

VIEW FROM THE HAGUE

KRAJIŠNIK EXERCISE ALL HIS RIGHTS

Nearly four years after Momcilo Krajišnik arrived at the Tribunal, his trial finally started the day before yesterday. These years have been a busy time for everyone working on the case – thousands of pages of evidence have been disclosed and Krajišnik has availed himself of almost all legal remedies at his disposal, including filing for provisional release no less than six times. About a year ago, all the motions were finally dealt with by the Chambers and trial was scheduled to begin on 12 May 2003, but then a serious set-back occurred: Krajišnik's lead counsel was temporarily suspended from his Bar Association in the United States on allegations of serious misconduct. Since the Tribunal's rules do not permit lawyers who are not in good standing with their bar associations to practice before the ICTY, the Registry was forced to withdraw the defence counsel's assignment and the Trial Chamber had to postpone the start of trial in order to permit Krajišnik's new defense team sufficient time to prepare. Due to the complexity of the case, the preparations took some time.

Krajišnik is facing very grave charges. As someone who held various high-level posts, including membership in the National Security Council, the expanded Presidency of the Serbian Republic of Bosnia and Herzegovina, the Main Board of SDS and President of the Bosnian Serb Assembly, Krajišnik is said to have had *de facto* and *de jure* control and authority over the Bosnian Serb forces, authorities and their agents. The indictment alleges that these forces and authorities participated in planning and executing a policy to permanently remove the Bosnian Muslim, Bosnian Croat and other non-Serb population from 37 municipalities in Bosnia and Herzegovina through the crimes of genocide, crimes against humanity and violations of the laws and customs of war.

The indictment charges Krajišnik with participating in the partial destruction of the Bosnian Muslim and Bosnian Croat groups in Bosnia and Herzegovina and alleges that this was done through killing members of these groups both during and following attacks on their towns and while they were held in detention facilities. The attempt to destroy these groups was continued by subjecting them to cruel and inhuman treatment including torture, beatings, sexual violence, physical and psychological abuse, forced labour, and failing to provide them with adequate accommodation, shelter, food, water, medical care or hygienic sanitation facilities. The indictment lists 400 detention facilities in 34 municipalities in Bosnia and Herzegovina where these acts occurred.

Krajišnik is also charged with the extermination and killing of well over 2,500 Bosnian Muslims, Bosnian Croats and other non-Serbs. More than 1,600 of them were killed in detention camps. In addition to these killings, the indictment lists another 97 incidents, which include the killing of dozens of Bosnian Muslim and Bosnian Croat men, women and children in the towns of Bijeljina and Zvornik in April 1992, the execution throughout June 1992 of hundreds of Bosnian Muslim men, women and children from Višegrad at various bridges over the Drina, as well as the mass execution of over 100 Bosnian Muslim and Bosnian Croat males in Ključ which took place around the same time, to name but a few.

In addition to these crimes, the indictment alleges that Krajišnik participated in persecuting Bosnian Muslim and Bosnian Croat populations by subjecting them to a number of discriminatory measures and that he was involved in forcibly transferring or deporting Bosnian Muslims, Bosnian Croats or other non-Serbs.

Krajišnik is charged with direct participation in these crimes as well as command responsibility. That means that as a member of the Bosnian Serb leadership, Krajišnik was in a position to prevent or punish the crimes with which he is charged and yet he failed to do so.

Another member of that same leadership, Biljana Plavšić, was also indicted for the same crimes. Unlike Krajišnik who maintains his innocence, Plavšić, on 2 October 2002 pleaded guilty to persecutions. The other charges against her were dropped and she was sentenced to eleven years in prison.

There is no doubt that horrible crimes occurred in Bosnia and Herzegovina in the early nineties. However, Krajišnik shall be presumed innocent unless the Prosecution proves beyond a reasonable doubt that the allegations in the indictment are true and that he is personally responsible. This will be a long detailed process that may take another couple of years to complete.

Outreach Programme

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