

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

CASE No. IT-98-30/1

THE PROSECUTOR

v.

DRAGOLJUB PRCAC

AMENDED INDICTMENT

The Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, pursuant to her authority under Article 18 of the Statute of the International Criminal Tribunal for the Former Yugoslavia ("the Statute of the Tribunal"), charges:

Dragoljub PRCAC

with **Crimes Against Humanity** and **Violations of the Laws or Customs of War**, as set forth below:

Background:

1. Prijedor Municipality (*opstina*) is located in northwestern Bosnia and Herzegovina. According to the 1991 census, it had a total population of 112,543: 49,351 (43.9%) identified themselves as Muslims; 47,581 (42.3%) identified themselves as Serbs; 6,316 (5.6%) identified themselves as Croats; 6,459 (5.7%) identified themselves as Yugoslavs; and 2,836 (2.5%) were identified as other nationalities. The Municipality is situated along one of the main east-west travel corridors in the former Yugoslavia. It was considered a strategic location by Serbian leaders because that corridor linked the Serbian-dominated area of the Croatian Krajina in the west with the Republic of Serbia in the east.

2. In 1991, after Slovenia and Croatia declared independence from Yugoslavia and war broke out, it appeared increasingly likely that Bosnia and Herzegovina would also declare its independence. Bosnian Serb leaders, however, wanted Bosnia and Herzegovina to remain a part of Yugoslavia. As time went by, and it became clear they would not be able to hold Bosnia and Herzegovina in the Yugoslav federation, the Bosnian Serb authorities, led by the Serbian Democratic Party (SDS), began in earnest the creation of a separate Serbian territory in Bosnia and Herzegovina.

3. As viewed by the SDS leaders, a major problem in the creation and control of the Serbian territory was the significant Bosnian Muslim and Bosnian Croat population that also lived in the areas being claimed. Thus, a significant aspect of the plan to create a new Serbian territory was the permanent removal or "ethnic cleansing" of nearly all of the Bosnian Muslim and Bosnian Croat

population, allowing for the presence of only a small number of non-Serbs who would agree to the conditions for living in a Serb-dominated State.

4. During the early morning hours of 30 April 1992, Serbian forces seized physical control of the town of Prijedor. The takeover initiated a series of events that, by year's end, would result in the death or forced departure of most of the Bosnian Muslim and Bosnian Croat population of the Municipality.

5. Immediately after the takeover of Prijedor town, severe restrictions were imposed on all aspects of life for Bosnian Muslims, Bosnian Croats and some other non-Serbs, including freedom of movement and the right to employment. The effect of those restrictions was the containment of Bosnian Muslims and Bosnian Croats in the villages and areas in the Municipality where they lived. Beginning in late May, those areas were then subjected to extremely violent, large-scale attacks by the Serb military, paramilitary, and police forces. The Bosnian Muslims and Bosnian Croats who survived the initial artillery and infantry attacks were seized by the Serb forces and transferred to camps and detention facilities established and operated under the direction of the Bosnian Serb authorities.

6. Between 24 May 1992 and 30 August 1992, Bosnian Serb authorities in the Prijedor municipality unlawfully segregated, detained and confined more than 6,000 Bosnian Muslims, Bosnian Croats and other non-Serbs from the Prijedor area in the Omarska, Keraterm, and Trnopolje camps. In Omarska camp the prisoners included military-aged males and political, economic, social and intellectual leaders of the Bosnian Muslim and Bosnian Croat population. There were about 37 women detained in the camp. At the Keraterm camp, the majority of the prisoners were military-aged males. At the Trnopolje camp the majority of prisoners were Bosnian Muslim and Bosnian Croat women, children, and the elderly, although men were also interned there either with their families or alone.

7. The Omarska camp was located in a former mining complex in the village of Omarska, approximately 20-25 kilometres from the town of Prijedor. The prisoners were generally confined in four locations: the administration building where interrogations took place and most of the women were confined; the garage or hangar building; a building known as the '*white-house*', where virtually every prisoner was tortured or severely beaten; and a cement courtyard area between the buildings known as the '*Pista*'. There was another small building known as the '*red-house*' where prisoners were taken, but rarely emerged alive. The Keraterm camp was located on the site of a ceramics factory located on the Prijedor-Banja Luka road, just outside the centre of the town of Prijedor. Prisoners were confined in four storage rooms that faced the road.

8. Living conditions at Omarska and Keraterm were brutal and inhumane. The two camps were operated in a manner that resulted in the physical debilitation or death of the non-Serb prisoners. The general living conditions were abject. Prisoners were crowded together so badly in the various rooms of both camps, that often they could not sit or lie down. There were little or no toilets or facilities for personal hygiene. The inadequate supply of water the prisoners received at both camps was usually foul. They had no change of clothing, no bedding, and virtually no medical care. The prisoners were fed starvation rations once a day. In addition, in Omarska, they were given approximately three minutes to get into the canteen area, eat, and get out. The trip to the canteen was often accompanied by beatings and other abuse.

9. Severe beatings, torture, killings, sexual assault, and other forms of physical and psychological abuse were commonplace at Omarska and Keraterm. The camp guards and others who came to the camps used all types of weapons and instruments to beat and otherwise physically abuse the

prisoners. At a minimum, hundreds of prisoners, whose identities are known and unknown, did not survive the camps.

10. Interrogations were conducted on a daily basis at the Omarska and Keraterm camps. The interrogations were regularly accompanied by beatings and torture. Non-Serbs who were considered as extremists or to have resisted the Bosnian Serbs were often killed. In addition, Bosnian Muslim and Bosnian Croat political and civic leaders, intellectuals, and the wealthy, were especially subjected to malicious beatings, torture, and/or killed.

11. The Trnopolje camp was located in the village of Trnopolje, approximately ten kilometres from the town of Prijedor. Prisoners were detained in a cluster of buildings, including a school, cultural hall and cinema, and on the surrounding grounds. The conditions in the Trnopolje camp were also abject and brutal. The general living and hygiene facilities were grossly inadequate. Minimal rations were only provided on a sporadic basis. At various points, prisoners were allowed to leave the camp to forage for food in the surrounding area. Both male and female prisoners were killed, beaten and otherwise physically and psychologically maltreated by the camp personnel and others who were allowed into the camp for the purpose of inflicting serious bodily and mental harm on the prisoners.

12. In addition, many of the women detained at the Trnopolje camp were raped, sexually assaulted, or otherwise tortured by camp personnel, who were both police and military personnel, and by others, including military units from the area who came to the camp for that specific purpose. In many instances, the women and girls were taken from the camp and raped, tortured, or sexually abused at other locations. Some of the Bosnian Muslims and Bosnian Croats who were detained at Trnopolje had fled to the camp because they believed they were even less likely to survive if they stayed in their own homes and villages. Trnopolje camp served as the staging point for most of the convoys that were used to forcibly transfer or deport the Bosnian Muslims, Bosnian Croats and other non-Serbs from Prijedor municipality.

GENERAL ALLEGATIONS

13. Unless otherwise set forth below, all acts and omissions set forth in the counts of this Indictment took place between 1 April 1992 and 30 August 1992.

14. In each paragraph charging torture, the acts were committed by, or at the instigation of, or with the consent or acquiescence of, an official or person acting in an official capacity, and for one or more of the following purposes: to obtain information or a confession from the victim or a third person; to punish the victim for an act the victim or a third person committed or was suspected of having committed; to intimidate or coerce the victim; and/or for any reason based upon discrimination of any kind.

15. In each paragraph charging Crimes Against Humanity, the alleged acts or omissions were part of a widespread or systematic attack directed against a civilian population, specifically the Bosnian Muslim and Bosnian Croat populations of the Prijedor municipality.

16. **Dragoljub PRCAC** is individually responsible for the crimes charged against him in this indictment, pursuant to Article 7(1) of the Statute of the Tribunal. As defined by Article 7(1), individual criminal responsibility includes planning, instigating, ordering, committing or otherwise aiding and abetting in the planning, preparation or execution of any acts or omissions set forth below. The term "participation", as used in the Counts hereunder is intended to incorporate any and all forms of individual criminal responsibility as set forth in Article 7(1).

17. **Dragoljub PRCAC** is also, or alternatively, criminally responsible for acts of his subordinates with respect to the crimes charged in the indictment by virtue of his position of superior authority in the camp, pursuant to Article 7(3) of the Statute of the Tribunal. As defined by Article 7(3), a person in a position of superior authority is responsible for the criminal acts of his subordinates if the superior knew or had reason to know that his subordinates were about to commit such acts or had done so and the superior failed to take necessary and reasonable measures to prevent such acts or to punish the subordinates.

18. Paragraphs 1 through 17 are re-alleged and incorporated into each of the charges described below:

ACCUSED:

19. **Dragoljub PRCAC**: Born on 18 July 1937 in the village of Omarska, Prijedor municipality, Bosnia and Herzegovina. He served as a policeman in Croatia and then was a Criminal Technician for the Public Security Service in Prijedor municipality for several years prior to the conflict. He was the second Deputy Commander of the Omarska camp. During June 1992, he replaced Miroslav KVOCKA as the deputy commander of the camp. As a deputy commander, he was in a position of authority superior to everyone in the camp other than the camp commander.

COUNTS 1 to 3

(PERSECUTIONS; INHUMANE ACTS; and OUTRAGES UPON PERSONAL DIGNITY)

20. Between 24 May 1992 and 30 August 1992, **Dragoljub PRCAC** participated in persecutions of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Prijedor area, on political, racial or religious grounds.

21. The persecution included the following means:

a. the murder of Bosnian Muslims, Bosnian Croats and other non-Serbs in Prijedor municipality, including many of those detained in the Omarska, Keraterm and Trnopolje camps, amongst whom were the persons listed in the attached confidential schedules of additional particulars (hereinafter Schedule A) ;

b. the torture and beating of Bosnian Muslims, Bosnian Croats and other non-Serbs in Prijedor municipality, including many of the people detained in the Omarska, Keraterm and Trnopolje camps in addition to those listed in Schedule A;

c. the sexual assault and rape of Bosnian Muslims, Bosnian Croats and other non-Serbs in Prijedor municipality, including prisoners detained in the Omarska, Keraterm and Trnopolje camps, amongst whom were those persons listed in Schedule A;

d. the harassment, humiliation and psychological abuse of Bosnian Muslims, Bosnian Croats and other non-Serbs in Prijedor municipality, including all the people detained in the Omarska, Keraterm and Trnopolje camps, as represented by those persons set forth in Schedule A; and

e. the confinement of Bosnian Muslims, Bosnian Croats and other non-Serbs, including those persons set forth in Schedule A, in inhumane conditions in the Omarska, Keraterm and Trnopolje camps.

22. **Dragoljub PRCAC** instigated, committed or otherwise aided and abetted the persecutions of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Prijedor area, on political, racial or religious grounds, as well as the commission of the other crimes charged in this indictment, through his direct participation in crimes and through his approval, encouragement, acquiescence, and assistance in the development and continuation of the conditions in the camp and the on-going commission of crimes as described in paragraph 21 against the prisoners in the Omarska camp, including those set forth in Schedule A.

23. As the Deputy Commander of the camp, **Dragoljub PRCAC** had the authority to alter the conditions of confinement that existed in the camps. He had the authority to control the conduct of the guards in the camp and to prevent or control the conduct of any visitors to the camp. He had the authority to set the daily regime of the prisoners and to grant them more freedoms and rights within the camp, including access to potable water, reasonable living conditions and hygienic standards, and contact with their families or friends to receive clothing, hygienic supplies, food and medicines. In addition, as a policeman on active duty, **Dragoljub PRCAC** had an independent duty to uphold the laws in force on the territory of Bosnia and Herzegovina and to safeguard the lives and property of civilians.

24. In addition, between 24 May 1992 and 30 August 1992, **Dragoljub PRCAC** knew or had reason to know that persons subordinate to him in the Omarska camp were about to participate in the persecution of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Prijedor area, including those persons listed in Schedule A, on political, racial or religious grounds, or had done so, and failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators.

By his involvement in the above acts and omissions, **Dragoljub PRCAC** committed:

Count 1: persecutions on political, racial or religious grounds, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(h) and 7(1) of the Statute of the Tribunal.

Count 2: inhumane acts, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(i) and 7(1) of the Statute of the Tribunal;

Count 3: outrages upon personal dignity, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Article 3(1)(c) of the Geneva Conventions of 1949, punishable under Articles 3 and 7(1) of the Statute of the Tribunal.

In addition, **Dragoljub PRCAC** is criminally responsible for the crimes set forth in **Counts 1 to 3** pursuant to Article 7(3) of the Statute of the Tribunal.

COUNTS 4 & 5 (MURDER)

25. Between 24 May 1992 and 30 August 1992, **Dragoljub PRCAC** participated in the murder of prisoners at the Omarska camp, including those listed in Schedule A. During that period, camp guards and other Serbs allowed into the Omarska camp, who were subject to the authority and control of **Dragoljub PRCAC**, murdered prisoners in the Omarska camp, subjected prisoners to

torture and beatings that often resulted in death, and/or confined prisoners in inhumane conditions which resulted in their physical debilitation or death.

26. **Dragoljub PRCAC** instigated, committed or otherwise aided and abetted the murder of Bosnian Muslim and Bosnian Croat prisoners by his approval, encouragement, acquiescence, and assistance in those murders, including the acts described above and in Schedule A.

27. In addition, between 24 May 1992 and 30 August 1992, **Dragoljub PRCAC** knew or had reason to know that persons subordinate to him in the Omarska camp were about to participate in the murder of Bosnian Muslim, Bosnian Croat and non-Serb prisoners in the Omarska camp, or had done so, and failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators.

By his participation in the acts or omissions described in the above paragraphs, the accused **Dragoljub PRCAC** committed:

Count 4: murder, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(a) and 7(1) and 7(3) of the Statute of the Tribunal; and,

Count 5: murder, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3 and 7(1) and 7(3) of the Statute of the Tribunal.

COUNTS 6 to 8 (TORTURE and CRUEL TREATMENT)

28. Between 24 May 1992 and 30 August 1992, **Dragoljub PRCAC** participated in the torture and beating of Bosnian Muslim, Bosnian Croat and other non-Serb prisoners in the Omarska camp, including those prisoners listed in Schedule A. During that time period, prisoners at the Omarska camp were subjected to torture and/or severe beatings on a daily basis. For many prisoners, the beatings began upon their arrival at the camp and continued throughout their detention. Camp guards and others who came to the camp used all kinds of weapons and implements to inflict the torture and/or beatings. Many prisoners were tortured and/or beaten on repeated occasions.

29. **Dragoljub PRCAC** instigated, committed or otherwise aided and abetted the torture and beating of Bosnian Muslim and Bosnian Croat prisoners by his approval, encouragement, acquiescence, and assistance in the acts described above and in Schedule A.

30. In addition, during the relevant time frame, **Dragoljub PRCAC** knew or had reason to know that persons subordinate to him in the Omarska camp were about to participate in the torture and/or beating of Bosnian Muslim, Bosnian Croat and other non-Serb prisoners in the Omarska camp, or had done so, and failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators.

By his participation in the acts or omissions described above, **Dragoljub PRCAC** committed:

Count 6: torture, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(f) and 7(1) and 7(3) of the Statute of the Tribunal;

Count 7: torture, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3 and 7(1), and 7(3) of the Statute of the Tribunal.

Count 8: cruel treatment, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3 and 7(1) and 7(3) of the Statute of the Tribunal.

Carla Del Ponte
Prosecutor

Dated this eighth day of March 2000
The Hague, The Netherlands