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Проф. др Коста Чавошки
ХАГ ПРОТИВ ПРАВДЕ
(ИЗНОВА)

Случај др Радована Караџића

Prof. dr Kosta Čavoški
THE HAGUE AGAINST
JUSTICE REVISITED

The Case of Dr. Radovan Karadžić

Српско Сарајево 1997.

Serbian Sarajevo 1997.

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НАПОМЕНА ИЗДАВАЧА

После добро примљене расправе Косте Чавошког THE HAGUE AGAINST JUSTICE REVISITED – the Case of Dr. Radovan Karadžić у издању Центра за српске студије у Београду, којим руководи наш познати историчар Милан Ст. Протић, појавила се потреба да се ова књижица објави и на српском језику, чиме би се пружила могућност и ширем кругу читалаца у Републици Српској и Савезној Републици Југославији да на матерњем језику прочитају ову занимљиву расправу. Но, како у Републици Српској тренутно често борави и већи број странаца који српски језик још нису научили, њима је намењен упоредни превод на енглески.

Ово издање је проширено факсимилима најважнијих наредби, упутстава и других аката председника др Радована Караџића.

Проф. др Коста Чавошки

NOTE FROM THE PUBLISHER

After the good reception given to Kosta Čavoski's treatise, "THE HAGUE AGAINST JUSTICE REVISITED – the Case of Dr. Radovan Karadžić" published by the Centre for Serbian Studies in Belgrade headed by the well known historian, Milan St. Protić, the need has arisen for this book to be published also in the Serbian language which would offer the possibility to a broader readership in Republika Srpska and in the Federal Republic of Yugoslavia to read this interesting treatise in their mother tongue. Since, however, there is also a large number of foreigners currently staying in Republika Srpska who have still not learned the Serbian language, there is a parallel translation in English intended for them.

This edition is supplemented with facsimile copies of the most important orders, instructions and other legal acts issued by Dr. Radovan Karadžić.

Prof. dr Kosta Čavoški



Проф. др Коста Чавошки

ХАГ ПРОТИВ ПРАВДЕ

(ИЗНОВА)

Случај др Радована Караџића

Одавно је познато да је лош почетак поуздан знак да ће се највероватније и лоше наставити. У праву чак важи начело да протек времена не може да исправи и учини ваљаним оно што је од самог почетка било мањкаво. Или како је то, у духу народне мудрости, наш чувени правник Валтазар Богишић језгровито изрекао: "Што се грбо роди вријеме не исправи." То се управо може рећи за Међународни кривични суд у Хагу, који је од самог почетка лоше постављен и конституисан, па је тако наста-вио и приликом пресуђивања првих случајева који су пред њим покренути.

Замена идентитета приликом хапшења

Своју прву велику бруку, као што је то већ показано,¹ овај суд је доживео у случају генерала Ђорђа Ђукића. Већ у сле-дњем случају Горана Лајића Међународни кривични суд за бив-шу Југославију изложио је себе још већој срамоти и понижењу: био је присиљен да пусти из притвора лице које је ухапшено зб-ог погрешно утврђеног идентитета. Реч је о Горану Лајићу који је 18. марта 1996. ухапшен у Нирмбергу на основу потернице и претходно потврђене оптужнице из 1995. године. Већ у том часу ухапшени Горан Лајић је упозорио немачке органе гоњења да је



Prof. dr Kosta Čavoški

THE HAGUE AGAINST

JUSTICE REVISITED

The Case of Dr. Radovan Karadžić

It has long been known that a bad beginning is a sure sign that things will continue badly. There is even a valid legal principle that time cannot correct or make worthwhile that which, from the outset, was misconceived. As the famous Serbian jurist, Valtazar Bogišić put it, in the form of a national proverb, "Time never straightened a hunch back." The saying fits the International Criminal Tribunal at the Hague, to a tee. From the very beginning it was wrongly conceived and badly constituted and in the course of trying the first cases brought before it, has shown absolutely no sign of improvement.

Mistaken Identity At Arrest

As has already been shown,¹ the Tribunal created its first great fiasco, in the case of General Djordje Djukić. In the very next case, that of Goran Lajić, the International Criminal Tribunal for the Former Yugoslavia shamed itself in even greater measure. It was obliged to release from custody, an individual arrested on the basis of mistaken identity. The case in question was that of Goran Lajić, who was arrested in Nuremburg on 18th March 1996 on the basis of a warrant and later confirmed indictment from 1995. At the time of his arrest Lajić told the German authorities that it was a case of mistaken identity and that he was not the Goran Lajić indicted by the International Criminal Tribunal. The German Police, usually so painstakingly conscientious in the case of German citizens, did not believe him.



дошло до замене идентитета и да он није онај Горан Лајић против којег је тужилац Међународног кривичног суда подигао оптужницу. Немачка полиција, иначе педантна и савесна када су посреди немачки држављани, није поверовала ухапшеном Горану Лајићу нити је уопште нашла за потребно да провери да ли идентитет ухапшеног одговара идентитету оптуженог. Уместо тога она га је 56 дана без ваљаног правног основа држала у притвору, да би га тек 13. маја 1996. изручила Међународном кривичном суду.

Брзоплети тужилац Грант Нимен одмах је, без икакве провере, против ухапшеног подигао оптужницу којом му је, као наводном стражару у логору Кератерму код Приједора, ставио на терет убиство четири затвореника - Јасмина Изанрија, Драга Такмановића, Емсуда Баховића и Шпија Меша - као и злостављање неколицине других заробљеника. Приликом прве појаве пред првостепеним судским већем 17. маја 1996. оптужени Горан Лајић изнова је упозорио суд да је недужна жртва замене идентитета и да чак и не зна где се налази логор Кератерм, док је његов бранилац Тома Фила тврдио да у крају у којем је боравио Горан Лајић има бар десет особа с истим именом и презименом.

После оваквог исказа оптуженог, председавајући судија Клод Жорда обратио се заменику тужиоца Гранту Нимену за објашњење, а овај је узвратио да је личност на оптуженичкој клупи "прави Горан Лајић" - бивши стражар логора Кератерм. Лајићев адвокат Тома Фила подсетио је суд да у оптужници нема ни датума рођења ни очевог имена његовог клијента, па је затражио да се пред наводним сведоцима оптужбе устроји такозвана линсуп како би идентификовали оптуженог у групи насумице изабраних и постројених људи. Уместо овако поуздане провере идентитета, на предлог судије Жорде и уз Лајићев пристанак наложено је да се оптужени фотографише, па да се његова фотографија - заједно с фотографијама већег броја случајно изабраних лица - покаже наводним сведоцима који тврде да су били очевици или жртве његових злочина. Од десет наводних сведока њих деветорица уопште нису препознали Горана Лајића на приказаним фотографијама, док је десети рекао да је видео тог Горана Лајића, али да ништа не зна о злочинима који му се стављају на терет. Тако осрамоћен и обрुकан, тужилац је одуст-



Neither did they find it necessary to determine whether the man in custody and the man accused were, in fact, one in the same. Instead they held him in remand for 56 days without legal justification and only on the 13th May, handed him over to the International Criminal Tribunal.

The overzealous prosecutor, Grant Nimen, without making any attempt to check his facts, formally accused the defendant of being a guard at the Keraterm Camp near Prijedor and of murdering four prisoners, Jasmin Izairija, Drago Tokmanović, Emsud Bahović and Špijo Mesić, as well as of the mistreatment of several other prisoners. When Goran Lajić appeared before the court on 17th May, 1996 he again told the court that he was the innocent victim of a case of mistaken identity and that he did not even know where the Keraterm camp was. His council, Toma Fila said that, in the area where Goran Lajić lived there were at least ten other people with the same first name and surname.

After such a statement from the accused, the judge presiding, Claude Jorda, asked prosecutor Grant Nimen's representative for an explanation and was told that the man in the dock was the "real Goran Lajić" one time guard at the Keraterm camp. Lajić's lawyer, Toma Fila reminded the court that the indictment did not contain, either his client's date of birth or his father's name and asked that the court should arrange for a so-called line up in which the witnesses would be asked to identify the accused among a randomly selected group. Instead of this reliable method of identification, at the suggestion of Judge Jorda, and at Lajić's acquiescence it was decided that the accused should be photographed and his picture, along with a larger number of pictures of randomly selected people, be shown to the witnesses who claimed to have seen the accused or been the victims of his crimes. Out of ten witnesses nine failed to recognize Lajić at all among the photographs shown and the tenth said that he had seen this Goran Lajić but that he knew nothing about the crimes he was accused of. Thus shamed the prosecutor gave up the case for lack of evidence, without prejudicing the indictment against the real Goran Lajić. The court had no option but to release Lajić on 17th

ао од гоњења због недостатка доказа, не прејудииирајући тиме оптужницу против оног другог, "правог" Горана Лајића, па је 17. јуна 1996. суд, немајући куд, донео ослобађајућу пресуду.

И поред, по оптуженог, срећног окончања овог случаја, остају многе сумње које доводе у питање поузданост и веродостојност Хашког суда и његовог тужилаштва. Није, наравно, искључено да се понекад грешком лиши слободе и у полицијску станицу приведе неко недужно лице, које својим именом или ликом подсећа на оног правог осумњиченог са потернице. Али се зато без икаквог оклевања најпре проверава идентитет приведеног лица, па се оно одмах пушта на слободу ако се утврди да је посреди грешка односно замена идентитета. У случају Горана Лајића тужилац Хашког суда и органи гоњења чекали су два месеца да би приступили ономе - провери идентитета - што су морали учинити на самом почетку. И што је најгоре, ово неопростиво оклевање није последица неукости него нескривене предрасуде према Србима. Јер, као што је некада, у доба расних предрасуда у Европи, после нестанка нечијег новчаника у јавном возилу прва сумња падала на најближег, одрпаног и црног, Циганина, тако се, изгледа, данас свака сумња да је неко од Срба починио тежак ратни злочин узима као по себи разумљива и малтене вероватна, па је без преке потребе и не треба проверавати.

Сведочење под капуљачом

Док је неславни случај Горана Лајића разоткрио само крајњу небрижљивост тужиоца Хашког суда и одсуство поузданих јемстава против арбитрарног хапшења и тромесечног задржавања у притвору недужних људи, потоњи случај Душана Тадића потпуно је разголитио погубне последице сведочења под маском или капуљачом, што је својевремено широко практиковала Света инквизиција. Овај случај је, иначе, започео неубицајеним вештачењем о позадини и контексту у којем су вршени злочини за које одговара Душан Тадић. На позив тужиоца, тог задатка подухватио се др Џејмс Гау да би показао како су злочини - попут оних који се стављају на терет Душку Тадићу - почињени у оквиру једног ширег, систематски извођеног, злочинског плана. Од оваквог вештака, с репутацијом уваженог нау-

June 1996.

Apart from the happy (for the accused) conclusion of this case there are hosts of doubts that bring into question the reliability and credibility of the Hague Tribunal and its prosecutors. Of course it is not impossible that people should occasionally be arrested and detained at police stations by mistake, because they resemble or have the same name as the person for whom a warrant was issued. To avoid this the identity of the person detained is checked without delay and he is released if a mistake is found to have been made, that is, if his identity has been mistaken. In the case of Goran Lajić the prosecutors of the Hague Tribunal and the law enforcement agencies waited two months to make the necessary checks, that is to establish identity, which normal practice obliged them to do at the very beginning. Worse even, this unforgivable delay was not the result of incompetence, but rather, of blatant prejudice against Serbs. As was the case in times of racial prejudice in Europe, when someone's wallet went missing on the bus and suspicion fell immediately on the nearest ragged, black gypsy. Today it seems, every suspicion that Serbs committed terrible war crimes is taken for granted as probable to the degree that, in most cases, it is unnecessary to make even the most cursory of inquiries.

Hooded Testimony

While the infamous case of Goran Lajić exposed the incredible carelessness of the Hague Tribunal prosecutors and the absence of reliable measures against the arbitrary imprisonment and three month detention of innocent people, the following case of Dušan Tadić brought glaringly to light the fatal consequences of allowing evidence to be given from behind a mask or hood, a method much used in its time by the Holy Inquisition. This case started with some unusual expert testimony about the background and context to the crimes of which Dušan Tadić stood accused. At the request of the prosecutor, one Dr. James Gow took it upon himself to show how the crimes - exactly the ones that Dušan Tadić was said to have committed - were part of a wider, systematically executed plan. From this expert



чника, очекивало се да ће бити подједнако непристрасан и подједнако критичан према свим странама у несретном грађанском односно етничком и верском рату на тлу бивше Југославије. На велико изненађење судског већа и самог тужиоца, одбрана је показала да је др Џејмс Гау написао чланак под насловом "Српски национализам: змија у недрина међународне заједнице", у којем, поред осталог, каже: "Из рушевина Југославије измилела је змија која сикће и бљује отров на међународни поредак... Ако хоћете да је укротите, мораћете да употребите оружје..."² Уважени др Гау није, међутим, још нашао за сходно да сличан чланак напише о хрватском, муслиманском или албанском национализму.

Друга неугодност, која баца сумњу на веродостојност оптужбе, била је чињеница да су неки од најављених сведока одбили да на самом суду сведоче, док други нису више били доступни тужилаштву. Вероватно је реч о лицима која су се пријавила да наводно сведоче да би обезбедила дозволу боравка у некој западноевропској земљи, а потом лаковерном тужиоцу окренула леђа.

За правнике који нису били упућени у методе које је својевремено користила Света инквизиција, највеће изненађење представљало је сведочење иза паравана преко апарата који изобличује лик и глас сведока да би се прикрио његов идентитет. Тако су о "специјалним чињеницама" пред судом најпре сведочила анонимна лица, означена као "Р" и "Q". Но, када је требало доказати оне најтеже злочине, који се Душку Тадићу стављају на терет, ни ови тајни, специјално заштићени сведоци нису били тужиоцу од неке веће користи. Један од тих злочина било је наводно силовање заточенице логора Омарска означене као "F". Она је, међутим, одбила да се појави пред судом иако је претходно чврсто обећала, што је тужиоца навело да одустане од три тачке своје оптужнице. Други злочин био је још стравичнији. Реч је о присиљавању једног заточеника да другог свог сапатника кастрира зубима. На несрећу, у последњем тренутку свој претходни пристапак да сведочи повукао је и сведок "G" - зато-

witness, with the reputation of a respected academic, one would have expected a wholly unbiased account, equally critical towards all sides in the unhappy civil, that is, ethnic and religious war in the former Yugoslavia. To the great surprise of the court and even to the prosecutors themselves, the defense showed that Dr. James Gow had written an article called, "Serbian Nationalism; the snake in the bosom of the International Community." In which he said, among other things, "from the ruins of Yugoslavia has slithered a snake that hisses and spits poison at international order. . . If you would tame it you will have to resort to arms."² The important Dr. Gow had not, however, found it necessary to write similar pieces on Croatian, Muslim or Albanian nationalism.

The next problem that throws doubt upon the validity of the accusations was the fact that some of the witnesses had refused to give evidence at the trial itself, while the prosecution was unable to locate others. It was probably a case of individuals who had put themselves forward as witnesses in order to gain rights of residence in western European countries, then turned their backs on the gullible prosecutors.

For lawyers unfamiliar with the methods of the Holy Inquisition the greatest surprise was the giving of evidence from behind a screen, by means of a device that cloaked the appearance and the voice of the witness, thus disguising their identity. In this way anonymous people referred to by code letters such as "P" and "Q" gave evidence. However, when it came to the most serious crimes laid at Dušan Tadić's door these secret, specially protected witnesses did not prove of much use to the prosecution. One of these crimes was the alleged rape of an inmate of Omarska, given the code letter, "F". The woman however, refused to appear before the court, going against her earlier promise, and left the prosecutors no choice but to abandon three points of their indictment. The second crime was even more horrific. It was said that a prisoner had been forced to castrate a fellow inmate with his teeth. Unfortunately witness "G", the prisoner who, in front of the garage at Omarska had been forced to bite off another

ченик који је у већ поменутом стравичном злочину пред гаражом у Омарској био принуђен да другом затворенику зубима одгризе тестисе. Потом је други кључни сведок оптужбе, означен као "Н", пред судом изјавио да 18. јуна 1992., у тренутку када се пред гаражом у Омарској одиграо овај непојмљиви злочин, није видео оптуженог Душана Тадића због тога што је, у смртном страху од погибије, држао погнуту главу.

Убрзо се, међутим, показало колико је установа анонимних, специјално заштићених сведока ризична и погубна. Као последњи, крупни сведок оптужбе појавило се лице "L" - младих српске националности који је крајем 1992. наводно био стражар у Трнопољу, затим неко време војни бегунац, па мобилисан војник кога су ранили и заробили муслимански војници. Према његовом сведочењу, Душко Тадић је био командант логора Трнопоље у којем су у више наврата вршена погубљења старијих муслимана. При том је Тадић не само учествовао у извођењу ових несретника, него је и присуствовао њиховом погубљењу, а повремено и лично убијао поског затвореника. Уз то је, да зло буде веће, присуствовао па и учествовао у силовању муслиманских девојака у подруму такозване Беле куће у логору. Посебну уверљивост овом сведочењу допринела је и чињеница да је сведок "L", по властитом признању, и сам, под дејством дроге, учествовао у убијању и силовању, додуше по Тадићевом наређењу и под претњом да ће бити убијен ако наређење не изврши. Тако је Тадића тешко теретио сведок који је и сам с њим силовао и убијао.³

Ово сведочење једног Србина очевица против другог, оптуженог Србина био је крупни доказ на којем је тужилац највећма градио своју оптужницу. А онда је, као гром из ведрога неба, одјекнула вест да је Драган Опачић, крупни сведок "L", лагао и да су га подметнуле муслиманске власти у Сарајеву. Он је истражитељу Роберту Риду признао да му је, под претњом смрти, муслиманска влада наложила да лажно сведочи и да је, зарад "обуке", прегледао, видео-снимке Тадића и Трнопоља. Тужилац је потом био принуђен не само да повуче оне делове оптужнице, који су се тicali убиства, силовања и злостављања заточеника

man's testicles and who had previously agreed to give evidence, withdrew his testimony at the last minute. Then the next key witness, given the code letter "H", told the court that, on the 18th June 1992, outside the garage at Omarska, when the incomprehensible crime was committed, he had not seen Dušan Tadić, because, for fear of being killed, he had kept his head lowered.

It quickly became clear, however, how dangerous and detrimental the institution of anonymous, specially protected witnesses is. As their last and most important witness the prosecution called "L" a young Serb who had allegedly been a guard at Trnopolje, at the end of 1992 and who, after a period of desertion, had been conscripted then wounded and captured by Muslim soldiers. According to his testimony Dušan Tadić had been commander of the Trnopolje camp where, on several occasions, older Muslims had been put to death. According to "L" Tadić had not only brought the victims out to be executed, but was present at the executions themselves and had, on occasion, killed prisoners himself. To add to the evil he claimed that Tadić had been present at and had taken part in the rape of Muslim girls in the cellar of the so called White House at the camp. The testimony had great weight due to the fact that "L" according to his own admission, under the influence of drugs had taken part in the killing and rape, following Tadić's orders, it is true, and under threat that he would be killed himself, if he failed to carry the orders out. So Tadić stood accused by a witness who had raped and murdered with him.³

This evidence, given by one Serb eyewitness against another, was the most important evidence of the case. And then, like thunder from a clear sky came the news that Dragan Opačić, the star witness "L", had lied under pressure from the Muslim government in Sarajevo. Opačić admitted to the investigator, Robert Reid, that, under threat of death, the Muslim government had told him to bare false witness, and that, as "training" he had been shown videos of Tadić and Trnopolje. The prosecutors were obliged by this, not only to withdraw the parts of their case that involved the murder, rape and mistreatment of prisoners at Trnopolje, but also to start an inves-

у Трипољу, него и да покрене истрагу против муслиманских власти, које су Драгана Опачића припремиле и присиле на лажно сведочење. При том су и тужилац и штампа⁴ упорно говорили о Босанској влади, прикривајући тако етнички идентитет људи који фабрикују лажне сведоке, иако је очигледно да то нису били ни Срби ни Хрвати.

Када је већ пукла брука а тешка сумња пала на Босанску, то јест муслиманску владу у Сарајеву, она је, преко свог овлашћеног представника изјавила да је Драган Опачић "имао и те какав интерес да дискредитује босанске власти и тако избегне да до краја одслужи казну на коју је осуђен".⁵ При том је сметнула с ума да је, према казивању тужилаштва Хашког суда, марта 1995. управо она понудила Драгана Опачића као "потенцијалног сведока" у случају Душка Тадића.

Уместо да исправно разјасни праве разлоге због којих је Хашки суд претрпео овај тежак ударац, тужилац Луиз Арбор је изјавила да ова афера доказује да суд ваљано ради и да откриће лажног сведочења не подрива његов рад него га ојачава.⁶ Није се, међутим, упитала зашто босанска влада фабрикује лажне сведоке у случају Душка Тадића. Јер, ако је оптужени занста починио све оне тешке злочине који му се стављају на терет, онда никакви лажни сведоци нису потребни. И обрнуто, ако онај који је заинтересован за осуду Срба пред Хашким судом фабрикује лажне сведоке, онда је оптужница против Душана Тадића на стакленим ногама.

Независно од крајњег исхода овог тешког случаја, нема никакве сумње да је установа тајног сведочења анонимних сведока потпуно разголићена и компромитована. Када је правилом 75. овог суда уведена могућност тајног сведочења под псеудонимом преко апарата који искривљује лик и глас сведока, то је правдано потребом да се приликом пресуђивања посебно тешких ратних злочина, што боље обезбеди сигурност потенцијалних сведока. При том се изгубило из вида да што је злочин страшни-

tigation against the Muslim government who had prepared Dragan Opačić and forced him into giving false evidence. In the meanwhile the prosecutors and the press⁴ continued doggedly to speak of the Bosnian Government, thus hiding the ethnic identity of those who had fabricated the false evidence, even though it was quite clear that the government contained neither Serbs nor Croats.

When the storm broke and the actions of the Bosnian, that is the Muslim Government in Sarajevo, were cast into grave doubt they responded, via their representative, by saying that Dragan Opačić "had every reason to discredit the Bosnian Government and thus avoid serving the rest of his sentence."⁵ It seemed to have slipped their minds that, according to the prosecutors of the tribunal, in March 1995, they had themselves offered Dragan Opačić as a "potential witness" in the case of Dušan Tadić.

Instead of going into the real reasons why the Hague Tribunal had sustained this heavy blow, the prosecutor, Louise Arbour announced that the affair showed that the Tribunal was functioning properly and the discovery of the false testimony, far from undermining it, in fact raised its reputation.⁶ She did not ask herself, however, why the Bosnian Government had fabricated evidence in the Tadić case. If the accused had really committed all these appalling crimes, then surely no such lies would be necessary. Conversely, if those who have an interest in seeing Serbs judged before the Tribunal fabricate evidence then the case against Dušan Tadić is weak indeed.

Whatever the outcome of this difficult case there is no doubt whatsoever that the institution of *secret* testimony from anonymous witnesses has been completely compromised and discredited. When, with Rule 75 of the Tribunal, the possibility of secret testimony under pseudonym, via a device that altered the appearance and voice of the witness, was allowed, it was justified by the need, in judging cases of particularly brutal war crimes, to provide sufficient security for potential witnesses. However, those who drafted the rules lost

ји и тежи, то је и већа потреба за одговарајућим јемствима да ће суђење бити ваљано - оним јемствима која претпоставља одговарајући правни поступак. Зато се и судије и тужилац Хашког суда што пре морају суочити с неизбежним питањем: да ли би они у својим земљама - Великој Британији, Сједињеним Државама, Француској, Италији итд. - икада пристали да суде или да се појаве у улози тужиоца или браниоца ако би се, којим случајем, увела могућност тајног сведочења анонимних лица која се крију иза псеудонима?

Оптуживање када то политичка целисходност налаже

Од случаја који тек треба да се пресуђују, најзанимљивији је случај др Радована Караџића, председника Републике Српске од њеног успостављања до септембарских избора 1996. године, зато што му се, сходно начелу командне одговорности, стављају на терет наводни злочини које су други починили. Изгледа да је већ само подизање оптужнице против др Радована Караџића било руковођено не само племенитом тежњом да правда буде задовољена, а злочинци кажњени, него и разлозима тренутне политичке целисходности. То можда најбоље потврђује изјава коју је поводом подизања оптужнице против др Радована Караџића дао Антонио Касесе, председник Међународног кривичног суда. Том политиком он је изразио уверење да ће подизање оптужнице против др Радована Караџића оцемогућити мировне преговоре Запада с лидером босанских Срба. "Одлука представља фундаменталан корак. Да видимо ко ће сада сести за преговарачки сто с неким ко је оптужен за геноцид."⁷ Отуда - закључује Касесе - подизањем ове оптужнице постиже се велики политички резултат, који ће имати значајне дипломатске последице, пошто "та господа неће моћи да учествују у мировним преговорима".⁸

Иако судије и други званичници Међународног суда срдито одбацују приговор "да се баве политиком" и радо кажу да

sight of the fact that, the greater and more appalling the crime, the greater also is the need for guarantees that the judgment can be relied upon - these are the guarantees provided by *due process of law*. As a result the Judiciary and the prosecutors of the Hague Tribunal must, without delay confront the unavoidable question; would they, in their own countries - Great Britain, USA, France Italy etc. ever agree to pass judgment or appear in the role of prosecutor or defense lawyer if, for any reason, the possibility of secret testimony from anonymous witnesses, hiding behind pseudonyms was allowed?

Accusation In Response To Political Expediency

The most interesting of pending cases is that of Dr. Radovan Karadžić, President of Republika Srpska, from its foundation to the elections of September 1996. Due to his position of command responsibility, Dr. Karadžić is held responsible for the alleged crimes of others. It seems that, from the very beginning, the indictment against Dr. Karadžić was not simply motivated by a noble desire to see justice done and the guilty punished, but also by reasons of short term political expediency. This is perhaps best confirmed by the statement of Antonio Cassese, president of the International Criminal Tribunal. Speaking when the indictment was issued Cassese expressed his opinion that the indictment of Dr. Karadžić would *make it impossible for western leaders to countenance peace negotiations with the Bosnian Serbs' leader*. "The decision represents a decisive step. Let us see who will sit down at the negotiating table now, with a man accused of genocide."⁷ Thus, concluded Cassese, the issuing of this indictment will bring about an *important political result*, that will have *significant diplomatic consequences* since, "That gentlemen will not be able to take part in peace negotiations."⁸

Although the judges and other officials of the International Criminal Tribunal angrily reject criticisms that they are "playing politics" and blithely assert that they are not at all interested in the political results of their work, but solely in the pursuit of justice, the president of the Tribunal dared make a statement as if he were not a judge, but a diplomat and a politician. The first thing that occurred to him, after



их не занимају политичке последице онога што раде, него само задовољење правде, управо се председник овог суда, Антонио Касесе, дрзнуо да даје изјаве као да није судија него дипломата и политичар. Зато му прва помисао после подизања оптужнице против др Радована Караџића није била да се тиме следи налог правде, него да се тим потезом постиже велики политички резултат који ће имати значајне дипломатске последице. У томе је, изгледа, једино био у праву: на мировним преговорима у Деј-тону Републику Српску није заступао др Радован Караџић него много савитљивији и "кооперативнији" Слободан Милошевић.

Караџићева "одговорност" за шеснаест тешких злочина

Ову нечувену изјаву о случају који тек треба да се пресуђује и у којем ће у другом степену и сам бити судија, Антонио Касесе је дао поводом подизања оптужнице против др Радована Караџића и генерала Ратка Младића 24. јула 1995. године. У првом тренутку ова оптужница је деловала врло уверљиво, јер је др Радовану Караџићу стављено на терет чак шеснаест најтежих кривичних дела, која се квалификују као геноцид, злочин против човечности, повреда закона или обичаја рата, незаконито затварање цивила, гађање гранатама скупова цивила, уништавање светих места, свеоухватно уништавање имовине, присвајање и плачкање имовине, гађање цивила снајпером, узимање талаца као људског штита, и друге тешке повреде закона или обичаја рата. Чак се стицао утисак да је, по начелу командне одговорности, др Радован Караџић учинио кривим за малтене све тешке злочине које је било ко од Срба почињо за време грађанског односно етничког и верског рата у Босни.

Само навођење ових бројних и ужасних злочина оставља тежак утисак и ствара привид да је кривица др Радована Караџића скоро очигледна и лако доказива. Тако се он најпре чини кривично одговорним за незаконито затварање, убиства, силовање, сексуално напастовање, мучење, пребијање, плачкање и нехумано поступање с муслиманским и хрватским цивилима на националној и верској основи. То је чињено у логорима Омарска, Кератерм, Трнопоље, Лука, Мањача, Сушица и КП Дом Фо-



issuing the indictment against Dr. Karadžić was not that it started a legal process, but that it would bring about an important *political* result with significant *diplomatic* consequences. It seems that he was correct on this point: at the peace negotiations in Dayton, Republika Srpska was not represented by Dr. Karadžić, but by the more flexible and "cooperative" Slobodan Milošević.

Karadžić's Responsibility For Sixteen Serious War Crimes

The astonishing statement quoted above, about a case yet to be tried and which, moreover, is due to come before Antonio Cassese himself, at the second level, was made at the time when indictments were issued against Dr. Radovan Karadžić and General Ratko Mladić, on 24th July 1995. At first the indictment looked very convincing since Dr. Karadžić stood accused on sixteen counts for crimes of the most serious nature. Genocide, crimes against humanity, violation of the laws or customs of war, unlawful confinement of civilians, the shelling of a civilian gathering, destruction of sacred sites, extensive destruction of property, appropriation and plunder of property, sniping against civilian targets, the use of hostages as human shields, and other grave breaches of the laws or customs of law. The impression was given that, in a position of command responsibility, Dr. Karadžić was guilty for almost *all* the serious crimes committed by anyone of Serbian nationality during the civil, that is the ethnic and religious war in Bosnia.

Simply to list these numerous and horrendous crimes creates a powerful impression and fosters the illusion that Dr. Karadžić's guilt is virtually transparent and easy to prove. In this way he is made to appear guilty for unlawful confinement, murder, rape, sexual assault, torture, beating, robbery and inhumane treatment, practiced against Muslim and Croatian civilians on a nationalistic and religious basis. These crimes were carried out in the Omarska, Keraterm, Trnopolje, Luka, Manjača, and Sušica camps and the penitentiary at Foča for a specified time of a few months for each camp. After a short description of the deportation of thousands of Muslims and Croats from Vlasenica, Prijedor, Bosanski Šamac, Brčko and Foča, at the order

ча у назначеном временском периоду од неколико месеци за сваки логор понаособ. После кратког описа депортовања хиљада муслимана и Хрвата из Власенице, Приједора, Босанског Шамца, Брчког и Фоче по налогу и под контролом самог др Радована Караџића и генерала Ратка Младића, др Радовану Караџићу се ставља на терет бомбардовање скупова цивила у Сребреници, Тузли и у једанаест улица односно делова самог Сарајева тачно одређеног датума од 3. јула 1992. до 24. маја 1995., што је имало за последицу 361 недужну жртву, дакле, велики број мртвих и рањених.

Велику уверљивост непобитних доказа има и списак од 29 градова, заселака и села у општинама Босански Шамцац, Дервента, Босански Брод, Оџак, Модрича, Орашје, Градачац, Власеница и Приједор у којима су тачно означеног дана систематски уништаване куће и друга имовина босанских муслимана и Хрвата. Слично се може рећи и за списак од 16 џамија и 11 римокатоличких цркава и манастира које су тачно одређеног дана срушени или оштећени. Као такоређи неспорне чињенице, које тешко терете оптуженог, делују и спискови двадесеторо убијених и педесеторо рањених снајперском ватром са положаја око Сарајева, од којих су четворо убијених и петнаест рањених били деца. Напослетку се др Радовану Караџићу ставља на терет хватање 284 припадника мировних снага Уједињених нација да би се као таоци и особен људски штит употребили ради спречавања даљих ваздушних напада из авиона Северноатланског пакта.

Конструкција командне одговорности

Најважнији део ове прве оптужнице од 24. јула 1995. представља конструкција којом је др Радован Караџић учињен лично одговорним за наводне ратне злочине које су други починили. Да би се то постигло најпре се описује страначки и државни положај који је од 1992. до 1995. заузимао. Он је био оснивач и председник Српске демократске странке међу Србима у Босни и Херцеговини. Као први председник Републике Српске у оквиру својих уставних надлежности командовао је војском у рату и миру и био овлашћен да поставља, унапређује и смењује официре те војске. А по Закону о народној одбрани био је овлашћен да

of and under the control of Dr. Karadžić and General Mladić, Dr. Karadžić is accused of shelling a civilian gathering, in Srebrenica, Tuzla and eleven streets, that is quarters of Sarajevo, at precise dates from 3rd July 1992 to 24th May 1995, resulting in 361 innocent victims, a large number of dead and wounded.

Convincing evidence is also provided in the form of a list of 29 towns, villages and hamlets in the municipalities of Bosanski Šamac, Deventra, Bosanski Brod, Odžak, Modriča, Orašje, Gradačac, Vlasenica and Prijedor in which, at exactly specified dates, the houses and other property of Bosnian Muslims and Croats, were systematically destroyed. The same can be said of the list of 16 mosques and 11 Roman Catholic churches and monasteries, again with exact dates, which were destroyed or damaged. The lists of about twenty people killed and fifty wounded by sniper fire from positions around Sarajevo (four of those killed and fifteen of those injured were children) also represented a heavy burden of guilt on the accused. Finally Dr. Karadžić stood accused of taking prisoner 284 members of the peace keeping forces of the United Nations, in order to use them as a human shield to deter further aerial bombardment by the North Atlantic Treaty Organization.

Command Responsibility

The most important part of this first indictment of 24th July 1995 was the pattern by which Dr. Karadžić was to be held personally responsible for war crimes obviously committed by others. To do this the position of Dr. Karadžić in his party and as a state functionary from 1992 to 1995 was first described. He was the founder and president of the Serbian Democratic Party of the Serbs in Bosnia and Herzegovina. As first President of Republika Srpska he was constitutionally responsible for command of the armed forces in war and peace and had the power to promote or dismiss the officers of the armed forces. According to the law on national defense he had the authority to supervise territorial defense in war and peace and order the use of the police force in case of war, immediate danger of war or other emergency situations, and also to enlist police officers in

надзире територијалну одбрану у рату и миру и наложи употребу полиције у случају рата, непосредне ратне опасности и других ванредних прилика, као и да мобилише полицију у ванредном стању. У том својству он је, поред осталог, учествовао у међународним преговорима и лично закључивао споразуме о прекиду ватре и хуманитарној помоћи.

После овог описа уставних и законских овлашћења председника Републике Српске и њеног ниниалног врховног војног команданта, приликом сваког навођења појединачног кривичног дела тужилац истиче да га је др Радован Караџић извршио својим "чињењем или пропуштањем и у договору с другима". Саме злочине вршили су припадници "војске и полиције босанских Срба и њихови заступници по упутствима и под надзором Радована Караџића..." А после подробног описа извршених злочина тужилац недвосмислено закључује да су "Радован Караџић и Ратко Младић појединачно и у договору с другима планирали, подстрекивали, наређивали или на други начин потпомагали и подбадали у планирању, припремању или извршавању прогона на политичкој и верској основи, или су знали или имали разлога да знају да су њихови потчињени на путу да учине исто или су то већ учинили, а да су пропустили да предузму нужне и разумне мере да такве акте (потчињених) спрече или казне њихове извршиоце", чиме су починили чак 16 тешких ратних злочина од којих би сваки понаособ заслужио најтежу могућу казну.

Додатна оптужница због злочина почињених у Сребреници и око ње

Дана 14. новембра 1995. тужилац Ричард Голдстон подигао је нову оптужницу против др Радована Караџића и генерала Ратка Младића. У тој другој оптужници тужилац је бар делимично одступио од позивања на начело командне одговорности, тако што је покушао да др Радовану Караџићу припише и непосредно командовање у борбама око Сребренице и тиме направи од њега саучесника у самом планирању, подстрекавању и наређивању стравичних ратних злочина после заузимања овог града. То је извео тако што је приликом описа војних операција

emergency situations. In this position, among other duties, he took part in international negotiations and personally negotiated cease fire agreements and humanitarian aid.

After this description of the constitutional and legal rights of the President of Republika Srpska and his chief military officer, before each criminal act described, the prosecutor said that Dr. Radovan Karadžić by his own "acts and omissions, and in concert with others" had himself committed the crimes. The crimes themselves had been committed "By the Bosnian Serb military, Bosnian Serb police and their agents, under the direction and control of Radovan Karadžić..." and after a thorough description of the crimes committed the prosecutor unequivocally concluded that,

"Radovan Karadžić and Ratko Mladić individually and in concert with others planned, instigated, ordered or otherwise aided and abetted in the planning, preparation or execution of persecutions on political and religious grounds or knew or had reason to know that subordinates were about to do the same or had done so and failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof."

And that, as a result they had committed as many as 16 serious war crimes, any one of which deserved the harshest penalty allowed by law.

Additional Indictment

On 14th November 1995 Richard Goldstone issued a new indictment against Dr. Radovan Karadžić and General Ratko Mladić. In this second indictment the prosecutor has partially avoided reference to the principle of command responsibility, in so far as he has attempted to ascribe to Dr. Karadžić, the *direct* command of Serbian forces in the battle for Srebrenica, and in that way make him appear an accomplice in the planning, encouragement and ordering of terrible war crimes after the fall of the town. He achieves this by mentioning Dr. Karadžić only once when describing the military operations and alleged crimes carried out from 6th to 23rd July 1995 in and around Srebrenica.

"Thousands of Muslims were captured by or surrendered to

и наводних злочина који су извршени у периоду од 6. до 23. јула 1995. године у Сребреници и околним местима само једном поменуо др Радована Караџића у следећем контексту: "Војне снаге босанских Срба под командом и контролом Ратка Младића и Радована Караџића заробиле су хиљаде муслимана или су им се ови предали". Тиме је покушао да створи утисак као да је др Радован Караџић, председник Републике Српске и цивил, непосредно командовао војним операцијама и потоњим ликвидацијама заробљених муслимана. А када му се учинило да је тај утисак уверљив, у сажетом опису 20 тешких дела која се др Радовану Караџићу стављају на терет чак пет пута је поновио да је српска војска била "под командом и контролом Ратка Младића и Радована Караџића".

Ова ничим доказана тврдња, да је и др Радован Караџић непосредно руководио војним операцијама и потоњим извршењем ратних злочина око Сребренице била је за Ричарда Голдстона сасвим довољна премиса за извођење недвосмисленог закључка да је и др Радован Караџић индивидуално одговоран за "извршење, планирање, подстрекивање, наређивање или на други начин потпомагање и подбадање у планирању, припреми и извршењу злочина", који му се оптужницом стављају на терет. И тек после овакве индивидуализације Караџићеве кривичне одговорности, тужилац додаје да је др Радован Караџић такође или алтернативно кривично одговоран и за дела својих потчињених.

Предупређивање и отклањање командне одговорности

Једва да треба рећи да је ова друга врста одговорности за дела својих потчињених једино могућа и применљива у случају др Радована Караџића. То је очигледно имао на уму и тужилац када је из прве у другу оптужницу пренео подробне наводе о јавном и државном положају који је он заузимао и уставним и законским овлашћењима којима је при том располагао. А како, на основу Устава и Закона, Војском Републике Српске у миру и рату командује председник Републике и, у складу са законом, поставља, унапређује и разрешава офицере Војске Републике

Bosnian Serb Military forces under the command and control of Ratko Mladić and Radovan Karadžić."

In this way Richard Goldstone tries to create the impression that Dr. Karadžić, President of Republika Srpska, and a civilian was *directly* in command of military operations and the following summary execution of Muslim prisoners. And when it seems to him that the impression is convincing, in the brief descriptions of the crimes Dr. Karadžić is accused of he repeats the assertion five times, that the Serbian forces were "under the command and control of Ratko Mladić and Radovan Karadžić."

This completely unsupported assertion, that Dr. Karadžić was *directly* in control of the military operations around Srebrenica and the war crimes that followed, was quite sufficient grounds for Goldstone to reach the unequivocal conclusion that Dr. Karadžić is *individually* responsible for, "committing, planning, instigating, ordering or otherwise aiding and abetting in the planning, preparation or execution of any crimes," he was accused of in the indictment. After this individualization of Dr. Karadžić's guilt, the prosecutor adds that he is "also or alternatively, criminally responsible as commander, for the acts of his subordinates."

Prevention And Removal Of Command Responsibility

It is hardly necessary to say that this other kind of responsibility for the acts of one's subordinates is only possible and applicable in the case of Dr. Karadžić. Clearly the prosecutor had this in mind when he transferred, from the first to the second indictment, the detailed description of the public and state position which Dr. Karadžić filled and the constitutional and legal powers he thus acquired. According to the Constitution and the law, the Armed Forces of Republika Srpska in war and peace are under the command of the President of the Republic and, in accordance with the law he has the authority to promote and dismiss officers of the Armed Forces (Article 106. of the Constitution). The prosecutor correctly concluded that Dr. Karadžić, as President of the Republic had,

"a position of superior authority to Ratko Mladić and every member of the Bosnian Serb army and all units and personnel assigned or

Српске (члан 106. Устава), тужилац је сасвим исправно закључио да је др Радован Караџић, као председник Републике, имао "вишу власт у односу на Ратка Младића, сваког припадника војске босанских Срба и све јединице и људство додељено или придружено војсци босанских Срба". Отуда се и може поставити питање Караџићеве командне кривичне одговорности, која представља "одговорност вишег званичника за дела свог потчињеног ако је знао или је имао разлога да зна да је његов потчињени на путу да изврши таква дела или је то већ учинио, а његов претпостављени је пропустио да предузме нужне и разумне мере зарад спречавања таквих дела или кажњавања њихових извршилаца".

Но, као што се питање командне кривичне одговорности увек може поставити, тако се и њено постављање унапред може предупредити благовременим предузимањем нужних и разумних мера које ту командну одговорност могу отклонити. У својству председника Републике Српске др Радован Караџић је то управо учинио. У својој оптужници тужилац, поред осталог, наводи да је 13. маја 1992. или тих дана др Радован Караџић преузео дужност председника Републике Српске. И баш тог истог дана - 13. маја 1992. - др Радован Караџић, у својству председника Председништва Српске Републике Босне и Херцеговине, издаје Наредбу о примени правила међународног ратног права у војсци Српске Републике Босне и Херцеговине, објављену у "Службеном гласнику" (документ бр 1), којом се за примену међународног ратног права чине одговорним командири и команданти војске и сваки припадник војске или другог оружаног састава који суделује у борбеним дејствима. Уз то је сваки војни старешина лично учинио одговорним за покретање поступка против лица која крше правила међународног ратног права зарад изрицања законом прописаних санкција. Такође је наложено да се ради упознавања с правилима међународног ратног права у војсци редовно организује обука.

Саставни део ове Караџићеве наредбе представља и Упутство о поступању са заробљеним лицима (документ бр. 3), које је убрзо потом издао министар одбране Српске Републике пуковник Богдан Суботић. Њиме се, поред осталог, забрањује би-

attached to the Bosnian Serb army."

Hence it is possible to raise the question of Dr. Karadžić's command criminal responsibility constituted by:

"the responsibility of a superior officer for the acts of his subordinate if he knew or had reason to know that his subordinate was 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 thereof."

So, in the same way that the issue of command responsibility can always be raised, likewise the raising of the issue can be prevented by taking timely "necessary and reasonable measures" that can relieve that command responsibility. As President of Republika Srpska Dr. Karadžić did just that. In the indictment the prosecutor says that Dr. Karadžić became President on or about 13th May 1992. On that very same day Dr. Karadžić, as President of the Serbian Republic of Bosnia and Herzegovina, issued an order (published in the Official Gazette) to the effect that the rules and international conventions of war should be implemented by the Armed Forces of the Serbian Republic of Bosnia and Herzegovina (see Document no. 1) which makes the commanders of the Armed Forces and every member thereof responsible for adherence to the international conventions of war in armed conflict. In addition, every officer is personally responsible for the initiation of prosecutions invoking the full sanctions of the law against individuals under their command who offend against the international conventions of war. The order also provides for regular training sessions so that the international conventions of war are understood by the members of the Armed Forces.

As a part of this order made by Dr. Karadžić, instructions are provided for the treatment of prisoners (Document no. 3) which were soon after published by the Minister of Defense, Colonel Bogdan Subotić. Among other things these rules forbid any kind of repression whatever to be used against prisoners, and provide for the humane treatment of prisoners and their protection from any kind of force, insult or intimidation. Prisoners are also allowed to send a message to their families and to the Red Cross Central Agency for Pris-

ло каква репресија против заробљеника, а потом налаже да се с њима човечно поступа и пружа им се заштита од сваког насиља, увреде и застрашивања. Уз то се сваком заробљенику омогућује да одмах по заробљавању пошаље по једну дописницу својој породици и Централној агенцији ратних заробљеника Међународног Црвеног крста. Коначно, за организацију и смештај у заробљеничким логорима учињени су непосредно одговорним команданти корпуса Војске Српске Републике.

Поменутим упутством министра одбране, такође је било утврђено да представници Међународног Црвеног крста и друге хуманитарне организације несметано посећују заробљена лица и пружају им помоћ. Како је, међутим, у практичном спровођењу овог упутства вероватно било извесних тешкоћа, у својству председника Председништва др Радован Караџић упутио је свим локалним и полицијским властима нову наредбу (документ бр. 8) којом упозорава да су делегати Међународног комитета Црвеног крста овлашћени да путују по целој Босни и Херцеговини и посећују све затворе, војне логоре и полицијске станице под српском контролом. А да би се то доследно поштовало и спроводило, сваки војник је упозорен да ће бити кажњен ако не поступи по овом наређењу.

Ни то изгледа није било довољно, па је 19. августа 1992. др Радован Караџић издао трећу наредбу Главном Штабу Војске Српске Републике, министру унутрашњих послова и свим центрима служби безбедности (документ бр. 11). Њоме се изнова налаже придржавање међународног хуманитарног права и издавање упутстава свим борцима и припадницима полиције да поштују заробљенике, цивиле, медицинске установе, амблем Црвеног крста и представнике Уједињених нација. Такође је посебно наложено спречавање присилног пресељавања и злостављања цивилног становништва, уз упозорење да евентуалне потврде о продавању имовине или изјаве да се избеглице неће вратити немају никакву правну ваљаност, те да се стављају ван снаге. Напоследку је сваки војни или полицијски старешина, у зони своје одговорности, учињен лично обавезним и одговорним да спроведе енергичну истрагу поводом било какве сумње или знака кршења међународног хуманитарног права.

oners of War. Finally the commanders of the Serbian Republic Army are made responsible for organizing appropriate accommodation in the camps.

The Defense Minister's instructions also confirmed that representatives of the International Red Cross and other humanitarian organizations should be assisted and given free access to prisoners. Since there were probably difficulties in the practical implementation of these instructions Dr. Karadžić, as President of the Presidency, sent further orders to all local and police authorities (Document no. 8) in which he warned that all delegates of the International Committee of the Red Cross were authorised to travel throughout the whole of Bosnia and Herzegovina and visit all prisons, police stations and military camps under Serbian control. To insure that the instructions were carried out, every soldier was warned that he would be punished if he failed to do so.

It seems that this was not sufficient since, on 19th August 1992 Dr. Karadžić issued a further order to the Military Command Headquarters of the Serbian Republic, the Ministry of Internal Affairs and all the offices of the security forces (Document no. 11) The order repeated the requirement that international humanitarian law should be abided by, and gave instructions to all fighters and police officers to respect prisoners, civilians, medical institutions, the emblem of the Red Cross and representatives of the United Nations. The forced expulsion and maltreatment of the civilian population was also expressly forbidden and it was made clear that all deeds of sale of property or declarations that refugees would not return had no legal validity. Finally every army or police commander was obliged to make a thorough investigation of any suspicion or sign that international humanitarian law had been violated in the zone under their jurisdiction.

Special attention should be paid to the order issued by Dr. Karadžić on 22nd October 1992 to General Ratko Mladić, Mića Stanišić and Momčilo Mandić (Document no. 13) informing them that certain local police, military and civilian authorities were ignoring his authori-

Посебну пажњу заслужује налог (документ бр. 13) др Радована Караџића генерал-потпуковнику Ратку Младићу, Мићи Станишићу и Момчилу Мандићу од 22. октобра 1992., којим их најпре извештава да поједини локални полицијски, војни и цивилни ауторитети игноришу његово овлашћење делегатима Међународног комитета Црвеног крста да слободно посећују затворе и ратне заробљенике. Затим им налаже да све своје потчињене старешине одмах упозоре да се овлашћење делегатима Међународног комитета Црвеног крста с његовим потписом мора поштовати, уз претњу да ће наредити истрагу у свим случајевима непоштовања овог његовог налога.

Коначно, 11. марта 1993. др Радован Караџић, у својству председника Републике Српске, упутио је Главном штабу Војске Републике Српске директиву (документ бр. 14) којом налаже да се омогући несметан пролаз и заштита пошљки, опреме и особља које пружа помоћ намењену цивилном становништву противне стране, забрани злоупотреба у војне сврхе прехранбених артикала, жетве, водоводних инсталација, резерви воде и брана на рекама и доследно поштују хашке и женевске конвенције и други прописи међународног ратног права. При том је Главни штаб посебно обавезао да о овој директиви обавести све војне јединице.

Забрана паравојних јединица

Већ ових пет узастопних општих прописа у првој години рата сведоче о постојаној упорности др Радована Караџића да, као председник Републике Српске, унапред предупреди ратне злочине које би припадници војних и полицијских снага могли извршити, а да у случају да они ипак буду почињени - што се у грађанском односно етничком и верском рату тешко може избећи - за њих учини одговорним све војне и полицијске старешине у подручју њихове властите одговорности. Ма колико оваква прописи и мере били пожељни и благотворни, они ипак нису били довољни, пошто у стању грађанског метежа и рата злочине ређе врше припадници регуларних војних и полицијских снага под стегом и јединственом командом, а много чешће припадници паравојних јединица, а нарочито одметници. То је управо имао на уму др Радован Караџић када је 13. јуна 1992. - тридесетог

zation for the delegates of the International Committee of the Red Cross, to visit prisons and prisoners of war freely. The recipients are also informed that they should warn their commanders to respect all authorizations given to the delegates of the International Committee of the Red Cross, bearing Dr. Karadžić's signature under threat of, "a thorough investigation into all cases of lack of respect for the above demand."

Finally, on 11th March 1993, as President of Republika Srpska Dr. Karadžić issued a directive to the Military Command Headquarters (Document no. 14), ordering that unhindered passage and protection of parcels, equipment and personnel who give help to the civilian population of the enemy should be provided; forbidding the misuse of foodstuffs, crops and water installations, reservoirs of drinking water and dams or hydro-electric systems for military purposes and demanding that the Geneva Conventions in regard to victims of war and their protocols 1 and 2, as well as the Hague Convention on the laws and customs of warfare on land from the year 1907 and other international regulations for the conduct of war be strictly adhered to. Finally he made clear that all army units should be informed of the directive.

The Prohibition Of Paramilitary Units

These five rules and regulations issued consecutively in the first year of the war bare witness to Dr. Karadžić's dedicated perseverance, as President of Republika Srpska, to forestall war crimes that members of the military or police forces might commit, and, in the event that they were committed - which, in the context of a civil or ethnic and religious conflict, is hard to avoid - to hold responsible all military and police commanders under his command. However much these rules and regulations were desirable and effective they were not sufficient because, in the context of civil strife and war it is rare for members of the regular military and police forces under unified command to commit such crimes; they are far more often carried out by members of paramilitary units and particularly by rebels. Dr. Karadžić had just this fact in mind when, on the 13th June 1992, - the

дана по ступању на дужност председника Председништва Српске Републике Босне и Херцеговине - потписао Одлуку о забрани паравојних јединица (документ бр. 2), која је објављена у "Службеном гласнику". Том одлуком ондашње паравојне јединице на самом почетку рата стављене су пред следећи избор: или да се потчине јединственој команди војске и полиције Српске Републике Босне и Херцеговине, што је подразумевало и строго придржавање правила међународног ратног права, или да се распусте. Уколико би, противно овој забрани, наставиле са самосталним деловањем, њихови припадници били би најстроже кажњени. Тог истог дана др Радован Караџић писмено је обавестио (документ бр. 4) Бутроса Галија, генералног секретара Уједињених нација, о овој одлуци о одрицању од свих паравојних група које нису спремне да се ставе под јединствену команду.

Др Радован Караџић није се, међутим, задовољио само издавањем опште наредбе о забрани паравојних јединица, него је у два маха лично наложио истрагу о деловању таквих група. То је најпре учинио 3. јула 1992. наредбом (документ бр. 5) Министарству унутрашњих послова да спроведе истрагу о деловању паравојних јединица на подручју општина Гацко и Nevesinje. А 6. августа 1992. обавестио је јавност (документ бр. 9) да је пом-снута општа наредба о стављању паравојних јединица под јединствену команду успешно спроведена, сем у Подрињу и Кључу. Зато је Министарство унутрашњих послова похапсило те непо-корне групе и појединце, који су се одметнули од закона и одали пљачки и паљевинама.

Појединачна упозорења и наредбе о покретању истраге

Све што се још могло предузети да би се предупредило или казнило чињење ратних злочина било је лично уплитање у посебно озбиљне случајеве кршења међународног хуманитарног права. У својству номиналног шефа Републике Српске др Радован Караџић је то често чинио. Примера ради, 6. августа 1992. наложио је (документ бр. 10) министарствима унутрашњих послова и правосуђа да у року од десет дана поднесу извештај о поступању с ратним заробљеницима и њиховим животним усл-

thirtieth day after he became President of the Serbian Republic of Bosnia and Herzegovina - he signed the decision on the prohibition against paramilitary units (Document no. 2) which was then published in the Official Gazette. By this decision the paramilitary units then operating, were given the option, either of submitting to the unified command of the military and police force of the Serbian Republic of Bosnia and Herzegovina, which implied strict adherence to the international conventions of war, or to disband. If they continued to operate independently, in defiance of this instruction their members would face the harshest of punishment. On the same day Dr. Karadžić informed (Document no. 4) the General Secretary of the United Nations, Mr. Boutros Ghali, of the decision to disown all paramilitary groups that are not ready to submit to unified command.

Dr. Karadžić was not, however satisfied to let the matter rest with a general prohibition of paramilitary units. On two occasions he personally ordered inquiries into the operations of such groups. He did this first on 3rd July 1992 with the order to the Ministry of Internal Affairs (Document no. 5) asking for an investigation to be carried out into the operation of paramilitary units in the municipalities of Gacko and Nevesinje. On 6th August 1992 he informed the media (Document no. 9) that the general subordination of paramilitary units to unified command cited above had been successfully carried out except in the region of Ključ where recalcitrant groups and individuals who had continued to burn and rob in defiance of the law, had been arrested by the police.

Individual Warnings And Orders For Investigation

The only other thing to be done to halt or punish war crimes was to become personally involved in investigating particularly serious breaches of international humanitarian law. In his position as President of Republika Srpska Dr. Karadžić did this frequently. For example, on 6th August 1992 (Document no. 10) he instructed the Ministries of Internal Affairs and Justice to compile a report on the treatment of prisoners of war and their living conditions, to be submitted within ten days. On many occasions when there was a danger that a

овима. А када је претила непосредна опасност да се злочини изврше, др Радован Караџић је у више наврата упућивао наредбе и упозорења. На самом почетку рата 14. јула 1992. упутио је председницима општина Горажде, Фоча, Хан-Пијесак, Соколац, Рогатица, Вишеград, Рудо и Чајниче упозорење (документ бр. 7) да Хрвати и муслимани, који предају оружје, морају уживати пуну заштиту Српске Републике и учинио их лично одговорним за спровођење ове наредбе. После првих напада на џамије и друга муслиманска светишта, 12. марта 1993. наложио је (документ бр. 15) полицији Бањалуке да појачаним патролама заштити све верске објекте у том граду и околини од учесталих терористичких напада. На сличан начин је поступио и у случају хрватских војника који су под оружјем прешли на територију под контролом српске војске: наредио је (документ бр. 16) Главном штабу Војске Републике Српске да хрватске војнике са свим њиховим наоружањем пребаци до Вареша, а цивилима омогући одлазак, по њиховом избору, у Херцег-Босну или Републику Хрватску.

Упркос свему, до тешких злочина је ипак долазило. Један од таквих случајева било је убиство пет муслимана у селу Басташи код Челинца. Одмах по пријему ове страшне вести, др Радован Караџић је 19. августа 1992. наредио (документ бр. 12) спровођење најтемељније истраге и кажњавање криваца, а полицији наложио да на одговарајући начин заштити цивилно муслиманско становништво општине Челинца.

Једина могућност индивидуалне кривичне одговорности

Иако је тужилац покушао да др Радована Караџића и лично уплете у припремање, извођење и командовање војним операцијама око Сребренице, то му очигледно није пошло за руком. Једино је, дакле, преостала Караџићева одговорност за поступке својих потчињених сходно начелу командне одговорности. Он је, међутим, ту своју одговорност шефа државе и номиналног команданта свих оружаних снага благовремено предупредио и отклонио издавањем општих наредби и упутстава за доследну примену међународног ратног и хуманитарног права, сталним упозорењима потчињеним командантима да су за ту примену

war crime might occur Dr. Karadžić issued orders and warnings. At the very beginning of the war on 14th July 1992 he sent a warning to the mayors of Goražde, Foča, Han Pijesak, Sokolac, Rogatica, Višegrad, Rudo and Čajniče (Document no. 7) to the effect that Croats and Muslims who surrendered their weapons had to receive the full protection of the Serbian Republic, and made them personally responsible for the execution of the order. On 12th March 1993, after the first attack on mosques and other Muslim religious sites he ordered the Banjaluka Police (Document no. 15) to strengthen protective patrols round all the religious buildings in that town and to take measures against frequent terrorist attacks. In similar fashion he intervened in the case of Croatian soldiers who crossed, under arms, into territory controlled by Serbian forces. He ordered the Republika Srpska Military Command (Document No. 16) to escort the Croatian soldiers, with all their armament, to Vareš, and to provide for the safe conduct of civilians who wished it, to go, either to Herceg-Bosna or to the Croatian Republic.

In spite of everything, serious crimes were committed. One of these was the murder of five Muslims in the village of Bastaši near Čelinac. Immediately after he received the dreadful news on 19th August 1992, Dr. Karadžić ordered (Document no. 12) a most detailed investigation and the punishment of those found responsible, and ordered the police to take all necessary measures to ensure the safety of the civilian Muslim population in the municipality of Čelinac.

Sole Possibility Of Individual Criminal Liability

Although the prosecutor tried to associate Dr. Karadžić personally, with the planning, execution and command of military operations around Srebrenica, it proved difficult. All that remained, then, was Dr. Karadžić's responsibility for the actions of his subordinates according to the principle of command responsibility. However, he had discharged his responsibility as head of state and commander in chief of the armed forces in good time, by issuing standing orders and instructions that the international conventions of war and humanitarian law should be obeyed to the letter and by constantly

лично кривично одговорни у подручју под њиховом контролом и повременим налозима, што иначе није у надлежности шефа државе, да се изврши брза и темељита истрага поводом појединих ратних злочина, а виновници приведу правди.

Све што у таквим околностима тужиоцу преостаје, ако жели да отклони политичке мотиве и очигледну произвољност у оптуживању др Радована Караџића, јесте покушај доказивања да је Караџић једно радио јавно, а друго тајно - да је јавно захтевао да се међународно ратно и хуманитарно право поштује, а да је тајно издавао налоге да се врше масовни ратни злочини. За ово друго тужилац, не располаже никаквим до-казима.

Губљење контроле над Војском и њеним командантима

Посебну пажњу заслужује тужiocев покушај да др Радована Караџића, поред наводне командне одговорности, учини лично одговорним за двадесет тешких ратних злочина почињених после пада Сребренице. Док је др Радован Караџић раније имао какву-такву контролу над војним врхом и водећим генералима српске војске, у време војне око Сребренице и непосредно после тога ови водећи генерали потпуно су се одметнули од цивилне власти и практично отказали послушност свом номиналном врховном команданту - Председнику Републике Српске. Тих неспоразума између цивилног и војног врха (чије ћемо порекло ускоро објаснити) било је и раније, али су скривани од јавности, да би током јула 1995. свом силином избили на видело. То је навело др Радована Караџића да већ 2. августа 1995. године постави генерал-пуковника Ратка Младића за свог специјалног саветника и тиме га практично уклони с положаја команданта Главног штаба Војске Републике Српске, о чему је 4. августа исте године донео и одговарајући указ.

Генерал-пуковник Ратко Младић одмах је узвратио свој-еврсним државним ударом: сазвао је све своје генерале и у пи-сму Народној скупштини и председнику Републике Српске од 5 - 6. августа 1995. отворено изјавио да не прихвата

warning his commanders that they were *personally* accountable before the law, in the areas under their control. He had also issued orders that thorough and immediate investigations should be carried out into particular instances where war crimes had been committed, and the culprits brought to justice, something that, incidentally, was not in the sphere of his duties as head of state.

All that remained for the prosecutor, in these circumstances, was to show that Dr. Karadžić did one thing in *public* and another in *secret*; that he publicly demanded respect for the international conventions of war and humanitarian law, and secretly gave orders for massive war crimes to be carried out. The prosecutor provides absolutely no evidence for the latter.

Loss Of Control Over the Military And Its Commanders

Besides Dr. Karadžić's alleged command responsibility, special attention deserves the prosecutor's attempt to make him individually accountable for twenty horrible war crimes committed after the fall of Srebrenica. Whereas earlier Dr. Karadžić did have a degree of control over the military top brass and the field commanders of the Serbian army, at the time of operations around Srebrenica and immediately after, these field commanders rebelled completely against civilian control and, for practical purposes, ceased to obey their nominal commander-in-chief - the President of Republika Srpska. These misunderstandings between the civilian and military commanders (the origins of which we will soon explain) had existed earlier, but had remained hidden until July 1995 when they burst into view. It was this that led Dr. Karadžić, on 2nd August 1995, to call General Ratko Mladić to Pale, to become his special advisor, thus removing the General from his position as Head of Military Command Headquarters. On 4th August of the same year the necessary order was issued (Document no. 29).

General Mladić responded immediately by leading a coup d'etat: He called together all his generals and, from 5-6th August 1995, in letters to the Parliament (Document no. 30) and to the President of Republika Srpska, openly declared that he did not accept Dr.

овај указ др Радована Караџића, шефа државе и уставног врховног команданта. Поред Ратка Младића, ово писмо потписало је још седамнаест генерала - Манојло Миловановић, Милан Гверо, Ђорђе Ђукић, Здравко Толимир, Петар Шкрбић, Јово Марић, Момир Талић, Бошко Келечевић, Владимир Арсић, Момир Зећ, Радивоје Томанић, Новица Симић, Радослав Крстић, Радован Грубач, Живомир Нинковић, Божо Новак и Грујо Борић. Тиме је војни врх оспорио виши ауторитет цивилне власти и показао да др Радован Караџић, као шеф државе, више не држи под контролом Главни штаб Војске Републике Српске. Уз то је, противно важећем Уставу, позвао Народну скупштину да не прихвати указ др Радована Караџића о новом постављењу генерал-пуковника Ратка Младића, као да такви укази уопште подлежу потврди од стране највишег представничког тела српске државе.

У овом спору између цивилне и војне власти Републике Српске посебну тежину имала је чињеница да је званични Београд (читај: Слободан Милошевић) стао на страну генерал-пуковника Ратка Младића, а против др Радована Караџића, што, поред осталог, потврђује извештавање ондашње београдске удворичке телевизије и штампе. То је био поуздан знак о томе ко је у том часу, а вероватно и током целог рата у Босни, практично држао под мањом или већом контролом Главни штаб Војске Републике Српске, а после пада Сребренице подстакао генерал-пуковника Ратка Младића да и јавно откаже послушност др Радовану Караџићу.

Иако је овај сукоб између цивилног и војног врха био привидно заташкан, он је непрестано тињао да би половином октобра 1995. изнова избио у јавност. Повод је био предлог Народне скупштине председнику Републике Српске да уклони са положаја генерала Милана Гвера, Ђорђа Ђукића, Здравка Толимира и Грују Борића и потпуковника Милутиновића. Главни штаб Војске Републике Српске издао је 17. октобра 1995. Саопштење којим је недвосмислено оспорио ауторитет не само председника Републике него и Народне скупштине као највишег уставотворног и законодавног тела, за шта је и овог пута добио јавну подршку званичног Београда. И док је 6. августа 1995. тврдио да одлука председника Републике о постављању Ратка Младића на нову дужност подлеже потврди Народ-

Karadžić's order even though he was head of state and constitutional Commander-in-Chief. The letters were signed by Ratko Mladić and seventeen other generals; Manojlo Milovanović, Milan Gvero, Djordje Djukić, Zdravko Tolimir, Petar Škrbić, Jovo Marić, Momir Talić, Boško Kelečević, Vladimir Arsić, Momir Zec, Radivoje Tomanić, Novica Simić, Radoslav Krstić, Radovan Grubač, Živoмир Ninković, Božo Novak i Grujo Borić. In this way he called into question the authority of the civilian government and showed that Dr. Karadžić, as Head of State, no longer controlled the Military Command of Republika Srpska. In defiance of the Constitution the letter called on the Parliament to reject dr. Karadžić's order for General Mladić's transfer, as if the highest representative body of the Serbian state had any authority to confirm such commands.

Of particular weight in this conflict between the civilian and military command of Republika Srpska was the fact that the authorities in Belgrade (for this read Slobodan Milošević) was on the side of Ratko Mladić and against Dr. Karadžić. A fact that is confirmed, among other things by the reporting at the time from state controlled television and press in Belgrade. This was a reliable sign of who, at that moment and probably throughout the whole war in Bosnia, to a greater or lesser extent, held the Military High Command of Republika Srpska under control, and who, after the fall of Srebrenica, encouraged General Mladić to publicly defy Dr. Karadžić.

Although this clash between the civilian and military authorities was hushed up it continued to simmer and in the middle of October 1995 again burst into the public domain. The trigger was the Parliament's suggestion that the President of Republika Srpska should fire Generals Milan Gvero, Djordje Djukić, Zdravko Tolimir, Grujo Borić and colonel Milutinović. On 17th October the Headquarters of the Military High Command issued a statement (Document no. 31) which unequivocally challenged the authority, not only of the President of the Republic, but also of the Parliament, as the highest constitutional and legislative body, for which, this time, it received the public support of the Belgrade authorities. While on 6th August 1995, they had

не скупштине, овог пута је одлука Народне скупштине проглашена неуставном и политички штетном. Притом су водећи генерали једино пропустили да објасне који то државни орган у Републици Српској уопште може да контролише и смењује Генералштаб Војске ако то нису шеф државе и законодавно тело.

Остаје, наравно, питање - с којим се морао суочити и тужилац Ричард Голдстон - а ко је то, ако то није био др Радован Караџић, током лета 1995. у време војне око Сребренице и касније стварно вршио делотворну политичку контролу над војним врхом Републике Српске. Занимљиво је да је судија Фуад Ријад (Fouad Riad), који је потврдио другу оптужницу од 14. новембра 1995, наговестио одговор на ово питање. Иако у томе уопште није било речи у самој оптужници, коју је, после темељних испитивања бројних сведока и свих расположивих чињеница, подигао Ричард Голдстон, судија Ријад је у својој одлуци недвосмислено рекао: "Вредно је помена да, на основу исказа сведока, постаје очито да нису само српски војници из Босне него и војници из Савезне Републике Југославије (Србија - Црна Гора) били присутни током заузимања Сребренице. Ови војници су се лако разликовали по свом јасно обележеном изгледу, особеним униформама и коришћењу српских дијалеката. Делови Југословенске народне армије ("ЈНА"), укључујући Новосадски и Ужички корпус, као и нерегуларне трупе лојалне Аркану, видели су бројни сведоци у самој Сребреници и њеној околини. Ове додатне трупе биле су или под командом осумњичених (Ратка Младића и Радована Караџића - напомена К.Ч.) или под контролом неког другог команданта". Судија Ријад је скоро све рекао сем што није поменуо и име тог другог команданта, који је, очигледно, једино могао бити Слободан Милошевић. А како војска по правилу никада није под два команда, ако српска војска код Сребренице није била под контролом др Радована Караџића, онда је морала бити под контролом оног другог врховног команданта.

Овом Ријадовом "допуном" Голдстонове оптужнице до краја се разоткрива њена политичка позадина и практични политички циљ због којег је подигнута. Њоме се за исту ствар др Радован Караџић кривично гони, а Слободан Милошевић уцењује. Први због тога што није био "кооперативан", а други да би

asserted that the presidential decision to transfer General Mladić to new duties required the confirmation of the Parliament, they now pronounced the decision of the Parliament to be unconstitutional and politically damaging. The generals failed only to explain which organ of Republika Srpska had the authority to control in any way or to dismiss the Military Command, if it was not the head of state or the legislature.

Naturally, questions remain and Prosecutor Goldstone must face them. Who was in political control of the Republika Srpska top brass in the summer of 1995 and later if it was not Radovan Karadžić? It is interesting that Judge Fouad Riad, who confirmed the second indictment of 14th November 1995, hinted at an answer to this question. Although it had nothing to do with the indictment itself which Prosecutor Goldstone had issued after exhaustive investigation and extensive testament, Judge Riad said,

"It is worth noting that it appears from the witness statements that not only Bosnian Serb soldiers, but also soldiers from the Federal Republic of Yugoslavia (Serbia-Montenegro) were present during the take-over of Srebrenica. These soldiers were easily distinguishable by their clean-cut appearance, distinctive uniforms and use of Serbian dialects. Elements of the Yugoslav People's Army ("JNA"), including the Novi Sad Corps and "Užice" Corps, as well as irregulars loyal to "Arkan", were seen by a number of witnesses in and around Srebrenica. Either these additional troops were also under the command of the suspects (Ratko Mladić and Radovan Karadžić, K. Č.) or they were under the control of a different commander."

Judge Riad almost said it all, only neglecting to name that *different* commander who could be no other than Slobodan Milošević. As a rule armies never have two commanders so if the Serbian forces at Srebrenica were not under the control of Dr. Karadžić this means they had to be under the control of that *different* commander.

Riad's "addition" to Goldstone's indictment exposes fully its political background and the practical political aim with which it was issued. With it, for the same thing, Dr. Karadžić was persecuted and

био још "кооперативнији", што је подразумевало не само поврћање него и пужење, нарочито у Дејтону. Политички се то, наравно, може разумети. Једино што такво прављење разлике и произвољно оптуживање др Радована Караџића, односно привремено амнестирање Слободана Милошевића, није ни у каквој вези с Правдом, која, ако ништа друго, захтева једнако поступање у једнаким или сличним случајевима.

Кобне мане које су последица савршености

После грдне бруке коју је Међународни кривични суд за бившу Југославију доживео у случају генерала Ђорђа Ђукића, којем је неколико пута мењао статус од осумњиченог у сведока и поново у статус оптуженог и тиме силно убрзао његову смрт, изнова смо били сведоци печувених и недопустивих процедуралних грешака које је овај суд починио. Тако је Горан Лајић три месеца, ни крив ни дужан, провео у затвору зато што су судски органи гоњења, нарочито тужилац, лакомислено пропустили да одмах по Лајићевом лишењу слободе провере његов идентитет, чиме би благовремено отклонили могућност тромесечног држања у затвору невиног човека. Затим се током суђења Душку Тадићу свом силином показала погубност институције тајног сведочења, коју је сам суд увео. А оптуживање др Радована Караџића изнова нас је уверило до каквих све недоумица може довести подизање оптужнице од 24. јула и 14. новембра 1995. сходно начелу тренутне политичке целисходности.

У свом прослављеном ГУЛАГ-у Александар Солженицин је оштроумно приметио да је ЧЕКА, тај исукани мач револуције, била "једини казни орган у људској историји који је здружио у истим рукама истрагу, хапшење, испитивање, оптуживање, суђење и извршење пресуде". Та врста савршенства управо краси Међународни кривични суд за бившу Југославију.⁹ Он сам себи прописује правила по којима суди и учестало их подешава и мења сходно случајевима који су у току; он затим сам

Milošević was threatened. The former because he had failed to "co-operate", the latter so that he would be even more "cooperative", which meant not simply bending but crawling, particularly at Dayton. Politically this can, of course, be understood. The only problem is that the drawing of such distinctions and the arbitrary indictment of Dr. Karadžić, that is the temporary amnesty of Slobodan Milošević, has no connection at all with Justice, which, if nothing else, demands the same approach in the same or similar circumstances.

Fatal Faults That Are the Consequences Of Perfection

After the shameful episode of General Djordje Djukić whose status was changed several times from that of defendant to witness and again to defendant, and whose death was greatly hastened thereby, the International Criminal Tribunal for the Former Yugoslavia proceeded to make unheard of and unforgivable procedural mistakes. In this way an innocent man, Goran Lajić, spent three months in jail because the Tribunal's prosecutors in particular, failed to make the most basic check of identity immediately after his arrest. Next, the trial of Duško Tadić exposed the dangers and inadequacies of *secret* witness, which the Tribunal itself had allowed. The case of Dr. Radovan Karadžić reminded us again to what paradox the arbitrary indictments of 24th July and 14th November 1995 could lead, all in the name of short term political expediency.

In his famous GULAG, Alexander Solzhenitsyn, perceptively noted that the Cheka, that drawn sword of revolution, was,

"the only punitive organ in human history that combined in one set of hands, investigation, arrest, interrogation, prosecution, trial and execution of the verdict."

This kind of perfection can also be seen in the International Criminal Tribunal for the Former Yugoslavia.⁹ It establishes the rules under which it operates then frequently adjusts and changes those rules, according to the cases that are pending; it then studies accusations itself and constructs a case, which is the job of the police. On its own it issues warrants of arrest and interrogates witnesses and those arrested. By itself, it issues indictments (the prosecution being an

проучава притужбе и врши увиђај, што је посао полиције, сам издаје налоге за хапшење, сам испитује ухапшена лица и потенцијалне сведоке, сам подиже оптужницу (тужилац је неразлучиви део Суда), сам суди, а није искључено да ће и сам извршавати своје пресуде. И управо највеће слабости и мане овог суда проистичу из његове, овако замишљене и уобличене, свеобухватности и савршености.

Ваља се надати да ће и ових неколико случајева, у којима се међународни кривични суд грдно обрукао чинећи неопростиве грешке, навести на озбиљније промишљање његове стварне улоге. Некритички поборници овог суда најчешће истичу да он треба да омогући задовољење правде без које ни мир није могућан. Његово досадашње пресуђивање показује да је то велика заблуда. "Они који верују да је Суд користан за обезбеђење правде, а да је правда предуслов мира, добро би поступили" - упозорава Алфред Рубин - "ако би размотрили алтернативе и испитали да ли они који јавно говоре о неопходности такве једностране "правде" стварно имају на уму правду како је схватају они који су изван тога. Изгледа да је улога овог суда много више повезана с борбом за власт над деловима бивше Југославије или, заиста, за контролу велике силе или званичника Уједињених нација или правника над међународним пословима, по цену оглушавања о императиве и ризике представничке демократије. Укратко, што год да се мисли о њему у другом погледу, нагласак Дејтонског споразума на власти Савета безбедности и међународног суда, ради наметања криво схваћеног тумачења закона рата, не би требало подржати. Суд у Хагу треба распустити."¹⁰ То би - да и ми нешто додамо овом закључку - требало учинити што пре, да би се, уместо лоше устројеног, политички инструментализованог и унеколико пристрасног *ad hoc* суда за одређено подручје и унапред обележене кривце, покушало са оснивањем сталног Међународног кривичног суда који би задовољно Кантово мерило универзализације, то јест имао подједнаку јурисдикцију над свим починиоцима ратних злочина независно од земље из које потичу. А први знак да тај нови суд заиста ваља биће спремност и највеће светске силе да властите грађане подвргне његовој јурисдикцији.

indistinguishable part of the Tribunal), passes judgment in its own, and it has not been ruled out that it will carry out its own sentences. In fact the greatest problem with this court as it is presently conceived and instituted, is its all-encompassing perfection.

It is to be hoped that these cases in which the International Criminal Tribunal has made shameful and unforgivable mistakes will lead to a more serious consideration of its real function. Uncritical supporters of the Tribunal most often express the opinion that it must satisfy the needs of justice, without which a peace is impossible. Its judgments to date show this to be an important misconception. As Alfred P. Rubin warns, "those who believe that a legal tribunal is useful to assure justice, and that justice is a prerequisite to peace, would do well to ponder the alternatives and whether all those who speak publicly of the need for such one-sided 'justice' really have in mind justice as seen by outsiders. The Tribunal's role seems much more closely related to a struggle for authority over parts of the former Yugoslavia, or, indeed, control by Great Powers or UN officials or lawyers over international affairs, in disregard of the imperatives and risks of representative democracy. In sum, whatever one thinks of it in other respects, the Dayton Accord's emphasis on Security Council authority and an international tribunal to enforce a misunderstood version of the laws of war should not be supported. The Tribunal in the Hague should be disbanded."¹⁰

To add something of our own to the above conclusion it can be said that this should be done immediately so that, in the place of a badly constituted politically manipulated and, to some extent prejudiced *ad hoc* tribunal for a particular area and with predetermined targets, the attempt can be made to found a *permanent* International Criminal Tribunal that would satisfy Kant's requirement for universality, that is to have equal jurisdiction over all those who commit war crimes, no matter what country they come from. The first sign that such a court is really functioning properly will be the readiness of the greatest powers to surrender their own citizens to its jurisdiction.

НАПОМЕНЕ

- 1) Види моју књижицу The Hague against Justice. International Criminal Tribunal Fiasco in the Case of Tribunal Procesutor vs. Gen. Đorđe Đukić, Belgrade: Center for Serbian Studies, 1996.
- 2) Наша Борба од 11 - 12. маја 1996.
- 3) Наша Борба од 10. септембра 1996.
- 4) Види, рецимо, напис "Witness Says Bosnia Forced Him to Lie", New York Times, October 26, 1996.
- 5) Наша Борба од 28. октобра 1996.
- 6) Ибидем.
- 7) Наша Борба од 27. јула 1995.
- 8) Ибидем.
- 9) На ову невероватну сличност између Солжењициновог описа ЧЕКЕ и Међународног кривичног суда у Хагу указао је др Срђан Трифковић, "The Hague "Tribunal": Bad Justice, Worse Politics, No Morality", Liberty од 25. августа 1996. стр. 7.
- 10) Alfred P. Rubin, "Dayton, Bosnia, and the Limits of Law", The National Interest, Winter 1996/97, стр. 46.

Notes

- ¹ See my pamphlet, "The Hague against Justice. International Criminal Tribunal Fiasco in the Case of Tribunal Prosecutor vs. General Djordje Djukić," Belgrade: Center for Serbian Studies, 1996.
- ² *Naša Borba*, 11-12 May 1996.
- ³ *Naša Borba*, 10th September 1996.
- ⁴ See for example "Witness Says Bosnia Forced Him to Lie", *New York Times*, October 26th 1996.
- ⁵ *Naša Borba*, 28th October 1996.
- ⁶ *Ibid.*
- ⁷ *Naša Borba*, 27th July 1995.
- ⁸ *Ibid.*
- ⁹ On this unbelievable similarity between Solzhenitsyn's description of the Cheka and the International Criminal Tribunal at the Hague see Dr. Srdjan Trifković, "The Hague (Tribunal): Bad Justice, Worse Politics, No Morality", *Liberty*, 25th August 1996 p. 7.
- ¹⁰ Alfred P. Rubin, "Dayton, Bosnia and the Limits of Law", *The National Interest*, Winter 1996/97, p. 46.

ДОКУМЕНТИ

DOCUMENTI

ДОКУМЕНТ бр. 1

Субота, 13. јуна 1992. СЛ. ГЛАСНИК СРПСКОГ НАРОДА У БИХ Број 9 - Страна 329

198

На основу члана 174. став 1. тачка 14. Закона о Војсци Српске Републике Босне и Херцеговине („Службени гласник српског народа у БиХ“, број 7/92), Председник Председништва Српске Републике Босне и Херцеговине доноси

НАРЕДБУ

О ПРИМЈЕНИ ПРАВИЛА МЕЂУНАРОДНОГ РАТНОГ ПРАВА У ВОЈСЦИ СРПСКЕ РЕПУБЛИКЕ БОСНЕ И ХЕРЦЕГОВИНЕ

1. Војска Српске Републике Босне и Херцеговине (у даљем тексту: Војска) и Српско Министарство унутрашњих послова у оружаном сукобу примјењују и поштују правила међународног ратног права.

Под правилима међународног ратног права, у смислу става 1. ове тачке, подразумијевају се:

- међународни уговори које је потписала или ратификовала, односно којима је приступила бивша Социјалистичка Федеративна Република Југославија,
- правила међународног обичајног ратног права,
- опште призната начела међународног ратног права.

2. За примјену правила међународног ратног права одговорни су командири и команданти војске и сваки припадник војске или другог оружаног састава који судјелује у борбеним дејствима.

Против лица која крше правила међународног ратног права надлежни старјешина је дужан да покрене поступак за изрицање законом прописаних санкција.

3. Овлашћује се министар одбране Српске Републике Босне и Херцеговине да пропише упутство о поступању са заробљеним лицима.

4. Ради упознавања са правилима међународног ратног права у војсци редовно организовати обуку.

5. Ова наредба ступа на снагу даном објављивања у „Службеном гласнику српског народа у БиХ“, а саставни дио ове наредбе је упутство о поступању са ратним заробљеницима.

Председник

Председништва

Српске Републике БиХ,

др Радован Караџић, с. р.

Број: 01-53/92
13. маја 1992. године

**ORDERS, DIRECTIVES AND OTHER ACTS
OF DR. RADOVAN KARADŽIĆ**

DOCUMENT No. 1

OFFICIAL GAZETTE

of the Serbian Nation in Bosnia and Herzegovina

Number 9, Saturday 13 June 1992, Sarajevo

On the basis of Article 174, paragraph 1 point 14 of the Law on the Armed Forces of The Serbian Republic of Bosnia and Herzegovina (Official Gazette of the Serbian Nation in B-H, No. 7/92) the President of the Presidency of the Serbian Republic of Bosnia and Herzegovina makes the following

ORDER

CONCERNING THE IMPLEMENTATION OF INTERNATIONAL CONVENTIONS OF WAR IN THE ARMED FORCES OF THE SERBIAN REPUBLIC OF BOSNIA AND HERZEGOVINA

1. The Armed Forces of the Serbian Republic of Bosnia and Herzegovina (hereafter the Armed Forces) and the Serbian Ministry of the Interior apply and respect the international conventions of war in armed conflict.

International conventions of war as used in paragraph 1 denotes:

- international agreements signed or ratified, that is accepted by the ex-Socialist Federal Republic of Yugoslavia,
- the rules of international customary law governing the conduct of war,
- the generally recognized principles of international law governing the conduct of war.

2. The Commanders and officers of the Armed Forces and any other member of the Armed Forces or other armed organization participating in conflict are responsible for the application of the international conventions of war.

It is the duty of officers to initiate prosecution invoking the full sanctions of the law against individuals under their command who offend against the international conventions of war.

3. The Ministry of Defense of the Serbian Republic of Bosnia and Herzegovina is empowered to make directives on the treatment of prisoners of war.

4. So that the international conventions of war are understood the Armed Forces will hold regular training sessions.

5. This order comes into effect on the publication of the Official Gazette of the Serbian People in B-H and the instructions for the treatment of prisoners of war form a constituent part of it.

Number 01 - 53/92

13 May 1992

The President of the Presidency
of the Serbian Republic of B-H

Dr. Radovan Karadžić

ДОКУМЕНТ бр. 2

Уторак, 30. јуна 1992. СЛ. ГЛАСНИК СРПСКОГ НАРОДА У БИХ Број 10 - Страна 349

231

На основу члана 81. став 1. тачка 7. Устава Српске Републике Босне и Херцеговине и члана 1. став 2. Закона о измјенама и допунама Уставног закона за провођење Устава, Предсједништво Српске Републике Босне и Херцеговине на сједници одржаној 13. јуна 1992. године, донијело је

ОДЛУКУ

О ЗАБРАНИ ФОРМИРАЊА И ДЈЕЛОВАЊА
НАОРУЖАНИХ ГРУПА И ПОЈЕДИНАЦА НА
ТЕРИТОРИЈИ РЕПУБЛИКЕ КОЈЕ НИСУ ПОД
ЈЕДИНСТВЕНОМ КОМАНДОМ ВОЈСКЕ ИЛИ
МИЛИЦИЈЕ

Члан 1.

Забрањује се формирање и дјеловање свих са-
моорганизованих наоружаних група и појединаца на
територији Српске Републике Босне и Херцеговине.

Постојеће групе и појединци дужни су да се у
року од три дана ставе под јединствену команду
Војске Српске Републике Босне и Херцеговине или
министарства унутрашњих послова Српске Репу-
блике Босне и Херцеговине.

Члан 2.

Предсједништво Српске Републике Босне и Хер-
цеговине се одриче група које би наставиле да дје-
лују самостално и наредиће санкционисање
њиховог постојања и дјеловања најстрожијим мје-
рама предвиђеним законом.

Члан 3.

Претпочињавање јединственој команди Војске
или милиције такође подразумијева строго пошто-
вање одредаба међународног права.

Члан 4.

Ова одлука ступа на снагу даном доношења и
објавиће се у "Службеном гласнику српског народа
Босне и Херцеговине".

Предсједник
Предсједништва
Српске Републике БиХ,
Др Радован Караџић, с.р.

Број 01-51/92
13. јуна 1992. године

DOCUMENT No. 2

OFFICIAL GAZETTE

Of the Serbian Nation in Bosnia and Herzegovina

Number 9, Saturday 13 June 1992, Sarajevo

On the basis of Article 81 paragraph 1 point 7 of the Constitution of the Serbian Republic Bosnia and Herzegovina and Article 1 paragraph 2 of the Law of amendments and additions of the Constitutional Law for the Constitution's implementation, the Presidency of the Serbian Republic of Bosnia and Herzegovina, at its session held on 13 July 1992, issued the following

ORDER

ON THE PROHIBITION AGAINST THE FORMATION AND OPERATION OF ARMED
GROUPS AND INDIVIDUALS IN THE TERRITORY OF THE REPUBLIC WHICH ARE
NOT UNDER THE UNIFIED COMMAND OF THE ARMED FORCES OR THE POLICE
FORCE

Article 1.

The formation and operation of all independently organized armed groups and individuals in the territory if the Serbian Republic of Bosnia and Herzegovina is prohibited.

Existing groups and individuals must, within a period of three days, place themselves under the sole command of the Armed Forces of the Serbian Republic of Bosnia and Herzegovina or the Ministry of the Interior of the Serbian Republic of Bosnia and Herzegovina.

Article 2.

The Presidency of the Serbian Republic of Bosnia and Herzegovina renounces all re-
sponsibility for groups that intend to continue to act independently and will order the strictest
of sanctions against their existence and actions in a forthcoming law.

Article 3.

Subordination to the sole command of the Armed Forces or the Police Force implies strict
adherence to the dictates of international law.

Article 4.

This decision comes into effect on the date it was reached and it will be published in the
Official Gazette of the Serbian People of Bosnia and Herzegovina.

Number 01-51/92
13 June 1992

The President of the Presidency
of the Serbian Republic of Bosnia and Herzegovina
Dr. Radovan Karadžić (s.r.)

208

На основу наредбе председника Председништва Српске Републике Босне и Херцеговине број 01-53/92 од 13. јуна 1992. године, министар одбране, доноси

УПУТСТВО

О ПОСТУПАЊУ СА ЗАРОБЉЕНИМ ЛИЦИМА

1. Овим упутством утврђују се права и дужности војних лица Војске Српске Републике Босне и Херцеговине (у даљем тексту: војна лица), као и припадника Српског Министарства унутрашњих послова у поступању са заробљеним лицима.

2. Под заробљеним лицима подразумевају се припадници непријатељских оружаних снага чим се предају и положе оружје, односно пошто буду савладани у борби или ван борбе.

3. Права и дужности војног лица су да по заробљавању предузме све мјере да заробљено лице не побегне као и дужност да заробљеном лицу поштеди живот и да са њим поступа човјечно.

Заробљено је у ма ком случају према заробљеном лицу предузимати репресију. Са заробљеним лицима мора се поступити човјечно и морају се заштити од насиља, увода и застрашивања. Заробљена лица задржавају пуну грађанску, правну и пословну способност какву су имали у тренутку заробљавања.

Такође је дужност војних лица да болесним и рањеним заробљеницима омогуће пружање медицинске његе.

4. Заробљена лица приводе се у прихватне центре које одређује старјешина ранга командира чете и њему равном и вишем положају, прије почетка борбених дејстава.

У прихvatном центру утврђује се идентитет заробљеног лица, а потом организовано под пратњом спроводи у логоре за заробљенике.

При привођењу у логор заробљено лице обавезно испуњава карту о заробљавању прописану нормама међународног ратног права.

Саставни дио овог упутства је образац карте о заробљавању.

5. Под логорима за заробљена лица се подразумевају зграде и барације у које су смјештена заробљена лица. Услови смјештаја у овим логорима морају бити исто тако повољни као и услови сопствених јединица лоцираних на том подручју. При томе треба водити рачуна о обичајима и навикама заробљеника.

У мјешовитим логорима, женама заробљеницима треба обезбједити посебне спаваонице и хигијенске уређаје.

У случају приближавања борбених дејстава, заробљенике треба благовремено евакуисати. Заробљеним лицима у логору треба обезбједити заштите од бомбардовања и других опасности.

6. Заробљена лица се снабдевају по прописаним таблицама исхране али тако да се у свему задовољавају калоричне потребе. Гдје год постоји могућност у логорима отворити кантине у којима заробљена лица могу куповати најужније потребне артикле као што су: сапун, дуван, игле, итд.

7. Посебна пажња мора се посветити хигијени у логору као и лекарској њези и збрињавању. Једном мјесечно обавезно је спровести лекарску инспекцију.

8. Команде логора су дужне да подстичу интелектуалне, васпитне, забавне и спортске дјелатности заробљених лица као и вршење вјерских обреда уколико се тиме не нарушава унутрашњи ред и дисциплина.

9. По могућности официре и њима равна заробљена лица треба груписати у посебне логоре, а ако то није могуће оцила у одвојене просторије. Заробљени официри су ослобођени сваког рада.

10. Осим на радовима у вези са уређивањем и одржавањем логора, заробљена лица могу се употребљавати за радове у пољопривреди, индустрији, рударству, за-

DOCUMENT No. 3

The Official Gazette of the Serbian People in Bosnia

No. 9, Saturday 13 June 1992

Following the order of the President of the Serbian Republic of Bosnia and Herzegovina Presidency number 01-53/92 of 13th June 1992, the defence minister issues

INSTRUCTIONS

FOR TREATMENT OF PRISONERS OF WAR

1. These instructions establish the rights and duties of members of the armed forces of the Serbian Republic of Bosnia and Herzegovina (hereafter: members of the armed forces), as well as members of the Serbian Ministry of Internal Affairs in the treatment of prisoners of war.

2. Prisoners of war are understood to be the members of enemy armed forces as soon as they surrender and lay down their weapons, that is after they are defeated in battle or out of it.

3. After taking a prisoner, a member of the armed forces has the right and duty to take all measures to stop the prisoner from escaping, as well as the duty to spare the prisoner's life and to treat him in a humane fashion.

It is forbidden to exercise repression over the prisoner for any reason whatsoever. Prisoners must be treated humanely and must be protected from violence, verbal abuse and intimidation. Prisoners retain the full civil and legal capacity and legal competence they had at the moment of capture.

It is also the duty of members of the armed forces to provide for the provision of medical care to sick and wounded prisoners of war.

4. Prisoners of war are to be taken to reception centers which are to be designated by a commanding officer with the rank of company commander or equal or higher rank, before the beginning of combat operations.

At the reception center the prisoner's identity is to be established, and afterwards he is to be taken under escort in an organized manner to a prisoner of war camp.

After being brought to the camp, the prisoner of war must fill in the form of imprisonment regulated by the norms of international law on the conduct of warfare.

A specimen of the imprisonment form is given here as a constituent part of these instructions.

5. Camps for prisoners of war are understood to be buildings or barracks in which the prisoners are accommodated. The standard of accommodation in these camps must be of the same standard as that provided for our own units located in the same region. In this context the prisoners' customs and habits should be taken into account.

In mixed camps, women prisoners should be provided with separate dormitories and sanitary facilities.

In case of approaching combat operations prisoners should be evacuated in good time. Prisoners in camps should be provided with shelters from bombardment and other dangers.

6. Prisoners are supplied with food according to the official dietary regime but in such a way that their calorific needs are fully satisfied. Wherever there is an opportunity a canteen

натству, саобраћају, трговини и другим пословима осим на радовима који су у непосредној вези са ратним дејствима.

11. Сваком заробљеном лицу треба одмах по заробљавању омогућити да пошаље по једну дописницу својој породици, Централној агенцији за обавјештавање заробљених лица и Комисији из тачке 19. овог упутства.

12. О ближим правима и дужностима заробљених лица и њиховом понашању у логору и условима за изрицање дисциплинских казни, командант логора доноси прописе који морају бити јавно изложени и доступни заробљеним лицима.

13. О свим заробљеним лицима у логору се води књига заробљених лица са азбучним регистром из које треба да се види породично и лично име, чин, датум рођења и број матрикеле уписане на плочици за распознавање.

14. Дозвољено је испитивање заробљених лица о подацима војног карактера, при чему се према заробљеним лицима не смију примјењивати било какве репресалије или застрашивања.

15. Личне ствари, новац и предмети од вриједности могу се само привремено одузети и вратити по отпуштању из логора.

16. Заробљена лица имају право да у логору изабере повјереника који представља заробљена лица пред логорским властима, међународном комисијом Црвеног крста и другим организацијама које пружају помоћ заробљеним лицима.

17. Представницима Међународног Црвеног крста и другим хуманитарним организацијама омогућава се да у границама могућности посећују заробљена лица и пружају помоћ.

18. За организацију и смјештај логора одговорни су команданти корпуса Војске Српске Републике Босне и Херцеговине.

19. Комисија за размјену заробљених лица при Министарству правде Српске Републике Босне и Херцеговине, истовремено врши и улогу бироа за обавјештавање о заробљеним лицима.

Министар одбране Српске
Републике БиХ,
пуковник,
Богдан Суботић, с. р.

Број 21-26/92
13. јуна 1992. године

should be opened in the camp where prisoners may buy the most necessary articles such as soap, tobacco, needles, etc.

7. Special attention must be given to the sanitary facilities in camps, as well as medical care and treatment. A monthly medical inspection is compulsory.

8. The camp command is obliged to encourage intellectual, educational, entertainment and sport activities among the prisoners, as well as the practice of religious rituals as long as they do not disturb internal order and discipline.

9. If possible, imprisoned officers and ranks equal to them should be grouped in special camps, and if not, then in separate rooms. Imprisoned officers are exempted from any work.

10. Apart from the work on maintenance and cleaning of the camp, prisoners of war can be used for agricultural work, in industry, mining, handicraft, traffic, trade and other activities except the work immediately relevant to war operations.

11. Immediately after being taken prisoner, each prisoner of war should be able to send notification to his family, to the Central Agency for Information on Prisoners of War and the Commission described in article 19 of these instructions.

12. A more detailed description of prisoners' rights and duties and their conduct in the camp and the conditions for pronouncing disciplinary punishments will be determined by the camp commander and his regulations must be publicly displayed and accessible to the prisoners of war.

13. All prisoners in the camp are entered in the register of prisoners in alphabetical order and it should contain surname, first name, rank, date of birth and the serial number imprinted on the dog-tag.

14. The interrogation of prisoners for information of a military character is permitted, but during these interviews the prisoner must not be subjected to repression or intimidation.

15. Personal belongings, money and objects of value can be taken away only temporarily and must be returned after release from the camp.

16. Prisoners have the right to elect a confidante in the camp who will represent them before the camp authorities, the International Commission of the Red Cross and other organizations which provide help to prisoners of war.

17. The representatives of the International Red Cross and other humanitarian organizations are allowed to visit and help prisoners within the confines of their mandate.

18. The commanders of the army corps of the Serbian Republic of Bosnia and Herzegovina are responsible for the camp organization and accommodation.

19. The Commission for the Exchange of Prisoners of the Ministry of Justice of the Serbian Republic of Bosnia and Herzegovina at the same time exercises the role of agency for information on prisoners of war.

Number 21-26/92
13 June 1992

The Minister of Defense of the Serbian Republic of B-H,
Colonel,
Bogdan Subotić

ДОКУМЕНТ бр. 4

SERBIAN REPUBLIC OF BOSNIA AND HERZEGOVINA
P R E S I D E N C Y

June 13, 1992

To: HIS EXCELLENCY
DR. BOUTROS GHALI

Fax: 99-12-12-963-4879

Your Excellency,

We want to inform you about our latest official decision to disown all paramilitary groups that are not ready to be under our political control.

As you can see we are trying to stop the tragedy of ethnic conflict in Bosnia and Herzegovina at different relevant levels. In that respect the enclosed decision is in accordance with our energetic efforts to stop the war in Bosnia as soon as possible.

We deeply appreciate the peace-keeping role of the UN forces and we will do our best to prove such a commitment.



Respectfully yours

Dr. Radovan Karadžić

DOCUMENT No. 4

SERBIAN REPUBLIC OF BOSNIA AND HERZEGOVINA
PRESIDENCY

13 June 1992

To: HIS EXCELLENCY
DR. BOUTROS GHALI

Your Excellency,

We want to inform you about our latest official decision to disown all paramilitary groups that are not ready to be under our political control.

As you can see we are trying to stop the tragedy of ethnic conflict in Bosnia and Herzegovina at different relevant levels. In that respect the enclosed decision is in accordance with our energetic efforts to stop the war in Bosnia as soon as possible.

We deeply appreciate the peace-keeping role of the UN forces and we do our best to prove such a commitment.

Respectfully yours

Dr. Radovan Karadžić

ДОКУМЕНТ бр. 5

На основу члана 80. став 1. тачка 7. Устава Српске Републике Босне и Херцеговине и члана 7. Закона о изијенама и допунама Уставног закона за спровођење Устава, Предсједништво Српске Републике Босне и Херцеговине, на сједници одржаној 3. јула 1992. године, донијело је

НАРЕДБУ

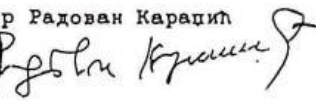
О СПРОВОЂЕЊУ ИСТРАГЕ О ДЈЕЛОВАЊУ ПАРАВОЈНИХ
ГРУПА НА ПОДРУЧЈУ ОПШТИНА ГАЦКО И НЕВЕСИЊЕ

1. Налаже се Министарству унутрашњих послова Српске Републике Босне и Херцеговине да спроведе истрагу о дјеловању паравојних група на подручју општина Гачко и Невесиње.

2. Након спроведене истраге Министарство ће Предсједништву поднјети исцрпан извјештај о утврђеном чињеничном стању на подручју поменутих општина.

Број: 01-223/92
3. јули 1992. године

ПРЕДСЈЕДНИК ПРЕДСЈЕДНИШТВА

Др Радован Караџић
 

DOCUMENT No. 5

On the basis of Article 80, paragraph 1, point 7 of the Serbian Republic of Bosnia and Herzegovina Constitution and Article 7 of the Law of amendments and additions of the Constitutional Law for the Constitution's implementation, the Presidency of the Serbian Republic of Bosnia and Herzegovina, at its session held on 3rd July 1992, issued the following

ORDER

TO CARRY OUT AN INVESTIGATION INTO THE ACTION OF PARAMILITARY GROUPS
IN THE REGION OF THE MUNICIPALITIES OF GACKO AND NEVESINJE

1. The Ministry of Internal Affairs of the Serbian Republic of Bosnia and Herzegovina is ordered to carry out an investigation into the action of paramilitary groups in the region of the municipalities Gacko and Nevesinje.

2. After the completed investigation the Ministry will present a detailed report on the established facts in the region of above mentioned municipalities to the Presidency.

Number: 01-223/92
3 July 1992

THE REPUBLIC PRESIDENT
Dr. Radovan Karadžić

ДОКУМЕНТ бр. 6

ЧЕСТИТКА ПРЕДСЈЕДНИКА СРПСКЕ ДЕМОКРАТСКЕ
СТРАНЕ БОСНЕ И ХЕРЦЕГОВИНЕ

- ЧЛАНОВИМА И ФУНКЦИОНЕРИМА СТРАНKE -

Предсједник Српске демократске странке Босне и Херцеговине др Радован Караџић упутно је поводом Петровдана члановима и функционерима честитку следеће садржине:

Иако је у условима у којима се налазимо Српска демократска странка умирала своју активност, честитам свима вама славу Странке Петровдан, и годишњицу оснивања, са жељама да се рат који нам је наметнут заврши брзо и праведно.

Одговорност Српске демократске странке за одбрану народа и Српске Републике је огромна. Уз војничку побједу потребна нам је побједа права и морала.

Држава коју праве Срби мора да почива на владавини права и човјечности, јер "Не требају царство нејудима, како да се пред свијетом руке". Стога вас, све чланове и функционере Српске демократске странке, молим да непрестано бдијете над нашим поступцима, како нејудима понашање не би потамнило славу нашу праведне борбе.

Посебну пажњу треба посветити праведном односу према цивилном становништву наше Републике које је друге националности. Такође према побијеђеним непријатељима поред одредаба Женевске конвенције треба показати и нашу православну милост.

Нека нам свима свети апостол Петар помогне на путу истини, правди и доброте.

Број: 01-262/92
Пале, 11.07.1992.

ПРЕДСЈЕДНИК
СРПСКЕ ДЕМОКРАТСКЕ СТРАНKE
БОСНЕ И ХЕРЦЕГОВИНЕ
Радован Караџић

DOCUMENT No. 6

MESSAGE OF CONGRATULATION FROM THE PRESIDENT
OF THE SERBIAN DEMOCRATIC PARTY OF BOSNIA AND
HERZEGOVINA

- TO THE PARTY MEMBERS AND OFFICIALS -

On Petrovdan, (St. Peter's Day) the President of the Serbian Democratic Party of Bosnia and Herzegovina, Dr. Radovan Karadžić sent the following message of congratulation to party members and officials.

Although under the present circumstances the Serbian Democratic Party has reduced its activities, I am writing to express my best wishes on the occasion of the party Saint's day, and the anniversary of its formation, with the hope that the war, imposed on us, will end soon and justly.

The responsibility of the Serbian Democratic Party in the defense of the people and the territory of the Serbian Republic is huge. Together with military victory we need a legal and moral victory.

The state formed by the Serbs has to be rooted in the rule of law and humanity, since 'To those who are inhuman the kingdom serves only as a ridicule in the face of the world'. Therefore, I implore you, the Serbian Democratic Party members and officials alike to keep wakeful watch over our actions, so that inhuman behavior should not darken the glory of our just struggle.

Special attention should be given to proper conduct towards the civilian population of other nationalities in our Republic. As well as the rules Geneva Convention we should treat the conquered enemy with our own orthodox mercy.

May the Apostle St. Peter help us all on our path to truth, justice and goodness.

Number: 01-262/92
Pale, 11 July 1992

THE PRESIDENT OF THE SERBIAN DEMOCRATIC PARTY
OF BOSNIA AND HERZEGOVINA
Dr. Radovan Karadžić

ДОКУМЕНТ бр. 7

Srpska Republika Bosna i Hercegovina
P R E D S J E D N I Š T V O
Pale, 14.07.1992. godine

Svim opštinama na području Goražde

Predsjedniku opštine

Sva sela u kojim hrvatske i muslimanske stanovništvo predaju oružje i ne namjerava da se bori protiv nas moraju uživati punu zaštitu naše Srpske države Bosne i Hercegovine. Odgovornost za to moraju snositi predsjednici opština.

Predsjednik predsjedništva

Dr. Radovan Karadžić

Telegram je uručen opštinama na sledeći način:

1. Goražde, radio-vezom,
2. Foča, radio-relejnim vezama,
3. Han Pijesak, telefonom,
4. Sokolac, teleprinterom,
5. Rogatica, radio-vezom,
6. Višegrad, radio-vezom,
7. Rudo, radio-relejnim do Foče a zatim radio-vezama,
8. Čajniče, radio-relejnim vezama.

Začeta poruka je prenešena 14.07. u 15,30 časova

Pukovnik

Milorad Kotlica

PS: Predlažem da obavijestite sredstva informisanja.

DOCUMENT No. 7

The Serbian Republic of Bosnia and Herzegovina
THE PRESIDENCY

Pale, 14 July 1992

To all municipalities in the region of Goražde
To the president of the municipality

All villages in which the Croatian and Muslim population surrender their weapons and show no intention of fighting against us must enjoy the full protection of our Serbian state of Bosnia and Herzegovina. The municipality presidents must be held accountable for it.

The President of the Presidency
Dr. Radovan Karadžić

The telegram was sent to the municipalities in the following way:

1. Goražde, by radio communications
 2. Foča, by radio-relay communications
 3. Han Pijesak, by telephone
 4. Sokolac, by telex
 5. Rogatica, by radio-communications
 6. Višegrad, by radio-communications
 7. Rudo, by radio-relay to Foča, and then by radio-communications
 8. Čajniče, by radio-relay communications.
- The last message was delivered at 15:30 hours on 14th July.

Colonel
Milorad Kotlica

PS: I suggest you inform the media.

ДОКУМЕНТ бр. 8

С Р П С К А Р Е П У Б Л И К А
ПРЕДСЈЕДНИШТВО

СВИМ ЛОКАЛНИМ ЦИВИЛНИМ И ПОЛИЦИЈСКИМ ВЛАСТИМА

ДОЗВОЉАВА СЕ ДЕЛЕГАТИМА МКЦ ДА ПУТУЈУ ПО
ЦИЈЕЛОЈ ТЕРИТОРИЈИ БОСНЕ И ХЕРЦЕГОВИНЕ КОЈА ЈЕ ПОД
НАШОМ КОНТРОЛОМ.

ОВЛАШЋЕНИ СУ И ДА ПОСЈЕТЕ СВЕ ЗАТВОРЕ, УКЉУЧУ-
ЈУКИ И ВОЈНЕ ДОГОРЕ И ПОЛИЦИЈСКЕ СТАНИЦЕ ПОД НАШОМ
КОНТРОЛОМ.

ЗБОГ ТОГА СЕ ОД СВИХ ВОЈНИКА СРПСКИХ СНАГА БО-
СНЕ И ХЕРЦЕГОВИНЕ ЗАХТИЈЕВА:

А) ДА ОЛАКШАЈУ БЕЗБЈЕДАН ПРОЛАЗ ДЕЛЕГАТИМА И
ВОЗИЛИМА МКЦ-а. ДЕЛЕГАТИ МКЦ-а ДОКАЗУЈУ СВОЈ ИДЕН-
ТИТЕТ ПРОПУСНИЦАМА ЦРВЕНОГ КРСТА А ВОЗИЛА АМБЛЕМОМ
ЦРВЕНОГ КРСТА.

Б) ДА ПРЕДУЗМУ СВЕ МЈЕРЕ ДА СЕ ПОШТУЈЕ АМБЛЕМ
ЦРВЕНОГ КРСТА И ИЗБЈЕГНЕ СВАКО УЗНЕМИРАВАЊЕ И/ИЛИ
НАПАД НА ВОЗИЛА И ОСОБЉЕ МКЦ-а.

Ц) ДА ДАЈУ НУЖНЕ ПОДАТКЕ У ВЕЗИ СА ЗАРОБЉЕНИЦИ-
МА И ОЛАКШАЈУ ПОСЈЕТЕ МКЦ-а СВИМ ЗАТВОРИМА.

НАРЕЂУЈЕМ ДА СЕ СТРОГО ПРИДРЖАВАТЕ ОВИХ УПУТ-
СТАВА. СВАКИ ВОЈНИК КОЈИ НЕ БУДЕ ПОШТОВАО ОВА УПУТСТВА
БИЋЕ КАЖЊЕН.

ПРЕДСЈЕДНИК ПРЕДСЈЕДНИШТВА,

Радован Караџић



DOCUMENT No. 8

SERBIAN REPUBLIC
PRESIDENCY

TO ALL COMBATANTS OF THE SERBIAN FORCES OF BOSNIA - HERZEGOVINA
International Committee of the Red Cross (ICRC) delegates are allowed to travel in all
areas under our control in Bosnia-Herzegovina.

They are also authorized to visit all places of detention including military camps and
police stations under our control.

All combatants of the Serbian forces of Bosnia-Herzegovina are therefore requested to:

A) Facilitate the safe passage of ICRC delegates' vehicles. ICRC delegates can identify
themselves with Red Cross passes and ICRC vehicles with Red Cross emblem.

B) To take all measures to respect the Red Cross emblem and to avoid any harassment
and/or attack against ICRC vehicles and personnel.

C) To give all necessary information regarding prisoners and facilitate ICRC visits to all
detention places.

I order you to strictly follow these instructions.

Any combatant who does not respect these instructions shall be punished.

PRESIDENT OF THE SERBIAN REPUBLIC
Dr. Radovan Karadžić

ДОКУМЕНТ бр. 9

СРПСКА РЕПУБЛИКА БОСНА И ХЕРЦЕГОВИНА
ПРЕДСЈЕДНИШТВО

Број: 01-448/92.
Пале, 6.08.1992. године

САОПШТЕЊЕ ПРЕДСЈЕДНИШТВА О ХАПШЕЊУ ОДМЕТНИКА

Предсједништво Српске Републике Босне и Херцеговине саопштава да је прије неколико недјеља издало наредбу да се све групе и појединци ставе под јединствену команду Војске и полиције. Та идеја је углавном проведена, осим у случају неколико група одметника у Подрињу и Кључу. Министарство унутрашњих послова Српске Републике Босне и Херцеговине извршило је хапшење група и појединаца који су се одметнули од закона и одали пљачки и палевинама. Преди се, дакле, о хапшењу политички организованних или јединица са другим називима, које су се пољчили јединствене команди и хрибро се боре за слободу своје Српске Босне и Херцеговине и које заслужују сваку похвалу.



ПРЕДСЈЕДНИШТВО
СРПСКЕ РЕПУБЛИКЕ БОСНА И ХЕРЦЕГОВИНЕ
Radovan Karadzic

DOCUMENT No. 9

THE PRESIDENCY OF THE SERBIAN REPUBLIC
OF BOSNIA AND HERZEGOVINA

Number: 01 - 448/92
Pale, 6 August 1992

THE PRESIDENCY STATEMENT ON THE ARREST OF REBELS

The Presidency of the Serbian Republic of Bosnia and Herzegovina states that a few weeks ago it issued an order for all groups and individuals to be placed under the sole command of the Armed Forces and the Police. This idea has been mainly carried out, with an exception of some rebel groups in the region of Podrinje and Ključ. The Ministry of Internal Affairs of the Serbian Republic of Bosnia and Herzegovina carried out the arrest of the groups and individuals who rebelled against the law and indulged in robbery and arson. Therefore, it is not a case of arresting politically organized units under some other names which submitted to the sole command and which courageously fight for the freedom of their Serbian Bosnia and Herzegovina and who deserve all praise.

THE PRESIDENCY OF THE SERBIAN
REPUBLIC OF BOSNIA AND HERZEGOVINA
Dr. Radovan Karadžić

ДОКУМЕНТ бр. 10

SRPSKA REPUBLIKA BOSNA I HERCEGOVINA
PREDSJEDNIŠTVO

Pale, 6. avgusta 1992. godine
Број: 01-533/92.

Na osnovu člana 71. i 81. stav 2. Ustava Srpske Republike Bosne i Hercegovine i člana 5. stav 2. Ustavnog zakona za sprovođenje Ustava Srpske Republike Bosne i Hercegovine, Predsjedništvo Srpske Republike Bosne i Hercegovine na 24. sjednici od 6. avgusta 1992. godine, donijelo je sljedeći

Z A K L J U Č A K

ZADUŽUJE se Ministarstvo unutrašnjih poslova Srpske Republike Bosne i Hercegovine i Ministarstvo pravosuđa i uprave Srpske Republike Bosne i Hercegovine da preko svojih opštinskih organa unutrašnjih poslova, odnosno uprave kazneno-popravnih domova na području Srpske Republike Bosne i Hercegovine, koordinirano pribave zvanične pismene informacije o odnosu i ponašanju srpskih vlasti prema retnim zarobljenicima i uslovima života zatvorenika u zatvorima na području opština u kojim tekvim slučajevima ima.

Na osnovu pribavljenih informacija sačinije se sjedničke informacije i dostaviti ovom Predsjedništvu u roku od 10 dana.



PREDSJEDNIK PREDSJEDNIŠTVA

Dr. Radovan Karadžić

DOCUMENT No. 10

THE PRESIDENCY OF THE SERBIAN
REPUBLIC OF BOSNIA AND HERZEGOVINA

Pale, 6 August 1992
Number: 01-533/92

On the basis of Article 71 and 81, paragraph 2 of the Constitution of the Serbian Republic Bosnia and Herzegovina and Article 5, paragraph 2 of the Constitutional law for the implementation of the Constitution of the Serbian Republic of Bosnia and Herzegovina, the Presidency of the Serbian Republic of Bosnia and Herzegovina at its 24th session on 6th August 1992 reached the following

CONCLUSION

The Ministry of Internal Affairs of the Serbian Republic of Bosnia and Herzegovina and the Ministry of Justice of the Serbian Republic of Bosnia and Herzegovina have a task to coordinate through their municipal organs of internal affairs, that is the administrations of penitentiaries in the area of the Serbian Republic Bosnia and Herzegovina the gathering of official written information on the attitude and behavior of the Serbian authorities towards prisoners of war and the prison conditions in the area of districts where such cases exist.

On the grounds of the information gathered a complete body of information will be formed and handed to this Presidency in 10 days time.

THE PRESIDENT OF THE PRESIDENCY
Dr. Radovan Karadžić

ДОКУМЕНТ бр. 11

С Р П С К А Р Е П У Б Л И К А
ПРЕДСЈЕДНИШТВО

Број: 01-530/92.

Датум: 19.08.1992. године

ГЛАВНОМ ШТАБУ ВОЈСКЕ СРПСКЕ РЕПУБЛИКЕ
МИНИСТАРСТВУ УНУТРАШЊИХ ПОСЛОВА
СВИМ ЦЕНТРИМА СЛУЖБИ БЕЗБЈЕДНОСТИ

Сходно нашем акту од 13. јуна 1992. године, који се
односе на поштовање међународних норми у рату, поново

Н А Р Е Љ У Ј Е М

1. Да сви субјекти реализују своју обавезу придржа-
вања међународног хуманитарног права, нарочито
3. и 4. Женевске конвенције;
2. Да се издају упутства свим борцима и свим радницима
министарства унутрашњих послова да поштују заробље-
не особе, цивиле, медицинске установе, приватне и јав-
не мјеста, амблем Црвеног крста и особе и средства
уједињених нација;
3. Да се спријечи присилно пресецавање и предузимање
других недозвољених мјера против цивилног становништва,
а евентуалне потврде о продавању имовине или излазе
да се избјеглици неће вратити, немају никакву правну
ваљеност и стављају се ван снаге;
4. Да се одмах предузму кораци да се побољшају услови
у свим затворима у Српској Републици у складу са пре-
порукама датим приликом посјете Међународног Црвеног
крста тим мјестима. Сходно ранијој Одлуци, све ратне
заробљенике који нису доброг здравственог стања, ти-
неће се тако скоро наћи у непријатељској војсци, тре-
ба једнострано пустити;
5. Да се одмах обавести Међународни Црвени крст о свим
затворима у Српској Републици и да се овој институ-
цији доставе тачни спискови људи у тим затворима;

DOCUMENT No. 11

THE PRESIDENCY OF THE
SERBIAN REPUBLIC

Number: 01-530/92
Date: 19 August 1992

TO THE MILITARY COMMAND HEADQUARTERS OF THE SERBIAN REPUBLIC
TO THE MINISTRY OF INTERNAL AFFAIRS
TO ALL THE CENTRES OF SECURITY SERVICES

In accordance with our decision of 13 June 1992 which refers to our respect of interna-
tional wartime conventions I hereby repeat the

ORDER

1. That all subjects observe their duty by complying with international humanitarian law
and particularly the 3rd and 4th Geneva conventions;
 2. To give instructions to all combatants and all officers of the Ministry of Internal Affairs to
respect prisoners, civilians, medical institutions, private and public places, the Red Cross
emblem and individuals and objects pertaining to the United Nations;
 3. To stop forced movement and other illegal measures against civilian population. Pos-
sible deeds of sale or statements that refugees will not return, have no legal validity and are
declared invalid;
 4. To take immediate steps for improving conditions in all prisons in the Serbian Republic
in accordance with the recommendations given during the visit of the International Red
Cross to these places. In compliance with the previous decision all prisoners of war who are
not in good health, i. e. who are not likely to return soon to the enemy army, should be
unilaterally released;
 5. To inform immediately the International Red Cross of all the prisoners in the Serbian
Republic and to deliver the correct lists of people in those prisons to this institution;
 6. All army and police members in the Serbian Republic are obliged to give all the help to
the members of the International Red Cross, the United Nation High Commission for Refu-
gees as well as other humanitarian organization. Complete safety must be provided for these
individuals and their access to all prisoner of war camps.
- General attitude:
Each organ of the Army and Police is obliged to carry out a thorough investigation on the
occasion of any suspicion or sign of the international humanitarian law violation in the zone
of its jurisdiction.

THE PRESIDENT OF THE SERBIAN REPUBLIC
Dr. Radovan Karadžić

ДОКУМЕНТ бр. 12

СРПСКА РЕПУБЛИКА
ПРЕДСЕДНИШТВО

Број: 01-532/92
Датум: 19.08.1992. године

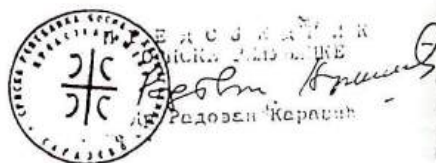
МИНИСТАРСТВО УНУТРАШЊИХ ПОСЛОВА
СРПСКА РЕПУБЛИКА

Постоје индикације да се у селу Басташи, код Челинаца, догодило петероструко убиство цивила муслиманске националности.

ПРЕДЛОЖЕНО

да се проведе истрага, кључну идентификацију и приведу Провди.

Радници министарства из Центра служби безбедности Банја Лука, Станице јавне безбедности Челинац морају предузети све мере у заштити цивилног муслиманског становништва општине Челинац, које, по нашим сазнањима, нема никакву војну организацију, нити се припрема на војну интервенцију против српског народа.



DOCUMENT No. 12

THE PRESIDENCY OF THE SERBIAN REPUBLIC

Number: 01-532/92
Date: 19 August 1992

TO THE MINISTRY OF INTERNAL AFFAIRS OF THE SERBIAN REPUBLIC

There are indications that five civilians of Muslim nationality have been murdered in the village of Bastaši, near Čelinac. I hereby

ORDER

the most thorough investigation to be carried out, the culprits to be identified and brought to justice.

The Ministry officials from the Security Service Center in Banja Luka and the officials from the Station of Public Safety in Čelinac must take all measures for the protection of the civilian Muslim population in the Čelinac district, which, to the best of our knowledge, have no military organization nor are they preparing for a military intervention against the Serbian people.

THE PRESIDENT OF THE SERBIAN REPUBLIC
Dr. Radovan Karadžić

ДОКУМЕНТ бр. 13

РЕПУБЛИКА СРПСКА
ПРЕДСЈЕДНИШТВО

Број: 01-1251/92
Пале, 22.10.1992. године

ГЕН. П. ПУК. РАТКУ МЛАДИЋУ
Госп. МИЋИ СТАНИШИЋУ
Госп. МОМЧИЛУ МАНДИЋУ

Поштовано госпођо,

Као што знате, својевремено сам потписао службено овлаште делегатима Међународног комитета Црвеног крста, а по тој овласти им се мора дозволити, у складу са Женевским конвенцијама, слободан приступ затворима и злочинцима. Ђађер вам, поново, копију овлаштења.

Чувјећан сам да поједини локални полицијски, војни и цивилни ауторитети потпуно игноришу овај документ и делегатима Међународног комитета онемогућавају нормалан рад.

Од вас неодложно захтијевам да све своје подјелине старејине одмах упозорите да се овлаштење делегатима ИКЦИ овлашћено мојим потписом апсолутно мора поштовати.

Младићу строгу истаргу у свим случајевима непоштовања овега мога захтјева.

С поштовањем



ПРЕДСЈЕДНИК
РАДОВАН КАРАДЖИЋ

DOCUMENT No. 13

REPUBLIKA SRPSKA
THE PRESIDENCY

Number: 01-1251/92
Pale, 22 October 1992

TO LIEUTENANT-COLONEL RATKO MLADIĆ
TO MR. MIĆA STANIŠIĆ
TO MR. MOMČILO MANDIĆ

Dear Sirs,

as you already know I signed an official empowerment to the delegates of the International Red Cross Committee according to which, and in further compliance with the Geneva conventions, they must be allowed free access to prisons and prisoners of war. I send you again a copy of this empowerment.

I have been informed that some local police, army and civil authorities completely ignore this document and make impossible the normal work of the International Committee's delegates.

I demand that you warn without any delay all your subordinate officers that the empowerment to the Red Cross International Committee delegates verified by my signature must be respected absolutely.

I shall order a thorough investigation into all cases of lack of respect for the above demand.

With respect,

THE PRESIDENT
Dr. Radovan Karadžić

ДОКУМЕНТ бр. 14

Република Српска
КАБИНЕТ ПРЕДСЈЕДНИКА

Строго пов. 01.87/93
Пале, 11.03.1993. године

ГЛАНОМ ШТАБУ ВОЈСКЕ
РЕПУБЛИКЕ СРПСКЕ

На основу члана 7. Закона о одбрани, члана 174. Закона Републике Српске и Одлуке Предсједника Републике стр.пов.број: 01-78/93 од 11.05.1993. године, а у циљу одржања потписаног примирја с наше стране, Предсједник Републике доноси следећу

ДИРЕКТИВУ

Главни штаб војске Републике Српске дужан је и у будуће:

1. омогућити неометан пролаз и заштиту пошљаци, опреме и особља које пружа помоћ напјењеном цивилном становништву противне стране;
2. забранити злоупотребу, у војне сврхе, прехранбених артинала, жетве, водоводних инсталација и резерви воде за пиће брана на хидро системима;
3. у свему се придржавати Женевских Конвенција за заштиту жртава рата и њихових протокола 1. и 2., као и Хашке Конвенције о законима и обичајима рата на копну, из 1907. године и осталих прописа међународног ратног права и
4. обезбједити, да се све јединице војске упознају и придржавају ове Директиве.



ПРЕДСЈЕДНИК РЕПУБЛИКЕ

Др Радован Караџић

Radovan Karadzic

DOCUMENT No. 14

REPUBLIKA SRPSKA
THE PRESIDENTIAL OFFICE

Strictly confidential 01.87/93
Pale, 11 March 1993

TO THE MILITARY COMMAND HEADQUARTERS OF REPUBLIKA SRPSKA

On the basis of Article 7 of the Defense Law, Article 174 of the Republika Srpska Law and the Republic President's Decision strictly confidential number: 01-78/93 of the 11th May 1993, and with the aim of maintaining the signed cease of fire on our part, the President of the Republic issues the following

DIRECTIVE

The Military Command Headquarters of Republika Srpska is obliged in future as well:

1. To provide unhindered passage and protection of parcels, equipment and personnel who give help to the civilian population of the enemy;
2. To forbid the misuse of foodstuffs, crops and water installation and reservoirs of drinking water and dams on hydro-systems for military purposes;
3. To observe the Geneva conventions in regard to victims of war and their protocols 1 and 2, as well as the Hague Convention on laws and customs in warfare on land from the year 1907 and other international regulations for the conduct of war and
4. To secure that all army units are informed of this directive and that they follow it.

THE REPUBLIC PRESIDENT
Dr. Radovan Karadzic

ДОКУМЕНТ бр. 15

КАБИНЕТ ПРЕДСЈЕДНИКА

Број: 01-89/93

Датум: 12. мај 1993. године

МИНИСТАРСТВУ УНУТРАШЊИХ ПОСЛОВА РЕПУБЛИКЕ СРПСКЕ
н/р министра Аџић Ратка

На основу члана 80. Устава Републике Српске,
а по указаној потреби

НАРЕЂУЈЕМ

да се путем Центра Служби безбједности Бања Лука,
појачаним патролама, обезбједе сви вјерски објекти у том
граду и околини, и заштите од учесталих терористичких акција.

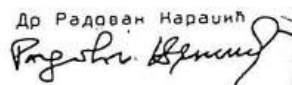
Наредбу извршити одмах и о предузетим мјерама ме
извијестити.

ДОСТАВИТИ:

1. Министарству унутрашњих послова
Републике Српске
2. Центру Служби безбједности Б. Лука
3. архива

ПРЕДСЈЕДНИК РЕПУБЛИКЕ

Др Радован Караџић



DOCUMENT No. 15

THE PRESIDENTIAL OFFICE

Number: 01-89/93

Date: 12 May 1993

TO THE MINISTRY OF INTERNAL AFFAIRS OF REPUBLIKA SRPSKA

for the attention of Adžić Ratko

On the basis of Article 80 of the Constitution of Republika Srpska, and in response to the
evident need, I hereby

ORDER

all the religious buildings in the town of Banja Luka and its surroundings to be placed
under the protection of the Security Service Center in Banja Luka by means of reinforced
patrols and thus protected from frequent terrorist actions.

This order is to be carried out immediately and I am to be informed of the measures
undertaken.

THE REPUBLIC PRESIDENT

Dr. Radovan Karadžić

To be delivered to:

1. The Ministry of Internal Affairs of Republika Srpska
2. Security Service Center in Banja Luka
3. Archives

ДОКУМЕНТ бр. 16

ХИТНО-ШИФРОВАНО



ГЛАВНОМ ШТАБУ ВОЈСКЕ
РЕПУБЛИКЕ СРПСКЕ

РЕПУБЛИКА СРПСКА
КАБИНЕТ ПРЕДСЈЕДНИКА РЕПУБЛИКЕ
САРАЈЕВО

Бр. 01-133/93 Датум: 09.06.1993. год.

На основу члана 80. Устава Републике Српске и члана
5. Одлуке о формирању Врховне команде Војске Републике Српске

НАРЕЂУЈЕМ

1. Војнике ХВ0-а који су се склонили на српске тери-
торије на Влашићу организовано транспортовати са свим њиховим
наоружањем преко српских територија до Вареша.

2. Хрватским цивилима који су се склонили на српску
територију организационо помоћи у изласку из Републике
Хрватску према њиховој жељи.

3. Извршењу приступити одмах и обавијестити ме о
току и исходу.



PRIMLJENO:	09.06.	19.45	Р. Караџић
	(dan i mjesec)	(čas i minut)	(p o l p i s)
СЛНА	128	430	Р. Караџић
	(broj)	(broj)	(broj)
IBRAĐENO:	09.06.	17.55	Р. Караџић
	(dan i mjesec)	(čas i minut)	(p o l p i s)
REDA TO:	09.06.	18.05	Р. Караџић
	(dan i mjesec)	(čas i minut)	(p o l p i s)

DOCUMENT No. 16

URGENT-IN CIPHER
REPUBLICA SRPSKA
CABINET OF THE PRESIDENT OF THE REPUBLIC
SARAJEVO

To: HEADQUARTERS OF THE ARMY
OF REPUBLIKA SRPSKA

No. 01-133/93
Date: 9 June 1993

On the basis of the Article 80 of the Constitution of Republika Srpska and Article 5 of the
Decision concerning the formation of the Supreme Command of the Army of RS,
I, hereby,

ORDER

1. The organized transportation of Croatian Defence Council (HVO) soldiers, with all of
their armaments, who have found refuge on Serbian territories on Vlašić Mountain, through
Serbian territories to Vareš.
2. The facilitation of the departure of Croatian civilians, who have found refuge on Serbian
territories, to Herzeg-Bosnia or to Republic of Croatia, according to their wishes.
3. The immediate commencement of this operation and that I am informed about its
progress and outcome.

PRESIDENT OF THE REPUBLIC
Dr. Radovan Karadžić

ДОКУМЕНТ бр. 17

REPUBLIKA BOSNA I HERCEGOVINA
MINISTARSTVO ZA NARODNU OBRANU
STAB TERITORIJALNE OBRANE
S A R A J E V O
BROJ: 02/145-1
SARAJEVO, 29.04.1992. GODINE

URI O HITNO

NAREĐENJE O SPROVOĐENJU
ODLUKE PREDsjedništva REPUBLIKE
BIH BROJ 02-11-327/92.

NA OBRNOVU ODLUKE PREDsjedništva REPUBLIKE BOSNE I HERCEGOVINE BROJ
02-11-327/92. OD 27.04.1992. GODINE O POVLACENJU JEDINICA JNA SA
TERITORIJE LR BiH, A ZBOG NARUBAVANJA OVE ODLUKE PREDsjedništva I
OTPOCETOG OTUDJIVANJA I PLJACKE IMOVINE REPUBLIKE BOSNE I HERCEGOVINE
OD STRANE BIVSE JNA,

N A R E D J U J E M :

1. IZVRBITI POTPUNO I MAGOVNO ZAPRECAVANJE NA SVIM PUTNIM PRAVCIMA
TERITORIJE BOSNE I HERCEGOVINE NA KOJIMA JEDINICE BIVSE JNA OTPOC-
NJU IZVLACENJE TEHNICKIH MATERIJALNIH SREDSTAVA, U NEPOSREDNOJ
KORDINACIJI SA MUP-OM.

2. IZVRBITI BLOKADU SIREG REJONA VOJNIH OBJEKATA IZ KOJIM SE NAST-
OJI IZNIJETI TEHNICKA MATERIJALNA SREDSTVA, RAZNIM VRSTAMA FORMAC-
IJSKIH I PRIRODNIH PREPREKA KOJE OBZBJEDJETI JEDINICAMA TERITORIJALNE
ODBRANE REPUBLIKE BiH I MUP-A.

3. NENAJAVLJENIM KOLONAMA JEDINICA BIVSE JNA I BEZ PRATN. I MUP-A.
SPRIJECITI IZLASKE IZ KABARNE I KOMUNICIRANJE NA TERITORIJI
REPUBLIKE BiH.

4. UBRZANO PLANIRATI I OTPOCETI BORBENA DEJSTVA NA CJELOKUPNOJ
TERITORIJI REPUBLIKE BiH I ISTI KOORDINIRATI SA STABOM TERITORI-
ODBRANE REGIJE, OKRUGA I REPUBLIKE BiH.

U OKVIRU PLANIRANJA BORBENIH DEJSTAVA PLANIRATI OPSEIZNE MJERE
IZBITE BTANOVNISTVA I MATERIJALNIH DOBARA GRADJANA REPUBLIKE BiH.

DJ/NS

K O M A N D A N I
PUKOVNIK
HASAN EFENDIC

II
ORDERS OF THE MUSLIM LEADERS

DOCUMENT No. 17

REPUBLIC OF BOSNIA AND HERZEGOVINA
MINISTRY OF NATIONAL DEFENSE
HEADQUARTERS OF THE TERRITORIAL DEFENSE

Sarajevo
No: 02/145-1
Sarajevo, 29 April 1992

VERY URGENT

Order concerning implementation of the decision of the Presidency of the Republic of B-

H
No. 02-11-327/92

On the basis of the Decision of the Presidency of the Republic of Bosnia and Herzegovina
No. 01-11-327/92, dated 27 April 1992 concerning the withdrawal of JNA units from the
territory of the Republic of B-H, and because of the violation of this Presidency decision and
the beginning of the pillaging and looting of the properties of the Republic of B-H by the
former JNA, I hereby,

ORDER:

1. In a co-ordinated action with the Ministry of the Interior, full and mass blockading of all
roads on the territory of B-H along which former JNA units are beginning to withdraw material
and technical equipment.

2. The blockade of military installations and the immediate surrounding areas from which
attempts are being made to remove material and technical equipment by the securing of
different kinds of artificial and natural barriers by units of the Republic's Territorial Defense
and the Ministry of the Interior.

3. The prevention of the unannounced movement of former JNA units from barracks
without a Ministry of Interior escort and the prevention of JNA field communications through-
out the territory of B-H.

4. The immediate planning and initiation of military action throughout the entire territory of
B-H, co-ordinating the same with the territorial regional defense, district and the Republic of
B-H headquarters.

Within the framework of the plans for military action, the inclusion of plans of wide-ranging
scope for the protection of the population and the material possessions of the citizens of the
Republic of B-H.

Commanding Officer
Colonel
Hasan Efendić

ДОКУМЕНТ бр. 18

MUP R. BiH
br.10-70
29.04.92.g.

VERY URGENT

CSB - svima - načelniku
SJB - svima - načelniku
SUP Sarajevo - sekretaru

Potrebno je da svi centri službi bezbjednosti, stanice javne bezbjednosti i SUP Sarajevo preduzmu sve potrebne mjere i radnje iz svoje nadležnosti za obezbjeđenje izvršenja naredba komandanta štaba teritorijalne odbrane Republike Bosne i Hercegovine, broj 02/145-1 od 29.04.1992.godine, koju vam prosledjujemo u izvornom tekstu.

Naredjenje o sprovođenju
Odluke Predsjedništva RE-
publike BiH, broj 02-11-
327/92.

Na osnovu odluke Predsjedništva Republike Bosne i Hercegovine broj 02-11-327/92, od 27.04.1992.godine o povlačenju jedinica JNA sa teritorije R. BiH, a zbog narušavanja ove odluke Predsjedništva i otpočetog otudjivanja imovine Republike Bosne i Hercegovine od strane bivše JNA,

N A R E D J U J E M :

1. Izvršiti potpuno i masovno zaprečavanje na svim putnim pravcima na teritoriji Republike Bosne i Hercegovine, na kojima jedinice bivše JNA otpočinu izvlačenje tehničkih, materijalnih sredstava, u neposrednoj koordinaciji sa MUP-om.
2. Izvršiti blokadu šireg rejona vojnih objekata iz kojih se nastoji iznijeti tehnička materijalna sredstva, raznim vrstama formacijskih i prirodnih prepreka, koje obezbedjediti jedinicama teritorijalne odbrane Republike BiH i MUP-a.
3. Nenajavljenim kolonama jedinicama bivše JNA i bez pratnje MUP-a, spriječiti izlaske iz kasarne i komuniciranje na teritoriji Republike BiH.
4. Ubrzano planirati i otpočeti borbena dejstva na celokupnoj teritoriji Republike BiH i iste koordinirati sa štabom teritorijalne odbrane regije, okruga i Republike BiH. U okviru planiranja borbenih dejstava planirati opsežne mere zaštite stanovništva i materijalnih dobara građana Republike BiH.

DZ/MI

MINISTAR
ZA UNUTRAŠNJE POSLOVE
Alija Delimustafić

DOCUMENT No. 18

MINISTRY OF INTERIOR OF THE R B-H

No. 10-70
29 April 92

VERY URGENT

To all Security Service Centers (CSB) — Chief Inspector
To all Police Stations (SJB) — Chief Inspector
To Police department (SUP) Sarajevo — Secretary

It is essential that all security service centers, police stations and SUP Sarajevo undertake all necessary measures and actions within their authorization to secure the execution of the order issued by the commander of the Territorial Defense Headquarters of the Republic of Bosnia and Herzegovina No. 02/145-1 of 29 April 1992 which we are sending on to you in its original form.

Order concerning implementation of the decision of the Presidency of the Republic of B-H, No. 02-11-327/92.

On the basis of the Decision of the Presidency of the Republic of Bosnia and Herzegovina No. 01-1-327/92 dated 27 April 1992 concerning the withdrawal of JNA units from the territory of the Republic of B-H, and because of the pillaging and looting of the properties of the Republic of B-H by the former JNA, I hereby,

ORDER:

1. In a co-ordinated action with the Ministry of Interior, full and mass blockading of all roads on the territory of B-H along which former JNA units are beginning to withdraw material and technical equipment.
 2. The blockade of military installations and the immediate surrounding areas from which attempts are being made to remove material and technical equipment by the securing of different kinds of artificial and natural barriers by units of the Republic's Territorial Defense and the Ministry of Interior.
 3. The prevention of the unannounced movement of former JNA units from barracks without a Ministry of Interior escort and the prevention of JNA field communications throughout the territory of B-H.
 4. The immediate planning and initiation of military action throughout the entire territory of B-H, co-ordinating the same with the territorial regional defense, district and the Republic of B-H headquarters.
- Within the framework of the plans for military action, the inclusion of plans of wide-ranging scope for the protection of the population and the material possessions of the citizens of the Republic of B-H.

Minister of Interior
Alija Delimustafić

ДОКУМЕНТ бр. 19

S D A

STANAK
111.111.111.111
111.111.111.111

A. Sitak & demokratske akcije - Sarajevo ul. Mirne Tere
Tel: (071) 518 - 945, 518 - 967, fax 518 - 771.
ZK demokratske akcije Sarajevo 10100 - 678 - 34547, demokratske
akcije Sarajevo 10100 - 678 - 34547

Nat crk:

Nat crk:

Datum:

20.01.1993. god.

Kako situacija u Bosni i Hercegovini, iz časa u čas postaje u pogledu bezbjednosti složenija, osobito nakon prihvatanja Ženevskih dokumenata od strane Karadžića i njegove klike na Palama, potrebno je u cilju ostvarenja težnji svih Muslimana, očuvanja i jačanja naše države BiH, hitno poduzeti slijedeće mjere na terenu trebinjske općine:

I

Preko naših aktivista animirati sve Muslimane, osobito ugledne i imućne da u što skorijem vremenu napuste Trebinje i pređu u Crnu Goru.

II

Imovinu, pokretnu i nepokretnu, djelomično prodati, a po mogućnosti ostavljati na čuvanje provjerenim Srbima, od ranije poznatih prijateljskih Muslimana koji su protivnici otpadničke Karadžićeve politike.

III

Ne libiti se od pritiska, po i primjene sile prema onim Muslimanima koji ne postupe po ovoj zapovijedi.

IV

Po dolasku u Crnu Goru povezati se sa SDA, Merhametom i našim ljudima u Liberalnom savezu Crne Gore, gdje ćete dobiti sve instrukcije za daljnje postupanje. Svaki naš vjerski objekat u Crnoj Gori će vam pružiti pomoć, a braća u Tuzima, Podgorici, Plavu, Rožnju diljem Crne Gore vas očekuju.

DOCUMENT No. 19

SDA — PARTY OF DEMOCRATIC ACTION

Instructions concerning the moving out from Trebinje

No. 52/93

Date: 20 January 1993

TO SDA — TREBINJE

As the situation in Bosnia and Herzegovina from the security point of view is becoming more and more complex, especially after the acceptance of the Geneva documents by Karadžić and his clique in Pale, it is necessary, for the purpose of realizing the aspiration of all Muslims, the preservation and strengthening of our state of Bosnia and Herzegovina, to undertake urgently the following measures in the Trebinje district:

I

The rousing by our activities of all Muslims especially the prominent and the propertied, to leave Trebinje as soon as possible and cross into Montenegro.

II

The partial selling-off of property, both moveable and non-moveable, but, if possible, leaving it in the care of trustworthy Serbs, known from before as friends to the Muslims and opponents of Karadžić's heretical policies.

III

Not to hold back from exerting pressure, even the use of force, against those Muslims who do not follow this order.

IV

On arrival in Montenegro, to make contact with the SDA, Merhamet and our people in the Liberal Alliance of Montenegro where they will receive instructions for further action. All of our religious institutions in Montenegro will offer you aid and our brothers in Tuzi, Podgorica, Plav, Rožaj and throughout Montenegro await you.

Restitution will be made for all of your property when we achieve our goal and we know how to put the right price on your sacrifice, a sacrifice which all of the Muslims in the world expect from you.

Respectfully

Selamu aleykum

Sarajevo, 20 January 1993

Secretary SDA
Hasan Čengić

RATNI ZAROBLJENICI

Ratni zarobljenici su takođe prateća pojava svakog rata. Islam je i po ovom pitanju odredio decidna pravila koja

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obavezuju muslimanske vojnike. Iako je neprijatelj u ovom ratu prekršio svaku mjeru u zločinima apak muslimane obavezuje njihova vjera na pravednost i na pridržavanje određenih pravila koja vrijede i u ratnim uvjetima. U tom smislu zabranjeno je ubijanje žena, djece i svećenika, koji nemaju nikakvog učešća u ratu i koji direktno ili indirektno ne pomažu neprijatelje, zatim zabranjeno im je rušenje i uništavanje tuđih vjerskih svetinja, kulturno historijskih objekata kao i ubijanje domaćih životinja, uništavanje ljetine i rastinja. Islam takođe zabranjuje mučenje i izživljavanje na zarobljenicima, masakriranje neprijateljskih ranjenika i leševa. Pred polazak muslimanskih boraca u borbu, Muhammed a.s. je običavao govoriti: »Borite se i ne potkradajte jedni druge, ne obmanjujte se međusobno. Nemojte mučiti i ubijati djecu vaših neprijatelja.«

Ovo su opšta pravila, obavezujuća za naše vojnike. Međutim, ukoliko starješina procijeni da situacija i opšti interes zahtijevaju da se i drukčije postupi vojnicima, su obavezni poslušati starješinu. Tako npr. ako starješina ili viša komanda procijeni da je u interesu odbrane, zaštite vlastitog naroda i viših ciljeva ispravnije zapaliti određene objekte, usje-

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DOCUMENT No. 20

INSTRUCTIONS CONCERNING BEHAVIOUR OF THE MUSLIM SOLDIERS AND OFFICERS

PRISONERS OF WAR

Prisoners of war are also a phenomenon which accompany every war. Islam has also set decisive rules on this issue which are binding on Muslim soldiers. Although in this war the enemy has overstepped every limit with their crimes, Muslims are nevertheless bound by their faith to justice and to maintaining the fixed rules which apply even in conditions of war. In that sense, it is forbidden to kill women, children and priests who have in no way participated in the war and who do not, directly or indirectly, aid the enemy. Then, it is forbidden to demolish and destroy other people's holy places, cultural and historical buildings and to kill domesticated animals and destroy crops and cultivated land. Islam also forbids the torture and abuse of prisoners and the mutilation of enemy wounded and dead. Before the departure of Muslim soldiers to battle, Muhammad used to say: "Fight and do not steal from one another, do not deceive one another. Do not torture and kill children of your enemies".

These are general rules, obligatory for our soldiers. However, if an officer considers that the situation and general interest demand that things be done differently, the soldiers are duty-bound to obey the officer. Thus, for example, if an officer or a commander of higher rank judges that, in the interest of defence, the protection of his people and higher aims, it is more correct to burn certain buildings, crops or woods, then it is permitted to do so because it is well known from history that Muhammad permitted the destruction of the houses and the felling of the enemy's palm groves as a reprisal.

The option is also placed at the disposal of the military command to decide whether it is more useful and in the interest of the general good to liberate, exchange or liquidate enemy prisoners. The rule signified is based on the actions of Allah's messenger who, in various different circumstances, acted in various different ways. Thus, for example, at Bedar, he ordered the liquidation of Nadr bin Haris and Ukbe bin Muayt and, at Uhud, the liquidation of Ebu Izze el-Jumehi. In this respect, Allah declared: "It is not permitted that the Messenger of the Faith hold the enemy as prisoner until he has gained victory on earth." (El-Enfal: 67). In some other cases, Alayhisselam took ransom for enemy soldiers - prisoners and in other situations he carried out an exchange.

Приједлог основе за споразум између МБО и SDS

Suočeni sa razvojem događaja koji nosi opasnost krajnje konfrontacije, pa i oružanog sukoba između naša dva naroda, čiji se interesi, historijski, ne sukobljavaju, a svjesni odgovornosti pred narodima koje zastupamo i pred svim građanima BiH i Jugoslavije, odlučili smo da ustanovimo jedan sporazum kojim želimo riješiti najbitnije probleme i otvoriti perspektive buduće suradnje u miru i međusobnom povjerenju, na dobro svih građana BiH i naših naroda, te cijele jugoslovenske zajednice. Ovaj sporazum ima za cilj da ukloni opasnost od sukoba i da otvori perspektivu zajedničkog života u slobodi, ravnopravnosti i suradnji.

Svjesni teškoća, koje su naslijeđene, i onih koje smo svojim djelovanjem, sami proizveli, odlučili smo da budemo jedni prema drugima iskreni, i da uvažavamo interese svih ljudi i naroda koji su zainteresirani u vezi sa ovim pitanjem. Prema tome, ovo neće biti sporazum ni protiv koga, već za sve, i kao takav će biti otvoren za sve one koji podržavaju načelo zajedničkog života u slobodi i punoj ravnopravnosti.

Smatramo da osnovu takvog života čini međusobno priznavanje punog teritorijalnog integriteta i političkog subjektiviteta naše republike, kao i njenog ustavnopravnog položaja, kakav imaju ostale republike, te njene pune ravnopravnosti sa Srbijom i Hrvatskom u budućoj Jugoslaviji.

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III

AGREEMENTS AND OTHER ACTS MADE BY THE SERBIAN SIDE AND DR. RADOVAN KARADŽIĆ PERSONALLY IN ORDER TO PREVENT WAR OR TO END IT

DOCUMENT No. 21

HISTORIC AGREEMENT BETWEEN DR. RADOVAN
KARADŽIĆ, PRESIDENT OF THE SERBIAN DEMOCRATIC
PARTY AND ADIL ZULFIKARPAŠIĆ, PRESIDENT OF THE
MUSLIM BOSNIAK
ORGANIZATION (MBO)

The Suggested Basis Of an Agreement Between the MBO And the SDS

Faced with the development of events which carry with them the danger of confrontation and even armed conflict between our two national groups¹, whose interests, historically, do not conflict, and conscious of the responsibility we bear towards the national groups we represent and towards all citizens of B-H and Yugoslavia, we have decided to make an agreement by means of which we wish to solve the major problems and open perspectives for future cooperation in peace and mutual trust to the benefit of all the citizens of B-H, our national groups and the whole Yugoslav community. This agreement is intended to eradicate the danger of conflict and open prospects for life together in freedom, equality and cooperation.

Conscious of the inherited difficulties as well as those which we have brought about through our own actions, we have resolved to be honest with each other and to take into account the concerns of all peoples and all national groups who have an interest in this question. As a result this will not be an agreement in opposition to any one but will be for all, and as such it will be open to all those who uphold the principle of a joint life in freedom and complete equality.

We believe that the basis for such a life is to be found in mutual recognition of the complete territorial integrity and political independence of our republic and their complete equality with Serbia and Croatia in the future Yugoslavia.

We also believe that Yugoslavia is still necessary and is fully justified as a community of wholly equal states (republics) and national groups and we are committed to the preservation and development of such a community.

We believe that Bosnia and Herzegovina in all parts of its territory should be under the control of a unified Bosno-herzegovinian government without regionalization or cantonization

Smatramo, također, da je Jugoslavija još potrebna i da ima puno opravdanje, i to kao zajednica potpunog ravnopravnih država (republika) i naroda, te ćemo se za održavanje i razvoj takve zajednice zalagati.

Smatramo da Bosna i Hercegovina na svakom dijelu teritorije treba da djeluje jedinstvena bosanskohercegovačka vlast, bez regionalizacije i kantonizacije, kao oblika društveno-političkog i upravnog organiziranja i povezivanja.

Izražavamo svoj interes da Hrvati u Bosni i Hercegovini žive sa nama u Republici Bosni i Hercegovini u punoj ravnopravnosti, te ih pozivamo da pristupe ovom sporazumu.

Izražavamo svoj interes za demokratsko rješenje statusa i prava srpskog naroda u Hrvatskoj, te podržavamo njegovo nastojanje za autonomijom, kao i autonomijom muslimansko-bošnjačkog naroda u Sandžaku. Ukoliko srpski narod izrazi, i legitimno ostvari, svoju želju da ne živi u okviru hrvatske države, te izrazi želju da se Kninska krajina priključi Bosni i Hercegovini, tada postavljamo pitanje priključenja oba sandžaka Bosni i Hercegovini. Bilo koji pokret za izdvajanje teritorija BiH iz njenog sastava, uz naznačene uvjete života u njoj, smatraćemo nelegalnim secesionizmom.

Svjesni smo da sporazum, koji bi bio politički i historijski osnov za trajan, miran i produktivan suživot naših naroda mora, da riješi još mnoga pitanja. Smatramo, međutim, da ovim otvaramo proces i stvaramo prostor za iznalaženje takvih rješenja koja treba da budu sastavni dio ovog sporazuma. Takva pitanja su: način formiranja i učesće u vlasti svakog naroda; položaj, uloga i sastav oružanih snaga; pitanje ravnopravnosti u unutarnjim snagama reda; pitanje funkcionisanja sastava i lokacije zajedničkih organa, (vlade, centralnih banaka, centra JNA, predsjedništva države, parlamenta, vanjskih poslova), te brojna druga pitanja funkcioniranja sistema. Također smatramo da je optimalna jugoslovenska zajednica ona koja obuhvata svih šest republika i sve narode koji inicijalno konstituiraju takvu zajednicu. Svako istupanje iz takve zajednice podrazumijeva postizanje sporazuma o tome i pružanje garancija za realne interese svake od članica. Ovaj papir sadrži neke elemente eventualnog sporazuma, o čemu se diskutiralo i o čemu je moguće dogovoriti se, dok su druga pitanja na dnevnom redu i o njima tek treba da se postigne sporazum među inicijatorima, te odrede način, mjesto i oblik akceptacije, potpisivanje i postupak provođenja samog sporazuma.

Javnost treba obavijestiti o razgovorima, njihovom toku, inicijativama i postignutim rezultatima.

Na naš tekst Srbi su, kao kontraprijedlog, producirali svoj nacrt teksta mogućeg sporazuma.

in the form of a socio-political and governmental organization and network.

We declare that it is in our interest that Croats in Bosnia and Herzegovina should live with us in the Republic of Bosnia and Herzegovina in complete equality and we call on them to endorse this agreement.

We declare our interest in a democratic solution to the status and rights of the Serbian people in Croatia and we support their efforts to attain autonomy, as we also support the autonomy of the Muslim-Bosniak people in Sanjak. If the Serbian people express and, by legitimate means, realize their wish not to live as part of a Croatian state or if they express the wish to combine the Knin/Krajina region with Bosnia-Herzegovina, then we will raise the question of a similar merger of both Sanjaks with Bosnia-Herzegovina. Any movement what so ever that aims to partition the territory of B-H as presently constituted and with the stated organization of life within it, will be considered a movement of illegal secession.

We are aware that if an agreement is to become an historic basis for the lasting peaceful cohabitation of our national groups, it must give answers to many further questions. However we believe that, with this agreement we are opening the process and creating the space necessary to discover the solutions which should be an integral part of this agreement. The following are some of the questions at issue: the way in which every national group will participate in government and how that government will be formed: The deployment, role and constitution of armed forces; questions of equality within the domestic forces of law and order; questions of the functioning, composition and location of joint bodies (Government, Central Bank, JNA (Yugoslav National Army) Headquarters, the Presidency, Parliament and Office of Foreign Affairs) and many other questions of how the state will function. We also believe that the optimal Yugoslav community is that which includes all six republics and all the national groups that initially constituted that community. Every abstention from that community must be preceded by agreement and the provision of guarantees protecting the realistic interests of every member. This document contains some of the elements of the eventual agreement which have been discussed and about which it is possible to reach agreement, whereas other questions on the agenda still remain to be agreed upon by the initiators; the manner, place and form of acceptance and the procedure for implementing the agreement.

The general public must be informed of the discussions, the direction in which they are leading, the initiatives and the results achieved.

In response to our text the Serbs have, as a counter proposal, drafted a possible text for the agreement.

The Serbian Draft Of the Agreement

Faced with the development of events which are in mounting danger of leading to conflict between our two national groups, whose interests, historically, do not conflict, and who have never before been brought to a conflict of this sort, conscious of our responsibilities to the national groups we represent and to all the national groups of Bosnia and Herzegovina and Yugoslavia, we have decided, in the interests of future cooperation and peace, to create and sign the following political agreement.

1. Conscious of the inherited difficulties, and those that have been brought about by politi-

Srpski nacrt teksta sporazuma

Suočeni s razvojem događaja koji nose sve veću opasnost konfrontacije naša dva naroda, čiji se interesi istorijski ne sukobljavaju i koji nikada nisu imali sukob takve vrste, svjesni odgovornosti pred narodima koje zastupamo i evim narodima Bosne i Hercegovine i Jugoslavije, odlučili smo da, radi buduće saradnje i mira, uspostavimo i potpišemo sljedeći politički sporazum.

1. Svjesni teškoća, koje su naslijeđene, i onih do kojih je doveo dosadašnji politički život, kao je izbora, odlučili smo da se, u duhu otvorenosti i uzajamnog poštovanja, založimo za ostvarenje istorijskih i političkih interesa naša dva naroda. Pri tome ovo nije sporazum ni protiv koga, već za sve i kao takav biće otvoren svima koji podržavaju načelo zajedničkog života u slobodi i punoj ravnopravnosti.

2. Smatramo da osnovu takvog života čini međusobno priznavanje suverenosti pojedinih naroda i osiguravanje punog teritorijalnog integriteta i političkog subjektiviteta naše republike Bosne i Hercegovine i njenog istovjetnog ustavnopravnog položaja s ostalim republikama u zajedničkoj državi Jugoslaviji.

3. Po našem mišljenju, Jugoslavija ima puno istorijsko opravdanje kao zajednička država potpuno ravnopravnih republika i naroda, te ćemo se zalagati za održanje i razvoj takve zajednice.

4. Saglasni smo da Bosna i Hercegovina treba da bude pravno-politički jedinstvena i demokratski uređena federalna jedinica, s pravnim ingerencijama na svakom dijelu svoje teritorije, pod uslovom da su savezni ustav i zakonodavstvo osnov pravnog sistema zemlje i garant ravnopravnosti građana, naroda i republika.

5. Izražavamo svoj interes da Hrvati u Bosni i Hercegovini žive sa nama u punoj ravnopravnosti, te ih pozivamo da pristupe ovom sporazumu.

6. Međusobni odnosi građana, naroda i republika u Jugoslaviji biće uređeni u zajedničkom ustavu, uz korišćenje evropskih standarda.

7. Svjesni smo da ovaj sporazum predstavlja tek političku i istorijsku osnovu za naš trajan i miran zajednički život. Međutim, ovakav politički dogovor otvara prostor za nalaženje najkonstruktivnijih i najracionalnijih rješenja na planu funkcionisanja saveznih, odnosno zajedničkih organa monetarnog sistema, jedinstvenog tržišta, jedinstvenih oružanih snaga, kao i spoljnih poslova.

8. Isto tako, smatramo da je optimalna jugoslovenska zajednica ona koja obuhvata svih šest republika i sve narode koji inicijalno konstituišu takvu zajednicu. Svako istupanje iz takve zajednice podrazumijeva

cal developments since the elections, we have decided, in the spirit of openness and mutual respect, to exert our best efforts towards the realization of the historic and political interests of our two national groups. As a result this is not an agreement in opposition to anyone but for all, and as such it will be open to all those who uphold the principle of a joint life in freedom and complete equality.

2. We believe that the basis for such a life is to be found in mutual recognition of the sovereignty of each national group and the insurance of complete territorial integrity and political independence of our republic, Bosnia and Herzegovina and its equal constitutional-legal position with the other republics in the joint state of Yugoslavia.

3. We think that Yugoslavia has complete historical justification as a joint state of wholly equal republics and national groups and we are committed to the preservation and development of such a community.

4. We are agreed that Bosnia and Herzegovina should be a legally and politically unified democratically organized federal unit with legal authority in every part of its territory on the condition that the federal constitution and legislature form the basis of the legal system of the country and the guarantee of equality between citizens, national groups and republics.

5. We declare that it is in our interest that the Croats in Bosnia and Herzegovina should live with us in complete equality and we call on them to endorse this agreement.

6. Relations between citizens, national groups and republics in Yugoslavia will be defined in a joint constitution formulated with reference to European standards.

7. We are aware that this agreement represents only a political and historical basis for our lasting and peaceful life together. However such a political agreement opens the way to finding the most constructive and rational solution for the functioning of federal, that is, joint organs of the monetary system, the single market, unified armed forces and foreign affairs.

8. We also believe that the best possible Yugoslav community is that which includes all six republics and all the national groups that originally formed that community. Any secession from that community will necessitate the reaching of agreement and the giving of guarantees for the realistic interests of all members on the land of others.

Both these texts were no more than a basis for further work. We expected that the USA would become a factor in our situation which would, in that case have strengthened our demands, forcing the Serbs into further concessions. That was the pattern to be expected in the preliminary discussions. As we suggested, both in the text of the agreement and in the course of preliminary discussions, that the HDZ should take part in the discussions and join in the agreement itself, that meant that the demands of the Bosnian side, that is the side which defends the territorial integrity of B-H would be further extended. For this reason we visited Stjepan Kljuić and informed him in detail of the background and reasons for the discussions, and briefed him on their progress. We told him about their possible effects and suggested that the HDZ should become involved, either bilaterally, with every side, individually or multilaterally. At this point he told us he would consult with his friends and inform us of his position.

However, in the place of further discussions we were stabbed in the back. It was the intention that the general public should be informed, to a certain extent, about the talks, because this would have, and indeed did have a positive effect on reducing tension between

postizanje sporazuma u tome i pružanje garancije za realne interese sve od članica na tri druge.

Oba ova teksta su bila samo osnova za daljnji rad. Očekivali smo da će se, u nastaloj situaciji, SDA pojaviti kao faktor koji će pojačati eventualne naše zahtjeve i time prisiliti Srbe na neke daljnje ustupke. To bi bila normalna logika vođenja pregovora. Kako smo mi predložili, i u tekstu sporazuma i u toku pregovora, da se HDZ uključi u tok razgovora i pridruži samom sporazumu, to je značilo da će zahtjevi bosanske strane, tj. strane koja brani integritet BiH, biti samo ojačani. Zbog toga smo posjetili Stjepana Kljuića i upoznali ga detaljno sa uzrocima, motivima i tokom razgovora, te sa njihovim mogućim efektima, predlažući mu da HDZ pristupi razgovorima, bilo bilateralno, sa svakom stranom posebno, bio multilateralno. On je tada izjavio da će o svemu razgovarati sa prijateljima i saopćiti nam svoj stav.

Međutim, umjesto daljnjih razgovora, došao je jedan, odista pod-mukao, udarac u leđa. Trebalo je da javnost, u određenoj mjeri, sazna za razgovore, jer bi to imalo, a imalo je sigurno, pozitivne posljedice u smislu popuštanja srpsko-muslimanske napetosti, pa je Adil Zulfikarpašić pristao da bude gost emisije na TV i dadne neka osnovna obavještenja o toku razgovora. Međutim, jedan od partnera u razgovorima, koji je do tada podržavao i ideju i uzeo učešća u njima, naglo mijenja poziciju i u toku same emisije šalje "telex" kojim odbacuje i samu ideju o razgovorima i sporazumu. Time je cijela inicijativa dobila drugačiji tok i parametre. Stvar je iskorištena da se nanese eventualna šteta MBO-u, bez obzira na to što cijeli ovaj postupak protivrječi pravilima i uzusima ponašanja strana u pregovorima, te što može imati ogromne negativne posljedice i po BiH i po naš muslimansko-bošnjački narod. U pitanje je dovedena jedna inicijativa i napor da se potraži mirno rješenje osnovnog spora u BiH, tj. spora oko njenog suvereniteta i priznanja Srba da je BiH država kao i Srbija, te i da bude osigurana u toj svojoj ravnopravnosti u međunarodnom mediju. Protiv te inicijative je povedena besprimjerna medijska kampanja, kao i svakojaki izvanpolitički, krajnje nemoralni, pa i kriminalni, postupci, da bi se usiđarilo i da bi se popravio poljuljani rejting vladajuće stranke. Sve to samo kompromitira daljnje izgleda naše stranke, našeg naroda u cjelini i BiH. Nastavlja se ista usokogruda politika koja je već uveliko ugrozila egzistenciju BiH kao države, našeg naroda, kao puno pravnog naroda u Jugoslaviji, u BiH i svih naših povijesnih interesa.

Serbs and Muslims. Adil Zulfikarpašić appeared on the TV and gave some basic information on the course of the discussions. However one of the partners in the discussions, who up to that time had supported the idea and participated in the talks, suddenly changed his position and, while the TV appearance was still in progress, sent a "telex" refuting the very idea of the discussions or of an agreement. With this the whole initiative took on a different course, with different parameter. It was used to cause damage to the MBO, in spite of the fact that this went against the established ground rules for the behavior of participants in the discussions and could have extremely serious consequences, in B-H and for the Muslim-Bosniak people. It put at risk the efforts and the initiative to seek a peaceful solution to the fundamental problem at issue in B-H, that is, the question of the republic's sovereignty and the recognition by the Serbs that B-H is a state like Serbia and also to be safeguarded in its equality in the international media. An unprecedented media campaign was mounted against this initiative, as well as all kinds of other extra-political, extremely immoral, and even criminal acts aimed at point scoring and improving the popularity of the ruling party. All this further undermines the position of our party, our national group as a whole, and B-H. The same narrow-minded politics that have already greatly damaged B-H as a state, our national group, as a fully established national group in Yugoslavia and in B-H and our historical interests.

Sarajevo, 5 August 1992

Note:

1 *Narod* - this politically charged word can be variously translated as 'people', 'nation' or 'ethnic group'. All the connotations of Nation in English make it an inappropriate choice in this context. Ethnic group, however, does not adequately convey the claim to historic independence of action that is implied.

ДОКУМЕНТ бр. 22

ДОКУМЕНТ БР. 22

ЛИСАБОНСКИ СПОРАЗУМ

ИЗЈАВА О ПРИНЦИПИМА

За нове уставне аранжмане за Босну и Херцеговину

А. Независност

1. Босна и Херцеговина би тебала да буде држава која се састоји од три конститутивне јединице, засноване на националним принципима и узимајући у обзир економске, географске и друге критерије.

2. Босна и Херцеговина ће и даље имати своје садашње границе, а Влада Босне и Херцеговине, као и владе њених конститутивних јединица неће охрабрити нити подржавати захтеве суседних држава ни за једним делом своје територије.

3. Суверенитет је на грађанима муслиманске, српске и хрватске нације и грађанима других нација и националности, који га остварују путем свог грађанског учешћа у конститутивним јединицама и у централним органима Републике.

Б. Општи принципи

1. Босном и Херцеговином и њеним конститутивним јединицама ће се управљати у складу са следећим уставним принципима, као што је прихваћено у уопште практиковано међу демократским земљама Западне Европе и као што је постављено у нацрту Конвенције према расправи која је вођена на Конференцији:

а. Поштовање људских права на највишем нивоу, како је предвиђено нацртом Конвенције, поштовање приватног власништва, тржишне првреде и слободног предузетништва;

б. Општа и једнака права на гласање на слободним изборима и тајно гласање;

ц. Слобода политичких и синдикалних активности;

д. Грађански државни систем са потпуном слободом вероисповести и

DOCUMENT No. 22

THE LISBON AGREEMENT
STATEMENT OF PRINCIPLES

FOR NEW CONSTITUTIONAL ARRANGEMENTS
FOR BOSNIA AND HERZEGOVINA

A. Independence

1. Bosnia and Herzegovina would be a state, composed of three constituent units, based on national principles and taking into account economic, geographic and other criteria.

2. Bosnia and Herzegovina would continue to have its existing borders and neither the government of Bosnia and Herzegovina nor the governments of the constituent units will encourage or support claims to any part of its territory by neighbouring states.

3. Sovereignty resides in the citizens of Muslim, Serb and Croat nations and other nations and nationalities, who realize it through their civic participation in the constituent units and the central organs of the Republic.

B. General Principles

1. Bosnia and Herzegovina and its constituent units would be governed in accordance with the following constitutional principles, as understood and generally practiced among the democratic states of Western Europe and as set out in Draft Convention under discussion in the Conference:

a. Respect for human rights at the highest standards as envisaged in the draft Convention, respect for private ownership, the market economy and free enterprise;

b. The general and equal rights to vote free elections and secret voting;

c. Freedom for political and trade union activities;

d. A secular state system with full religious freedom and separation of church and state, separation of powers between the branches of government, the rule of law and a democratic and effective system of control and protection of constitutionality and legality;

e. International control and jurisdiction for the protection of human rights and freedom.

C. The Assembly and Government of Bosnia and Herzegovina

1. The Assembly of Bosnia and Herzegovina would be composed of a Chamber of Citizens, which would be directly elected, and a Chamber of Constituent Units in which each of the constituent units would have an equal number of representatives.

2. The Assembly, acting through the Chamber of Citizens and the Chamber of Constituent Units, and the Government, would have competence to legislate, to consider and adjust proposals from the constituent units and to administer in the following fields: Central Bank and monetary policy, foreign relations, defense, general economic policy, economic relations, including, where any of the following affects more than one constituent unit, transport, energy supplies, pipelines and water management, and other items to be decided. Decisions concerning the flag and emblem, higher education, religion, matters concerning defense, macro-economic policy, important or general matters concerning economic policy, decisions concerning relations between Bosnia and Herzegovina and states neighboring

одвајане државе од цркве, раздвајање овлаштена међу оделенима владе, владавина закона и демократски и ефикасан систем контроле и заштите уставности и законистости;

е. Међународна контрола и надлежност за заштиту људских права и слобода

II. Скупштина и Влада Босне и Херцеговине

1. Скупштина Босне и Херцеговине ће се састојати од Дома народа, који ће бити директно биран и Дома конститутивних јединица, у којем ће свака од конститутивних јединица имати једнак број својих представника.

2. Скупштина, која ће деловати кроз Дом народа и Дом конститутивних јединица, као и Влада, ће имати надлежност да доноси законе, да разматра и усклађује предлоге конститутивних јединица и да управља у следећим пољима: Централна банка и монетарна политика, инострани послови, одбрана, општа економска политика, економски односи, укључујући, где било који од следећих послова укључује више од једне конститутивне јединице, и транспорт, снабдевање струјом, гасовод, водопривреда, као и у другим питањима о којима ће се одлучивати. Одлуке које се тичу заставе и грба, високог образовања, вероисповести, питања које се тичу одбране, макро-економске политике, важних општих питања из економске политике, затим одлуке које се тичу односа између Босне и Херцеговине и суседних држава и других питања, ће се одлучивати у Дому конститутивних јединица већином од четири петине гласова укупног броја представника у том телу.

Примедба: О питањима која се тичу будућих оружаних снага Босне и Херцеговине ће се одлучивати током ових преговора. Ово се не односи на садашњу војску, чије питање ће се одвојено решавати.

3. Састав и државна служба и правосудје Босне и Херцеговине ће пропорционално одражавати националну структуру Босне и Херцеговине.

4. Како би се решила уставна питања између власти Босне и Херцеговине и њених конститутивних јединица, посебан суд ће се основати који ће у периоду не краћем од пет година укључити непристрасне елементе ангажоване изван Босне и Херцеговине и њених суседних држава. Суд ће имати по једног члана из сваке јединице и исти број плус један више

Bosnia and Herzegovina and other items to be decided would be decided in the Chamber of Constituent Units by a majority of four-fifths of the total number of the representatives in it.

Note: Matter concerning the future armed forces of Bosnia and Herzegovina will be defined in the course of these negotiations. This does not refer to the present army, the question of which will be solved separately.

3. The composition of the civil service and the judiciary of Bosnia and Herzegovina would reflect proportionally the national composition of Bosnia and Herzegovina.

4. In order to resolve constitutional questions between the authorities of Bosnia and Herzegovina and the constituent units, a special Tribunal would be established, which would for a period of not less than five years include impartial elements drawn from outside Bosnia and Herzegovina and its neighbouring states. This Tribunal will have one member from each unit and the same number and one more drawn from outside. It takes decisions by simple majority.

D. The Constituent Units

1. Within Bosnia and Herzegovina, constituent units would be established, which are defined in Part E below.

2. The Assembly and the government of the constituent units would have powers, subject to any legislation of Bosnia and Herzegovina in the limited fields specified above and in accordance with the procedures set out above, to legislate and to administer in matters of concern to the constituent units, namely, the administration of the services and officials of a constituent unit, expropriation of property for public use, land registries, fire prevention, chambers of commerce, supervision of co-operative trading organizations, savings banks and credit institutions, supervision of charitable institutions, social security, sickness insurance, conservation of the historic, artistic and cultural heritage, cultural institutions, such as libraries, institutes and museums, the use of land, environmental controls, housing, markets, roads, emergency services, mining, hunting and fishing, nature reserves, aqueducts, water management, pipelines, transport within the constituent unit, tourism, agriculture and forests, social assistance, education, schools, police, trade and other aspects of economic policy, security and public performances, hygiene, sport and recreation and other items to be decided. Each constituent unit would organize its own institutions. A constituent unit may establish and maintain relations and links with the other Republics and with organizations in them provided that these relations and links are consistent with the independence and integrity of Bosnia and Herzegovina.

3. All the institutions (civil service, judiciary, etc.) established by a constituent unit would reflect proportionally the national composition of the constituent unit.

4. Members of the nations who would be in a minority in a particular constituent unit would receive protection similar to that in Article 2 (3) of the draft Convention.

E. Definition of the Constituent Units

A working group will be established in order to define the territory of the constituent units based on national principles and taking into account economic, geographical and other criteria. A map based on the national absolute or relative majority in each municipality will be the basis of work in the working group, and will be subject only to amendments, justified by the above-mentioned criteria. A copy is annexed to this Statement.

Основаће се радна група како би се дефинисала територија
живана. Дносиће одлуке простом већином.

1. Конститутивне јединице

1. Конститутивне јединице, које су наведене у члану 2 овог закона, се
успоставиће у Босни и Херцеговини

2. Скупштина и Влада конститутивних јединица ће имати моћ, према
било којем закону Босне и Херцеговине у ограниченим пољима горе,
прецизираним и у складу са процедурама горе наведеним, да доноси законе и
руководи у питањима која се тичу конститутивних јединица, као што су
руковођене службама и службеницима конститутивне јединице,
експропријација имовине за јавну употребу, регистри земљишта, спречавање
пожара, привредне коморе, надгледање трговачких организација, очување
сарађују, штедионица и кредитних институција, надгледање добротворних
институција, социјална безбједност, здравствено осигурање, очување
историјског, уметничког и културног наслеђа, културне институције као што
су библиотеке, институт и музеји, кориштење земљишта, контрола
заштите животне средине, становање, трговина, путеви, службе за помоћ у
ванредним ситуацијама, рударство, лов и риболов, природна богатства,
авадукти, водопривреда, гас, превоз унутар конститутивне јединице,
туризам, пољопривреда и шумарство, социјална помоћ, образовање, пошта,
полиција, трговина и други аспекти економске политике, безбедност и јавна
радони, хигијена, спорт и рекреација и друга питања о којима ће
одлучивати. Свака конститутивна јединица ће организовати своје
институције. Конститутивна јединица може успоставити и одржавати
и везе са другим Републикама и њиховим организацијама ако су ти
везе у складу са независношћу и интегритетом Босне и Херцеговине.

3. Све ове институције (државна служба, правосудје) које
конститутивна јединица ће пропорционално одражавати националне
конститутивне јединице.

4. Државна службама и институцијама у одређеној конститутивна
јединица заштити сличну ону, наведену у члану 2 (3) овог закона.

F. Transitional Steps

1. Subject to the definition of the constituent units for the purpose of the future arrange-
ments in accordance with Part E if this Statement, a constitutional law to modify the Consti-
tution in order to give effect to these principles will be prepared and submitted to the Assem-
bly as soon as possible, and will have to be confirmed by a referendum of the people under
international supervision.

THIS PAPER IS A SUBJECT FOR FURTHER NEGOTIATIONS

Sarajevo,
18 March 1992

As agreed by the leaders of SDA, SDS and HDZ parties in the fifth round of the talks on
future constitutional arrangements for Bosnia and Herzegovina under the auspices of the EC
Peace Conference

ДОКУМЕНТ бр. 23

Полазећи од права народа на самоопредељење и самоорганизовање, имајући у виду спремност српског народа да се међуетнички сукоби у Босни и Херцеговини ријеше мирним путем и политичким средствима,

Слиједећи вољу српског народа да буде интегрални дио међународне заједнице,

Скупштина српског народа у Босни и Херцеговини као једини легитиман представник и највиши орган власти Српског народа у Босни и Херцеговини, у сврху обраћања Савјету безбједности, његовим сталним чла-ницама Америци, Русији, Француској, Кини и Великој Британији, као и Међународној заједници д о н о с и

Д Е К Л А Р А Ц И Ј У

о прихватању и подржавању свих хуманитарних
настојања Међународне заједнице

1. Српске власти су за тренутан и безуслован прекид рата и постизање консензуса о политичком рјешењу кризе.

2. Са српске стране нема сметњи за хуманитарне конвоје. Српска страна је предала Аеродром Сарајева под контролу УНПРОФОР-а, дала пуне гаранције за копнене коридоре и отворила све затворе за међународну инспекцију, а спремна је и ~~за затварање свих затвора~~ путем размјене заробљеника по принципу "сви за све". Стога било каква војна интервенција у хуманитарне сврхе нема оправдања.

3. Иако српски војници не могу да замисле сукоб са војницима Енглеске, Француске, Америке или било које друге земље старог српског савезника, ипак би међународна војна интервенција прерасла у неконтролисан процес чији исход се не би могао предвидјети.

4. Долазак било какве друге војске, осим непристрасних снага УН као чувара мира, могао би да доведе до ескалације рата и несагледивих последица.

Грешка прераног међународног признања Босне и Херцеговине не може се исправити чињењем нове грешке, војне интервенције, која би се претворила у војну арбитражу и мијешање у међуетнички рат у корист једне стране.

DOCUMENT No. 23

SECRETARY GENERAL OF UNITED NATIONS

Dr. BOUTROS GHALI

Starting from the right of peoples to self-determination and self-government, and bearing in mind readiness of the Serbian people to resolve the inter-ethnic conflicts in Bosnia and Herzegovina in a peaceful way and by political means,

And with respect of the will of the Serbian people to be the integral part of the International Community,

Assembly of the Serbian people in Bosnia and Herzegovina, as the only legitimate representative and the highest instance of legislative power of the Serbian people in B and H, with purpose to inform and address Security Council, and its permanent members - USA, Russia, France, China and Great Britain, as well as the International Community at large, proclaims the following

DECLARATION

About acceptance and support of all humanitarian efforts of the International Community

1. Serbian authorities in Bosnia are deeply committed to the immediate cease-fire and consensus about the political solution of the crisis.

2. From the Serbian side there is no obstacle for any humanitarian convoys. Serbian side turns in the airport of Sarajevo under the UNPROFOR control, gave full guarantees for the ground corridors, and opened all prisons for the international inspection. Furthermore, we are ready for the exchange of prisoners, based on the principle "all for all". Therefore, any military intervention for humanitarian purposes does not have justification.

3. Serbian soldiers cannot imagine the conflict with the soldiers of England, France, USA, or any other ally in the world wars. However, any international military intervention will necessarily become uncontrolled process with the unpredictable outcome.

4. The arrival of any military force, apart from the impartial forces of the UN, as peace-keepers, could produce the escalation of the war and lead to the unpredictable consequences. The mistake of the premature recognition of B and H cannot be corrected by the new mistake, by the military intervention which will necessary become military arbitration and involvement in an inter-ethnic war for the benefit of the one side.

5. Serbian authorities in Bosnia and Herzegovina are ready to take responsibilities for all humanitarian efforts of the International Community in full cooperation with all endeavors which are not undermining survival of the Serbian people.

6. Serbian side in Bosnia and Herzegovina requests from the Security Council to announce publicly all condition that have to be satisfied in order to avoid military intervention and bloodshed that would follow it.

Banja Luka, 11 August 1992

ASSEMBLY OF THE SERBIAN PEOPLE
IN BOSNIA AND HERZEGOVINA

508

На основу члана 70. тачка 2. Устава Републике Српске, након разматрања могућности окончања ратних сукоба у хуманитарне акције којом би се помогло цивилном становништву, а полазећи од докумената Лондонске конференције, њених миротворних хуманитарних иницијатива, а имајући у виду одредбе Женевске конвенције којима се штите права избјеглица, Народна скупштина Републике Српске, на 20. засиједању одржаном 14. и 15. септембра 1992. године, доноси

Д Е К Л А Р А Ц И Ј У О УСПОСТАВЉАЊУ МИРА

1. Позивамо Предсједништво такозване Републике Босне и Херцеговине да објави прекид ратног стања и нареди обуставу ратних дејстава најкасније до почетка Женевске конференције заказане за 18. 09. 1992. године.

У истом року Војска Републике Српске поступиће на исти начин, тј. обуставити све ратне активности.

2. Позивамо Владу Херцег-Босне и такозване Републике Босне и Херцеговине да приступимо преговорима о успостављању трајног мира, споразумном разграничењу и регулисању свих међусобних односа.

Уколико не постоји спремност за дефинитивно политичко уређење међусобних односа Република Српска предлаже да се и прије тога приступи преговорима којима би били обезбјеђени нужни интереси свих грађана, као што су:

— заједничко кориштење вода, електричне енергије, саобраћајница, радио и ТВ веза, функционисање платног промета,

— збрињавање болесника из здравствених установа, регулисање статуса и размјена заробљеника,

— кориштење документације неопходне пензионерима и другим грађанима за остваривање права из радних односа и др.

3. Позивамо све грађане који су напустили своја пребивалишта због ратних дејстава, осјећања личне несигурности и угрожености имовине да се, по успостављању трајног мира, врате на територију Републике Српске.

Свим грађанима других националности признаће се сва права према Уставу и законима.

OFFICIAL GAZETTE OF REPUBLIKA SRPSKA

No. 15

29 September 1992

On the basis of Article 70, Paragraph 2 of the Constitution of Republika Srpska and after considering the possibilities of ending fighting and humanitarian actions which could provide assistance to the civilian population, using as a basis documents of the London Conference and its peace-making humanitarian activities and having in view the provisions of the Geneva Convention which provide for the protection of the rights of the refugees, the National Assembly of Republika Srpska, at its 20th session held on the 14 and 15 September 1992, adopted the following

DECLARATION ON THE ESTABLISHMENT OF PEACE

1. We call upon the Presidency of the so-called Republic of Bosnia and Herzegovina to declare the suspension of the state of war and to order the cessation of military actions by the beginning of the Geneva Conference scheduled for 18 September 1992 at the latest.

During the same period, the Army of Republika Srpska will act in the same manner; i. e. it will stop all military activities.

2. We call upon the Governments of Herzeg-Bosnia and of the so-called Republic of Bosnia and Herzegovina to begin negotiations with us about establishing a permanent peace, the drawing-up of agreed borders and the regulating of all mutual relations.

If the readiness for a definitive political ordering of mutual relations does not exist, Republika Srpska proposes that, even before this, negotiations be entered into which would secure the necessary interests of all citizens such as the following:

- the common use of water, electricity, transportation, radio and TV links, the functioning of currency transfer,

- the care of patients in health institutions, the regulation of the status of, and exchange of prisoners,

- the use of documentation essential to pensioners and other citizens for the purpose of realizing rights arising from employment and similar things.

Сви они који су били припадници непријатељских снага, а нису починили злочине против српског народа, неће бити кривично гоњени.

4. Уколико и ова мировна иницијатива не наиђе на разумјевање и прихватање, Народна скупштина захтијева да Предсједништво Републике:

— у име Републике Српске размотри проглашење ратног стања,

— да у јединице Војске Републике Српске позове као добровољце Србе из других српских земаља, из иностранства, као и добровољце из осталих православних и других пријатељских земаља.

Предсједник
Број 02-957/92. Народне скупштине,
15. септембра 1992. г. Мр Момчило Крајишник, с.р.

3. We call upon all citizens who have abandoned their places of residence because of military activity, feelings of personal insecurity and threats to their property to return to the territory of Republika Srpska upon the establishment of a permanent peace.

All rights of all citizens of other nationalities will be recognized according to the Constitution and law.

All those who were members of enemy forces but who did not commit crimes against Serbian people will not be criminally pursued.

4. If this peace initiative would not be met with understanding and acceptance, the National Assembly demands that the Presidency of the Republic:

- in the name of Republika Srpska, consider the proclamation of a state of war;
- to call for Serbs from other Serbian lands and from abroad to join units of the Army of Republika Srpska as volunteers, as well as volunteers from Christian Orthodox and other friendly countries.

No. 02-957/92
15 September 1992

PRESIDENT
of the National Assembly
Mr. Momčilo Krajišnik



СЛУЖБЕНИ ГЛАСНИК РЕПУБЛИКЕ СРПСКЕ

Година 1 - Број 19

Петак, 18. децембра 1992.

САРАЈЕВО

Аконтација претплате за 1992.

годину 4.500 динара

Цијена овом броју 1000 динара

Жиро-рачуни 12970-603-6275

718

Полазећи од чињенице да се бивша СР Босна и Херцеговина распала,

Истичући да је српски народ, бранећи се истовремено од фашизма и од исламског фундаментализма, оружаним народним отпором одбранио своје историјске и етничке територије и спречио планиран геноцид над српским народом.

Објављујући да је српски народ, у грађанском рату који сам није започео, већ му је тај рат био наметнут, остварио своју легитимну и легалну тежњу за сопственом и сувереном државом,

Користећи суверено право српског народа на самоорганизовање и самоопредјељење у складу са чланом 1. Повеља УН о праву народа на самоопредјељење,

На основу члана 70. Устава Републике Српске, Народна скупштина Републике Српске је на својој сједници одржаној дана 17. децембра 1992. године усвојила

ДЕКЛАРАЦИЈУ О ЗАВРШЕТКУ РАТА

I

1. Проглашава се да је међуетнички и међуверски рат у бившој СР Босни и Херцеговини за Републику Српску завршен.

2. Српски народ је одбранио своју самосталну и суверену државу — Републику Српску.

3. Република Српска је спремна да своје границе, које је дефинисала њена Скупштина, оствари политичким средствима. Садашње границе имају привремен карактер.

Садашње границе Републике Српске имају карактер привремених граница до дана закључивања мировног уговора између страна у сукобу у бившој СР Босни и Херцеговини.

Мировни уговор из претходног става може бити закључен тек када се, у складу са Резолуцијом 787. Савјета безбједности, јединице Војске Републике Хрватске повуку на територију Републике Хрватске, када се мирним путем и политичким средствима ријеше сви територијални и гранични спорови између конститутивних држава које су организоване на територији бивше СР Босне и Херцеговине и када међународна заједница буде гарантовала његово извршење.

4. Република Српска је искрено спремна да отпочне преговоре о закључивању мировног уговора

OFFICIAL GAZETTE OF REPUBLIKA SRPSKA

Year I,
18 December 1992

Sarajevo

Starting from the fact that the former Socialist Republic of Bosnia and Herzegovina fell apart, emphasizing that, defending itself at the same time against fascism and Islamic fundamentalism, the Serbian people have defended their historic and ethnic territories and have prevented planned genocide over the Serbian people by armed popular resistance.

Declaring that the Serbian people, in a war which they did not begin but which was imposed on them, have realized their legitimate and lawful aspiration for their own sovereign state.

Using the sovereign right of the Serbian people to self-organization and self-determination in according to Article 1 of the UN Charter concerning the right of a people to self-determination.

On basis of article 70 of the Constitution of Republika Srpska, the National Assembly adopted at its session held on 17 December 1992 the following

DECLARATION ON THE END OF THE WAR

I

1. The inter-ethnic and inter-religious war in the former Socialist Republic (SR) Bosnia and Herzegovina is declared to be over for Republika Srpska.

2. The Serbian people have defended their independent and sovereign state - Republika Srpska.

3. Republika Srpska is ready to establish its borders as defined by its Assembly using political means. The present borders of Republika Srpska are of temporary character until the concluding a peace agreement between the sides in conflict in the former Socialist Republic Bosnia and Herzegovina.

The peace agreement cited in the previous paragraph can only be concluded when, in accordance with Resolution 787 of the UN Security Council, units of the Army of the Republic of Croatia withdraw to the territory of the Republic of Croatia, when all territorial and border disputes between the constitutive states which are organized on the territory of the former Socialist Republic Bosnia and Herzegovina have been resolved peacefully and by political means and when the international community should guarantee its implementation.

4. Republika Srpska is sincerely prepared to begin negotiations about the concluding the peace agreement between the sides in the civil war in the former SR Bosnia and Herzegovina



СЛУЖБЕНИ ГЛАСНИК РЕПУБЛИКЕ СРПСКЕ

Година I - Број 19

Петак, 18. децембра 1992.
САРАЈЕВОАконтација претплате за 1992.
годину 4.500 динара
Цијена овом броју 1000 динара
Жиро-рачун 12970-603-6275

ра између страна у грађанском рату у бившој СР Босни и Херцеговини и настави преговоре о уређењу бивше Босне и Херцеговине у оквиру мировне конференције о бившој Југославији.

5. Државни органи Републике Српске, на основу њеног Устава и закона не обезбједили мир, животну, правну и имовинску сигурност свим грађанима, без икакве дискриминације.

6. Република Српска сарађује с органима међународне заједнице у остваривању људских и мањинских права.

7. Државни органи Републике Српске, у складу са својом надлежношћу, позивају сва наоружана лица са територије Републике Српске која се не налазе у саставу Војске Републике Српске или Министарства унутрашњих послова Републике Српске да предају своје наоружање које посједују или да се ставе под команду Војске Републике Српске.

Спречава се, у складу са законом, свако даље оружано дјеловање на територији Републике Српске.

8. Амнестирају се сва лица која су учествовала у оружаним сукобима а нису починила ратне злочине.

Ратни злочинци се гоне у складу са Законом.

II

9. Република Српска и даље предузима све потребне мјере за размјену ратних заробљеника и за распуштање затвора за ратне заробљенике.

10. Република Српска је спремна да отпочне преговоре о успостављању економских односа са другим дијеловима бивше СР Босне и Херцеговине и бивше СФР Југославије.

11. Република Српска искрено сарађује са ОУН, Савјетом безбједности, Мировном конференцијом о бившој Југославији, УНПРОФОР-ом, Међународним комитетом Црвеног крста и Високим комесаријатом за избјеглице у спровођењу резолуције Савјета безбједности, допремање хуманитарне помоћи и пружању сваке друге помоћи потребне становништву на подручјима захваћеним ратним дејствима.

III

Ова декларација ступа на снагу осмог дана од дана доношења.

Број 02-1954/92
17. децембра 1992. год.Предсједник
Народне скупштине,
Мр Момчило Крајишник, с.р.

and to continue negotiations about the ordering of the former Bosnia and Herzegovina within the framework of the Peace Conference on the former Yugoslavia.

5. On the basis of its Constitution and laws, the state organs of Republika Srpska will secure peace and security of life, rights and property of all its citizens without any discrimination.

6. Republika Srpska is co-operating with institutions of the international community in the realizing of human and minority rights.

7. In accordance with their authorizations, the state bodies of Republika Srpska call upon all armed persons on territory of Republika Srpska who are not included within the Army of Republika Srpska or the Ministry of Interior of Republika Srpska to hand over any weapons they possess or place themselves under the command of the Army of Republika Srpska.

Any continued armed activity on the territory of Republika Srpska is being prevented in accordance with the law.

8. All persons who participated in armed conflicts but who did not commit war crimes are amnestied.

War criminals are being persuaded in accordance with the law.

II

9. Republika Srpska is continuing to undertake all necessary measures for the exchange of prisoners-of-war and for the release of prisoners-of-war from prison.

10. Republika Srpska is ready to begin negotiations about the establishment of economic relations with other parts of the former SR Bosnia and Herzegovina and the former Socialist Federal Republic (SRF) of Yugoslavia.

11. Republika Srpska is co-operating in good faith with the UN, the Security Council, the Peace Conference on the former Yugoslavia, UNPROFOR, the International Committee of the Red Cross and the High Commission for Refugees in carrying out the Security Council Resolutions, in distributing humanitarian aid and in offering every other kind of aid necessary to the population in war-torn areas.

III

This Declaration comes into force eight days after its adoption.

No. 02-1954/92
17 December 1992President
of the National Assembly
Mr. Momčilo Krajišnik

ДОКУМЕНТ бр. 27

На позив председника Републике Србије Слободана Милошевића мотивисаним циљем да се између Срба и Муслимана на просторима бивше југословенске републике Босне и Херцеговине закључи трајан мир, у Београду су се састали председник Републике Српске Радован Караџић и председник Аутономне Покрајине Западна Босна Републике Босне Фикрет Абдић и одлучили да, заједнички и уз ангажовање председника Републике Србије Слободана Милошевића, донесу следећу

Д Е К Л А Р А Ц И Ј У

1. Република Српска уважава постојање, вољу грађана и легалну власт Аутономне Покрајине Западна Босна Републике Босне, једне од трију конститутивних република Уније Босне и Херцеговине, како је предвиђено Мировним планом Овена и Столтенберга.
2. Аутономна Покрајина Западна Босна Републике Босне уважава постојање, вољу грађана и легалну власт Републике Српске, једне од трију конститутивних република Уније Босне и Херцеговине, како је предвиђено Мировним планом Овена и Столтенберга.
3. Председници Радован Караџић и Фикрет Абдић, у име својих грађана и влада, свечано закључују мир и објављују почетак изградње добросуседских односа и свестране сарадње на политичком, економском, саобраћајном, културном, спортском и другом плану.
4. Гарантује се потпуна слобода кретања свих грађана Аутономне Покрајине Западна Босна Републике Босне кроз читаву територију Републике Српске и грађана Републике Српске кроз читаву територију Аутономне Покрајине Западна Босна Републике Босне, уз показивање званичне путне или личне исправе издате од надлежних органа Аутономне Покрајине Западна Босна, односно Републике Српске.
5. Границе између Републике Српске и Аутономне Покрајине Западна Босна Републике Босне отвориће се на местима која одреде представници влада Републике Српске и Аутономне Покрајине Западна Босна Републике Босне, 48 часова по објављивању ове Декларације, а гранични прелази у целини отвориће се и уредити, на основу сагласности двеју страна, у року од 7 /седам/ дана по објављивању ове Декларације.

DOCUMENT No. 27

DECLARATION CONCERNING PEACE SIGNED BETWEEN DR. RADOVAN KARADŽIĆ, PRESIDENT OF REPUBLIKA SRPSKA AND FIKRET ABDIĆ, PRESIDENT OF THE AUTONOMOUS PROVINCE OF WESTERN BOSNIA

At the invitation of the President of Serbia, Slobodan Milošević, motivated by the desire to reach a lasting peace between Serbs and Moslems in the ex-Yugoslav republic of Bosnia and Herzegovina, the President of Republika Srpska, Radovan Karadžić, and the President of the Autonomous Province of Western Bosnia, Fikret Abdić, have met in Belgrade and, with the intercession of the President of Serbia, Slobodan Milošević, have agreed to issue the following

DECLARATION

1. Republika Srpska recognizes the Autonomous Province of Western Bosnia in the Republic of Bosnia, and its legal government as constituted in accordance with the will of its citizens and as one of the three constituent republics of the Union of Bosnia and Herzegovina, as envisaged in the Owen-Staltenburg peace plan.
2. The Autonomous Province of Western Bosnia in the Republic of Bosnia recognizes Republika Srpska and its legal government, as constituted in accordance with the will of its citizens and as one of the three constituent republics of Bosnia and Herzegovina as envisaged in the Owen-Staltenburg peace plan.
3. The Presidents Radovan Karadžić and Fikret Abdić, in the name of their citizens and governments, make a solemn peace and announce the commencement of a process of construction of neighborly relations and every kind of cooperation in the field of politics, economics, infrastructure, culture, sport and all other fields.
4. Complete freedom of movement is guaranteed for all citizens of the Autonomous Province of Western Bosnia in the Republic of Bosnia through the whole territory of Republika Srpska and for all the citizens of Republika Srpska through the whole territory of the Autonomous Province of Western Bosnia in the Republic of Bosnia, with the required travel or personal documentation issued by the responsible authorities of the Autonomous Province of Western Bosnia in the Republic of Bosnia or Republika Srpska, respectively.
5. The borders between Republika Srpska and the Autonomous Province of Western Bosnia in the Republic of Bosnia will be opened at the points determined by the representatives of the Governments of Republika Srpska and the Autonomous Province of Western Bosnia in the Republic of Bosnia, 48 hours after the ratification of this declaration and all border crossings will be opened and brought into order on the basis of the compliance of the two parties within 7 (seven) days from the ratification of this declaration.
6. Both parties guarantee all the fundamental freedoms and human rights contained in the relevant international legal charters and political documents, in accordance with the Owen-Staltenburg peace plan.

6. Обојстрано се гарантују све основне слободе и људска права, садржана у релевантним међународним правним инструментима и политичким документима, у складу са Мировним планом Овена и Столтенберга.

7. Сва лица, за која се званично утврди да су повредила правила међународног ратног права, одговараће пред редовним судовима Републике Српске, односно Аутономне Покрајине Западна Босна Републике Босне.

8. Свим лицима, која су услед грађанског рата напустила своја огњишта, признаје се право да се на њих врате, уколико то желе.

9. Председници Радован Караџић и Фикрет Абдић именовале у року од 7 /седам/ дана Комисију за разграничење, с мандатом да прецизира границе између Републике Српске и Аутономне Покрајине Западна Босна Републике Босне, у чему најзначајнији задатак представља прецизирање граница на подручју града Крупе на десној обали реке Уне.

10. Председници Радован Караџић и Фикрет Абдић поново потврђују да ће се свим конвојима међународне хуманитарне помоћи омогућити слободан пролаз на целој територији Републике Српске и Аутономне Покрајине Западна Босна Републике Босне у циљу пружања помоћи свима којима је потребна.

11. Председници Радован Караџић и Фикрет Абдић изражавају наду да ће се руководство Републике Босне у Сарајеву прикључити овој Декларацији и наглашавају спремност да о томе са њим одмах поведу разговоре.

7. All individuals officially proved guilty of infringements of international war conventions will be brought before the courts of Republika Srpska and the Autonomous Province of Western Bosnia in the Republic of Bosnia respectively.

8. All citizens who, as a result of civil war, left their homes have the right to return if they so wish.

9. The Presidents Radovan Karadžić and Fikret Abdić will name a border commission within 7 (seven) days with the mandate to define the border between Republika Srpska and the Autonomous Province of Western Bosnia in the Republic of Bosnia, the most important task of which will be to determine the border within the boundaries of the municipality of Krupa on the right bank of the river Una.

10. The Presidents Radovan Karadžić and Fikret Abdić reiterate that all convoys of international humanitarian aid will be afforded free passage over the territory of Republika Srpska and the Autonomous Province of Western Bosnia in the Republic of Bosnia with the aim that such aid should reach all those who need it.

11. The Presidents Radovan Karadžić and Fikret Abdić express their hope that the leadership of the Republic of Bosnia in Sarajevo will endorse this declaration and express their willingness immediately to enter talks with them about it.

12. The Presidents Radovan Karadžić and Fikret Abdić express their thanks to the President of Serbia, Slobodan Milošević for his great contribution to the conclusion of a fair and lasting peace between Republika Srpska and the Autonomous Province of Western Bosnia in the Republic of Bosnia.

In Belgrade, 22 October 1993

THE PRESIDENT OF REPUBLIKA SRPSKA
Dr. Radovan Karadžić

THE PRESIDENT OF AUT. PROV. WESTERN BOSNIA
OF THE REPUBLIC OF BOSNIA
Fikret Abdić

In witness of the agreement achieved and with the responsibility to act as intermediary in the event that difficulties arise in its implementation

PRESIDENT OF THE REPUBLIC OF SERBIA
Slobodan Milošević

ДОКУМЕНТ бр. 28

РЕПУБЛИКА СРПСКА
ВЛАДАБрој: 05-22 / 97
Српско Сарајево, 17.01.1997. године

Поводом посјете тужиоца Међународног кривичног трибунала за бившу Југославију, госпође Луиз Арбур, Влада Републике Српске је на својој десетој сједници одржаној дана 17.01.1997. године усвојила слиједећи

ЗАКЉУЧАК

1. Влада Републике Српске изражава своје дубоко незадовољство односом Међународног кривичног трибунала према Републици Српској. У очекивању да ће се постојеће стање побољшати, Влада истиче да је приликом посјете Владине делегације Трибуналу, августа прошле године, заједнички констатовано да међусобне односе треба и даље унапређивати, уз уважавање општег принципа правде и једнаког третмана свих страна у БиХ. У досадашњем периоду, Влада је мишљења, да Трибунал није на одговарајући начин реаговао на достављени оптужни материјал против других страна, као и на друге значајне правне проблеме истакнуте од стране званичних органа Републике Српске. У том смислу, Влада Републике Српске ће у званичним контактима са представницима Трибунала настојати да разјасни досадашње међусобне односе, а такође ће, у зависности од резултата тих разговора, преиспитати своје односе са Трибуналом.

2. Увидом у оснивачке и радне акте, оптужнице против Срба и досадашњу дјелатност Међународног кривичног трибунала Влада Републике Српске је заузела став да се од тужиоца Трибунала затражи покретање иницијативе за преиспитивање аката којима се установила, у међународном праву недозвољена колективна одговорност, и у цивилизованим националним законодавствима

DOCUMENT No. 28

THE GOVERNMENT OF REPUBLIKA SRPSKA

No. 05 - 22/97
Srpsko Sarajevo
17 January 1997

On the occasion of the visit of Mrs. Louise Arbour, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, the Government of Republika Srpska, at its ninth session held on 17 January 1997, adopted the following:

RESOLUTION

1. The Government of Republika Srpska expressed its deep dissatisfaction with the attitude of the International Criminal Tribunal towards Republika Srpska. With the expectation that the existing situation will improve, the Government stresses that during the visit by a Government delegation to the Tribunal in August last year, it was jointly declared that it was necessary to further the progress of their mutual relations while respecting general principles of justice and equal treatment for all sides in Bosnia and Herzegovina. The Government is of the opinion that, hitherto, the Tribunal has not responded in the necessary manner with regard both to the evidence against the other parties submitted to it and to other significant legal issues raised by the official authorities of Republika Srpska. It is in this sense that the Government of Republika Srpska will endeavour in its official contacts with representatives of the Tribunal to explain the relationship so far between itself and the Tribunal and, depending upon the results of these discussions, it will also re-evaluate its relationship with the Tribunal.

2. After the examination of the basic and working regulations, the indictments against Serbs and the activities of the International Criminal Tribunal to date, the Government of Republika Srpska has taken the view that it be requested of the Prosecutor of the Tribunal that an initiative be undertaken for the purpose of re-examining those regulations which have established collective responsibility, something which is impermissible under international law, and objective responsibility without establishing awareness of wrongdoing, something which has been abandoned by national legislatures in the civilised world.

It is also requested that the chief prosecutor initiate proceedings for the withdrawal of indictments against Serbs, for the purpose of the elimination of unacceptable terminology in the form of generalizations (aggression, occupation and the like) and for the purpose of avoiding the aforementioned impermissible collective responsibility of the Serbian people in Republika Srpska.

After their withdrawal, all indictments against Serbs should also be re-evaluated because of falsely cited historical facts, evidence about events and because of unfounded, biased and

напуштена објективна одговорност без утврђивања свјесности о кривици.

Такође се од тужиоца тражи да покрене процедуру за повлачење оптужница против Срба ради отклањања неприхватљивих квалификација у виду Општих навода (агресија, окупација и сл.), а у циљу избегавања претходно наведене недозвољене колективне одговорности српског народа у Републици Српској.

Све оптужнице против Срба треба након повлачења преиспитати и због неистинито наведених историјских чињеница, доказа о догађајима, неоснованог, необјективног и једностраног оптуживања српске стране, у грађанском рату између три народа, за систематски и организовани карактер наводних злочина њених припадника.

3. Влада Републике Српске посебно сматра неоснованим оптужнице против српских лидера др Радована Караџића и генерала Ратка Младића, преко којих се путем исконструисаних тврдњи жели оптужити и осудити Република Српска и српски народ у Републици Српској. Влада Републике Српске је прикупила доказе који тужиоцу Међународног кривичног суда дају ваљан основ да повуче оптужнице против наведених српских лидера и усмјери пажњу Трибунала на стварне ратне злочинце на свим странама.

4. Влада Републике Српске је спремна за даљу сарадњу са Међународним кривичним трибуналом у прикупљању и достављању доказних материјала, гоњењу и кажњавању ратних злочинаца пред националним судовима у свим основаним случајевима, на принципима досљедности и једнаког односа према свим странама, правичности, законитости и легитимности као и принципа Дејтонског споразума, о чему ће се донијети одговарајући акт.



one-sided accusations made against the Serbian side of the systematic and organised character of crimes allegedly committed by its members in a civil war waged between three peoples.

3. The Government of Republika Srpska considers especially unfounded the indictments against Serbian leaders, Dr. Radovan Karadžić and General Ratko Mladić, through whom it is wished, using manufactured and fabricated assertions, to accuse and condemn Republika Srpska and the Serbian people in Republika Srpska. The Government of Republika Srpska has collected evidence, which provide the chief prosecutor of the International Criminal Tribunal with a solid basis for withdrawing the indictments against the aforementioned Serbian leaders and for directing the attention of the Tribunal to the real war criminals present on all sides.

4. The Government of Republika Srpska is prepared for further co-operation with the International Criminal Tribunal in gathering and submitting documentary evidence, in trying and punishing war criminals before national courts in all well-founded cases according to the principles of consistency and the same relationship to all sides, impartiality, legality and legitimacy as well as the principles of Dayton agreement considering passing of a corresponding act.

REPUBLIKA SRPSKA
PRIME MINISTER
Mr. Gojko Kličković

IV

**STATEMENTS AND ACTS CONCERNING
THE CONFLICT BETWEEN CIVIL AND MILITARY
LEADERSHIP OF REPUBLIKA SRPSKA**

DOCUMENT No. 29

*DECREE NUMBER: 01-1566/95
OF THE PRESIDENT OF REPUBLIKA SRPSKA*

4 August 1995

On the basis of Article 11, 168, and 369 of the Armed Forces Law, (the Official Gazette of Republika Srpska, Number 7/92)

THE RE-DEPLOYMENT

TO THE PRESIDENTIAL OFFICE OF:

1. MLADIĆ (Nedjo) RATKO,

Colonel General personal VES

31480, (combat deployment code) born 12 March 1942

Reg. Number: MNR 1203421

As the special advisor to the Commander-in-Chief
for the coordination of the defense of Republika Srpska
and the Republic of Serbian Krajina

FC (Rank): Colonel General VES 31040

PG (group): 02 (Second)

To date, Commander of the Military Command Headquarters VRS.

Re-deployment due to changes in formation from: 4 August 1995

THE PRESIDENT OF THE REPUBLIC
Dr. Radovan Karadžić

DOCUMENT No. 30

*GENERAL STAFF
THE REPUBLIKA SRPSKA ARMED FORCES*

No. 04-12/937

5/6 August 1995

TO THE PEOPLE'S PARLIAMENT OF REPUBLIKA SRPSKA
AND THE PRESIDENT OF REPUBLIKA SRPSKA

Respected Sirs,

From the 5th to 6th August 1995 in Banja Luka a general meeting of the General Staff VRS was held. It was attended by all corps commanders, the commander of the 30th infantry division and 9 operative groups ViPVO (Air Force and Air Defense) and CVS (Military Academy) and the chiefs of staff.

The meeting discussed the military situation after the most recent aggression from the Croatian Army at Glamoč and Grahovo and against RSK (the Republic of Serbian Krajina) and the urgent measures that VRS must take in order to recover the territory temporarily occupied, and the success of defense measures in general.

In the remit of that review is the President's decision to move the Commander of the General Staff VRS and to order some other changes in the system of organization and in personnel in VRS.

The Generals of VRS wish to express their unanimous opinion that this is a wrong decision, coming at the hardest time so far, the application of which would have unforeseeable negative results for our people, our struggle and our army.

This decision, in the preparation of which no one in VRS was consulted, cannot be accepted or implemented by the Generals of VRS.

Since such a decision demands the assent of the Parliament of Republika Srpska we suggest that the deputies do not accept it in the unified interest of our nation, our armed forces, their combat readiness and morale, the success of our defense and our struggle for freedom, peace and the creation of a Serbian state.

Deputies,

Today what we need, above all, is the unity of all Serbs and not conflict and divisions. We need every man and particularly a leader such as General Ratko Mladić whose quality is recognized by the whole world and by our enemies. No one has the right, for any reason to, leave the Serbian people, at its darkest hour, without a general whom the fighters, their commanders and the whole nation respect and value.

The Generals suggest that the deputies bare in mind the possible negative consequences that would certainly result if such an unacceptable decision which, among other things, would divide the nation into supporters of Mladić and Karadžić, were accepted.

At this meeting the Generals of VRS have decided, in the further continuation of the war to respect the constitutionally founded system of management, command and subordination of Republika Srpska and that they will, according to general military experience and their own military skill and science carry out only the orders they receive from the Commander of the General Staff, General Ratko Mladić.

Believing that our deputies hold the people's interests in higher esteem than any other partial or personal interests and also that when making decisions they will follow their conscience and historical responsibility for the fate of the Serbian People in Republika Srpska.

The Generals of VRS.
Signed by

1. Manojlo Milovanović,
2. Milan Gvero,
3. Djordje Djukić,
4. Zdravko Tolimir,
5. Petar Škrbić,
6. Jovo Marić,
7. Momir Talić,
8. Boško Kelečević,
9. Vladimir Arsić,
10. Momir Zec,
11. Radivoje Tomanić,
12. Novica Simić,
13. Radoslav Krstić,
14. Radovan Grubač,
15. Živorin Ninković,
16. Božo Novak,
17. Grujo Borić.

DOCUMENT No. 31

STATEMENT OF THE REPUBLIKA SRPSKA
MILITARY COMMAND

The Headquarters has always been in favor of enforcing the responsibility to defend the people and preserve the territory of Republika Srpska. It is also ready to bear a part of the responsibility for that historic task. Unfortunately, we do not share the opinion that the representatives have correctly identified those who are accountable for the loss of territory and the exodus of a part of Republika Srpska's population. We are surprised that, at this last as well as some previous sessions of the Assembly, besides this issue, none of the other issues presently far more important for the defense and survival of Republika Srpska and the Serbian people were discussed. Instead the time was devoted to political issues and an unprincipled show down with certain generals and the RS Military Command.

To date the political leadership and the National Assembly have still not determined the borders of Republika Srpska which the Army should protect or reach. On the contrary, the most frequently discussed issue was the percentage and the handing over of territory. At the Assembly session in the town of Sanski Most on 15th April 1995 the Military Command pointed out the fundamental problem of defense and the equipping of the army and warned of the upcoming events. We regret to state that the Assembly and state organs did not devote adequate attention to this, and as a result the problems increased and events developed unfavorably, of which the Military Command warned the Supreme Command, the state organs and the Assembly on a number of occasions.

We do not contest the right of the Assembly to discuss what it chooses, but it is not difficult to notice that in time of war it did not need publicly to discuss the sacking of generals. It is easy to prove that this is even an extra-constitutional and extra-legal procedure. Therefore we are certain that the National Assembly was used as a public platform to raise support for a decision to sack the generals which had already been made. Earlier attempts to sack generals had failed. This time it was done through the Assembly to provide an easier justification of the radical change in the Military Command to the public and hence the Assembly was abused.

There has been a long standing campaign against the Republika Srpska Army and some individual figures with the aim of establishing their accountability for all the failures of state politics and particularly the incapacity to verify the results of our struggle on the international level.

The blame for all is now shifted onto a few generals and officers of the RS Army. For us it means avoiding responsibility on the part of some individuals and certain government bodies. The leadership had not adequately prepared the people for the war, and particularly the people of Krajina, which resulted the declaration of war at an inopportune moment; only after the occupation of RSK and western parts of RS.

Generals Gvero, Djukić, Tolimir, Borić and lieutenant-colonel Milutinović were charged without any basis or proof despite the fact that they committed no oversights which would have led to a loss of territory. We believe that the motives for proposing that the President of the Republic should sack them were of a completely different nature.

The real issues is a crude party struggle for power where some ruling party leaders suffer from the misconception that officers and generals are a hindrance to the government stabilization and a factor which reduces their election chances. The SDS deputy association and its main board stress that their party formed the state of Republika Srpska in only forty five days and that the RS Army did not manage to preserve it. We are asking the question: who 'broke' the corridor, who liberated the whole of the Podrinje region, who joined Herzegovina with other parts of RS, who defended Sarajevo and who created the conditions for the state leadership to negotiate for peace on equal terms. Some figures form the SDS leadership constantly and unjustifiably point out that the officers are ideological adversaries and for that reason they want to remove them, although they are aware of the fact that the professional staff is politically non-aligned.

We can not accept the Assembly proposal about the sacking of generals from the Military Command and decisions which will possibly ensue on the grounds of that rushed proposal for that would contribute to the decline of leadership, commanding and functioning of the headquarters and the Army as a whole.

Banja Luka, 17 October 1995

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FOR THE PUBLISHER

Predrag Nikolić, General Director
Draženko Đukanović, Assistant General Direktor for
international Contacts

EDITOR-IN-CHIEF
Momčilo Joksimović

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Tudjman: aanklagers Tribunaal amateurs

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SARAJEVO – De Kroatische president Franjo Tudjman heeft gisteren fel uitgehaald naar het Joegoslavië-Tribunaal. Hij noemde de aanklagers die hem hadden beschuldigd van medeplichtigheid aan misdaden in Bosnië, 'amateurs'.

In het slotpleidooi tegen de Kroatische generaal Blaskic zeiden de aanklagers maandag dat er een geheim plan was om Centraal-Bosnië van moslims te zuiveren, en in te lijven. Dat plan zou zijn bedacht in de „paleizen van de macht in Zagreb, Kroatië“. Blaskic was volgens de aanklagers een van de uitvoerders van dat plan, en verdient levenslang.

Tudjman woonde gisteren in Sarajevo de Balkantop bij. Op een persconferentie zei hij: „Deze plotselinge beschuldiging vanuit Den Haag is volstrekt ongegrond.

Zij heeft geen enkele wettelijke en politieke basis.“ Tudjman presenteerde zich als weldoener van Bosnië. „Kroatië en ik persoonlijk hebben alles gedaan voor de verdediging van Bosnië-Herzegovina.“

De slotpleidooien in de zaak-Blaskic, waarin de aanklagers deze week hun beschuldigingen tegen Tudjman toelichtten, waren juist op de interessantste momenten niet openbaar. Pas als de rechters over enkele maanden met hun vonnis komen, zal blijken of het materiaal overtuigend is. In Kroatië is deze week, door de zaak-Blaskic, de onrust gestegen dat het tribunaal Tudjman zou kunnen aanklagen.

Blaskic' verdediging heeft gisteren in haar slotpleidooi voor het Tribunaal vrijspraak geëist, omdat de aanklagers geen bewijzen zouden hebben aangedragen.

Trouw commentaar

28-5-94

Hoofdaanklaagster bij het Joegoslavië-Tribunaal, Louise Arbour, heeft met haar aanklacht tegen de Joegoslavische president Slobodan Milosevic duidelijk gemaakt in de voetsporen te treden van haar voorganger Richard Goldstone. Die merkte in '95 al op dat hij niets te maken had met de politieke implicaties van de daden van het Tribunaal.

Dat klinkt verheffend uit de mond van een jurist die zich daarmee immers boven het politieke gekonkel verheft en eenvoudig vindt dat 'het recht moet zegevieren'. En zeker, het rechtsgevoel van velen in de internationale gemeenschap zal worden bevredigd nu het Tribunaal opnieuw laat blijken niet slechts geïnteresseerd te zijn in personen die dan wel als 'de kleine vissen' in het drama op de Balkan worden aangeduid, maar het ook aan-

durft één van de hoofdrolspelers en misschien wel dé hoofdrolspeler, aan te klagen. Het komt de juridische geloofwaardigheid van het Tribunaal immers ten goede.

Maar het is zeer de vraag of het Tribunaal zich die weelde kan veroorloven. Een door de Veiligheidsraad van de Verenigde Naties ingesteld Tribunaal heeft wél met de politieke realiteit te maken en het dient, ook om wille van zijn juridische geloofwaardigheid, er voor te waken zich te ver te verwijderen van die politieke realiteit. Die politieke realiteit is dat het Tribunaal niet in staat is Milosevic voor zijn rechters te krijgen en dat bestempelt helaas de jongste actie van het Tribunaal tot een symbolische.

Daar komt nog bij dat de politieke realiteit momenteel ook inhoudt dat er pogingen in

Aanklacht tegen Milosevic

het werk worden gesteld, via de speciale Russische afgezant Tsjernomirdin, tot nieuwe onderhandelingen met de Joegoslavische president te komen. Weliswaar hebben die pogingen tot op heden, ook door de onbuigzaamheid van Milosevic, nog niets wezenlijks opgeleverd, maar de vrees is terecht dat die onbuigzaamheid door de aanklacht nog wordt versterkt en de onderhandelingen nog moeilijker worden.

Helaas kan het recht, zeker internationaal gezien, niet altijd zegevieren. Soms is de prijs die betaald moet worden voor het bereiken ervan te hoog en dient het ondergeschikt gemaakt te worden aan vrede en veiligheid. Dat gebiedt de politieke realiteit en een ad hoc gerechtshof als het Joegoslavië-Tribunaal kan niet om die realiteit heen.

van holst en steijnen

From: Jovan Grbic <ssicc@planet.nl>
To: Antiimperialist Camp News <camp@antiimperialista.com>; <chuck@hulshoff.nl>; asianhistory <my636847@asianhistory.myweb.nl>; <mraovit@ext.jussieu.fr>; <dceca@yubc.net>; <michel.collon@skynet.be>; <106057.1021@compuserve.com>; <n.h.van.holst@freeler.nl>
Sent: zondag 2 september 2001 07:10
Subject: CRIMES UNDER THE GUISE OF HUMAN RIGHTS

CRIMES UNDER THE GUISE OF HUMAN RIGHTS

It seems to me that I've never in my life read something so disgusting, distorting and poisonous as this piece of a NGO which calls itself "Human Rights Watch" (see below). If Gorbels and Zdanov were alive they would die of envy. We have here an example of what the Orwellian New World Order has done to the mind and soul of some people. This is my first and last time that I pay any attention to that organization.

1. Can the United Nations Security Council establish an international court?

Of course not. The fact is that the Security Council, when adopting the resolution 827, "establishing" International Criminal Tribunal for

Former Yugoslavia (ICTY) acted ultra vires and the passing of time cannot validate it. Quod initio invalidum est, non potest tractu temporis convalescere. That resolution is really a "black hole" of international law, and - I do not hesitate to say - that those

sitting in the SC who adopted it are criminals under international law

because they delivered a death blow to international law and should be

accountable for it under its very law - Article 7(4) of its Statute.

Many international lawyers have the same opinion about ICTY. A German NGO from Berlin simply states:

1. The "indictment" [against Mr. Milosevic] issued by the "Chief Prosecutor" of the so-called "International Criminal Tribunal for the Former Yugoslavia" is legally invalid because this "Tribunal" has no jurisdiction whatsoever in the present or any other case.

2. The "Tribunal" derives its raison d'être exclusively from Security Council resolution 827, adopted at the Council's 3217th meeting on 25 May 1993. In this resolution, establishing the so-called

"International Criminal Tribunal," the Security Council states that it

acts "under Chapter VII of the Charter of the United Nations."

3. When adopting the above resolution, the Security Council acted ultra vires. According to the provisions of the U.N. Charter, the Council has no competence whatsoever in judicial matters. The provisions of Chapter VII determine the Council's competence in matters of international security but not in matters of criminal justice or other judicial matters. The sole authority in international judicial matters rests with the International Court of Justice

Now, any further discussion about ICTY from the legal point of view should stop here. But, let's, for the sake of argument, suppose that it were established legally.

So, even if ICTY were established according to international law, its Statute would invalidate it with many of its provisions and - its omissions!

The Security Council had no right whatsoever to formulate substantive rules of international criminal law and prescribe penalties for them, since it is not legislative body!! But, omissions are even more interesting! It lacks the prime, supreme international crime - the crime of aggressive war, whether international or internal, civil war.

It was purposely done by those fifteen criminals in the Security Council: in order to protect from criminal responsibility those who planned, instigated, ordered, committed or otherwise aided and abetted

in the planning, preparation or execution of the secessionist wars in Yugoslavia and NATO aggression against it. So, we have the situation that a Bosnian peasant worker gets life imprisonment, while real culprits - Tudjman, Kucan, Izetbegovic, Gligorov, Genscher, Kohl, Clinton, Pope, Badinter, Carrington, Albright, Zimmermann, Egelberger, Wesley Clark and many more - get red carpets. So, those fifteen of the SC made a mockery of international law and irreparable damage to the concept of justice. It is a deadly blow to our civilization. Maybe the greatest crime today against international law

and order is the attempt to impose the pronouncements of such a Tribunal as international law!

2. "Indictment" against president Milosevic

Now, let us turn to the "indictment" against Mr. Milosevic, disregarding, again for the sake of argument, the illegality of the ICTY and its Statute. The *conditio sine qua non* for the application of the international humanitarian law is the existence of the "war" or "armed conflict" on a given territory. Without a war or armed conflict

there are no violations of the rules of IHL. So, the "chief prosecutor" of the ICTY Louise Arbour had to have a war or armed conflict in the sense of international humanitarian law. She needed

it. So, she just invented it by stating that there was in Kosovo the state of war! Let's look at the positive international humanitarian law: Protocol Additional to the Geneva Conventions of August 12, 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) in para 1 of Article 1 states that it

"develops and supplements Article 3 common to the Geneva Conventions of August 12, 1949 without modifying its existing conditions of application". Then in para 2 states: "2. This Protocol shall not apply

to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts." That is exactly what we had in Kosovo. There was no war there. Even when the real war started on March 24, 1999, it was the war between NATO and Yugoslavia, and not a civil war between Albanian and non-Albanian inhabitants of Kosovo. We have now similar situation in Macedonia, although Macedonia even uses helicopters and jets against the rebels, and before it we had it at southern Serbia. No one, as far as I know, those situations characterizes as "war" or "armed conflict" in the sense of IHL. They are internal disturbances which are dealt with the legitimate measures

of state organs in accordance with para 2 of Article 1 of the Protocol

II. Of course, in those situations also crimes could be committed, and

they as a matter of fact were committed by all involved, but those crimes are ordinary crimes under national legislations, and are not of

the concern of international humanitarian law. I sincerely hope that Mr. Milosevic will endure in his determination to fight from the dungeons in the Hague for the truth and justice to the end and show to

the world the monstrosity of the NWO and its institution called ICTY. He must. But equally we must help him. Because the only "crime" he and

his people committed is that they dared to defend their country and themselves from armed secessionist (remember: it was ARMED secession

as it was in the USA in 1861-65, not just secession and it has been said time and again that if Milosevic is war criminal then Lincoln many times greter for the war in which more than 600.000 young Americans lost their lives!) vultures and their masters from abroad and NATO aggression without having the permission for it from Washington. To succumb would mean that the concept of truth and justice, the very basis of our civilization, has perished from the face of the Earth and that the monsters have won and overtaken the world into their hands.

3. "The transfer of Milosevic from a Belgrade jail to the Hague was a clear obligation under the United Nations Charter..." says HRW.

It was neither "transfer" nor "deportation" but KIDNAPPING, thus in violation of Yugoslav Constitution, Yugoslav law and international law, especially Universal Declaration of Human Rights and International Covenant of Civil and Political Rights. What we have here? A human rights organization which justifies kidnapping of a former head of state instead of protecting human beings against violations of their basic human rights!! Really Orwellian.

The International Committee to Defend Slobodan Milosevic (ICDSM) was established immediately after Mr. Milosevic was arrested in Belgrade by the Belgrade puppet government at the end of March 2001. Its petition to immediately free Milosevic is by now signed by more than 1400 people from all over the world, among them international lawyers, writers, intellectuals, politicians. Many have spoken and written condemning his arrest and kidnapping.

Here is, for example, what Professor Marjorie Cohn from Thomas Jefferson School of Law says. Although she does not use the word "kidnapping", it is fair and honest presentation of the case:

The deportation of former Yugoslav leader Slobodan Milosevic to the International Criminal Tribunal for the Former Yugoslavia was a direct result of blackmail by the United States. Desperate to rebuild its economy, the Serbian government capitulated to U.S. threats: deliver Milosevic to the war crimes tribunal in The Hague, Netherlands, or the U.S. would see to it that Yugoslavia didn't get the foreign aid it critically needs.

Ten years of punishing sanctions against the people of Yugoslavia coupled with U.S.-led NATO's 78-day bombing campaign have left the country's economy in shambles. Damage to the Yugoslav economy is estimated at \$4 billion. One million people live below the poverty level, half the population is unemployed, and Yugoslavia has an annual inflation rate of 150 percent and a foreign debt of \$12 billion.

The U.S. destroyed the economy of Yugoslavia, killed or wounded thousands of its people - including civilians - and then promised megabucks to the Serbs if they would cough up Milosevic. Usually the ransom is paid to end the kidnapping. This time it was ponied up as a reward for the kidnap. And the payoff? \$1.28 billion in aid from the July 29 donors conference, orchestrated by the United States. Serbian Prime Minister Zoran Djindjic arranged the deportation by circumventing the recently elected President of Yugoslavia, Vladimir Kostunica. According to Sara Flounders, National Co-Director of the International Action Center, "Milosevic was sold to the U.S. by their man in Belgrade. Imagine a governor of a state in the U.S. overriding the federal government and constitution to surrender a U.S. citizen to another country."

Kostunica, adamantly committed to due process, insisted that Yugoslavia's judicial procedures be followed before Milosevic was delivered to the ICTY in The Hague. The deportation, which Kostunica said could not be characterized as legal and constitutional, violated Yugoslavia's constitution, parliament, Constitutional Court, and

decisions of President Kostunica. Former U.S. Attorney General Ramsey Clark denounced the deportation as "an enormous tragedy for Yugoslavia, the Serbian people and the rule of law." While the leaders of the Western world cheer the "extradition" of Milosevic - a misnomer because he wasn't sent to another country, but to an international tribunal - the fragile democracy in Yugoslavia has been dealt a severe blow. Ramsey Clark thinks the real purpose of the deportation, sanctions, bombing and demonization of the Serbs "is to reduce all of the former Yugoslavia to the status of a U.S./NATO colony."

Kostunica has decried the impartiality of the ICTY for its hypocrisy in indicting Serbs, but refusing to indict NATO leaders for war crimes

committed in the course of the 1999 bombing. NATO bombs killed 1500-2000 civilians and injured thousands more. When I was in Yugoslavia last year, I saw schools, hospitals, bridges, libraries and

homes reduced to rubble. The ICTY statute prohibits the targeting of civilians. And even though it also forbids the use of poisonous weapons calculated to cause unnecessary suffering, NATO used depleted uranium and cluster bombs whose devastating character is widely known.

NATO also targeted a petrochemical complex, releasing carcinogens into the air that reached 10,600 times the acceptable safety level...

The prosecutors of the Vietnam War - Lyndon Baines Johnson, Henry Kissinger and Robert McNamara - were never tried for war crimes for causing the deaths of 3 million Vietnamese people. It was McNamara who defined most of the Vietnamese countryside, populated by peasants, as a free-fire zone. He wrote in a letter to LBJ in 1967: "The picture of the world's greatest superpower killing or seriously injuring 1,000 noncombatants a week, while trying to pound a tiny backward nation into submission on an issue whose merits are hotly disputed, is not a pretty one." McNamara admitted his complicity in a 1995 memoir.

Indeed, the hypocrisy of the United States government is no more evident than in its refusal to ratify the statute for the International Criminal Court, out of fear that U.S. leaders might become defendants in war crimes prosecutions. Yet, our government was baffled when the United States -- the world's human rights policeman -- was voted off the United Nations Commission on Human Rights...

A fundamental principle of international law is complementarity: the international tribunals complement - they don't supplant - the courts of nation states. Most of the former Latin American military leaders charged with human rights abuses that occurred in the 1970s and 1980s are facing justice in their respective countries. The Yugoslavians should be able to judge their own leaders before they are judged by the international community.

Count 1 of the Indictment against Slobodan Milosevic charges him with

"Deportation, a crime against humanity . . ." He must be accountable for what he has done. But the U.S.-engineered deportation of Milosevic

is a crime against the people of Yugoslavia.

<http://jurist.law.pitt.edu/forumnew25.htm>)

(As I write this text I hear from TV that a Dutch court rejected a request by former Slobodan Milosevic to order his immediate release.

"The Dutch court is incompetent to rule" on Milosevic's demand for release, the judge said. Nico Varkevisser, head of an international support group for Milosevic, said he will appeal the ruling, and "will

go to the highest Dutch court." He said he might return the case to the European human rights court, on the grounds that Milosevic's detention amounted to "kidnapping". In my opinion, the ruling of the Dutch court is untenable and a shame for the people of that

supposedly democratic country, for the simple reason that the slavery is not permitted on the soil of the Netherlands under its constitution. The kidnapping of Mr. Milosevic in Belgrade by ICTY and his detention on the Netherlands soil amounts to slavery).

I take this opportunity to warn all anti-Serbian racists and vultures thirsty of Serbian blood that I firmly believe that the time will come

that they will be called to answer for their crimes, for their crimes

without precedence in human history: to genocide a nation by lies, distortions, satonization, sanctions, secessionist wars, naked aggression. Alfred Rosenberg was hanged, justly, for being the Nazi Party's ideologist and propagandist, for developing and spreading Nazi

doctrines in the newspapers "Voelkischer Beobachter" and "N S Monatshefte". The present-day anti-Serbian vultures have done and are doing far more greater crimes against Serbian nation. The Serbs must find a way to stop them before it is too late, before the genocide against them is completed. We here in Belgrade, in Serbia, in Yugoslavia, impoverished to one dollar a day for biological survival, just can't endure any more the terror of anti-Serbian vultures disguised in human rights robes.

<http://www.hrw.org/press/2001/08/milo-0829.htm> Human Rights Watch - Press Release -

FOR IMMEDIATE RELEASE

MILOSEVIC: JUSTICE PROCEEDS

(New York, August 29, 2001) – As former Yugoslav President Slobodan Milosevic prepared for a second appearance before the Hague tribunal, Human Rights Watch expressed its disagreement with several contentions in the motion that Milosevic filed with the court in August.

Mr. Milosevic had charged that the tribunal was illegitimate and selective. A hearing before the war crimes court will take place on Thursday, August 30 to chart the course for Milosevic's trial.

"This is not victors' justice - this is justice for the victims of horrific crimes," said Richard Dicker, director of International Justice for Human Rights Watch. "Slobodan Milosevic was at the top of the chain of command of military and security forces that wrought mayhem in Kosovo in early 1999. He needs to be held to account, with all the protections of a fair trial, for the ethnic cleansing and killings there."

Human Rights Watch documented scores of killings by Serb forces during the 1998-1999 conflict that took an estimated 10,000 Kosovar Albanian lives. The most egregious abuses took place during the NATO bombing period from March to June 1999 when Serbian and Yugoslav forces conducted a brutal ethnic cleansing campaign in which thousands of ethnic Albanians were killed. Throughout Kosovo villages were systematically cleansed, with long columns of displaced persons leading along roads, into cities and then out of the country.

In his motion of August 9, Mr. Milosevic claimed that the tribunal had no authority over him because "his extradition violated" the constitutions of Yugoslavia and Serbia.

"The transfer of Milosevic from a Belgrade jail to the Hague was a clear obligation under the United Nations Charter and the 1995 Dayton Peace Accords that ended the war in Bosnia. Slobodan Milosevic signed the Dayton accord on behalf of Yugoslavia. The authorities in Belgrade

had a clear obligation under international law to turn him over to face justice," said Dicker.

Below please find a short Q & A on Milosevic's case before the Tribunal.

THE MILOSEVIC CASE: QUESTIONS AND ANSWERS

Question: Can the United Nations Security Council establish an international court?

Answer: The Security Council has, under Chapter VII of the United Nations Charter, "paramount responsibility" for dealing with threats to international peace and security. Under this authority the Security

Council has taken many steps, including dispatching peacekeepers to conflict zones, including the former Yugoslavia. On May 25, 1993, the Security Council adopted Resolution 827 establishing a court to try those responsible for the worst crimes committed in the Yugoslav conflict. When an earlier defendant before the tribunal challenged its

creation, his claims were unanimously dismissed by Tribunal judges from Italy, Egypt, China, Canada, and Pakistan.

The Security Council also established a similar tribunal to try those responsible for the 1994 genocide in Rwanda. The United Nations General Assembly has no such authority.

Question: Is there an "anti-Serb bias" at the Tribunal?

The Tribunal is empowered to investigate anyone, regardless of nationality, who committed serious crimes in the course of the conflicts in the former Yugoslavia. As of March 2001, the Tribunal had publicly indicted 66 individuals, 50 of them Serbs. It recently handed down a forty-five year prison sentence against a Croatian army general accused of war crimes. From its field investigations of the conduct of all sides to the conflicts in the former Yugoslavia, Human Rights Watch has found that the majority of crimes were committed by Serb forces. Not insignificantly, Serb forces were the only ones to participate in each of the conflicts - in Croatia, Bosnia-Herzegovina, and Kosovo.

Question: Can Slobodan Milosevic get a fair trial before this Court which is strongly supported by NATO countries? Isn't the trial of Milosevic "victors' justice"?

While the tribunal is not perfect (no court is), the ICTY functions according to the highest standards of international justice. This means that Mr. Milosevic will receive all the guarantees necessary for

a fair trial. Its proceedings have to date resulted in the acquittal of a number of defendants, including Serbs, on various charges. If the

Tribunal falls short in protecting any of Milosevic's rights to mount a vigorous defense, it should be criticized and change its practice.

The ICTY is an international court. The pre-trial judges hearing the initial proceedings are from the United Kingdom, Jamaica, and Morocco.

As of April 2001, the Tribunal employed a staff of 1,103 from 74 different countries. While certainly there are citizens from NATO countries serving at all levels of the Tribunal, if there is a specific conflict of interest, that individual should recuse him or herself from the proceedings.

Question: Why hasn't the Tribunal tried NATO officials for war crimes in Yugoslavia?

The tribunal carried out an investigation into the conduct of NATO forces during the conflict in Kosovo and concluded that there was insufficient evidence to support a prosecution.

Human Rights Watch itself conducted extensive field research into the 1999 NATO air war against Yugoslavia. We found that 500 civilians were killed and 90 targets were selected inappropriately because they were civilian targets. We concluded that these incidents, which violated the laws of war, did not, however, rise to the more serious level of "grave breaches" or war crimes that the tribunal is empowered to prosecute.

If other evidence of NATO culpability for war crimes does arise, it would be essential for the tribunal to investigate those allegations. If the evidence warrants, the court should investigate and, if need be, prosecute those responsible for the alleged crimes.

For a short assessment of what happened on the ground in Kosovo, including the "chain of command" establishing Milosevic's authority, see <http://www.hrw.org/press/2001/07/chain-of-command.htm>.

For more information, please contact:

Richard Dicker in The Hague: +31 6 229 36 503 (mobile); +31 70 362 4371 (Park Hotel) Elizabeth Andersen, Washington: +1 202 612 4326
Jean-Paul Marthoz in Brussels: +32 2 732 2009

Kroaten kwaad op Haags tribunaal

AGREB, 28 JULI. Het VN-tribunaal voor oorlogsmisdaden in Joegoslavië is hard bezig „een instrument van politieke druk” op Kroatië te worden. Dat zei gisteren de Kroatische minister van Justitie, Zvonimir Šeparović, in een reactie op uitlatingen van een openbare aanklager van het tribunaal over de verantwoordelijkheid van de Kroatische president Tudjman voor misdaden in Bosnië.

De aanklager, Gregory Kehoe, zei tijdens het proces tegen de Bosnisch-Kroatische generaal Blaškić dat deze tijdens de oorlog in Bosnië een „instrument” is geweest van de machthebbers in Zagreb. „President Tudjman zou „geobserveerd” zijn geweest door de mogelijkheid, Bosnië op te delen tussen Kroatië en Servië. Met die opmerkingen suggereerde Kehoe dat het VN-tribunaal een aanklacht wegens oorlogsmisdaden tegen Tudjman zou kunnen indienen.

Dat vooruitzicht heeft de Kroaten gealarmeerd. Zowel woordvoerders van de regering en de regerende partij van Tudjman als leden van de oppositie hebben zich ongerust uitgelaten over de mogelijkheid van een aanklacht tegen Tudjman. Minister Šeparović zei dat „het Haagse tribunaal een plek wordt waar zware politieke confrontaties plaatsvinden”. Hij verweet Kehoe opmerkingen die „niet thuis horen in een serieuze juridische procedure”. De Kroatische minister kreeg het vorige week al aan de stok met Louise Arbour, de hoofdaanklager in Den Haag, toen hij weigerde het tribu-

naal documenten te overhandigen die betrekking hebben op de verdrijving van Kroatische Serviërs in 1991 en 1995. Arbour heeft naar aanleiding van de weigering laten weten een klacht tegen Kroatië in te dienen bij de Veiligheidsraad van de VN.

Tudjman zelf heeft niet gereageerd op de uitlatingen van Kehoe. Maar zijn woordvoerder vond dat de aanklager „zich moet houden bij de rechtspraak, het concrete geval”, en zich „niet met politiek moet inlaten”. Een HDZ-woordvoerder zei „niet verbaasd” te zijn over de uitspraken van Kehoe, omdat „het tribunaal een politieke agenda heeft”.

De Kroatische oppositie heeft zich in meerderheid achter de president geschaard. „We hebben het beleid van de HDZ [Tudjmans partij] in Bosnië vanaf het begin gehokeld. Dat was fundamenteel verkeerd”, zo zei gisteren de leider van de sociaal-liberale partij HSLS, Dražen Budiša. „Maar de politieke beoordeling van de tekortkomingen van dat beleid is een ding. Het berechten van de schepper van dat beleid wegens oorlogsmisdaden is iets heel anders. De HSLS kan zo’n stap van het tribunaal niet accepteren.” Een leider van de sociaal-democraten sprak van een „alarmerende” ontwikkeling en een woordvoerder van het oppositionele Istrische Democratische Congres voorspelde dat Kehoe’s uitspraken kunnen leiden tot de ernstigste politieke crisis in Kroatië sinds de uitroeping van de onafhankelijkheid. (Reuters, AP, AFP)

Verdeeldheid na VN-aanklacht tegen Milosevic

Van onze redactie buitenland
AMSTERDAM – Internationaal is sterk verdeeld gereageerd op de aanklacht van het Joegoslavië-tribunaal tegen Milosevic.

Aanklagster Louise Arbour bevestigde gistermiddag dat de Joegoslavische president door het VN-tribunaal in Den Haag verantwoordelijk wordt gehouden voor misdaden tegen de menselijkheid, begaan in Kosovo. Daaronder zijn de moord op 340 met naam en toenaam bekende Albanezen, en de deportatie van 740 000 anderen. Behalve Milosevic zijn de Servische president Milutinovic, de Servische minister van binnenlandse zaken Stojiljkovic, legerleider Ojdanic en vicepremier Sainovic aangeklaagd. Arbour riep op de bezittingen van de vijf in beslag te nemen.

Joegoslavië reageerde afwijzend. „Het Tribunaal bestaat niet voor ons, dus een aanklacht ook niet”, zei diplomaat Brankovic in Genève. De officiële media negeerden de aanklacht, maar het particuliere persbureau Beta en een radiostation bij Belgrado maakten er wel melding van.

Rusland noemde de aanklacht „politiek gemotiveerd” en een ondermijning van het vredesproces. De Russische bemiddelaar Tsjernomirdin stelde zijn reis naar Bel-

grado met een dag uit, maar gaat vandaag toch praten met Milosevic over nieuwe voorstellen. Daarover heeft hij eerder met de Amerikaanse Talbott en de Fin Ahtisaari overlegd. Volgens de laatste zijn de partijen dichter bij elkaar gekomen.

Ook Navo-lid Griekenland zei de aanklacht verkeerd te vinden, omdat het de onderhandelingen bemoeilijkt. Premier Mitsotakis, die Milosevic gisteren in Belgrado ontmoette, zei dat de Joegoslavische leider zelf onaangedaan was.

De Amerikaanse president Bill Clinton toonde zich daarentegen tevreden. Hij oordeelde dat „de stemmen van de honderdduizenden slachtoffers van Belgrado’s misdaden gehoord zijn.” Ook de meeste andere Navo-lidstaten toonden zich in hun onderling gecoördineerde reactie tevreden. De Britse minister Cook stelde dat door de aanklacht een vredesregeling voor Kosovo geen amnestie voor Milosevic zal kunnen bevatten. VN-chef Kofi Annan zei dat het VN-hof onafhankelijk zijn rechtsgang moet bepalen.

Intussen werd gisteren langs de grens van Kosovo en Albanië fel gevochten. Het Kosovo bevrijdingsleger UCK zou over een tien kilometer breed front met een offensief zijn begonnen.

MEER NIEUWS OP PAGINA 5

van holst en steijnen

From: Despotovic Ruza <despot@wishmail.net>
 To: <michel.collon@skynet.be>; Nico /Neeltje Steijnen <n.h.van.holst@freeler.nl>
 Sent: zaterdag 24 maart 2001 13:28
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Johnny Byrne

10/20/95

Justice & War

People everywhere share an innate belief in justice. It predates the relatively modern notion of 'war crimes' - an oxymoronic concept since war by its very nature is at best a form of state sanctioned indiscriminate mass murder. In earlier times, while the abiding human belief in justice and injustice coursed just as strongly as they do today during times of conflict, what constituted a war crime depended utterly on who came out on top.

Even in warfare defined as cultural, conflict circumscribed by custom, ritual and practice, the victors were obliged act within mutually agreed terms of engagement - failure to do so could have serious consequences. In warfare generally defined as political, a Clauswitzian theory later developed into the concept of total war, these limiting factors were swept away. As a theory of warfare this reached its apotheosis during the time of MAD - Mutual Assured Destruction. However, since the collapse of the Berlin Wall, the apostles of total war are now back in the driving seat - and with a vengeance. Even those conflicts which are essentially cultural, Rwanda, for instance, are fought on total war principles.

But in the main, great power conflict is wholly political in the Clauswitzian sense. Here war is imposed from the top down, unlike in the case of the Serbs, and any other people genuinely fighting for survival, from the bottom up. Since political war is rooted in concerns of little interest to the public at large, their interest has to be engaged before the horrors of total war in unleashed on a perceived enemy. In the context of the former Yugoslavia, the Serbs are starring as demonic victimisers, while the favoured Muslims and Croats exude the auras of sanctified victims. Even the Pope has joined the act by lending his infallible authority to the concept of the 'just' war - Vatican-speak which expresses an urgent Polish need to zap the Great Schismatic Serb.

Justice For Some

As mentioned above, justice is intrinsic to human existence. Even those who commit the vilest war crimes are ardent believers in justice when called to account. But to be meaningful in practice, justice must be seen to be impartial, even-handed and rigorously applied to whoever commits war crimes. Similarly, the international body which dispenses justice should have no connection whatsoever with the events, individuals or nations charged with war crimes. Since neither of these conditions are met by the UN War Crimes Tribunal, any hope of 'real' justice from that quarter is a non-starter.

Looking back, the WW2 War Crime Trials exercised only slight and one-sided justice. Thousands of nazi and Japanese war criminals were never brought to trial. Most escaped their well-deserved punishment - in Croatia today, some are receiving a heroes welcome on their return to the scene of their ghastly crimes against the Serbs. The US government, for instance, pardoned the Japanese doctors who experimented on human guinea pigs, many of them US servicemen. Likewise those responsible for the indiscriminate destruction of civilian populations escaped punishment. Indeed, some like 'Bomber' Harris have had statues erected in their memory.

This is a far cry from the notion of impartial justice, which should apply to crimes committed by all - winners and losers. Nazi leaders stood trial and were rightly hanged for their crimes. But who stood trial for the needless fire-bombing of Dresden, or the unspeakable nuclear holocaust inflicted on Hiroshima and Nagasaki?

The truth is that justice in the sense that in war we uniformly punish the act, simply doesn't exist. We selectively punish war crimes. Sometimes crimes committed by people on a winning side are punished, but only if doesn't conflict with the interests of those calling the shots. More often, on the winning side, war crimes go unpunished simply because governments and military leaders would end up prosecuting themselves.

Nor can victims of war crimes committed in peacetime hope for justice. Has the Israeli conduct of its long, expansionist war against Palestinians, Syrians, Lebanese and Jordanians been any less 'criminal' in kind than the crimes Mr Goldstone is investigating in ex-YU? UN resolutions are openly flouted by the Israelis. One UN resolution after another has simply vanished into a black hole of UN inertia. Yet in Iraq, similar UN resolutions are rigorously applied.

Question: what mysterious moral and legal principle determines why a UN resolution can be ignored with impunity by Israel, or applied with all the economic and military force of the west against Iraq? A profound belief in the sublime nature of democracy in Kuwait and Saudi Arabia? An even more profound belief in the power of the Jewish Lobby in the US to determine electoral results? The price of gas at US petrol pumps?

Whatever the answer, it had nothing whatever to do with impartial, all embracing justice. If it did, governments and commanders of the Gulf War task force would be facing charges for the aerial slaughter of tens of thousands of innocent Iraqi men women and children in Baghdad and other heavily populated cities. Likewise the often inhuman means the Task Force military employed to destroy thousands of conscript Iraqi soldiers who'd lost the will to fight. I have in mind here the mass burying alive of non-combatant conscript border troops by giant army earth movers, the use of ghastly fuel bomb devices and the deliberate destruction of the Iraqi people's basic means of survival.

If he has a spare moment, Mr Goldstone might also usefully investigate the flagrant breach of international law displayed by Turkey - and the war crimes it regularly commits against the Kurds. Which raises another oddity about the impartiality of international justice. The UN and US declared Kurdish Iraq a 'safe area'. Billions of air dollars are spent keeping the Iraqis from harming the Kurds there. Yet the same mega-death air-war machine repeatedly allows the Turks to invade, destroy the homes and kill and injure the very people - hapless non-combatants - it is supposedly there to protect. And with the public support of the US government, the main player in the vast military effort deployed to protect the Kurds. The same Kurdish people now being slaughtered by the Turks with public US government support.

Taking Serbia and rump Yugoslavia as an example, will the U.N. to impose sanctions on Turkey? It hasn't so far. Yet the U.N. imposed sanctions on Yugoslavia, a member state, with the speed of greased lightening for the 'offense' of trying to prevent the unilateral and therefore unconstitutional break-up of the country. And not just any member state, but a founder member state. But on Turkey, whose repeated invasions of a neighbouring state is beyond doubt, the silence of the U.N is deafening. The same silent tune played when Turkey invaded Cyprus, virtually annexed half of the island and ethnically cleansed and raped everything Greek on two legs, if not four, in the process.

Clearly, the Turks lead a charmed existence in terms of international legality. To be consistent, the U.N. should straightaway have slapped sanctions and war crime trials on Turkey - and called in Nato air-strikes if they failed to observe international legality. Such righteous actions were accomplished with marvelous facility when the wicked Yugoslavs were judged to have crossed the line in the sand. But everyone knows it won't happen. Zapping the Turks would cause problems for Nato and US foreign policy objectives in the Balkans.

Yet, it's justice that's supposed to reign supreme, isn't it? - not politics. At least, that's what the victims of war crimes in ex-Yugoslavia have been led to believe. Only those who encouraged them to believe it are pursuing a nakedly selective form of justice. At the end of the day justice of this sort adds up to no kind of justice at all. The truth is that where the laws governing international conflict are concerned, justice and the rest of the eternal human verities have been bent to serve nothing more enlightened than national self-interest.

The Cult Of The Victim

The nature of modern warfare has had a role to play in this. 'Civilised' nations train and equip powerful armies to fight wars whose destructive potential is simply immeasurable. To unleash such military force is no simple matter, we're not led by Hitlers, after all. Above all we must avoid the same kind of public odium evoked by Boris' barbarians and their techno-trashing of Chechnya. Western nations righteously censured and punished what they did, despite the fact that those condemning the Russians had themselves recently done it bigger and better to the unfortunate Iraqi people.

The public which funds these destructive military follies, and who elect those control them, are by and large sensitive souls. To accept wars for the brutish affairs they truly are - the naked exercise of force to gain political and economic advantage - would deliver a major blow to the self-esteem of a sensitive electorate. Before the self-proclaimed good guys can go to war these days, its sheer human beastliness has to be pre-sold to the electorate of the state which intends to wage it. Failure to get it right can topple governments. Success can rescue them from near certain defeat.

This was certainly the case with The Falklands War. The military success of the campaign was all that saved Maggie Thatcher from well-deserved annihilation in the elections which shortly followed it. The Falkland and Gulf wars could not have been fought without massive public acceptance. They united both the traditional war-mongers and the traditional anti war-mongers.

We see the same phenomenon today in relation to the civil war in former Yugoslavia. Those on the liberal left previously revolted by war, are the most vehement in calling for military intervention on the side of the Muslims and Croats. Yet these same people still profess to be morally outraged by the brutishness of war. And they are probably sincere - at least those without their snouts in the petro dollar trough.

So what's changed? What made people recently opposed to war in general, to zealous advocates of war in particular today?

This is the age, not of Aquarius, but of the New Left. The ideological struggle to free the masses from economic exploitation collapsed with the coming down of the Berlin wall. The proletarian New Jerusalem was demolished and from the ashes arose a shining new left edifice of pure political correctness. It offered a blinding vision of a world no longer divided by the exploiters and the exploited, but one inhabited by victims and victimisers - a much more broadly based ideology, since it aimed at the conscience and not the taxable pocket of the fellow traveller.

In this right-on ideological paradise, women, children, blacks, homosexuals, the physically and mentally disabled, men, birds bugs and bats - all are deemed to be either actual victims, or simply on hold for future victimisation.

While asserting the desirability of engineering a politically correct perfect place, every legislative step taken to that end has precisely the opposite effect. The effect has been to salami slice society into ghettoised special interest groups. A fragmented social ethos where everyone is presumed to have an inalienable human right to just about everything that moves, including the inalienable human right to deny someone else's human rights. And at the top of this endlessly sectioned social anthill him, the beatified victim reigns supreme.

Today, this ethos extends way beyond the social boundaries defined by class, education and money. During the cold war to be anti-war was perceived by the establishment to be anti-capitalist. To the old left, the enemy were the fat cat economic exploiters, especially those who profitted from war and arms manufacture. But in new left theology the enemy is now social, not economic. Today it's far more ideologically correct for homosexual clergy to be ordained than that arms industries continue to sell death dealing war material. A man arming savages to commit genocide in Africa is infinitely less despicable than a man who, in a moment of mindless lust, fondles the breast of a strange woman on a crowded London Tube.

The victim and victimiser is a game which even dyed in the wool capitalists can play. Nor do new left ideologues restrict their search for victims to their home patch. It extends to the great abroad, which is rearranged to conform with the prevailing ideological divide. Safe sex in Uttar Pakistan, sexual harassment of Nilotic camels, lack of provision for nappy changing in the Gobi desert, or the plight of quadriplegic homosexuals in the Empty Quarter - everywhere they look they see victims. People forever obsessed with 'addressing issues', with most of them morally incapable of addressing anything short of an envelope.

'All We Need Is War'

It's all too easy for the unreconstructed to laugh away absurdities of the kind I describe above. But it's happened in the US, UK and in many other European countries. It's also becoming institutionalised in domestic and EU legislation, and the UN itself has started issuing edicts which take a similar view of the world made up of victims and victimisers.

Serbs and Yugoslavs have every reason to take note of it, for it underpins the near universal hostility to their cause, certainly in the UK and, at a guess, also in the US. Many of the same people who would throw themselves under an earth mover to protect the habitat of the Great Crested Newt, would take vindictive pleasure in seeing the homeland of great victimising Serbs smashed by US air power.

The New Left cult of the victim is a comprehensive take on the world. It actively seeks out victims and, once having identified them, is relentless in pursuit and punishment of the presumed victimiser. Thus victim collectors like Michael Foot - the near senile ex-leader of the UK Labour Party - and fellow travellers like Vanessa Redgrave, heap public abuse on the Serbs and endlessly plead for them to be bombed back into the stone age. Similarly with almost the entire liberal arts establishment, the soft left media opinion formers... everyone wants to have a go at the brutal serb victimisers.

And shouting in unison with them, are people like the brutal, whiskey sodden Thatcher and a right wing army of Thatcherite entrepreneurs who dine out on back-handers from the Saudis and the Gulf States. This combination is all the more remarkable when you consider that people like Foot and Redgrave epitomise the traditional anti-war movement in the UK prior to the collapse of the Berlin Wall. To these people, victims are as potent a symbol of human evil today as Trident was yesterday.

And they and countless others like them, have identified the victims of the civil wars in ex-Yugoslavia - Muslims and Croats. No matter that Croats and Muslims are the genocidal fascists which yesterday people like Foot and Redgrave marched to protest about. Today they are perceived as victims and the perceived enormity of their

victimhood cancels out any relationship between past and present, between cause and effect. Outraged, affronted, new Left liberal angst seeks outlet against the evil Serb victimiser in war, the very form of destructive human activity which most have spent the best part of their lives opposing.

'Oh, What A Lovely War'

Today wars can't be sold as wars. They are grim and beastly and no civilised liberal people wired into the electronic media would accept such destructive frightfulness. However war in pursuit of justice for a grotesquely abused victim is not viewed as war - it's a crusade. And crusades are fun, something in which everyone can participate. The old papal Polak understands this, which is why he's sanctioned the 'just' war, the only justification for unleashing colossal military force in this New World Order politically correct age. It's not a new concept, merely an old concept disinterred and dressed up for modern consumption.

A just war demands not just winners and losers, but righteous winners and demonic losers. Saddam was a sucker for treatment in this respect. As we learned from the Gulf War, to justify the near total destruction of Iraq, we first had to demonise Saddam - not difficult. Anything done to the hapless civilians of Iraq, including the deliberate destruction of their most basic means of survival, was okay. So long as we kept the image of the 'Butcher of Baghdad' and his crimes - real and imagined - firmly to the forefront of our minds, any horror our military leaders cared to inflict on the Iraqi people was morally acceptable.

The parallels between the media perceptions of Saddam and his demonised Doppelgangers in Belgrade and Pale are obvious for all to see. But things get trickier with the Serbs. For a start they're not Muslim 'rag-heads', but white European Christians with a valiant record of resisting fascism. Hardly surprising then that it has taken a mind-bending degree of role-reversal to Saddamise the Serbs. The true importance of this process will only become clear if the US visits unrestricted air war in the Serbs - extreme demonisation is a necessary prerequisite if the extreme military might of the US is unleashed against them. And now, as I revise this article, the signs are that the US fully intends to deploy their aerial might against the Serbian people.

It's worth remembering how we felt during the air war against Saddam. I remember normally sane, decent and sensitive people actually cheer when the defeated and undefended Iraqi columns retreating from Kuwait city were incinerated and re-incinerated by US air power. Troops needlessly slaughtered who would have surrendered given half a chance. This was just one of many expressions of an entrenched belief that to an Iraqi, a Vietnamese, or any other non-European, human life is of little or no consequence.

The liberal press went along with the exercise. Respected liberal newspapers like the Guardian hardly wrung a limp hand at the merciless destruction of the Iraqi civilian infrastructure. Saddam was an ace victimiser and deserved all he got - even if the Iraqi nation was destroyed to make the point.

The same Guardian today is one of the most rabid media Serb haters. Its reporters follow the greasy slick made by Maggie O'Kane, the paper's victim finder-in-chief. Her outrageous anti-Serb reporting is on a par with that of her fellow Guardian reporter, Ian Traynor, whose anti-Serb venom is so crude that one can only wonder in whose bottomless pocket his hand has taken root. Just last week a vile Serb bashing article by O'Kane was captioned with the notorious grinning Belsen like human cadaver - the man who was later discovered to be a Serb and not a Muslim victim of a Serb death camp as originally claimed.

The degree to which ordinary people who followed the Gulf War in the media were divested of their qualities of judgement, mercy, compassion and humanity was truly frightening. Every last guiding principle was corrupted. Truth, justice, right, wrong - all were bent to the single purpose of persuading them to accept the horrible consequences of the unleashed might of a military superpower. The successful global manipulation of public opinion and perceptions about the nature and purpose of this war was the real victory for the western powers.

States which view war as the solution to political problems, especially the major democracies, have learned how to make their electorate feel good about inflicting mega death on perceived enemies. And since it worked then, it will work again. Political and military necessity is largely in step with a public locked into a belief that nothing is too good for a victim, and nothing too awful for a victimiser.

It's a slumbering beast, capable of being aroused at short notice. We saw it in the instant demonisation of Ghaddafi, and when the North Koreans suddenly started growing devil horns over the issue of nuclear reactors. And today, inspired by the US, the focus is now switching to Iran.

The most blatant example is seen in the US official and public attitude to the civil wars in ex-Yugoslavia. Listening to the anti-Serb rhetoric of the US media and Congress, one can only marvel at their apparently sincere belief in justice for victims - real and imagined - of Serbian war crimes. Unkinder souls who understand the lingo of petro patronage simply view much of the rhetoric as payment in kind.

But here too New Left liberal angst is seriously into victimhood. Thus rumours of Serb atrocities are seized on and denounced as fact, and verified Croat and Muslim atrocities are either justified or simply considered irrelevant. In

the perverted moral and ethical universe of the just war doctrine, never forget that human evil has a relative, not absolute value.

Righteous members of the US Congress also demonstrate a mind-boggling degree of moral amnesia. They appear not to see - or chose not to acknowledge - the glaring contradictions in their moral censure of the Serbs. Yet compared to their own country's earlier conduct in Vietnam, the Serbs are clawless pussy cats. The destruction of Vietnam by air, land and sea by the US armed forces cost 2 Vietnamese million dead.

It's legacy was a poisoned, ruined Vietnam and the loss and disillusionment for a generation of American youth. Throughout this war, ideology aside, the Vietnamese were resisting an external aggressor which had not even declared war. As an act, this was surely a breach of international law. In deeds, it totals up to a staggering collective crime against humanity.

Yet the moral arbiters of the US congress seem unable to confront the reality of what was done to Vietnam. It's the same form of national denial in type, if not in kind, we witness in the Croat attitude to their own WW2 past. It's as though the sheer enormity of the wanton destruction the US inflicted on an Asian peasant people and their country is simply too awful to contemplate. Years on, all we can now remember is what the US did - and vividly - not why they did it.

Certainly there were no sanctions applied to the US during their undeclared war against Vietnam. Nor for the illegal and equally devastating air wars in Cambodia and Laos. No zealous, justice loving UN advocates ever turned up there to take witness statements from the victims of US war crimes.

These include, remember, the deliberate destruction of Vietnam's environment by carcinogenic pesticides like Agent Orange, which is still producing a human toll of misery including spontaneous abortions, stillbirths, deformed births and a variety of cancers and other horrible afflictions too numerous to mention. A toll which also includes Vietnam Vets who today still suffer the poisonous after affects of contamination.

Nor does the passage of time since the Vietnam War relieve the illegality of these crimes - nazis are still being tried for criminal acts committed during WW2. But war crime trials aside, can the leaders of a nation responsible for acts like those committed in Vietnam and elsewhere, believably presume to lecture the Serbs, or indeed any other state, on the justice or morality of their conduct in times of conflict? Here, the answer is a resounding yes. The morally witless among them would consider it an insult to equate what the US did in Vietnam to what the Serbs do in former Yugoslavia. The morally bankrupt will say anything if the price is right.

The Americans are by no means unique in this respect. In this century, it was the Brits who gassed Iraqis from the air in the 20's. The Italians who exterminated - or tried to - anything black that moved in Ethiopia. The French who did the same with anything yellow skinned in Indo-China. As for Stalinist Russia and Nazi Germany, the less said the better. Nor are recently emerged states and other nations like China and post Soviet Russia, both members of the Security Council, immune from acts of inhumanity against their own or citizens of other states.

Yet most, if not all, of these nations, but especially the US, elect to sit in judgement on the Serbs. And not just alleged Serbian war criminals, but on the entire Serbian nation. The lives, hopes, fears and aspirations of the Serbian people is, like the powerless Iraqi people during Desert Storm, deemed hostage to fortune should the nightmare of all out techno-war ever happen.

The UN - Hanging Judge Of The New World Order

The UN is now deeply embroiled in the pernicious examples of international double standards mentioned above. And to its ultimate cost, for its role in the dismemberment and consequent civil wars of ex-Yugoslavia will surely consign it to the same historical bin into which the League Of Nations was junked. Nowhere in the UN charter, for instance, does it grant itself the power to bestow legality on nations unilaterally formed from within the internal borders of a member state - in the case of ex-YU, a founder member, no less.

Yet the UN cravenly allowed itself to be pressured into doing just that. And in the full knowledge it would provoke a savage Balkan conflict - war being, of course, the very scourge the U.N. was created to avert or abolish. And with predictable war now terrible reality, we witness the legal farce of the UN setting itself up in judgement over those accused of waging a war which the UN itself largely initiated.

The depressing truth is that the UN, through the self-serving actions of the Security Council, now lacks the moral authority to accuse and condemn anyone of anything. Selective justice of the kind it doles out has nothing to offer the victims of the civil wars in ex-Yugoslavia. It's fatally flawed because at heart it is a face-saving contrivance conjured up by political maggots wriggling on a hook shaped by double-standards, incompetence and craven duplicity. It's a 'do what we say, not what we do' justice. The kind which prompts an aggressive UN and US response to breaches of the international law by Iraq and Serbia, and total inertia, if not active connivance when Israel and Turkey commit precisely the same offences. In its current form, the U.N. has been reduced to the level of a bent global cop whose services are on offer to the highest corrupt bidder.

Since the end of the cold war, the US and the European nations have effectively perverted the international ideals which the U.N. was created to uphold. By their actions we know that justice for individuals and nations is whatever they deem it to be. And since it means whatever these powerful nations want it to mean, in essence UN justice means nothing at all.

To be meaningful, justice requires a commonly shared belief in, and adherence to, the universal principles upon which it is founded. If not, its application during and after conflict can't begin to heal the human agonies of war. In fact, it intensifies them. As we know, selective justice invariably trails the political poisons of cant, hypocrisy, division and hatred in its wake - a sure-fire prescription for future conflict..

In this context, the UN War Crimes Tribunal is a betrayal of the very people it pretends to serve, for it is cynically promising what it is wholly unable to deliver. Worse, its very existence - at least in its present form - is also denying any hope of real justice for victims of war crimes throughout ex-Yugoslavia.

The day a War Crimes Tribunal start putting member states of the Security Council on trial for past and present war crimes, is the day I might start believing in the U.N. again. But I'm not holding my breath.

Johnny Byrne

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Van Aartsen verwerpt kritiek op Arbour

Door onze diplomatiek redacteur
DEN HAAG, 28 MEI. Minister Van Aartsen (Buitenlandse Zaken) is het „hartgrondig oneens” met de kritiek op het gisteren bekend geworden besluit van de openbare aanklager bij het Joegoslavië-tribunaal om president Milošević en vier andere topfunctionarissen in Belgrado in staat van beschuldiging te stellen wegens oorlogsmisdaden.

Volgens Van Aartsen, die dit gisteren zei in een overleg over de Kosovo-crisis in de Tweede Kamer, is „thans nog niet met enige precisie aan te geven” wat het effect van die aanklacht zal zijn voor het bereiken van een vredesakkoord over Kosovo. Maar de

Nederlandse regering wijst elke politieke kritiek af op de openbare aanklager van het tribunaal, Louise Arbour, als zou haar dagvaarding schadelijk zijn voor de diplomatieke pogingen om zo'n akkoord te bereiken. Van Aartsen waarschuwde ervoor te vergeten dat Milošević' agenda erop gericht is om in Kosovo en in alle buurstaten van Servië voor zo veel mogelijk instabiliteit te zorgen.

Over de aanklacht tegen Milošević en de zijnen zei Van Aartsen: „Dit is geen politieke daad, maar een stap van een onafhankelijk orgaan dat door de Veiligheidsraad is ingesteld en die we moeten accepteren. Mevrouw Ar-

bour heeft precies de vinger gelegd op Milošević' minachting van het recht, waaronder miljoenen mensen lijden. Haar aanklacht kán geen verrassing zijn.” Het tribunaal is onafhankelijk en mag niet ingaan op vragen die met politieke opportuniteit te maken hebben, zei hij ook.

Als de openbare aanklager in zo'n geval meent voldoende bewijsmateriaal hebben moet hij zelfs tot een dagvaarding besluiten, de door de Veiligheidsraad bepaalde statuten van het tribunaal verplichten daartoe en ieder lid van de Verenigde Naties is verplicht tot medewerking, zei hij.

Ondanks de kritiek uit Moskou dat de aanklacht „een politieke

zet” is gaat de Russische oud-premier Tsjernomyrdin gewoon door met met zijn bijdrage aan de Amerikaans-Russisch-Finse pogingen om een akkoord met Belgrado te bereiken, aldus Van Aartsen. Volgens hem zullen medewerkers van president Milošević zich op alle niveaus nu „achter de oren gaan krabben” als zij opdrachten krijgen die tot schending van mensenrechten (in Kosovo) kunnen leiden.

Van Aartsen zei ook te hopen dat de aanklacht onder de Joegoslavische bevolking het verzet tegen het regime-Milošević zal versterken. „Vrede gedijt niet op onrecht, gerechtigheid doet dat ook niet”, zei hij.

van holst en steijnen

From: Despotovic Ruza <despot@wishmail.net>
To: <michel.collon@skynet.be>; Nico /Neeltje Steijnen <n.h.van.holst@freeler.nl>
Sent: zaterdag 24 maart 2001 13:37
Subject: Yahoo! Groups sorabia Messages Message 12215 of 13691.htm


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From: "Bob Petrovich" <bojanp@h...>

Date: Thu Feb 1, 2001 7:26am

Subject: IHT: That is OUR goal NOW

"Our priority is prosecuting genocide and crimes against humanity. Karadzic, Milosevic and Mladic must be put on trial. That is OUR goal NOW.'...'As we look at the statutes of the proposed International Criminal Court, I am concerned that states, in their own narrow interests, are beginning to recoil from the idea of international justice. But IF WE LOSE OUR NERVE NOW it may take centuries to recover the resolve to assert law over violence.'" <end quote>

Trial of Mladic, Karadzic and Milosevic is only side show in this judicial Cabaret Voltaire.

The real performance is to convince free nations to surrender their sovereignty to the International Criminal Court before spell of ICTY wears thin.

<http://groups.yahoo.com/group/sorabia/message/12024>

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Try Karadzic, Milosevic and Mladic

Carla Del Ponte Los Angeles Times Syndicate Thursday, February 1, 2001

Carla Del Ponte, chief prosecutor of the United Nations International Tribunals for the Former Yugoslavia and Rwanda, spoke in Davos with Nathan Gardels, editor of Global Viewpoint, after visiting Belgrade:

Belgrade will not cooperate. They told me that we have no role there. If Slobodan Milosevic is ever to be tried, it will never be in The Hague, only in Belgrade. Their explanations varied. "The situation is dangerous." "Cooperation would add another element of destabilization." "Those prosecuted by the UN would become heroes." "The tribunal is in service to the United States." "We cannot cooperate because of NATO bombing, in which Serbs were the victims." This is a great deception on their part.

I received new information from Serbia that NATO advised Mr. Milosevic ahead of time that the television station would be bombed. He then only told some of the directors, but he did not inform the working technicians so they could leave. So, Mr. Milosevic himself obliged people to stay in the building knowing that it would be bombed so he could manipulate the situation against NATO. Our

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conclusion that there is insufficient cause so far to open an inquiry. We have asked the Serbian authorities for more evidence, and if there is cause to open an inquiry, we will do it.

I have to say that I am surprised that this issue of NATO bombing arises all the time. How can this be a priority when each time I visit Bosnia-Herzegovina or Kosovo and observe the exhumation of thousands of bodies from mass graves? Our priority is prosecuting genocide and crimes against humanity. Karadzic, Milosevic and Mladic must be put on trial. That is our goal now.

Of course the 16 dead [at the bombed TV headquarters] are not unimportant, but they cannot be my priority.

If the international community does not follow its words with action, future dictators will be able to run and hide. They might not even take the trouble to run and hide because they know that they can remain inside their own borders with impunity. They will gamble that if one day things go wrong and they lose power, the political will to bring them to justice does not exist.

If my recent visit to Belgrade is any indication, it seems that national sovereignty is still a strong factor - it has not changed. Narrow state interests still dominate, and collective action is a problem.

Clearly, the International Tribunals for the former Yugoslavia and Rwanda should be the starting point, not the high point, of the move for justice against dictators and war criminals. Even if they can still hide, we must do what we can to make their lives as unpleasant as possible by freezing bank accounts, investigating business connections and issuing international arrest warrants that deter them from traveling abroad.

As we look at the statutes of the proposed International Criminal Court, I am concerned that states, in their own narrow interests, are beginning to recoil from the idea of international justice. But if we lose our nerve now it may take centuries to recover the resolve to assert law over violence. And that will simply pile tragedy upon tragedy in the times to come.

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Opinion & Editorial

< < Back to Start of Article Carla Del Ponte, chief prosecutor of the United Nations International Tribunals for the Former Yugoslavia and Rwanda, spoke in Davos with Nathan Gardels, editor of Global Viewpoint, after visiting Belgrade:

Belgrade will not cooperate. They told me that we have no role there. If Slobodan Milosevic is ever to be tried, it will never be in The Hague, only in Belgrade. Their explanations varied. "The situation is dangerous." "Cooperation would add another element of destabilization." "Those prosecuted by the UN would become heroes." "The tribunal is in service to the United States." "We cannot cooperate because of NATO bombing, in which Serbs were the victims." This is a great deception on their part.

I received new information from Serbia that NATO advised Mr. Milosevic ahead of time that the television station would be bombed. He then only told some of the directors, but he did not inform the working technicians so they could leave. So, Mr. Milosevic himself obliged people to stay in the building knowing that it would be bombed so he could manipulate the situation against NATO. Our preliminary review of that bombing incident [on April 23, 1999,] has come to the conclusion that there is insufficient cause so far to open an inquiry. We have asked the Serbian authorities for more evidence, and if there is cause to open an inquiry, we will do it.

I have to say that I am surprised that this issue of NATO bombing arises all the time. How can this be a priority when each time I visit Bosnia-Herzegovina or Kosovo and observe the exhumation of thousands of bodies from mass graves? Our priority is prosecuting genocide and crimes against humanity. Karadzic, Milosevic and Mladic must be put on trial. That is our goal now.

Of course the 16 dead [at the bombed TV headquarters] are not unimportant, but they cannot be my priority.

If the international community does not follow its words with action, future dictators will be able to run and hide. They might not even take the trouble to run and hide because they know that they can remain inside their own borders with impunity. They will gamble that if one day things go wrong and they lose power, the political will to bring them to justice does not exist.

If my recent visit to Belgrade is any indication, it seems that national sovereignty is still a strong factor - it has not changed. Narrow state interests still dominate, and collective action is a problem.

Clearly, the International Tribunals for the former Yugoslavia and Rwanda should be the starting point, not the high point, of the move for justice against dictators and war criminals. Even if they can still hide, we must do what we can to make their lives as unpleasant as possible by freezing bank accounts,

investigating business connections and looking for international allies who might
that deter them from traveling abroad.

As we look at the statutes of the proposed International Criminal Court, I am
concerned that states, in their own narrow interests, are beginning to recoil
from the idea of international justice. But if we lose our nerve now it may take
centuries to recover the resolve to assert law over violence. And that will
simply pile tragedy upon tragedy in the times to come.

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Suggested reading:

Brock, Peter: "The Hague: experiment in Orwellian justice"
<http://groups.yahoo.com/group/sorabia/message/12214>

Alfred P. Rubin Dayton, Bosnia and the Limits of Law
"The National Interest" Number 46, Winter 1996/97

Alfred P. Rubin: CHALLENGING THE CONVENTIONAL WISDOM
<http://personal.centre.edu/~samhat/ICCanti.html>

The Constitution of the United States of America:
<http://www.law.cornell.edu/constitution/constitution.overview.html>

Patrick Henry:
<http://libertyonline.hypermall.com/henry-liberty.html>

Dr. Thomas Fleming TODAY SARAJEVO, TOMORROW CHICAGO:
<http://www.srpska-mreza.com/library/hague/tfleming-97.html>

Gary T. Dempsey: REASONABLE DOUBT
<http://www.cato.org/pubs/pas/pa-311.html>

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Aanklager: Iudjman achter zuiveringen

BOSNIË De Kroatische president Franjo Tudjman was de drijvende kracht achter de zuiveringsactie waarbij honderden Bosnische moslims zijn omgekomen. Eén van de aanklagers bij het Joegoslavië-tribunaal in Den Haag heeft dat gezegd in het proces tegen de Bosnisch-Kroatische generaal Blaskic.

Die wordt ervan beschuldigd het commando te hebben gevoerd over de troepen die de etnische zuiveringen uitvoerden. De beschuldigingen tegen Tudjman komen op een slecht moment gezien de verslechterende relatie tussen het tribunaal en Zagreb.

De hoofdaanklaagster van het VN-tribunaal, Arbour, heeft Kroatië gedreigd voor de VN-Veilighedsraad te dagen omdat het land weigert twee verdachten van oorlogsmisdaden over te leveren. Ook zou de regering in Zagreb duizenden pagina's aan bewijslast achterhouden. (RTR)

van holst en steijnen

From: Despotovic Ruza <despot@wishmail.net>
To: DOLF Loth <dolfloth@hotmail.com>; Nico /Neeltje Steijnen <n.h.van.holst@freeler.nl>; Ksenija Sigulinski <sigu@worldonline.nl>; Ruza Despotovic <ruzad@ggzba.nl>
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An Impartial Tribunal?

By Chris Black

Lawyer, Toronto

Private justice replacing public justice

The indictment of Slobodan Milosevic for alleged war crimes raises important questions about the impartiality and, ultimately, the purpose of the International Criminal Tribunal. For centuries, the independence of judicial bodies has been considered one of the fundamental precepts of the quest for justice. As Lord Hewart stated in 1924, it is "...of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done." It has also been said that there is nothing more important than the public administration of justice. But in the case of the International Criminal Tribunal a compelling argument can be made that private justice has replaced public justice, that even the appearance of fundamental justice has been replaced by an open contempt for justice.

It is clear that from the beginning American, British, French and German interests were behind the creation of the Tribunal and worked ceaselessly behind the scenes in order to create it. They first considered doing so in regards to Iraq and Saddam Hussein, during the Gulf War. The idea apparently originated with the United States Department of the Army, which alone should tell you something about its true purpose. The rhetoric used to justify such a body to the general public was of course heavily seasoned with concerns for "human rights" the "dignity of the individual", "genocide" and "democracy".

However, they had a problem. It was generally agreed that no such tribunal could be created without the mechanism of a treaty which had to be ratified by all those affected by it. There was no time to create such a treaty with respect to Hussein so other methods were used to put pressure on the Iraqi government. But between 1991 and 1993, the use of an international criminal court as a means of effecting policy and to be created by the members of the Security Council, instead of by treaty was pushed by those four countries.

A war crimes tribunal rather than a international court

A draft treaty to create a truly international criminal court, one which applied to all states, the last in a long list of attempts dating back to the 1890's, was put together. But its ratification has not taken place as several important powers, particularly the United States, refuse to sign it for fear of being caught in its web. For thirty years the United States has tried to block such a treaty. It opposes universal jurisdiction and it opposes an independent prosecutor. It wants any prosecutions to go through the Security Council subject to its right of veto. In fact, Jesse Helms, the conservative US senator said such a treaty, if presented to congress for ratification would be "dead on arrival". It would seem that the treaty is itself nothing more than window dressing to satisfy the public that the

nations of the world really care about human rights and war crimes in order to complement their rhetoric about it. For without ratification by the major powers it is a dead letter. The United States remains stubborn in its opposition to this treaty but then it has a bit more to worry about than most countries.

The next opportunity to try this experiment was Yugoslavia. In order to accelerate the break up of that country into quasi-independent colonies, principally of Germany and the United States, it was necessary to discredit their leaderships. An effective propaganda weapon in such an exercise is of course a tribunal with an international character which the public will accept as a neutral instrument of justice but which is controlled for political ends.

The Tribunal was created by the Security Council in its Resolutions 808 and 827 of 1993. Both resolutions stated that the situation in Bosnia at that time, constituted a threat to international peace and security and that a tribunal to prosecute war criminals would help to restore peace. It all sounds very nice until one realizes that there was no basis for the characterization of the situation in Bosnia as a threat to international peace. It was a civil war (partly controlled by the very countries which wanted to create a tribunal). But the members of the Security Council had to characterize it that way otherwise the members of the Security Council had no jurisdiction to act. The setup for this characterization was Resolution 688 of 1991 in which the Security Council stated that disregard for human rights constitutes a threat to international security and can no longer be treated as an internal matter.

Undermining the UN Charter to make the Tribunal possible

This reinterpretation, this revision of the UN Charter, which in fact undermines the very basis of the Charter was forcefully advocated by the German foreign minister Mr. Genscher in speeches he gave to the German parliament and to the Canadian parliament in Ottawa and by British, French and of course American ministers in speeches and memorandums to each other.

Chapter VII of the UN Charter requires that there be a threat to the peace or an act of aggression before the Security Council can make use of its special powers set out in that Chapter. It has always been interpreted to mean and was meant to mean a threat to international peace not national peace. The members of the Security Council recognized this and so had to redefine a national problem as an international one. Yet in all those speeches and memoranda there is not one compelling reason given for doing this except vague references to the collapse of the socialist bloc, and the imperative to establish a new world order.

In fact, Mr. Genscher in his speech to the Canadian parliament stated unequivocally that no nation would any longer be allowed to ignore Security Council decisions. Even if this redefinition were a legitimate interpretation of the UN Charter, which it is not, the UN Charter only speaks of economic measures and then military measures, not judicial or criminal measures.

Chapter VII has to be read in context with Chapter I of the Charter which speaks of international cooperation in solving international problems of an economic, social, cultural or humanitarian character. It says nothing of humanitarian problems of a national character. It states that the UN is based on the principle of the sovereign equality of its members, a fundamental principle of international law, and the first guarantee of the right to self-determination of the world's peoples. If a people does not have the right of sovereignty, the right to self-determination is a sham. This principle is completely denied by the creation of the Tribunal. The Tribunal itself explicitly denies that this principle applies in its own statements as do its political supporters, but never, of course, in reference to themselves. Lastly, the

Charter states that nothing contained in the Charter shall authorize the UN to intervene in matters which are essentially within the domestic jurisdiction of any state. This fundamental principle, put in the Charter so that the UN could not be used by some members to bully others, has also been fatally undermined by the creation of the Tribunal. The members of the Security Council, more precisely, the permanent members, now hold the opposite position, and I submit, do so for reasons connected more with imperialism not humanitarianism.

In light of these facts the Security Council's authority to create such a tribunal is in my view more than questionable. That it was created is to be credited to Madeleine Albright, who used some effective persuasion with the Russian and Chinese members to vote for its creation in return for economic consideration and with a view to controlling smaller states within their own spheres of interest.

Yugoslavia could be used

Yugoslavia was the first experiment in using a quasi-judicial international body to attack the principle of sovereignty. And as the Americans have learned so well, the best way to get your domestic population behind you as you proceed to break another country, economically and militarily is to get them to hate those in power in that country. The Serb leadership was targeted, and transformed into caricatures of evil. There were comparisons to

Adolf Hitler, a comparison used with surprising frequency by the United States against the long list of nations it has attacked in the last 50 years, though sometimes they are just labeled as common criminals, like Manuel Noriega, or mad, like Ghaddafi, if the leader or the country is too small to make the Hitler comparison stick. I think Saddam Hussein was the first to be compared to Hitler, and declared a common criminal and a madman all at the same time.

The Tribunal from the outset was, as I have said, the creation of particular governments. Their motives are clear from the preliminary discussions in the Security Council on the creation of the court which focused almost entirely on crimes allegedly committed by Serbs and their leadership. Since its inception it has kept this focus. The majority of indictments have been directed at Serbs even though there is substantial evidence of the commission of serious war crimes by Croats and Bosnian Muslims.

Aggression and crimes against peace left out

The Tribunal has jurisdiction over war crimes and crimes against humanity, but crimes against peace, the worst crime under the Nuremberg principles, are not within the purview of the tribunal. The underlying reason for this is that the members of the Security Council preferred to reserve to themselves competence in the field of aggression and similar crimes against peace. The members of the Security Council have a very keen sense of humour or perhaps more accurately, self-preservation.

In a statement to the Secretary-General of the United Nations, Mr. Boutros-Boutros Ghali, on January 21, 1994, by Antonio Cassese the Tribunal's political character was made quite clear when he said in reference to the role of the Tribunal, "The political and diplomatic response (to the Balkans conflict) takes into account the exigencies and the tempo of the international community. The military response will come at the appropriate time." In other words, the Tribunal is considered a political response. He went on to state, "Our tribunal will not be simply 'window dressing' but a decisive step in the construction of a new world order."

The governing statute is continuously violated: independence and financing

The governing statute of the Tribunal states in Article 16 that the Prosecutor shall act independently as a separate organ of the Tribunal and shall not seek or receive instruction from any government or any other source. Article 32 states that the expenses of the Tribunal shall be borne by the regular budget of the United Nations. Both of these provisions have been openly and continuously violated.

The Tribunal itself, through its senior officials openly brags about its particularly close ties to the American government. In her remarks to the United States Supreme Court in Washington,

D.C. on April 5th of this year, Judge Gabrielle Kirk McDonald, President of the Tribunal, and an American stated, "We benefited from the strong support of concerned governments and dedicated individuals such as Secretary Albright. As the permanent representative to the United Nations, she had worked with unceasing resolve to establish the Tribunal. Indeed, we often refer to her as the 'mother of the Tribunal'. If she is the mother then Bill Clinton is the father, as Louise Arbour confirmed by her action of reporting to the President of the United States the decision to indict Milosevic two days before she announced it to the rest of the world, in blatant violation of her duty to remain independent. Further, she and the current prosecutor have

made several public appearances with U.S officials, including Madeleine Albright, and both have openly stated that they rely on Nato governments for investigations, governments which have a great interest in the undermining of the Yugoslavian leadership.

NATO, not the UN, the gendarme of the Tribunal

In 1996, the prosecutor met with the Secretary-General of NATO and the Supreme Allied Commander in Europe to "establish contacts and begin discussing modalities of cooperation and Assistance". On May 9th, 1996 a memorandum of understanding between the

Office of the Prosecutor and Supreme Headquarters Allied Powers Europe (SHAPE) was signed by both parties. Further meetings have taken place since including that of the president of the Tribunal with General Wesley Clarke. The memorandum of May 9th spelled out the practical arrangements for support to the tribunal and the transfer of indicted persons to the Tribunal. In other words, NATO forces became the gendarmes of the Tribunal, not UN forces, and the Tribunal put itself at the disposal of Nato. This relationship has continued despite the

Tribunal's requirement to be independent of any national government and, therefore, group of national governments.

Primarily US, not UN, funding

The Tribunal has received substantial funds from individual States, private foundations and corporations in violation of Article 32 of its Charter. Much of its money has come from the U.S. government directly in cash and donations of computer equipment. In the last year for which public figures are available, 1994/95, the United States provided \$700,000 in cash and \$2,300,000 worth of equipment. That same year the Open Society Institute, a foundation established by George Soros, the American billionaire financier, to bring "openness" to the former east bloc countries contributed \$150,000 and the Rockefeller family, through the Rockefeller Foundation, contributed \$50,000 and there have been donations from corporations such as Time-Warner, and Discovery Products, both US corporations. It also important to know that Mr. Soros' foundation not only funds the Tribunal it also funds the main KLA newspaper in Pristina, an obvious conflict of interest that has not been mentioned once in the western press.

The Tribunal also receives money from the United States Institute for Peace for its Outreach project, a public relations arm of the Tribunal set up to overcome opposition in the former Yugoslav republics to its work and the constant criticisms of selective prosecution and the application of double standards; objections which have obvious merit and which are never answered by anyone at the Tribunal or by any of its sponsors. The Institute for Peace is stated to be "an independent, non-partisan federal institution created and funded by Congress to strengthen the nation's capacity to promote the peaceful resolution of international conflict." Established in 1984 under Ronald Reagan, its Board of Directors is appointed by the President of the United States.

The Tribunal also receives support from the Coalition For International Justice whose purpose is also to enhance public opinion of the Tribunal. The CIJ was founded and is funded by, again, George Soros' Open Society Institute and something called CEELI, the Central and East European Law Institute, created by the American Bar Association and lawyers close to the U.S. government to promote the replacement of socialist legal systems with free market ones.

These groups also have supplied many of the legal staff of the Tribunal. In her speech to the Supreme Court, Judge McDonald said, "The Tribunal has been well served by the tremendous work of a number of lawyers who have come to the Tribunal through the CIJ and CEELI..." It is also interesting to note that the occasion of Judge McDonald's speech was her acceptance of an award from the American Bar Association and CEELI. In the same speech she also said that "We are now seeking funding from states and foundations to carry out this critical effort."

Not anybody's war crimes

The new prosecutor Carla Del Ponte, on September 30, 1999 at a press conference, thanked the director of the FBI for assisting the tribunal and stated "I am very appreciative of the important support that the U.S government has provided the tribunal. I look forward to their continued support." On September 29th, in response to a question as to whether the tribunal would be investigating crimes committed in Kosovo after June 10, or crimes committed by others (meaning NATO) in the Yugoslav theatre of operations, "The primary focus of the Office of The Prosecutor must be on the investigation and prosecution of the five leaders of the FRY and Serbia who have already been indicted."

Why this "must" be is not explained. Why, if the Tribunal is impartial wouldn't it be just as focussed on Nato war crimes, the war crimes of Clinton, Schroeder, Chirac, Chretien etc? Why did it still need to investigate to support the indictments against the leaders of the government and military of Yugoslavia if there was already evidence to justify those indictments?

Well, we can speculate why when we consider that the last prosecutor, Louis Arbour, who was asked to investigate all NATO leaders for war crimes, instead accepted a job from one of them, the Prime Minister of Canada, Jean Chretien. She now sits in the scarlet robes of a judge of the

Supreme Court of Canada, a lifetime appointment, her reward for handing down the indictment against Mr. Milosevic, despite the lack of evidence and (if you believe the reports of the Spanish and RCMP forensic experts recently returned from Kosovo) the continuing lack of evidence of the systematic crimes he is accused of.

On April 19th Judge McDonald "expressed her deep appreciation to the U.S. Government for its pledge of \$500,000 for the Outreach project which was announced on April 16 by Harold Koh, U.S. Assistant Secretary of State.

In her speech to the Council On Foreign Relations in New York on May 12 of this year Judge McDonald stated, "The U.S. government has very generously agreed to provide \$500,000 and to help to encourage other States to contribute. However, the moral imperative to end the violence in the region is shared by all, including the corporate sector. I am pleased, therefore, that a major corporation has recently donated computer equipment worth three million dollars, which will substantially enhance our operating capacity."

From the start, the Office of the Prosecutor has had meetings with NGO's that are eager to "cooperate with and assist the tribunal", many of them linked to George Soros through his Open Society Foundation. All this money flows through a special UN account which is financed by assessed contributions from member states and voluntary contributions from states and corporations again in violation of its statute.

As an aside it's interesting that its role as a propaganda tool was indirectly acknowledged by its own staff when they failed to provide for a courtroom or holding cells in their first budget of approximately \$ 32 million dollars. The Security Council sent them back to redraft the budget to include those items. After all, this was supposed to be a criminal tribunal! They did so. The difference was an added expense of \$500,000. It's also interesting to know that three of its first four rooms in the Peace Palace in the Hague were loaned to them by the Carnegie Foundation.

The Tribunal itself lays the charges

In order to give itself the appearance of a judicial body the Tribunal has persons appointed as judges, prosecutors, clerks, investigators, and has its own rules of procedure and evidence, its own prison system. It says it applies the presumption of innocence. However, unlike criminal courts, with which we are all familiar (or, perhaps not), the court itself is involved in the

laying of the charges. When a charge is to be laid the approval of one of the trial judges must be obtained. That approval is only given if a prima facie case is established. That is, a case which if not answered could result in a conviction. Yet, despite this close relationship between the prosecutor and the judges and the commitment to the charges the judges have made by signing the indictment, the rules insist on the presumption of innocence.

The presumption of innocence is compromised: automatic detention

This presumption is compromised in other ways. The most egregious is that upon arrest detention is automatic. There is no bail, no form of release pending trial, unless the prisoner proves "exceptional circumstances". Loss of job, loss of contact with friends, family, indeed country is not sufficient. Even ill health has not been sufficient to get bail. Prisoners are treated as if they had been convicted. They are kept in cells and have to obey prison rules, are subject to discipline if they do not, constant surveillance, censored mail, restricted family visits, communication with family at their own expense and there are restrictions on what they can see or hear on radio or television.

Prisoners have had to wait many months before a trial takes place, sometimes years. Yet, still they insist these men are presumed innocent. The question is by whom? By the judges, one of whom laid the charge in the first place?

No jury, sealed indictments, possibly secret trials and suspects can be detained for up to 90 days without charge!

Its rules of evidence are relaxed so that protections on the admission of hearsay evidence developed over centuries in all national courts are set aside and replaced by an anything is admissible if deemed relevant approach even if it is hearsay. There is no jury. Witnesses can testify anonymously, or not be shown in court. In its yearbook for 1994, this statement appears, "The tribunal does not need to shackle itself with restrictive rules which have developed out of the ancient trial-by-jury system." There are provisions in the rules for closed hearings, in circumstances which are vaguely defined, secret trials, the very essence of injustice and of political courts. It is now increasing its use of sealed indictments, so that no one knows if they have been charged until the military police swoop down on them on the street in any country. Suspects, persons not indicted, can be detained for up to ninety days without charge. We all know from experience what prisoners can undergo in a day or two at the mercy of most police forces. Ninety days. Anyone one of us, you and I, could be detained by the Tribunal for that length of time. All they have to say is they have some reason to suspect you. This is easily constructed.

Confessions free after custody in 90 days?

Perhaps its most dangerous rule is Rule 92 that states confessions shall be presumed to be free and voluntary unless the contrary is established (by the prisoner). Just think - presumed to be free and voluntary after 90 days at the mercy of military police and prosecutors. Almost every other court in the world presumes the opposite or, because of the notorious unreliability of confessions made in police custody are moving to prohibit their use entirely. This Tribunal goes back to the days of Star Chamber and the justice of the 13th century. Finally, we have imprisonment of those sentenced in foreign countries so that not only are they imprisoned, they are at the same time exiled.

There is even a special provision for the obtaining of evidence from NGO's such as George Soros Open Society Foundation, whose conflict of interest has already been mentioned. Accused have the right to choose counsel on paper but in reality that right is infringed by the Registrar who can disqualify counsel for all sorts of reasons including being unfriendly to the Tribunal. Such a counsel will be supplied if the accused insists strongly enough but it is not made easy. There are cases in which the Registrar has barred lawyers from particular countries because there are deemed to be too many of them already representing accused persons, and the use of its contempt powers is a powerful weapon to intimidate counsel. Lawyers have been subject to large fines for contempt.

Not a judicial body worthy of international respect

No citizen of any country in the world would consider themselves fairly tried before a court that was paid for, staffed and assisted by private citizens or corporations which had a direct stake in the outcome of the trial and who were, themselves, in practical terms, immune from that court. It is a well established principle of law that a party in a legal action, whether civil or criminal, is entitled to ask for the removal of any judge sitting on the case when there exists a reasonable apprehension of bias.

In this instance, a compelling argument can be made that the bias is not only apprehended, it is real, that it is not of one judge but of the entire tribunal, that this is not a judicial body worthy of international respect but a kangaroo court, a bogus court, with a political purpose serving very powerful and identifiable masters.

A crime against peace under the Nuremberg Principles?

To be consistent with my thesis, I will go further and say that as a political instrument designed to violate, to destroy, the integrity and sovereignty of a country, its creation is a crime against peace under the Nuremberg Principles. Instead of resolving conflict as it claims, it is used to justify conflict, instead of creating peace, it is used to justify war and therefore is an instrument of war.

Will Slobodan Milosevic receive a fair trial if they take him? Will the leaders of NATO, even be investigated let alone indicted for war crimes committed in the brutal attack on the civilian population of Yugoslavia, as my colleagues in Canada, South and Central America, Spain, Norway, Greece, Britain, and the United States have requested?

As the English say, the proof is in the pudding. Our requests have met with empty words and no action. We made the requests in order to bring to the attention of the world the crimes that were being committed by Nato. We believe we have succeeded in that. If we have not succeeded in bringing to justice the war criminals of Nato, it is because we have exposed the political nature of this Tribunal instead. It is up to all of us to act on this knowledge.

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The author can be reached at: bar@ldirect.com

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TFF The Transnational Foundation

The Transnational Foundation for Peace and Future Research
Vegagatan 25, S - 224 57 Lund, Sweden
Phone + 46 - 46 - 145909 Fax + 46 - 46 - 144512
<http://www.transnational.org> E-mail: tff@transnational.org

Contact the Webmaster at: comments@transnational.org
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Despotovic, Ruza

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BELGRADE, 25 January 2000

AGGRESSION AGAINST THE FEDERAL REPUBLIC OF YUGOSLAVIA AND INTERNATIONAL LAW AT A CROSSROADS OF CENTURIES AND GLOBAL INTERNATIONAL TRENDS

Prof. Dr. Rodoljub Etinski

Prof. Dr. Ivan Cukalovic

The basic and most important principles of international law, forming the basis of the United Nations, world peace and stability, have been grossly violated by the aggression of the NATO member States against the FR of Yugoslavia. During this aggression, on 29 April 1999, the FR of Yugoslavia submitted an application and a request to the International Court of Justice to indicate preliminary measures against these States for gravest breaches of international law and for most serious crimes. Understandably, the application of our country was received with great attention worldwide, both by the international public at large and even more by the international legal profession, experts and scientific circles. A symbolic manifestation of it was the fact that the courtroom at the Palais de justice in the Hague was packed during the oral hearings held on 10-12 May 1999, regarding Yugoslavia's request for indication of temporary measures to stop the bombing.

The ICJ hearings were the focus of attention of the world media. They were attended by international lawyers, peace movement activists, champions of the cause against the use of depleted uranium from the remotest parts of the world and also by many people from the aggressor countries wishing to support and encourage representatives of the FR of Yugoslavia before the Court(*1). All ten respondent State appeared before the Court. On the benches for the Respondents there sat representatives of the United States, Britain, Germany, France, Italy, the Netherlands, Canada, Belgium, Spain and Portugal. As expected, they challenged the Court's jurisdiction in the case. This fact speaks for itself quite sufficiently. Why was it that these States were reluctant at the time to accept the jurisdiction of the Court? Did they doubt that the Court, of whose fifteen judges six had the nationality of NATO member States, could be partial in favour of the FR of Yugoslavia?

In a situation where ten aggressor States rejected the Court's jurisdiction, it did not accept the requested preliminary measures with the explanation that it did not find that it had a jurisdiction in these cumulative proceedings. The judges, however, were aware of the importance and significance of the dispute and in such a situation could not be silent on the destruction of a sovereign State, on daily deaths of civilians, women, children and elderly people. By its orders of 2 June 1999, the Court gave a "legal framework" for the settlement of the dispute. The Court indicated that all States which appeared before it must fulfil their obligations under the United Nations Charter as well as those

lished under humanitarian law. The Court used the word "must", although it does not use such an imperative expression in its orders related to preliminary measures, in which it usually uses the word "should" so as to avoid prejudicing the adjudication. The Court, further, confirmed that the parties were bound to resolve the dispute by peaceful means in accordance with the UN Charter. Regardless of whether the Respondents accepted or refused the jurisdiction of the Court, the Court said, they were responsible for breaches of international law. Additionally, the Court warned the Respondents not to do anything that might complicate and widen the dispute⁽²⁾. The Court set the deadline of 5 January 2000 for the FR of Yugoslavia to submit its Memorial, which corresponds in our jurisprudence to a lawsuit, and the deadline of 5 July 2000 for the Respondents to submit their Counter-Memorials.

Besides competent Government authorities, prominent Yugoslav experts in some fields of law also participated in the preparation of the Yugoslav Memorial. Its text was finalized with the help of the Federal Ministry of Foreign Affairs. It was elaborated on 350 pages and divided into four parts. The text of the Memorial is accompanied by documentary evidence contained in a separate annex, consisting of two volumes of the White Paper on NATO Crimes, described on 965 pages and published by the Federal Foreign Ministry. Also attached as an annex is the reprinted 1899 edition of the Department of Foreign Affairs of the Kingdom of Serbia entitled "Correspondence on the Albanian violence in the old Serbia 1898-1899" which comprises diplomatic correspondence of Mr. Stojan Novakovic, the then Serbian Envoy in Turkey, and deals with the crimes committed at that time by Albanian gangs against the Serbs in Kosovo and Metohija. These communications are important for understanding the historical background of problems in Kosovo and Metohija, i.e. to deny the argument that the problems started in 1989. Part I of the Memorial contains information on facts related to aerial bombardment and the genocide against the Serbs and persons belonging to other non-Albanian ethnic groups following the deployment of KFOR in Kosovo and Metohija. Part II presents the relevant law. Part III is devoted to the question of jurisdiction of the Court. The last part, Part IV, of the Yugoslav Memorial contains the application itself. The application was extended in comparison with the one submitted on 29 April 1999. Namely, the respondent States, as the States contributing to the Kosovo Force (KFOR) under United Nations Security Council resolution 1244 (1999), are obliged to ensure security for all the population of Kosovo and Metohija. They not only failed to do so, but failed to prevent the genocide of the Serb people and other ethnic groups living in Kosovo and Metohija, in breach of the obligation established by the Convention on the Prevention and Punishment of the Crime of Genocide. The extended application requested that the Court declare the respondent States responsible not only for breach of obligations committed by air strikes but also for breach of obligations committed through these failures or omissions. The case in point are the most important international obligations including the obligation not to use force against other States, not to interfere in the internal affairs of States, to respect the sovereignty of another State, the obligation to protect civilians, civilian facilities and other specially protected facilities in international armed conflicts, the obligation not to use certain types of weapons, the obligation to protect the environment. The Court is requested to order these States to go back to the respect of rights and to carry out their obligations, as well as to compensate for the damages. Most of the Memorial is devoted to the information on the damage caused by air attacks that contains data on the destroyed bridges, residential housing, hospitals, roads, power supply system and material and other damage. The Memorial cites information on the loss of lives of Sanja Milenkovic, Milica Rakic and other innocent and defenceless children, even though we know that such losses are irreparable.

The Yugoslav application was the subject of widespread interest in the world. Some people have asked how come that we submitted the application to the Court and yet we did not want to co-operate with it. In fact, there are two courts in the Hague: the International Court of Justice and the International Tribunal for the Prosecution of Persons Responsible for Grave Violations of International Humanitarian Law Committed in the Territories of the Former Yugoslavia Since 1991 (hereinafter: the International Criminal Tribunal). These are two fundamentally different courts, established at different periods, in different ways and for different reasons, and they have completely dissimilar, even opposite functions.

The International Court of Justice is the principal judicial authority of the United Nations, set up in 1945 under Article 92 of the UN Charter⁽³⁾. ICJ operates on the basis of its Statute, which forms an integral part of the Charter of the United Nations. All UN Member States are *ipso facto* States Parties to the Statute of the Court. The Court settles disputes between States and gives its opinions on legal matters of principle at the request of the Security Council, the General Assembly and an organization or body authorized by the General Assembly to seek an advisory opinion. The Court is based on the notion of sovereign equality of States, respect for the sovereignty and independence of States, implying voluntary consent to the jurisdiction of the Court. Confidence in the ICJ, especially of small and medium-sized countries, has increased in the last twenty years. More and more States are submitting their disputes to the Court or are seeking its protection. Confidence in this Court has increased especially after the case Nicaragua v. the United States of America, concerning interference of the latter in the civil war in Nicaragua, ended by the Court declaring the United States responsible and obliged to pay the compensation. Thus, the Court has demonstrated that a small country can win a case against a large State. As a result of such an opinion of the Court, it is not favoured by those financing the United Nations, as reflected in its budget, number of personnel, etc.

Contrary to this, the Hague is also the site of the seat of the International Criminal Tribunal, which often creates confusion and the mixing of the two institutions. The Tribunal is not very flattering for the residents of the Hague, and a Hague newspaper published some time ago a letter from a non-governmental organization proposing its residents

banish the International Criminal Tribunal from this city, so that it may not tarnish the good reputation of the city as the seat of the headquarters of respectable international organizations. The International Criminal Tribunal was established by Security Council resolution 827 (1993) with a purported aim of prosecuting serious violations of humanitarian law committed in the territory of the former Yugoslavia. Many international lawyers, Ramsey Clark included, deny the validity of the establishment of the Tribunal by the decision of the Security Council. However, the composition, procedure, method of funding, gathering of evidence and bringing of indictments all indicate that the International Criminal Tribunal is the tool of world power wielders, which was set up primarily with the political goal dictated, first and foremost, by the interests of those aspiring to an exclusive global power. The composition of judges sitting on the Tribunal does not reflect the geographic regions as elsewhere in the UN system, which is otherwise the practice and the rule at the United Nations. There is not a single Russian or a representative of Orthodox Christian nations, while representatives of some regions are disproportionately highly represented. The Tribunal has a budget and an administration that are several times those of the ICJ, a fact which speaks much of its relationship with the power wielders whose interests it protects. The Prosecutor of the International Criminal Tribunal has introduced the practice of sealed indictments, unknown in any legal system. Indictments are tricked into being arrested lured by false promises, and sometimes by staging a show for the purposes of the media and interests standing behind these media. So far, the Tribunal mostly indicted and arrested Serbs. Those well-informed know that the Tribunal sticks to an unwritten formula: 70 per cent of Serbs, 25 per cent of Croats and 5 per cent of Muslims must be in its penitentiary unit or in the docks at any time⁽⁴⁾. Dr. Kovacevic died in detention because of the lack of appropriate care at the penitentiary unit, while the detainee Slavko Dokmanovic committed suicide. General Djukic died immediately after he had been released from prison. Indictments Simo Drljaca and Dragan Gagovic were killed during the action to arrest them. Gen. Momir Talic was arrested by means of treachery as he attended a meeting of military officials hosted by the Organization for Security and Co-operation in Europe (OSCE) in Vienna. In both cases there are serious indications that powers had been exceeded, but no one was held responsible. The international community rightfully asks, if the goal is really justice and not the diktat of the mighty, why similar tribunals were not established to prosecute the crimes committed in Vietnam, Grenada, Panama, Ethiopia, in other words, wherever the crimes were done by soldiers of the great Powers. A great many individuals like Nikolai Rishkov, Chairman of the Russian State Duma Commission for the gathering and collation of information on crimes committed during the NATO aggression against the FR of Yugoslavia; Greek attorney Likouresos; Prof. Mendel and fifteen other professors from Canada; Monsieur R. Monsigni from France; British Professor of International Law Glen Rangwell and others have asked the Hague Tribunal to bring indictments against those responsible for the crimes committed during the aggression against the FR of Yugoslavia, against persons coming from the United States, Germany, Britain, France, etc. Although the evidence on this is abundant, Tribunal's Prosecutor Carla del Ponte has not reacted by issuing indictments, regardless of the fact that evidence on the crimes is notorious, thus proving once again that the Tribunal is not impartial and even-handed.

The Tribunal was set up riding the wave of international developments that run contrary to those beginning in the Hague in 1899 and that bring into question the results of the development of international law. The idea of international criminal justice is not a new one. It appeared after the First World War. However, it was not before 1998 that a Statute of the Permanent Criminal Court was adopted at the UN Conference in Rome. This Statute substantially differs from the Statute of the International Criminal Tribunal. The Rome Statute, like the Statute of the ICJ, is based on the principle of voluntary consent that stems from the sovereign equality of States. It is valid not only for one territory and one time, especially not for members of one nation, but for all the States which have accepted it and for all future times. It does not relate only to violations of humanitarian law but includes also the most serious international crime, that of aggression, and other crimes. The position of its Prosecutor is fundamentally different in comparison with the position of the Prosecutor envisaged under the Statute of the International Criminal Tribunal.

Someone has written that the International Criminal Tribunal serves allegedly as a Security Council's Disciplinary Commission. As a matter of fact, it serves as a Disciplinary Commission of some permanent members of the Security Council. They refuse to accept the Permanent Criminal Court, which could put them in the dock.

In brief, there is a substantial difference between the ICJ and ICT.

The FR of Yugoslavia has, therefore, addressed the ICJ whose practice has proven that it can resist the pressures of world power wielders, rather than to the ICT which is, in essence, an extended hand of the above-mentioned power wielders.

Footnotes:

1. The FR of Yugoslavia, in addition to Yugoslav lawyers, was represented by reputed international lawyers such as Ian Brownlie, Professor of International Law at OXFORD University, member of the United Nations International Law Commission (ILC), one of the leading international lawyers and a man who has, over the past twenty years, most defended victims in the cases before the ICJ; Eric Soy, Professor of International Law at Louvain, Belgium, former

Under-Secretary-General of the United Nations for Legal Affairs; Paul de Vart, Professor of International Law at Open University in Amsterdam; and Olivier Corten, a young and talented international lawyer from the Open University in Brussels. These are respectable lawyers who have, despite the fact that they come from the respondent States, agreed to represent the FR of Yugoslavia before the Court.

2. The Court, on that occasion, suspended proceedings against the United States and Spain, considering that there were no chances that it established its jurisdiction in the later stages of the dispute, since these two States have excluded the jurisdiction of the Court as envisaged under the Genocide Convention by their reservations, while it decided to resume proceedings against the eight other States.

3. Its forerunner is the Permanent Court of International Justice which was the principal judicial authority of the League of Nations. The latter Court, in turn, was preceded by the Permanent Court of Arbitration, established at the First Hague Peace Conference in 1899. Indeed, the Department of Foreign Affairs of the Kingdom of Serbia prepared for that conference the above publication containing the diplomatic correspondence of Envoy Stojan Novakovic, but it was never forwarded to the Conference. The roots of the ICJ, therefore, go back to the end of the nineteenth century. This instrument of peaceful settlement of disputes has developed and strengthened alongside the development and strengthening of contemporary international law, whose foundations have been codified in the constitution of the international community, i.e. the Charter of the United Nations. It is a mechanism on whose improvement worked the best lawyers of the nineteenth and twentieth centuries. The Kingdoms of Serbia and Montenegro, later the Kingdom of Yugoslavia, and Democratic Federative Yugoslavia all the way to the present Federal Republic of Yugoslavia have continuously participated in this process. The Kingdoms of Serbia and Montenegro participated at the First Hague Peace Conference in 1899 and they were parties to the Convention on the Permanent Court of Arbitration. The Kingdom of Yugoslavia, which resolved its disputes before the Permanent Court of International Justice, had its citizens among the judges of that court. Yugoslavia is a founding Member of the United Nations and as such, is party to the 1945 Statute of the International Court of Justice since 1945. Judge Zoricic was a permanent judge of this Court.

4. Currently, the following Serbs are detained in the penitentiary unit at Scheweningen: Mladjo Radic, Miroslav Kvočka, Milošica Kos, Zoran Zigic, Dragan Kolund'ija, Damir Dosen, Milorad Kmojelac, Dragoljub Kunarac, Goran Kovac, Zoran Vukovic, Miroslav Tadic, Dusko Tadic, Goran Jelusic, Simo Zoric, Brdjanin, Momir Talic, Svetislav Galic, Radoslav Krstic, Stevan Todorovic and Miroslav Simic; the following Croats: Zdravko Mucic, Vlatko, Marijan and Zoran Kupreskic, Vlado Santic, Drago Josipovic, Tihomir Blaskic, Dario Kordic, Mario Cerkez, Martinovic; and the following Muslims: Hazim Delic and Esad Landzo.

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