

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

CASE NO. IT-95-13/1

THE PROSECUTOR OF THE TRIBUNAL

AGAINST

MILE MRKSIC

SECOND 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:

MILE MRKSIC

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

THE ACCUSED:

1. **Mile MRKSIC** was born on 20 July 1947 near Vrginmost, Republic of Croatia ("Croatia"). During the time relevant to this indictment, he was a colonel in the Yugoslav People's Army ("JNA") and commander of the 1st Guards Motorised Brigade. After the siege of Vukovar, he was promoted to general rank in the JNA and became commander of the 8th JNA Operational Group (OG) in the Kordun area in Croatia. Following the withdrawal of the JNA from Croatia in 1992, he returned to the Federal Republic of Yugoslavia ("FRY") and occupied several posts in the Yugoslav Army ("VJ") General Staff. In May 1995, **Mile MRKSIC** became the commanding officer of the Army of the so-called "Republic of Serbian Krajina /*Republika Srpska Krajina*" ("RSK"). After the defeat of the Army of the RSK by Croatian forces in August 1995, he retired from military service.

INDIVIDUAL CRIMINAL RESPONSIBILITY:

Article 7(1) of the Statute of the Tribunal

2. **Mile MRKSIC** 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 any or all of the crimes charged personally. "Committed" in this indictment includes the accused's participation in a joint criminal enterprise.

3. The purpose of this joint criminal enterprise was the persecution of Croats or other non-Serbs who were present in the Vukovar Hospital after the fall of Vukovar, through the commission of crimes in violation of Articles 3 and 5 of the Statute of the Tribunal.

4. The crimes enumerated in the Counts of this indictment were within the object of the joint criminal enterprise, and the accused held the state of mind necessary for the commission of each of these crimes. Alternatively, the crimes enumerated in the Counts 2 to 9 were the natural and foreseeable consequences of the execution of the joint criminal enterprise and the accused was aware that these crimes were the possible consequence of the execution of the joint criminal enterprise.

5. The joint criminal enterprise was in existence at the time of the commission of the underlying criminal acts alleged in this indictment and at the time of the participatory acts of the accused in furtherance thereof. Individuals participating in this joint criminal enterprise included **Mile MRKSIC**, Miroslav RADIC, Veselin SLJIVANCANIN, Slavko DOKMANOVIC, Miroljub VUJOVIC and Stanko VUJANOVIC, and other known and unknown participants. Each member of the joint criminal enterprise worked in concert with each other and with other members of the joint criminal enterprise and acted either directly or through their subordinates, which included members of the JNA, the Territorial Defence ("TO") of the so-called "Serbian Autonomous District/*Srpska autonomna oblast*/ Eastern Slavonia Baranja and Western Srem" ("SAO SBWS"), TO of the Republic of Serbia ("Serbia"), volunteer and paramilitary units, including those organised by Vojislav SESELJ, acting in co-ordination and under supervision of the JNA (collectively "Serb forces").

6. Although this joint criminal enterprises was part of a wider joint criminal enterprise whose purpose was the forcible removal of a majority of the Croat, Muslim and other non-Serb population from approximately one-third of the territory of Croatia through the commission of crimes in violation of Articles 3 and 5 of the Statute of the Tribunal, including those who were present in the Vukovar Hospital after the fall of Vukovar, for the purpose of this indictment participation in the joint criminal enterprise charged in this indictment is limited to **Mile MRKSIC**, Miroslav RADIC, Veselin SLJIVANCANIN, Slavko DOKMANOVIC, Miroljub VUJOVIC and Stanko VUJANOVIC, and their subordinates.

7. In order for this joint criminal enterprise to succeed in its objective, **Mile MRKSIC** worked in concert with or through several individuals in the joint criminal enterprise. Each participant within the joint criminal enterprise, by acts or omissions, contributed to achieving the objective of the enterprise. The roles of the participants include, but are not limited to, the following:

a) Veselin SLJIVANCANIN, during the time relevant to this indictment, was a major in the JNA and subordinated to the accused. He was the security officer of the 1st Guards Motorised Brigade and in charge of a military police battalion. He exercised overall command over the Serb forces that evacuated the Vukovar Hospital, guarded the non-Serbs taken from the Hospital to the JNA barracks in Vukovar and then transferred and kept them at the Ovcara farm building. He supervised the selection process of detainees both at the Vukovar Hospital and the JNA barracks.

b) Miroslav RADIC, during the time relevant to this indictment, was a captain in the JNA and subordinated to the accused. He commanded a special infantry unit which was a component of the 1st Guards Motorised Brigade. He commanded the JNA forces subordinated to him during the evacuation and transfer of the non-Serbs at the Vukovar Hospital to the JNA barracks.

c) Slavko DOKMANOVIC, during the time relevant to this indictment, in his

capacity as the Minister of Agriculture of the SAO SBWS and as the President of the Vukovar municipality, was actively involved in the decision on the fate of the detainees. In addition, he actively participated in their beatings at Ovcara farm.

d) Miroljub VUJOVIC, during the time relevant to this indictment, was the commander of the Serb TO detachment called Petrova Gora in Vukovar.

e) Stanko VUJANOVIC, during the time relevant to this indictment, was the commander of a TO brigade in Vukovar. His house at Nova Ulica 81 in the Petrova Gora section of Vukovar served as the operational headquarters for the forces under his command as well as for JNA units commanded by Miroslav Radic. Both Miroljub VUJOVIC and Stanko VUJANOVIC had direct operational command of Serb forces responsible for the mistreatment and killing of non-Serbs taken from the Vukovar Hospital to the Ovcara farm.

8. Mile MRKSIC, acting individually or in concert with other members of the joint criminal enterprise, participated in the joint criminal enterprise in the following ways:

a) directed, commanded, controlled, or otherwise exercised effective control over Serb forces engaged in the execution of the purpose of the joint criminal enterprise as described in this indictment.

b) participated in bad faith in negotiations over the evacuation of patients at the Vukovar Hospital, knowing that any agreements reached would be disregarded and ignored.

c) ordered or permitted JNA soldiers under his command or control to transfer detainees from the Vukovar Hospital to Ovcara farm, and thereafter to relinquish custody of the detainees to local Serb forces, knowing that the detainees would be subjected to further persecution and murder.

d) after becoming aware that the criminal acts charged in this indictment had been completed, took steps to hide and conceal these crimes.

9. The accused knowingly and wilfully 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 his actions. On this basis, **Mile MRKSIC** 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.

Article 7(3) of the Statute of the Tribunal

10. Mile MRKSIC, while holding a position of superior authority, is also individually criminal 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 subordinate 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.

11. The JNA unit with primary responsibility for the attack on Vukovar and the subsequent

evacuation and detention of persons taken from Vukovar Hospital was the Belgrade-based 1st Guards Motorised Brigade, commanded by **Mile MRKSIC**, which formed the core component of the JNA's Operational Group South. Miroslav RADIC and Veselin SLJIVANCANIN were each subordinate to Colonel MRKSIC.

12. On 10 October 1991, the Great People's Assembly of the SAO SBWS adopted a decree stating that the TO of the SAO SBWS was to be attached to the JNA and to become a component part of the JNA forces. During October 1991, the JNA, under the command of **Mile MRKSIC**, organised the formation of units attacking Vukovar, which were comprised of JNA forces and members of TO and volunteer and paramilitary units as referred to in paragraph 5 in this indictment. During the military campaign in Vukovar, Mirosljub VUJOVIC and Stanko VUJANOVIC in their capacity as TO commanders were each subordinate to **Mile MRKSIC**.

13. In his position as commander of the 1st Guards Motorised Brigade, **Mile MRKSIC** exercised both *de jure* and *de facto* power over the forces under his command.

14. As an officer in a command function in the JNA, **Mile MRKSIC** was bound by the regulations of the JNA as set out in the "Strategy of Armed Conflict (1983), the "Law on All-Peoples Defence" (1982), the "Law on Service in the Armed Forces" (1985), the "Rules of Service" (1985), and the "Regulations on the Application of the International Laws of War on the Armed Forces of the SFRY" (1988). These regulations governed the roles and responsibilities of JNA officers, set out their positions in the chain of command and obligated those officers, and their subordinates, to observe the laws of war.

GENERAL ALLEGATIONS:

15. At all times relevant to this indictment, a state of armed conflict existed in Croatia.

16. At all times relevant to this indictment, **Mile MRKSIC** 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.

17. All acts and omissions charged as Crimes against Humanity were part of a widespread and systematic attack directed against the Croat and other non-Serb civilian population of large areas of Croatia, including the municipality of Vukovar.

STATEMENT OF FACTS:

18. The city of Vukovar is located in Eastern Slavonia on the banks of the Danube River, which there marks the border between Croatia and Serbia. In the 1991 census, the population of the Vukovar municipality, which included the city and surrounding villages, was 84,189 of which 36,910 were Croats (43.8%), 31,445 were Serbs (37.4%), 1,375 were Hungarian (1.6%), 6,124 declared themselves Yugoslavs (7.3%), and 8,335 (9.9%) were others or undeclared.

19. In August 1991, the JNA undertook operations against towns in Eastern Slavonia, resulting in their take-over by JNA and other Serb forces. The Croat and other non-Serb population of these areas was forcibly expelled. In late August, the JNA laid siege to the city of Vukovar. By mid-October 1991, all other predominantly Croat towns in Eastern Slavonia had been taken by Serb forces except Vukovar. Non-Serbs were subjected to a brutal occupation regime consisting of persecution, murder, torture and other acts of violence. Almost all of the non-Serb population was

eventually killed or forced from the occupied areas.

20. The siege of Vukovar continued until 18 November 1991 when the city fell to the Serb forces. During the course of the three-month siege, the city was largely destroyed by JNA shelling and hundreds of persons were killed. When the JNA/Serb forces occupied the city, hundreds more Croats were killed by Serb troops. The non-Serb population of the city was expelled within days of its fall under Serb control.

21. In the last days of the siege of Vukovar, several hundred people sought refuge at Vukovar Hospital, which was near the city centre, in the belief that it would be evacuated in the presence of international observers, as had been agreed upon in Zagreb in negotiations between the JNA and the Croatian government on 18 November 1991.

22. On the afternoon of 19 November 1991, JNA units under the command of the accused **Mile MRKSIC** took control of Vukovar Hospital. Those inside offered no resistance. Early the following morning, Veselin SLJIVANCANIN ordered the nurses and doctors to assemble for a meeting. He kept the hospital staff engaged in this meeting while JNA forces hurriedly removed about four hundred non-Serbs from the hospital. Among those removed were wounded patients, hospital staff, family members of hospital staff, former defenders of the city, Croatian political activists, journalists, and other civilians.

23. JNA soldiers loaded about three hundred of these Croats and other non-Serbs onto buses and detained them under JNA guard. Veselin SLJIVANCANIN personally participated in the selection of detainees who were to be loaded on the buses. Later that morning, the buses left the hospital compound and proceeded to the JNA barracks on the south side of Vukovar.

24. There, Serb forces kept the detainees inside the buses for about two hours. While in the military compound, soldiers humiliated and threatened the detainees. On orders from Veselin SLJIVANCANIN fifteen detainees were removed from the buses, apparently because the released men were part of the hospital staff or were related to staff members.

25. While the detainees were being held at the JNA barracks, a meeting of the government of the so-called SAO SBWS was being held at the Velepromet building, a short distance away from the JNA barracks. At this meeting, the JNA agreed to transfer the detainees to Ovcara farm, located about four kilometres southeast of Vukovar, and thereafter to relinquish custody of them to local Serb forces.

26. The detainees were then driven, under JNA guard, to a building at Ovcara farm. There, Serb forces under the command of Miroљub VUJOVIC and Stanko VUJANOVIC took the detainees from the buses and forced them to run between two lines of soldiers who beat the men as they passed. Inside the farm building, the soldiers continued to beat and assault the detainees.

27. About seven detainees were selected and returned to Vukovar after Serbs, who were present, intervened on their behalf. Of the remaining men and two women, Serb soldiers listed identifying information and then divided them into groups of ten to twenty.

28. These groups were then individually loaded into a truck and taken in the direction of Grabovo to a wooden ravine approximately one kilometre south-east of Ovcara. At the head of the ravine, approximately 900 meters from the Ovcara-Grabovo road, the soldiers removed the detainees from the truck.

29. At this spot, Serb forces were assembled on the north side of the site. These forces then killed at least two hundred and fifty-five Croats and other non-Serbs from Vukovar Hospital. After the killings, the Serb forces used a bulldozer to bury the bodies of the victims in a mass grave at the same location.

THE CHARGES:

COUNT 1 (PERSECUTIONS)

30. From or about 20 November 1991 until 21 November 1991, **Mile MRKSIC**, acting alone 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 Croat and other non-Serb civilians in the municipality of Vukovar and its environs .

31. These persecutions were based on political, racial or religious grounds and included the following, as described in detail in paragraphs 24 to 29:

- a)** The extermination or murder of approximately two hundred fifty-five Croat and other non-Serb civilians, including women and elderly persons.
- b)** The unlawful imprisonment of approximately three hundred Croat and other non-Serb civilians at Ovcara farm.
- c)** The cruel or inhumane treatment of Croat and other non-Serb detainees during and after their arrest, including torture, beatings, sexual assault and psychological abuse.
- d)** The willful deprivation of sick and wounded Croat and other non-Serb civilians of due medical care.

32. By these acts and omissions, **Mile MRKSIC**, 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)

33. From or about 20 November 1991 until 21 November 1991, **Mile MRKSIC**, 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 and murder of Croat and other non-Serb civilians who had taken refuge in the Vukovar Hospital.

34. During the evening hours of 20/21 November 1991, at least two-hundred and fifty-five detainees were taken in groups of 10 to 20 to a location southeast of the Ovcara farm, where Serb forces comprised of JNA units and TO, volunteer and paramilitary units acting in co-ordination and under

supervision of the JNA shot and otherwise executed them. The names of the victims are set out in Annex I attached to this indictment.

35. By these acts and omissions, Mile MRKSIC 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)**

36. From on or about 20 November 1991 until 21 November 1991, **Mile MRKSIC**, 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 imprisonment of approximately three hundred Croats and other non-Serbs at the Ovcara farm.

37. The conditions at this detention facility were brutal and characterized by inhumane treatment and constant physical and psychological assault as specified in paragraph 26 in the indictment. After the initial beating in front of the farm building, the soldiers continued to beat and assault the detainees for several hours so seriously that at least two men died from the beatings. At least one female detainee was sexually assaulted.

38. Among the detainees were women, elderly men and patients from the Vukovar Hospital who were wounded or sick. Those patients did not receive any care for their illnesses or injuries.

39. By these acts and omissions, Mile MRKSIC, 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.

Dated this 28th day of August 2002
At The Hague
The Netherlands

Carla del Ponte
Prosecutor