

## Press Release . Communiqué de presse

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International  
Criminal Tribunal  
for the Former  
Yugoslavia

Tribunal Pénal  
International pour  
l'ex-Yougoslavie

### BLAŠKIĆ INDICTMENT AMENDED FOR THE 2nd TIME AND ONCE MORE CHALLENGED

Pursuant to a Decision on a Defence Motion challenging the form of the indictment, rendered by Trial Chamber I on 4 April 1997, the Prosecutor submitted on 25 April a **second amended indictment** against the accused General BLAŠKIĆ.

In its decision, Trial Chamber I presided over by Judge JORDA, had ordered the Prosecutor to further specify the amended indictment against General BLAŠKIĆ.

The second amended indictment contains more specific allegations as to the scope of General BLAŠKIĆ's alleged culpability in both temporal and geographical terms, as well as more specific allegations with regard to the type of responsibility he is charged with. The amended indictment also charges the defendant with one additional count (count 2, devastation not justified by military necessity).

On 2 May 1997, the Defence filed a Request for enforcement of the Trial Chamber's Order of 4 April 1997, challenging the second amended indictment submitted by the Prosecutor.

### BACKGROUND

A first amended indictment against General BLAŠKIĆ, previously indicted with five others (Dario KORDIĆ, Mario ČERKEZ, Ivan SANTIĆ, Pero SKOPLJAK and Zlatko ALEKSOVSKI) was confirmed by Judge McDonald on 22 November 1996. (see PR 135).

According to the indictment, Tihomir BLAŠKIĆ, born on 2 November 1960, held the rank of Colonel in the HVO (Croatian Defence Council), before being promoted to the rank of General, on or about 5 August 1994, and appointed commander of the HVO, with its headquarters in Mostar.

The defendant allegedly "*committed serious violations of international humanitarian law against Bosnian Muslims*" in the Lasva Valley area (Central Bosnia). He is charged with grave breaches of the Geneva Conventions, violations of the laws or customs of war, and crimes against humanity.

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## NEW ELEMENTS IN THE SECOND AMENDED INDICTMENT

### Time and place of the alleged events:

Regarding the **time** of the alleged events, the amended indictment narrows the time span to the period from “*May 1992 to January 1994*” (previously “*from about May 1992 to about April 1994*”).

The **location** of the alleged events are more specifically stated and include the municipalities of Vareš, Žepče, Duvno, Stolac, Mostar, Jablanica, Prozor, Čapljina, Gornji Vakuf, Novi Travnik, Travnik, Kreševo, and Fojnica, besides Vitez, Busovača, Kiseljak and Zenica already stated. Expressions such as “*including but not limited to*” and “*among others*” have been removed.

Counts relating to unlawful attacks on civilians and civilian objects (now counts 3 and 4), to the destruction of institutions dedicated to religion or education (now distinguished as count 14), and to the taking of hostages (now counts 17 and 18) have been further specified pursuant to the Decision of Trial Chamber I.

### The accused’s criminal responsibility:

Regarding the **role of the accused** in the alleged events, references to Article 7.1 (direct command responsibility) and Article 7.3 (indirect command responsibility) of the Statute are now contained in every charge, whereas previously the legal basis for the accused’s criminal responsibility was set out as part of the “*General allegations*”.

Pursuant to Article 7.1, the accused is alleged, to be individually responsible for the planning, instigating, ordering, committing, or otherwise aiding and abetting in the planning, preparation and execution of the crimes referred to in the indictment.

And, or in the alternative, pursuant to Article 7.3, the accused is also alleged to be responsible as a superior for the acts of his subordinates. Namely, he knew or had reason to know that his subordinates were about to commit crimes or had done so and failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators.

## THE ALLEGED CRIMES AND THE CHARGES

The accused is charged with the following **20 counts** for the crimes referred to in the indictment (3 crimes against humanity, 11 violations of the laws or customs of war, and 6 graves breaches):

- **persecution of Bosnian Muslim civilians on political, racial, or religious grounds** through attacks on cities, towns and villages; killing and causing serious injury; destruction and plunder of property; inhuman treatment of civilians, forcible transfer of civilians (now distinguished as a separate means of persecution): count 1.

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- **unlawful attacks on civilians and civilian objects**, including wanton destruction not justified by military necessity (new count 2, violation of the laws or customs of war): counts 2-4. The amended indictment contains in counts 3 and 4 a new reference to customary law and the Additional Protocols to the Geneva Conventions.
- **wilful killing and causing serious injury, both physically and mentally, to civilians**: counts 5 to 10.
- **destruction and plunder of property** of Bosnian Muslim dwellings, buildings, businesses, civilian personal property, and livestock. The place and time of these alleged events are now stated more specifically: counts 11 to 13.
- **destruction of institutions dedicated to religion or education**: now specific count 14 (violation of the laws or customs of war).
- **inhumane treatment of Bosnian Muslim detainees**, including forcing them to dig trenches; the **taking of hostages** “to halt Bosnian military operations against the HVO” and the **use of human shields** “in order to prevent the Bosnian Army from firing on HVO positions or to force Bosnian Muslim combatants to surrender”: counts 15 to 20.

### THE DEFENCE MOTION CHALLENGING THE SECOND AMENDED INDICTMENT

In its request, the Defence counsel of General BLAŠKIĆ submits that the second amended indictment “*fails to comport with the Trial Chamber’s Order in several significant respects, and accordingly should be dismissed*”.

The Defence argues that:

1. “*The indictment fails to properly allege the accused’s role in the underlying conduct*”. According to it, “*the Prosecutor has failed to provide any additional factual allegations regarding the alleged role of the accused in the acts charged. (...) [She] has taken the boilerplate language contained in Paragraphs 5.6 and 5.7 of the First Amended Indictment (...) and inserted that language repeatedly throughout the indictment*”.

It is the Defence’s submission that this “*do nothing to provide the accused with the ‘factual indications’*” that the Trial Chamber ordered to precise. Consequently, “*[b]ecause the Prosecutor’s failure necessarily affects all counts of the Indictment, all counts are impermissibly vague and should be dismissed*”.

2. “*Count 14 [destruction of institutions dedicated to religion or education] of the Indictment fails to adequately allege a required element of the offence charged.*” According to the Defence, the Prosecutor “*has set forth a list of towns and villages in which she alleges such institutions were destroyed, but has failed to identify any specific buildings or institutions*”. Accordingly, the Defence stated that this count should be dismissed.

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3. *“The Prosecutor should not be afforded the opportunity to amend the indictment a fourth time.”* According to the Defence, *“it would be inappropriate and unjust to allow the Prosecutor to use her own failure to comply with the Trial Chamber’s Order as a means to obtain the indefinite delays she continues to seek in the trial of this case”*.

The Defence is of the opinion that *“the Prosecutor has no specific factual basis for her allegations that the accused ordered any crime, or that he knew of any crime before it occurred and failed to take steps to prevent such crime, or that he learned of any crime and failed to take steps to investigate and/or punish the offenders”*.

The Defence thus asks the Trial Chamber *“without additional briefing or arguments by the parties (...) to dismiss the indictment based upon the Prosecutor’s failure to comply with the Order”*. In the alternative, it requests the Trial Chamber *“to set a date for trial”*.

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*The text of the Second Amended Indictment against General BLAŠKIĆ and of the Defence Motion are available upon request from the Press and Information Office.*