

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-03-72-I

THE PROSECUTOR

v.

MILAN BABIĆ

ANNEX A

**TO THE JOINT MOTION FOR CONSIDERATION OF PLEA AGREEMENT
BETWEEN MILAN BABIĆ AND THE OFFICE OF THE PROSECUTOR**

PLEA AGREEMENT

Introduction

1. This constitutes the Plea Agreement (“Agreement”), pursuant to Rule 62bis of the Rules of Procedure and Evidence (“the Rules”), between the Accused, Milan Babić, through his Counsel Peter Michael Mueller and Robert Fogelnest, and the Office of the Prosecutor (OTP). The purpose of this Agreement is to set forth in its entirety the understanding of the parties as to the nature of the Agreement and the possible consequences of Mr. Babić’s plea of guilty, and to assist the parties and the Trial Chamber in ensuring that the plea is valid, voluntary, and informed according to the Rules set forth by this Tribunal. The terms of the Agreement are as follows:

Plea to Count 1 of the Indictment, Persecutions, A Crime Against Humanity

2. Milan Babić agrees to plead guilty to Count 1 of the Indictment, *The Prosecutor v. Milan Babić*, Criminal No. IT-03-72-I (“Indictment”), alleging Persecutions, a Crime Against Humanity (“Persecutions”), punishable under Articles 5(h) and 7(1) of the Statute of the Tribunal (“Statute”). Article 5(h) of the Statute states, in relevant part:

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

(h) persecutions on political, racial and religious grounds

3. Milan Babić agrees that he is pleading guilty to Count 1 because he is in fact guilty as a co-perpetrator of the joint criminal enterprise and acknowledges full responsibility for his actions that are the subject of the Indictment.

Consideration for Milan Babić's Plea and Co-operation

4. In exchange for Milan Babić's plea of guilty to Count 1, Persecutions, his complete co-operation with the OTP as set forth in paragraphs 9 to 11 of this Agreement, and the fulfilment of all his obligations under this Agreement, the Office of the Prosecutor agrees to the following:

- (a) At the time of the acceptance of the guilty plea by the Trial Chamber, the Prosecutor will move to dismiss without prejudice to either party the remaining charges against Milan Babić set out in the Indictment.
- (b) The Prosecutor will recommend to the Trial Chamber that it impose a term of imprisonment of no more than 11 years. Milan Babić understands that the Trial Chamber is not bound to accept any recommendation and may impose a sentence above or below. At sentencing, the Defence may recommend any sentence it deems appropriate.
- (c) The Prosecutor will take necessary and reasonable steps to ensure the safety and protection of Milan Babić and members of his immediate family. In this regard, Milan Babić understands that all decisions concerning the safety and protection of him and his immediate family are ultimately within the sole discretion of the Office of the Registrar of the ICTY.

Nature of the Charge

5. Milan Babić understands that if a trial were held, the Prosecutor would be required to prove the following elements beyond a reasonable doubt:

Joint Criminal Enterprise

- (a) A plurality of persons were involved in the commission of the crime of Persecutions;

- (b) There was a common plan, design or purpose which amounted to or involved the commission of the crime of Persecutions;
- (c) The Accused participated in the common design involving the perpetration of the crime of Persecutions;
- (d) The co-perpetrators of the joint criminal enterprise shared the intent to perpetrate the crime of Persecutions.

Persecutions

- (a) an armed conflict existed during the time frame of the Indictment;
- (b) there was a widespread or systematic attack directed against a civilian population;
- (c) the plan and conduct of the joint criminal enterprise was related to the widespread or systematic attack directed against a civilian population;
- (d) the Accused had knowledge of the wider context in which the conduct of the joint criminal enterprise occurred;
- (e) members of the joint criminal enterprise committed acts or omissions pursuant to the plan of the joint criminal enterprise against a victim or victim population violating a basic or fundamental human right;
- (f) the conduct of the joint criminal enterprise was committed on political, racial or religious grounds;
- (g) the conduct of the joint criminal enterprise was committed with a deliberate intent to discriminate.

Factual Basis

6. Milan Babić and the Prosecution agree that if the Prosecution were to proceed with evidence, the facts and allegations set forth in the Factual Statement, Tab 1 to this Annex, would be proven beyond a reasonable doubt, and that those facts are true and correct and not disputed by Milan Babić.

7. The Prosecution and Milan Babić agree that the evidence supports a finding of guilt of Milan Babić as a co-perpetrator of the joint criminal enterprise as alleged in Count 1, Persecutions, of the Indictment.

Co-operation by Milan Babić

8. Milan Babić agrees to accept responsibility for his actions and to co-operate with, and to provide truthful and complete information to, the Office of the Prosecutor whenever requested. In accordance with such co-operation, Milan Babić agrees to meet as often as necessary with members of the Office of the Prosecutor in order to provide them with full and complete information and evidence that is known to him. Mr. Babić agrees to be truthful and candid, and to freely answer all questions put to him by members of the Office of the Prosecutor. Mr. Babić agrees to testify truthfully at any trials, hearings, or other proceedings before the International Criminal Tribunal for the Former Yugoslavia (ICTY) as requested by the OTP.

9. The Prosecution and Mr. Babić also agree that they will not seek to delay sentencing until after Mr. Babić's co-operation is complete, but will in fact proceed with sentencing as expeditiously as possible.

10. It is understood and agreed by Milan Babić and the Prosecution that all information and testimony provided by Mr. Babić must be absolutely truthful. This means that Milan Babić must neither minimise his own actions nor fabricate someone else's involvement.

Maximum Possible Penalty and Sentencing

11. Milan Babić understands that, pursuant to Rule 101 of the Rules, the maximum sentence that can be imposed by the Trial Chamber for a guilty plea to the charge of Persecutions as set forth in the Indictment is a term of imprisonment up to and including the remainder of the convicted person's life.

12. Milan Babić understands that, pursuant Rule 62 *ter* (B), the Trial Chamber shall not be bound by any agreement between the Prosecutor and the Defence.

13. Milan Babić agrees that regardless of the sentence imposed, he will not move to withdraw his guilty plea or appeal his conviction pursuant to his guilty plea. Milan Babić reserves his right to appeal the sentence.

14. Milan Babić understands that, pursuant to Article 24 of the Statute and Rule 101(B) of the Rules, the Trial Chamber will take into account in determining the appropriate sentence such factors as the gravity of the offence and the individual circumstances of the convicted

person. In addition, the Trial Chamber will take into account such factors as: any aggravating circumstances, any mitigating circumstances including the substantial co-operation with the Prosecutor by the convicted person before or after conviction, the general practice regarding prison sentences in the courts of the former Yugoslavia, and the extent to which any penalty imposed by a court of any State on the convicted person for the same act has already been served. At sentencing the Prosecution will argue that in the circumstances of this case the only aggravating factor present is the leadership position of the Accused.

15. Milan Babić understands that, at the sentence hearing, the Prosecution and the Defence will provide to the Trial Chamber any and all information they deem relevant to sentencing.

Waiver of Rights

16. By pleading guilty, Milan Babić understands he will be giving up the following rights:

- (a) the right to plead not guilty and require the Prosecution to prove the charges in the Indictment beyond a reasonable doubt at a fair and impartial public trial;
- (b) the right to prepare and put forward a defence to the charges at such public trial;
- (c) the right to be tried without undue delay;
- (d) the right to be tried in his presence, and to defend himself in person at trial or through legal assistance of his own choosing at trial;
- (e) the right to examine at his trial, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf at a trial under the same conditions as witnesses against him;
- (f) the right not to be compelled to testify against himself or to confess guilt;
- (g) the right to testify or to remain silent at trial; and
- (h) the right to appeal a finding of guilty or to appeal any pre-trial rulings.

17. It is understood that by pleading guilty the Accused does not waive his right to be represented by Counsel at all stages of the proceedings.

Voluntariness of the Plea

18. Milan Babić acknowledges that he has entered this Plea Agreement freely and voluntarily, that no threats were made to induce him to enter this guilty plea, and that the only promises made to him are those set forth in this agreement.

Other Agreements

19. Except as expressly referenced at paragraph 4 hereto, there are no additional promises, understandings or agreements between the Office of the Prosecutor and Milan Babić or his Counsel, Peter Michael Mueller and Robert Fogelnest.

Declaration of Milan Babić

20. I, Milan Babić, have read this Plea Agreement in a language which I understand and have carefully reviewed every part of it with my Counsel, Peter Michael Mueller and Robert Fogelnest. Messrs. Mueller and Fogelnest have advised me of my rights, or possible defences, and of the consequences of entering into this Agreement and I am fully satisfied with their representation of me. No other promises or inducements have been made to me, other than those contained in this Agreement. Furthermore, no one has threatened me or forced me in any way to enter into this Agreement. I have entered into this Agreement freely and voluntarily, and am of sound mind. I understand the terms of this Agreement, and I voluntarily agree to each of the terms.

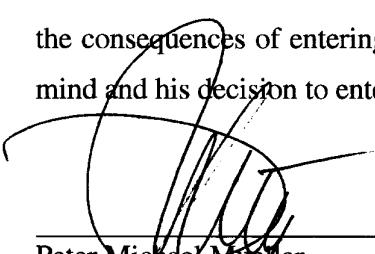
Milan Babić Milan Babić Date 22. jan. 2004

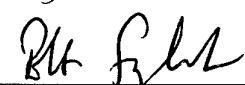
Milan Babić, my client, hereby joins and signs this Agreement. Date 22. jan. 2004

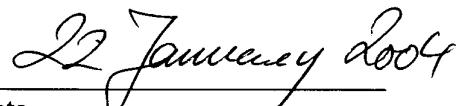
Declaration of Counsel

21. We, Peter Michael Mueller and Robert Fogelnest, are Milan Babić's Counsel. We have carefully reviewed every part of this Agreement with our client. Further, we have fully advised our client of his rights, and possible defences, of the maximum possible sentence and

the consequences of entering into this Agreement. To our knowledge, our client is of sound mind and his decision to enter into this Agreement is an informed and voluntary one.

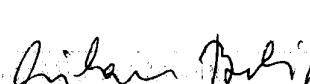

 Peter Michael Mueller
 Counsel for Milan Babic


 Robert Fogelnest
 Counsel for Milan Babic

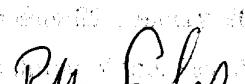

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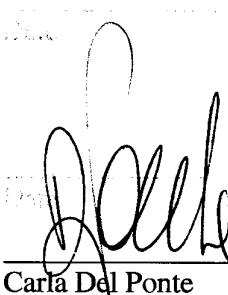

 Date

On this 22 January 2004, the undersigned parties fully agree to each and every term and condition of this Plea Agreement:

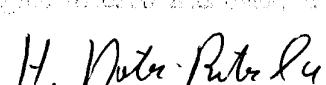

 Milan Babic


 Peter Michael Mueller
 Counsel for Milan Babic


 Robert Fogelnest
 Counsel for Milan Babic


 Carla Del Ponte
 Prosecutor




 Hildegard Uertz-Retzlaff
 Senior Trial Attorney
 Office of the Prosecutor

THE INTERNATIONAL CRIMINAL TRIBUNAL
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TAB 1
FACTUAL STATEMENT

Introduction

1. The purpose of this factual statement is to demonstrate that there exists an adequate factual basis for Milan BABIĆ's plea of guilty to Count 1 of the Indictment, *The Prosecutor v. Milan BABIĆ*, Case No. IT-03-72-PT ("Indictment"). This factual statement does not contain all of the facts concerning Milan BABIĆ's conduct relative to the Indictment, and does not preclude additional agreed or proven facts being brought to the attention of the Trial Chamber at the time of sentencing.

Positions Held by Milan BABIĆ

2. Milan BABIĆ was born on 26 February 1956 in Kukar, municipality of Sinj, Croatia. After completion of his military service in 1983/1984, he remained in the reserve as a member of the reserve medical corps. In 1990, he had obtained the rank of First Lieutenant.
3. Milan BABIĆ studied dentistry in Belgrade and sometime after receiving his diploma, he was appointed Director of the Health Centre in Knin.
4. Prior to 1990, he was a member of the League of Communists of Croatia. In December 1989, he was a delegate to the last Congress of the League of Communists in Croatia, held in Zagreb. From February 1990, he was a prominent political figure in the Serbian Democratic Party ("SDS") in Croatia, and he held a senior position in the SDS municipal committee in Knin. After

Jovan Rasković's death in 1992, Milan BABIĆ assumed the position of President of the SDS party, in which function he remained until 1995.

5. From 1990 until 1994, Milan BABIĆ held the position of the President of the Municipal Assembly in Knin. From 31 July 1990 onwards, he was the President of the Serbian National Council ("SNC"). From December 1990, Milan BABIĆ was President of the Temporary Executive Council of the "Serbian Autonomous District/ *Srpska autonomna oblast* ("SAO") Krajina," and on 30 April 1991, Milan BABIĆ was elected President of the Executive Council of the SAO Krajina. Subsequently, on 29 May 1991, he became President of the government of the SAO Krajina. On 1 August 1991, Milan BABIĆ signed a decision applying the Law on Defence of the Republic of Serbia to the territory of the SAO Krajina making Milan BABIĆ *de jure* Commander of all armed forces of the SAO Krajina, including special purpose units of the Krajina Ministry, and Commander of the Territorial Defence forces of the SAO Krajina. In fact, he had no actual authority or effective control over the actions of these forces. On 19 December 1991, the SAO Krajina proclaimed itself the Republic of Serbian Krajina/ *Republika Srpska Krajina* ("RSK") with Milan BABIĆ as President. Milan BABIĆ held this position until 15 February 1992. In April 1994, Milan BABIĆ became the Minister of Foreign Affairs of the RSK government and on 27 July 1995 he was elected Prime Minister of the RSK government, a position he held for one week until 4 August 1995.

Activities of Milan BABIĆ During the Relevant Period

6. Milan BABIĆ believed that Croatian Serbs, in particular those living in areas around Knin, had been discriminated against by the Croatian authorities. He was fearful that if Croatia seceded from Yugoslavia, the Serbian population would become a minority that was discriminated against in a new State of Croatia. Milan BABIĆ's concerns were reinforced by abuses committed against Croatian Serbs which he heard about. In addition, there was a media campaign directed by Belgrade that portrayed the Serbs in Croatia as being threatened with genocide by the Croat majority and Milan BABIĆ fell prey to the propaganda.

7. On 17 February 1990, Milan BABIĆ attended the founding session of the SDS Krajina in Knin. The SDS was founded by Jovan Opačić and Jovan Rašković, who became the first President of the SDS. Milan BABIĆ was asked by them to address the founding session of the SDS, which was attended by approximately 10,000 people, and he complied with this request. He was also asked to be on the Main Board of the Party and accepted. The SDS platform, *inter alia*, recited the problems faced by Serbs in Croatia and evoked the threat of genocide, stating that the Serb Diaspora in Croatia was a “historical victim which dates from before Starčević’s *Pravaš* (Party of Right) movement and the True Right genocide.” The platform endorsed redrawing regional and municipal lines to reflect the ethnic composition of the areas, and asserted the right of territories with a “special ethnic composition” to become autonomous through a referendum. The party platform did not, however, endorse abuse of non-Serbs within the redrawn regional and municipal lines.
8. In the multi-party elections held in Croatia in April and May of 1990, Milan BABIĆ was elected President of the Knin municipality. The SDS won a majority in five municipalities: Knin, Donji Lapac, Gračac Benkovac, and, after a second election, in Glina.
9. Starting in early 1990, Milan BABIĆ spoke at rallies in the Krajina and to the media. In his early speeches, Milan BABIĆ spoke about Serb autonomy within Croatia. In some of his later speeches, his rhetoric became more radical. He spoke of a fear of genocide against Serbian residents of Croatia and endorsed the proposition that all Serbs should have the right to live in a Serbian state. Because Milan BABIĆ was a respected politician among Serbs in Croatia, his speeches and interviews contributed to this propaganda effort.
10. In June 1990, Milan BABIĆ participated in the formation of the Association of Serbian Municipalities of Northern Dalmatia and Lika and became the President of the Association. The Draft Statute of the Association stated that its purpose was to introduce Serbian regional autonomy in Croatia pursuant to the Croatian constitution with local control in Serb areas of civic and cultural life. Initially, this Association included the municipalities of Knin, Benkovac, Gračac, Donji Lapac, Obrovac, and Titova Korenica. On 6 July 1990, Milan

BABIĆ convened a meeting of the Association and of all municipalities in Croatia with a Serb majority to consider proposed changes to the Croatian Constitution which were perceived as counter to the interest of those with a Serbian identity. The meeting rejected the proposed Constitutional changes which included the abolition of regionalisation, the abolition of the option of forming associations of municipalities, the introduction of exclusively Croat symbols, and a change in the name of the language.

11. In response to the fear of becoming a discriminated against minority in Croatia, on 25 July 1990, Milan BABIĆ and other SDS Krajina leaders participated in a Serbian assembly in Srb, attended by approximately one hundred thousand Croatian Serbs. The Assembly passed a Declaration “on the Sovereignty and Autonomy of the Serbian Nation” in Croatia. The Declaration stated that the Serbian nation within Croatia was “a sovereign nation with all the rights entailed in the sovereignty of a nation.” The Declaration also established the Serbian Assembly, with its seat in Srb, as the political representative of the Serbian nation in Croatia, and the Serbian National Council (“SNC”) as the executive body of the Assembly. The Declaration stated that the SNC had the right to hold a referendum of Serbian people on issues related to sovereignty, and was responsible for implementing the decisions of the Assembly. The Declaration further stated that the Assembly declared null and void all constitutional and legal changes in Croatia that were inconsistent with the Serbs’ sovereignty as a nation or their right to autonomy. Finally, the Declaration stated that if Croatia remained in Yugoslavia, the Serbs in Croatia would demand cultural autonomy, but if Yugoslavia became a confederation of independent republics, the Serbs in Croatia would demand political and territorial autonomy.

12. The first meeting of the SNC was held on 31 July 1990 in Knin. At the second session of the SNC, held on 16 August 1990 in Dvor na Uni, the Council called for a referendum on Serbian autonomy to be held between 19 August and 2 September in all settlements where Serbs lived in Croatia. The voters could vote in favour or against autonomy and sovereignty for Serbs in Croatia. The referendum was adopted by 97.7% of those who voted, most of whom were Serbs. On 30 September 1990, the SNC declared “the autonomy of the

Serbian people on ethnic and historic territories on which they live and which are within the current boundaries of the Republic of Croatia as a federal unit of the Socialist Federal Republic of Yugoslavia.”

13. On 17 August 1990, the Croatian government declared the referendum illegal. Rumours began to circulate that the Croatian police was moving to suppress the referendum. Milan BABIĆ had been informed by Dusan Orlovic and Milan Martić that there was movement by Croatian Police and went to Golubić so as to see what was going on. Milan Martić and others were distributing weapons to the Serb population. Serbs organised by Milan Martić also began to arm themselves and erect barricades in Knin in what became known as the “log-revolution.”
14. In August 1990, Milan BABIĆ contacted Slobodan Milošević to complain about the treatment of Serbs in the area around Knin. Milošević directed Milan BABIĆ to meet with the President of the SFRY, Borisav Jović. On 13 August 1990, Milan BABIĆ and other leaders from Knin met with Jović and told him about the problems that the Serbian community had with the Croatian authorities. Jović said that he would give the Serbs in Croatia his political support and that they would have the support and protection of the JNA in their struggle. This assurance was later repeated by Milošević himself on other occasions.
15. Milan BABIĆ originally viewed President Milošević as the leader and protector of all ethnic Serbs in Yugoslavia. Milan BABIĆ sought the assistance of Milošević in protecting the Serb population of Krajina and was assured by Milošević that they would be protected by the JNA. The trust which Milan BABIĆ had placed in Milošević was undermined in March 1991. Milošević showed him a proposed western border of a new Serbian state on a map, which he understood was agreed to by Milošević and Tuđman, dividing Bosnia and Herzegovina. Milan BABIĆ was stunned because he perceived this to be contrary to the interests of the SAO Krajina and everything that Milošević had told him before about protecting them.

16. From August 1990, a parallel structure started emerging in the Krajina comprised of members of the Ministry of Interior of Serbia, the State Security service of Serbia, the SDS in Croatia and policemen in the Serbian municipalities in Croatia which ultimately answered directly and exclusively to Slobodan Milošević. The central figures of this parallel structure in Serbia, aside from Milošević himself, were Jovica Stanišić from the Serbian DB and his subordinate Franko “Frenki” Simatović. In the Krajina, the central figures were Milan Martić and Dragan Vasiljković, aka Captain Dragan. Through the parallel structure, Milošević manufactured incidents, which provoked reaction and fear among the Serbs, including Milan BABIĆ, and intensified intervention by the Croatian police. This spiralled up into intolerance, violence, and eventually war. Milan BABIĆ was not a member of this parallel structure and had no ability to control their actions.
17. Milan BABIĆ was aware of this parallel structure and shared its goal of creating a state for all Serbs. Although Milan BABIĆ had different views on the methods and means to obtain the goal of a Serbian state, he provided support to the parallel structure’s aim of achieving a state for all Serbs through conflict and force by failing to publicly speak out against their methods, continuing to exercise the duties of his office, participating in the arming of Serbs in Croatia, creating and staffing political and military structures for a separate Serb entity in Croatia, and obtaining financing for these military structures. Further, in order to achieve the goal of a state for all Serbs throughout Yugoslavia, Milan BABIĆ met frequently with members of the joint criminal enterprise described in the Indictment, in particular with Slobodan Milošević, Milan Martić, and Radovan Karadžić.
18. On 21 December 1990, under the leadership of Milan BABIĆ, the Association of Municipalities of Northern Dalmatia and Lika became the Serbian Autonomous Region of Krajina (“SAO Krajina”). The territory of the SAO Krajina was comprised of the municipalities in the Association of Municipalities of Northern Dalmatia and Lika, any other municipalities with a Serbian majority that decided to join the SAO Krajina, and any local communes that decided after referendum to join a municipality that had itself decided to join the SAO Krajina. The Statute of the SAO Krajina stated that

the SAO Krajina “shall bear the form of territorial autonomy” within Croatia and that the citizens of the SAO Krajina would rule themselves through referendums or through representatives elected to the SAO Krajina Assembly. Milan BABIĆ was the leader of the SAO Krajina and in April 1991 was formally appointed President of the Executive Council. In May 1991, he became Prime Minister of the SAO Krajina.

19. Following a nomination by a majority of the Temporary Executive Council of SAO Krajina, on 4 January 1991 Milan BABIĆ appointed Milan Martić to be Secretary for Internal Affairs of the SAO Krajina. When the appointment was made, Milan BABIĆ was aware that Martić was a key figure in the parallel structure, and that from October 1990, through a group known as the Council of People’s Resistance, Martić fought efforts to bring about a peaceful resolution to the conflict between the Serbs in Croatia and the Croatian authorities. Specifically, Martić and this resistance sought to provoke the Croatian authorities by attacking the Croatian police, shooting non-Serb civilians, destroying non-Serb shops, houses, vehicles with explosives, and mining and blowing up a railway line. Through these provocations, Martić and the parallel structure hoped to escalate the conflict, force the federal authorities to declare a state of emergency, and cause the JNA to intervene.
20. The government of the SAO Krajina never had any effective control over Martić and the police force in Krajina. Attempts to remove him were unsuccessful due to the support that Martić received from Milošević and other members of the parallel structure.
21. In March 1991, after an incident at Pakrac, Milan BABIĆ met with Milošević to ask him what was going on. He was told that he should not worry and return to Knin. He met with Milošević a second time and asked for the protection of the Krajina. Milošević told him that he had already purchased 20,000 weapons from Hungary. Milan BABIĆ did not know about this and told Milošević that he had no knowledge. Milan BABIĆ was later shown the weapons that had arrived from the Serbian TO warehouses. Milan BABIĆ was also aware that in July and August 1991, weapons were obtained through

Colonel Smiljanić of the JNA and that the weapons were brought into the Krajina from the military airport in Bihać.

22. Milan BABIĆ also told Milošević that the Krajina needed professionals to train the police. On 1 April 1991, Milan BABIĆ issued a request to the Government of the Republic of Serbia asking that the forces of the Ministry of the Interior of the Republic of Serbia provide technical and personnel support for the police in the SAO Krajina. In April 1991, Frenki Simatović, Milan Martić, and Captain Dragan established a training camp in Golubić to create special units of the Krajina police. This camp was funded, armed, and supplied by the MUP of Serbia. Milan BABIĆ was called to visit the camp and, in response, he visited the camp on two occasions.
23. On 18 March 1991, Milan BABIĆ endorsed, in his capacity as President of the Knin Municipal Assembly, a decision of the Assembly “completely and permanently” separating the Knin Municipality from the Republic of Croatia. On 1 April 1991, in his capacity as President of the Executive Council of the SAO Krajina, Milan BABIĆ endorsed a decision of the Executive Council joining the SAO Krajina to the Republic of Serbia. The decision stated that the Constitution and laws of Serbia would apply to the SAO Krajina. One half hour later, Milošević called Milan BABIĆ and told him that the authorities in Krajina had to come out in favour of Yugoslavia, and not in favor of Serbia. He did not explain why, but Milan BABIĆ believed that Milošević wanted the direct involvement of Serbia in the events in the Krajina to remain secret. This was consistent with Milošević’s plan to make it appear that others were breaking away from Yugoslavia, whereas that part of Yugoslavia that he envisaged to remain in a newly organised state should appear to have remained there in a passive way. The JNA would protect the Serb areas. After repeated interventions by Milošević, the Krajina authorities reversed their positions and started to say they wanted to remain in Yugoslavia and not be annexed to Serbia.
24. On 30 April 1991, the Assembly decided to hold a referendum in the SAO Krajina on 12 May 1991. Originally the question was to be whether the voters wished to have the Krajina annexed to Serbia and Montenegro. Because of

Milošević's intervention, however, the question was changed to the following: "Are you in favour of SAO Krajina annexing to the Republic of Serbia and remaining in Yugoslavia with Serbia, Montenegro and others who wish to preserve Yugoslavia?" The referendum was approved by 99.80% of those voting.

25. On 29 May 1991, the SAO Krajina Assembly, with Milan BABIĆ's acquiescence, appointed Milan Martić Minister of Defence of the SAO Krajina. On the same day, the Assembly passed a decision establishing special purpose units of the Ministry of Interior of the SAO Krajina under the name "Milicija Krajine" (the Krajina Militia), which were put under the authority of the Ministry of Defence. At this time, Milan BABIĆ was aware that forces under the command of Milan Martić were engaged in attacks on Croat civilians. On 27 June 1991, the Assembly re-appointed Martić as Minister of Interior of the SAO Krajina (a role he had not in fact given up while Minister of Defence). Nobody was immediately appointed to replace Martić as Minister of Defence and so for a period of time Milan BABIĆ assumed the role

26. Beginning in July 1991, Milan BABIĆ signed orders as Minister of Defence of the SAO Krajina creating TO formations within the SAO Krajina and appointing commanders to these formations. On 11 July 1991, Milan BABIĆ issued an order mobilising all staffs and units of the TO in the SAO Krajina. As noted above, on 1 August 1991 Milan BABIĆ issued a decision applying the law on defence of the Republic of Serbia to the SAO Krajina and making himself the Commander of the armed forces of the SAO Krajina, including all special purpose units of the SAO Krajina, and of the Territorial Defence ("TO") of the SAO Krajina. Milan BABIĆ performed the duties connected with this position. On 8 August 1991, Milan BABIĆ appointed Milan Martić, under pressure from Milošević, to be Deputy Commander of the SAO Krajina TO. Milan BABIĆ also signed orders creating TO formations and appointing TO commanders throughout the territory.

27. In September 1991, at Milan BABIĆ's request, a TO Staff of the SAO Krajina was formed and on 30 September 1991, Milan BABIĆ appointed Ilija Đujić to

be the Commander of the TO, however Milan BABIĆ only ratified a decision made in Belgrade. On 28 November 1991, Milan BABIĆ relieved Đujić of his post at Đujić's request and Milan BABIĆ then appointed Colonel Radoslav Maksić to be TO commander with the approval of the JNA. In October 1991, Milan BABIĆ met with JNA General Vuković from the 9th (Knin) Corps, and subsequently with General Blagoje Adžić concerning the TO's relationship to the JNA. Milan BABIĆ wrote a report asking the JNA to resolve certain problems of co-ordination with the TO. The TO commanders reported directly to the JNA, and it was Slobodan Milošević who was directly responsible for the appointment of the TO Main Staff in the Krajina. Although Milan BABIĆ tried to assume command over the TO in September 1991, he was not successful and the TO only took orders from the JNA. Milan BABIĆ met with Tomislav Simović, the Minister of Defence of Serbia, seeking financial assistance for the TO of the SAO Krajina.

- 28. Already aware of the plans of the other JCE members regarding the forcible removal of the Bosnian Muslims, from August 1991, following the attack on Kijevo, Milan BABIĆ became aware that the JNA and the parallel structure were not protecting the Serbs in Croatia but were, along with local Serb TO forces in the Krajina and Martić's police, engaged in a war for territory to create the western borders of a new Serbian state. Milan BABIĆ saw that the creation of a Serbian state would include the forcible permanent removal of the non-Serb populations from Serb dominated areas of Croatia through a discriminatory campaign of persecution.
- 29. This war to create a Serbian state was the basis of the joint criminal enterprise described in the indictment whose purpose was the permanent forcible removal of the majority of Croat and other non-Serb population from approximately one-third of the territory of the Republic of Croatia ("Croatia") in order to make it part of a new Serb-dominated state. Milan BABIĆ became aware that this Serbian state was being created and maintained through the ethnic resettlement of the Croat and other non-Serb population within the Serb dominated areas of Croatia. Although he had different views on the appropriate methods and means to obtain the goal of a Serbian state he continued to co-operate and support those who sought to execute this plan

with violent means. The areas targeted by this plan included those regions that were referred to by Serb authorities as the “SAO Krajina,” the “SAO Western Slavonia,” the “SAO Slavonia, Baranja and Western Srem” (after 19 December 1991, the “SAO Krajina” became known as the RSK; on 26 February 1992, the “SAO Western Slavonia” and the “SAO Slavonia, Baranja and Western Srem” joined the RSK), as well as the “Dubrovnik Republic/*Dubrovačka republika.*” Milan BABIĆ’s own focus in this regard was on the SAO Krajina. The plan was accomplished in part through a campaign of Persecutions, a Crime against Humanity, in violation of Article 5 of the Statute of the Tribunal.

30. From August 1991, Milan BABIĆ was aware of the intent of the members of the joint criminal enterprise to forcibly resettle the Croatian and other non-Serb populations within the targeted areas. While he favoured a peaceful solution to the crisis, he knowingly and intentionally participated in the common design involving the perpetration of the crime of Persecutions. As Milan BABIĆ himself put it, he became an “ethnic egoist, a person who exclusively wanted to see to the interests of people to which [he] belonged” while he “neglected the interests and suffering of the other peoples, at the time the Croatian people.”
31. A number of individuals participated in this joint criminal enterprise at different times during its existence, including Slobodan MILOŠEVIĆ; Milan MARTIĆ; Goran HADŽIĆ; Jovica STANIŠIĆ, Franko SIMATOVIĆ, also known as “Frenki,” Vojislav ŠEŠELJ; General Blagoje ADŽIĆ; General Ratko MLADIĆ and other known and unknown members of the Yugoslav People’s Army (“JNA”); the Serb Territorial Defence (“TO”) of Croatia, Serbia and Montenegro; local and Serbian police forces (“MUP forces”), including the State Security/ *Državna bezbednost* (“DB”) of the Republic of Serbia, and Serb police forces of the SAO Krajina and the RSK commonly referred to as “Martić’s Police,” “Martićevci,” “SAO Krajina Police” or “SAO Krajina Milicija” (hereinafter “Martić’s Police”).
32. On 8 September 1991, Milan Martić and a JNA security officer were arrested in Otoko in the municipality of Bosanska Krupa. Various members of the

joint criminal enterprise, including Slobodan Milošević, Radovan Karadžić, Jovica Stanišić, various JNA Generals, and Milan BABIĆ, were involved in securing the release of Martić.

33. Milan BABIĆ, participated in the joint criminal enterprise in the following ways:
 - a) In his capacity as the President of the SNC and subsequently as President/Prime Minister in the SAO Krajina and the RSK, he formulated, promoted, participated in, and encouraged the development and implementation of the SDS in Krajina and SAO Krajina/RSK governmental policies which advanced the objective of the joint criminal enterprise. Throughout 1991, Milan BABIĆ attended meetings with the Serbian, SFRY and Bosnian Serb leadership defining these policies and presented its positions in international negotiations after receiving instructions from Slobodan Milošević on the positions to be taken.
 - b) He was instrumental in the establishment, support and maintenance of the government bodies ruling the SAO Krajina/RSK, which in co-operation with the JNA and the parallel power structure implemented the objectives of the joint criminal enterprise and participated in the commission of crimes listed in the indictment.
 - c) He assisted in the re-organisation and recruitment of the Territorial Defence forces (TO) of the SAO Krajina and subsequently the RSK, which participated in the crimes listed in the indictment. From at least 1 June 1991 to including 15 February 1992, Milan BABIĆ was the *de jure* commander of the TO forces.
 - d) While he did not endorse Milan Martić's methods and criminality, nor did he share his state of mind with respect to ethnic cleansing, Milan BABIĆ, nevertheless co-operated with Milan Martić, which led to Martić's command and control over "Martić's Police" involved in the commission of crimes. In the summer of 1991 Milan BABIĆ tried to get control over Martić's Police and the parallel structure without success, and thereafter he continued to co-operate with them.

- e) He participated in the provision of financial, material, logistical and political support necessary for the military take-over of territories in the SAO Krajina, which resulted in the subsequent forcible removal of the Croat and other non-Serb population by the TO forces, who acted in co-operation with the JNA and "Martić's Police."
 - f) He made ethnically based inflammatory speeches during public events and in the media that added to the atmosphere of fear and hatred amongst Serbs living in Croatia and as such helped form the opinion of the public that Serbs could only be safe in a state of their own.
 - g) He requested the assistance of or facilitated the participation of JNA forces to establish and maintain the SAO Krajina, furthering the objective of the joint criminal enterprise.
 - h) He encouraged and assisted in the acquisition of arms and their distribution to Croatian Serbs to further the objective of the joint criminal enterprise.
34. The plan and conduct of the joint criminal enterprise entailed a widespread and systematic attack against the non-Serb civilian population in areas of Croatia. The campaign of Persecutions committed in furtherance of the joint criminal enterprise included those acts set forth in paragraphs 13 through 15 of the Indictment, including Annex I. While he was aware that crimes such as imprisonment (paragraph 15(b)), deportation and forcible transfer (paragraph 15(c)) and the destruction of property (paragraph 15(d)) as described in the indictment, were being committed in the targeted territories, Milan BABIĆ did not know the details and the scale of the events that were occurring in the villages throughout the targeted areas at the time. However, he knew from what he observed that the crimes listed in the indictment were the likely outcome of the pursuit of the objective of the joint criminal enterprise and the campaign of persecutions. At the end of 1991 or beginning of 1992, in relation to the imprisonment he took steps to alleviate the problems by appointing professional prison staff. With respect to the murders charged in paragraph 15(a) of the indictment, Milan BABIĆ did not know they were occurring at the time but knew from what he observed that such killings were

the likely outcome of the pursuit of the objective of the joint criminal enterprise and the campaign of persecutions.

MEĐUNARODNI KRIVIČNI SUD ZA BIVŠU JUGOSLAVIJU

Slučaj broj IT-03-72-I

Tužilac

protiv

Milana BABIĆA

ANEKS A

**ZAJEDNIČKOM ZAHTJEVU ZA RAZMATRANJE SPORAZUMA O
OČITOVAЊU O KRIVICI IZMEĐU MILANA BABIĆA I TUŽILAŠTVA**

SPORAZUM O OČITOVAЊU O KRIVICI

Uvod

1. Ovaj dokument sadrži Sporazum o priznanju krivice (u daljem tekstu: Sporazum), na temelju pravila 62bis Pravilnika o postupku i dokazima (u daljem tekstu: Pravilnik), između optuženog Milana BABIĆA, putem njegovih pravnih savjetnika Petera Michaela MUELLERA i Roberta FOGELNESTA s jedne strane i Tužilaštva s druge strane. Svrha ovog Sporazuma je da se stranke u potpunosti upoznaju sa sadržajem ovog Sporazuma i mogućim posljedicama izjave Milana BABIĆA kojom priznaje krivicu, kao i da obezbijedi strankama i Pretresnom vijeću da sa sigurnošću utvrdi da je očitovanje o krivici pravovaljano, dobrovoljno i izrečeno u skladu s Pravilnikom Tribunala. Uslovi Sporazuma su sljedeći:

Očitovanje o krivici po tački 1 optužnice, za progone, zločin protiv čovječnosti

2. Milan BABIĆ pristaje da se izjasni krivim prema tački 1 optužnice u postupku *Tužilac protiv Milana BABIĆA*, krivični br. IT-03-72-I (u daljem tekstu: Optužnica), koji se odnosi na progone, zločin protiv čovječnosti (u daljem tekstu: Progoni), a koji su kažnjivi prema članovima 5(h) i 7(1) Statuta Tribunala (u daljem tekstu: Statut). U dijelu člana 5(h) Statuta koji se odnosi na ove zločine, stoji:

Međunarodni sud ima ovlašćenje da krivično goni osobe koje su odgovorne za sljedeće zločine počinjene u oružanom sukobu, bez obzira da li je taj sukob međunarodnog ili unutrašnjeg karaktera, ukoliko su direktno upereni protiv civilnog stanovništva.

- (h) progoni na političkom, rasnom i vjerskom osnovu
3. Milan BABIĆ sporazuman je da se izjasni krivim prema tački 1, s obzirom da je doista kriv kao saučesnik u udruženom zločinačkom poduhvatu, te prihvata punu odgovornost za svoje postupke, a koji su predmet ove optužnice.

Razlozi za očitovanje o krivici i saradnju Milana BABIĆA

4. U zamjenu za priznavanje krivice od strane Milana BABIĆA prema tački 1, Progoni, njegovu punu suradnju s Kancelarijom tužioca u smislu stavova 9-11 ovog Sporazuma, te ispunjavanje obaveza navedenih u ovom Sporazumu, Tužilaštvo se obavezuje kako slijedi:
- (a) U momentu kad Pretresno vijeće prihvati njegovo priznanje krivice, Tužilac će podnijeti zahtjev za odbacivanje svih preostalih optužbi za koje se Milan BABIĆ tereti u optužnici, na način da nijedna strana ne bude oštećena.
- (b) Tužilac će dati preporuku Pretresnom vijeću za izricanje zatvorske kazne koja neće biti duža od 11 godina. Milanu BABIĆU je poznato da Pretresno vijeće nije u obavezi da prihvati preporuku tužioca i da može izreći kaznu koja će biti manja, odnosno veća od zahtjeva tužioca. Pri izricanju presude, Odbrana može predložiti bilo koju kaznu koju smatra odgovarajućom.
- (c) Tužilac će poduzeti potrebne i prihvatljive mjere da obezbijedi sigurnost i zaštitu za Milana BABIĆA, kao i za članove njegove uže porodice. U tom smislu, Milan BABIĆ uviđa da su sve odluke koje se tiču sigurnosti i zaštite njega i njegove porodice isključivo u nadležnosti Ureda sekretara MKSJ.

Priroda optužbe

5. Milan BABIĆ uviđa da, u slučaju da se suđenje održi, od tužioca bi se zahtijevalo da izvan svake razumne sumnje dokaže sljedeće elemente:

Udruženi zločinački poduhvat

- (a) U počinjenju zločina progona učestvovalo je više osoba;
- (b) Postojaо je zajednički plan, zamisao, odnosno cilj koji je podrazumijevao, odnosno predviđao počinjenje krivičnog djela progona;
- (c) Optuženik je učestvovao u udruženom planiranju počinjenja krivičnog djela progona;
- (d) Saučesnici u udruženom zločinačkom poduhvatu su imali namjeru da počine zločin progona.

Progoni

- (a) za sve vrijeme na koje se odnosi ova optužnica postojalo je stanje oružanog sukoba;
- (b) postojao je rasprostranjen i sistematski napad uperen protiv civilnog stanovništva;
- (c) planiranje i provođenje udruženog zločinačkog poduhvata odnosilo se na rasprostranjeni i sistematski napad uperen protiv civilnog stanovništva;
- (d) optuženik je bio svjestan šireg konteksta u kojem je došlo do provodenja udruženog zločinačkog poduhvata;
- (e) učesnici u udruženom zločinačkom poduhvatu počinili su radnje ili su propustili učiniti radnje, u skladu sa planom o udruženom zločinačkom poduhvatu protiv žrtve, odnosno stanovništva kao žrtve, te su na taj način prekršili osnovna i temeljna ljudska prava;
- (f) udruženi zločinački poduhvat počinjen je na političkoj, rasnoj i vjerskoj osnovi;
- (g) udruženi zločinački poduhvat počinjen je s planiranim ciljem diskriminacije.

Činjenični osnov

6. Milan BABIĆ i Tužilaštvo suglasni su da kad bi Tužilaštvo nastavilo s iznošenjem dokaznog materijala, činjenice i navodi izneseni u Činjeničnom iskazu, tabulator 1 ovog Aneksa, bili bi dokazani van svake razumne sumnje, kao i da su te činjenice istinite i tačne, te da ih Milan BABIĆ ne osporava.

7. Tužilaštvo i Milan BABIĆ suglasni su da dokazni materijal potkrepljuje proglašavanje Milana BABIĆA krivim za saučešće u udruženom zločinačkom poduhvatu krivičnog djela progona prema tački 1 optužnice.

Saradnja od strane Milana BABIĆA

8. Milan BABIĆ pristaje da preuzme odgovornost za svoje postupke te da saraduje i da pruži istinite i potpune informacije Kancelariji Tužioca kad god se to od njega zatraži. Shodno takvoj saradnji, Milan BABIĆ pristaje da se sastane sa članovima Kancelarije Tužioca onoliko puta koliko to bude potrebno, kako bi im pružio temeljite i potpune informacije i dokaze koji su mu poznati. Gospodin BABIĆ pristaje da bude istinoljubiv i iskren, te da slobodno odgovara na sva pitanja koja mu postave članovi Kancelarije Tužioca. Gospodin BABIĆ je saglasan da na svim procesima, saslušanjima ili drugim postupcima pred Međunarodnim krivičnim sudom za bivšu Jugoslaviju (MKSJ) svjedoči istinoljubivo, a shodno zahtjevu Kancelarije Tužioca.
9. Tužilaštvo i gospodin BABIĆ takođe su saglasni da neće tražiti odgodu donošenja presude nakon što saradnja gospodina BABIĆA bude okončana, nego će, u stvari, proslijediti sa odmjeravanjem kazne u što je moguće kraćem roku.
10. Podrazumijeva se, a sa tim su saglasni i Milan BABIĆ i Tužilaštvo, da sva obavještenja i svjedočanstva gospodina BABIĆA moraju da budu istinita. To znači da Milan BABIĆ ne smije umanjivati svoja djela, niti smije izmišljati umiješanost drugih lica.

Maksimalna moguća kazna i odmjeravanje kazne

11. Milan BABIĆ je upoznat da, shodno Pravilu 101 Pravilnika, Pretresno vijeće može osuditi onoga ko je priznao optužbe o progonu iz optužnice Tužilaštva maksimalnom kaznom doživotnog zatvora.
12. Milanu BABIĆU je jasno da, shodno Pravilu 62 ter (B), Pretresno vijeće nije pod obavezom da se povinuje bilo kakvoj nagodbi između Tužilaštva i Odbrane.
13. Milan BABIĆ pristaje da ostane kod svog priznanja krivice bez obzira na kaznu koja mu bude izrečena, te je saglasan da se neće žaliti na osudu shodno

svom očitovanju o krivici. Milan BABIĆ zadržava pravo da uloži žalbu na izrečenu kaznu.

14. Milanu BABIĆU je jasno da će, shodno Članu 24 Statuta i Pravilu 101 (B) Pravilnika, kod odmjeravanja odgovarajuće kazne Pretresno vijeće uzeti u obzir i takve faktore kao što su težina počinjenog djela i individualne okolnosti osuđenika. Pored toga, Pretresno vijeće će uzeti u obzir i takve faktore kao što su: sve otežavajuće okolnosti, sve olakšavajuće okolnosti, uključujući i značajnu saradnju osuđenog s tužiocem prije ili poslije izricanja presude, opštu praksu izricanja zatvorskih kazni u sudovima bivše Jugoslavije, kao i koliko je osudeni izdržao od bilo koje kazne koju je sud bilo koje države izrekao za isto djelo. Pri izricanju kazne Tužilaštvo će insistirati da jedina otežavajuća okolnost u uslovima ovog slučaja bude čelni položaj koji je zauzimao optuženi.
15. Milan BABIĆ je saglasan sa činjenicom da će na glavnom pretresu tužilac i odbrana predočiti Pretresnom vijeću sve informacije koje budu smatrani važnim za donošenje presude.

Odricanje od prava

16. Očitovanjem o krivici Milan BABIĆ je prihvatio činjenicu da se odriče sljedećih prava:
 - (a) prava da izjavи da se ne osjećа krivim i da zahtijeva od Tužilaštva da optužbe zasnovane na opravданoj sumnji sadržane u optužnici dokaže na pravednom i javnom nepristrasnom suđenju;
 - (b) prava da se pripremi za odbranu od optužbi i da svoju odbranu iznese na takvom javnom suđenju;
 - (c) prava da mu se sudi bez neopravdanog otezanja;
 - (d) prava da mu se sudi u njegovu prisustvu, te prava da se brani sâm ili da na suđenju ima pravnu pomoć po svom sopstvenom izboru;
 - (e) prava da tokom svog suđenja ispituje svjedočе protiv njega ili da zahtijeva prisustvovanje i ispitivanje svjedoka koji bi svjedočili u njegovu korist tokom suđenja pod istim uslovima pod kojima svjedočе svjedoci koji su dovedeni da svjedočе protiv njega;
 - (f) prava da ne bude primoran da svjedoči protiv sebe ili da prizna krivicu;
 - (g) prava da svjedoči ili da se tokom suđenja brani ćutanjem; i

- (h) prava da se žali kad bude proglašen krivim ili da se žali na bilo koju od odluka donesenih prije suđenja.
17. Podrazumijeva se da se priznanjem krivice optuženi ne odrice prava na pravno savjetovanje tokom svih faza sudskog postupka.

Dobrovoljno očitovanje o krivici

18. Milan BABIĆ potvrđuje da je na ovaj Sporazum o očitovanju o krivici pristao svojevoljno i dobrovoljno, da mu niko nije prijetio i na taj ga način prisilio da prizna krivicu, te da su jedina obećanja koja su mu tom prilikom data sadržana u ovom Sporazumu.

Ostali sporazumi

19. Osim onih koji su izričito navedeni u paragrafu 4 ovog Sprazuma, drugih obećanja, dogovora ili sporazuma između Kancelarije Tužioca i Milana BABIĆA ili njegovih pravnih savjetnika, Petera Michaela MUELLERA i Roberta FOGELNESTA, nema.

Izjava Milana BABIĆA

20. Ja, Milan BABIĆ, pročitao sam ovaj Sporazum o očitovanju o krivici na jeziku koji razumijem, te sam zajedno sa svojim pravnim savjetnicima, Peterom Michaelom MUELLEROM i Robertom FOGELNESTOM, pažljivo proučio sve njegove dijelove. Gospoda MUELLER i FOGELNEST savjetovali su me o mojim pravima, ili mogućoj odbrani, kao i o posljedicama sklapanja ovog Sporazuma, te sam u potpunosti zadovoljan sa načinom na koji me oni savjetuju. Osim onih obećanja koja su sadržana u ovom Sporazumu, nikakva druga obećanja ili naknade nisu mi nuđene. Nadalje, niko mi nije prijetio niti me bilo ko na bilo koji način prisiljavao da sklopim ovaj Sporazum. Ovaj sam Sporazum sklopio svojevoljno i dobrovoljno i pri zdravoj

pameti. Shvatio sam uslove ovog Sporazuma i drage volje sam saglasan sa svakim od njih ponaosob.

Milan BABIĆ

Datum

Izjava pravnih savjetnika

21. Mi, Peter Michael MUELLER i Robert FOGELNEST, pravni smo savjetnici Milana BABIĆA. Zajedno sa našim klijentom pažljivo smo proučili sve dijelove ovog Sporazuma. Nadalje, mi smo temeljito savjetovali našeg klijenta u vezi njegovih prava i moguće odbrane, maksimalno moguće kazne i posljedicama sklapanja ovog Sporazuma. Koliko je nama poznato, naš je klijent pri zdravoj pameti i njegovo je pristajanje na ovaj Sporazum posljedica njegove slobodne volje i pune obaviještenosti o rečenome.

~~Peter Michael MUELLER
Pravni savjetnik Milana BABIĆA~~

Datum

Robert FOGELNEST
Pravni savjetnik Milana BABIĆA

Dotun

Danas, 22. januara 2004. godine nižepotpisane strane u potpunosti su saglasne sa svim odredbama i uslovima sadržanim u ovom Sporazumu o očitovanju o krivici:

Milan BABIC

Peter Michael MUELLER
Pravni savjetnik Milana BABIĆA

Carla DEL PONTE
Tužiteljica

Robert FOGELNEST
Pravni savjetnik Milana BABIĆA

Hildegard UERTZ-RETZLAFF
Viši zastupnik optužbe
Kancelarija Tužioca

**MEĐUNARODNI KRIVIČNI SUD
ZA BIVŠU JUGOSLAVIJU**

Predmet br. IT-03-72-I

TUŽILAC

protiv

MILANA BABIĆA

**TABULATOR 1
IZJAVA O ČINJENICAMA**

Uvod

1. Svrha ove izjave o činjenicama je da se pokaže da postoji odgovarajući činjenični osnov za to da se Milan BABIĆ potvrđno izjasni o krivici po tački 1 optužnice u predmetu *Tužilac protiv Milana BABIĆA*, predmet br. IT-03-72-PT (u daljem tekstu: optužnica). Ova izjava o činjenicama ne obuhvata sve činjenice o ponašanju Milana BABIĆA relevantnom za optužnicu, i ne isključuje mogućnost iznošenja dodatnih dogovorom utvrđenih ili dokazanih činjenica pred Pretresno veće u vreme odmeravanja kazne.

Položaji na kojima se nalazio Milan BABIĆ

2. Milan BABIĆ je rođen 26. februara 1956. u Kukru, opština Sinj, u Hrvatskoj. Nakon što je odslužio vojni rok 1983/1984. godine, ostao je u rezervnom sastavu kao pripadnik rezervnog medicinskog korpusa. Godine 1990. imao je čin poručnika.
3. Milan BABIĆ je studirao stomatologiju u Beogradu i neko vreme nakon što je diplomirao imenovan je za direktora Doma zdravlja u Kninu.
4. Do 1990. bio je član Saveza komunista Hrvatske. U decembru 1989, bio je delegat na poslednjem kongresu Saveza komunista Hrvatske održanom u Zagrebu. Od februara 1990, bio je istaknuta politička ličnost u Srpskoj demokratskoj stranci (u daljem tekstu: SDS) u Hrvatskoj i imao je visok položaj u

opštinskom odboru SDS u Kninu. Posle smrti Jovana Raškovića 1992, Milan BABIĆ je preuzeo dužnost predsednika SDS i na toj funkciji je ostao do 1995.

5. Od 1990. do 1994. godine, Milan BABIĆ je bio na položaju predsednika Skupštine opštine Knin. Od 31. jula 1990. pa nadalje, bio je predsednik Srpskog nacionalnog veća (u daljem tekstu: SNV). Od decembra 1990, Milan Babić je bio predsednik Privremenog izvršnog veća "Srpske autonomne oblasti Krajina" (u daljem tekstu: SAO Krajina), a dana 30. aprila 1991, Milan BABIĆ je izabran za predsednika Izvršnog veća SAO Krajine. Posle toga, 29. maja 1991, postao je predsednik vlade SAO Krajine. Dana 1. avgusta 1991, Milan BABIĆ je potpisao odluku o primeni Zakona o odbrani Republike Srbije na teritoriji SAO Krajine, čime je Milan BABIĆ postao *de jure* komandant svih oružanih snaga SAO Krajine - uključujući jedinice specijalne namene Ministarstva Krajine - kao i komandant snaga Teritorijalne odbrane SAO Krajine. On, međutim, nad ovim snagama nije imao stvarnu vlast ili efektivnu kontrolu. Dana 19. decembra 1991, SAO Krajina se proglašila Republikom Srpskom Krajinom (dalje u tekstu: RSK), sa Milanom BABIĆEM na položaju predsednika. Milan BABIĆ je na tom položaju ostao do 15. februara 1992. U aprilu 1994, Milan BABIĆ je postao ministar inostranih poslova u Vladi RSK-a, a 27. jula 1995. izabran je za predsednika vlade RSK, na kom položaju je ostao nedelju dana, do 4. avgusta 1995.

Aktivnosti Milana BABIĆA u predmetnom periodu

6. Milan BABIĆ je verovao da hrvatske vlasti vode diskriminatornu politiku protiv hrvatskih Srba, posebno onih koji žive na području oko Knina. Strahovao je da će, ukoliko se Hrvatska izdvoji iz Jugoslavije, srpsko stanovništvo u novoj hrvatskoj državi postati diskriminisana manjina. Zbog priča o zlostavljanju hrvatskih Srba bojazni Milana BABIĆA samo su rasle. Pored toga, iz Beograda se vodila medijska kampanja o tome kako Srbima u Hrvatskoj preti genocid od hrvatske većine i Milan BABIĆ bio je žrtva te propagande.
7. Dana 17. februara 1990, Milan BABIĆ je bio na osnivačkoj skupštini SDS u Kninu. SDS osnovali su Jovan Opačić i Jovan Rašković, koji je postao prvi predsednik SDS. Oni su Milana BABIĆA zamolili da se obrati osnivačkoj skupštini SDS, na kojoj je bilo oko 10.000 prisutnih, i on je pristao na njihov

zahtev. Takođe su mu predložili da uđe u Glavni odbor stranke i on je pristao. Platforma SDS je, između ostalog, nabrajala probleme s kojima se susreću Srbi u Hrvatskoj i evocirala opasnost od genocida, uz konstataciju da je srpska dijaspora u Hrvatskoj “istorijska žrtva starija od pritiska starčevičevskih pravaša /Partije Prava/ i frankovačkog genocida.” U Platformi se zagovaralo prepravljanje regionalnih i opštinskih granica u skladu s etničkim sastavom područja i isticalo pravo teritorija sa “posebnim etničkim sastavom” da postanu autonomne putem referendumu. Platforma stranke, međutim, nije predviđala zlostavljanje nesrpskog stanovništva u okviru prepravljenih regionalnih i opštinskih granica.

8. Na višestranačkim izborima u Hrvatskoj u aprilu i maju 1990. godine, Milan BABIĆ je izabran za predsednika opštine Knin. SDS Krajine osvojila je većinu u pet opština: Kninu, Donjem Lapcu, Gračacu, Benkovcu i, nakon drugog kruga, u Glini.
9. Počevši od prvih meseci 1990, Milan BABIĆ je držao govore na skupovima u Krajini i davao izjave za medije. U svojim ranim govorima Milan BABIĆ je govorio o srpskoj autonomiji u okviru Hrvatske. Neki od njegovih kasnijih govora odlikuju se radikalnjom retorikom. Govorio je o strahu od genocida nad srpskim stanovništвом u Hrvatskoj i prihvatio je ideju o tome da bi svi Srbi trebalo da imaju pravo da žive u srpskoj državi. Pošto je Milan BABIĆ bio ugledan političar među Srbima u Hrvatskoj, njegovi govor i intervju doprineli su pomenutoj propagandi.
10. U junu 1990, Milan BABIĆ je učestvovao u osnivanju Zajednice srpskih opština Severne Dalmacije i Like i postao je predsednik te Zajednice. U Nacrtu statuta Zajednice pisalo je da je njen cilj uvođenje srpske regionalne autonomije u Hrvatskoj u skladu sa hrvatskim ustavom, sa lokalnom kontrolom u sferama građanskog i kulturnog života na srpskim područjima. Zajednica je prvobitno obuhvatala opštine Knin, Benkovac, Gračac, Donji Lapac, Obrovac i Titovu Korenicu. Dana 6. jula 1990, Milan BABIĆ je sazvao sastanak Zajednice i svih opština u Hrvatskoj u kojima su Srbi predstavljali većinu, kako bi se razmatrali predloženi amandmani na Ustav Hrvatske, koji su shvaćeni kao protivni interesima onih koji se osećaju kao Srbi. Na sastanku su odbačene predložene ustavne promene, među kojima su ukidanje regionalizacije, ukidanje mogućnosti

- stvaranja zajednica opština, uvođenje isključivo hrvatskih simbola i promena naziva jezika.
11. Iz straha da će postati diskriminisana manjina u Hrvatskoj, Milan BABIĆ i druge vode SDS-a Krajine su, 25. jula 1990. godine, učestvovale u srpskoj skupštini u Srbu, na kojoj se okupilo oko sto hiljada hrvatskih Srba. Skupština je usvojila deklaraciju "o suverenosti i autonomiji srpskog naroda" u Hrvatskoj. U Deklaraciji je pisalo da je srpski narod u Hrvatskoj "suveren narod sa svim pravima koja sadržava suverenost naroda". Tom Deklaracijom su takođe konstituisani Srpski Sabor koji zaseda u Srbu, kao politički predstavnik srpskog naroda u Hrvatskoj, i Srpsko nacionalno vijeće, kao izvršni organ Srpskog Sabora. U Deklaraciji je pisalo da Srpsko nacionalno vijeće ima pravo da organizuje referendum srpskog naroda o pitanjima suvereniteta i da je odgovorno za sprovodenje odluka Sabora. U Deklaraciji je dalje stajalo da Sabor proglašava ništavnim sve ustavne i zakonske promene u Hrvatskoj koje negiraju suverenitet Srba kao naroda ili njihovo pravo na autonomiju. Konačno, u Deklaraciji je pisalo da će Srbi u Hrvatskoj, ukoliko Hrvatska ostane u Jugoslaviji, tražiti kulturnu autonomiju, ali da će, u slučaju da Jugoslavija postane konfederacija nezavisnih republika, Srbi u Hrvatskoj zatražiti političku i teritorijalnu autonomiju.
 12. Prvo zasedanje Srpskog nacionalnog vijeća održano je 31. jula 1990. u Kninu. Na drugoj sednici Srpskog nacionalnog vijeća, održanoj 16. avgusta 1990. u Dvoru na Uni, Vijeće je predložilo da se u svim naseljima u Hrvatskoj u kojima su živeli Srbi, od 19. avgusta do 2. septembra, održi referendum o srpskoj autonomiji. Glasaci su mogli da glasaju za ili protiv autonomije i suverenosti Srba u Hrvatskoj. Na tom referendumu 99,7% onih koji su glasali, a to su većinom bili Srbi, podržali su autonomiju. Dana 30. septembra 1990., SNV je objavio "autonomiju srpskog naroda na etničkim i istorijskim teritorijama na kojima on živi a koje su unutar sadašnjih granica Republike Hrvatske kao federalne jedinice Socijalističke Federativne Republike Jugoslavije".
 13. Dana 17. avgusta 1990., vlada Hrvatske je proglašila taj referendum nezakonitim. Počele su da kruže glasine da hrvatska policija kreće da uguši taj referendum. Dušan Orlović i Milan Martić obavestili su Milana BABIĆA o pokretu hrvatske policije i on je otišao u Golubić da vidi šta se dešava. Milan Martić i drugi delili

su oružje srpskom stanovništvu. Srbi koje je organizovao Milan Martić takođe su počeli da se naoružavaju i dižu barikade u Kninu i taj dogadaj poznat je kao "balvan revolucija".

14. U avgustu 1990. godine, Milan BABIĆ je kontaktirao Slobodana Miloševića da bi mu se požalio na to kako se postupa sa Srbima na području oko Knina. Milošević je Milana BABIĆA uputio da se sastane sa predsednikom SFRJ Borisavom Jovićem. Dana 13. avgusta 1990, Milan BABIĆ i druge vode iz Knina sastali su se sa Jovićem i izložili mu probleme koje srpska zajednica ima sa hrvatskim vlastima. Jović je rekao da će politički podržati Srbe u Hrvatskoj i da će oni u svojoj borbi imati podršku i zaštitu JNA. Kasnije je ovo uveravanje u raznim prilikama ponavljao i sam Milošević.
15. Milan BABIĆ je predsednika Miloševića u početku doživljavao kao vođu i zaštitnika svih etničkih Srba u Jugoslaviji. Milan BABIĆ je od Miloševića tražio pomoć u zaštiti srpskog naroda Krajine i Milošević ga je uveravao da će imati zaštitu JNA. Poverenje Milana BABIĆA u Miloševića poljuljano je u martu 1991. Milošević mu je na karti pokazao predlog zapadne granice nove srpske države o kojoj su se, kako je razumeo, dogovorili Milošević i Tuđman, a ta granica išla je kroz Bosnu i Hercegovinu. Milan BABIĆ je bio zaprepašćen, jer je to po njegovom viđenju bilo suprotno interesima SAO Krajine i svemu što mu je Milošević ranije rekao o tome kako će ih zaštiti.
16. Od avgusta 1990, u Krajini se javlja paralelna struktura vlasti koju su sačinjavali pripadnici Ministarstva unutrašnjih poslova Srbije, Službe državne bezbednosti Srbije i SDS-a u Hrvatskoj, kao i policajci iz srpskih opština u Hrvatskoj, i ta struktura je u krajnjoj instanci bila direktno i isključivo odgovorna Slobodanu Miloševiću. Centralne ličnosti ove paralelne strukture u Srbiji, pored samog Miloševića, bili su Jovica Stanišić iz DB-a Srbije i njegov podređeni Franko "Frenki" Simatović. U Krajini su centralne ličnosti bile Milan Martić i Dragan Vasiljković, zvani Kapetan Dragan. Preko ove paralelne strukture, Milošević je kreirao incidente koji su kod Srba, uključujući i Milana BABIĆA, izazivali strah i dovodili do reakcije, usled čega su se intervencije hrvatske policije pooštravale. To je ekskaliralo u netrpeljivost, nasilje i, konačno, rat. Milan BABIĆ nije

- pripadao ovoj paralelnoj strukturi i nije imao mogućnost da kontroliše njihove akcije.
17. Milan BABIĆ je bio svestan ove paralelne strukture i sa njom je imao zajednički cilj stvaranja svesrpske države. Iako su pogledi Milana BABIĆA o metodama i sredstvima kojima je trebalo ostvariti svesrpsku državu bili drugačiji, on je doprineo ostvarivanju cilja paralelne strukture vlasti - da se sukobom i upotrebom sile stvori država za sve Srbe – na sledeće načine: time što se nije javno izjasnio protiv metoda kojima se služila ta struktura, nastavljanjem vršenja dužnosti koje je podrazumevao njegov položaj, učešćem u naoružavanju Srba u Hrvatskoj, formiranjem političkih i vojnih struktura odvojenog srpskog entiteta u Hrvatskoj, obezbeđivanjem ljudstva za njih i nabavkom finansijskih sredstava za te vojne strukture. Pored toga, u cilju stvaranja jedinstvene države za sve Srbe u bivšoj Jugoslaviji, Milan BABIĆ se često sastajao sa učesnicima udruženog zločinačkog poduhvata opisanog u optužnici, pre svega sa Slobodanom Miloševićem, Milanom Martićem i Radovanom Karadžićem.
18. Dana 21. decembra 1990, Zajednica opština Severne Dalmacije i Like je pod vodstvom Milana BABIĆA postala Srpska autonomna oblast Krajina (u daljem tekstu: SAO Krajina). Teritoriju SAO Krajine činile su opštine koje su tada bile u Zajednici opština Severne Dalmacije i Like, i sve druge opštine sa srpskom većinom su odlučile da se priključe SAO Krajini i mesne zajednice koje su, posle referendumu svojih građana, odlučile da se priključe opštini koja je i sama odlučila da se priključi SAO Krajini. U skladu sa Statutom SAO Krajine, SAO Krajina “je oblik teritorijalne autonomije” u sastavu Hrvatske i gradani SAO Krajine imaju pravo na samoupravu putem referendumu ili preko izabranih predstavnika u Skupštini SAO Krajine. Milan BABIĆ se nalazio na čelu SAO Krajine i u aprilu 1991. zvanično je postavljen za predsednika Izvršnog vijeća. U maju 1991, postao je predsednik SAO Krajine vlade.
19. Kada je većinom glasova Privremenog izvršnog vijeća SAO Krajine Milan Martić nominovan za sekretara za unutrašnje poslove, Milan BABIĆ ga je 4. januara 1991. imenovao na tu funkciju. U vreme tog imenovanja Milan BABIĆ je znao da je Martić ključna ličnost postojeće paralelne strukture i da se od oktobra 1990, preko grupe poznate kao Vijeće narodnog otpora, zalagao protiv mirnog rešenja

- sukoba između Srba u Hrvatskoj i hrvatskih vlasti. Konkretno, Martić i ova organizacija otpora pokušavali su da provociraju hrvatske vlasti napadima na hrvatsku policiju, otvaranjem vatre na nesrpske civile, podmetanjem eksploziva u radnje, kuće i vozila koja su pripadala nesrpskom stanovništvu i miniranjem i dizanjem u vazduh železničke pruge. Martić i postojeća paralelna struktura nadali su se da će ove provokacije dovesti do eskalacije sukoba, primorati vlasti na saveznom nivou da proglaše vanredno stanje i izazvati intervenciju JNA.
20. Vlada SAO Krajine nikada nije imala nikakvu efektivnu kontrolu nad Martićem i policijom u Krajini. Pokušaji da se on smeni bili su bez uspeha zbog podrške koju je Martić dobijao od Miloševića i drugih ličnosti iz paralelne strukture.
 21. U martu 1991, posle incidenta u Pakracu, Milan BABIĆ se sastao sa Miloševićem kako bi dobio objašnjenje za ono šta se događa. Rečeno mu je da ne brine i da se vrati u Knin. Po drugi put se sastao sa Miloševićem i tražio od njega zaštitu za Krajinu. Milošević mu je rekao da je već kupio naoružanje iz Mađarske, 20.000 komada. Milan BABIĆ nije znao za to i rekao je Miloševiću da za to nije znao. Miljanu BABIĆU su kasnije pokazali naoružanje koje je stiglo iz skladišta srpske TO. Milan BABIĆ je takođe znao da je u julu i avgustu 1991. godine oružje nabavljeno preko pukovnika Smiljanica iz JNA i da je to oružje u Krajinu dopremljeno preko vojnog aerodroma u Bihaću.
 22. Milan BABIĆ je takođe rekao Miloševiću da su Krajini potrebni profesionalci koji bi obučavali policiju. Dana 1. aprila 1991, Milan BABIĆ je Vladi Republike Srbije uputio zahtev, kojim je tražio da snage Ministarstva unutrašnjih poslova Republike Srbije obezbede tehničku podršku i podršku u ljudstvu za policiju SAO Krajine. U aprilu 1991, Frenki Simatović, Milan Martić i Kapetan Dragan osnovali su poligon za obuku u Golubiću, sa ciljem da formiraju specijalne jedinice policije Krajine. Poligon je finansirao, naoružavao i snabdevao MUP Srbije. Milan BABIĆ je pozvan da obide poligon i on ga je, potom, posetio u dve prilike.
 23. Dana 18. marta 1991, Milan BABIĆ je, u svojstvu predsednika Skupštine opštine Knin, podržao odluku Skupštine da se opština Knin "potpuno i trajno" odvoji od Republike Hrvatske. Dana 1. aprila 1991, u svojstvu predsednika Izvršnog vijeća SAO Krajine, Milan BABIĆ je podržao odluku Izvršnog vijeća o prisajedinjenju

SAO Krajine Republici Srbiji. U toj odluci je pisalo da će u SAO Krajini važiti Ustav i zakoni Republike Srbije. Pola sata kasnije, Milošević je pozvao telefonom Milana BABIĆA i rekao mu da vlasti u Krajini treba da daju podršku Jugoslaviji, a ne Srbiji. On ovo nije objasnio, ali je Milan BABIĆ verovao da Milošević želi da direktna uloga Srbije u događajima u Krajini ostane tajna. Ovo je bilo u skladu sa Miloševićevim planom da sve izgleda kao da se drugi odvajaju od Jugoslavije, a da onaj deo Jugoslavije za koji je on predviđao da će ostati u novostvorenoj državi izgleda kao da je tu ostao na neki pasivan način. JNA je trebalo da zaštitи srpska područja. Nakon ponovljenih Miloševićevih intervencija, vlasti u Krajini su promenile svoje pozicije i počele da govore kako žele da ostanu u Jugoslaviji, a ne da budu pripojene Srbiji.

24. Dana 30. aprila 1991, Skupština je donela odluku da se 12. maja 1991. u SAO Krajini održi referendum. Prvobitno je trebalo da se glasači izjašnjavaju o tome da li žele da se Krajina pripoji Srbiji i Crnoj Gori. Zbog Miloševićeve intervencije, međutim, pitanje je preformulisano da glasi: "Da li ste za to da se SAO Krajina pripoji Republici Srbiji i ostane u Jugoslaviji sa Srbijom, Crnom Gorom i drugima koji žele očuvanje Jugoslavije?" Od ukupnog broja glasača koji su izašli na referendum, 99,8% je glasalo za pripajanje.
25. Dana 29. maja 1991, Skupština SAO Krajine je, uz pristanak Milana BABIĆA, imenovala Milana Martića za ministra odbrane SAO Krajine. Skupština je istog dana donela odluku o osnivanju jedinica za posebne namene Ministarstva za unutrašnje poslove SAO Krajine pod nazivom "Milicija Krajine", koje su stavljenе pod nadležnost Ministarstva odbrane. U to vreme Milan BABIĆ je znao da snage pod komandom Milana Martića napadaju hrvatske civile. Dana 27. juna 1991, Skupština je ponovno imenovala Martića za ministra unutrašnjih poslova SAO Krajine (on je, zapravo, zadržao tu funkciju i dok je bio ministar odbrane). Kako umesto Martića niko nije bio odmah imenovan za ministra odbrane, neko vreme je tu dužnost vršio Milan BABIĆ.
26. Od jula 1991, Milan BABIĆ je, kao ministar odbrane SAO Krajine, potpisivao naređenja za organizovanje formacija TO u Krajini i imenovao je komandante za njih. Dana 11. jula 1991, Milan BABIĆ je izdao naređenje za mobilizaciju svih

štabova i jedinica TO u SAO Krajini. Kao što je već spomenuto, 1. avgusta 1991. godine Milan BABIĆ je doneo odluku o primeni Zakona o odbrani Republike Srbije na teritoriji SAO KRAJINE, kojom je sebe postavio za komandanta oružanih snaga SAO Krajine, uključujući sve jedinice specijalne namene SAO Krajine i Teritorijalne odbrane (TO) SAO Krajine. Milan BABIĆ je obavljao dužnosti koje idu uz ovu funkciju. Dana 8. avgusta 1991, Milan BABIĆ je, pod Miloševićevim pritiskom, imenovao Milana Martića za zamenika komandanta TO SAO Krajine. Milan BABIĆ je takođe potpisao naređenja kojima se osnivaju formacije TO i imenuju komandanti TO na čitavom području.

27. U septembru 1991, na zahtev Milana BABIĆA, formiran je Štab TO SAO Krajine, a 30. septembra 1991, Milan BABIĆ je imenovao Iliju Đujića za komandanta TO, no Milan BABIĆ je tada samo ratifikovao odluku koja je doneta u Beogradu. Dana 28. novembra 1991, Milan BABIĆ je Đujića razrešio dužnosti na lični zahtev i zatim je za komandanta TO imenovao pukovnika Radoslava Maksića, za šta je imao odobrenje od JNA. U vezi sa pitanjem odnosa TO i JNA Milan BABIĆ se u oktobru 1991. sastao sa generalom JNA Vukovićem iz 9. (kninskog) korpusa, a zatim i sa generalom Blagojem Adžićem. Milan BABIĆ je napisao izveštaj kojim je od JNA zatražio da reši izvesne probleme u vezi sa koordinacijom sa TO. Komandanti TO su raportirali direktno JNA, a Slobodan Milošević je bio taj koji je bio direktno odgovoran za imenovanje Glavnog štaba TO u Krajini. Iako je Milan BABIĆ pokušao da preuzme komandu nad TO u septembru 1991, to mu nije uspelo, i TO je primala naređenja isključivo od JNA. Milan BABIĆ se sastao sa Tomislavom Simovićem, ministrom odbrane Srbije, i od njega zatražio finansijsku pomoć za TO SAO Krajine.
28. Milan BABIĆ je već znao za planove koje su po pitanju prisilnog premeštanja bosanskih Muslimana imali drugi učesnici udruženog zločinačkog poduhvata, a u avgustu 1991, nakon napada na Kijevo, postao je svestan i toga da JNA i paralelna struktura vlasti ne pružaju zaštitu Srbima u Hrvatskoj, već da zajedno sa lokalnim snagama srpske TO u Krajini i Martićevom policijom vode rat za osvajanje teritorija sa ciljem uspostavljanja zapadnih granica nove srpske države. Milan BABIĆ je video da će stvaranje srpske države podrazumevati nasilno i

trajno premeštanje nesrpskog stanovništva iz većinsko srpskih područja u Hrvatskoj putem diskriminatorne kampanje progona.

29. Ovaj rat za stvaranje srpske države predstavljao je osnovu udruženog zločinačkog poduhvata opisanog u optužnici, čija je svrha bila nasilno i trajno izmeštanje većine hrvatskog i drugog nesrpskog stanovništva sa oko jedne trećine teritorije Republike Hrvatske, s ciljem da ta teritorija postane deo države u kojoj bi dominirali Srbi. Milan BABIĆ je shvatio da se ova srpska država stvara i održava zahvaljujući etničkom preseljavanju Hrvata i drugog nesrpskog stanovništva na pretežno srpskim područjima Hrvatske. Iako je imao drugačije poglede na odgovarajuće metode i sredstva kojima je trebalo ostvariti srpsku državu, nastavio je da pomaže i sarađuje sa onima koji su radili na ostvarenju ovoga plana koristeći nasilje. U područja obuhvaćena ovim planom spadale su oblasti koje su srpske vlasti nazivale "SAO Krajina", "SAO Zapadna Slavonija", "SAO Slavonija, Baranja i zapadni Srem" (od 19. decembra 1991. "SAO Krajina" je dobila naziv RSK; dana 26. februara 1992. "SAO Zapadna Slavonija" i "SAO Slavonija, Baranja i zapadni Srem" ušle su u RSK) i "Dubrovačka republika". Milan BABIĆ se u tom pogledu usredsredio na SAO Krajinu. Plan je delimično ostvaren zahvaljujući kampanji progona, što je zločin protiv čovečnosti koji predstavlja kršenje člana 5 Statuta Medunarodnog suda.
30. Počevši od avgusta 1991, Milan BABIĆ je znao da članovi udruženog zločinačkog poduhvata smeraju prisilno preseljavanje hrvatskog i drugog nesrpskog stanovništva u okviru predviđenih oblasti. Iako se zalagao za mirno rešenje krize, svesno i sa namerom učestvovao je u zajedničkom planu koji je uključivao izvršenje zločina progona, sa *mens rea* koja je potrebna za počinjenje zločina progona. Kako je Milan BABIĆ sam rekao, postao je "etnički egoista, osoba koja je želela da vidi jedino interes naroda kome pripada", dok je "interese i patnju drugih naroda, u to vreme hrvatskog, zanemarivao".
31. U tom udruženom zločinačkom poduhvatu, u raznim periodima njegovog postojanja, učestvovalo je više osoba, među kojima Slobodan MILOŠEVIĆ; Milan MARTIĆ; Goran HADŽIĆ; Jovica STANIŠIĆ; Franko SIMATOVIĆ zvani "Frenki"; Vojislav ŠEŠELJ; general Blagoje ADŽIĆ; general Ratko MLADIĆ i

drugi poznati i nepoznati pripadnici Jugoslovenske narodne armije; srpska Teritorijalna odbrana iz Hrvatske, Srbije i Crne Gore; lokalne policijske snage i policijske snage Srbije (snage MUP-a), uključujući Državnu bezbednost (DB) Republike Srbije i srpske policijske snage SAO Krajine i RSK-a koje su se obično nazivale "Martićeva policija", "Martićevci", "policija SAO Krajine" ili "milicija SAO Krajine" (u daljem tekstu: Martićeva policija).

32. Dana 8. septembra 1991, Milan MARTIĆ i jedan oficir bezbednosti JNA uhapšeni su u Otoči u opštini Bosanska Krupa. Razni učesnici udruženog zločinačkog poduhvata, među kojima Slobodan Milošević, Radovan Karadžić, Jovica Stanišić, više generala JNA i Milan BABIĆ, angažovali su se na oslobođanju Martića.
33. Milan BABIĆ je učestvovao u udruženom zločinačkom poduhvatu na sledeće načine:
 - a) U svojstvu predsednika SNV-a, a posle i predsednika vlade/premijera SAO Krajine i RSK, on je formulisao, promovisao i podsticao razvoj i sprovođenje zvanične politike SDS-a i SAO Krajine/RSK čija je namena bila ostvarenje cilja udruženog zločinačkog poduhvata i učestvovao je u njoj. Tokom cele 1991. godine, Milan BABIĆ je prisustvovao sastancima sa rukovodstvom Srbije, SFRJ i bosanskih Srba na kojima je definisana ta politika i, nakon što bi od Slobodana Miloševića primio uputstva o tome kakve stavove treba zauzeti, zastupao je te stavove na pregovorima na međunarodnom nivou.
 - b) Odigrao je ključnu ulogu u osnivanju, podršci i radu organa vlade koji su upravljali SAO Krajinom/RSK-om, a koji su u saradnji sa JNA i paralelnom strukturu vlasti sprovodili ciljeve udruženog zločinačkog poduhvata i učestvovali u izvršenju zločina koji se navode u optužnici.
 - c) Doprinoeо je reorganizovanju i regrutovanju Teritorijalne odbrane (TO) SAO Krajine, a posle i RSK, koje su učestvovale u zločinima koji se navode u optužnici. Barem od 1. juna 1991, pa do 15. februara 1992, uključujući i taj datum, Milan BABIĆ je bio *de jure* komandant snaga TO-a.

- d) Premda nije podržavao metode i zločinačko ponašanje Milana Martića, niti je po pitanju etničkog čišćenja imao istu *mens rea* kao on, Milan BABIĆ je ipak sarađivao sa Milanom Marićem, što je dovelo do toga da Martić dobije komandu i kontrolu nad "Martićevom policijom", koja je učestvovala u počinjenju zločina. Bezuspešno pokušavši da preuzme kontrolu nad Martićevom policijom i paralelnom strukturom vlasti u letu 1991. godine, Milan BABIĆ je potom nastavio da sarađuje s njima.
 - e) Učestvovao je u pružanju finansijske, materijalne, logističke i političke podrške koja je bila neophodna za vojno zauzimanje teritorija u SAO Krajini, što je dovelo do prisilnog uklanjanja hrvatskog i drugog nesrpskog stanovništva od strane snaga TO-a koje su delovale u saradnji sa JNA i "Martićevom policijom."
 - f) Na javnim manifestacijama i u medijima držao je huškačke govore na nacionalnoj osnovi koji su doprineli atmosferi straha i mržnje među Srbima u Hrvatskoj i koji su kao takvi pomogli u stvaranju javnog mnjenja da Srbi mogu biti bezbedni jedino u sopstvenoj državi.
 - g) Tražio je pomoć od JNA ili je omogućio učešće snaga JNA u osnivanju i radu SAO Krajine, doprinoseći time ostvarivanju cilja udruženog zločinačkog poduhvata.
 - h) Podsticao je i pomagao nabavku oružja i njegovu podelu Srbima u Hrvatskoj s ciljem ostvarenja cilja udruženog zločinačkog poduhvata.
34. Planiranje i sproveđenje udruženog zločinačkog poduhvata podrazumevalo je rasprostranjen i sistematski napad na nesrpsko civilno stanovništvo na područjima Hrvatske. Kampanja progona koja se sprovodila u cilju ostvarivanja udruženog zločinačkog poduhvata obuhvatala je dela opisana u paragrafima 13 do 15 optužnice, uključujući Dodatak I. Mada je bio svestan da se u predviđenim teritorijama vrše zločini kao što su zatvaranje (paragraf 15(b)), deportacija i prisilno premeštanje (paragraf 15(c)) i uništavanje imovine (paragraf 15(d)), kako je opisano u optužnici, Milan BABIĆ nije znao detalje i razmere događaja koji su se u to vreme odigravali u selima širom predviđenih oblasti. Međutim, iz onoga što je video znao je da su zločini navedeni u optužnici verovatni ishod nastojanja da se ostvari cilj udruženog zločinačkog poduhvata i kampanje progona. Krajem

1991. ili početkom 1992. godine, on je u vezi sa zatvaranjem preuzeo korake da ublaži probleme tako što je postavio profesionalne zatvorske radnike. Što se tiče ubistava koja se terete u paragrafu 15(a) optužnice, u vreme kada su se ona dogadala Milan BABIĆ nije znao za njih, ali je iz onoga što je video znao da su takva ubistva verovatni ishod nastojanja da se ostvari cilj udruženog zločinačkog poduhvata i kampanje progona.