



International Tribunal for the
Prosecution of Persons Responsible for
Serious Violations of International
Humanitarian Law Committed in the
Territory of The Former Yugoslavia
since 1991

Case No. IT-00-39-I

Date 25 February 2000

Original: English

BEFORE A JUDGE OF A TRIAL CHAMBER

Before: Judge Patricia Wald
Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh, Registrar
Decision of: 25 February 2000

THE PROSECUTOR

v

MOMČILO KRAJIŠNIK

EX PARTE - UNDER SEAL

**ORDER ON REVIEW OF INDICTMENT PURSUANT
TO ARTICLE 19 OF THE STATUTE AND
ORDER FOR NON-DISCLOSURE**

I. Introduction

1. On 21 February 2000, pursuant to Article 19 of the International Tribunal's Statute and Rule 47 of the Rules of Procedure and Evidence, the Office of the Prosecutor ("the Prosecutor") submitted for confirmation an indictment charging MOMČILO KRAJIŠNIK with genocide and complicity in genocide; crimes against humanity, including extermination, murder, persecution, deportation, and inhumane acts; wilful killing, a grave breach of the Geneva Conventions of 1949; and murder, a violation of the laws or customs of war. The indictment was accompanied by supporting materials and a motion entitled "Presentation of an Indictment for Review and Application for Warrants of Arrest and for Related Orders and a Decision Concerning an Order for Non-Disclosure."
2. The Prosecutor was heard by me in Chambers pursuant to Rules 47 and 53 of the Rules of Procedure and Evidence ("the Rules") on 25 February 2000.
3. Before I confirm the indictment, Article 19 of the Statute of the International Tribunal and Rule 47 require that I be satisfied that the material facts pleaded in the indictment establish a *prima facie* case and that there is evidence that supports those facts.¹

II. Overview of Indictment and Supporting Materials

4. The indictment alleges that MOMČILO KRAJIŠNIK was a leading member of the Serbian Democratic Party of Bosnia and Herzegovina (hereafter SDS) from its creation and held various high offices in the government of the entity known as the Serbian Republic of Bosnia and Herzegovina. The indictment alleges that, in these positions, MOMČILO KRAJIŠNIK had power and control over Bosnian Serb forces (including military, paramilitary, and police units) as well as all SDS and government authorities (including Crisis Staffs, War Presidencies and War Commissions) that participated in the crimes alleged in the indictment. The supporting materials provide information about the structure of the various Bosnian Serb organisations and MOMČILO KRAJIŠNIK's place in them.
5. The indictment alleges that between 1 July 1991 and 30 December 1992, MOMČILO KRAJIŠNIK, acting individually or in concert with Radovan Karadžić and other Bosnian Serb officials, planned, instigated, ordered, committed, or otherwise aided and abetted a course of conduct including persecution and terror tactics to force non-Serbs out of areas in Bosnia and Herzegovina that had been earmarked for inclusion in the Serbian Republic

¹ *Prosecutor v. Milošević*, Case No. IT-99-37-I, Decision on Review of Indictment and Application for Consequential Orders, 24 May 1999, at para. 3.

of Bosnia and Herzegovina. Many of those non-Serbs who did not flee in reaction to these tactics, it is alleged, were either forcibly deported or killed.

6. The indictment lists more than a dozen instances in which scores of civilians were killed during and after the attacks on the targeted areas, and the supporting materials contain the statements of numerous witnesses to the killings.
7. The indictment lists eleven detention camps where non-Serbs were taken, and the supporting materials contain numerous statements from individuals held in those camps regarding the torture and killing of detainees and the inhumane conditions in the camps.
8. The indictment alleges that thousands of non-Serbs were forcibly transferred or deported from the targeted areas, and the supporting materials contain numerous statements of individuals describing how residents of their towns or villages were forcibly removed by Bosnian Serb forces.
9. The indictment alleges that non-Serbs in the targeted areas were denied fundamental rights, such as the right to work, freedom of movement, access to judicial process, and equal access to medical care. Many of the witness statements describe such events.
10. The indictment alleges the wanton destruction of non-Serb property, including religious institutions. Numerous witness statements describe such destruction.
11. In regard to the actions described in the preceding six paragraphs, the supporting materials describe similar patterns of events in many different towns.
12. The indictment alleges that MOMČILO KRAJIŠNIK, because of his position and power and the widespread nature of these events, knew or had reason to know that Bosnian Serb forces under his direction and control were committing these crimes. The supporting materials contain *prima facie* evidence to support these inferences.
13. The indictment alleges that these crimes were committed during armed conflict and, for purposes of the Article 2 counts, that the armed conflict was international in nature; that the acts or omissions charged as crimes against humanity were part of a widespread or systematic attack on the non-Serb civilian population; and that the acts or omissions charged as genocide were committed with the intent to destroy, in whole or in part, the Bosnian Muslim and Bosnian Croat ethnic groups. The supporting materials contain *prima facie* evidence to support these allegations.


III. Conclusion and Orders

14. I am satisfied that the Prosecutor has established a *prima facie* case on all the counts in the indictment. Accordingly, pursuant to Article 19 and Rule 47, I hereby CONFIRM the indictment in respect of each and every count therein.

15. In addition, having been satisfied by the Prosecutor's presentation on the need for confidentiality at this stage, and pursuant to Rules 53, 53 bis, 54, 55 and 59 bis, I ORDER that:

- a. the arrest warrant for the accused person shall not be transmitted to the authorities of Bosnia and Herzegovina or the Republika Srpska unless otherwise ordered;
- b. copies of the arrest warrant shall be transmitted to the Prosecutor, who may transmit it to the International Stabilisation Force ("SFOR"); and
- c. with the exception of SFOR there shall be no public disclosure of the indictment, this decision, or the arrest warrant until the arrest warrant is served on the accused or unless further ordered;
- d. there be no public disclosure of the supporting materials until further order;
- e. other than to representatives of the Office of the Prosecutor, there be limited internal disclosure within the Tribunal of the indictment to only those individuals who have a compelling need to know or who require access to the indictment or supporting material to perform their normal duties.

Done in English and French, the English text being authoritative.



Patricia Wald
Judge,
International Tribunal

Dated this 25 day of February 2000
At The Hague
The Netherlands

[Seal of the Tribunal]