

VIEW FROM THE HAGUE

INDICTMENTS AGAINST GENERALS ČERMAK AND MARKAČ

In August 1995, Croatian forces conducted a military campaign in the Krajina region of Croatia under the name Operation Storm. During, and in the aftermath of this campaign, many Serb residents were murdered while many more fled the area as their houses and property were destroyed. Thousands of Krajina Serbs are still living as refugees in Bosnia and Herzegovina and Serbia. Last week, the International Criminal Tribunal for the former Yugoslavia issued two indictments in relation to these crimes.

These indictments - the most serious yet against Croatian officers – allege that Ivan Čermak, Mladen Markač, as well as Ante Gotovina, and others, including the late Croatian President Franjo Tuđman, participated in a joint criminal enterprise, the common purpose of which was the forcible and permanent removal of the Serb population from the Krajina region of Croatia.

The indictments charge the retired Generals Ivan Čermak and Mladen Markač with involvement in persecuting the Serbian population. It also charges them with involvement in plundering, damaging or outright destruction of property belonging to the Serb population, in order to discourage or prevent Serbs from being able to return to their homes. It further charges them with deporting or forcibly displacing tens of thousands of Krajina Serbs to Bosnia and Herzegovina and Serbia, murdering at least 150 Krajina Serbs, as well as other inhumane, humiliating and degrading acts such as beatings and assault. The indictment charges them with planning, instigating, ordering, committing or otherwise aiding and abetting in the planning, preparation or execution of these crimes.

The prosecution asserts that during Operation Storm and its aftermath, Croatian forces attacked and took control of towns, villages and hamlets in the southern portion of the Krajina region. Pursuant to the orders of each of the accused, Generals Čermak and Markač, Croatian forces carried out the persecutions, plunder of property and deportation and forced displacement of the local Serb population. According to the indictment, by their acts and omissions, each of the accused thereby encouraged others, including Croatian civilians, to also perpetrate those acts. Further, both the accused had a duty to restore and ensure public order and safety and failed to fulfil this duty.

The indictment describes the position and authority of each of the accused. As the Commander of the Knin Garrison, and pursuant to the authority conferred on him by President Tuđman, to whom he was directly responsible, Ivan Čermak exercised de jure and/or de facto control over some of the Croatian forces participating in Operation Storm and in its aftermath. In particular, Ivan Čermak exercised effective control over the units of the Republic of Croatia Ministry of Internal Affairs (RH MUP), and over some elements of the Croatian Army (HV) including the Military Police and the civil administration. The indictment alleges that Ivan Čermak exercised territorial control over significant areas in which the crimes alleged in this indictment were committed.

As for Mladen Markač, the indictment alleges that as Commander of the Special Police of the RH MUP he deployed, issued orders to and otherwise controlled the Special Police forces both during and after Operation Storm.

The indictment states that Ivan Čermak and Mladen Markač had the power, authority and responsibility to prevent or punish serious violations of international humanitarian law committed by Croatian forces during and after Operation Storm. Each accused knew, or had reason to know, that all crimes alleged within the indictment were about to be committed or had been committed by their subordinates and they failed to take necessary and reasonable measures to prevent acts or to punish the perpetrators thereof. That means that each of the accused is also indicted for what is commonly referred to as 'command responsibility'.

On 12 March 2004, soon after their indictment was unsealed, Generals Čermak and Markač voluntarily surrendered to the Tribunal. Once their trial begins, the victims of the crimes with which they are charged will be able to tell their story. It will then be up to the media in Serbia and Montenegro to afford the victims at least as much space as it has afforded to discussion of the trial against Slobodan Milošević, and the indictment against Nebojša Pavković, Vladimir Lazarević, Sreten Lukić and Vlastimir Djordjević.