

**INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA**

*D 3/216 Bis - D 1/216 Bis 3/216 Bis  
mcf*

**Case no. IT-95-13-I**

**Before: JUDGE FOUAD RIAD**

**Registrar: MRS. DOROTHÉE DE SAMPAYO GARRIDO-NIJGH**

**Decision of 7 November 1995**

**THE PROSECUTOR**

**v.**

**MILE MRKŠIĆ  
MIROSLAV RADIĆ  
VESELIN ŠLJIVANČANIN**

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**CONFIRMATION OF THE INDICTMENT**

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**The Prosecutor**  
represented by:

**Mr. Graham Blewitt  
Mr. Clint Williamson**

I, Fouad Riad, Judge at the International Criminal Tribunal for the former Yugoslavia,

Being seized of a request by the Prosecutor to review an indictment, pursuant to Articles 18 and 19 of the Statute and Rule 47 of the Rules of Procedure and Evidence,

Upon hearing the comments of the Prosecutor, pursuant to Rule 47 (D) of the Rules of Procedure and Evidence,

Considering that the relevant parts of the record submitted to me by the Prosecutor show that on 20 November 1991, soldiers under the authority of the Yugoslav People's Army (JNA) arrested at least 300 unarmed men in the hospital at Vukovar. Most of these men were transported by bus to Ovčara, a former collective farm near Vukovar. As they descended from the buses, they were systematically beaten and robbed of their possessions. They were assembled in one of the farm buildings and for several hours were again beaten. The beatings allegedly caused the death of at least two men. The great majority of the men were then taken in small groups to an isolated place near Ovčara where a mass execution occurred. As of today, of the 300 men arrested at the hospital during the operation, 261 are still missing. The exact identification of the individuals appears in the indictment;

Considering that it appears from the relevant parts of the record that the soldiers who carried out this operation were under the authority of Captain Miroslav RADIĆ, Major Veselin ŠLJIVANČANIN and Colonel Mile MRKŠIĆ, all of whom were members of the Yugoslav People's Army (JNA). By virtue of their position of authority, these three individuals allegedly ordered, permitted or participated in the above described acts;

Considering that the Prosecutor has characterised each of the acts I have reviewed, that is, beatings and killings, as being covered by three Articles of the Statute: Grave breaches of the Geneva Conventions (Article 2 of the Statute of the Tribunal), Violations of the laws or customs of war (Article 3 of the Statute), and Crimes against humanity (Article 5 of the Statute), and insofar as the definitive characterisation comes under the jurisdiction of the Trial Chamber which may try the case, at this stage, I confine myself to verifying the respective relevance of the articles indicated by the Prosecutor with the purpose of establishing the competence of the Tribunal;

Considering that from the end of August 1991, the city of Vukovar, located in the region of eastern Slavonia in Croatia was subjected to a violent attack carried out by the Yugoslav People's Army, specifically the "*Guards Brigade*" from Belgrade, assisted by various paramilitary groups. Despite the organisation of armed resistance, the city of Vukovar was captured around 18 November 1991 after intense shelling and a siege of several months. The attack caused the death of several hundred people and the partial or total destruction of a large number of buildings in the city, including the hospital. The existence of an armed conflict which, pursuant to the articles specified by the Prosecutor, is a condition for the Tribunal's jurisdiction, thus appears to have been established;

Considering that the record shows that the victims of the acts specified in the indictment were persons protected by the Geneva Conventions of 1949 and that, from 8 October 1991 at the latest, the date when suspension of the declaration of independence of Croatia was lifted, the conflict took on an international character; under these conditions, the reference to Article 2 of the Statute appears relevant;

Lastly, considering that the acts constituting the basis of the indictment submitted to me were directed against a group of individuals which, apparently, included both civilians and resistance fighters who had laid down their weapons. The record shows that these acts could be described as part of an organised campaign to terrorise the non-Serbian civilian population in the region of Vukovar. The extended siege of the city of Vukovar which caused the death of many people, as well as the destruction of a large part of the city, was followed by the massive evacuation of the non-Serbian populations. One of the objectives of the attack was, apparently, to remove or to eliminate the non-Serbian population, more specifically, the Croatian population of the region. Consequently, the criminal acts specified in the indictment, which are sufficiently widespread and serious, may, in addition, be considered as having been organised and directed against a civilian population for national, ethnic, religious or political reasons. They might therefore be characterised as crimes against humanity;

Considering that there is sufficient evidence to provide reasonable grounds for believing that Mile MRKŠIĆ, Miroslav RADIĆ and Veselin ŠLJIVANČANIN, by virtue of their position of authority, committed crimes which, pursuant to Articles 2, 3 or 5 of its Statute, fall under the jurisdiction of the Tribunal;

Pursuant to Articles 18 and 19 of the Statute as well as Rules 28 and 47 of the Rules of Procedure and Evidence,

I therefore confirm the indictment which the Prosecutor has submitted.

(signed)  
Fouad Riad  
Judge of Trial Chamber 1

7 November 1995  
The Hague  
The Netherlands