredbu o njegovom izrucenju. drugim recima kod nacionalnog suda se usprotivio izrucenju, predstavlja kidanje u paramparcad njegovog ljudskog prava.
A ovo se desilo usled sprovodjenja zajednicke akcije elemenata iz sopstvene juoslovenske vlade i holandske vlade, kao i organ Tribunala.

Ovlasceni nacionalni sud udovoljio je njegovm zahtevu, utoliko sto je odlucio da izrucenje treba odloziti (suspendovati).

18. U zajednickoj akciji **medjunarodnog banditizma** ova izreka nadleznog nacionalnog suda sasvim je zaobidjena.

19. U odnosnom procesu - trebace da se postavi i **treci** zahtev, naime da holandski sudija odluci da se

va Holandija zalozi kako bi se postiglo da ovaj cin **medjunarodnog gusarstva (piraterije)**, u kome je i
ndija saradjivala, sto pre se ponisti (ukine).
**dija treba da nalozi holandsko drzavi da ucini sve kako bi g. Milosevic sto je brze moguce bio poslan nazad
Jugoslaviju, gde treba da saceka konacnu odluku jugoslovesnkog suda povodom zahteva za izrucenje koje je
podneo Tribunal.**

20. Najzad, ostaje jos pitanjke prava na imunitet koji imaju bivsi predsednici drzava.

U statutu Tribunala stoji izricito da bivsi predsednici drzava **nemaju** pravo na imunitet od krivicog gonjenja. Ali nema nikakvog razloga, da se prihvati ideja da bi Savet bezbednosti mogao proizvoljno da odluci o oduzimasnju identiteta predsednicima drzava u odredjenom slucaju.
Bez ikakvog ugovornog teksta i bez ikakvog znaka da je takvo pravilo postalo obicajno pravo na podrucju prava naroda.

Pri tome treba imati u vidu da imunitet (bivsih) predsednika drzava je ustvari odrazaj (refleks) suvereniteta same drzave.

21. U datom procesu trebalo bi kao cetvrti zahtev postaviti da holandska drzava ucini sve da se g. Milosevic pusti na slobodu, posto on kao (bivsi) predsednik drzave uziva imunitet.

mr. N.M.P. Steijnen
advokat

Prevela: dr K. Sigulinski

VERTALING in de Servo-Kroatische taal

Federale Republiek Joegoslavie
Het Federale Constitutionele Hof
Datum ontvangst: 25.06.2001

HET FEDERALE CONSTITUTINELE HOF

Novi Beograd
Bulevar Mihaila Pupina 2

CONSTITUTIONEEL BEZWAAR

Slobodan Milosevic bevindt (verder S.M.) zich vanaf 01.04.2001 in de voorarrest in de district gevangenis van Belgrado op grond van de beslissing van de rechter-commissaris (verder RC) van de district rechtbank (verder Rb) te Belgrado Ki.nr.318/01 en op grond van van beslissing van dezelfde Rb. Kv. Nr. 1042/01 van 30.04.2001 en zijn voorarrest zal duren tot 01.07.2001, wegens gegrond verdacht dat hij de straffeit uit art. 174,lid 3 van het Strafrechtboek en in verband met het art. 23 van het Strafrechtboek heeft gepleegd.

Op de niet nader vastgestelde datum in de maand mei 2001 geeft het secretariaat van het Internationaal Tribunaal voor voormalig Joegoslavie (verder ICTY) aan de Fedrale Ministerie van Justitie te Belgrado de aanklacht tegen Slob. Milosevic uitgereikt (afgegeven), dat ondergetekend was op 22 mei 1999 door de aanklagster Louise Arbour, het besluit over het overzicht (inhoud) van de aanklacht van ICTY, in de zaak van ICTY onder het nr. IT-99-37-I, ondergetekend door de rechter van dit Tribunaal David Hunt en het bevel tot arrestatie, en het Bevel tot overdracht van Slob.Milosevic verwaardigd door ICTY, in de zaak nr. IT-99-37-I, van 24 mei 1999, ondergetekend door de rechter David Hunt.

Federale Ministerie van Justitie geeft via de Ministerie van Justitie van Republiek Servie de genoemde bescheiden aan de district Rb. te Belgrado doorgegeven (uitgereikt). De RC van de district Rb. te Belgrado GORAN CAVLINA heeft deze bescheiden in een gezegeld envelope naar de district gevangenis te Belgrado gebracht om deze persoonlijk aan Slob. Milosevic uit te reiken, maar omdat Slob. Mil. geweigerd heeft om deze te ontvangen, heeft De RC de bescheiden (de envelope) aan de deur van de cel van Slob. Milosevic verblijf achtergelaten.

Hiermede, meent de district Rb. van Belgrado dat de genoemde bescheiden van ICTY aan Slob. Milosevic zijn afgegeven (betekend).

Met deze handelingen heeft de Federale Ministerie van Justitie, Ministerie van Justitie van Servie en de RC van district Rb. van Belgrado getracht om aan Slob. Milosevic, Jugoslavische staatsburger, die die zich aan het territorium van Federale republiek Joegoslavie bevindt, de eerder genoemde bescheiden van ICTY , verwaardigd door buitenlandse instanties (de aanklager en de rechters van het Haag's tribunaal), ongeacht dat volgens de Constitutie, het Strafrechtboek van Federale republiek Joegoslavie en de Wet van het Strafprocesrecht van Fed. Rep. Joeg. Voor de evenuele strafrechterlijke vervolging en veroordeling van Slob. Milosevic UITSLUITEND de gerechtelijke instanties van Fed. Rep. Joeg. Bevoegd zijn (competent).

Uit dergelijke daden en handelingen van Fed. Ministerie van Justitie, Min. van Justitie van rep. Servie en district Rb. van Belgrado, kan men gegrond (in alle redelijkheid) concluderen dat men verder zal stappen ondernemen volgens de genoemde bescheiden (akten) van ICTY en tot overdracht (uitlevering) van Slob. Milosevic in de jurisdiktie van ICTY met zetel in Den Haag zal overgaan.

Door de reeds uitgevoerde handelingen werden de in de Constitutie gewaarborgde rechten van Joegoslavische staatsburgers – dat ze niet uitgeleverd mogen worden aan een buitenlandse rechtbank, het recht vastgesteld in art. 17, lid 3 van de Constitutie, geschonden.

DAAROM STELLEN WIJ VOOR:

Dat het Federale Constitutinele Hof STEL VAST dat door de genoemde en reeds genomen handelingen van de Fed. Min. van Joeg., Min. van Justitie van Servie en districht Rb. van Belgrado, de in de de Constitutie gewaarborgde recht van Slob. Milosevic geschonden is en dat de Federale Constitutionel Hof VERBIEDT het verder ondernemen van elke maatregel dan ook, AAN ALLE FEDERALE ORGANEN VAN DE FEDERALE REPUBLIEK JOEGOSLAVIE EN REPUBLIEK SERVIE DIE GERICHT ZIJN TOT UITLEVERING (Overdracht?) VAN SLOBODAN MILOSEVIC AAN ICTY.

De 25.06.200 1

De verdedigers van Slobodan Milosevic:

Advocaat
w.g. Raicevic M.Momo
Bgd. Tadeusa Koscuskog 36
Tel. 011/635-986

Advocaat
w.g. Veselin Cerovic (magister)
Bgd. Mutapova 32
011/434-165

HITNO

SAVEZNI USTAVNI SUD U BEOGRADU

NOVI BEOGRAD
BULEVAR MIHAILA PUPINA 2

USTAVNA ŽALBA

Slobodan Milošević nalazi se od 01.04.2001. godine u pritvoru u Okružnom zatvoru u Beogradu, po rešenju istražnog sudije Okružnog suda u Beogradu Ki.br.318/01 , i po rešenju istog suda Kv.br. 1042/01 od 30.04.2001. godine. i pritvor mu ima trajati do 01.07.2001. godine, a zbog osnovane sumnje da je izvršio krivično delo iz člana 174 , stav 3 KZ SRJ. u vezi čl.23 KZ SRJ.

Neutvrđenog dana u maju mesecu 2001. godine Sekretar Međunarodnog krivičnog suda za bivšu Jugoslaviju, je u Beogradu predao Saveznom ministarstvu pravde optužnicu Međunarodnog krivičnog suda za bivšu Jugoslaviju podignutu protiv Slobodana Miloševića, od 22.maja 1999.godine potpisanu od strane tužioca Louise Arbour, Odluku o pregledu optužnice Međunarodnog krivičnog suda za bivšu Jugoslaviju, u predmetu tog suda pod brojem IT-99-37-I , od 24.maja 1999.godine, potpisanu od strane sudije David-a Hunt-a, i Nalog za hapšenje i Nalog za predaju Slobodana Miloševića , izdatog od strane Međunarodnog krivičnog suda za bivšu Jugoslaviju, u predmetu br. IT 99-37-I , od 24.maja 1999.godine, potpisanog od strane sudije David-a Hunt-a.

Savezno ministarstvo pravde je preko ministarstva pravde Republike Srbije napred označena akta dostavilo Okružnom sudu u Beogradu. Istražni sudija Okružnog suda u Beogradu Goran Čavlina je ova akta u zapečaćenom kovertu odneo u Okružni zatvor u Beogradu i pokušao da ih lično uruči Slobodanu Miloševiću, pa s obzirom da je Slobodan Milošević odbio da ih primi, ostavio ih je na vratima zatvorske ćelije u kojoj boravi Slobodan Milošević.

Time Okružni sud u Beogradu smatra da su označena akta Međunarodnog krivičnog suda za bivšu Jugoslaviju uručena Slobodanu Miloševiću.

Ovim radnjama Savezno ministarstvo pravde, Ministarstvo pravde Republike Srbije i istražni sudija Okružnog suda u Beogradu su pokušali da Slobodanu Miloševiću, jugoslovenskom državljaninu, koji se nalazi na teritoriji SRJ, uruče napred navedena akta Međunarodnog krivičnog suda za bivšu Jugoslaviju, izdata od strane inostranih organa (tužioca i sudije Haškog tribunala), iako su prema Ustavu SRJ, Krivičnom zakonu SRJ i Zakonu o krivičnom postupku SRJ, za preduzimanje eventualnog krivičnog gonjenja i suđenja Slobodanu Miloševiću **isključivo** nadležni pravosudni organi Savezne Republike Jugoslavije.

Iz ovakvih postupaka i radnji Saveznog ministarstva pravde, Ministarstva pravde Republike Srbije i Okružnog suda u Beogradu, može se osnovano zaključiti da će se postupiti po navedenim aktima Međunarodnog krivičnog suda za bivšu Jugoslaviju i izvršiti predaja Slobodana Miloševića **u jurisdikciju** Međunarodnog krivičnog suda za bivšu Jugoslaviju sa sedištem u Hagu.

Preduzetim radnjama povređuju se Ustavom zagarantovana prava jugoslovenskih državljana da ne budu izručeni stranom sudu , pravo utvrđeno članom 17, stav 3, Ustava SRJ.

Stoga predlažemo:

Da Savezni ustavni sud **utvrdi** da je navedenim i preduzetim radnjama Saveznog ministarstva pravde, Ministarstva pravde Republike Srbije, i Okružnog suda u Beogradu povređeno ustavom zagarantovano pravo Slobodana Miloševića i da Savezni ustavni sud **ZABRANI** dalje preduzimanje svake radnje, **svim državnim organima Savezne Republike Jugoslavije i Republike Srbije usmerene na predaju Slobodana Miloševića Međunarodnom krivičnom sudu za bivšu Jugoslaviju.**

25.06.2001.
u Beogradu

Branioci Slobodana Miloševića

ADVOKAT
Ratčević M. Moma
Beograd, Tadeuša Košćuškog 38
Tel. 011/635-986

АДВОКАТ
Мр ВЕСЕЛИН ЦЕРОВИЋ
Београд, Мутапова 34
тел. 011/434-165

PITANJA:

Domaći / 8-15 dana ili 3 dana ?? – –

2. Labena / mi ili on / pitanje je suđeno na registraciji.

3. CHH – Da li mu je poznata sadržina uvodne i šta je komentarisao.

САВЕЗНА РЕПУБЛИКА ЈУГОСЛАВИЈА
САВЕЗНИ УСТАВНИ СУД
Број Су.бр. 1/15-2001
28. јун 2001. године
Београд

15. Редовна седница
Савезног уставног суда
28. јун 2001.године

СУДИЈАМА САВЕЗНОГ УСТАВНОГ СУДА

На основу члана 5. став 1. и члана 11. став 2. Закона о Савезном уставном суду ("Службени лист СРЈ", број 36/92) и члана 9. став 1. Пословника Савезног уставног суда ("Службени лист СРЈ", број 44/93 и 25/95) заказујем **15. РЕДОВНУ СЕДНИЦУ** Савезног уставног суда у ЧЕТВРТАК 28. јуна 2001. године са почетком у 12 часова, сала 201/II спрат.

За седницу Суда предлажем

ДНЕВНИ РЕД

IV У бр. 103/2001, 104/2001, 105/2001, 106/2001, 107/2001, 108/2001, 109/2001 и Уж број 25/2001

1. Предлози и иницијативе за оцењивање уставности и законитости Уредбе о поступку сарадње са Међународним кривичним трибуналом ("Службени лист СРЈ", бр. 30/2001).

2. Захтев да Савезни уставни суд, до доношења одлуке пређи да се обустави извршење аката и свих радњи које су предузете по основу Уредбе чија се уставност односно законитост оцењује.

3. Уставна жалба против радњи Савезног министарства правде, Министарства правде Републике Србије и Окружног суда у Београду којима је повређено Уставом загарантовано право Слободана Милошевића и захтев да Савезни уставни суд забрани даље предузимање свакe радње, свим државним органима Савезне Републике Југославије и Републике Србије усмерене на предају Слободана Милошевића Међународном кривичном суду за бившу Југославију.

Судија известилац мр Аранђел Маркићевић
Стручни сарадници Душан Гајић и
Невенка Ковачевић-Јаковљевић

ЗАМЕЊУЈЕ ПРЕДСЕДНИКА
САВЕЗНОГ УСТАВНОГ СУДА
С У Д И Ј А
Милан Вешовић , с.р.

Vertaling uit het Servo-Kroatisch.

WAPEN
Federale republiek Joegoslavie
FEDERALE CONSTITUTIONELE HOF
Nummer Su.nr. 1/15-2001
28ste juni 2001
Belgrado

De 15de gewone zitting
van het Fed. Const. Hof
de 28ste juni 2001

AAN ALLE RECHTERS VAN HET FEDERALE CNSTITUTIONELE HOF

Op grond van art. 5 lid 1 en art. 11 lid 2 van de Wet op FederalaeConstitutionele Hof ("Staatscourant van SRJ" nr. 36/92) en art. 9 lid 1 van het Reglement van het Federale Constitutionele Hof ("Staatscourant van SRJ" nr. 44/93 en 25/95) bepaal ik de 15de gewone zitting van het Federale Constitutionele Hof voor donderdag, 28 ste juni 2001, om 12.00 uur, Zaal 201/II verdieping.

Voor de zitting stel ik voor

DE AGENDA

IV U nr. 103/2001,104/2001, 105/2001, 106/2001,107/2001,108/2001,109/2001 en UZ nummer 25/2001.

1. De voorstellen en initiativen tot beoordeling (toetsing)van de constitutionaliteit en de wettigheid van het Decret (verordening?) omtrent de samenwerking met het Internationaal Strafrecht Tribunaal ("Staatscourant SRJ"nr. 30/2001).

2. Eis dat het Federale Constitutionele Hof, tot de tijdstip dat dhet besluit is genomen, bevelt dat de uitvoering van alle akten en alle handelingen die ondernomen worden op grond van het Decret, van welk de constitutionaliteit wordt getoetst (beoordeld), worden gestaakt.

3 Constitutioneel bezwaar tegen de handelingen van de Federale Ministerie van Justitie, Ministerie van Justitie van Servie en de districkt rechtbank van Belgrado – door welke is geschonden de door de Constitutie gewaarborgde recht van Slobodan Milosevic en de eis dat het Federale Constitutionele Hof verbiedt de verdere ondername van elke handeling, aan alle statsorganen van de Federale Republiek Joegoslavie en republiek Servie, gericht op de uitlevering van Slobodan Milosevic aan Internationaal Strafrecht Tribunaal voor voormalig Joegoslavie (ICTY)

Rechter rapporteur Arandjel Markicevic, magister
Vak-medewerkers Dusan Gajic en nevenka Kovacevic-Jakovljevic

Waarnemend President
Federale Constitutionele Hof
De rechter
w.g. Milan Vesovic

ОКРУЖНИ СУД У БЕОГРАДУ
ИСТРАЖНИ СУДИЈА
Ки.318/01
Дана 04.07.2001.
Б Е О Г Р А Д

БРАНИОЦИМА СЛОБОДАНА МИЛОШЕВИЋА

У вези ваших поднесака од 03.07.2001.године обавештавамо Вас да је дана 28.06.2001.године Јавни тужилац ОЈТ-а из Београда Раде Терзић поднео Захтев за проширење истраге против вашег браниоца са предлогом да му се продужи притвор. Дана 29.06. 2001.године Јав.тужилац ОЈТ-а из БЕограда Раде ТЕрзић је пред истражним судијом изјавио да одустаје - повлачи предлог за продужење притвора против окр.Слободана МИлошевића из свог захтева од 28.06.2001.године.

Поднеском број 021-15/01-02 од 29.06.2001.године ВД управника ОКРУЖНОГ затвора у Београду Блануша Драгиша је обавестио суд да су дана 28.јуна 2001.године у 17,45 сати на основу дописа МИНИСТАРСТВА ПРАВДЕ И ЛОКАЛНЕ САМОУПРАВЕ (СЛУЖБЕНО ОД 28.06. 2001.године) притвореника Слободана МИлошевића предали овлашћеним представницима МЕђународног трибунала за кривично гоњење лица одговорних за тешка кршења међународног хуманитарног права почињеног на територији бившег СФРЈ од 1991.године.

РЕшењем овог суда Кв.бр.1042/01 од 30.04.2001.године Слободану Милошевићу је притвор продужен за још два месеца, тако да му има трајати најдуже до 01.07.2001.године.

Дакле, у току трајања мере притвора по решењу о продужењу притвора од 30.04.2001.године одлуком извршне власти окр. Слободан Милошевић је предат Хашком трибуналу и по решењима овог суда у притвору се не налази од 28.06.2001.године, а пошто му притвор није продужен то му је у време сачињавања овог дописа притвор истекао и у том случају могу се само применити одредбе ЗКП-а о притвору које се односе на конкретну ситуацију.

Пошто је Јавни тужилац ОЈТ-а из Београда захтевао проширење истраге против Слободана Милошевића који се налази у Хагу то је суд ступио у контакт са Хашким трибуналом како би му било омогућено да на околност Захтева за проширење истраге испита Слободана Милошевића у Хагу, обзиром да се у смислу одредбе чл.169 ст.2 ЗКП-а истрага може прекинути на предлог Јавног тужиоца само ако је окривљени у бекству или иначе није достижан државним органима, а у конкретном случају познато је боравиште Слободана Милошевића и уколико истражни судија добије сагласност за испитивање МИлошевића у Хагу онда се не може сматрати да он није достижан државним органима.

Што се тиче поступка у предмету овог суда Кри.1193/01 списи предмета се налазе у Врховном суду Србије ради одлуке о вашем Захтеву за изузеће.

ИСТРАЖНИ СУДИЈА
ГОРАН ЧАВЛИНА

DISTRICT RECHTBANK BELGRADO
RECHTER-COMMISSARIS
Ki. 318/01
Datum: 04.07.2001
Beolgrado

AAN DE VERDEDIGERS VAN SLOBODAN mILOSEVIC

Met betrekking tot uw schrijven van 03.07.2001 delen wij u mede, dat de openbare aanklager van het openbaar ministerie van district Belgrado (lees officier van justitie, verder O.v.J) RADE TERZIC op 28.06.2001 een eis tot iutbreiding van het onderzoek tegen uw client heeft ingediend met het voorstel om zijn gevangenhoudung te verlengen. Op 29.06.2001 heeft de O.v.J. RADE TERZIC in aanwezigheid van de rechter-commissaris verklaard, dat hij zijn voorstel tot verlenging van gevangenhouding van de verdachte Slobodan Milosevic trekt in uit zijn eis van 28.06.2001.

In zijn schrijven nr. 021-15/02 van 29.06.2001, de waarnemende bestuurder van district gevangenis van Belgrado, BLANUSA DRAGISA, heeft de rechtbank geinformeerd (laten weten), dat men op 28. Juni 2001 om 17,45 op grond van het schrijven van de Ministerie van Justitie en Lokaal Zelfbestuur (officieel schrijven van 28.06.2001) de gedetineerde Slobodan Milosevic heeft overhandigd aan de bevoegde vertegenwoordigers van Internationaal Tribunal voor strafrechterlijke vervolging van personen die veraantwoordelijk zijn voor de zware misdrijven tegen het internationaal humanitaire recht gepleegd aan het territorium van voormalig Soc. Fed. Rep. Joegoslavie vanaf 1991.

Door de beslissing van dit rechtbank Kv. Nr. 1042/01 werd de gevangenhouding van Slobodan Milosevic verlengt met 2 maanden, zodat deze op zijn langst tot 01.07.2001 zal duren.

Dus, tijdens de gevangenhouding volgens de beslissing omtrent de verlenging van de gevangenhouding van 30.04.2002, – op grond van het besluit van de uitvoerende macht de verdachte Slob. Milosevic werd overgedragen aan Haagse Tribunaal en volgens de beslissingen van deze rechbank de gedetineerde bevindt zich sinds 28.06.2001 niet in hechtenis, en omdat zijn gevangenhouding werd niet verlengd , dat betekent dat in de tijd van het opmaken van dit schrijven – zijn gevangenhouding verlopen was en in een dergelijk geval kan men alleen de bepalingen van de Wet op Strafrechterlijkproces omtrent de gevangenhouding die betrekking hebben op de konkrete situatie toepassen.

Omdat de Of.v.J. van het openbaar ministertie van Belgrado om de uitbreiding van het onderzoek tegen Slob. Milosevic heeft gevraagd, en deze bevindt zich in den Haag, heeft de rechtbank contact opgenomen met het Haag's tribunaal om hem mogelijk te maken – wegens de omstandigheid dat er een verzoek tot uitbreiding van het onderzoek is ingediend, Slobodan Milosevic te ondervragen in den Haag, omdat er volgens de bepalingen van het art. 169 lid 2 van de Wet op Straftrechterlijkproces – het onderzoek kan op verzoek van Of. v.J. onderbroken worden op voorstel van Of.v.J. alleen in het geval als de verdachte voortvluchtig is of niet toegankelijk aan de staatsorganen, en in dit konkreet geval het verblijfplaats van Slob. Milosevic bekend is en als de rechter-commisaris de toestemming

krijgt voor het ondervragen van Milosevic in den Haag, dan ken men niet redeneren dat hij niet toegankelijk is aan de staatsorganen.

Wat betreft het proces in in de zaak Kri. 1193/01 van deze rechtbank, de desbetreffende stukken bevinden zich bij de "Supreme court" van Servie wegens het nemen van de beslissing over uw verzoek om wraking.

STEMPEL
District rechbank

Rechter-commissaris
w.g. Goran Cavlina

РЕПУБЛИКА СРБИЈА
ОКРУЖНИ СУД У БЕОГРАДУ
VI Су.бр.148/2001
Дана: 04.07.2001.године
Б Е О Г Р А Д

АДВОКАТИМА МОМИ РАИЧЕВИЋУ, ДРАГОСЛАВУ ОГЊАНОВИЋУ И ВЕСЕЛИНУ ЦЕРОВИЋУ

Б Е О Г Р А Д

У вези ваше ургенције од 03.07.2001.године којом ургирате да се по хитном поступку донесе решење о укидању притвора за вашег брањеника Слободана Милошевића у предмету Ки.бр.318/2001 обавештавам Вас да према одредбама ЗКП-а председник суда не учествује у доношењу оваквог решења, нити Вам га може достављати, те је с тога ваш захтев да председник суда у року од два дана вама достави решење о укидању притвора није на закону основано.

У погледу другог дописа под истим датумом којим тражите да Вас известим због чега је из искључиве судске ингеренције за поступање у предмету екстрадиције српског и југословенског држављанина Слободана Милошевића дозвољено, или се ћутке прешло преко одвођења из Окружног затвора у Београду, а да предмет екстрадиције Кри.1193/01 није окончан. Као што сте и усмено обавештени од стране председника суда, то вас сад и писмено обавештавам да је Окружни суд у Београду дана 25.06.2001.године обавештен да је на основу одлуке донете од стране Владе Републике Србије број 713-6483/2001 од 28.06.2001.године (објављено у Службеном гласнику број 37/01, а која је и спроведена од стране извршне власти, а не од суда грађанин Слободан Милошевић уступљен Хашким извршитељима. С тога се ово уступање није извршило на основу било које судске одлуке нити је постојао поступак за екстрадицију именованог, нит је суд поступао у вези предмета Кри.1193/01 о чему су браниоци већ били упознати. Окружни суд нити је дозвољавао нити прелазио преко одвођења из Окружног затвора, с обзиром да исто није било у његовој ингеренцији.

Република Србија Окружни суд у Београду

ПРЕДСЕДНИК СУДА
Вида Петровић-Шкеро

Vertaling in het Servo-Kroatisch

Republiek Servie
District Rechbank te Belgrado
VI Rolnr. 148/2001
Datum: 04.07/2001
Belgrado

AAN DE ADVOCATEN MOMA RAICEVIC, DRAGOSLAV OGNJANOVIC EN VESELIN CEROVIC

Naar aanleding van uw urgentie van 03.07.2001 in welke u aandrigt dat men in een urgent proces de beslissing neemt omtrent de opheffing van de gevangenhouding van uw client (gedaagde) Slob. Milosevic in de zaak Ki.nr. 318/2001 – deel ik u mede, dat volgens de bepalingen van de Wet op Strafproces – de President van de rechtbank geen deel neemt in het tot stand brengen van een dergelijke beslissing, nog kan hij de beslissing aan u uitreiken, om die redenen is uw verzoek dat de president van de rechtbank binnen 2 dagen aan u de beslissing tot opheffing van de gevangenhouding neemt niet op de Wet gegrond.

Met betrekking tot het tweede schrijven van u met dezelfde datum, waarin u mij verzoekt om u op de hoogte te stellen (informeren) waarom is, uit de in de uitsluitende gerechterlijke competentie voor de behandeling voor het proces van uitlevering van een Servisch en Joegoslavisch statsburger Slobodan Milosevic toegelaten, of is men stilzwijgend overgegaan tot de meename (afvoering) uit de district gevangenis van Belgrado, ongeacht dat de uitleveringszaak Kri. 1193/01 niet beendigd was. Zoals u reeds mondeling bent geinformeerd door de president van de Rb. bericht u nu ook schriftelijk, dat de district Rb. van Belgrado op 25.06.2001 is op de hoogte gesteld dat op grond van de beslissing van de Servische regering nr. 713-6483/2001 van 28.06.2001 (gepubliceerd in de "Staatscourant" nr. 37/01), en welke werd eveneens door de uitvoerende macht gedaan en niet door de rechtbank – de burger Slob. Milosevic werd afgestaan aan de haagse uitvoerders. Daardoor werd dit overhandigen niet uitgevoerd op grond van welke dan ook gerechtelijke beslissing, nog bestond het proces om uitlevering van de genoemde, noch heeft de rechtbank gehandeld in verband met de strafzaak Kri. 1193/01, waarover de verdedigers al op de hoogte werden gebracht. De district Rb. heeft noch toegestaan noch overeengegaan over de meename uit de district gevangenis, aangezien dat dat niet in zijn bevoegdheid (ingerentie) lag.

STEMPEL district Rb
President van de rechtbank:
w.g. Vida Petrovic-Skero

VII Су. бр. 179/2001

ОКРУЖНИ СУД У БЕОГРАДУ, председник суда **Вида Петровић-Шкеро** у предмету Окружног суда у Београду **Кри.бр.1193/01** против окривљеног Слободана Милошевића, због кривичног дела из чл.174 став 3 у вези става 1 КЗСРЈ у вези члана 23 КЗСРЈ под бројем Ки.318/01, решавајући о захтеву бранилаца окривљеног Слободана Милошевића адвоката Зденка Томановића, Момчила Булатовића, Моме Раичевића, Веселина Церовића, Предрага Матовића, Томе Филе, Бранимира Гугла и Драгослава Огњановића из Београда, за изузеће истражног судије Окружног суда Горана Чавлине, донео је дана 27.06.2001.године

Р Е Ш Е Њ Е

ОДБИЈА СЕ као неоснован захтев бранилаца окривљеног Слободана Милошевића адвоката Зденка Томановића, Момчила Булатовића, Моме Раичевића, Веселина Церовића, Предрага Матовића, Томе Филе, Бранимира Гугла и Драгослава Огњановића из Београда за изузеће истражног судије Окружног суда Горана Чавлине у предмету Окружног суда Кри.бр.1193/01.

О б р а з л о ж е њ е

Поднеском од 27.06.2001.године браниоци окривљеног Слободана Милошевића адвокати Зденко Томановић, Момчило Булатовић, Мома Раичевић, Веселин Церовић, Предраг Матовић, Тома Фила, Бранимир Гугл и Драгослав Огњановић из Београда су затражили изузеће истражног судије Окружног суда Горана Чавлине у предмету Кри.бр.1193/01, због постојања разлога из члана 39 став 1 тачка 6 ЗКП-а.

У својој изјави датој на основу чл. 42 ст.3 ЗКП-а истражни судија Окружног суда Горан Чавлина навео је да не стоје разлози за његово изузеће јер је у предметима овог суда Ки.бр.318/01 и Кри.бр.1193/01 поступао у свему сходно овлашћењима прописаним Законом те самим тим не стоје околности које изазивају сумњу у непристрасност у смислу члана 39. став 1 тачка 6 ЗКП-а.

Одлучујући о поднетом захтеву за изузеће председник Окружног суда у Београду је након извршеног увида у списе Кри.бр.1193/01 наводе захтева за изузеће и изјаву судије нашао да захтев није основан.

Ово стога што околности наведене у захтеву бранилаца окривљеног Слободана Милошевића адвоката Зденка Томановића, Момчила Булатовића, Моме Раичевића, Веселина Церовића, Предрага Матовића, Томе Филе, Бранимира Гугла и Драгослава Огњановића из Београда не указују на постојање неког од разлога за изузећа прописаних одредбом члана 39 став 1 тачка 1-6 ЗКП-а, те је стога захтев одбијен применом члана 42 став 2, 3 и 4 ЗКП-а и одлучено као у изреци решења.

ПРЕДСЕДНИК СУДА
Вида Петровић-Шкеро

ПРАВНА ПОУКА:
Против овог решења није дозвољена посебна жалба.

III. THE CLAIM OF IMMUNITY FROM CRIMINAL PROSECUTION BY CLAIMANT AS FORMER HEAD OF STATE.

III.1. The exercise of jurisdictional power over individual members of a State by (an organ) of the Securrity Council as infringement (violation) of jurisdictional sovereignty.

The exercise of jurisdictional power over one's own citizens is part of each state's **sovereignty.**
There is not any rule of law whatsoever, whether of a treaty-type or a an unwritten -(common-)type
of law, that gives the Security Council the competence to usurp this **right of sovereignty**, and to
determine that the Security Council henceforth will start to try individuals of any state beyond the
jurisdictional competence of the State concerned in the form of an organ to be erected to that end.

As far as the states having been part of former Yugoslavia are concerned, it must be taken into con-
sideration that **none** of the states that were formed there, **has recognised** this competence of the
Security Council to form a tribunal, in order, by doing so, to "relieve" those states of this aspect of
sovereignty.
Hence there can be no doubt whatsoever about nothing less than **usurpation** by the Security Council.

Thus, **"parity of sovereignty"** being the explicit objective of the Charter of the United nations, laid
down as a principle in art. 2 par. 1 of the Charter, is no longer a reality for the states having been a
part of former Yugoslavia.

III. 2. The endeavour of the Security Council to take over the jurisdictional power over heads of certain states, as an even more drastic usurpation of jurisdictional sovereignty.

The usurpation of the right of the state to try individual citizens of such state, being in itself alone already
a clear-cut violation (infringement) on the sovereignty of all those states of former Yugoslavia having

been thereby victimised by the Security Council, an **even more drastic violation** of this sovereignty was effected by the Security Council by as well attempting to enforce on the states concerned that their heads
of state should not be entitled to **immunity** from prosecution.

This attempt to rewrite internatiopnal law to their own liking was formulated by the Security Council in
art. 7 par. 2 of the Statute of this show-tribunal as follows:

"The official position of any accused persson, whether as Head of State or Government
or as responsible Government official, shall not relieve such person of criminal responsibilty nor mitigate
punishment."

However, as indicated in the writ of summons it is not up to the Security Council to determine the contents of international law, but to **international law itself.**

First and foremost, there is **nothing** in international law indicating that the Security Council could, merely by one single stroke of it's pen, declare defunct the right of immunity of heads of state.

Never before there was evidence of even a possibility that heads of state - and we talk here **explicitly** about heads of **sovereign states** - could randomly be declared defunct of their immunity.

Moreover, it is **impossible** to consider the Tribunals of Neurenberg and Tokyo, set up after World War II to court-martial the crimes of the Axis-powers, as a precedent.
If only because these countries were defeated and their **rights of sovereignty** were at that moment explicitly **suspended** by the winning parties.
The Tribunals of Neurenberg and Tokyo thus clearly established a **winner's-type of "justice".**
I will come back on this at a later stage.

As regards the states of former Yugoslavia however, time and again, the complete intactness of their **sovereignty** and their full entitlement to be therein **respected,** has been expressed in the resolutions of the Security Council.

Time and again also this was stated by this same Security Council, trying on the other hand to thoroughly erode this very **sovereignty** by not only taking over jurisdictional power over individual citizens of these states through the so-called ("soi-disant") Yugaslavia-Tribunal, - which, after all, was expressly intended to be a **subsidiary organ** of her own, in accordance with art. 29 of The Charter - but at the same time trying to even further dismantle this sovereignty by stipulating that heads of these states should not be entitled to immunity.

The immunity accruing to these **Heads of a state** is after all closely interwoven with the **sovereignty of the state itself,** and forms an important mode of expression thereof.

III.3. Immunity of the (former) head of state as attribute of that state's sovereignty - In case of the (former) head of state being put on trial, the State itself actually stands on trial.

Immunity of the Head of State is therefore- not surprisingly - first and foremost an **immunity ratione materiae**. Which means it is not so much a personal prerogative, but an instrument to safeguard the sovereignty of the State.
That state-immunity creates indeed no personal right, but is an attribute of the sovereignty of the State.

The most important reason for the principle of immunity of heads of state indeed is that, what heads of stae do in their function of head of state, must as such be seen as **being acts of the State itself**

In other words: if a head of state could be prosecuted elsewhere an would have to stand on trial for what he did in his function of head of state, the state itself would come to stand on trial.
Sentencing the head of state would then automatically implicate a sentencing of the state itself.

Translated into terms relative to claimant, this would then mean that **if the immunity of claimant as Head of State would indeed - on the mere authority of the Security Council - have to be considered as being abolished, not so much HE would stand on trial for this hoax-tribunal and then be sentenced, but WITH HIM the whole Federal Republic Yugoslavia.**

In view of the the principles of **civil liability** for **criminal acts**, which now is widely recognised also in international law, this means then that, if claimant is sentenced for his acts, unmistakingly committed in his funtion as head of state, the **Federal Republic Yugoslavia** too, would then, according to civil law, **automatically** and promptly be liable for the consequences of those so-called crimes attributed to it.

Consequently the FRY then runs the risk to be confronted with **billion-$-claims** for damages.
In just the same way as this now also happens to Iraq.
With as a consequence that the country then, for an unforeseeable number of years to come, would **remain doomed to pauperism**.
As now already **actually** is the case with Iraq too.

This is the the **ominous** ultimate consequence of the Security Council's attempt - in contravention of international law - to deprive the heads of state of the countries of former Yugoslavia of their immunity.
Moreover, this, of all things, once more under the explicit unreconcilable **fiction**

that the **sovereignty** of these states would nevertheless remain intact!

Because, that this ~~fiction~~ (IMPAIRED RESPECTING OF THE SOVEREIGNTY OF THE CONCERNED COUNTRIES) should be reality, is indeed a regulation of The Charter itself.

In that way, i.e. trying to deny claimant - because that is what specifically matters here - his right of immunity as former head of state, the Security Council provides itself - not surprisingly - the possibility to not only completely break down the sovereignty of - in this case - Yugoslavia, but also the very instrument to **not only make claimant stand on trial, but even the whole Yugoslav nation.**

And all this, when meanwhile the Security Council shamelessly is keeping up the **fiction** for the outside world at large, that, by means of the behaviour of it's puppet-tribunal, it would not violate the **sovereignty** of Yugoslavia!

III. 4 . Immunity ratione materiae of the former Head of State as undisputed principle of customary (common) international law.

As a principle, it is **undisputed** that the benefit of immunity for a head of state is a matter international treaty-law and of custumary (common) international law. But sometimes one can hear now that such immunity would not apply for **former** heads of state.

This view is obviously false.
It is true that there is no written treaty-rule describing specifically that **former** heads of state are also entitled to immunity, but further it is an explicitly, **generally** recognised rule in customary international law, that **former** heads of state keep their right of immunity for their acts performed when they were head of state.

In that case it is explicitly important that they are acts which they performed in their quality of head of state.
Claims of immunity can then no longer be made for acts not originating in their quality of head of state.

This immunity for acts formerly performed as head of state is then not so much meant for their **own benfit,**

but for the benefit of the state of which they were the head. And the obligations involved in international
law belong then to the State and not to the head of state concerned.

25-9-2007

Art. 183 VERDRAG TOT OPRICHTING VAN DE E.G

"Behoudens de bevoegdheid die bij dit Verdrag aan het Hof van Justitie wordt verleend, zijn de Geschillen inzake de Gemeenschap partij is, niet uit dien hoofde onttrokken aan de bevoegdheid van de nationale rechterlijke instanties."

→ Is de Gemeenschap partij, dan blijft de nationale rechter alsnog bevoegd

---

PRIMAIRE EIS: AANGEVE WAARIN MOET ZIJN OM RECHT TE DOEN.

6-9-2001

DAAR IS NIX DAT BLOP WYST
DAT DE JURISDICTIE IN
DE ZIN VAN EVRN ZOMAAR
IS GEBRUIT VAN WORDEN

→ EVRN HOLOGST RUIME
ORIENTING VAN
JURISDICTIE

IDEEEN MILOSEVIC

- de secr. van de Raad van Europa heeft een toezichhoudende taak wat betreft de naleving van het EVRM (art. 57 (oud)
Zijn hulp kan worden ingeroepen betreffende nakoming art. 5 lid 4 en vrije toegang advokaten.

- art. 2 EVRM (oud): EVRM v.t. op iedereen die onder de jurisdictie van een verdragsstaat ressorteert.

- art. 14 EVRM (oud): de verdragsstaten moeten de rechten en plichten garanderen. Ned. faalt zo te doen.

- het standpunt van de Ned. rechter betekent dat er een geschil is over de interpretatie en de toepassing van het EVRM. En ook wellicht over de competentie van het Hof.
Kan dat wellicht nu al worden uitgevochten, bijv. met aanknopingspunten onder art. 62 (oud) ?

van holst en steijnen

From: TARGETS <redactie@targets.org>
To: <office@globalreflexion.org>
Sent: dinsdag 4 september 2001 03:44
Subject: statement Milosevic was not allowed to read

The URL for this article is http://www.icdsm.org/more/aug30.htm
Send this article to a friend!

Following is the statement that President Milosevic was not allowed to read when he appeared, August 30, before the 'tribunal' in The Hague.

Statement of President Slobodan Milosevic
on The Illegitimacy of The Hague 'Tribunal'
[30 August 2001]

"Can a criminal tribunal for Yugoslavia which ignores pervasive violence by the U.S. and diverts public awareness from United States conduct and legitimatizes by silent acceptance aerial and missile assaults on civilians and illegal weapons use against one country after another, making its repetition expected before it occurs, contribute to the hope for the rule of law, justice or peace?"

There are three fatal legal flaws in the so-called International Criminal Tribunal for the Former Yugoslavia. Each has disastrous consequences for the human quest for peace, the rule of law, democracy, truth and justice.

1. THE CHARTER OF THE UNITED NATIONS DOES NOT EMPOWER THE SECURITY COUNCIL TO CREATE A CRIMINAL COURT

The U.N. Security Council has seized power it does not possess, corrupting the Charter of the United Nations, placing itself above the law and threatening "We Peoples of the United Nations" with a lawless future in which a superpower employs the scourge of war to have its way. Nothing in the history of the planning, drafting, discussion, approval or ratifications of the U.N. Charter implies, or is consistent with, an intention to empower any body created by, or under, the Charter to establish any criminal tribunal. The words of the Charter and their textual inferences, the structure and allocation of power and duties, including those in the incorporated Statute for the International Court of Justice, all negate the existence of any capacity under the Charter to ordain criminal courts. The Criminal Tribunal for Former Yugoslavia is illegitimate and its creation a corruption of the United Nations.

There would never have been a United Nations if its Charter stated, or implied, that a criminal court could be created under its authority. No one who believes in historical truth, or that words have meaning can, after examining the history of its creation and its text, contend that the Charter of the United Nations empowers the Security Council to create a criminal court.

An International Criminal Court Can Be Created
Only By A Multinational Treaty, Or
Amendment to the Charter of the United Nations

The national representatives who have served on the Security Council and in the General Assembly and the scholars, lawyers and experts who have labored for more than thirty years to bring into being an international criminal court have recognized that the only lawful and binding way such a court can be created is by an agreement among nations through a treaty agreed upon for that purpose, or by amending the Charter of the United Nations under its strict provisions regulating amendments to authorize, or establish a court.

When an International Criminal Court was finally agreed upon in July 1998 by 120 nations meeting in Rome, it was by treaty which had been studied,

drafted and debated for years. The United States, the most powerful participant in that long process, consistently sought to weaken the treaty to exempt U.S. leaders and military personnel from prosecution before it. Having failed, the U.S. was then the most prominent and powerful of the handful of nations that refused to sign. As of August 1, 2001 37 nations, the Netherlands the most recent, had ratified the treaty.

The United States is vigorously trying to persuade, coerce, or bribe nations not to ratify.

Creation of the International Criminal Tribunal
For The Former Yugoslavia Was A Lawless Act Of
Political Expediency by the United States Designed
To Demonize and Destroy an Enemy And Frustrate
Creation of a Legitimate International Criminal Tribunal

At the insistence of the U.S., the Security Council nearly fifty years after it came into being forged a new and powerful weapon capable of demonizing a nation and its people and depriving individuals of their liberty for the rest of their lives, and placed it largely in the hands of the United States. The principal precedents for such pseudo-judicial actions over several millennia preceding the creation of the U.N. are trials of leaders and soldiers of vanquished populations by the victors in war, and courts used by colonial powers to control and punish subjugated peoples. The precedents are many and the violence and cruelty and hatred they usually exposed and caused was extreme.

Unless It is Limited By The U.N. Charter And
International Law, The Security Council Can Do
Whatever It Chooses To Do

If it is not restrained by the United Nations Charter, the Security Council can commit any act it desires disregarding all law. Early proponents of United States world power claimed such unbridled discretion for the Security Council publicly. Thus in 1950 John Foster Dulles wrote:

"The Security Council is not a body that merely enforces agreed law. It is a law unto itself... No principles of law are laid down to guide it, it can decide in accordance with what it thinks is expedient."

If unchallenged, this concept of Security Council power means that the most powerful international organ created by the Charter of the United Nations "to end the scourge of war" is above all law, domestic and international.

But absolute discretion is the very definition of lawlessness and has been called "more destructive of freedom than any other of man's inventions," by U.S. Supreme Court Justice William O. Douglas. All rights of all nations, races, religions, cultures, political parties and individuals are thereby subordinated to the will of the Security Council, and the single superpower that too often will dominate it. All but fifteen nations are excluded from Security Council counsels. Each of the five permanent members can veto its actions.

The Security Council is subject to domination by a single nation. The representative of each member votes as instructed by the national government that appoints him and to serve the interests of that government, not as an international statesman serving all peoples and the purposes for which the U.N. was created. The Security Council is inaccessible, anonymous and less responsive to democratic processes than any other international political institution.

2. A ONE-TIME, ONE-EPISODE COURT TARGETING ONE COUNTRY, CREATED BY INTERNATIONAL POLITICAL POWER TO SERVE ITS GEO-POLITICAL INTERESTS IS INCAPABLE OF EQUALITY AND CONDUCIVE TO DIVISION AND VIOLENCE

The illegitimate Criminal Tribunal for Former Yugoslavia corrupts justice and law because it is incapable of acting equally among nations, or within the politically targeted nation. It will increase violence, division and the risk of war with neighboring nations and peoples and within Yugoslavia among the segments of the society the U.S. policy of Balkanization of

Former Yugoslavia has set against each other and against the new government the U.S. has installed for its own purposes.

If the United Nations Charter had authorized the Security Council to create criminal courts, it could not create a court for one nation or episode for political purposes, to persecute selected groups or persons, and such a court is incapable of equal justice under law. An ad hoc court violates the most basic principles of all law. Equality is the mother of justice. 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.

If the Security Council can create a criminal court to prosecute conduct in a single country like Yugoslavia, it can appoint a court for any country, selecting enemies or political and economic opportunities for targeting one at a time, while never exposing itself, or those who comply with its wishes, to such selective prosecution. If the U.S. or any ally or client state it chose to protect was the subject of a serious effort by the Security Council to be honored with a criminal tribunal in its own name, the U.S. would veto the threatened action.

A Court created only for crimes in one country is by definition discriminatory, incapable of equal justice, a weapon against chosen enemies, or antagonistic interests and war by other means. If there is to be any international criminal court, it must act equally as to all nations with none above the law. The ad hoc tribunal for a single nation corrupts international law.

By its very nature, an ad hoc Tribunal can be created only after the conduct the Security Council decides justifies creation of the Court, since there is no other excuse for its creation. It is in every case ex post facto. This violates an ancient principle of law. It also requires the Security Council, if there is to be a rational basis for its action, to make some preliminary claim to finding of facts, a task such a political body is not designed for, that inherently incriminates a country or faction by placing the imprimatur of the Security Council of the United Nations on a political decision of fact necessary to justify the creation of the Tribunal. The very charge of the Security Council - genocide, crimes against peace, war crimes, or crimes against humanity - demonizes any person thereafter accused.

The Selection Of A Nation For Prosecution
On Political Findings Of Genocide, War Crimes
And Crimes Against Humanity Creates
A Compulsion to Convict.

Investigators, prosecutors and administrative personnel who join a temporary Tribunal to pursue allegations of humanity's greatest crimes against a people and leaders already demonized will feel they have failed if there are not convictions. 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.

Powers That Create Ad Hoc International Criminal
Tribunals Divert Attention From Their Own
Offenses, Or Failures, Or Those Of Allies And
Their Political Surrogates While Continuing
To Inflict And Threaten Mass Destruction With Impunity.

The ad hoc Tribunal which targets a country is incapable of prosecuting what may be greater crimes committed in the same conflict, by a power, coalition, ally or political agents that was and remains a much greater source of violence and threat to peace. Most often the power which forced the creation of the target tribunal to further damage and demonize its enemy is shielded from criticism by the avalanche of propaganda against the accused supported by the appearance of United Nations neutrality and peace-making efforts.

What court will consider the criminality of aerial bombardment by U.S. aircraft of defenseless civilians, their housing, water systems, power plants, factories, office buildings, schools, hospitals, which take

thousands of lives directly and causes billions of dollars of property damages in Belgrade, Nis, Novi Sad and scores of other cities, towns and villages? What threat to peace continues from the U.S. bombing of the Chinese Embassy?

Who will be held accountable for the devastation of Pristina by NATO planes, or the attacks on refugee columns in Kosovo and Metohia? Is the U.S. use of cluster bombs exploding razor sharp metal fragments over an area as large as a soccer field in the courtyard at the hospital in Nis no crime? Will the Security Council act to prevent and punish the use of depleted uranium by the U.S. which is as indiscriminate in its radiation as the air, the water, the soil and food chain it touches and contaminates for millions of years?

International law accepts bombing of defenseless civilian populations by a militarily advanced technology that can destroy a country without even setting foot on its soil because super power controls international prosecutions and determines violations. The dominant element in modern military power is mass destruction. Victors are nations with the greatest capacity for mass destruction. This places civilian populations at maximum peril, infrastructure supporting civilian life, buildings, water, power, transportation, communication, food production, storage and distribution, health care, schools, churches, mosques, synagogues, foreign embassies were the direct object of U.S. aerial and missile attacks. Several thousands of civilians were killed directly and many more indirectly. The U.S. claims it had 159 casualties, a third from friendly fire, none from combat.

In 1998, the U.S. directed 21 Tomahawk Cruise missiles from international waters to destroy the El Shifa pharmaceutical plant in Khartoum, Sudan which provided more than half the medicines available for a people who are very poor and have been unable to replace that supply. The U.S. continues to support insurrection in the South of Sudan and threaten Sudan with prosecution in an ad hoc international criminal tribunal.

NATO does not claim it prevented violence within Kosovo and Metohia among the Serbian, ethnic Albanian and other peoples. In fact, NATO accelerated that violence. It bombed Serbia for 79 days, targeting civilians and citizens, destroying billions of dollars worth of civilian facilities, using illegal weapons including cluster bombs, destroying the civilian Serbian TV and radio buildings. It bombed Kosovo and Metohia heaviest of all, destroying most of Pristina, killing thousands of Albanians, Muslims, Serbs, Romany, Turks and others, and causing hundreds of thousands of people to flee from Kosovo and Metohia. Damage to the Yugoslavia military was negligible. In the summer of 2001 the U.S. continues to use cluster bombs in northern and southern Iraq which it attacks on most days.

And in 1999 when the U.S. and NATO countries came into Kosovo and Metohia as a "security force", they refused to intervene on the ground to protect people who were endangered in the province.

There will be no remedy or relief for Serbian victims of atrocities, some 500.000 purged by Croatia with the approval, if not on the instructions of the U.S., forever from their homes in Krajina, the more than 330.000 permanently purged from Kosovo and Metohia since the cease fire in 1999, or for the thousands of Serbs, Romany and others killed by the U.S. and NATO bombing assaults, or by the U.S.-supported terrorist organization, the so-called KLA, before, during and after the assaults. The Macedonians killed, injured and driven from their homes by U.S.-condoned if not instigated KLA aggressions which threaten civil war in Macedonia and general war in the Balkans will not lead the Security Council to create a Court to prosecute the perpetrators.

Major Powers Are Not Accountable For Their
Actions Which Cause War, Insurrection
And Violence Within Targeted Countries.

There will be no accountability by the U.S., Germany and other nations whose acts and pressures forced the break-up of Yugoslavia, stripping Slovenia, Croatia, Bosnia, Macedonia and attempting to strip parts of Serbia such as Kosovo and Metohia.

The U.S. and several European nations have Balkanized the region in the

most artificial and forced apartheid the Balkans, or any other part of the world has ever known. Their acts have made peace, stability and prosperity impossible. Economic viability of small fragmented parts depends on foreign economic interests intended to dominate and exploit the region. The new apartheid leads to U.S. planned conflicts between the western Catholic Croatians and the eastern Orthodox Serbs, creating conflict and a wall between Western and Eastern Europe. More dangerous, it sets the stage for violence, encouraging international conflicts between Slavic peoples and Muslims to decimate and debilitate the obstacles to the U.S. world order. Kosovo and Metohia, as a part of Serbia, and Macedonia are current examples in a long list of tragic and avoidable violence between Muslims and Slavs, which has occurred to different extents in Afghanistan, Dagestan, Chechnya, Kazakhstan, Kyrgystan, Tajikistan, Turkmenistan, Uzbekistan and Bosnia.

A Federal Republic Of Balkan States Long
Set Against Each Other By Foreign Powers
Was Formed To Established Peace, Cooperation
And Prosperity.

The idea of Yugoslavia, a Balkan federation to heal divisions and provide a better chance for living together in peace and prosperity, was seen as important in the years after World War I as a means to peace. While the idea floundered between the two worst wars in history, it worked with remarkable success after World War II in which it was ravaged, but unconquered. An independent and unified Federal Republic of Yugoslavia was a long-term successful solution for south Slavic peoples. It was a bulwark of the Non-Aligned Movement. With the collapse of the Soviet and Eastern bloc economy it was the remaining socialist government threatening capitalist control of Europe. With its mixed market economy it offered an example to former Eastern bloc countries for revival of their economic and political independence. With a successful, functioning Federal Republic of Yugoslavia there was living proof history had not ended, that more than one economic system was possible.

After the collapse of the Eastern bloc economy, a greater Balkan federation, a southeastern European Union, was seen by many in the region as the means to prevent economic exploitation, avoid violence and develop a strong and independent political, social and economic region.

Foreign capital and the geopolitical interests of the U.S. considered this a dangerous obstacle to their plans for the New World Order, globalization, new colonialism.

The United States Having Demonized
Yugoslavia Attacks It With Impunity
And Persecutes Its Leadership.

The U.S. mercilessly bombed Yugoslavia for 79 day. It tried to assassinate me by bombing my home, offices and other places, where it believed I might be. It attempted to kill Libya's head of State Muammar Qaddafi in its 1986 raid on Tripoli and Iraqi president Saddam Hussein on numerous occasions beginning in 1991, including its 1993 cruise missile attack on the Al Rashid in Baghdad at a time it believed he would be there meeting international Islamic leaders.

Through economic sanctions, the most extreme and overt form of forced impoverishment and economic assault, the U.S. has coerced the Security Council into complicity in the longest, deadliest and cruelest genocide of the last decade, the sanctions against its enemy Iraq which have killed at least 2 million people, the majority children. The United States has forced economic sanctions against Yugoslavia, severely damaging its civilian economy and eroding its will to independence.

Can a criminal tribunal for Yugoslavia which ignores pervasive violence by the U.S. and diverts public awareness from United States conduct and legitimatizes by silent acceptance aerial and missile assaults on civilians and illegal weapons use against one country after another, making its repetition expected before it occurs, contribute to the hope for the rule of law, justice or peace?

The United States, itself immune from control or prosecution and above the law, uses its power to cause the persecution of enemies it selects to

terrorize and further demonize. It manufactures and sells arms to chosen nations, to groups seeking to overthrow governments it opposes, uses illegal weapons against defenseless people with impunity, continues to consolidate and expand its near monopoly of nuclear weapons and sophisticated rocketry, spends trillion on unilateral protection from Star Wars assuring a continued arms race while poverty overwhelms billions, hunger cripples millions, starvation takes hundreds of thousands of lives and AIDS spreads among poor nations.

It cripples international environmental protection, undermines control of nuclear weapons by threatening to withdraw from long standing protections of the ABM and Non Proliferation treaties. It refuses to ratify treaties to protect life from land mines which it continues to manufacture, sell and deploy. It threatens to undermine a treaty controlling biological and chemical warfare. And the United States regularly engages in covert operations and violent military interventions in other nations in violation of their sovereignty and law.

The so-called ICTY is not just another arrow in the arsenal of the United States with which it persecutes and demonizes enemies and corrupts international law. The ICTY celebrates inequality in the rule of law using criminal sanctions to destroy selected leaders and governments.

It is a poisonous arrow destructive of the foundations of peace among independent nations of equal rights and dignity.

3. THE INTERNATIONAL CRIMINAL TRIBUNAL FOR FORMER YUGOSLAVIA IS INCAPABLE OF PROTECTING FUNDAMENTAL RIGHTS, OR PROVIDING DUE PROCESS OF LAW.

Such an ad hoc Tribunal has a temporary and limited purpose without helpful precedent, common tradition or relevant experience. It lacks power to enforce orders, or compel the disclosure of evidence and the presence of witnesses, particularly for the defense.

It is not capable of finding facts fairly, or defining and applying legal principles equally. It cannot do justice.

The statutory mandate for the ICTY makes it hostile to concern for the rights of those accused before it, because it is told the crimes charged have occurred and the accused have been demonized.

The right to assistance of counsel, so firmly established in international law, has been denied and frustrated by the Tribunal even in its most prominent cases. The Registry denied to me the right to consult with lawyers of my choice on legal matters for several weeks after my arraignment.

The Registrar wrote that for the one attorney who visited me during that time and for only two hours, it would have been "inappropriate" to discuss the case because the conversation was monitored and confidences would be violated. Lawyers from Yugoslavia I ask to consult, with one exception, a monitored two hours visit, were still denied approval and visas to enter the Netherlands seven weeks after my arraignment.

Instead I was held in solitary confinement. I was able to visit my wife only after more than two weeks imprisonment and then only through soundproof glass using monitored telephones. She was prohibited from speaking with the press and kept isolated from all public contacts while in the Netherlands, a virtual prisoner in her hotel room, except as she traveled between the airport, the prison and the hotel.

The Ad Hoc Tribunal Is Intended To Demonize
And Destroy, Not To Fairly Determine Facts,
Protect Rights Of The Accessed, And Apply
Legal Principles Equally.

Unfair phenomena is inherent in the purpose and the nature of temporary ad hoc tribunal, struggling without personnel who are part of a legal tradition, far removed from the place the accused came from and the events occurred where the court is charged by its creator not to presume innocence, but that terrible crimes have occurred and the accused are from the group that committed them. They do this to protect the real criminals, the NATO leaders who killed thousands of innocent people in NATO's criminal

aggression.

Truth Is Beyond The Reach And The Purpose Of
The Ad Hoc Tribunal Which Is Intended To
Punish, Destroy And Divide.

It has been impossible in all cases before powerless ad hoc Tribunals for the accused to obtain needed evidence and witnesses for their defense. The ICTY has been unable to obtain custody of many accused in the former Yugoslavia and has resorted to, or condoned, improper and illegal means to pressure their surrender.

Ad Hoc Tribunal Terrorize And Punish Those In Yugoslavia Who Dared To Oppose NATO Aggression And To React To Criminal Acts Of Terrorists Who Were Killing Serbs, Albanians, Muslims, Turks etc.

In Yugoslavia, the U.S., in violation of international and domestic laws of both Yugoslavia and the U.S., has installed a government of its choice in the Republic of Serbia and ousted me from the presidency of the Federal Republic of Yugoslavia by bombing, economic coercion including sanctions, physical threats, covert operations and corruption of the electoral process.

The U.S. Creates Client Governments By
Forcing Elections, Using Millions Of Dollars to Purchase Unity For Its
Candidate, Then Finance A Campaign That Buys Votes And Corrupts Democracy.

The U.S. injected more than $ 100.000.000 (US) to defeat the Government of Peoples Unity that was in power until October, 2000.

The U.S. has intervened in many foreign elections and often installed governments subservient to its interests by that means.

The creation of an ad hoc international criminal tribunal with threats and indictments of the leadership of the government it seeks to remove is an additional devastating assault on the democratic process and the government targeted for destruction.

My Abduction and Surrender To The
ICTY By A U.S.-Installed Serbian Government
Was Done In Violation Of The Constitutions Of The
Federal Republic Of Yugoslavia, The Republic
Of Serbia, The Statute Creating The ICTY
While The Federal Constitutional Court Of
Yugoslavia Reviewed The Request For Surrender
For A Bribe Of, Supposedly, 1.3 Billion Dollars.

The U.S.-installed government of Serbia abducted and surrendered me in violation of the Constitutions of the Federal Republic of Yugoslavia and the Republic of Serbia and its Laws while the request for surrender was under review by the Constitutional Court of Yugoslavia, which had forbidden any act related to surrender until the Court's final decision. That was also a violation of the U.N. Security Council Resolution creating the Tribunal which provides that surrender shall be accomplished in accordance with the domestic laws of the nation requested to make the surrender. The United States threatened to block $1.3 billion (U.S.) in international loans and aid for Yugoslavia unless the surrender was accomplished by a date it set. Such conduct and the participation and acceptance of it reveals contempt for the rule of law by the Tribunal, the new government of Serbia, or the United Nations.

The illegal seizure of an individual and his delivery to isolation in the prison of an illegal international criminal tribunal in a distant nation threatens the freedom of everyone. For the United Nations to engage in, or accept, international kidnapping of political leaders tells the world that the old ways of violence, deceit and coercion are its ways. Those ways will be met in the only way they can be met, by the same means.

The New U.S.-Installed Government of Serbia
Is Using Its Police Power to Crush Political Opposition in Serbia.

The current government of Serbia is engaged in crushing and demonizing its domestic political opposition. The regime will surrender accused persons to the ICTY in violation of its own laws as it surrendered me in order to destroy political opposition at home and receive payments of money and support from abroad for the ruling politicians. It acts to frustrate any support or investigation for my defense, even attempting to ban entry and deport Ramsey Clark when he flew to Belgrade in June to discuss my political persecution. In the hope of eliminating rival domestic political power, it put hundreds of people in detention on purely political grounds.

That government may fabricate evidence, destroy evidence and control and coerce witnesses to assist in convictions by the ICTY, and it will seek to frustrate defense efforts to obtain documents, other evidence, and witnesses in Yugoslavia needed for the defense in the Hague.

The People of Serbia and Yugoslavia Risk a
Tragic Future from the External Manipulation
And Control of Their Governments.

The new government of Serbia is a puppet for the United States. If there is any expectation a U.S.-supported government might be better for the people of Serbia, or Yugoslavia, ask Iranians if they believe they fared better under the Shah of Iran, enthroned in 1953 by the U.S. for 25 years, than they would have under democratically elected President Mossadegh and elected successors. Was a long line of military governments which brutally repressed the people of Guatemala for decades better for the people than democratically elected President Arbenz who was removed by United States forces in 1954? Was Mobutu, who for four decades brutalized, bankrupted and corrupted the country, better for the people than democratically elected Patrice Lumumba assassinated with U.S. complicity in 1960? Did General Pinochet better serve democracy, human rights and the welfare of the people for decades than the democratically elected Salvador Allende murdered in a U.S.-supported golpe in Chile in 1973? It would be difficult to find four greater national tragedies in the last fifty years, all brought about by the United States determination to control those regions.

Ask the people of the several score other countries who have lived under U.S.-supported tyrannies, "our SOB's" as FDR called Somoza in Nicaragua, how they benefited. An ad hoc criminal tribunal created to crush the leadership of the opposition to a U.S.-installed government cannot bring peace, reconciliation, protect human rights, or enable a people to live and prosper together. It will create fear, hatred, division and violence.

Consider the peoples of the poorest countries of the world during these last decades obediently struggling to repay loans for projects and purposes they did not choose and that never benefited them while their own citizens die from hunger and preventable illnesses. Consider the economies of eastern Europe, or of the former Yugoslav republics and ask why per capita income is often less than half, sometimes less than 25% what it was just twelve years ago. Ad hoc criminal tribunals will prolong the suffering in poor countries by supporting governments that will maintain foreign domination that seeks benefits that will worsen that condition.

The Violence And Division Within Yugoslavia
Since The Collapse Of The Soviet Economy Was
Caused By U.S.-Led Acts Designed To Balkanize
The Federal Republic And Its Member
Republics With The ICTY As Principal Weapon.

The United States engaged in a decade long effort, aided by several European countries, to break-up and destroy the Federal Republic of Yugoslavia, causing the secession, (remember the American Civil War) of German-oriented Slovenia and Croatia with 500 000 Serbs purged from its borders. Then Bosnia was pried away from the Federal Republic of Yugoslavia and segregated into an unnatural three-region religious apartheid, Muslim, Roman Catholic and Eastern Orthodox Christian. Now Macedonia is in turmoil, nearing civil war from the aggression of the U.S.- stimulated and supported terrorist organization, the KLA. Thus Yugoslavia became former, losing half of its population and wealth and leaving only Serbia and Montenegro. Kosovo and Metohia, an historically precious part of Serbia, remains occupied by NATO Forces after 79 days of aerial bombardment in 1999.

U.S.-led aerial assaults inflicted billions in damages on civilian facilities, killed thousands of civilians throughout Serbia in the name of NATO. Thereafter the United States and NATO watched as 330 000 Serbs were forced out of Kosovo and Metohia and many hundreds murdered, emboldened by the United States. Violent efforts to remove all Serbs from Kosovo and Metohia continue. And the KLA has been empowered to attack Macedonia.

The ICTY was created at the insistence of the United States which had stimulated violence and secession in the republics of Slovenia, Croatia, Bosnia and Herzegovina, Macedonia and attempted division and conflict in the Serbian province of Kosovo and Metohia and in three municipalities in the south of Serbia and throughout the former six Republics. The U.S. intends to persecute and demonize leaders who, together with the people, by defending freedom and by resisting aggression of the NATO war machinery, had defied its will, and at the same time make the people seem savage. Madeleine Albright, while U.S. Ambassador to the U.N., was the driving force for creation of the ICTY. The U.S. Ambassador to the Tribunal, David Scheffer, concedes the ICTY is "supported, financed, staffed and provided information" primarily by the United States.

Now as the idea and existence of ad hoc tribunals are threatened by the treaty creating the International Criminal Court the United States is exerting pressure to prevent nations from ratifying it. It is also pressing for new ad hoc Tribunals for the Democratic Republic of Congo, Sierra Leone, Sudan and elsewhere, to dominate those regions and defuse the drive for the International Criminal Court. The treaty, signed in Rome in 1998 by 120 nations was ratified by the 37th nation, the Netherlands, in late July 2001.

The United States prefers to select nations for persecution while protecting itself, its allies and favored client states. Ad hoc tribunals which are illegitimate, incapable of equal justice under law, by their nature unable to conduct fair trials, or provide due process and whose victims have long since been convicted in the United States-controlled media are a U.S. weapon for establishing long term control and exploitation of targeted nations and regions. That is their globalization; that is new colonialism.

For these reasons, the so-called ICTY should be declared illegal and its prisoners, legally and illegally surrendered, should be released.

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Further Reading:

1) On the 'tribunal,' see NATO's Tribunal: Straight From the Horse's Mouth, at http://www.icdsm.org/more/horse.htm

2) On the huge U.S. effort to install a quisling regime in Belgrade, see.

'We Accuse!' Memorandum On Foreign Interference in the Yugoslav Elections - Statement of the Yugoslav government just prior to the Oct. 5th coup d'etat. At http://emperors-clothes.com/memor.htm

Milosevic's TV Speech to Yugoslavia. Delivered Oct. 2, 2000. At http://emperors-clothes.com/news/milosevi.htm

The International Monetary Fund And The Yugoslav Elections' by Michel Chossudovsky and Jared Israel. Summarizes devastating effects of World Bank/IMF intervention in several countries. Discusses link between Western financial takeover and social-political destruction. http://emperors-clothes.com/analysis/1.htm

"Kostunica Says: Some Backers 'Unconsciously Serve American Imperial Goals.'" Excerpts from 'NY Times' article and comments by Jared Israel and Max Sinclair. This is the article in which the 'Times' writer notes that "suitcases full of [US] cash" go the opposition. http://emperors-clothes.com/news/erlang.htm

'Emperor's Clothes Interviews Radio B292'
Revealing interviews with two staff members at a U.S.-paid "independent" radio station in Belgrade.

http://emperors-clothes.com/interviews/emperor.htm

'Will the US Get Their Money's Worth in Yugoslav Elections?' by George Szamuely at http://emperors-clothes.com/articles/szamuely/willthe.htm

'U.S. Law Passed by House of Representatives on Funding Yugo Opposition and Harsh Terms for Lifting Sanctions'
http://emperors-clothes.com/news/1064.htm

3) President Milosevic uses golpe, Spanish for 'blow,' as the French use coup d'état.

www.icdsm.org

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Permanente Commissie
inzake Nederlandse Oorlogsmisdrijven
in Joegoslavië

JURIDISCHE ASPECTEN VAN HET OPTREDEN VAN DE FEDERALE REPUBLIEK JOEGOSLAVIE IN KOSOVO

Alvorens het juridisch kader van het optreden van het Joegoslavische leger in Kosovo te kunnen beoordelen, is eerst een nadere afbakening van de contekst waarin dit optreden zich afspeelt nodig.

De FRY wordt op een in de geschiedenis precedentsloze wijze naar de keel gevlogen door een militaire machtscoalitie, die een miljoen-voudige overmacht representeert.
De FRY staat voor de taak zich tegen de agressie van deze overmacht te verdedigen. Verwoesting van haar staatkundige verband en haar fysieke voortbestaan als natie staan op het spel.

Vanuit haar perspectief voert de FRY een strijd op leven en dood, waarbij haar voortbestaan op het spel staat. Het gaat daarbij om een louter defensieve oorlog.

Onder dergelijke extreme omstandigheden van zelfverdediging, waarbij het voortbestaan van een staat zelf op het spel staat, is naar geldend recht inzake gewapende conflicten,veel geoorloofd. Ook wat betreft maatregelen naar de burgerbevolking toe.
Zo wilde het Internationaal Gerechtshof in zijn uitspraak van 8 juli 1996 over de (on)rechtmatigheid van het gebruik van kernwapens en het dreigen daarmee zelfs niet helemaal uitsluiten dat een dergelijke extreme omstandigheid waarin het voortbestaan van de staat zelf op het spel staat wellicht de <u>enige</u> omstandigheid waarin het gebruik van een kernwapen geoorloofd zou zijn.

In elk geval kan de FRY het zich, staande tegenover een dergelijke miljoen-voudige overmacht <u>van buitenaf</u>, zich niet permitteren ook nog te kampen te hebben met een separatistische beweging die van binnenuit aanvallen in de rug uitvoert.
De militaire noodzaak eist dan dat daar zo snel mogelijk en zo grondig mogelijk mee wordt afgerekend. Ook als dat maatregelen inhoudt die verstrekkende gevolgen hebben voor de burgerbevolking, die in principe bescherming ondervindt van het internationaal recht.
Zulke verstrekkende maatregelen naar de burgerbevolking toe worden vanuit de militaire noodzaak bovendien verder geïndiceerd, als elementen van deze burgerbevolking een vijfde colonne vormen, die een voortdurende bedreiging opleveren.

Onder deze omstandigheden is de FRY, ingevolge het internationale recht inzake gewapende conflicten, gerechtigd naar de burgerbevolking toe alle maatregelen te nemen die vanuit het oogpunt van militaire noodzaak genomen dienen te worden, mits deze niet in strijd komen met de Verdragen van Genève.

Zoals:

- opschorting van de rechtsbescherming van het Verdrag van Genève betreffende de bescherming van burgers in oorlogstijd.

Zie artikel 5 :

Artikel 5

Indien, op het grondgebied van een Partij bij het conflict, deze Partij ernstige redenen heeft om een bepaald door dit Verdrag beschermd persoon te verdenken van handelingen, schadelijk voor de veiligheid van de Staat, of indien vaststaat, dat hij zodanige handelingen pleegt, zal deze persoon geen aanspraak kunnen maken op de rechten en voorrechten krachtens dit Verdrag, welke, indien hij deze zou genieten, nadeel zouden kunnen berokkenen aan de veiligheid van de Staat.

- evacuatie en gedwongen deportatie van personen en groepen van de burgerbevolking.

Zie artikel 49 :

Artikel 49

Gedwongen overbrenging van groepen of individuele personen, alsmede deportatie van beschermde personen van het bezette gebied naar het grondgebied van de bezettende Mogendheid dan wel naar dat van een andere al of niet bezette Staat, zijn verboden, welke de redenen daarvoor ook mogen zijn.

Niettemin mag de bezettende Mogendheid tot gehele of gedeeltelijke evacuatie van een bepaalde bezette streek overgaan, indien de veiligheid van de bevolking of dwingende militaire redenen zulks vereisen. Deze evacuaties mogen geen verplaatsing van beschermde personen buiten het bezette gebied medebrengen, tenzij het om materiële redenen onmogelijk is een zodanige verplaatsing te vermijden.

- internering van personen en groepen van de burgerbevolking.

Zie Afdeling IV van het Verdrag van Genève betreffende de bescherming van burgers in oorlogstijd. De gehele Afdeling is aan deze mogelijkheid van internering gewijd :

AFDELING IV

Regelen betreffende de behandeling van geïnterneerden

HOOFDSTUK I

Algemene bepalingen

Artikel 79

De Partijen bij het conflict mogen beschermde personen uitsluitend interneren overeenkomstig de bepalingen van de artikelen 41, 42, 43, 68 en 78.

Vast staat derhalve, ook naar de regels van het Verdrag van Genève, dat (delen van) de Albanees-Kosovaarse burgerbevolking in principe gedwongen gedeporteerd mogen worden, indien de militaire noodzaak daartoe aanleiding geeft.
Voor de militaire noodzaak van dit optreden, teneinde aanvallen in de rug te voorkomen, zijn de NAVO-agressors rechtstreeks verantwoordelijk.

Of de wijze waarop deze deportaties uit militaire noodzaak worden uitgevoerd zich in alle opzichten verdraagt met de internationale regelingen is kwestieus. Dit zal later moeten worden onderzocht en mogelijke schuldigen van overschrijding van regels zullen dan moeten worden gestraft.

Maar in principe zijn maatregelen van gedwongen deportatie en internering van burgers naar geldend oorlogsrecht geoorloofd, mits de militaire noodzaak daarom vraagt.

Er zijn voorts opnames van het platbranden van dorpen door het Joegoslavische leger of paramilitaire troepen.
Mag dat ?

Naar Nederlandse rechtsopvatting is ook dat in principe in oorlogstijd geoorloofd, als militaire noodzaak daartoe aanwezig is.

Nederlandse militairen die een bevel tot het platbranden van een Indonesisch dorp tijdens de politionele akties weigerden - er zijn tijdens de politionele akties door het Nederlandse leger duizenden dorpen platgebrand- wrden in eerste instantie door de Nederlandse Krijgsraad veroordeeld en vervolgens tot aan de Hoge Raad toe.
Zij hadden het dienstbevel om het dorp plat te branden moeten opvolgen, nu de militaire noodzaak daartoe door de bevelvoerend commandant was aangevoerd.
In het commentaar op het arrest van de Hoge Raad hierover werd dit zelfs verdedigd door prof. Röling, die nog deel heeft uitgemaakt van het Tribunaal van Tokio tot berechting van de Japanse oorlogsmisdadigers.

De platgebrande kampong van Pakisadji

Nederlandse militairen die weigerden in 1947 in Indonesië een kampong in brand te steken, veroorzaakten veel tumult: de affaire Pakisadji. Nu zijn de 'vergeten foto's' van de brandstichting opgedoken.

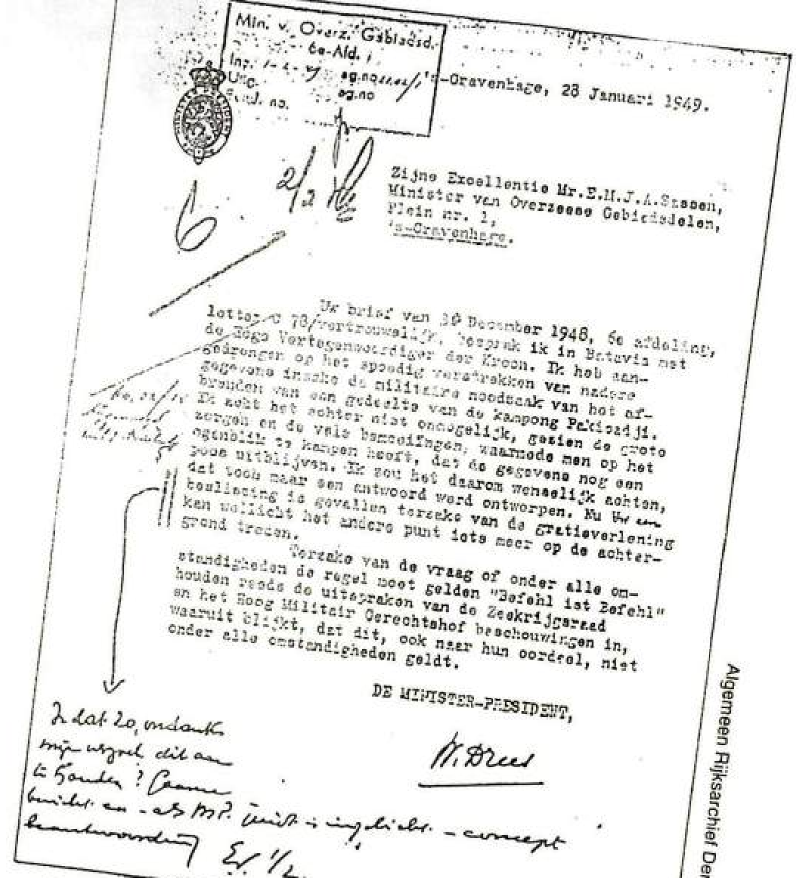
Een reeks van zeven niet eerder gepubliceerde foto's van Charles Breijer toont het resultaat van een geruchtmakende brandstichting op Oost-Java in augustus 1947. In die maand werd tijdens de tweede 'politionele actie' een kampong bij Pakisadji verwoest. De 'vergeten foto's', die nog nooit zijn gepubliceerd, zijn indertijd gemaakt door Charles Breijer. De foto's bevinden zich nu in het Nederlands Foto Archief in Rotterdam.
Charles Breijer trad in februari 1947 als cameraman in dienst bij het regeringsfilmbedrijf Multifilm te Batavia. Hij werd ingezet bij camerawerk en nieuwsgaring ten behoeve van de bioscoopjournaals in de serie Wordende Wereld. Naast zijn filmwerk maakte hij in het voormalige Nederlands-Indië ook foto's.

In die tijd had hij weinig gelegenheid zijn Indische foto's aan de Nederlandse media aan te bieden. Pas drie jaar later, in 1950, toen hij tijdelijk naar Nederland terugkeerde, heeft hij zijn Indië-fotomateriaal afgedrukt. Met een selectie van vijftig foto's ging hij langs de redacties van verschillende bladen. Ze hadden echter geen interesse meer voor dit beeldmateriaal. Indië was reeds verloren. Men wilde zoveel mogelijk deze pijnlijke koloniale kwestie vergeten.

Bezwaren

De Pakisadji-affaire deed indertijd in Nederland veel stof opwaaien, omdat het een kwestie betrof waarbij de hoofdpersonen balanceerden tussen loyaliteit en landverraad. Het betrof de veroordeling tot gevangenisstraf wegens insubordinatie van een drietal mariniers van christelijken huize. Ze hadden op grond van godsdienstige en morele bezwaren het bevel geweigerd op 11 augustus 1947, een week na de beëindiging van de eerste politionele actie, een deel van de kampong Soetodjajan, vlakbij Pakisadji gelegen ten zuiden van de stad Malang in Oost-Java, in brand te steken. Deze mariniers zagen dit als represaille tegen de onschuldige burgerbevolking.
Van Pakisadji via Kendalpajak naar Malang (Oost-Java) liep een belangrijke bevoorradingsroute van het Nederlandse leger. Deze verbindingsweg liep dichtbij de kampong Soetodjajan. Herhaaldelijk was

HN 26 augustus 1995


Min. v. Overz. Gebiedsd.
6e-Afd.

's-Gravenhage, 28 Januari 1949.

Zijne Excellentie Mr. E.M.J.A. Sassen,
Minister van Overzeese Gebiedsdelen,
Plein nr. 1,
's-Gravenhage.

Uw brief van 30 December 1948, 6e afdeling, letter C 78/vertrouwelijk, besprak ik in Batavia met de Hoge Vertegenwoordiger der Kroon. Ik heb aangedrongen op het spoedig verstrekken van nadere gegevens inzake de militaire noodzaak van het afbranden van een gedeelte van de kampong Pakisadji. Ik acht het echter niet onmogelijk, gezien de grote zorgen en de vele beroeringen, waarmede men op het ogenblik te kampen heeft, dat de gegevens nog een poos uitblijven. Ik zou het daarom wenselijk achten, dat toch maar een antwoord werd ontworpen. Nu Uw beslissing is gevallen terzake van de gratieverlening kan wellicht het andere punt iets meer op de achtergrond treden.

Terzake van de vraag of onder alle omstandigheden de regel moet gelden "Befehl ist Befehl" houden reeds de uitspraken van de Zeekrijgsraad en het Hoog Militair Gerechtshof beschouwingen in, waaruit blijkt, dat dit, ook naar hun oordeel, niet onder alle omstandigheden geldt.

DE MINISTER-PRESIDENT,

W. Drees

Brief van de minister-president dr. W. Drees aan de minister van overzeese gebiedsdelen mr. E.M.J.A. Sassen van 28 januari 1949.

Algemeen Rijksarchief Den Haag

dit weggedeelte door de Indonesische nationalisten onder vuur genomen en door landmijnen onveilig gemaakt. Op 10 augustus waren een militaire vrachtauto en een jeep op een mijn gereden, waardoor een officier zwaar gewond was geraakt. Naar aanleiding van dit incident besloot de compagniescommandant opdracht te geven de kampong Soetodjajan 'te sweepen en daarna een bepaald nauwkeurig aangegeven strook van deze kampong, circa 500 meter lang en 200 meter breed te neutraliseren, d.w.z. onbewoonbaar te maken door af te branden.'
Op 11 augustus 1947 moest de pelotonscommandant, de jonge luitenant Herklots (26), van de militaire post Pakisadji met een peloton mariniers dit bevel uitvoeren. Het was de eerste keer dat deze eenheid zo'n taak moest verrichten. Twee beroepsonderofficieren en een oorlogsvrijwilliger – ze waren respectievelijk gereformeerd en doopsgezind – weigerden het bevel om na evacuatie van de bevolking een gedeelte van de kampong in brand te steken.

De 33-jarige ongehoorzame sergeant was niet bereid vrouwen en kinderen uit hun huizen te zetten. Hij wilde geen brandstichter zijn. Deze beroepsmilitair had een uitstekende staat van dienst en had

volksvertegenwoordiging die met gretigheid deze ontbindende kiem in het leger tracht te cultiveren. We laten hierbij buiten beschouwing, dat deze vraag expres met het Duitse idioom is ingekleed om op demagogische wijze het publiek tegen de militaire macht in Indië in te nemen; we slaan er evenmin acht op, dat de vraag juist wordt gesteld door lieden, die tientallen van jaren de theorie van het gebroken geweertje hebben gehuldigd en toegepast.
De ministers zullen thans een antwoord hebben te geven over de vraag of een Nederlandse soldaat de bevelen van zijn meerderen heeft op te volgen. Welnu, in verband met de meer dan waanzinnige consequenties, waarvan wij boven spraken, zal het antwoord moeten luiden: ja... De minister tone moed.'

Zware straffen

De KVP-minister mr. J.H. van Maarseveen van overzeese gebiedsdelen, de opvolger van Sassen, stelde dat onder uitzonderlijke omstandigheden uitvoering van een dienstbevel mag en moet worden geweigerd, wanneer dit bevel duidelijk in strijd is met het Nederlands recht of het volkenrecht. Bij twijfel heeft de gehoorzaamheidsplicht prioriteit en is de militair die zonder voldoende grond gehoorzaamheid weigert niet gevrijwaard tegen een strafrechtelijke veroordeling.
Van Maarseveen sprak geen oordeel uit of het platbranden van de kampong uit militair oogpunt noodzakelijk was. Hij verwees naar het inzicht van de militaire autoriteiten (onder wie leger-generaal Spoor) en de in de rechtszaak betrokken militair-rechtelijke colleges, die deze vraag bevestigend hadden beantwoord.
Bij de PvdA-minister-president dr. W. Drees bestond hierover nog steeds twijfel. Dat bleek uit zijn dringende verzoek aan de Hoge Vertegenwoordiger van de Kroon, dr. L.J.M. Beel in Indonesië, hem spoedig nadere gegevens inzake de militaire noodzaak van het afbranden van een gedeelte van de kampong bij Pakisadji te verstrekken.
De CHU-minister van marine, mr. W.F. Schokking, daarentegen meende dat de militaire noodzaak wel degelijk uit de processtukken kon worden afgeleid. Hij schreef aan zijn KVP-collega, de minister van justitie: 'Ik ben van mening, dat deze militairen in deze te onpas gewetensbezwaren hebben aangevoerd... Duidelijk voor ieder zal zijn, dat de discipline gaat wankelen, of liever flakkert als een kaarslicht op de tocht, indien in een geval als het onderhavige de houding van de militairen gehonoreerd zou worden. Zij hebben gedwaald en zijn daarom terecht veroordeeld.'
Toch vond minister Schokking van marine de straf maar te zwaar. Hij deed onverwachts een voorstel tot het verlenen van gratie, dat uiteindelijk ook werd verleend. Het slot van de zaak was dat de twee zwaarst gestraften eind december 1948 in vrijheid werden gesteld. De oorlogsvrijwilliger had zijn straf toen al uitgezeten. Bij wijze van gratie werd voor alle drie het ontslag uit de militaire dienst alsnog ongedaan gemaakt.

Louis Zweers

Het afgebrande gedeelte van de kampong Soetodjajan bij Pakisadji.

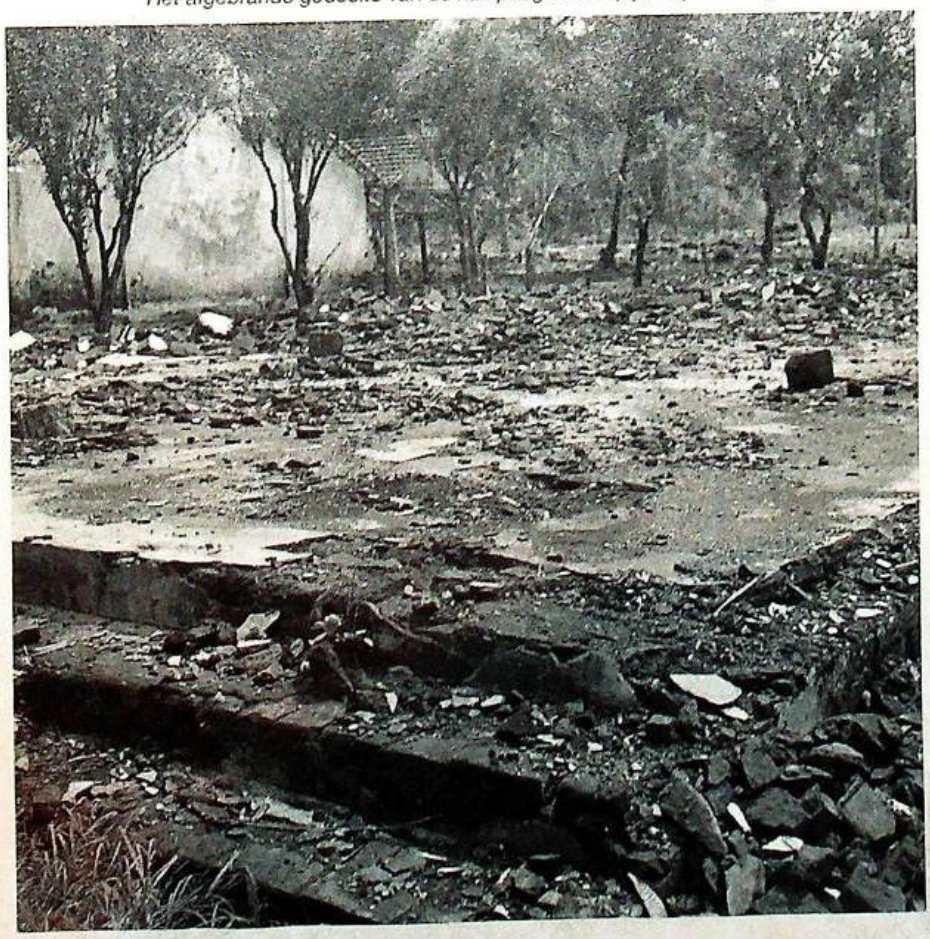


Foto Charles Breijer/NFA.

Ook het Israëlische Hooggerechtshof verdedigt stelselmatig het verwoesten van huizen van Palestijnen in bezet gebied door het Israëlische leger. De afgelopen jaren zijn zo duizenden huizen van Palestijnen door het Israelische leger verwoest vanwege "de militaire noodzaak". Protesten hiertegen van de westerse emotie-industrie blijven uit.

"Twijfel er nooit aan dat een kleine groep van gemotiveerde, geëngageerde mensen de wereld kan veranderen," zo luidt het devies van het *Israeli Committee Against House Demolitions*. Deze organisatie coördineert de protesten tegen het vernietigen van Palestijnse woningen door de Israelische autoriteiten. In een 'goed nieuws' nieuwsbrief meldt het comité eindelijk een aantal positieve ontwikkelingen.

bewerking Bart Nooy

Ondanks het feit dat de vernietiging van Palestijnse woningen door het Israelische leger doorgaat, is er op dit front toch ook goed nieuws te melden. Al lange tijd roept het *Israeli Committee Against House Demolitions (ICAHD)* het publiek op – zowel Israelisch als internationaal – tegen deze schending van de mensenrechten te protesteren. Alhoewel het moeilijk is een direct verband te leggen tussen protesten en een verandering in beleid van de Israelische overheid, is er reden om aan te nemen dat de autoriteiten, onder druk van de publieke opinie, gas terug hebben genomen. Zo meldt ICAHD ons:

* De Amerikaans minister van Buitenlandse Zaken, Madeline Albright, ontvangt meer e-mails in verband met het vernietigen van woningen, dan van enig ander onderwerp betreffende het Midden-Oosten. Het zelfde geldt waarschijnlijk voor het kantoor van Clinton.
* De Amerikaanse president, Bili Clinton, neemt de zaak zo hoog op dat hij gewaarschuwd heeft het onderwerp hoog op de agenda te zetten en verdere druk op Israel uit te oefenen als Netanyahoe niet snel voortgang maakt met de uitvoering van de Oslo-akkoorden.
* Tijdens een ontmoeting met leden van het *Israeli Committee Against House Demolitions* heeft Avigdor Kahalani, minister van Binnenlandse Veiligheid, er over geklaagd dat hij "te veel" post ontvangt over het vernietigen van woningen. Ook een hoge ambtenaar van de 'Civil Administration' – verantwoordelijk voor de uitvoering van het beleid in zake het vernietigen van woningen - klaagde hierover.
* Eind augustus 1998 verklaarde de 'Civil Administration' dat 2.000 woningen van de lijst van te vernietigen woningen zouden worden geschrapt. Later werd dit getal echter wel teruggebracht tot 700.
* Een ambtenaar van het Amerikaanse Ministerie van Buitenlandse Zaken vertelde leden van ICAHD dat het Ministerie furieus is over de sloopplannen van de Israelische overheid. Zij verklaarde dat "er geen ander onderwerp was waar het Ministerie zich zo boos over maakte als dit onderwerp." Zij voegde eraan toe dat het Ministerie ook heeft verzocht de situatie ter plekke te mogen 'observeren'.
* Een hoge officier van het Amerikaanse consulaat in Jeruzalem heeft gevraagd aanwezig te mogen zijn bij een hoorzitting van de 'Civil Administration' over een gezin dat in beroep is gegaan tegen een vernietigingsbevel van hun huis.
* De Europese Delegatie in Israel wil door de Israelische autoriteiten op de hoogte worden gehouden van de vernietigingsplannen van woningen, opdat zij de activiteiten kan observeren.
* Het aantal vernietigde woningen is van 233 (1997) tot 147 in 1998 gezakt. Wel lijkt er de laatste tijd weer een toename te zijn.

Uiteraard is er nog zeer veel werk te doen, ondanks de vorderingen van de afgelopen tijd. Dat er verbeteringen zijn dankt het ICAHD mede aan de druk van buitenaf op de Israelische autoriteiten, via alle brieven en e-mails aan de autoriteiten, de krantenartikelen en de ingezonden brieven die worden gepubliceerd.

van holst en steijnen

From: Christopher Black <bar@idirect.com>
To: Jared Israel <jedmisrael@yahoo.com>; Vladimir Krsljanin <vlada@sps.org.yu>; TARGETS <redactie@targets.org>; mailservicesnc <mailservicesnc@tiscalinet.it>; André Tremblay <agtremblay@videotron.ca>; van holst en steijnen <n.h.van.holst@freeler.nl>
Sent: maandag 29 oktober 2001 09:30
Subject: Fw: Hague Tribunal Chief Says Yugoslavia Still Isn't Cooperating

----- Original Message -----
From: "D. Dostanic" <kdnlist@hotmail.com>
To: <decani@egroups.com>
Sent: Monday, October 22, 2001 11:21 PM
Subject: NYT: Hague Tribunal Chief Says Yugoslavia Still Isn't Cooperating

> http://www.nytimes.com/2001/10/23/international/europe/23SERB.html
>
> THE NEW YORK TIMES, Tuesday, October 23, 2001
>
> Hague Tribunal Chief Says Yugoslavia Still Isn't Cooperating
>
> By CARLOTTA GALL
>
> BELGRADE, Serbia, Oct. 22 - The chief prosecutor for the United Nations war
> crimes tribunal in The Hague came to Belgrade today and said the Yugoslav
> authorities were continuing to block cooperation with the tribunal and were
> still not ready to face the past.
>
> Carla Del Ponte, the prosecutor, issued a strongly critical statement to the
> media after meeting with Serbian and Yugoslav officials. She said it was not
> enough that they had turned over the former Yugoslav leader, Slobodan
> Milosevic, who was the tribunal's most-wanted person in Serbia. She also
> said the government must cooperate more fully to allow the truth of past
> Balkan conflicts to emerge.
>
> "I have returned to Belgrade to express serious concern and dissatisfaction
> with the level of cooperation with the tribunal," she said. She added that
> "cooperation is not limited to the transfer of one accused," but must
> include "access to information, documents and witnesses."
>
> "On that account I have to report no significant progress," she said.
>
> Ms. Del Ponte also came to press for further arrests of indicted war
> criminals in Yugoslavia, officials said. The tribunal has 38 indictments
> outstanding, and about 16 fugitives are thought to be in Yugoslavia. She
> added that the Yugoslav authorities were aware of the identity of 7 people
> among the 16 who were under sealed indictment.
>
> The fact that Serbian officials did not appear before the media with Ms. Del
> Ponte, as planned, was seen as a sign that discussions had not ended well.
> But she made it clear that her dissatisfaction was with the Yugoslav
> government, which is headed by President Vojislav Kostunica, rather than
> with the governments of the separate Yugoslav republics, Serbia and
> Montenegro. The only representative of Mr. Kostunica's government to meet
> with her was justice Minister Savo Markovic.
>
> "To be fair, I must say that Serbian Prime Minister Zoran Djindjic and his
> government have tried to foster cooperation," she said. "Cooperation is
> blocked at the federal level for political reasons that are not relevant to
> the tribunal."
>

as Mr. Djindjic who ordered the extradition of Mr. Milosevic in June,
erruling a decision of the Yugoslav constitutional court against
extradition of Yugoslav citizens to The Hague. The Interior Ministry under
> Mr. Djindjic has also uncovered mass graves containing the bodies of
> hundreds of Kosovo Albanians killed in 1999, cases that the tribunal says
> are to be added to the indictment of crimes against humanity against Mr.
> Milosevic.
>
> The Serbian interior minister, Dusan Mihajlovic, said today that a retired
> admiral of the Yugoslav Navy, Miodrag Jokic, one of the four men indicted
> for the 1991 attack on the Croatian city of Dubrovnik, was preparing to
hand
> himself in to the tribunal. Mr. Jokic belongs to Mr. Mihajlovic's New
> Democracy Party.
>
> The government of Montenegro demonstrated a readiness to cooperate with
the
> Hague tribunal over the weekend when Gen. Pavle Strugar, a former Yugoslav
> general and resident of Montenegro, turned himself in at The Hague. The
> general was also indicted for war crimes committed in the 1991 attack on
> Dubrovnik.
>
> But the Yugoslav government, led by Mr. Kostunica, who defeated Mr.
> Milosevic in presidential elections a year ago, has yet to pass a law on
> cooperation with The Hague. Nor has it moved to counter a constitutional
> court ruling that declared unconstitutional a government decree on
> cooperation issued in May.
>
> Mr. Kostunica, a moderate Serbian nationalist, is known to oppose
> cooperation with the Hague tribunal, and with national elections coming
next
> year, he is not expected to change his stance.
>
> "I appeal to all authorities to unblock cooperation with the tribunal,"
Ms.
> Del Ponte said. "Only a full update of information in possession of
> Yugoslavia will bring us closer to the truth about recent conflicts."
>
> Speaking to local journalists today, Mr. Markovic said after his meeting
> with Ms. Del Ponte that the Yugoslav government was "determined to develop
> and energize relations with the tribunal" but that a national law was
needed
> to make that happen.
>
> Ms. Del Ponte appealed today for further cooperation from Yugoslav
> officials, saying, "After eight years, it is unacceptable that the
Yugoslav
> government refuses to recognize our status, denies us access to the
archives
> and documents, fosters suspicion, and that people in power are not ready
to
> face the past."
>
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van holst en steijnen

Sent: maandag 29 oktober 2001 17:14
Subject: Fw: WG: [JUGOINFO] Brazilian Judge Says Hague Tribunal Is "Partial"]

Have you noticed this?
V

Sent: Monday, October 29, 2001 10:09 PM
Subject: Fw: WG: [JUGOINFO] Brazilian Judge Says Hague Tribunal Is "Partial"]

>
> -----Ursprüngliche Nachricht----
> Von: <w.schulz@berlin.de>
> An: <w.schulz@berlin.de>
> Gesendet: Montag, 29. Oktober 2001 12:49
> Betreff: [WG: WG: [JUGOINFO] Brazilian Judge Says Hague Tribunal Is
> "Partial"]
>
>
> >
> > ----------
> >
> > -----Ursprüngliche Nachricht-----
> > Von: jugocoord@libero.it [mailto:jugocoord@libero.it]
> > Gesendet: Samstag, 27. Oktober 2001 17:20
> > An: jugoinfo@domeus.it
> > Betreff: [JUGOINFO] Un Tribunale "ad hoc" per assolvere la NATO (5)
> >
> >
> >
> > Von: publisher@truthinmedia.org
> > Gesendet: Mittwoch, 22. August 2001 06:44
> > An: TiM GW Bulletins
> > Betreff: Brazilian Judge Says Hague Tribunal Is "Partial"
> > (TiM GW Bulletin 2001/8-2, Aug. 21, 2001)
> >
> >
> > FROM PHOENIX, ARIZONA
> >
> > (...)
> >
> > Rio de Janeiro - Brazilian Judge Says Hague Tribunal Is
> > "Partial"
> >
> > > http://www.truthinmedia.org/Bulletins2001/tim2001-8-2.html
> >
> > Brazilian Judge Says Hague Tribunal Is "Partial"
> >
> > RIO DE JANEIRO, Aug. 21 - A Brazilian judge, who sits on
> > the Hague War Crimes Tribunal bench, termed his own
> > court's handling of the Serbs accused of war crimes as
> > "partial" in an interview with the Rio de Janeiro's
> > newspaper O Globo, published on Monday, Aug. 20. Judge

> > Francisco Rezek also said that the Yugoslav Tribunal costs
> > 10 times more than the International Court of Justice,
> > also at the Hague, and that most of its expenses are paid
> > by the United States.
> >
> > The interview, conducted by O Globo's reporter Trajano de
> > Medeiros, was translated for TiM by a Brazilian reader who
> > wishes to remain anonymous, but whose identity is known to
> > TiM. This reader also told us that Judge Rezek was
> > Justice at the Brazilian Supreme Court, from 1893 to 1990,
> > then Minister for External Affairs (Foreign Minister),
> > 1990-1992, Chief Justice, and appointed to the
> > International Court of Justice, at The Hague, in 1997.
> > Here's the interview:
> >
> >
> > O GLOBO: Mr. Slobodan Milosevic's imprisonment at The
> > Hague, the condemnation of a Serb-Bosnian general for
> > genocide, and the imprisonment of Bosnian Muslim officers,
> > are those facts an irreversible sign of globalization of
> > Justice?
> >
> > REZEK: It is one step for the universal Justice for grave
> > crimes, crimes defined by International Law, crimes
> > against Mankind and war crimes.
> >
> > O GLOBO: Do you believe that Milosevic's judgment will be
> > a peaceful (fair?) one?
> >
> > REZEK: The judgment will be not be immune to criticism.
> >
> > O GLOBO: Why not?
> >
> > REZEK: Milosevic asserts that the Court was created only
> > to judge the Serbs; that certain countries wanted that way
> > - to judge certain persons from the Serb side, in the
> > context of the ex-Yugoslavia civil war.
> >
> > O GLOBO: Do you agree?
> >
> > REZEK: The Tribunal is juristically legitimate as the UN
> > Security Council, which has power to create any
> > transitional organ, created it. (But) for establishment
> > of a permanent (judicial) organ, only the (UN) General
> > Assembly (is entitled to do it). Nevertheless, the
> > Security Council accomplished in the beginning of the 90's
> > to create the Tribunal. Even though, France was more
> > active than the US, the US government pays the largest
> > part of the bill.
> >
> > O GLOBO: What do you mean?
> >
> > REZEK: It is quite a high bill. The Criminal Tribunal for
> > the ex-Yugoslavia costs to the UN approximately 10 times
> > more (!) than the cost of the International Court of
> > Justice (also at the Hague) that judges litigation between
> > nations. (emphasis added by TiM).
> >
> > O GLOBO: What is wrong with the Court?
> >
> > REZEK: It is composed of competent jurists, and it judges
> > people accused of very serious crimes. However, it is
> > somewhat partial, which causes bad feelings among
> > observers and specialists. One does not need to leave
> > Europe to find other contexts of civil war in which people
> > want to see others accused. If we leave Europe to go to
> > Asia and Africa, we will see situations, which will call
> > for an international court.
> >
> > O GLOBO: Is that what the Serbs say?
> >
> > REZEK: It is not only the Serbs who say so in Belgrade.

> > Many specialists around the whole world think that those
> > things cannot be made in such a way, in a partial way, in
> > an incomplete way. Why a court for Yugoslavia, and another
> > for Rwanda, if they are not the only contexts where you
> > may identify crimes against Mankind?
> >
> > O GLOBO: Why is the way out, then?
> >
> > REZEK: This will take us to the Treaty of Rome, of three
> > years ago. The happenings in Yugoslavia may take the
> > countries responsible for the creation of this specific
> > court to support the creation of the tribunal conceived by
> > the Treaty of Rome. We all know that we cannot deny the
> > validity of some criticism made about these specific
> > tribunals, created to judge criminals, but they are
> > one-sided. Those courts are not an example because of the
> > lack of universality.
> >
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van holst en steijnen

From: Jovan Grbic <ssicc@planet.nl>
To: <arthurjk@euron>; <n.h.van.holst@freeler.nl>; <chuck@hulshoff.nl>; <michel.collon@skynet.be>; <106057.1021@compuserve.com>; <Nebojsa.Joveljic@BHPBilliton.com>; <mraovit@ext.jussieu.fr>; Paul Sprangers <delink@worldaccess.nl>
Sent: zondag 28 oktober 2001 15:30
Subject: FREE MILOSEVIC NOW!

FREE MILOSEVIC NOW!

JAIL ALL AMERICAN MADE TERRORISTS!

DISBAND THE NATO INQUISITION!

MESSAGES TO PUTIN AND JIANG!

from ICDSM and Freedom Association conference in Belgrade,

October 21-22, 2001

DECLARATION

of the International Conference

"Freedom for Slobodan Milosevic - Moral, Political and Legal Imperative"

held in Belgrade, October 21-22, 2001

We, representatives of the International Committee to Defend Slobodan Milosevic and nine National Committees have gathered in Belgrade 21 and 22 October 2001 under the auspices of the Yugoslav Committee (Freedom Association). We express our deepest bitterness over the arrest of Slobodan Milosevic, the current President of the largest opposition party in Serbia and Yugoslavia.

President Milosevic is globally renowned for fighting for more than a decade for the Serbs and all Yugoslav peoples, a struggle that has made him the adversary of all who wanted to jeopardize that freedom. By the conjunction of historical circumstances, those powers which wanted to jeopardize the freedom of the Yugoslav peoples, as well as the freedom of other nations, were big, powerful and ruthless. The number of their victims, both peoples and individuals, is continuously
growing.

Slobodan Milosevic has been the main target. For a long time he fought the mightiest powers that joined together, deserting all semblance of nobility, and even reason.

Leaders of the struggle for national independence in other countries and for other peoples have replaced one another, thus sharing the wrath of the violent. But Slobodan Milosevic took upon himself the full burden of that wrath.

a whole decade he was subjected to the most brutal attacks in the .S.-dominated mass media in an effort to reverse the roles of victim and culprit and thus to hide NATO's vicious policy of releasing the worst terrorist forces to tear apart Yugoslavia. Then President Milosevic was subjected to legal and political violence by authorities
in his own country, who were acting for foreign powers. He was illegally jailed in Belgrade. When the new regime could no longer hold him, they kidnapped him from jail and turned him over to NATO, which transported him to the Hague so-called Tribunal. Thus he is the first democratically elected head of state to be jailed in the dungeon
of the New World Order.

What was his crime against this New World Order? Only that he loved his people and freedom, and fought for both.

What do the new Masters hope to gain by kidnapping him? To use the false spectacle of a trial to justify the breakup of Yugoslavia, achieved through lies, threats, bribery and the cruelest violence.

In the attack on Yugoslavia, the United Nations has been degraded into
a tool of U.S./EU neocolonial violence. Now President Milosevic has been imprisoned in a "UN" court. The function of that court is to give the appearance of legality to the grossest violations of international law.

The idea of creating a court that puts on trial the leaders of resistance to aggression, while whitewashing those who instigated and waged terrorist-secessionist wars and naked aggression, dismembering and punishing Yugoslavia, could only be born in the most distorted minds. The Hague "Tribunal" is a political instrument of genocide and
the satanization of the Serbian people, and not a court of law.

We call upon the peoples of the world and those leaders who care about
truth and justice: let us a take joint stand against the violence that is threatening us all. Let us resist with the energy and dignity demonstrated by Slobodan Milosevic during the past decade, and now before the Hague kangaroo court. With the demand for the release of Slobodan Milosevic we defend international law, equality among nations, ethnic fraternity and the right of ordinary people to live in
peace without the fear that their nations will be attacked and decimated by NATO.

We call upon the United Nations, an organization established to connect peoples and individuals, to protect the poor and small against
the wrath of the powerful and rich. Abolish this Hague false Tribunal. Free the Serbian patriots imprisoned in the name of the United Nations. Free Slobodan Milosevic, symbol of the World's resistance of this unjust, New Order.

There is now much consciousness and discussion of the impact of terrorism. The truth is the attack on Yugoslavia has been and

ntinues to be waged through the use of terrorist forces and
milar
fascist groupings, directed in the most cynical fashion by NATO, under
U.S. government leadership. President Milosevic led the fight against
these forces while maintaining a policy of compassion and fraternity towards all ethnic groups and social justice for ordinary people. The
idea of a worldwide struggle against terrorism while this hero of resistance languishes in the Hague dungeon is an outrage.

Free Slobodan Milosevic Now!

ACTION PLAN

Adopted by the International Conference "Freedom for Slobodan

Milosevic - Moral, Political and Legal Imperative.

Belgrade, October 21-22, 2001.

Considering the illegal arrest, abduction and attempted trial of President Slobodan Milosevic before the US-Nato "Tribunal" in The Hague a further attack on the sovereignty of Yugoslavia, on the freedom of all countries and peoples and on justice and law in international relations, and in order to obtain the immediate release of President Milosevic, we shall concentrate on the following actions and coordinate our efforts on the implementation of the same:

MOBILISATION

1. Organise demonstrations, petitions, lectures and other forms of public pressure on political decision-makers in order to spread the truth about the threat to the sovereignty of all Nations if the show-trial against PresidentMilosevic continues, and in order to encourage concrete actions in the UN to stop the US-Nato-The Hague inquisition as well as all Ad-Hoc Tribunal inquisitions.

2. Encourage prominent public figures to support or join Committees to
free Slobodan Milosevic.

3. Organise locally conferences, seminars, round tables and public tribunals on the illegality of the The Hague Tribunal and its proceedings in order to affirm the truth.

4. Sending mass-petitions and protests to the Yugoslavian and Serbian Nato-obedient governments and institutions.

5. Pressuring the governments and institutions in our respective countries by promoting parliamentary actions on the above subjects,

manding of governments to take political, legal and diplomatic ction.

6. Working with peace and antiglobalisation movements, with alla fora and organisations that share our objectives and our concept of human rights, in order to make the fate of President Milosevic and of Yugoslavia a permanent and centrale issue of these movements.

COMMUNICATION

1. Expose the double standards in assessing terrorism, as well as the tragic and injust consequences of such double standards.

2. Underscore in public and political work the proven links between the KLA and Al Qaeda, against the background of other US-sponsored terrorist organisation such as Contras, terrorists in Chechnia, Kashmir, Algeria, Philippines, etc.

3. Expose western main-stream media demonisation of President Milosevic and of the Serbian people, along the lines of what has been done in the past with regards to other political leaders and peoples fighting for liberation..

4. Providing law professors, lawyers and their associations across the
worldwith precise information on the illegality of The Hague "Tribunal" and itsdetention of President Milosevic, as well as on the that institution's violation of all principles of Law and international conventions on human rights.

5. Assisting President Milosevic in expressing his views on world and national developments so as to keep and stress his status as a political leader and a victim of persecution.

6. Providing, mainly through the work of the Yugoslavian Committee, factual documentation and historical background on 10 years of assaults on Yugoslavia and its people, iu order to enable committees across the worldto rectify misconceptions and false information on these events.

OPERATIONS

1. Sending a ICDSM & Conference delegation to meet President of

eration , Vladimir Putin, and President of People's China,
in.

Sending the final Conference Declaration to the UN General Assembly
Chairman, to governments of all UN member countries, to political parties across the world.

29-10-01

Spreading and strengthening the network of Committees to disband the illegal The Hague Tribunal and to free Slobodan Milosevic.

4. Securing support by leaders of Developing Countries for action to releasePresident Milosevic and disband the illegal Tribunal and forming an AdvisoryBoard that would include some of these leaders, together with prominent intellectuals, scientists, politicians, journalists, etc.

5. Establishing a permanent lawyers-media presence in The Hague.

6. Denouncing the violations of human rights inflicted by the The Hague Tribunalon its political prisoner Slobodan Milosevic, as well as
on all other political detainees, with particular regard to the constant harassing of Milosevic through inhuman detention conditions and by creating obstacles to his contacts with his legal advisers, his
family, his friends At the same time organising visits by political personalities and pressing the Tribunal to allow as many as possible of such visits.

7. Promoting campaigns of letters, faxes, e-mail messages to pressurise media to pay attention and report on the above actions.

8. Establishing constant fund-raising initiatives.

INTERNATIONAL PARTICIPANTS OF THE CONFERENCE

"Freedom for Slobodan Milosevic - Moral, Political and Legal Imperative"

Besides about 100 participants and 500 attendees from Yugoslavia in the Conference also took part:

1. Professor Velko Vlkanov from Sofia (Bulgaria)

Former presidential candidate and long time Member of Parliament, President of the Bulgarian Antifascist Union, Chairman of the Bulgarian Commission for Human Rights, founder and Co-chairman of the International Committee to Defend Slobodan Milosevic

2. Stefan Gaytandjiev from Sofia (Bulgaria)

President of the Ecological Party of Bulgaria, Chairman of the Bulgarian National Committee for the Defence of Slobodan Milosevic

3. Dr Dimitris Kaltsonis from Athens (Greece)

Expert for International and Constitutional Law, member of the Board of the Hellenic Association for Democratic Rights and Freedoms

4. Fulvio Grimaldi from Rome (Italy)

Journalist and filmmaker, expert for international relations, one of the founders of the Clark Tribunal in Italy, vice-chairman of the International Committee to Defend Slobodan Milosevic

5. Professor Aldo Bernardini from Rome (Italy)

Chief of the Department for International Law at Teramo University

6. Amjad Migati from Jordan

Journalist and writer

7. Christopher Black from Toronto (Canada)

Barrister, Vice-chairman of the International Committee to Defend Slobodan Milosevic and head of the Lawyers Committee at the International Committee

8. Dragisa Miletic from Skopje (Macedonia)

One of the leaders of the Serbian Community in Macedonia

9. Admiral Elmar Schmaehling from Berlin (Germany)

Secretary of the European Peace Forum

10.Ioan T. Lazar from Bucharest (Romania)

Writer and publicist, editor of the magazine "Ancheta", chairman of the Romanian National Committee for the Defence of Slobodan Milosevic

11.Professor Mikhail Kuznetsov from Moscow (Russia)

Founder and chairman of the Russian Social Tribunal for NATO crimes in
Yugoslavia, chairman of the International Slavic Tribunal,
vice-chairman of the International Committee to Defend Slobodan Milosevic

12.Vassiliy Safronchouk from Moscow (Russia)

Ambassador, former deputy of the Secretary General of the United Nations

13.Jared Israel from Boston (USA)

Writer and publicist, editor of the Internet magazine "Emperor's New Clothes", dedicated to unveiling the media demonization of the Serbian
people, vice-chairman of the International Committee to Defend Slobodan Milosevic

14.Michael Collins from Paris

American writer and publicist, editor of the magazine "Balkan-Info"

15.Jovan Grbic from Tilburg (Netherlands)

Director of the Serbian Cultural and Informational Centre in the Netherlands

16.Niko Varkevisser from Amsterdam (Netherlands)

Professor of History, Chairman of the NGO "Global Reflection", editor of the magazine "Targets", vice-chairman of the International Committee to Defend Slobodan Milosevic

SUMMARY, IMPORTANT POINTS AND CONCLUSIONS OF THE AMICI CURIAE BRIEF ON JURISDICTION

by mr. N.M.P. Steijnen
ICDSM-lawyer

26 October 2001

I. Points of departure

The amici curiae has based themselves in this brief on the arguments of mr. Milosevic, put forward on his initial appearance before the puppet-court on 3 July 2001 and the handwritten Note signed by Mr. Milosevic and dated 2 July 2001; the preliminary motion, as restricted later to par. 8; the arguments put forward by Mr.Milosevic during his appearance before the puppets on 30 August 2001 and his Memorandum of 30 August 2001, entitled 'Presentatiom of the illegality of the ICTY and the illegality of the surrender to the ICTY'.

II. Main conclusions

The consistent challenging by Mr. Milosevic of the legality of the puppet-tribunal has now resulted into the fact that this issue of legality is back again on the agenda in full extent and that the legality of this so-called tribunal has grown very controversial once again.

Though the arguments forwarded by Mr. Milosevic are so compulsory that in fact the amici curiae not were to be able to circumvent the need to subscribe them fully, and therewith to recognize the illegal character of the puppet-tribunal, it is not the true character of the 'amici curiae' as an institute to abandon their bosses so much.
After all they are 'friends of the court'!

Nevertheless even they cannot avoid to recognize that the legality of the puppet-tribunal has grown meanwhile so controversial that it is by now even impossible to leave the answer on this question of legality to the puppet-court itself, but that, instead of this, this decision has to be taken by an independent third one.
They stress to give this role to the International Court of Justice.

Of course Mr. Milosevic holds on to his original position that the puppet-tribunal is so much prima facie illegal that his immediate release is indicated as inevitable. And that first seeking the opinion of the International Court of Justice is an unnecessary and tricky move.

Nevertheless the need to move on to the immediate release of Mr. Milosevic follows on also right away from the standpoint of the 'friends of the court'.
Since when the legality of this puppet-court must be considered, even in their view, to such an extent in question that first an opinion of the International Court of Justice is to be needed, then this means anyhow that it should be completely unacceptable that this puppet-court, which indeed can turn out to be that sort of false tribunal which it (according to Mr. Milosevic) really is, should keep still one day longer in detention a single person who has challenged the legitimacy of this so-called tribunal.

So the only acceptable conclusion is that even 'the friends of the court' are subscribing this stand.
And join his demand that he has to be released immediately.

<u>In their view</u> pending a possible decision of the International Court of Justice with regard to to the legitimacy of this puppet-tribunal.

If the puppet-tribunal don't assent to the immediate release of Mr. Milosevic on the base of the arguments of Mr. Milosevic himself relating to the illegality of the so-called tribunal and if the puppet-tribunal wouldn't even turn to his immediate release on the base of the arguments of their own 'friends of the court' that there must be first of all an advisory opinion of the International Court of Justice before it is to be assumed that this puppet-tribunal would be a legal tribunal, so that as long as this test is pending a legal custody of persons who challenge the legitimacy of this puppet-tribunal will be absolutely out of question, than this conduct of the puppets would prove once more the unmistakable <u>political character</u> of this so-called tribunal.

III. <u>Even in disregard of the amici curiae it must be stated that their conclusions are killing for the puppet-tribunal</u>

Mr. Milosevic rejects the amicus curiae-farce.
Because it is a fundamental breach on his basic right to organise his own defense.
The amicus curiae are a creation by the puppet-court only in order to veil that the puppets are consistently frustrating his contact with legal advisers chosen by his own in order to organise his own defense.
They are a loincloth for this grave violation of his basic human right by this so-called tribunal.

Moreover, this amicus curiae-institute is to be rejected because they, as 'friends of the court', in their brief obviously are thinking and acting from the position that this so-

called tribunal should be considered as an authoritative institition.
This in defiance of their position as mentioned above that the legality of this puppet-court is seriously in doubt.
So in their urequested (by Mr. Milosevic) evaluation of the objections forwarded by Mr. Milosevic they stick closely to the jurisprudence and the rules made by the puppet-tribunal itself.
This is of course inacceptable. The puppet-tribunal is void, so their rules are void and their jurisprudence means nothing at all.

Nevertheless, even these amici curiae, the puppet-tribunal's own friends, can not prevent that they have to come to important conclusions wich are killing for this so-called tribunal.

If we refer to this amici curiae further on as 'others', than these:

1. Others, as already analyzed above, agree with Mr. Milosevic' demand that he is to be released immediately.

2. Others endorse his view that this puppet-court, with regard to the investigation and prosecution of Mr. Milosevic, can not be seen as acting freely and impartially, since even these others have to stress that it is an historical fact that:

> "On 31 March 1998, the Security Councel "urged" the Prosecutor to investigate "violence in Kosovo that may fall within the jurisdiction". [See U.N. Doc. S/RES/11-60, 31 March 1998 para 17]. Acting upon this exhortation the investigation was commenced." (brief p. 6)

And that:

> "A fundamental principle for the validity of any judicial organ is its independence". (p. 7)

And that:

> "A breach of that independence which causes an investigation and leads to a subsequent indictment, could be criticised as being in mala fides." (p.7)

3. Others endorse his standpoint that it is a matter of fairness and protection of human rights that:

> " ..a ban on any communication between the accused and the media, while being in the UN Detention Unit, could be said to violate his right to privacy and his freedom of expression" (p. 8)

And that one have to:

"Compare the fact that the indictment against the accused is published and The Prosecutor and The President of the ICTY have made statements about the case to the media." (p. 8)

And that:

"The accused thereby has a reasonable interest to communicate with the media to protect his honour and reputation and moreover to inform the public about his vision on the indictment. This within the scope of internationally recognised Human Rights. Freedom of expression includes freedom of speech and to impart information through any media." (p. 8)

And that the approval by the president of the puppet-tribunal, as evidenced during the last court session, of the ban upon <u>any</u> detainee of <u>any</u> communication with the media, initiated by the prosecutor:

"can easely be understood to be an expression of lack of independence of the ICTY." (p. 8)

4. Others have also to admit at least that there is not any international instrument to prosecute (former) Heads of State.
So that also these others must conclude that at least the legality of the prosecution of Mr. Milosevic has to be part of the matters brought before the International Court of Justice in order to acquaint a advisory opinion about, as is implicitly stated at the end of the brief:

"The advisory opion from the ICJ should concern the competence of the Security Council to set up a judicial organ, .i.e. the ICTY, and all matters related to its establisment, <u>including the power to interfere with internal matters of a Sovereign State</u>". (p. 16)

5. Others have also to recognize that:

"The domestic authorities clearly violated domestic law with the transfer of the accused to the Tribunal." (p. 12)

And that:

"As with any national legal system the Tribunal is bound to uphold the Rule of Law. This includes a duty to annul any abuses of power that are carried out in its name,..". (p. 12)

It is clear that these others, as friends of the court, pay then their tribute to the fascist jurisprudence of this puppet-court, which has declared that the kidnapping and murdering of accused persons in Bosnia were tolerable acts, and that these others continue this quote as follows:

"..wich are of sufficient gravity as to call into question the justice of the procedures that were used." (p. 12)

6. Others endorse the view of Mr. Milosevic that he should have the right to raise political arguments in court sessions.
And that, moreover, the puppets of the trial chamber were acting blatantly in violation of the so-called tribunal's own ruling when they prohibited Mr. Milosevic to bring forward political aguments. Because in the Tadic Interlocutory Appeal Decision it is stated that:

> "..the judges were not barred from examination of a jurisdictional plea by the possible political or non-justiciable character of the issues that may raise [ibidem para. 23-25]." (p. 4)

and that:

> "the accused contends that the limitation to the territory of The Former Yugoslavia is a political choice with a discriminatory character. To argue this assertion, the accused should be allowed to raise political arguments to show his case." (p. 14)

IV. Conclusion

In blatant violation of the Rule of Law this puppet-tribunal is set-up in a way that the prosecutor and the judges are both part of the same organ.
It is now up to the trial chamber to show how far they dare to present themselves as being not a extension piece of the United States-guided prosecutor.

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SUMMARY, IMPORTANT POINTS AND CONCLUSIONS OF THE AMICI CURIAE BRIEF ON JURISDICTION

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I. Points of departure

The amici curiae has based themselves in this brief on the arguments of mr. Milosevic, put forward on his initial appearance before the puppet-court on 3 July 2001 and the handwritten Note signed by Mr. Milosevic and dated 2 July 2001; the preliminary motion, as restricted later to par. 8; the arguments put forward by Mr.Milosevic during his appearance before the puppets on 30 August 2001 and his Memorandum of 30 August 2001, entitled 'Presentatiom of the illegality of the ICTY and the illegality of the surrender to the ICTY'.

II. Main conclusions

The consistent challenging by Mr. Milosevic of the legality of the puppet-tribunal has now resulted into the fact that this issue of legality is back again on the agenda in full extent and that the legality of this so-called tribunal has grown very controversial once again.

Though the arguments forwarded by Mr. Milosevic are so compulsory that in fact the amici curiae not were to be able to circumvent the need to subscribe them fully, and therewith to recognize the illegal character of the puppet-tribunal, it is not the true character of the 'amici curiae' as an institute to abandon their bosses so much.
After all they are 'friends of the court'!

Nevertheless even they cannot avoid to recognize that the legality of the puppet-tribunal has grown meanwhile so controversial that it is by now even impossible to leave the answer on this question of legality to the puppet-court itself, but that, instead of this, this decision has to be taken by an independent third one.
They stress to give this role to the International Court of Justice.

Of course Mr. Milosevic holds on to his original position that the puppet-tribunal is so much prima facie illegal that his immediate release is indicated as inevitable. And that first seeking the opinion of the International Court of Justice is an unnecessary and tricky move.

Nevertheless the need to move on to the immediate release of Mr. Milosevic follows on also right away from the standpoint of the 'friends of the court'.
Since when the legality of this puppet-court must be considered, even in their view, to such an extent in question that first an opinion of the International Court of Justice is to be needed, then this means anyhow that it should be completely unacceptable that this puppet-court, which indeed can turn out to be that sort of false tribunal which it (according to Mr. Milosevic) really is, should keep still one day longer in detention a single person who has challenged the legitimacy of this so-called tribunal.

So the only acceptable conclusion is that even 'the friends of the court' are subscribing this stand.
And join his demand that he has to be released immediately.

In their view pending a possible decision of the International Court of Justice with regard to to the legitimacy of this puppet-tribunal.

If the puppet-tribunal don't assent to the immediate release of Mr. Milosevic on the base of the arguments of Mr. Milosevic himself relating to the illegality of the so-called tribunal and if the puppet-tribunal wouldn't even turn to his immediate release on the base of the arguments of their own 'friends of the court' that there must be first of all an advisory opinion of the International Court of Justice before it is to be assumed that this puppet-tribunal would be a legal tribunal, so that as long as this test is pending a legal custody of persons who challenge the legitimacy of this puppet-tribunal will be absolutely out of question, than this conduct of the puppets would prove once more the unmistakable political character of this so-called tribunal.

III. Even in disregard of the amici curiae it must be stated that their conclusions are killing for the puppet-tribunal

Mr. Milosevic rejects the amicus curiae-farce.
Because it is a fundamental breach on his basic right to organise his own defense.
The amicus curiae are a creation by the puppet-court only in order to veil that the puppets are consistently frustrating his contact with legal advisers chosen by his own in order to organise his own defense.
They are a loincloth for this grave violation of his basic human right by this so-called tribunal.

Moreover, this amicus curiae-institute is to be rejected because they, as 'friends of the court', in their brief obviously are thinking and acting from the position that this so-

called tribunal should be considered as an authoritative institition.
This in defiance of their position as mentioned above that the legality of this puppet-court is seriously in doubt.
So in their urequested (by Mr. Milosevic) evaluation of the objections forwarded by Mr. Milosevic they stick closely to the jurisprudence and the rules made by the puppet-tribunal itself.
This is of course inacceptable. The puppet-tribunal is void, so their rules are void and their jurisprudence means nothing at all.

Nevertheless, even these amici curiae, the puppet-tribunal's own friends, can not prevent that they have to come to important conclusions wich are killing for this so-called tribunal.

If we refer to this amici curiae further on as 'others', than these:

1. Others, as already analyzed above, agree with Mr. Milosevic' demand that he is to be released immediately.

2. Others endorse his view that this puppet-court, with regard to the investigation and prosecution of Mr. Milosevic, can not be seen as acting freely and impartially, since even these others have to stress that it is an historical fact that:

> "On 31 March 1998, the Security Councel "urged" the Prosecutor to investigate "violence in Kosovo that may fall within the jurisdiction". [See U.N. Doc. S/RES/11-60, 31 March 1998 para 17]. Acting upon this exhortation the investigation was commenced." (brief p. 6)

And that:

> "A fundamental principle for the validity of any judicial organ is its independence". (p. 7)

And that:

> "A breach of that independence which causes an investigation and leads to a subsequent indictment, could be criticised as being in mala fides." (p.7)

3. Others endorse his standpoint that it is a matter of fairness and protection of human rights that:

> " ..a ban on any communication between the accused and the media, while being in the UN Detention Unit, could be said to violate his right to privacy and his freedom of expression" (p. 8)

And that one have to:

"Compare the fact that the indictment against the accused is published and The Prosecutor and The President of the ICTY have made statements about the case to the media." (p. 8)

And that:

"The accused thereby has a reasonable interest to communicate with the media to protect his honour and reputation and moreover to inform the public about his vision on the indictment. This within the scope of internationally recognised Human Rights. Freedom of expression includes freedom of speech and to impart information through any media." (p. 8)

And that the approval by the president of the puppet-tribunal, as evidenced during the last court session, of the ban upon <u>any</u> detainee of <u>any</u> communication with the media, initiated by the prosecutor:

"can easely be understood to be an expression of lack of independence of the ICTY." (p. 8)

4. Others have also to admit at least that there is not any international instrument to prosecute (former) Heads of State.
So that also these others must conclude that at least the legality of the prosecution of Mr. Milosevic has to be part of the matters brought before the International Court of Justice in order to acquaint a advisory opinion about, as is implicitly stated at the end of the brief:

"The advisory opion from the ICJ should concern the competence of the Security Council to set up a judicial organ, .i.e. the ICTY, and all matters related to its establisment, <u>including the power to interfere with internal matters of a Sovereign State</u>". (p. 16)

5. Others have also to recognize that:

"The domestic authorities clearly violated domestic law with the transfer of the accused to the Tribunal." (p. 12)

And that:

"As with any national legal system the Tribunal is bound to uphold the Rule of Law. This includes a duty to annul any abuses of power that are carried out in its name,..". (p. 12)

It is clear that these others, as friends of the court, pay then their tribute to the fascist jurisprudence of this puppet-court, which has declared that the kidnapping and murdering of accused persons in Bosnia were tolerable acts, and that these others continue this quote as follows:

"..wich are of sufficient gravity as to call into question the justice of the procedures that were used." (p. 12)

6. Others endorse the view of Mr. Milosevic that he should have the right to raise political arguments in court sessions.
And that, moreover, the puppets of the trial chamber were acting blatantly in violation of the so-called tribunal's own ruling when they prohibited Mr. Milosevic to bring forward political aguments. Because in the Tadic Interlocutory Appeal Decision it is stated that:

> "..the judges were not barred from examination of a jurisdictional plea by the possible political or non-justiciable character of the issues that may raise [ibidem para. 23-25]." (p. 4)

and that:

> "the accused contends that the limitation to the territory of The Former Yugoslavia is a political choice with a discriminatory character. To argue this assertion, the accused should be allowed to raise political arguments to show his case." (p. 14)

IV. Conclusion

In blatant violation of the Rule of Law this puppet-tribunal is set-up in a way that the prosecutor and the judges are both part of the same organ.
It is now up to the trial chamber to show how far they dare to present themselves as being not a extension piece of the United States-guided prosecutor.

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P A P E R

by Mr. Nico Steijnen
lawyer, the Netherlands

with regard to

THE INTERNATIONAL CONFERENCE 'FREEDOM FOR SLOBODAN MILOSEVIC AS A MORAL, POLITICAL AND LEGAL IMPERATIVE

Belgrade, 21-22 October 2001

I. INTRODUCTION

Mr. Milosevic has to face a **threefold** task.
Normally spoken persons accused by the puppet-tribunal restrict themselves to a defence against the indictment. And also leave even this task for a great deal to their counsel, who has to be sanctioned by the puppet-tribunal's administration.

However, Mr. Milosevic challenges **first of all** the legality and legitimacy of the puppet-tribunal. This both on legal and political grounds.

Secondly, he has to face also the need to consider a defence. If he would come to the conclusion that a defence against the politically motivated charges, or at any rate against certain parts of that accusation or the basic assumptions on that, were desirable, than he has also to prepare such a defence.

And **finally**, in so far he decides to undertake such a defence, he has to perform it largely by his own, even the part that normally is executed by counsel.

On all this three fields it's now a matter of assist Mr. Milosevic as well as possible and to unfold the activities necessary in order to back up his struggle against the puppet-tribunal and the politics behind it, and, as far as he will choose therefore, to support his defence and the preparation on that, as much as we are able to.

II. REMARKS ON THE FIRST POINT: THE CHALLENGE OF THE LEGALITY AND LEGITIMACY OF THE PUPPET-TRIBUNAL AND OUR ROLE WITH REGARD TO THIS POINT

This terrain is much wider then usually is identified.
For it is not only a matter of challenging the legitimacy and legality of the puppet-tribunal **in general**, as a function of its origin and set-up, but it is just as much important to focus on and to emphasize the violations of fundamental norms of international law and basic human rights by the puppet-tribunal **in the course of its functioning.**

II.a. the illegality and illegitimacy of the puppet-tribunal in general

With regard to the legitimacy and legality of the puppet-tribunal **in general** it must be said that therefore has been already much attention till now.
Numerous various argument from different directions are already produced in order to challenge this legality and legitimacy **in general.**
Particularly Mr. Milosevic himself has already contributed greatly to that by means of his document, titled **'Presentation of the illegality of the of the ICTY and the illegality of the surrender to the ICTY'** of 30 August 2001.
The puppet-tribunal has now placed in position the amicus curiae against this document and assigned them to refute the arguments employed by Mr. Milosevic before 19 October 2001.

Nevertheless the job in order to contest the legality of the puppet-tribunal is not yet finished. There still is an important task for friendly representants of the academic world. Namely in order to extend this work done by Mr. Milosevic and to make it perfect into a document that will enclose all arguments and all lines of approach. Which also will meet all (coming) arguments put forward by the amicus curiae in order to defend the position of their tribunal-masters.

This work, namely to complete the work already done by Mr. Milosevic into a comprehensive, scientific document, citing scholars from all over the world who agree with our critics, should be done by **a specific commission, to be called commission 1**. Working along a stringent timetable.

This commission will also have to deal with the relevant judgments of the European Court on human rights in Strasbourg, concerning the impartial and independent status of the puppet-tribunal. Like the case Naletilic v. Croatia (ECHR 4 mei 2000, Appl. 51891/99), in which the European Court came to the conclusion that the puppet-tribunal must be considered as such an independent and impartial court in the sense of Article 6 of the European Convention on human rights.
Nor would it be possible for the commission to evade the task to go into the pronouncements of the puppet-tribunal itself concerning its own competence and legality in the Tadic cases of 10 August 1995 and 2 October 1995.
But I am convinced that there are sufficient counterarguments in order to meet this jurisprudence in a decisive way.

And what's more: developments were going on, especially since the above mentioned 1995 judgement of the European Court on human rights. And in the meantime cartloads of arguments are created by the puppet-tribunal itself to show merciless its own dependency and partiality.
So all we have to do is to make an inventory of it and make it public.

Next phase should be to look for ways in order to extract all potential output out of this document made by the **commission 1**.
That means that it should not only be brought into the procedure before the puppet-tribunal, but that it also should be tried to give it as much international publicity as possible and to make its political impact as great as possible.

In this connection it should be also necessary to seek for ways to bring forward this document into the organs of the United Nations, especially and first of all into the General Assembly of the United Nations. This whether or not with the help of NGO's, holding a status of observer at the United Nations embodiments.
But also other important international institutions don't have to be forgotten. Like for instance the International Law Commission, etc.
To extract as much political output as possible out of this document should be also an important task of this **specific commission 1**.

II.b. the illegality and illegitimacy of the puppet-tribunal in particular in the course of its performance

A crucial aspect of the illegality and the illegitimacy of the puppet-tribunal is not only this illegality and illegitimacy **in general**, as a function of its origin and set-up, but also this illegality and illegitimacy as clearly demonstrated in the course of its acting as a pseudo-tribunal during the years of its existence and functioning.

It is exactly also this aspect of continuously functioning in breach of fundamental human rights that provides the compelling arguments, even toward those who are not convinced by the arguments that the puppet-tribunal is an illegal creation, that, anyway, this puppet-tribunal is **practically** acting in violation with basic human rights.
As said, it is thereby our task to articulate systematically these breaches.

This category too falls apart in two parts.
On the one hand the violations on human rights and other breaches of fundamental international law, the puppet-tribunal commits continuously **in general** in the course of its functioning, should have to be stressed, and on the other hand the

point is to expose with great precision the violations of human rights **specifically** committed towards Mr. Milosevic in his particular case.

II.b.1. The illegality and illegitimacy of the puppet-tribunal in the course of its performance in general

Also in this field are already made various establisments during the past years.
De most important observations to my opinion in this field are: 1. that the puppet-tribunal the already observed fundamental assault on the principle of the separation of administrative, legislative and judiciary power, built-in already in its structure on the moment of its creation, even tightens up shameless in the course of its acting; 2. that the puppet-tribunal has developped itself into a straight murder machine in the framework of its investigation- and persecution-policy, as the dead and wounded persons in Bosnia as a result of this policy are testifying; 3. that this criminal acting is only possible because of the blind violation by the puppet-tribunal of the basic right of every accused person to appeal to a national judge in order to challenge his intended extradition; 4. that it is fully proofed now - and it gets every day proofed even more -, that this kangaroo court makes itself guilty on a extremely discriminate persecution-policy, mainly directed against the Serbs.

This violations - and others ! - of fundamental human rights, continuously committed by the puppet-tribunal in the course of its functioning in general, have to be registrated and described systematically and as comprensive and detailed as is possible.
This work, partly of a **factual** character, ought to be done by another **specific commission**, to be called **commission 2**.

An important point within this framework is, inter alia, to describe and register in details which severe human rights violations, committed by non-Serbs, especially in (nowadays) Croatia, Bosnia and Kosovo, were not persecuted by the puppets, what efforts are made by various sides in order to bring about a persecution of the concerned alleged crimes and what were the reactions on this efforts by the puppets.

The same applies to the non-persecution of NATO-responsibles for the crimes during the aggression against the Federal Republic of Yugoslavia. Within this framework also the puppets' report on this subject should be analyzed and refuted.

Discriminating persecution-policy is deadly for the legitimacy of every penal court.
So it is of the greatest importance that the true character of this dicriminate policy were layed down in details.

For instance, the Dutch governemt, even though fully subscribing that it should be considered as a duty to co-operate without any reservation with the puppet-tribunal and to follow orders to extradite persons accused by the puppets, do make neverthess one important reservation.
As is layed down in the parliamentary documents with regard to the preparation of the Dutch law concerning the implantation of this puppet-tribunal in the Dutch legal order, an established discriminatory persecution-policy should nevertheless implicate that extradition has to be refused by the Dutch government. See the Explanatory Memorandum of this law in the documents of the Dutch Parliament: Tweede Kamer 1993-1994, 23 542, nr. 3, p. 4.

II.b.2. The illegality and illegitimacy of the puppet-tribunal in the course of its performance specifically in the case of Mr. Milosevic

Just because Mr. Milosevic challenges the legality of the puppet-tribunal continuously and consistently, he exposes more and more the pernicious true nature of this kangaroo court and exposes more and more breaches of human rights by this so called court.

New grave breaches of (his) human rights that came in broad are for instance: 1. the, not only denial, but even impracticability of a judgement about the legitimacy of detention, as stipulated in, inter alia, Article 5, par. 4 of the European Convention on human rigths, because the Rules of procedure and evidence of the puppet-tribunal don't even provide in such a legal test; 2. the extradition of Mr. Milosevic in spite of his pending appeal to the domestic judge, which legal opportunity represents another basic human right, brutally trampled by the puppets in a way that has made his extradition purely a terroristic act of kidnapping; 3. the many, many obstacles put on his path by the puppets in order to turn his basic right on defence into a farce, etc.

All this new appeared violations of his human rights must be stated in detail. And it is likewise important that also should be put down in a report what exactly has been done by or on behalf of Mr. Milosevic in order to implement his basic rights and how this implementation was frustrated by the puppets and possible domestic courts.
This all belongs to the task of **commission 2**.

This report of **commission 2** is namely of great importance with a view to human rights court on the European level. To which Mr. Milosevic on a certain moment could appeal.
It could introduce the necessary arguments in order to make it inevitable for the European Court on human rights to review its judgement in the Naletilic case. Or to judge that, anyhow, specifically in the Milosevic case there is a multiple viola-

tion of Article 6 of the European Convention on human rights involved.

III. AVAILABLE LEGAL OPPORTUNITIES ON EUROPEAN LEVEL

Mr. Milosevic has the opportunity with regard to any violation of his human rights to present an application to the European Court on human rights in Strassbourg, c.q. to present a communication to the Human Rights Committee in Geneva at any moment of his choice.
The European Court on human rights is rooted in the European Convention on human rights and the Human Rights Committe is rooted in the International Covenant on Civil and Political Rights.
With these he has to take in account the period of appeal. This is for an application to the European Court at the most 6 months after the challenged human rights violation and with regard to the Human Rights Committee it is stipulated that the communication must be presented 'within a reasonable time', i.e., according to the jurisprudence, at least within a year after the disputed event.

When there has been lodged a complaint at first with the Human Rights Committee, then there is no access anymore afterwards to the Euopean Court with regard to the same complaint.
But the other way round, there is still access with the same complaint to the Human Rights Committee after the European Court has given his judgement.

In both situations it is also stipulated that the way to this human rights fora is only free after all domestic legal opportinuties are utilized.
As far as there existed any doubt whether with regard to acts of this puppet-tribunal any domestic legal possibilies were existing, which were to be exhausted before the route to these internationallegal organs was opened up, this doubt is now expelled.
Mr. Milosevic has challenged the human rights violations he has experienced - and still experiences - into the Dutch courtroom in his legal proceedings against the State of the Netherlands.
In this proceedings the Dutch court has declared itself incompetent.
So now is also officially stated by the domestic court that there do not exist domestic legal means in the Netherlands.

It has to be stressed again that Mr. Milosevic is entitled to lodge every human rights violation he has experienced, or still experiences, wholly or partially, with both human rights fora.
Whether and when he does so or not, is only a matter of strategics.

One could follow the reasoning that at this moment the chance that, for instance, the European Court will come back to his ruling in the Naletilic case that the puppet-tribunal has to be considered as an independent and impartial court according to the standards of Article 6 of the European Convention on human rights has come not yet and that time is not yet ripe for such a turnabout in the jurisprudence of the European Court.
And that first of all still more evidence must be gathered before such a change reasonably could be expected.
So that maybe it's better to postpone a request to the European Court to order the release of Mr. Milosevic and, instead of this, to continue with compiling further violations of his human rights by the puppets before finally to take such a step.
But of course this weighing of the pros and cons is finally up to Mr. Milosevic himself.

But to wait and see on the question when it is the right moment to seek access to the European Court of the Human Rights Comittee with regard to the main point, namely the release of Mr. Milosevic, certainly doesn't exclude that were decided that perhaps 'minor issues' already in the short term were lodged with these human rights fora.
Like, for instance, the continuous interference by the puppets with regard to Mr. Milosevic' basic rights of defence. Or like the consistent violation of his human right according to Article 5, par. 4 of the European Convention, holding the right to every detainee to challenge the legality of his detention in court.
Such specific complaints to these international human rights fora on parts of the human rights breaches which he has to suffer were to be considered in the short term.

And moreover, such specific claims on 'minor issues' focus the attention of the European fora on this specific case and could contribute to make the climate ripe for the desired turnabout of the European Court with regard to his judgement on the legality of the puppet-tribunal. Or at least for an ultimate ruling by this court that the puppet-tribunal in this specific Milosevic case was acting repeatedly in breach of the norms of Article 6 of the European Convention.

There is another big advantage that were to be turned to, when were to be decided to present an application to the European Court about one of the human rights violations.
When an application to the European Court is going to be prepared, counsel involved in this preparation must be given free, unimpaired and unmonitored access to the detainee who intend to file such a complaint. Thus is stipulated in the relevant treaty law.
So this would be a new test for the puppets how far they dare to go in interfering with this basic right also in such a newly created situation.

A last point is that it should be pointed out that there exist also a third manner in order to bring a human rights violation on the European level.
This is a complaint to the Secretary-General of the Council of Europe and a request to start an inquiry.
It is a practice that individuals can follow this way, leading to inquiries accordding to Article 52 of the European Convention.
Also the possible use this proviso could be considered in the strategic weight.

IV. LEGAL OPPORTUNITIES ON THE DOMESTIC SCALE

IV.a. the pending appeal in the case Milosevic v. the State of the Netherlands

The strategic estimation that it could be necessary to gather and compile at first more and more evidence that the puppets are violating constantly his basic rights, before finally filing an application to the European Court which claims the release of Mr. Milosevic, gives also sense to the fact that Mr. Milosevic has appealed against the verdict of the Dutch domestic court in his case versus the State of the Netherlands.
In the course of these proceedings in appeal new violations of his basic rights will certainly arise and then these breaches could be articulated in a legal way in this course of the proceedings.

Apart from that, there still is always a chance that the Dutch Court of Appeal, or later on the Dutch Supreme Court, would give a ruling that is positive for Mr. Milosevic.
This estimation represents another seperate consideration to go on with this procedure.

IV.b. Possible new legal initiatives before the Dutch Court

IV.b.1. legal action against the amicus curiae danger

A blatant violation of Mr. Milosevic's human rights by the puppets and an enormous obstacle is represented by the incredible obstructions caused by the puppets in the communication with his legal advisers.
This communication is constantly frustrated by the tribunal's administration. And the last dirty trick on this field is the assignment of pseudo-defenders in the form of the amicus curiae.

It has te be considered seriously to undertake against this amicus curiae-farce all necessary legal action as soon as possible.
One of the opportunities is to institute a legal proceeding agaist the Dutch representative of the amicus curiae-trio Wladimiroff at the Dutch Court.

IV.b.2. legal action in face of the deadlock regarding Mr. Milosevic' basic right of Article 5, par 4 of the European Convention, stipulating that every detainee has the rigth to challenge the legitimacy of his dentention before a court

Mr. Milosevic has two times stressed during his both appearances before the puppet-tribunal that his detention is illegal and illegitimate.
This has to be considered as an appeal on his right as stipulated in Article 5, par. 4 of the European Convention.
The puppet-tribunal don't have considered this appeal anyway.
An examination of the Rules of procedure and evicence of the puppets learns moreover that any procedure in order to meet the realisation of this basic right lacks completely.

The Dutch court has declared itself incompetent in the light of the possible guaranteeing of this basic right to people into the claws of the puppet-tribunal.
Nevertheless it is explicitly stated in Article 13 of the European Convention that 'a national authority' must guarantee 'an effective remedy' for 'everyone' whose human rights are violated.

So this gives terms for a new legal proceeding before the Dutch court, regarding the question: who has to guarantee in this situation the performance of this basic right by Mr. Milosevic ?
If there would not come a solution for this deadlock in this new legal proceeding, wich would mean that neither the puppet-tribunal nor the Dutch court would keep uphold this basic human right, then this specific point should be a potential point to bring before the European Court of human rights as the next step.

But maybe there could be than still at first a request to the Secretary General of the Council of Europe to start an inquiry as mentioned in Article 52 of the European Convention on the manner 'on which its internal law ensures the effective implementation' of Article 5 par. 4 of the Convention.

V. IMPORTANT FINAL REMARKS AND RECOMMANDATIONS

1. The accusations in the additional indictment regarding the events in Croatia imply that Yugoslavia and Serbia should have committed a war of aggression against Croatia.
The same charge will return without a doubt when the indictment on account of the events in Bosnia would be issued by the puppets, which would be accompanied wich the charge of genocide.

   It is of the utmost importance that these false charges, which are aimed at the perfection of the counterfeiting of the Yugoslav recent history - the aim for which this puppet-tribunal is created - were disputed as profoundly as possible.

   So concerning to this I stress the need of a **third commission**, **commission 3**.
The only task of this commission will be to produce ample evidence that the wars in Croatia and Bosnia were civil wars, that the Serbian nation in Bosnia and Croatia had a right to react on the unilateral declarations of independence on the way they have done, that the JNA had the duty and the right to react on these unilateral secession en to protect the Serbs in these areas.

   Such a **commission 3** were to be given shape by the Yugoslav academic world.

2. In the Netherlands there is important evidence in Dutch that could play a role in the defence. For instance with regard to the Racak lie.
Is would be important to create opportinity to translate this material in English.

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Zeist, 16 october 2001

4-9-01

Turkey: European Human Rights Court Plays Role In Ocalan Case

By Joel Blocker

Kurdish rebel leader Abdullah Ocalan has been the focus of considerable attention since the start of his ultimately unsuccessful attempt to win political asylum in a sympathetic country. He now faces possible execution in Turkey. One of the institutions that may play a role in determining his fate is the European Court for Human Rights, the single most important organ of the Council of Europe. RFE/RL correspondent Joel Blocker speaks with a court official about the case.

Prague, 2 July 1999 (RFE/RL) -- Within days of his arrest by Turkish authorities five months ago, lawyers for Kurdish rebel leader Abdullah Ocalan filed an application for a hearing before the European Court for Human Rights. But it will take many months before the overburdened court rules on the admissibility of the Ocalan application. If the court decides to hear his case, it will be an even longer period before it rules on the complaint itself.

Ocalan's lawyers based their plea on a number of alleged violations of the European Human Rights Convention, the document under which the Strasbourg court operates.

In a telephone interview from Strasbourg today, Ron Liddle, an adviser to the court's president, talked with RFE/RL about the case.

"Mr. Ocalan's lawyers launched an application in February of this year -- in fact, we received it on the 16th of February -- and in it a number of allegations were made, relying on different articles of the [human-rights] convention: articles two and three -- article two is the right to life, article three prohibits torture. They also relied on article five [which defines an individual's right to liberty and security] in connection with the circumstances of his arrest and the legality of his subsequent detention, and they also cited article six, which requires a fair hearing, a fair trial."

As of yesterday, according to Liddle, the court had received no further application or other communication from the lawyers for Ocalan, who was convicted of treason and terrorism earlier this week by a Turkish court and sentenced to death. Under Protocol Seven of the human-rights convention, capital punishment is banned in all member states of the Council of Europe, which now number 41, including Turkey. Also included are 18 from Central and Eastern Europe and the former Soviet Union.

The Council was founded 50 years ago, and the human rights court established a year later. The court is composed of one judge from each member-state, who is elected to a six-year term by the Council's Parliamentary Assembly. Its decisions are made by majority vote. Because of a huge back-log of applications and pending cases, the court was streamlined two years ago by the Council. Even so, it moves slowly and its legal processes stretch out over months, often years.

Liddle says that the court first gave the Turkish government until July 1 to reply to, and comment on, the application by Ocalan's lawyers. That deadline was subsequently extended, on Ankara's request, until September 1. If Turkey meets the September deadline, Ocalan's lawyers will be given additional time to reply to Ankara's comments. It will still take another two or three months before the court begins its deliberations on the admissibility of the Ocalan application. Over a 16-year period ending in 1997, less than one percent of applications to the court were approved for consideration.

Liddle explains procedures in the Ocalan case.

"What has happened so far is that the court has sent a number of questions which it has requested the Turkish authorities to answer. [The court] received answers to those questions. [The court] also, at the request of Mr. Ocalan's lawyers, applied rule 39 of the rules of the court, which allows [the court] to indicate to the Turkish authorities a number of interim measures. These interim measures essentially concern [Ocalan's] access to lawyers, which was obviously an important aspect of the fairness of the proceedings against Mr. Ocalan in Turkey."

But Liddle said that the court also requested that the Turkish authorities insure Ocalan is enabled through the lawyers of his choice to exercise the right of individual petition to the European human-rights court.

"That has perhaps some indications for the present situation, where [Ocalan] is under threat of capital punishment.... The interim measure which is currently in force -- and to be absolutely clear on that: it's an indication, not an order to the Turkish authorities -- does request [they] enable him to exercise the right of petition to the European court. Now, one conclusion that one might draw from that is that the Turkish authorities would be requested [later] to suspend any execution of [the Turkish court's judgment and sentence] before the [Strasbourg] court reached a final conclusion."

The major reason why the court is so slow in its actions is that it now has human-rights jurisdiction over the 800 million people who make up the population of its 41 members. Each of them has the right to appeal to the Strasbourg court over the head of his or her government for alleged human-rights violations, and member-states are under obligation to comply with the court's judgment. The court's rulings supersede any national court decision, and no member-state has ever failed to comply with a court decision.

In that respect, Liddle notes, the decision by the Turkish Parliament last month to amend the country's constitution so that no military officer sits as a judge in a civilian court was in fact an act of compliance with a decision by the Strasbourg court. The court had earlier ruled that the presence of a military judge in civilian cases violates a citizen's right to a fair trial.

For more than two-thirds of the Council of Europe's half-century history, when it was purely West European in composition, the court had jurisdiction over less than half of the Council's current total population. But in 1990, with the entry of Hungary as the Council's first Eastern member state, the population of Council states began to expand exponentially and continued to do so for the next nine years. Russia, which became a member in 1996, alone has 150 million inhabitants.

In all cases, including Ocalan's -- if the Strasbourg court decides finally to hear his case -- the judges' decision is only what Liddle calls "declaratory." This means that it is not the court but rather the Council of Europe -- through it chief executive body, the Committee of member-states' foreign ministers -- that monitors a county's compliance with the decision.

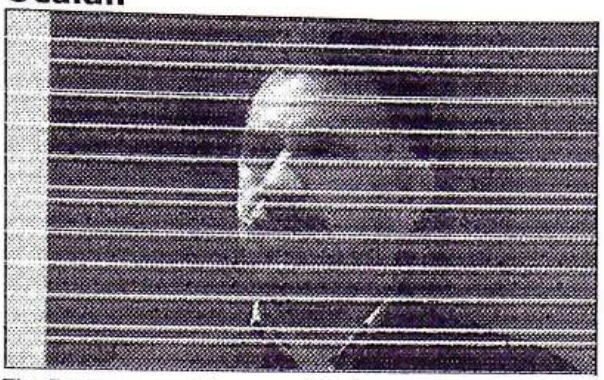
If, for example, Turkey were to execute Ocalan against the expressed will of the Strasbourg court, it would be up to the Council, not the court, to decide on disciplinary measures. Those measures could go as far as eventual expulsion from the Council, although that has never happened in the past. But to reach that stage, Council officials tell our correspondent, it would take not months, but years.

02-07-99

02-07-99

Wednesday, 1 December, 1999, 08:24 GMT

Turkey to consider appeal on Ocalan



The European court has urged Turkey not to execute Ocalan

Turkey says it will consider an appeal by the European Court of Human Rights to suspend the death sentence imposed on the Kurdish separatist leader, Abdullah Ocalan.

But Turkish Prime Minister, Bulent Ecevit, said his government would do so only after legal procedures in Turkey had run their course.

The European Court had requested a suspension of the death sentence until it had ruled on a complaint by Mr Ocalan that his trial violated the European Human Rights Convention.

Ocalan was sentenced to death in June for treason and separatism following the 15-year war waged by his PKK (Kurdistan Workers' Party) movement, a conflict which claimed around 30,000 lives.

Turkey's appeal court upheld the sentence last Thursday. Mr Ecevit said that Mr Ocalan's lawyers still had the right to one last appeal in Turkey.

A Kurdish woman clutches a picture of Ocalan during a demonstration in Strasbourg

Rights violated

Ocalan's lawyers lodged a complaint at the European court shortly after his arrest in February.

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They alleged that Turkey had violated articles of the European Convention on Human Rights guaranteeing the right to life, liberty and a fair trial, and the convention's ban on torture or degrading treatment of prisoners.

The appeal focused on claims that irregularities undermined the June trial and that execution was an outdated form of punishment.

Ocalan's defence team said he had been prevented from meeting his lawyers, and that his capture by Turkish special forces in Kenya was illegal.

Membership at risk

Meanwhile, European Union (EU) members have told Turkey that Ocalan's execution could prove a setback to the country's hopes of joining the EU.

A European summit in Helsinki in December is set to decide whether or not to include Turkey in its lists of candidates for membership.

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European rights court accepts Ocalan case

December 15, 2000
Web posted at: 1151 GMT

BRUSSELS, Belgium (AP) -- Jailed Kurdish rebel leader Abdullah Ocalan has won the right to have his case against Turkey heard at the European Court of Human Rights, the court announced Friday.

The court in Strasbourg, France, decided Thursday that Ocalan's case will be tried by a Grand Chamber of 17 judges.

The rebel leader who was captured in Kenya by Turkish authorities in February 1999, claims his treatment infringes 12 articles of the European Convention on Human Rights, which Turkey is bound to respect as a member of the Council of Europe.

"This is a very positive development," Ocalan's lawyer Irfan Dundar said in Istanbul. "They have accepted all the points which we believe there was a violation of rights."

Ocalan was sentenced to death by hanging for treason and separatism for leading an armed struggle for autonomy in Turkey's predominantly Kurdish southeast. Turkey has promised to put the review of his execution by parliament on hold until the European court's ruling. No one has been executed in Turkey since 1984.

Ocalan's lawyers claim Turkey has violated articles of the European convention guaranteeing the right to life, the right to a fair trial, freedom of conscience and expression, and prohibiting ill-treatment of prisoners.

Court officials said it could take at least several months before a ruling on the case.

Dundar said the defense team would try to get the right to allow Ocalan to testify either in Strasbourg or from his prison island of Imrali, off Istanbul. "He should be heard at this point of the case," Dundar said.

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TO FILE WITHIN 30 DAYS ...

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

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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 a the time of Croatia Tudjman; that this 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 issueing 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 confict that were supposed to be to exist in Croatia during the timespan of this indictment.

The Prosecutor has tryed 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 prescibed by these western powers.

Meanwhile is 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-rum 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 discrimation 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 seccession.
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 resistence against this seccession 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 trough 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 infuence 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 entreprise'.
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 responsibily' .

In a way that prevents it to prepare a proper defence.

So let us view the allocation of 'command responsibily' 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 ohterwise 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 effecitive controlling the JNA, at the same time also al 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, committted, 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 allegdly 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 is 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.

van holst en steijnen

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To: <vlada@sps.org.yu>
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Sent: dinsdag 2 april 2002 20:29
Subject: Defence Mr. Milosevic - Racak / alleged 'humanitarian disaster' in the first half of 1998

Friends,

I will raise some points which may be interesting for the defence of Mr. Milosevic.
First I have to stress that I have lots of documentation, all gathered by our friend Ruza Despotovic during and after the war.
About a lot of issues: backgrounds, reports, video tapes with all programs of the RTS during the war, etc.
So when these documentation could be useful for the defence of Mr. Milosevic, Ruza and I will be very glad with that.
We have also documentation about, for instance, Racak and Srebrenica.

RACAK

No doubt the Racak allegation will be, politically and juridically, the key in the Kosovo-indictment.
We have the disposal of an audio-cassette from a Dutch radio program about the Racak-issue, made by a Dutch critical program, named Argos, and broadcasted on 16-6-2000. This program on the 16th of June was the second in a series, the first program was on 25 february 2000. I don't have a cassete of that first program as well, but maybe we can get one, if desirable.

In the 16/6/2000-program first is speaking a German former OSCE-observer from Hamburg, called Heinrich Hensch (?), who stated that it is his own impression, and that of a lot of other former OSCE-observers 'in the field' too, that most of the alleged Serbian masacres were actually skirmishes, provoked by the UCK. And that it is also his impression that the so-called Racak-victims were brought in from elsewhere and put together.

Then next in the program there is referred at the German general Heinz Lokai (?), in service of the OSCE, who wrote a book about the Kosovo war, in which he stipulates that he is convinced the Racak has been faked.

Next person who is spreaking is William Walker, who we can hear saying, during the Pristina press conference of 17 March 1999 about the provisional results of the inquiry by the Finnish forensic team, a week before the beginning of NATO-agression:

"The facts as verified by the the KVM include evidence of arbitrary detentions, extrajudicial killigs and the mutilation of unarmed civilians of Albanian ethnic origin in the village of Racak by the MUP and the VJ."

Next you can hear the voice of Albright saying:

"it was clearly a galvanising event and the President really felt that we THEN COULD MOVE FORWARD, make clear that the US was going to be a part of an implementing force."

Then the program goes back to the 25 Febrary- transmission and some important interview-moments are repeated.
First it is memorized that the autopsy-reports by the Finnish research team, headed by Helena Ranta, were already finished a year before and given to the EU, but kept under cover.
Then Helena Ranta is asked the question:

"Can you give a decisive answer about the question whether the victims were civilians or not ?"

Helena Ranta:

"I HAVE NO DATE OF WHETHER THEY WERE FIGHTERS OR THEY WERE NOT FIGHTERS'. Some may have been fighters at one stage."

And then Ranta in the 25 February -interview is further cited in Dutch by the program-makers:

"All what I can say is that they were not wearing military uniforms. Ambassador Walker was visiting Racak on 16 January. Based on the information he had on that moment, he gave his vision. I cannot comment on that. If I remember well , he told already on that moment who were the perpetrators. We could not give a definite answer on that, based on our inquiry."

Program-maker (in Dutch) , referring to the next question, asked in the 25 February-interview:

"Walker told that what had been taken place was a Serb massacre of Albanian civilians and there were media on the 17 March press conference, who said that the inquiry of the Finnish team confirms the conclusion, made by Walker."

Voice of other program-maker in Dutch, taking up the role of Ranta in the 25 february-interview:

"That is an interpretation, I could not share."

Dutch program-maker:

"Means this that those media-messages are wrongful ?"

Voice of other program-maker in Dutch, playing again the role of Ranta in the 25 February-interview:

"At any rate this in not what I have said. During the press conference in Pristina I have made not any statement about the conclusions made by Walker."

Dutch program-maker:

"Anyhow, you distanced yourself from the word 'mass grave'. And this was exactly the word that was used by Walker. Why did you consider it important to distance yourself from that ?

Then the answer by Ranta herself, in her voice, tranferred from the 25-February version:

"..(heaving a deep sigh.)....I have no comment on that."

Dutch program-maker, transferred from the 25 February-interview:

"It was only a few days before the NATO-bombing started."

Ranta, by herself :

"At that time, the 17th of march, you know the situation was critical. I had no information about what was going to happen. I don't think one of us realized the tragedy, which was going to start next week.

Program-maker:

"Ranta has also made clear in the 25 February-interview that the press conference on the 17th of March had been taken place against her wishes, but was forced by strong German pressure. She would have preferred to wait till the end of the inquiries."

Then the program focus on the 12 March 2000 BBC broadcasting about Racak, dealing with the question how independent Walker really was. Did he receive direct instructions from Washinton ?
We hear the voice of Walker in this BBC-program:

"We all called them, any of my capitals. I told what I have seen, what was the end result of a massacre."

Dutch program-maker:

"But Richard Holbrooke told the BBC that Walker called him immediately from a telephone cell in Racak."

Voice of Holbrooke from the BBC-program:

"William Walker, Head of the Kosovo Verification Mission, called me on a cell phone from Racak."

The Dutch program-maker tells next that he also phoned immediately with NATO-military commander Clark:

Voice of Clark in the BBC-program:

"I have been called from Bill Walker, who said: I am standing here, there is a massacre; I have seen the bodies."

The Dutch program-maker tells next the it is that BBC's conclusion in the 12 March 2000 - program that Walker gave, by his assessment, the US green light to intervene in Kosovo. And this meant, according to the BBC, that the UCK had succeeded in dragging the mightiest military power of the world into the conflict.

Then Luci Goriani, member of the Albanian Rambouillet negotiation team, get the floor.
He states that it was a deliberate UCK-tactics to start provocations from villages as Racak, in order to provoke Serbian retaliation against the civil population.

Gorani:

"Every single Albanian realised the more Albanians died, ... (sigh).. intervention comes nearer. With Racak and with lots of others....It will remain, I would say, an eternal dilemma whether the KLA initiated these battles in the civilians inhabitated areas, because it knew that the Serbs will retaliate on them."

Meanwhile the program-makers SUCCEEDED IN LAYING HANDS ON THE AUTOPSY REPORTS OF RACAK, wich are kept secret, the program-maker mentions.
The program-makers of Argos have forwarded these reports to the Dutch forensic pathologist MARTIN WOORTMAN, former director of the Laboratory of Forensic Pathology in Rijswijk. The program-makers mention his conclusion that, based on the autopsy reports, it is impossble to conclude that all victims are shot at the same time.

Dutch pathologist Woortman:

"It could have been happened a few days sooner or a few days later, such differences could exist within those groups."

Program-maker:

"Would it be possible to identify exactly the moment, based on these reports ?"

Pathologist Woortman:

"No."

Program-maker:

"You say, in a number of cases, there is the situation that bullets got stuck into the corpses. Does that tells possibly someting about the distance from where has been fired on these people ?"

Pathologist Woortman:

"Indeed. The fact that, in quite a numer of cases, there were also bullets into the corpses , could indicate that in that cases really the distance was fair-sized, in which circumstances the bullet had lost its perforating capacity, which would have been still intact when there would have been

shot from a close distance."

Program-maker:

"Are there people between them who are clearly executed, by a shot in the neck for instance ?"

Pathologist Woortman:

"I did not find shot wounds which indicated evidently a contact - I have already said such are not found at all , that there would have been contact shots - which indicated a contact shot, at which the weapon would have been placed upon the skin of the neck. That is cannot be demenstrated here."

Program-maker:

"In the report, made by the OSCE, short after the events would have been taken place - that means, before these autopsies had taken place - it is stressed that there are clear indications that these people are shot from very close distances. Is this picture confirmed by those autopsy reports ?"

Pathologist Woortman:

"No, this is not confirmed by that."

The program-makers stipulate finally that, according to pathologist Woortman, you could also not derive from those reports whether the victims were fighters or not.

CONCLUSION:

The original autopsy reports, which were kept secret by the OSCE and the EU, and which are now in hand of the Dutch program-makers of Argos, held information which is very discharging for the Serb side.
So that is the reason why these autopsy reports are kept secret for such a long period.

Meanwhile there are strong indications that they have cheated this evidence. I have read somewhere - I don't know where - that they allege that they would have found a lot of bullets - bullets of all the same calibre - into the ground of the trench , where most of the corpses were found. Wich should prove that they were shot there on the spot. The same type of bullets was allegedly found into some bodies.

But , of course, the trench, and even - some - bodies in the trench, could have been easely shooted thoroughly AFTER the bodies were layed there. In order to create evidence that they would have been shot on the spot.
There were no measures taken AFTER the 'discovery' of the scene, in order to safeguard evidence and there was no independent custody of the spot after the events.

If Helena Ranta is on the list of the Prosecutor, Mr. Milosevic can confront her with her own statements, voiced by herself in this Dutch program.
If she is not, than we know why. It's then Mr. Milosevic himself, on his turn, who can call her before the puppet-tribunal.

FINALLY SOMTHING ABOUT A QUITE DIFFERENT ISSUE

And that's the brazen Paddy Asdown testimony.
I think it could be fruitful to point out the existence of an OCSE-report that, itself, refutes completely the myth of the 'humanitarian catastrophe' , or the 'Serbian onslaught" in Kosovo in the course of 1998.
That' s the OCSE-REPORT of the TECHNICAL ASSESSMENT MISSION over the period beginning of 1998 up to end July 1998.
This report stipulates that, according to dates by the Kosovo Albanians themselves,there were not more than 300 Albanians killed in the course of 1998 and no more than 150.000 displaced.

As it is stated in this report:

"The Kosovo Albanians told the mission that some 300 Albanians had been killed, and 150,000 displaced, since the beginning of the year."

Taking into account that, of course, it will be in a party's own interest to exaggerate such figures, rather than to underestimate them, we could assume safely that the real number of dead Albanians would have been far below 300 in the first half of 1998. And further taking into account that there were a lot of fighting with UCK-terrorists, there would n't remain much place for dead Albanian civilians, killed by Serb forces, when you finally take also into account that the UCK killed a lot of their own civilians !

About the figure of 150.000 diplaced, the report of the ECSE-mission comments:

"The Office of the United Nations High Commissioner for Refugees (UNHCR) said that it had identified the whereabouts of some 57.000 internally displaced persons in the province....".

So this is what was 'officially' stated by NATO's own lackeys about the so-called 'humanitarian catastrophe' in the first half of 1998 !

Nico S., also on behalf of Ruza Despotovic.

10-4-2002

VOOR MISDADEN VAN HET CROATISCHE LEGER, ZIE OOK "CROATIA '91 - WITH VIOLENCE AND CRIMES AGAINST LAW!" (VAN JENNY) IN:

DOOS:
"ACHTERGRONDEN AFBRAAK JOEGOSLAVIE"

→ zie hierover ook het zgn. bombardement op Dubrovnik
wo II - nov. 1991. blz 5 g e.v.

— DE CROATISCHE TERREUR IS VOOR ANTWOORD OP DE STELLING IN DE MILOSEVIC-AANKLACHT DAT ER GEEN SPRAKE WAS ANTI-SERVISCHE AKTIVITEITEN. → 2.0.2.

Internationaal Gerechtshof

Nabil Elaraby benoemd in het Hof

In oktober 2001 hebben de Algemene Vergadering en de Veiligheidsraad de heer Nabil Elaraby uit Egypte benoemd tot rechter van het Internationaal Gerechtshof. Elaraby volgde met onmiddellijke ingang rechter Mohammed Bedjaoui uit Algerije na, die in oktober vertrok. Elaraby zal volgens de statuten van het Hof de termijn van Bedjaoui afmaken tot februari 2006. Elaraby is lid van de International Law Commission van de VN en lid van de VN Compensatie Commissie in Genève. Hij is tevens rechter in het Tribunaal van de Organisatie van Arabische Petroleum Exporterende landen en lid van het bestuur van het Stockholm International Peace Research Institute. Elraby was permanent vertegenwoordiger bij de VN namens Egypte zowel in Genève (1987-1991) als in New York (1991-1999). In deze hoedanigheid was hij President van de Veiligheidsraad in juni 1996 en diverse malen Vice-president van de Algemene Vergadering.

Hof doet uitspraak: arrestatiebevel België tegen Kongolese Minister onrechtmatig

Op 14 februari heeft het Internationaal Gerechtshof uitspraak gedaan in de zaak tussen België en de Democratische Republiek Kongo. Volgens het Hof, met 13 stemmen tegen 3, was het arrestatiebevel van België tegen Abdulaye Yerodia Ndombasu, Minister van Buitenlandse Zaken van Kongo, onrechtmatig, aangezien de Minister immuniteit genoot van strafvervolging. Het Hof besloot voorts, met 10 stemmen tegen 6, dat België het arrestatiebevel moet intrekken.

Naar aanleiding van het arrestatiebevel van België tegen de toenmalige Minister, stelde Kongo een procedure in tegen België bij het Internationale Gerechtshof. Inmiddels is Yerodia geen Minister meer, maar hij was dat wel op het moment van het arrestatiebevel en op het moment van het starten van de procedure door Kongo. Het Hof stelde in haar uitspraak dat het in deze zaak gaat om immuniteit van strafvervolging en de onschendbaarheid van een Minister van Buitenlandse Zaken. Hierover is met betrekking tot Ministers niets vastgelegd in verdragen en dus moest het Hof de uitspraak baseren op het internationale gewoonterecht. Volgens dit gewoonterecht genieten Ministers van Buitenlandse Zaken immuniteit om hun functie effectief te kunnen uitvoeren namens hun staten. De reikwijdte van de immuniteit moet worden bepaald op basis van de specifieke functie van een dergelijke Minister. Het Hof constateert dat de functie van Minister van Buitenlandse Zaken zodanig is dat deze volledige immuniteit geniet voor strafvervolging en onschendbaarheid, voor de duur van zijn functie. Deze onschendbaarheid beschermt de functionaris tegen inmenging door een buitenlandse autoriteit die het functioneren zou bemoeilijken. In dit verband kan geen onderscheid worden gemaakt tussen daden die de Minister doet in zijn hoedanigheid als Minister of als privé-persoon

België voerde aan dat Ministers van Buitenlandse Zaken deze immuniteit niet genieten als het gaat om zeer ernstige delicten, zoals oorlogsmisdaden of misdaden tegen de menselijkheid. Het Hof stelde echter dat uit de bestaande statenpraktijk niet bleek dat er onder het internationaal gewoonterecht een regel is dat een dergelijke uitzondering moet worden gemaakt inzake de immuniteit van strafvervolging voor Ministers van Buitenlandse Zaken. Immuniteit betekent echter niet, volgens het Hof, dat deze personen zonder meer straffeloos zijn. Immuniteit van strafvervolging is iets anders dan individuele strafrechtelijke aansprakelijkheid. Het eerste is een procedurele kwestie, het tweede een kwestie van substantieel recht. Immuniteit mag een tijdelijke procedurele barrière zijn voor vervolging van bepaalde delicten, maar het ontslaat de persoon in kwestie niet van elke aansprakelijkheid. Volgens het Hof genoot de Kongolese Minister op het moment van het arrestatiebevel immuniteit en onschendbaarheid onder internationaal recht. België schond dan ook deze regel van het internationale gewoonterecht tegenover

BULLETIN NR. 1 BY THE INTERNATIONAL LAWYERS GROUP OF THE ICDSM

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12 FEBRUARY 2002-APPEAL TO THE SERBIAN PEOPLE

DON'T LET MISLEAD YOURSELF ANY LONGER !

DON'T LET TRAMPLE YOUR NATIONAL SOVEREIGNTY AND DIGNITY ANY LONGER BY THOSE TRIBUNAL GUYS, THIS NATO-CONTINUATION, UNDER COMPLETELY FALSE LEGAL PRETEXTS !

DON'T BELIEVE A WORLD ANY LONGER ABOUT THE SO-CALLED LEGAL OBLIGATIONS FOR SERBIA TO COMPLY WITH THE DEMANDS BY THE TRIBUNAL TO HAND OUT YUGOSLAV LEADERS !

THIS ARE ALL DAMNED LIES !

SUCH LEGAL OBLIGATIONS DON'T EXIST AT ALL !

AND WHAT IS MORE: THE PUPPET-TRIBUNAL KNOWS THIS VERY WELL.

THIS IS SIMPLY TO PROOF, VERY SIMPLE !

WE WILL DO THIS RIGHT NOW, HERE BELOW !

But first of all this.

We are not talking here about the political character of the pressure, put upon the Serbian and Yugoslav government by

NATO's countries, to extradite Yugoslav and Serbian political leaders.
This blunt from day-to-day political pressure is, of course, a political fact !
Clear to everbody !

This enormous political pressure is, as such, a severe and direct violation of the principles of non-intervention, as formulated many a time in international law.

So this brazenly policy of intervention is purely a crime against international law.
A crime against international law, committed on a day-to-day basis by NATO's countries.

A crime against international law.

UNLESS THERE MIGHT EXIST LEGAL GROUNDS, WHICH COULD JUSTIFY SUCH A POLITICAL PRESSURE.

HOWEVER, SUCH LEGAL GROUNDS DO NOT EXIST.

The Serbian and Yugoslav government know that.

They prostitute, from day to day, the Serbian and Yugoslav honour to NATO.
They humiliate, from day to day, the Serbian and Yugoslav people and its dignity, in order to save their own political lifes.

NATO's countries know that.

However, they want to take revenge on Yugoslavia and Serbia, for the challenge of NATO in 1999.
And the whole world has to know: there is a severe penalty on challenging NATO.

The puppet-tribunal knows that.

However, they pronounce only their master's voice.

THIS IS WHAT THE TRIBUNAL'S NATO-QUISLINGS ARE SAYING IN PUBLIC:

Like the tribunal's chief, Claude Jorda has stated in his address to the UN General Assembly on 26 November 2001, with respect to this issue:

> "The arrest and transfer of Slobodan Milosevic to the Hague last June attests to the resolve of the authorities of Serbia to comply with its international obligations

arising out of Security Council resolution 827 and Article 29 of the Statute of the International Tribunal."

AND THIS IS WHAT THE TRIBUNAL'S NATO-QUISLINGS ARE FORCED TO SAY IN LEGAL PRONOUNCEMENTS:

Like it is stated in the 'Decision on preliminary motions' in the Milosevic-case, dated 8 November 2001:

"51. In the 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."

SO **IN THE CONTEXTS OF LEGAL PROCEEDINGS** finally the truth comes out and what is called in public a legal obligation, turns out to be nothing else than something that is, even by the puppet-tribunal itself, hardly to uphold as 'not as such an egregious violation of [human rights]'!

You can read it yourself in the tribunal's website !

So how different is the tune of that same tribunal, standing in the need to give in courtroom a turn to this illegal practises !

IN PUBLIC it is hold by the tribunal's quislings that there is a clear and present legal obligation for Serbia and the Serbian government to co-operate fully with the tribunal's demands on extradition.

By this deliberate false interpretation of obligations according to international law completely turning around this unlawful and arbitrarely way of acting into an action, not only lawful but even compulsory for Serbia.

However, there is - even within the false assumption that the tribunal's word is law - no legitimation for such an action at all.

Because Serbia is not a member of the United Nations and it had no obligation at all to implement orders by the tribunal.

Moreover, according to domestic law, this is something that only the federal government had the right to decide about.
By the federal organs through appropriate procedures.

So in terms of the domestic legal order and constitution this conduct was completely arbitrarily and purely kidnapping.

And finally also the arrest warrants with regard to Mr. Milosevic, issued by the tribunal dated 24 May 1999 and 22 January 2001, were not directed at all to the Serbian authorities, but to the Federal Republic of Yugoslavia.

So there was not any legal obligation at all for the Serbian governmemt to lend a helping hand to the tribunal, neither from the point of view of domestic law, nor from the position of international law.

On the contrary, by acting on the way like certain elements from the Serbian goverment actually have done - and still do - , they gravely violated - and continue to violate - the domestic legal order.

It is the president of the so-called tribunal Jorda himself, who don't hesitate to spread, among the public and even amid the UN General Assembly, this deliberate misinterpretation of responsibilities and obligations with regard to compliance to Security Council orders.
Suggesting that it also should be Serbia, which had to fulfil legal obligations in this field.

Actually, it is impossible to hold that Serbia, after all not being an member state of the United Nations, has to comply with any pretended order of the so-called tribunal at all.
Even for the believers in the legality and legitimacy of this kangaro court !

So there is neither any obligation at all according to international law, on which ground Serbian governmental elements can legitimatize their breaches of the domestic legal and constitional order.
Nor can the tribunal invoke any such a ground, in order to legitimatize its instigation of those breaches of the Yugoslav legal order and of the domestic Rule of Law.

The only conclusion that reasonably can be drawn is that, by instigating certain elements of the Serbian government to participate in the joint operation in order to kidnap mr. Milosevic and to extract him out of Yugoslavia and out of the jurisdiction of the domestic Yugoslav courts, the tribunal has instigated these elements of the Serbian government to commit higly criminal activities.

The tribunal, making themselves by such actions the leader of a criminal organisation itself.

And the criminals in Serbian administration circles, in joint action with the criminals in the tribunal's circles, pursue such criminal goals continuously.
By joint efforts to get extradited also other so-called Serbian accused to the Hague.

Till this very day !

THESE CRIMINAL PRACTISES, INSTIGATED BY THE PUPPET-TRIBUNAL, MUST BE HALTED RIGHT NOW !

BULLETIN NR. 2 BY THE INTERNATIONAL LAWYERS GROUP OF THE ICDSM

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NOBODY REASONABLY CAN HAVE ANY DOUBT THAT THE PUPPET-TRIBUNAL HAS ALREADY SENTENCED MR. MILOSEVIC.

BY ITS DECISION, DATED 1 FEBRUARY 2002, TO GIVE IN TO THE PROSECUTOR'S APPEAL AGAINST A SEPARATE CONSIDERATION OF THE THREE INDICTMENTS, THE PUPPET-TRIBUNAL HAS EMPHASIZED ONCE AGAIN THAT THE ROPE IS ALREADY AROUND MR. MILOSEVIC' NECK.

FOR IT IS ONLY A POSITIVE PERCEPTION OF THE PROSECUTOR'S PATHOLOGICAL ACCUSATION THAT ALL ALLEGED CRIMES - IN KOSOVO, IN CROATIA, IN BOSNIA - CAME FROM THE SAME FOUNT, NAMELY THE SERBIAN INTENTIONS FOR A GREATER SERBIA, MASTERMINDED BY MR. MILOSEVIC, WHICH COULD GIVE BIRTH TO THE TRIBUNAL'S DECISION TO GIVE UP THE ORIGINAL DECISION FOR A SEPARATE CONSIDERATION OF THOSE INDICTMENTS.

SO BY THIS DECISION THE TRIBUNAL'S QUISLING-JUDGES CAME ALREADY DEFINITIVELY OUT WITH THEIR SENTENCE, EVEN BEFORE THE TRIAL REALLY HAS STARTED !

THESE MENTALLY ILL HOKEY-POKEY, HOLDING THAT ALL MISERY IN THE FORMER YUGOLSLAVIA SPROUTED FROM THE BRAIN OF MR. MILOSEVIC, IS DIRECTLY DERIVED FROM THE UNITED STATES-BASED TRIBUNAL'S MASTERS, WHO ARE TO FIND IN THE BOSOM OF THE DEEPEST REACTIONARY CIRCLES OF THE AMERICAN POLITICS.
SWALLOWED BY A PERVERTED CASTE OF WESTERN MEDIA-REPPRESENTATIVES.

AS STATED BY JAMES G. JATRAS, ANALYST OF THE REPUBLICAN SENATE POLICY COMMITTEE, WHO WROTE ABOUT NATO'S ALICE-IN-WONDERLAND INTERPRETATION OF WHY YUGOSLAVIA HAD TE BE ATTACKED:

> "NATO'S VERSION OF REALITY WENT SOMETHING LIKE THIS. THE CRISIS IN KOSOVO IS SIMPLY THE LATEST EPISODE IN THE AGGRESSIVE DRIVE BY EXTREME SERBIAN NATIONALISM, ORCHESTRATED BY SLOBODAN MILOSEVIC, TO CREATE AN ETHNICALLY PURE GREATER SERBIAN STATE. THAT AGGRESSION, FIRST IN SLOVENIA, THEN IN CROATIA, AND THEN IN BOSNIA, FINALLY CAME TO KOSOVO, LARGELY BECAUSE THE WEST - NOTABLY NATO - REFUSED TO STAND UP TO MILOSEVIC."
> (James Georges Jatras, NATO's Empty Victory, CATO Institute, Washington, 2000, p.p. 21-29)

IT IS NOT UP TO US IN THE FIRST PLACE TO REFUTE THIS DELIBERATE HISTORICAL NONSENSE, ONLY BROUGHT UP TO COVER UP THE FULL WESTERN RESPONSIBILITY FOR THE BALKANS TRAGEDY AND TO VEIL NATO'S FULL SCALE WAR OF AGGRESSION AGAINST YUGOSLAVIA. AFTER ALL, FOR THE EASY REVELATION OF THIS FALSIFICATION OF HISTORY WE CAN BETTER GIVE THE FLOOR TO THOSE WHO PLAYED THE LEADING PART IN THE DRAMA.
LIKE, FOR INSTANCE, LORD DAVID OWEN.
WHO WRITE AS FOLLOWS IN HIS BOOK:

'BALKAN ODYSSEY' by LORD DAVID OWEN

Against the puppet-tribunal's allegations that the JNA was purely an instrument in the hands of Milosevic, used for the expansion towards a Greater Serbia:_

pg 35:

"The main reason why Slovenia had an easy time fighting off the Yugoslav National Army in the ten-day war in 1991 was that the JNA were not allowed to fight. There was no territorial dispute between Slovenes and Serbs, because Slovenia consisted of more than 90 per cent Slovenes with their own language and there was no significant Serb minority. There are indications that the Slovenian leadership passed on to President Milosevic an offer for a deal under which Slovenia would stay neutral in the dispute between Serbs and Croats if it were allowed to secede from Yugoslavia."

Against the puppet-tribunal's pernicious suggestion that all what was happening was purely a matter of Serb strive for domination and misuse of power and had nothing to do with defense of minority rights:_

pg. 35:

"By contrast, in Croatia there were substantial areas where there had been Serb majorities for centuries. As Misha Glenny explains in "The Fall of Yugoslavia" (Penguin, 1992):

> "Following Tudjman's victory in the April elections, Milosevic was increasingly willing to raise the spectre of the right of all Serbs to live in a single state, should Tudjman attempt to take Croatia and its 600,000-strong Serbian minority out of Yugoslavia. (...) Every time Croatia and Slovenia pushed their claims for independence, Milosevic simply said that Croatia could go but without the regions where Serbs live."

Against the stupid and pernicious suggestion by the puppet-tribunal that it was completely normal that the former Yugoslavia was splitted up - and actually splitted along the lines of the Yugoslav states -, which were to be considered as in accordance with all standards of national and international law. Even in the sense that any resistance against this process was to be seen as a criminal act of aggression:

pg. 35:

"Amazingly, neither before, during or after the Serb-Croat war did EC mediation touch on these territorial questions: all that was offered was a level of autonomy for Serbs living within the republic of Croatia.
Map-making apparently was too sensitive an issue to contemplate. For the EC it was a question of either keeping Yugoslavia together or separating it into independent countries divided by the republican boundaries determined in most particulars in 1945. But what were these boundaries?"

Against the puppet-tribunal's false suggestion that Mr. Milosevic and the Bosnian leadership were nothing more than a sort of Siamese twin:

pg. 102:

"It was Milosevic who suggested over lunch the face-saving formula of merging the first two constitutional principles of the Co-Chairmen's draft (of the VOPP), without any substantive change. In the evening in the Hotel des Bergues the Serb facade of unity cracked and Vance and I witnessed late at night Cosic, Milosevic and the Montenegrin President, Bulatovic, turning on the Bosnian Serb leaders, who included General Mladic, demanding that they negotiate seriously. Splitting the Serbs was something we had to achieve, not for its own sake but because otherwise the Bosnian Serbs would remain totally intransigent, and that became the pattern for the future.
First we had to convince Belgrade. Without pressure from Serbia and Montenegro the Bosnian Serbs would never give an inch, for they were not pragmatists, like Milosevic, but ideologues, Serb nationalists (...)."

Against the fact, so carefully stashed away by the puppet-tribunal, that actually Serbia is the only remaining multi-ethnic state within the former Yugoslavia:

pg. 102:

"Too many commentators do not recognize that many Muslims live in Serbia and Montenegro, not just Albanians in Kosovo, but also in the Sandzak and elsewhere, and that Muslims and other nationalities trade and live in their big cities, particularly Belgrade. This is a big difference between Belgrade and Pale, for the Bosnian Serb leaders wanted their 'Republika Srpska' to be an independent state without any links to the Muslim parts of Bosnia-Herzegovina (..)."

Once again against the historical lies by the puppets that Bosnian Serbian Leadership and Mr. Milosevic should be perceived as about identical:

pg. 102:_

"After Milosevic had made it clear that Belgrade would not go on supporting the Bosnian Serb army and had ensured that General Mladic understood this, a tired, incoherent and somewhat broken Karadzic next day caved in at the eleventh hour. Karadzic explained to the press that he had proposed eight principles, the Co-Chairmen ten principles and they had they had settled for nine principles. But even so, he did not sign, insisting on taking even this issue back to Pale for the endorsement of his Assembly.
This small breakthrough did however sustain the Conference, for we had now achieved, on the three documents before the Conference, six of the nine signatures we needed.
The Croats had signed the constitutional principles, the map and the cessation of hostilities agreement. The Muslims had signed the constitutional principles and the cessation of hostilities. Another important aspect of this session was that Tudjman, Cosic and Milosevic had all been able to talk together and we hoped some progress had been made on mutual recognition and on cooperation in the Krajina."

Against the historical lie that Mr. Milosevic was ruthless striving for a greater Serbia, holding already in itself another misleading concept, namely that it should be considered a crime against international law - a kind of aggression ! - to work towards a new state, including parts of the former Yugoslavia with predominantly Serbian inhabitants, which is really dreadfull nonsense, from a legal point of view:__

pg. 153:

"The relief that we had seemingly broken through left us all a little light-headed and, as it turned out, over-confident. I had no doubt then, and have never doubted since, that it was the prospect of financial sanctions which Milosevic most feared: the chance of avoiding any further economic misery was too attractive domestically for him to go on humouring

Karadzic as he obstructed virtually any deal. As far as Milosevic was concerned, the Bosnian Serbs had protected all their vital interests and in that sense had won. That it was not Greater Serbia in terms of one country stretching from Belgrade to Banja Luka to Knin had not been vital for him since our meetings in Geneva in January. I do not believe he was particularly concerned by the talk of US military action, which continued to be rather unfocused, though it made the useful point that NATO's patience was running out; but so, fortunately, was Milosevic's with the Bosnian Serbs.
From this point, 25 April 1993, onwards Milosevic formally gave up Greater Serbia and argued for settlement on terms a majority in the Security Council could have accepted, and throughout the next two years he did not waver in seeking such a solution."

Where is the very source of the puppet-tribunal: the never ending demonization campaign against Mr. Milosevic and the Serbian people in the USA, in order to cover up the deadly western role in breaking up the former Yugoslavia:

pg. 153:

"Unfortunately, in the US the demonization of Milosevic had reached such a level that administration, Congress and media alike seemed unable to adjust to this new reality and kept talking about Milosevic being committed to a Greater Serbia."

pg. 291:

"Markovic is a professor at the Faculty of Natural Sciences and Mathematics of the University of Belgrade. A Marxist theorist, as is obvious from her words, she helped found the League of Communists Movement for Yugoslavia (SK-PJ) in 1990, which later became part of JUL (the Yugoslav United Left), and members of her party are increasingly in posts of influence where one might have expected to see members of Milosevic's own party. Before lunch while walking in the grounds with President Milosevic,I said to him that I had no difficulty in saying that he was not a racist but I could not convince people he was not a nationalist. He put up some arguments as to why he was not a nationalist but he could see that neither Debbie nor I found them convincing. When we returned to the house for lunch and were joined by him and his wife, she came straight to the point, saying: I gather from my husband that he has failed to convince you that he is not a nationalist. I will tell you why he is not. I would never have married or stayed married to him if he was a nationalist."

Against the stupid suggestion by the puppet-tribunal that the Serbian leadership was the only side in the civil war in Bosnia playing dirty games:

pg. 383:

"The duplicities of the war in Bosnia-Herzegovina have never been better illustrated than by a conversation between a Muslim commander and his Serb counterpart picked up by intercept radios during the Muslim-Croat war.
First they bargained over the price in Deutschmarks of Serb shells which the Muslims wanted to buy from the Serbs to fire on the Croats in Mostar. After a price was agreed and routes for the supply in lorries arranged, the Muslim commander was heard to come back and ask if the Serbs could for a little extra money fire the shells if they were given the cross-bearings. After a brief haggle on the number of extra Deutschmarks this would involve, the Serbs duly fired on the Croats, paid for by the Muslims. When Stoltenberg and I told President Milosevic about this on 12 November 1993 he was very angry and asked Karadzic in our presence whether this had happened.
Karadzic confirmed that it had, but said orders had been issued that it must not happen again."

Once again against the puppet-tribunal's stupid suggestion that Mr. Milosevic and the Bosnian Serbian leadership are about to be mutually exchangeable:

pg. 383:

"Only the US can chronicle any strategic thinking that lay behind the Washington Accords of March 1994 that brought about a Federation of Croats and Muslims within Bosnia-Herzegovina and also an agreement in principle for a Confederation between this new Federation and the Republic of Croatia.
The best account of how that relationship developed is to be found in The Death of Yugoslavia by Laura Silber and Allan Little. The immediate justification for the Accords was that they stopped the Croat-Muslim war, which is indubitable. Unfortunately, the Accords were increasingly perceived by the Bosnian Serbs and Croatian Serbs as an anti-Serb alliance.
Yet instead of making a hard-nosed political and military assessment of the strengths of the Muslims and Croats working together, the Serb leaders in Knin and Pale still refused to be serious about negotiating. Only Milosevic saw how the Washington Accords could be turned to the advantage of the Serbs. That is why he backed the Contact Group Plan in July 1994 but insisted that there must be similar confederal links with the FRY for the Bosnian Serbs. That is why he wanted an

economic cooperation agreement in Croatia, for he knew that the Serbs had to be encouraged to drop their demand for secession and to be given the confidence to live within Croatia. A high priority in 1994, if war was to be avoided in the Krajina in 1995, was to build quickly on an economic agreement in Croatia."

Once again the origin of the puppet-tribunal revealed: the never ending stupid demonization of the Serbian people and its leadership:

pg. 383:

"Yet there were key people in Washington and Bonn who still saw Milosevic as the fount of all evil and really did not want to have any negotiations with him at all. Some were so antagonistic that they were ready to contemplate bombing Serbia and Montenegro."

The desastrous outcome of these carefully cultivated anti-Serbian hatred and paranoia in terms of suffering of the peoples on the territory of the former Yugoslavia:

pg. 383:

"Another strand in the US administration was one that saw Milosevic as a strategic genius always three or four moves ahead of us on the chessboard of Balkan politics and who believed that nothing connected with him was as it seemed and that he was always playing according to the Greater Serbia game plan. On this view--which was in part shared by some in the EU, particularly in the Dutch and German governments--any apparent movement towards our position, as in April 1993 over the VOPP, was a foul plot from which we should steer clear. In the eyes of people who thought like this, to establish the ICFY Mission in Belgrade in September 1994 was to be hoodwinked from the outset. It would have been too tedious to chronicle here all the petty arguments we had to have, as Co-Chairmen, with Washington and later with Bonn, to sustain the ICFY Mission. The factual record is covered in our published reports as Co-Chairmen to the UN Secretary-General. The US administration seemed to operate in separate compartments, with a sanctions team that would not face up to the importance of the ICFY Mission for their Contact Group members negotiating strategy with Milosevic. The result was to prevent serious negotiations on the Contact Group Plan for over a year, during which the situation deteriorated sharply in both Bosnia-Herzegovina and Croatia."

The Serbs as the losers and the Tribunal's winners justice: the losers must hang:

pag. 387:

"The Victors in the Yugoslav wars of 1991-5 have been the Croats and President Tudjman. The losers have been the Croatian Serbs and their useless leader, Martic. Whether the Bosnian Muslims will let the Croatian ascendancy in Bosnia continue unchallenged is the big question. In the immediate circumstances they have little alternative, since Milosevic and Tudjman can prevent war continuing.
As to Milosevic (...). He appears to have rescued the Serbs from what they see as their fate, winning battles but losing the peace. He will gain a larger Serbia, but not the Greater Serbia of the nationalists' dreams."

The historical responsibility of the United States for deliberately prolonging the civil war in Bosnia and the task of the tribunal to distract the attention of this historical western crime:

pg. 387:

"I never considered Milosevic as being on our side when he supported the VOPP in April 1993, the Union of Three Republics in September 1993, the EU Action Plan in December 1993 or the Contact Group Plan in July 1994. It was just a case of his interests and ours coinciding for a period. But it is hard to gainsay his judgement of 9 August 1995: "Hundreds of thousands of people would have avoided the horrors of war if the Vance-Owen Plan had been accepted over two years ago.
Milosevic blamed the Bosnian Serb leadership, but leaders in Washington bear a heavy responsibility too for prolonging a war, with miserable consequences: as I predicted in May 1993, there is no honour left for any settlement."

BULLETIN NR. 3 BY THE INTERNATIONAL LAWYERS GROUP OF THE ICDSM

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ALL INDICTMENTS BY THE PUPPET-TRIBUNAL AGAINST MR. MILOSEVIC ARE BASED UPON ONE VERY IMPUDENT LIE.

NAMELY THE LIE THAT MR. MILOSEVIC WAS, IF NOT A SERBIAN RACIST, AT LEAST A CUNNING SERBIAN NATIONALIST, INTENDING TO CARRY THROUGH AN UTTERLY SERBIAN-NATIONALISTIC AGENDA IN THE FORMER YUGOSLAVIA.

THIS LIE SHORES UP THE WHOLE SYSTEM OF OTHER LIES, WHICH GIVE SHAPE TO THE FALSE INDICTMENTS BY THE QUISLING-TRIBUNAL.

WHEN THIS LIE WILL BE EXPOSED, THE WHOLE SYSTEM OF INDICTMENTS COLLAPSES LIKE A HOUSE OF CARDS.

NEVERTHELESS, SUCH A REFUTATION IS VERY SIMPLE.
FOR A QUISLING-TRIBUNAL IS NO SIDE FOR HISTORY !

LIKE IT IS ALREADY PUT INTO WORDS BY CO-MEMBER OF THE ICDSM JARED ISRAEL, ON HIS WEBSITE 'EMPEROR'S CLOTHES':

> "THIS RACE-HATE CHARGE IS THE KEY. BECAUSE IF MILOSEVIC HAD IN FACT ORGANIZED THE SERBS THE WAY HITLER ORGANIZED THE GERMANS, HE WOULD HAVE HAD TO DO IT PUBLICLY. YOU CAN'T PROMOTE HATRED WITHOUT PROMOTING HATRED.
> THEREFORE WE CAN CHECK THE ACCURACY OF THE ANTI-SERB, ANTI-MILOSEVIC CAMPAIGN BY READING WHAT MILOSEVIC WROTE. THAT IS, BY FIRST READING WHAT HE WROTE AND THEN, TO CHECK THE ACCURACY, READING WHAT POLITICIANS AND THE MEDIA SAY HE WROTE."

HERE COMES THE PUPPET-TRIBUNAL'S LIE, IN POINT 77 OF THE SO-CALLED SECOND AMENDED 'KOSOVO-INDICTMENT', THE VERSION OF 16 OCTOBER 2001, MENTIONING MR. MILOSEVIC GOING 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

nationalism in order to strengthen centralised rule in the SFRY."

THIS is the never ending smear campaign, even brought up in a sort of pseudo-courtroom, specifically created for this aim, and forwarded by NATO-accomplices dressed up for this purpose in robes.

And THIS is the full text of the famous speech, hold on the historical Blackbird-field in Kosovo Polje by Mr. Milosevic, in which he allegedly would have stirred up the Serbian nationalist passions.

Firstly in German, translated directly from the full text as published the day after the speech in the Belgrade daily 'Politika', by Dr. Donka Lange.
And published in the German magazine Konkret 8/2001.
This version is already annexed.

And secondly this speech is translated in English. By the BBC and by the U.S. government.
As soon as available one of these translations will be annexed too to this bulletin.

The German translation is entitled:

"DER NATIONALISMUS IST DAS SCHLIMMSTE PROBLEM"

And it is prefaced by the following remarks:

"Was Milosevic 1989 auf dem Amselfeld wirklich gesagt hat - und wie es in Deutschland verfälscht wird.

Zu den Propagandastandards für die Rechtfertigung des Kriegs gegen Jugoslawien gehört die Lüge über den grossserbischen Nationalismus, dessen Verwirklichung Slobodan Milosevic in einer Rede auf dem Amselfeld (Kosovo Polje) am 28. Juni 1989 annonciert habe.

So behauptete Rudolf Sharping auf dem SPD-Kriegsparteitag in April 1999: "1989 hat Milosevic auf dem Amselfeld eine Rede gehalten und ein ethnisch reines Grossserbien verkündet".

Zur gleichen Zeit schrieb 'der Spiegel': "Auf der 600-Jahr-Feier der Amselfeld-Schlacht hämmerte Milosevic 1989 Hunderttausenden geschichtsseligen Landsleuten ein, dass sie 'vor weiteren Kämpfen' stünden." (..)

Die Auslieferung des 'Schlächters' ('Bild', 'Hamburger Morgenpost' und andere über Milosevic) nach Den Haag just am 12. Jahrestag der Rede haben die deutschen Medien für eine Neuauflage dieser Behauptungen genutzt.

ARD und ZDF berichteten übereinstimmend, 'der Diktator' habe seine Landsleuten damals ein 'Grossserbien versrpochen' und in den folgenden zehn Jahren 'vier Kriege geführt, um dieses Versprechen einzulösen'.
'Mit dieser Rede mobilisierte Milosevic die serbische Nationalisten für die Kriege in Kroatien, Bosnien und im Kosovo', schrieb die 'Tageszeitung'.

Auch in der 'Frankfurter Rundschau' hiess es, Milosevic habe seine Auftritt genutzt, um 'Krieg als mögliches Mittel zur Erreichung der serbische Ziele anzukündigen'.

Das diese darstellungen nicht der Wahrheit entsprechen, kan man hier nachlesen: KONKRET veröffentlicht erstmals die angebliche Brandrede in voller Längte auf Deutsch.

Die Fassung der 'FAZ' vom Juni 1999 unterschlug wesentliche Passagen - diese werden im folgenden durch Kursivierung kenntlich gemacht - und enthielt insbesondere am Schluss einige tendenziöse Fehler.

And, as mentioned by Jared Israel on the 'Emperor's Clothes' website, the British Minister Cooke came with the following comment on that speech:

> "Milosevic used this important anniversary not to give a message of hope and reform. Instead, he threatened force to deal with Yugoslavia's internal political difficulties. Doing so thereby launched his personal agenda of power and ethnic hatred under the cloak of nationalism. All the peoples of the region have suffered grievously ever since."
> (http://www,fco.gov.uk/news/newstext.asp?2597)

Emperor's Clothes is adding:

"Isn that amazing ? The man simply, brazenly lies. But it works - it works because nobody - nobody ! - reading his words has ever seen the speech. It's not in books. We searched Lexis and found a BBC translation from 1989 and the Orlando Sentinel. When we first hunted for it, we didn't have Lexis, so it took days to find it on microfilm in the library.

If you had read Cooke without reading Milosevic, wouldn't you have thought,'Maybe Cooke is exaggerating but there must be some truth to it." But in fact it was just a lie told to justify the destruction of Yugoslavia. There are now a million refugees living in in Serbia, victims of that lie."

See annexes.

Declaration by the
INTERNATIONAL LAWYERS GROUP
of the ICDSM

12 FEBRUARY 2002-APPEAL TO THE SERBIAN PEOPLE

DON'T LET MISLEAD YOURSELF ANY LONGER !

DON'T LET TRAMPLE YOUR NATIONAL SOVEREIGNTY AND DIGNITY ANY LONGER BY THOSE TRIBUNAL GUYS, THIS NATO-CONTINUATION, UNDER COMPLETELY FALSE LEGAL PRETEXTS !

DON'T BELIEVE A WORLD ANY LONGER ABOUT THE SO-CALLED LEGAL OBLIGATIONS FOR SERBIA TO COMPLY WITH THE DEMANDS BY THE TRIBUNAL TO HAND OUT YUGOSLAV LEADERS !

THIS ARE ALL DAMNED LIES !

SUCH LEGAL OBLIGATIONS DON'T EXIST AT ALL !

AND WHAT IS MORE: THE PUPPET-TRIBUNAL KNOWS THIS VERY WELL.

THIS IS SIMPLY TO PROOF, VERY SIMPLE !

WE WILL DO THIS RIGHT NOW, HERE BELOW !

But first of all this.

We are not talking here about the political character of the pressure, put upon the Serbian and Yugoslav government by NATO's countries, to extradite Yugoslav and Serbian political leaders.
This blunt from day-to-day political pressure is, of course, a political fact !
Clear to everbody !

This enormous political pressure is, as such, a severe and direct violation of the principles of non-intervention, as formulated many a time in international law.

So this blunt policy of intervention is purely a crime against international law.
A crime against international law, committed on a day-to-day basis by NATO's countries.

A crime against international law.

UNLESS THERE MIGHT EXIST LEGAL GROUNDS, WHICH COULD JUSTIFY SUCH A POLITICAL PRESSURE.

HOWEVER, SUCH LEGAL GROUNDS DO NOT EXIST.

The Serbian and Yugoslav government know that.

They prostitute, from day to day, the Serbian and Yugoslav honour to NATO.
They humiliate, from day to day, the Serbian and Yugoslav people and its dignity, in order to save their own political lifes.

NATO's countries know that.

However, they want to take revenge on Yugoslavia and Serbia, for the challenge of NATO in 1999.
And the whole world has to know: there is a severe penalty on challenging NATO.

The puppet-tribunal knows that.

However, they pronounce only their master's voice.

THIS IS WHAT THE TRIBUNAL'S NATO-QUISLINGS ARE SAYING IN PUBLIC:

Like the tribunal's chief, Claude Jorda has stated in his address to the UN General Assembly on 26 November 2001, with respect to this issue:

> "The arrest and transfer of Slobodan Milosevic to the Hague last June attests to the resolve of the authorities of Serbia to comply with its international obligations arising out of Security Council resolution 827 and Article 29 of the Statute of the International Tribunal."

AND THIS IS WHAT THE TRIBUNAL'S NATO-QUISLINGS ARE FORCED TO SAY IN LEGAL PRONOUNCEMENTS:

Like it is stated in the 'Decision on preliminary motions' in the Milosevic-case, dated 8 November 2001:

> "51. In the 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."

IN PUBLIC it is hold by the tribunal's quislings that there is a clear and present legal obligation for Serbia and the Serbian government to co-operate fully with the tribunal's demands on extradition.

By this deliberate false interpretation of obligations according to international law completely turning around this unlawful and arbitrarely way of acting into an action, not only lawful but even compulsory for Serbia.

However, there is - even within the false assumption that the tribunal's word is law - no legitimation for such an action at all.

Because Serbia is not a member of the United Nations and it had no obligation at all to implement orders by the tribunal.

Moreover, according to domestic law, this was something that only the federal government had the right to decide about.
By the federal organs through appropriate procedures.

So in terms of the domestic legal order and constitution this conduct was completely arbitrarily and purely kidnapping.

And finally also the arrest warrants with regard to Mr. Milosevic, issued by the tribunal dated 24 May 1999 and 22 January 2001, were not directed at all to the Serbian authorities, but to the Federal Republic of Yugoslavia.

So there was not any legal obligation at all for the Serbian governmemt to lend a helping hand to the tribunal, neither from the point of view of domestic law, nor from the position of international law.

On the contrary, by acting on the way like certain elements from the Serbian goverment actually have done - and still do - , they gravely violated - and continue to violate - the domestic legal order.

It is the president of the so-called tribunal Jorda himself, who don't hesitate to spread, among the public and even amid the UN General Assembly, this deliberate misinterpretation of responsibilities and obligations with regard to compliance to Security Council orders.
Suggesting that it also should be Serbia, which had to fulfil legal obligations in this field.

IN THE CONTEXTS OF LEGAL PROCEEDINGS finally the truth comes out and what is called in public a legal obligation, turns out to be nothing else than something that is, even by the puppet-tribunal itself, hardly to uphold as 'not as such an egregious violation of [human rights]'!

You can read it yourself in the tribunal's website !

So how different is the tune of that same tribunal, standing in the need to give in courtroom a turn to this illegal practises !

Actually, it is impossible to hold that Serbia, after all not being an member state of the United Nations, has to comply with any pretended order of the so-called tribunal at all.
Even for the believers in the legality and legitimacy of this kangaro court !

So there is neither any obligation at all according to international law, on which ground Serbian governmental elements can legitimatize their breaches of the domestic legal and constitional order.
Nor can the tribunal invoke any such a ground, in order to legitimatize its instigation of those breaches on the Yugoslav legal order and of the domestic Rule of Law.

The only conclusion that reasonably can be drawn is that, by instigating certain elements of the Serbian government to participate in the joint operation in order to kidnap mr. Milosevic and to extract him out of Yugoslavia and out of the jurisdiction of the domestic Yugoslav courts, the tribunal has instigated this elements of the Serbian government to commit higly criminal activities.

The tribunal, making themselves by such actions the leader of a criminal organisation itself.

And the criminals in Serbian administration circles, in joint action with the criminals in the tribunal's circles, pursue such criminal goals continuously.
By joint efforts to get extradited also other so-called Serbian accused to the Hague.
Till this very day !

THESE CRIMINAL PRACTISES INSTIGATED BY THE PUPPET-TRIBUNAL,

MUST BE HALTED RIGHT NOW !

URGENT ! HAND OVER !

REQUEST WITH SUMMONS

To Mr. Claude Jorda
P.O. Box 13888
2501 EW the Hague

To Mr. Richard May
P.O. Box 13888
2501 EW the Hague

to Mr. Hans Holthuis
P.O. Box 13888
2501 EW the Hague

to Ms Carla Del Ponte
P.O. Box 13888
2501 EW the Hague 10 January 2002

Dear Sirs/Madam,

By letter, dated 30 october 2001, I wrote to you as regards Mr. Milosevic' human rights violations, inter alia:

> "Because there exists no definite dividing line between the prosecutor and the judiciary in the structure of the so-called tribunal and because as a consequence of this build up it is unclear who is finally responsible for the matters raised in this letter, I write this letter to all of you.
> Inspired by the newest invention of the prosecutor in the latest 'Croatian' indictment about joint commander responsibility in the framework of a 'joint criminal enterprise', I think I can consider the herewith relevant responsibilities with regard to the so-called tribunal also as 'a joint enterprise'."

With respect to this question Mr. Hans Holthuis, Registrar of the tribunal, responded by fax, dated 20 november 2001, inter alia:

> "I have been requested by President Jorda and Presiding Judge May to respond to your letter, since the matters you raise fall within the responsibility of the Registry."

Nevertheless, I have to stress that it is completely unacceptable that the preservation and safeguarding of human rights with resppest to your so-called tribunal might be settled exclusively on the level of the registrary of this tribunal, i.e. merely on the level of the tribunal's administration.

It definitely cannot be a matter to decide on this level.

Though I take note of the fact that it really is the stand of your tribunal that such an important question is to be dealt with on this level !

So I address again this request to all of you.

As you know, on 20 december 2001 there is now filed an provisional application on behalf of Mr. Milosevic to the European Court of Human Right with respect to human right violations he has to suffer.

This provisional application is, according to our client's orders, made and filed by the following lawyers:

Mr. N.M.P. Steijnen, Zeist, the Netherlands
Mr. Z. Tomanovic, Belgrade, Serbia, Federal Republic of Yugoslavia
Mr.Ch. Black, Richmond Hill, Ontario, Canada
Mr. D.M. Ognjanovic, Belgrade, Serbia, Federal Republic of Yugoslavia
Professor Mr. A. Tremblay, Montréal, Québec, Canada
Professor Mr. A. Bernardini, Rome, Italy
Professor Mr. M.N. Kouznetsov, Moskow, Federal Republic of Russia.

This provisional application being the basic document to implement further by our joint efforts.

During the past months your tribunal has been repeatedly warned by me that this embodiment was severely violating Mr. Milosevic' human rights by not allowing me - just like any of my collegues mentioned above - to correspond unmonitored with Mr. Milosevic and to have a free, unimpeded and unmonitored access to him.

I have been always very unambiguous and open to your tribunal with respect to my position concerning Mr. Milosevic.
So I have also repeatedly stressed to Mr. Rohde that I was ordered by mr. Milosevic to prepare, as his lawyer in a co-operation with other lawyers, proceedings instituted before the European Court of Human Rigts against the consistent and multiple human rights violations he has to suffer.

However, till this very moment never such a free and unmonitored communication with Mr. Milosevic, and such a free, unimpeded and unmonitored access to him, was allowed by your tribunal.
Neither to me, nor to any of my above mentioned collegues.

Though, as your tribunal has been always well aware that:

1. all of us are acting as legal advisers of his own choosing with respect to his illegal deprivation of freedom and his position with respect to the tribunal;

2. since the very first moment of his abduction and his detention into the Netherlands a number of us are moreover acting as his legal advisers and as attorneys representing him in various domestic legal proceedings, into the State of the Netherlands as well as in Yugoslavia;

3. already since several months we are also ordered by Mr. Milosevic to prepare as his lawyers the filing an application to the European Court of Human Rights.

All these assignments were to be considered by the tribunal as imperative to allow a free and unmonitored communication and access to our client.
However, your tribunal acted completely the opposite way and declared any access to Mr. Milosevic for us to be a goodness, never allowing either me, or any other lawyer, any confident communication or correspondence with our client.

A favour, only to be granted with complete arbitrariness by your tribunal.
Mr. Milosevic's legal advisers and his appointed attorneys in domestic cases never being sure about getting access to him or not.

Like Mr. Jorda wrote me, by letter dated 21 August 2001 in response to my demand to get a sure and confident communication with my client in order to prepare Mr. Milosevic' case against the State of the Netherlands:

> "I wish to inform you that the rights of the detainees to receive visits fall within the (..) Rules 60 to 66 of the Rules of Detention."

This section of the so-called Rules regulates the communication with friends and other non-privileged visitors.
So the message is plain: all legal advisers and attorneys representing Mr. Milosevic in domestic legal proceedings are dependent of the whims of the tribunal's administration to get communication with him or not.

And when communication may be allowed, it is a very limited one in time and a monitored one.

And at the same time we have no other choice than to put up with all kinds of harassments by your so-called tribunal.

Like for instance experience by me, when I was scheduled for a visit to Mr. Milosevic on 22 November 2001.

According to the arrangement with the registrary I was scheduled on 14.00 h.
But arriving on that time I was told by the desk officials that I was not on the visitors list at all, so they couldn't let me in.

I took me hours to overcome these obstacles and finally there was only a quarter of an hour left to communicate with my client.

That same afternoon I had a talk with the commanding officer of the detention unit as well as with the commanding official of the registrary.

The first one told me that it was not his fault that I was absent on the visitors list, since the registrary had only mentioned on the visitors notification the date of my visit and not the time. He handed over to me the notification form in order to show this.

However, the commanding official of the registrary told me that this was nonsense, since there was never a exact point of time mentioned on this kind of notifications.

So neither anybody took any responsibility for this serious embarassment, nor I was able to hold someone responsible for this.

And then the experiences of my collegue Mr. Black with your so-called tribunal.

By letter dated 16 october 2001 my collegue was banned from any further communication with Mr. Milosevic by the legal officer of the registrary, since an interview with Mr. Milosevic was published in a German magazine and since:

> "It appears that this interview covers most, if not all, of the questions you personally asked Milosevic in a recent telephone conversation dated October3, 2001.
>
> Originally, when you requested permission for the above-mentioned communication, both you and Milosevic indicated the purpose to be for legal advising. However, based upon the record of the conversation, it did not concern any legal advice.
>
> This appears to be the accused's second violation of the Detention Rules. He has been previously warned that a further breach of the Detention Rules can result in a total withdrawal of his communication privileges. As for you, Mr. Black, this is also the second time you have violated the Rules of Detention. As a reminder, the first time, you removed documents from the detention facility without following the proper procedure.
>
> As a result of this Detention Rule breach, your privilege to communicate with the detainee is hereby withdrawn. No further communication with the the accused will be permitted untill further notice."

So my collegue Mr. Black was completely banned by your tribunal, as the umpteenth variant cooked up by your tribunal in

order to isolate Mr. Milosevic as much as possible from his legal advisers and his lawyers in domestic proceedings.

This policy culminated in the general expulsion of all legal advisers of Mr. Milosevic of his own choice and in the assignment by your tribunal of two 'official legal advisers', Mr. Clark and Mr. Livingston.

This manoeuvre was undertaken by your tribunal, being fully aware of the fact that this procedure would be completely unacceptable.
Not only for Mr. Milosevic himself, but also for the appointed 'legal advisers', assigned without any further consultation by your tribunal and without even have been asked for their consent.

So it was quite predictable for your tribunal that this move would end up into a state that, Mr. Milosevic and the persons concerned strongly rejecting this manoeuvre, our client would be stripped of all legal advisers.
Exactly as was aimed by your so-called tribunal, in its continuous aspiration to isolate Mr. Milosevic as much as possible from any legal advise.

And this highly predictable outcome came trough by the fulfilment of the rejection by Mr. Milosevic and by the persons concerned.
Mr. Ramsey Clark wrote in his letter to Mr. May of your so-called tribunal, dated 17 November 2001:

> "I have received a copy of your order dated November 15, 2001 in which I deemed to be a legal advisers to President Milosevic.
>
> I am not able to accept this designation because it is clear that President Milosevic has not himself deemed me to be his legal advisor.
>
> You note that President Milosevic has stated that he does not intend to appoint counsel "and, to date, has not designated any legal advisor", and continue by noting that on 26 October 2001 he requested the Registry to permit him to meet with me and John Livingston.
>
> You fail to note President Milosevic had requested meetings with a number of other lawyers and again has not designated any legal adviser.
>
> President Milosevic has a right not only under the rules of the tribunal, but a fundamental and universal right in international law and the laws if nearly all nations "..to communicate with counsel of his choosing."
>
> The Registrar has effectively frustrated that right since President Milosevic was illegally surendered to the ICTY.

Lawyers have spent weeks in the Hague waiting to see President Milosevic at his request without success.

With a single exeption, none have been free to communicate with President Milosevic with the essential guaranteed protection that the communication is confidential.

That exception was by your intervention with the Registrar on 27 July 2001 in which you recommended to the registrar that I "be allowed to visit the accused for a reasonable time as requested, for legal consultation with the right of confidentiality."
Thereafter I met with President Milosevic with an assurance of confidentiality.

Following that meeting and pursuant to it I transmitted legal materials for him to consider in his defense.
The Registrar withheld these materials from President Milosevic to the last day before a status conference (..).
Incredibly, the Registrar then opened the package of legal materials I had sent President Milosevic which were clearly marked as confidential attorney materials to be opened only in the presence of President Milosevic and claimed the earlier recognition of the right to confidentiality was only temporary and had expired.

This was an incredibly arrogant violation of the right to counsel accomplished by deception.

On October 11, 2001 and November 2, 2001, I came to the Netherlands and not "at the expense of the International Tribunal" as your order stipulates, having requested the right to meet with President Milosevic, and was rejected.

These two occasions are minor compared with efforts of other lawyers.

The Tribunal through the acts of the registrar has systematically violated President Milosevic right to communicate with counsel of his choice for five months.
(...)
I urge the tribunal to act immediately to protect the rights of President Milosevic to communicate freely with counsel of his own choosing.

His ability to prepare his defense has been severely damaged by the tactics of the registrar designed to violate his rights and damage his defense."

So this confirms the earlier conclusion that, as it was deliberately aimed by your tribunal, the highly predictable outcome of this manoeuvre has been that all legal advisers are now definitively withheld from Mr. Milosevic.

Not only in the contact with his legal advisers but even in the communication between Mr. Milosevic and his attorneys

representing him in his domestic legal proceedings, from the beginning the exchange of documents was completely prohibited by your embodiment.

This ban forms the final piece to make any defence in whatever legal proceedings Mr. Milosevic is concerned impossible.
Penal proceedings undertaken against him in his home country Yugoslavia as well as legal proceedings undertaken by himself here in the Netherlands alike.

For how can anybody build up a decent defence in whatever case under such conditions ?

By letter, dated 30 October 2001 to your embodiment, I mentioned that I, driven to the wall by your deliberate policy of isolating Mr. Milosevic from all his attorneys and legal advisers in no matter what kind of legal proceedings, have tried to open up, as a last resort, a direct communication line with my client by post.

I brought forward that I wrote Mr. Milosevic letters by registered mail on September 18, September 24, October 2 and October 18, of which letters he never received both the first ones, the very first with a great number of annexes.
And that both the last ones he got only **after** I had made know my intention to visit my client to your tribunal's functionaries.

I wrote you in this letter of 30 October 2001 regarding this point of the disappearance of my legal documents:

> "So I strongly protest against this new appaling interference by the tribunal's administration with my client's basic right on a decent defence and against this pernicious attempt even to deprive him of the last possibility to have a regular contact with his lawyer, in order to prepare his defence in the appeal-case against the State of the Netherlands."

There was no response at all by your tribunal on my demand to investigate seriously the disappearance of my letters send by registered mail to Mr. Milosevic.

And further I wrote in this letter:

> "During my visit tot Mr. Milosevic I was also confronted with an explicit injunction to hand over any document of paper whatsoever.
> Can you tell me how it would be possible to prepare a defence in whatsoever case without enabling the detainee and his lawyer to exchange papers and documents ?
>
> It is impossible to interpret this prohibition as something else than a deliberate final blow in order to obstruct a decent defence for mr. Milosevic against the

Netherlands, in which case also the legitimacy of the so-called tribunal is involved.

I am simply dumbfounded by the fact that my collegue Mr. Ch. Black now has been blacklisted by the tribunal's officials and is not permitted any further communication with Mr. Milosevic, as he is accused of 'discussing world events' with him, which comments later appeared in a Berlin magazine.
What an extremely bold sample of medieval inquisition methods this ban represents !

Mr. Black, who is consistently submitted to the same regime as I am, just like all other legal advisers, assigned by Mr. Milosevic."

Your tribunal, fully aware of its own absolute power and conscious to reign supreme over all people in its grasp beyond any control, also not deigned to respond seriously to this very serious complaints.

And restricted its answer to the comment that apparently I didn't know my place !
Threatening to incite the Dutch Bar against me.

After the succesful expulsion of all legal advisers, your tribunal has apparently decided to focus its attention on the definitive drive out of the attorneys representing him in domestic legal proceedings.
To start with me.

Since mid-December 2001 I have two times requested access to Mr. Milosevic as soon as possible.
Two times your tribunal told me that this request was under consideration.
However, till now your so-called tribunal left me without any further reaction.

So the last phase in the tribunal's tactics of isolating Mr. Milosevic of all his legal advisers has clearly come.

However, nota bene very well:
By these tactics of your tribunal, using all means in order to frustrate as much as possible any legal advise by lawyers of his own choosing, you also already have harmed irreparably Mr. Milosevic' basic right to prepare a proper defence as regards his indictments by your tribunal.

For it is clear to everybody that by this malicious conduct his ability to prepare his defense as regards your so-called indictments has been severely damaged.

This makes that you have forfeited also along this line every alleged right to sentence Mr. Milosevic.

Every day you continue on thise course, you make things even worse for yourself.

Already by letter dated 6 August 2001 I requested with summons a free and unimpeded contact with my client Mr. Milosevic, which was refused by the earlier mentioned letter from Mr. Jorda, dated 21 August 2001.

Again I demand the right to communicate and correspond freely and unmonitored with Mr. Milosevic, for myself and for my collegue-lawyers, assigned to represent him in his case before the European Court.

This time also with reference to Article 3, para 1 and 2 (c) of the European Agreement relating to persons participating in proceedings of the European Commission and Court of Human Rights, stating:

> "1. The Contracting parties shall respect the right of the persons referred to in paragraph 1 of Article 1 of this Agreement to correspond freely with the Commisssion and the Court.

and:

> "2. As regards persons under detention, the exercise of this right shall in particular imply that:
> c. such persons shall have the right to correspond, and consult out of hearing of other persons, with a lawyer qualified to appear before the courts of the country where they are detained in regard to an application to the commission, or any proceedings resulting therefrom."

I request you to inform me of your assent to this request by fax or e-mail.

If you fail to inform me of your express assent to this request by 15 January 2001, at the latest, I will assume that you apparently want to interfere again with our client's right to free and unimpeded contact with his lawyers, representing him in this specific legal actions before the European Court of Human Rights and that you also want to place obstacles in our client's way in this respect.

In that case, I will, without any further summons and correspondence institute interim injunction proceeding against the ICTY on behalf of our client before the President of the District Court in the Hague.

This in order to force your institution to respect this funadamental human right of our client.

For the time being, however, we assume that such legal action from our part will not be necessary.

yours sincerely

Mr. N.M.P. Steijnen

15 pla 2001

STRATEGIC SUGGESTIONS BY THE DUTCH ICDSM-BRANCH

I. With respect to the length of the ICTY-process

I.1. An application to the Human Rights Committe in Geneva, mainly based upon Article 9, par 3 International Covenant on Civil and Policial Rights (ICCPR), reading:

> "It shall not be the general rule that persons awaiting trial shaal be detained in custudy, but release may be subjected to guarantees to appear for trial."

This is definitly the human rights provision, which comes the most close to the situation.

I.2 Sueing the ICTY itself before the Dutch court. Formally it is possible to do that; will be certainly be lost, such a court-case, but gives a lot of publicity.

II. With respect to defence in the ICTY-trial

II.1 To claim at the tribunal the assignment of **own** amici curiae, recognizing pro forma the tribunal, as already suggested by the Belgrade professors.
These 'shadow'-amici curiae could claim the right to perform, with consent of the accused, certain counsel-tasks.
Like for instance expert testimonies, to do the cross-examinations.
(now the court's amici curiae are gonna do this !)

II.2. Assign counsels for the ICTY-trial, but counsels who don't recognize the ICTY. Because it is nowhere in the Human Rights Treaties that the free choice of lawyers is restricted to lawyers who recognise the legitimacy and legality of the court. And are formally accepted by the ICTY.
So the problem, which arise from that 'that's their problem'.

If they refuse to give the lawyers of your choice access to the court, we can sue the court for that.

III. With respect to the European Court procedure

Application is filed now.
Additional applications are announced.

We can postpone the consideration of the case by the European Court as long as we want, til the moment we can strategically use this procedure.

This can be **paralllel to** the ICTY-trial.
In order to put pressure on this trial.

This can also be after the ICTY-trial.
To have a chaeck of the legitimacy.

Anyhow, we can seek publicity with this application on the eve of the beginning of the ICTY-trial.

van holst en steijnen

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Sent: donderdag 13 december 2001 14:09
Subject: Hartman

Kommentar

Klaus Hartmann

Das Kriegsfemegericht tagt

Zum Prozeß gegen Slobodan Milosevic in Den Haag

Am Dienstag wechselten in den Berichten von CNN, BBC, Euronews und anderen Nachrichtensendern ständig die Kriegsschauplätze: Von den Tausenden Leichen in Kandahar als Ergebnis der US-Bombardements zu den von israelischen Kampfhubschraubern getöteten palästinensischen Kindern, dann in den Saal des »Tribunals« in Den Haag, wo die Verfolgungsbehörde Slobodan Milosevic des Völkermords anklagt, und zurück nach Tora Bora, wo US-Flugzeuge weiterhin sieben Tonnen schwere Bomben abwerfen.

Die Ereignisse haben mehr miteinander zu tun, als daß sie nur wegen ihrer Gleichzeitigkeit zu einem militärischen Potpourri gemixt werden. Ihr Zusammenhang besteht darin, daß die USA, ihre Klientelstaaten und die NATO unter Bruch der UN-Charta Kriege führen, Terrorakte gegen die Zivilbevölkerung und schwerste Kriegsverbrechen begehen und dabei keine Strafe fürchten müssen. Zugleich können sie unter abermaligem Bruch der UN-Charta Sondertribunale kreieren, um ausgewählte Gegner zu kriminalisieren, Regierungen zu stürzen und Staaten zu zerstören. Das »Verbrechen »von Slobodan Milosevic besteht darin, dem von Washington seit 1988 verfolgten Plan der Zerschlagung Jugoslawiens ebenso Widerstand geleistet zu haben, wie der NATO-Aggression 1999. Demjenigen, der die Erhaltung Jugoslawiens und gleiche Rechte für alle Bürger verteidigte, der sich der Zerstückelung eines multiethnischen Bundesstaates in ethnische Kleinstaaten widersetzte, wirft die »Anklage« wahrheitsverdrehend vor, ein »Großserbien« angestrebt zu haben. Der Vorwurf der Teilnahme an einem »gemeinsamen kriminellen Unternehmen« fällt voll auf das Haager Femegericht und seine Auftraggeber zurück.

Slobodan Milosevic nannte die von Carla del Ponte fabrizierte Anklage treffend einen »tragischen Text von höchster Absurdität. Mir sollte Anerkennung gezollt werden, daß ich Frieden, nicht aber Krieg für Bosnien-Herzegowina gebracht habe. Die Verantwortung für den Krieg in Bosnien tragen jene Mächte und ihre Agenten in Jugoslawien, die Jugoslawien zerstört haben, aber nicht das serbische Volk oder serbische Politiker«. Der Schauprozeß in Den Haag soll auch vergessen lassen, daß Truppen des CIA-Söldners Osama bin Laden und andere islamistische Terroristen seinerzeit in Bosnien mit US-Unterstützung für die Balkanisierung Jugoslawiens kämpften, um einen islamistischen Staat mit minderen Rechten für die 40-Prozent-»Minderheit« der Serben zu erschaffen. Die Öffentlichkeit soll sich daran gewöhnen, daß für dieselben Weltherrschaftsinteressen der USA und ihrer Verbündeten, für die Jugoslawien zerschlagen wurde, heute unter dem Vorwand des Krieges »gegen Terror« eine ständige westliche Militärpräsenz in Zentralasien installiert wird.

* Klaus Hartmann ist Sprecher der deutschen Sektion des Internationalen Komitees für die Verteidigung von Slobodan Milosevic
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