C A S E I N F O R M A T I O N S H E E T

United Nations
Nations Unies

International Criminal Tribunal for the former Yugoslavia
Tribunal Pénal International pour l'ex-Yougoslavie

"RSK" (IT-03-72)

MILAN BABIĆ



MILAN BABIĆ — ***Convicted of persecutions on political, racial and religious grounds***



Between August 1991 and February 1992, acted first as Prime Minister/President of the government of the self-declared Serbian Autonomous Region (SAO) Krajina and then as President of the Republic of Serbian Krajina (RSK) in north-eastern Croatia

- Sentenced to **13 years' imprisonment**

Crimes convicted of (examples):

Persecutions on political, racial and religious grounds (crimes against humanity)

• Milan Babić knowingly and intentionally participated in a campaign of persecutions against non-Serbs; he was aware that crimes such as mistreatment in prisons, deportations, forcible transfer and the destruction of property were being committed.

• He knew that civilians were being killed in the course of the forcible removal of non-Serb civilians and that such killings were the likely outcome of the campaign of persecutions.

• He participated in the provision of financial, material, logistical, and political support for the military take-over of territories and requested the assistance or facilitated the participation of Yugoslav People's Army (JNA) in establishing and maintaining control of the territories.

• He made ethnically inflammatory speeches at public events and in the media and such propaganda helped the unleashing of violence against the Croat population and other non-Serbs.

• He encouraged and assisted in the acquisition of arms and their distribution to Serbs to further the campaign of persecutions.

Born	26 February 1956 in Kukar, municipality of Sinj, Croatia
Indictment	17 November 2003
Surrendered	26 November 2003
Transferred to ICTY	26 November 2003
Initial appearance	26 November 2003, did not enter a plea
Guilty plea	27 January 2004, pleaded guilty to persecutions
Trial Chamber sentencing judgement	29 June 2004, sentenced to 13 years' imprisonment
Appeals Chamber judgement	18 July 2005, sentence reaffirmed
Transferred to serve sentence	19 September 2005
	Committed suicide on 5 March 2006

STATISTICS

As the plea agreement was reached before the beginning of trial, no trial was necessary.

TRIAL CHAMBER SENTENCING JUDGEMENT	
29 June 2004	
Trial Chamber I	Judge Alphons Orie (presiding), Judge Amin El Mahdi, Judge Joaquín Martín Canivell
Counsel for the Prosecution	Hildegaard Uertz-Retzlaff, Alex Whiting, Sabine Bauer
Counsel for the Defence	Peter Michael Müller, Robert Fogelnest

APPEALS	
Appeals Chamber	Judge Florence Ndepele Mwachande Mumba (presiding), Judge Fausto Pocar, Judge Mohamed Shahabuddeen, Judge Mehmet Güney, Judge Wolfgang Schomburg
Counsel for the Prosecution	Mark J. McKeon, Xavier Tracol, Kristina Carey
Counsel for the Defence	Peter Michael Müller, Robert Fogelnest
Judgement	18 July 2005

RELATED CASES *by geographical area*
HADŽIĆ (IT-04-75)
KRAJIŠNIK (IT-00-39 & 40) "BOSNIA AND HERZEGOVINA"
MARTIĆ (it-95-11) "RSK"
MILOŠEVIĆ (IT-02-54) "KOSOVO, CROATIA & BOSNIA"
MLADIĆ (IT-95-5/18) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"
ŠEŠELJ (IT-03-67)
STANIŠIĆ & SIMATOVIĆ (IT-03-69)

INDICTMENT AND CHARGES

In October 2001, Milan Babić initiated contacts with the Tribunal after learning that he had been named as a co-perpetrator in one of the indictments issued in September 2001 against Slobodan Milošević (see case IT-02-54) in relation to the crimes committed in Croatia. Milan Babić agreed to be interviewed by the Prosecution and to testify in the *Milošević* case.

The Office of the Prosecutor issued an indictment against Milan Babić on 17 November 2003. The indictment charged him with crimes committed in the Krajina region of Croatia from August 1991 to February 1992.

Milan Babić was charged on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with:

- Persecutions on political, racial and religious grounds (crimes against humanity, Article 5),
- Murder; cruel treatment; wanton destruction of villages, or devastation not justified by military necessity; destruction or wilful damage done to institutions dedicated to education or religion (violations of the laws or customs of war, Article 3).

PLEA AGREEMENT/GUILTY PLEA

The Tribunal's Rules of Procedure and Evidence provide for a plea agreement procedure (Rule 62*ter*). The Prosecutor and the Defence may agree that, upon the accused entering a plea of guilty to one or more counts of the indictment, the Prosecutor can apply to the Trial Chamber to amend the indictment accordingly and ask for a sentence within a specific range or agree to the sentencing range suggested by the Defence. The Trial Chamber is not bound by any such agreement.

Milan Babić negotiated a plea agreement with the Prosecution in January 2004. In the first version of the plea agreement, Milan Babić admitted to having aided and abetted the crime of persecutions, committed by a joint criminal enterprise, as charged in count 1 of the indictment. The plea agreement was modified a few days later, when Milan Babić agreed to revise his plea of guilty to that of a co-perpetrator in the joint criminal enterprise. The goal of the joint criminal enterprise was the forcible permanent removal of non-Serb populations from approximately one-third of Croatia, in order to transform the acquired territory into a Serb-dominated state through the commission of crimes.

On 27 January 2004, Milan Babić entered a guilty plea to count 1 of persecutions on political, racial and religious grounds as crimes against humanity. The following day the Trial Chamber accepted the plea agreement and the remaining counts of the indictment were withdrawn. Milan Babić was found guilty as a co-perpetrator of persecutions as crimes against humanity and added that the crime of persecutions was committed within the objectives of the joint criminal enterprise. The Prosecution recommended a sentence of no more than 11 years and the Defence made no specific recommendation.

As part of his guilty plea, Milan Babić provided a factual basis. In the period from August 1991 to February 1992, Serb forces attacked and took control of towns, villages, and settlements in the Krajina region. After the take-over, the Serb forces, in cooperation with the local Serb authorities, commenced persecutions to drive the non-Serb populations from the region. The persecutions resulted in the murder or extermination of hundreds of non-Serb civilians in Dubica, Cerovljanji, Baćin, Saborsko, Poljanak, Lipovača, and in other places. They also caused the routine and prolonged imprisonment of hundreds of non-Serb civilians in inhumane conditions in the old hospital and the Yugoslavian National Army (JNA) army barracks in Knin, and the deportation or forcible transfer of thousands of non-Serb civilians from the Krajina region. There was as well deliberate destruction of homes and other public and private property, including objects of cultural value to Croat and other non-Serb populations. In December 1991, the Serb authorities proclaimed the territory that had thus come under their control as the "Republic of Serbian Krajina".

In February 1990, Milan Babić became a prominent political figure in the Serbian Democratic Party (SDS) in Croatia. He held a senior position in the SDS municipal committee in Knin. In July 1990, he became President of the Serbian National Council. In February 1991, he began to advocate the creation of an independent Serbian state in the so-called Serb Autonomous Region of Krajina. Then, in April 1991, he was elected President of the Executive Council of that self-declared region, and in May 1991 became President of its administration or government. Several months later he became commander-in-chief of the self-

declared region's armed forces. Finally, in December 1991, he became President of the so-called Republic of Serbian Krajina. During the relevant period he was one of the highest-ranking and most influential Serb politicians in the region.

Milan Babić admitted that from August 1991 to February 1992, he contributed to the persecution of Croat and other non-Serb populations in the following ways:
- He formulated, promoted, participated in, and encouraged the development and implementation of policies which advanced the objective of the joint criminal enterprise, which was to forcibly and permanently remove the majority of Croat and other non-Serb populations from approximately one-third of Croatia;
- He was instrumental in the establishment, support, and maintenance of the bodies that ruled the so-called Serb Autonomous Region of Krajina and that implemented the objective of the joint criminal enterprise;
- He assisted in the re-organisation and recruitment of the Territorial Defence (TO) forces that participated in the crimes;
- He cooperated with the commander of the so-called "Martić Police", who according to Milan Babić was involved in the commission of crimes;
- He participated in the provision of financial, material, logistical, and political support for the military take-over of territories;
- He requested the assistance or facilitated the participation of JNA forces in establishing and maintaining control of the territories;
- He made ethnically inflammatory speeches at public events and in the media – propaganda which helped the unleashing of violence against the Croat population and other non-Serbs;
- Finally, he encouraged and assisted in the acquisition of arms and their distribution to Serbs to further the campaign of persecutions.

Milan Babić admitted that he knowingly and intentionally participated in the campaign of persecutions. He was aware that crimes such as mistreatment in prisons, deportations, forcible transfer, and the destruction of property, as described in the indictment, were being committed. He knew that civilians were killed in the course of the forcible removal of non-Serb civilians, and that such killings were the likely outcome of the campaign of persecutions. However, he maintained that he had no knowledge of the specific murders referred to in the indictment. He further admitted that the crime of persecutions was committed within a joint criminal enterprise, and that he substantially participated in that enterprise as a co-perpetrator.

STATEMENT OF MILAN BABIĆ

"I come before this Tribunal with a deep sense of shame and remorse. I have allowed myself to take part in the worst kind of persecution of people simply because they were Croats and not Serbs. Innocent people were persecuted; innocent people were evicted forcibly from their houses; and innocent people were killed. Even I learned what had happened, I kept silent. Even worse, I continued in my office, and I became personally responsible for the inhumane treatment of innocent people.

The regret that I feel is the pain that I have to live for the rest of my life. These crimes and my participation therein can never be justified. I'm speechless when I have to express the depth of my remorse for what I have done and for the effect that my sins have had on the others. I can only hope that by expressing the truth, by admitting to my guilt, and expressing the remorse can serve as an example to those who still mistakenly believe that such inhumane acts can ever be justified.

Only truth can give the opportunity for the Serbian people to relieve itself of its collective burden of guilt. Only an admission of guilt on my part makes it possible for me to take responsibility for all the wrongs that I have done. I hope that the remorse that I expressed will make it easier for the others to bear their pain and suffering. I have come to understand that enmity and division can never make it easier for us to live. I have come to understand that our -- the fact that we all belong to the same human race is more important than any differences, and I have come to understand that only through friendship and confidence we can live together in peace and friendship, and thus make it possible for our children to live in a better world.

I have asked help from God to make it easier for me to repent, and I am thankful to God for making it possible for me to express my repentance. I ask from my brothers, Croats, to forgive us, their brother Serbs, and I pray for the Serb people to turn to the future and to achieve the kind of compassion that will make it possible to forgive the crimes.

And lastly, I place myself at the full disposal of this Tribunal and international justice. Thank you very much." (Milan Babić, further initial appearance, 27 January 2004)

"Your Honours, I can't say anything else but that I'm very sorry for what I did. I've appeared before this Tribunal and I've told the truth, and I believe that this will help to achieve reconciliation among the peoples in the Balkans. I have placed myself at the disposal of this Tribunal believing that this is the only institution that can bring peace to my homeland. I know that some people consider me a traitor; however, I believe that by appearing before this Tribunal I serve the best interests of all the people to arrive at the truth. I invite all the others who are aware of the facts of what happened to appear before this Tribunal and tell the truth. The historical truth has to be recorded so that the future generations may learn from our mistakes. Thank you." (Milan Babić, sentencing hearing, 2 April 2004)

TRIAL CHAMBER SENTENCING JUDGEMENT

The Trial Chamber gave primary consideration to the gravity of Milan Babić's crime and also considered his individual circumstances, including aggravating and mitigating circumstances.

Milan Babić did not deny the seriousness of the crimes committed and the Trial Chamber was convinced of the extreme gravity of the crime to which he pleaded guilty. Virtually the whole of the Croat and non-Serb population was expelled from the region by forcible removal or by being caused to flee fearing imminent attacks. More than 200 civilians were murdered and several hundred civilians were confined or imprisoned in inhumane conditions.

In relation to aggravating circumstances, the Trial Chamber found that the criminal liability of Milan Babić did not stem from his position as a superior in the hierarchy. The position of political leader was not required for participation in a joint criminal enterprise, nor was it a precondition for the crime of persecutions. Thus it was not an element establishing criminal liability, and the Trial Chamber did not use it as such.

The Trial Chamber concluded that reasons for holding that Milan Babić's leadership positions should be considered in aggravation of sentence were twofold. First, as a regional political leader he enlisted resources to further the joint criminal enterprise, and by his speeches and media exposure prepared the ground for the Serb population to accept that their goals were achievable through acts of persecution. Second, his involvement through the positions he held gained momentum over time: by allowing the campaign of persecutions to continue, he amplified its consequences.

The Trial Chamber thus found that the fact that he held and remained in high political positions throughout the course of the crime of persecutions counted as an aggravating circumstance.

The Trial Chamber took into consideration various mitigating circumstances. Milan Babić's admission of guilt was considered as an important mitigating factor. The Trial Chamber also took into account his extensive cooperation with the Prosecution and his voluntary surrender to the Tribunal. The Trial Chamber also concluded that his expression of remorse was sincere and constituted a mitigating factor. Milan Babić's family and personal situations were also given some weight in mitigation.

In conclusion, the Trial Chamber found that Milan Babić was a regional political leader who sought to promote what he considered the interests of his people to the detriment of non-Serbs through the commission of serious violations of international humanitarian law. He did not just fail to stand against injustice, but he also participated in a joint criminal enterprise. The Trial Chamber concluded that by admitting his guilt in relation to the armed conflict in Krajina in 1991-92, Milan Babić demonstrated some courage. Yet the Chamber was not convinced that he recognised the full significance of the role he played in Croatia during this period.

The Trial Chamber dismissed the recommendation made by the Prosecution of a sentence of imprisonment of no more than 11 years because, in the Chamber's opinion, the length of time would not have achieved the purposes of punishment nor justice.

On 29 June 2004, the Trial Chamber rendered its judgement, sentencing Milan Babić, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal), with:

- Persecutions on political, racial and religious grounds (crimes against humanity, Article 5).

Sentence: 13 years' imprisonment.

APPEALS CHAMBER JUDGEMENT

On 3 September 2004, Milan Babić filed a notice of appeal against the Trial Chamber's judgement and sentence. He initially raised twelve grounds of appeal but then withdrew one of them. In its deliberations, the Appeals Chamber dismissed 10 of the remaining 11 grounds of appeal and allowed one.

The Appeals Chamber found that the Trial Chamber did not adequately take into consideration Milan Babić's conduct subsequent to the crime as a mitigating circumstance. However, the Appeals Chamber found by majority, Judge Mumba dissenting, that this error did not have an impact upon the sentence.

On 18 July 2005 the Appeals Chamber affirmed by majority, Judge Mumba dissenting, the Trial Chamber's sentence of 13 years' imprisonment. Credit was given for time served since his surrender on 26 November 2003. On 19 September 2005, he was transferred to serve his sentence.

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Milan Babić committed suicide in his cell at the United Nations Detention Unit on 5 March 2006.

Document prepared by the Communications Service. All ICTY key documents are available on: www.un.org/icty
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