

The Tribunal issues international arrest warrants against Mrksic, Radic and Sljivancanin and reprimands Belgrade for its refusal to co-operate.

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THE TRIBUNAL ISSUES INTERNATIONAL ARREST WARRANTS AGAINST MRKSIC, RADIC AND SLJIVANCANIN and REPRIMANDS BELGRADE FOR ITS REFUSAL TO CO-OPERATE

Trial Chamber I, presided over by Judge Claude Jorda, today unanimously reconfirmed all six counts of the indictment against Mile MRKSIC, Miroslav RADIC and Veselin SLJIVANCANIN and issued international warrants for their arrest to be sent to all States and, if necessary, to IFOR.

The Trial Chamber also noted and certified that the failure to effect service of the original arrest warrants is due to the Federal Republic of Yugoslavia's (FRY) refusal to co-operate with the Tribunal.

The Charges

Mile MRKSIC, Miroslav RADIC and Veselin SLJIVANCANIN are accused of having orchestrated the alleged massacre of 260 non-Serb men who were taken from Vukovar Hospital by the JNA on 20 November 1991 and who have not been seen since. They are believed to be buried in a mass grave nearby.

The three are charged with both INDIVIDUAL and COMMAND RESPONSIBILITY under Article 7(1) and (3) of the Statute respectively, for two counts of GRAVE BREACHES (wilfully causing great suffering and wilful killing, contrary to article 2(c) and 2 (a)); two counts of VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR (cruel treatment and murder, contrary to article 3); and two counts of CRIMES AGAINST HUMANITY (inhumane acts and murder, contrary to article 5(i) and 5(a)). The above charges are CUMULATIVE.

Confirmation of the Indictment

In order to ascertain whether there are sufficient grounds for believing that the accused committed the acts with which they are charged, Trial Chamber I examined the evidence which had been presented to the Judge who confirmed the original indictment on 7 November 1995. It also heard eleven witnesses during a public hearing held on the 20th, 26th, 27th and 28th of March 1996.

Based on this evidence, Trial Chamber I affirmed that on 20 November 1991, a group of about 300 **unarmed** and **non-Serb** men, were forcibly evacuated from Vukovar Hospital by the JNA and transported to the JNA barracks at Sajmiste. There, they were violently assaulted by both JNA and paramilitary soldiers, the latter of both Bosnian-Serb and Serb origin. Later, most of the men were taken to a hangar at Ovcara, where they were forced to run a gauntlet and were again violently beaten. Two men died in the hangar as a result of this attack.

Afterwards, the men were taken in small groups to a site at Grabovo, where it is believed they were shot and buried in a mass grave. Dr. Clyde Snow, who testified at the hearing, and a team of forensic scientists from the Boston-based Physicians for Human Rights, discovered a mass grave in October 1992 at a site identified by a witness who escaped during the transport. Dr. Snow estimated that it could contain up to 350 bodies. Evidence was presented which showed that executions had occurred at the site.

Based on this forensic evidence, on the evidence of expert witnesses and on the testimony of eye-witnesses, including three men who had been part of the group taken from Vukovar Hospital but who had managed to escape, **Trial Chamber I was able to establish a direct link between the events related and the existence of the mass grave.**

The Chamber considered that there is sufficient reason to believe that these murders and inhumane treatment were perpetrated by the Guard Brigade, under the command and control of Mile MRKSIC, Miroslav RADIC and Veselin SLJIVANCANIN. According to Trial Chamber I,

Colonel MRKSIC, who was the commander of the Guard Brigade for the Vukovar region, Captain RADIC, who was head of a special infantry unit of the Guard Brigade and Veselin SLJIVANCANIN, who was in charge of the direct operational command of the JNA forces in the immediate vicinity of Vukovar, were responsible for the acts for which they have been charged *"not only because of their position of authority but also because of their direct participation in the commission of those acts"*.

The Chamber also affirmed that it had been clearly established by the witness testimony that the accused had been present at either Vukovar Hospital or Ovcara farm when the alleged crimes took place.

Substantive Legal Findings

On the basis of the evidence it has seen so far, Trial Chamber I affirmed that there is sufficient evidence to believe that serious breaches of the laws and customs of war have been committed by the accused.

*** The Trial Chamber ruled that an international armed conflict was ongoing in Vukovar at the times of the alleged breaches.** It also found that **the alleged victims of the beatings and executions were protected persons** under Article 4 of the Fourth Geneva Convention, being wounded or uninjured civilians and wounded or uninjured members of the Croatian defence forces who had laid down their arms. It thus established its jurisdiction over grave breaches, under Article 2 of the Statute.

* The Trial Chamber found **that** *"the approximately 260 persons transferred from Vukovar Hospital were subjected intentionally to great suffering"*.

* The Chamber emphasised that *"the indictment submitted to it shows first and foremost that a crime against humanity was committed. The beatings and executions ascribed to the three accused indeed seem to have been perpetrated under circumstances which are characteristic of the crime against humanity"*. It held that *"although according to the terms of Article 5 (. . .), the combatants in the traditional sense of the term cannot be victims of a crime against humanity, this does not apply to individuals who, at one particular point in time, carried out acts of resistance"*.

The Failure of Belgrad to Co-operate

The Chamber found that *"the acts charged in the indictment submitted to it constitute only one aspect of a broader operation, including inter alia the shelling, the siege, the capture of Vukovar, the deaths and disappearances of individuals and the massive expulsions of the civilian population which followed. The evidence produced during the hearings, particularly the televised images which were shown, brought out the fact that the military and political responsibilities of the operation derive from very high level of authority"*.

Noting the promotion of both MRKSIC and SLJIVANCANIN by the Belgrade authorities and the Prosecutor's assertion that "when a Government gives refuge and support to criminals, in the eyes of the world, that Government then too becomes a criminal, and that is exactly what the Belgrade Government has done in this case," Trial Chamber I stressed that the failure to serve the warrants on the accused is due to the *"refusal of the Federal Republic of Yugoslavia to co-operate with the Tribunal,"* and concluded that the FRY *"has not honoured its obligation to co-operate as stipulated in Rule 59 (A) of the Rules of the Tribunal,"* and this fact should be certified and reported by the President to the Security Council.