

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

CASE NO. IT-95-11

**THE PROSECUTOR
OF THE TRIBUNAL
AGAINST
Milan MARTIC**

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:

Milan MARTIC

with **CRIMES AGAINST HUMANITY** and **VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR** as set forth below:

THE ACCUSED:

1. **Milan MARTIC**, son of Nikola, was born on 18 November 1954 near Knin, Croatia. He is a graduate of the Croatian police academy, and was a senior inspector with the Croatian Ministry of Internal Affairs until 1990.
2. From 4 January 1991 until August 1995, **Milan MARTIC** held various leadership positions in the so-called "Serbian Autonomous District /*Srpska autonomna oblast*/ ("SAO") Krajina," and the so-called "Republic of Serbian Krajina /*Republika Srpska krajina*" ("RSK"), as described in paragraphs 10 to 16 below.

INDIVIDUAL CRIMINAL RESPONSIBILITY

Article 7(1) of the Statute of the Tribunal

3. **Milan MARTIC** is individually criminally responsible for the crimes referred to in Articles 3 and 5 of the Statute of the Tribunal and described in this indictment, which he planned, instigated, ordered, committed, or in whose planning, preparation, or execution he otherwise aided and abetted. By using the word "committed" in this indictment the Prosecutor does not intend to suggest that the accused physically committed all of the crimes charged personally. Committing in this indictment includes **Milan MARTIC**'s participation in a joint criminal enterprise as a co-perpetrator.

4. The purpose of this joint criminal enterprise was the forcible removal of a majority of the Croat, Muslim and other non-Serb population from approximately one-third of the territory of the Republic of Croatia ("Croatia"), and large parts of the Republic of Bosnia and Herzegovina ("Bosnia and Herzegovina"), in order to make them part of a new Serb-dominated state through the commission of crimes in violation of Articles 3 and 5 of the Statute of the Tribunal. With respect to Croatia, these areas 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*/" and the city of Zagreb.

5. The crimes enumerated in this indictment were within the object of the joint criminal enterprise and **Milan MARTIC** held the state of mind necessary for the commission of each of these crimes. Alternatively, the crimes enumerated in Counts 1 to 9 and 12 to 19 were the natural and foreseeable consequences of the execution of the object of the joint criminal enterprise and **Milan MARTIC** was aware that such crimes were the possible outcome of the execution of the joint criminal enterprise.

6. This joint criminal enterprise came into existence before 1 August 1991 and continued until at least August 1995. In order for the joint criminal enterprise to succeed in its objective, **Milan MARTIC** worked in concert with or through several individuals in the joint criminal enterprise. Each participant or co-perpetrator within the joint criminal enterprise played his role or roles that significantly contributed to the overall objective of the enterprise. Individuals participating in this joint criminal enterprise included Slobodan MILOSEVIC; Borisav JOVIC; Branko KOSTIC; Veljko KADIJEVIC; Blagoje ADZIC; Milan BABIC; Goran HADZIC; Jovica STANISIC; Franko SIMATOVIC, also known as "Frenki"; Tomislav SIMOVIC; Vojislav SESELJ; Momir BULATOVIC; Radovan STOJICIC, also known as "Badza"; Zeljko RAZNATOVIC, also known as "Arkan"; Radovan KARADZIC; Momcilo KRAJISNIK; Biljana PLAVSIC; Momir TALIC; Ratko MLADIC and other members of the Yugoslav People's Army ("JNA"), later the Yugoslav Army ("VJ"); the army of the RSK ("SVK"); the army of the *Republika Srpska* ("VRS"); the Serb Territorial Defence ("TO") of Croatia, Bosnia and Herzegovina, Serbia and Montenegro; local and Serbian police forces ("MUP forces"), including the State Security /*Drzavna 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," "*Marticevci*," "SAO Krajina Police" or "SAO Krajina Milicija" (hereinafter "Martić's Police"); and members of Serbian, Montenegrin and Bosnian Serb paramilitary forces and volunteer units, including the "Wolves of Vucjak" who were trained by **Milan MARTIC** and Martić's Police (collectively, "Serb forces"), and other political figures from the (Socialist) Federal Republic of Yugoslavia, the Republic of Serbia, the Republic of Montenegro and the Bosnian Serb leadership.

7. **Milan MARTIC**, acting individually or in concert with other members of the joint criminal enterprise participated in the joint criminal enterprise in the following ways:

- a. He participated in the creation, financing, supply, training and direction of Martić's Police. These police forces were created and supported to assist in the execution of the joint criminal enterprise through the commission of crimes in violation of Articles 3 and 5 of the Statute of the Tribunal.
- b. He commanded, controlled, directed and otherwise exercised effective control over these special police forces, which participated in the crimes described in the indictment.
- c. He participated in the creation, financing, supply, training and direction of Territorial Defence forces (TO) of the SAO Krajina and subsequently the RSK which participated in the crimes described in this indictment.
- d. He participated in the creation, training and direction of special police forces of the Serbian State Security Service which participated in the crimes described in this indictment.
- e. He personally participated in military actions and subsequent crimes of these police and military forces throughout the targeted territories as described in this indictment.
- f. He participated in the planning, preparation and execution of the take-over of territories in the Croatian SAO's and parts of Bosnia and Herzegovina, as specified in paragraph 4 of the indictment, and the subsequent forcible removal of the Croat, Muslim and other non-Serb population.
- g. He openly espoused and encouraged the creation of a homogenous Serbian State encompassing the territories specified in this indictment by violence, and actively participated with his troops to achieve this end.
- h. He planned and ordered the shelling attacks on Zagreb in May 1995.

8. **Milan MARTIĆ** knowingly and willfully participated in the joint criminal enterprise, sharing the intent of other participants in the joint criminal enterprise or being aware of the foreseeable consequences of their actions. On this basis, he bears individual criminal responsibility for these crimes under Article 7(1) of the Statute of the Tribunal, in addition to his responsibility under the same Article for having planned, instigated, ordered, committed, or otherwise aided and abetted in the planning, preparation, execution, and commission of these crimes.

9. **Milan MARTIC**, while holding positions of superior authority, is also individually criminally responsible for the acts or omissions of his subordinates, pursuant to Article 7(3) of the Statute of the Tribunal. A superior is responsible for the criminal acts of his subordinates if he 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 the necessary and reasonable measures to prevent such acts or to punish the perpetrators.

10. As early as August 1990, **Milan MARTIC**, as Chief of the Serb Police in Knin, established "Martić's Police", his own ethnically Serb police forces. Throughout their existence, **Milan MARTIC** was both *de jure* and *de facto* commander of these police forces.

11. On 4 January 1991, Milan BABIC, in his capacity as President of the Executive Council of the SAO Krajina, appointed **Milan MARTIC** to the post of Secretary for Internal Affairs for the SAO Krajina. As such, **Milan MARTIC** exercised *de jure* and *de facto* control over the police forces of the SAO Krajina, including Martić's Police.

12. On 29 May 1991, **Milan MARTIC** was appointed Minister of Defence of the SAO Krajina. At the same time Martić's Police was formalised as the Krajina Militia/Police (*Milicija Krajine*) and placed under the authority of the Ministry of Defence.

13. From 27 June 1991 until January 1994, **MILAN MARTIC** was the "Minister of Internal Affairs" for the SAO Krajina and later of the RSK. In this position, he retained control over all police forces of the SAO Krajina/RSK, including Martić's Police.

14. **Milan MARTIC** is therefore individually criminally responsible under Article 7(3) of the Statute of the Tribunal for the participation of the members of Martić's Police in the crimes described in this indictment.

15. On 8 August 1991 **Milan MARTIC** was appointed Deputy Commander of the TO of the SAO Krajina. In this capacity and in his position as Minister of Defence of the SAO Krajina, **Milan MARTIC** exercised *de jure* and *de facto* control over the TO of the SAO Krajina/RSK.

16. On 25 January 1994 **Milan MARTIC** was elected President of the RSK and remained in this position until August 1995. In this capacity, **Milan MARTIC** exercised *de jure* and *de facto* control over the TO of the SAO Krajina/RSK and the SVK.

17. **Milan MARTIC** is therefore individually criminally responsible under Article 7(3) of the Statute of the Tribunal for the participation of the members of the TO of the SAO Krajina/RSK and the SVK in the crimes described in this indictment.

GENERAL ALLEGATIONS:

18. At all time relevant to this indictment, a state of armed conflict existed in Croatia and Bosnia and Herzegovina.

19. All acts and omissions charged as Crimes against Humanity were part of a widespread and systematic attack directed against the Croat, Muslim and other non-Serb civilian population of large areas of Croatia and Bosnia and Herzegovina.

20. At all times relevant to this indictment, **Milan MARTIC** was required to abide by the laws and customs governing the conduct of armed conflicts, including the Geneva Conventions of 1949 and the additional protocols thereto.

THE CHARGES:

COUNT 1

(PERSECUTIONS)

21. From on or about 1 August 1991 until 31 December 1995, **Milan MARTIC**, acting individually or in concert with other known and unknown members of a joint criminal enterprise, planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparation, or execution of the persecutions of the Croat, Muslim and other non-Serb civilian population in the SAO Krajina and city of Zagreb in Croatia, and in the Autonomous Region of Krajina ("ARK") in Bosnia and Herzegovina, in particular in Bosanski Novi, Bosanska Gradiska, Prnjavor, and Sipovo.

22. Throughout this period, Serb forces, comprised of JNA, VJ, VRS units, local Serb TO units and TO units from Serbia and Montenegro, local and Serbian MUP police units, including "Martić's Police," and paramilitary units, attacked and took control of towns, villages and settlements in the territories listed above. After the take-over, Serb forces in co-operation with the local Serb authorities, including the accused **Milan MARTIC**, established a regime of persecutions designed to drive the Croat, Muslim and other non-Serb civilian populations from these territories.

23. These persecutions were based on political, racial or religious grounds and included the following:

- a. The extermination or murder of hundreds of Croat, Muslim and other non-Serb civilians, including women and elderly persons, in Dubica, Cerovljani, Bacin, Saborsko, Poljanak, Lipovaca and neighbouring hamlets, Skabrnja, Nadin, and Bruska in Croatia, and in Prnjavor in Bosnia and Herzegovina, as described in detail in paragraphs 25 to 36.
- b. The prolonged and routine imprisonment and confinement of hundreds of Croat, Muslim and other non-Serb civilians in detention facilities within and outside Croatia, including prison camps located in Knin and Titova Korenica in Croatia, and in Bosanski Novi and Prnjavor in Bosnia and Herzegovina, as described in detail in paragraph 39.
- c. The establishment and perpetuation of inhumane living conditions for Croat, Muslim and other non-Serb civilian detainees within the mentioned detention facilities.
- d. The repeated torture, beatings, sexual assaults and killings of Croat, Muslim and other non-Serb civilian detainees in the mentioned detention facilities.
- e. The unlawful attacks on Zagreb and undefended Croat and Muslim villages

throughout the territories specified above.

- f. The imposing of restrictive and discriminatory measures against the Croat, Muslim and other non-Serb civilian population, such as restriction of movement; removal from positions of authority in local government institutions and the police; dismissal from jobs; and arbitrary searches of their homes.
- g. The beating and robbing of Croat, Muslim and other non-Serb civilians.
- h. The torture and beatings of Croat, Muslim and other non-Serb civilians during and after their arrest.
- i. The deportation or forcible transfer of tens of thousands of Croat and other non-Serb civilians from the territories specified above, as described in detail in paragraphs 42 to 45.
- j. The deliberate destruction of homes, other public and private property, cultural institutions, historic monuments and sacred sites of the Croat, Muslim and other non-Serb population, in particular in Dubica, Cerovljani, Bacin, Saborsko, Poljanak, Lipovaca and neighbouring hamlets, Vaganac, Skabrnja, Nadin, and Bruska in the SAO Krajina, and Prnjavor and Sipovo in Bosnia and Herzegovina, as described in paragraph 47.

24. By these acts and omissions, **Milan MARTIC** committed:

Count 1: Persecutions on political, racial, and religious grounds, a CRIME AGAINST HUMANITY, punishable under Articles 5(h), and 7(1) and 7(3) of the Statute of the Tribunal.

COUNTS 2 to 4

(EXTERMINATION and MURDER)

25. From 1 August 1991 until August 1995, **Milan MARTIC**, acting individually or in concert with other known and unknown members of a joint criminal enterprise, planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparation, or execution of the extermination, murder and wilful killings of Croat and other non-Serb civilians in the SAO Krajina in Croatia and in Prnjavor in the ARK in Bosnia and Herzegovina, as specified in paragraphs 26 through 36 of this indictment.

26. From about 7 October 1991, members of Martić's Police and other Serb forces, in particular the JNA and members of the local Serb TO, were in control of the area of Hrvatska Kostajnica. Most of the Croat civilians had fled their homes during the attack in September 1991. Approximately 120 Croat civilians, mostly women, the elderly or the infirm, remained in the villages of Dubica, Cerovljani, and Bacin. On the morning of 20 October 1991, members of Martić's Police and other Serb forces rounded up fifty-three civilians in Dubica and detained them in the village fire station. Over the course of the day and night ten were released, because they were either Serbs or had connections with Serbs. On 21 October 1991, members of Martić's Police and other Serb forces took the remaining forty-three detained Croats to a location near the village of Bacin. In addition,

the members of Martić's Police and other Serb forces brought at least thirteen non-Serb civilians from Bacin and Cerovljani to the same location. All fifty-six victims were killed there. At approximately the same time, the members of Martić's Police and other Serb forces took away an additional thirty civilians from Bacin and twenty-four from the villages Dubica and Cerovljani into an unknown location where they killed them. The names of the victims are set out in Annex I attached to this indictment.

27. From early August 1991 until 12 November 1991, the Croat villages of Saborsko, Poljanak and Lipovaca were attacked by members of Martić's Police and other Serb forces, in particular the JNA and TO. As soon as members of Martić's Police and other Serb forces entered the villages, they killed all remaining non-Serb inhabitants they found.

28. On 28 October 1991, TO units entered Lipovaca and killed eight civilians. The names of the victims are set out in Annex I attached to this indictment.

29. On 7 November 1991, JNA and TO units, in particular a special JNA unit from Nis, entered the hamlet of Vukovici near Poljanak and executed nine civilians. The names of the victims are set out in Annex I attached to this indictment.

30. On 12 November 1991, members of Martić's Police and the JNA and the TO entered the village of Saborsko where they killed at least twenty Croat civilians. Afterwards, the village was levelled to the ground. The names of the victims are set out in Annex I attached to this indictment.

31. In November 1991, members of Martić's Police and other Serb forces, in particular JNA and TO units, attacked the village of Skabrnja, near Zadar. On 18 November 1991, members of Martić's Police and other Serb forces entered Skabrnja. Moving from house to house, they killed at least thirty-eight non-Serb civilians in their homes or in the streets. The names of the victims are set out in Annex I attached to this indictment.

32. In addition, when Serb forces attacked the neighbouring villages of Nadin the next day, they killed seven non-Serb civilians. The names of the victims are set out in Annex I attached to this indictment.

33. Between 18 November and February 1992, all remaining Croat civilians in Skabrnja died. Serb forces killed twenty-six of the remaining elderly and infirm Croat civilians. The names of the victims are set out in Annex I attached to this indictment.

34. On 21 December 1991, members of Martić's Police and other Serb forces entered the village of Bruska and the hamlet of Marinovic where they killed ten civilians, among them nine Croats. The names of the victims are set out in Annex I attached to this indictment.

35. In April 1992, in Kremna in Prjnavor, members of the Wolves of Vucjak and other Serb forces killed eight Bosnian Muslim civilians from Derventa. The names of the victims are set out in Annex I attached to this indictment.

36. In May 1992, in Lisnja, members of the Wolves of Vucjak and other Serb forces killed four Bosnian Muslim civilians. The names of the victims are set out in Annex I attached to this indictment.

37. By these acts and omissions, **Milan MARTIC** committed:

Count 2: Extermination, a CRIME AGAINST HUMANITY, punishable under Articles 5(b) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 3: Murder, a CRIME AGAINST HUMANITY, punishable under Articles 5(a) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 4: Murder, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised by Common 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 5 to 9

(IMPRISONMENT, TORTURE,INHUMANE ACTS and CRUEL TREATMENT)

38. From August 1991 until December 1992, **Milan MARTIC**, acting individually or in concert with other known and unknown members of a joint criminal enterprise, planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparation, or execution of the unlawful confinement or imprisonment under inhumane conditions of the Croat, Muslim and other non-Serb civilian populations in the territories listed above.

39. Members of Martić's Police, acting in co-operation with local Serb authorities and other Serb forces, including Serbian State Security officials and JNA, arrested and detained hundreds of Croat, Muslim and other non-Serb civilians from the territories specified in the following short- and long-term detention facilities:

a. Prison in Knin, SAO Krajina run by the JNA, approximately one hundred and fifty detainees.

b. Old hospital in Knin, SAO Krajina run by Martić's Police, approximately one hundred and twenty detainees.

c. Police station in Titova Korenica run by Martić's Police, ten detainees.

d. Bosanska Kostajnica Police Station run by Serb forces, including Martić's Police, eight to ten detainees.

e. Bosanski Novi Police Station run by Serb forces, including Martić's Police, at least fifty detainees.

f. Sloga Shoe Factory in Prnjavor run by Serb forces, including the Wolves of Vucjak, approximately one hundred and eighty detainees.

40. The living conditions in these detention facilities were brutal and characterised by inhumane

treatment, overcrowding, starvation, inadequate medical care, and constant physical and psychological assault, including torture, beatings and sexual assault.

41. By these acts and omissions, **Milan MARTIC** committed:

Count 5: Imprisonment, a CRIME AGAINST HUMANITY punishable under Article 5(e) and Article 7(1) and Article 7(3) of the Statute of the Tribunal.

Count 6: Torture, a CRIME AGAINST HUMANITY punishable under Article 5(f) and Article 7(1) and Article 7(3) of the Statute of the Tribunal.

Count 7: Inhumane acts, a CRIME AGAINST HUMANITY punishable under Article 5(i) and Article 7(1) and Article 7(3) of the Statute of the Tribunal.

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

Count 9: Cruel treatment, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR as recognised by Common Article 3 (1)(a) of the Geneva Conventions of 1949, punishable under Article 3 and Article 7(1) and Article 7(3) of the Statute of the Tribunal.

COUNTS 10 to 11

(DEPORTATION, FORCIBLE TRANSFER)

42. From 1 August 1991 until 31 December 1995, **Milan MARTIC**, acting individually or in concert with other known and unknown members of a joint criminal enterprise, planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparation, or execution of the deportations or forcible transfers of the Croat, Muslim and other non-Serb civilian population from the SAO Krajina in Croatia and from Bosanski Novi, Bosanska Gradiska, Prnjavor and Sipovo in the ARK in Bosnia and Herzegovina.

43. In order to achieve this objective, members of Martić's Police and TO forces under the control of **Milan MARTIC**, in co-operation with other Serb forces comprised of JNA, VJ, VRS, Serbian and Montenegrin TO forces and volunteer units, surrounded predominantly non-Serb towns and villages and demanded their non-Serb inhabitants to surrender their weapons, including legally owned hunting rifles. Then, the towns and villages were attacked, even those whose inhabitants had complied with the demands. These attacks were intended to compel the population to flee. After taking control of the towns and villages, the Serb forces sometimes rounded up the remaining Croat, Muslim and other non-Serb civilians and forcibly transported them to locations in Croatia and Bosnia and Herzegovina not controlled by the Serb authorities or deported them to locations outside Croatia and Bosnia and Herzegovina, in particular Serbia and Montenegro. On other occasions, the Serb forces in co-operation with the local Serb authorities imposed restrictive and discriminatory measures on the non-Serb population and engaged in a campaign of terror designed to drive them out of the territory. The majority of the non-Serbs that remained were deported or forcibly transferred on a later date.

44. According to the 1991 census, the Croat, Muslim and other non-Serb population of these areas were approximately as follows:

SAO Krajina: 28% Croats (70,708), 5% others (13,101).

Bosanski Novi: 34% Muslims (14,163), 6% others (3000).

Bosanska Gradiska: 26% Muslims (15,851), 6% Croats (3419), 8% others (4954).

Prnjavor: 15% Muslims (7152), 4% Croats (1741), 10% others (4658).

Sipovo: 19% Muslims (3002), 2% others (233).

45. Virtually the whole Croat, Muslim and non-Serb population of these areas was forcibly removed, deported or killed.

46. By these acts and omissions, **Milan MARTIC** committed:

Count 10: Deportation, a CRIME AGAINST HUMANITY, punishable under Articles 5(d) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 11: Inhumane Acts (Forcible Transfers), a CRIME AGAINST HUMANITY, punishable under Articles 5(i) and 7(1) and 7(3) of the Statute of the Tribunal.

COUNTS 12 to 14

(WANTON DESTRUCTION, PLUNDER OF PUBLIC OR PRIVATE PROPERTY)

47. From 1 August 1991 until 31 December 1992, **Milan MARTIC**, acting individually or in concert with other known and unknown members of a joint criminal enterprise, planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparation, or execution of the wanton destruction and plunder of the public and private property of the Croat, Muslim and other non-Serb population, within the territory of the SAO Krajina in Croatia and Prnjavor and Sipovo in the ARK in Bosnia and Herzegovina. These actions were not justified by military necessity. This intentional and wanton destruction and plunder included the plunder and destruction of homes and religious and cultural buildings, and took place in the following towns and villages:

SAO Krajina, from August to December 1991: the towns and villages Dubica, Cerovljani, Bacin, Saborsko, Poljanak, Lipovaca and neighbouring hamlets, Vaganac, Skabrnja, Nadin, and Bruska.

Prnjavor, from end of 1991 to December 1992: the towns and villages of Prnjavor, Lisnja, Puraci, Galjipovci, Konduhovci, Doline, Kulasi, and Stivor.

Sipovo, from May to August 1992: the village of Pljeva.

48. By these acts and omissions, **Milan MARTIC** committed:

Count 12: Wanton destruction of villages, or devastation not justified by military necessity, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Articles 3 (b) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 13: Destruction or wilful damage done to institutions dedicated to education or religion, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Articles 3(d) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 14: Plunder of public or private property, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, punishable under Articles 3(e) and 7(1) and 7(3) of the Statute of the Tribunal.

ZAGREB

COUNTS 15 to 19

(UNLAWFUL ATTACKS ON CIVILIANS, MURDER, INHUMANE ACTS and CRUEL TREATMENT)

49. On 2 May 1995 and 3 May 1995, **Milan MARTIC** planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparation, or execution of the shelling onto civilian areas of the city of Zagreb and upon its civilian population, killing and wounding many civilians.

50. On 1 May 1995 the Croatian Army ("HV") launched an attack against the SVK in Western Slavonia, commonly referred to as "Operation Flash." As a result of the attack the SVK had to withdraw from the area of Western Slavonia across the Sava River into the Serbian held part of Bosnia and Herzegovina. Until that date the SVK held this area under their firm control for more than 3 years. In retaliation **Milan MARTIC** ordered the shelling of three Croatian cities: Zagreb, Sisak and Karlovac.

51. On 2 May 1995, at approximately 10.25 hrs, on the orders of **Milan MARTIC**, the SVK fired an Orkan Multiple Barrel Rocket Launcher ("Orkan MBRL"), fitted with "cluster bomb" warheads, from the area of Petrova Gora into the central part of Zagreb and the airport (Pleso). These rockets impacted in several locations within the central commercial district of Zagreb, primarily the areas of Stara Vlaska Street, Josip Juraj Strossmayer Square and Krizaniceva Street. During this unlawful attack, at least five civilians were killed and one hundred and forty-six civilians wounded.

52. On 3 May 1995, at approximately 12.10 hrs, on the orders of **Milan MARTIC**, the Orkan MBRL, fitted with "cluster bomb" warheads, was once again fired from the area of Petrova Gora into the central part of Zagreb. Rockets impacted in particular in the areas of Klaićeva Street, Medulićeva Street, Ilica Street and near the Croatian National Theater. This unlawful attack caused the death of two civilians and wounded fifty others.

53. The names of the killed and wounded civilians are set out in Annex II attached to this indictment.

54. The shelling was not justified by military necessity. The listed locations were either specifically targeted or the result of reckless fire into areas where civilians were known to have been.

55. By these acts and omissions, **Milan MARTIC** committed:

Count 15: Murder, a CRIME AGAINST HUMANITY, punishable under Articles 5(a) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 16: Murder, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised by Common 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 17: Inhumane acts, a CRIME AGAINST HUMANITY, punishable under Articles 5(i) and 7(1) and 7(3) of the Statute of the Tribunal.

Count 18: Cruel treatment, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised by Common 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 19: Attacks on civilians, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, as recognised by Article 51(2) of Additional Protocol I and Article 13(2) of Additional Protocol II to the Geneva Conventions of 1949, punishable under Articles 3 and 7(1) and 7(3) of the Statute of the Tribunal.

ADDITIONAL FACTS:

56. In advance of the 1990 elections, the nationalistic Serbian Democratic Party ("SDS") was founded in Knin, advocating the autonomy and later secession of predominantly-Serb areas from Croatia.

57. On 25 July 1990, a group of SDS leaders established the Serbian National Council ("SNC"), adopting a Declaration on Autonomy and the Position of Serbs in Croatia, and on the Sovereignty and Autonomy of the Serbian Nation.

58. On 30 July 1990, during the SNC's first constituent session, a plebiscite, which would confirm the autonomy and sovereignty of the Serb nation in Croatia, was scheduled.

59. On 17 August 1990, the Croatian government declared the referendum illegal. The Croatian police moved towards several Serb towns in the Krajina region. Serbs, organised by **Milan MARTIC**, put up barricades.

60. Between 19 August and 2 September 1990, Croatian Serbs held a referendum on the issue of Serb "sovereignty and autonomy" in Croatia. The vote took place in predominantly Serb areas of Croatia and was limited only to Serb voters. Croats who lived in the affected region were barred from participating in the referendum. The result of the vote was overwhelmingly in support of Serb autonomy. On 30 September 1990, the SNC declared "the autonomy of the Serbian people on ethnic and historic territories on which he lives and which are within the current boundaries of the Republic of Croatia as a federal unit of the Socialist Federal Republic of Yugoslavia."

61. On 21 December 1990, Croatian Serbs in Knin announced the creation of a "Serbian Autonomous District" ("SAO") of Krajina and declared their independence from Croatia.

62. Conflicts between armed Serbs organised or assisted by **Milan MARTIC** and Croatian police forces erupted throughout the spring of 1991.

63. In March 1991, the conflict intensified when local Serb police forces attempted to consolidate power over areas with significant Serb populations. The local Serb police, headed by **Milan MARTIC**, took control of a police station in Pakrac and battles erupted when the Croatian government attempted to re-establish its authority in the area. At Plitvice, Serbs attacked a bus carrying Croatian policemen and another battle erupted. The JNA deployed troops in the area and issued an ultimatum to the Croatian police to withdraw from Plitvice.

64. On 1 April 1991, the Executive Council of the SAO Krajina passed the decision to incorporate the SAO Krajina into the Republic of Serbia. At the same time the SAO Krajina recognised the Constitution and laws of the Republic of Serbia, as well as the SFRY constitutional-legal system, and decided that the laws and regulations of the Republic of Serbia applied throughout the territory.

65. On 30 April 1991, the first session of the SAO Krajina Assembly was held and Milan BABIC was elected President of the Executive Council of the SAO Krajina.

66. On 12 May 1991, a referendum was held in the SAO Krajina concerning the annexation of the SAO Krajina to the Republic of Serbia and its remaining in Yugoslavia with Serbia, Montenegro and others that wished to preserve Yugoslavia. 99.8% of those voting supported the annexation.

67. On 19 May 1991, Croatia held a referendum in which the electorate voted overwhelmingly for independence from the SFRY. On 25 June 1991, Croatia and the Republic of Slovenia declared their independence from Yugoslavia. On 25 June 1991, the JNA moved to suppress Slovenia's secession.

68. The European Community sought to mediate in the conflict. On 8 July 1991, an agreement was reached that Croatia and Slovenia would suspend implementation of their independence until 8 October 1991. The European Community ultimately recognised Croatia as an independent state on 15 January 1992.

69. On 18 July 1991, the Federal Presidency, with support of the Serbian and Montenegrin government and General KADIJEVIC, voted to withdraw the JNA from Slovenia, thereby acceding to its secession and the dissolution of the SFRY.

70. The Serbs in the Krajina region, in Eastern Slavonia, and in Western Slavonia began receiving increasing support from the government of the Republic of Serbia. By August 1991, Serb volunteer and police forces in these regions were being supplied, trained and partly led by officials of the Republic of Serbia Ministry of Internal Affairs in close co-operation and co-ordination with **Milan MARTIC**.

71. In the Knin area, the JNA forces began openly assisting the Serb police forces led by **Milan MARTIC**. They participated jointly in an attack on the Croatian village of Kijevo in August 1991. Throughout August and September 1991, substantial areas of Croatia came under Serb control as a result of actions by Serb military, volunteer and police forces including Martić's Police.

72. On 8 September 1991 **Milan MARTIC** and a JNA security officer were stopped at a road blockade in Otoka, municipality of Bosanska Krupa, and subsequently detained. Various high-ranking JNA officers and members of the joint criminal enterprise specified in paragraph 6 of the

indictment were involved in securing his release.

73. In Geneva on 23 November 1991, Slobodan MILOSEVIC, Federal Secretary of People's Defence Veljko KADIJEVIC, and Franjo TUDJMAN entered into an agreement signed under the auspices of the United Nations Special Envoy Cyrus VANCE. This agreement called for the lifting of blockades by Croatian forces on JNA barracks and for the withdrawal of JNA forces from Croatia. Both sides committed themselves to an immediate cease-fire throughout Croatia by units "under their command, control, or political influence" and further bound themselves to ensure that any paramilitary or irregular units associated with their forces would also observe the cease-fire.

74. On 19 December 1991, the SAO Krajina proclaimed itself the Republic of Serbian Krajina ("RSK") with Milan Babic as President. On 26 February 1992 the SAO Western Slavonia and SAO Slavonia, Baranja and Western Srem joined it in unilateral declarations by these entities.

75. On 3 January 1992, another cease-fire agreement was signed by Franjo TUDJMAN and Slobodan MILOSEVIC paving the way for the implementation of a United Nations peace plan put forward by Cyrus VANCE. Under the Vance Plan, four United Nations Protected Areas (UNPAs) were established in the areas occupied by Serb forces. The Vance Plan called for the withdrawal of the JNA from Croatia and for the return of displaced persons to their homes in the UNPAs. Although the JNA officially withdrew from Croatia in May 1992, large portions of its weaponry and personnel remained in the Serb-held areas and were turned over to the "police" of the RSK. Displaced persons were not allowed to return to their homes and those few Croats and other non-Serbs who had remained in the Serb-occupied areas were expelled in the following months.

76. Beginning in early 1991, Bosnian Serbs came to Knin to be trained by the JNA, **Milan MARTIC**, Martic's Police, and other Serb forces. Thereafter, they returned to Bosnia and Herzegovina where they formed various paramilitary organisations that fought in coordination with the JNA, VRS, and local Serb police forces.

77. In July 1992, **Milan MARTIC** met with VRS officials and the Bosnian Serb leadership regarding operations in Bosnia and Herzegovina and Croatia. In the summer of 1992 the SVK and VRS launched joint military operations in Bosnia and Herzegovina to create and secure a Serb-controlled link between the territories they held in Western Slavonia and Krajina (Croatia) and the FRY.

78. The Serb-held territories in the RSK remained under SVK control until early August 1995. At around that time **Milan MARTIC**, together with the RSK political and military leadership, fled Croatian territory during a massive Croatian offensive. This operation, commonly referred to as "Operation Storm," successfully restored Croatian control over the RSK. The remaining area of Serb control in Eastern Slavonia was peacefully re-integrated into Croatia in 1998.

Dated this 18th day of December 2002

At The Hague

The Netherlands

Carla Del Ponte

Prosecutor