

VIEW FROM THE HAGUE

150 DAYS FOR MILOŠEVIĆ'S DEFENSE

- **Milosevic is not charged with defending his country**
- **There are no defense witnesses outside of the indictment**

For at least the next three months, Slobodan Milošević will get ready to mount his defence in his trial before the International Criminal Tribunal for the former Yugoslavia. He will have this time to prepare his answer to the very serious charges against him, which include genocide and crimes against humanity.

The Prosecution, which rested its case last week, sought to prove that Milošević was guilty of involvement in a multitude of crimes committed against Bosnian Muslim, Bosnian Croat, Croatian, and Kosovo Albanian civilians in three armed conflicts which took place in the former Yugoslavia between 1991 and 1999. These crimes include killings, forcible displacements and deportation, persecution, unlawful detention and sexual abuse among other inhumane acts, and the wanton destruction and plundering of property belonging to people who are not Serbs. The victims of these crimes number in the thousands, and are too numerous to describe in detail here. However, one example from each of the three indictments against Milošević for crimes committed in Croatia, Bosnia and Herzegovina and Kosovo can serve to demonstrate the nature and gravity of the charges against him.

First example: The indictment for crimes committed in Croatia charges Milošević with, among other things, involvement in killing 255 Croatians and other non-Serbs in Ovčara in November 1991. Forces under the command of the Yugoslav National Army and Territorial defense, seized these individuals, many of whom were ill or injured, from the Vukovar hospital, and drove them approximately 10 km to Ovčara, where they were killed and buried in a mass grave. This crime is the subject of another indictment before the ICTY, as well as an indictment before the Serbian Special War Crimes Court in Belgrade.

Second example: As part of its argument that Milošević is responsible for genocide and complicity to commit genocide in Bosnia and Herzegovina, among other crimes, the indictment lists 71 instances of killings in 25 different municipalities, including the killing of many thousands of Bosnian Muslim men in Srebrenica in July 1995. The indictment also lists 35 instances of killings in detention centers in 20 different municipalities, for example, the killing of no less than 266 Bosnian Muslim detainees in KP Dom in Foča.

Third example: The indictment for crimes committed in Kosovo charges Milošević with involvement in killing 44 people, including women and children in Suva Reka on 26 March 1999, and the execution of a large number of civilian men in Meja on 27 April 1999, among many others. The indictment states that a number of identity documents from these victims were found in the mass grave of over 700 Kosovo Albanians in Batajnica, near Belgrade. The Serbian Special War Crimes Prosecutor is currently investigating other alleged perpetrators of this crime.

Milošević must focus his defence on these and other specific charges against him in the indictment and the specific points that the Prosecution argued in its case. It should be noted that the Tribunal indictment does not charge Milošević with "defending his country," or with responsibility for killing an enemy soldier in battle. Nor is he charged with responsibility for the break-up of the former Yugoslavia. These are not crimes under international law.

Like the Prosecution was required to do before it began its case, Milošević must submit a list of witnesses he intends to call and a list of documents that he intends to tender. Again, like the Prosecution, he must also briefly explain why these witnesses and documents are relevant to his defense. He cannot call witnesses or tender documents that do not have a bearing on the charges against him in the indictment.

The Tribunal is providing Milošević with facilities and services that he requires to prepare his defense. These include a space in which to interview witnesses, computer and recording equipment, and photocopying and translation services. Milošević has unimpeded access to his legal assistants and is able to communicate with them and prepare for his defense in full confidence.

The Trial Chamber has granted Milošević 150 days to present his case. This is in fact just as much time as the Prosecution had to present its case. It should be recalled that the judges permitted Milošević more time to cross-examine witnesses than the Prosecution had to present their evidence. The testimony of a great

number of Prosecution witnesses, in particular those who are the immediate victims of the crimes with which Milošević is charged, was entered into evidence in written form. So although the Prosecution presented its case in 295 court days, viewers will have noted that much of that time was dedicated to Milošević's cross-examination of Prosecution witnesses. After Milošević completes his defense, the Prosecution will have an opportunity to address only the points he raises in it by calling additional witnesses and submitting further documents.

Milošević can be acquitted on all accounts, acquitted on some but convicted on others, or convicted on all counts. Only once it has carefully considered all the evidence that the Prosecution and Defense submit to it will the Trial Chamber issue its Judgment.

Outreach Programme

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