

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

CASE NO.

THE PROSECUTOR

v.

Mirko NORAC

INDICTMENT

The Prosecutor of the International Criminal Tribunal for the former Yugoslavia, pursuant to her authority under Article 18 of the Statute of the International Criminal Tribunal for the former Yugoslavia ("Statute of the Tribunal"), charges:

MIRKO NORAC

with CRIMES AGAINST HUMANITY and VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR, as set forth below:

THE ACCUSED

MIRKO NORAC

1. Mirko NORAC was born on 19 September 1967 in Otok in the municipality of Sinj in the Republic of Croatia.

2. In August 1990, Mirko NORAC joined the Ministry of Interior ("the MUP"). In September of the same year, he became a member of the Lu-ko Anti-Terrorist Unit.
3. On 12 or 13 September 1991, Mirko NORAC was appointed Commander of the 118th Brigade of the Croatian army or the Hrvatska Vojska ("the HV").
4. In November 1992, Mirko NORAC was appointed Commander of the 6th Guards Brigade of the HV. In 1993, the 6th Guards Brigade was renamed the 9th Guards Motorised Brigade. He remained Commander of the 9th Guards Motorised Brigade at the time of the Croatian military operation in the Medak Pocket ("the Medak Pocket operation").
5. During the Medak Pocket operation, he was appointed Commander of Sector 1, which was a combat group formed for the purposes of conducting the operation.
6. In 1994, Mirko NORAC was promoted to the rank of Brigadier and appointed Commander of the Gospi} Operational Zone (Military District). He held that rank and remained in that position until 25 September 1995, when President Franjo Tu|man promoted him to the rank of Major General. On 15 March 1996, Mirko NORAC was appointed Commander of the Knin Corps District. On 29 September 2000, Mirko NORAC was discharged from the HV.

INDIVIDUAL AND SUPERIOR CRIMINAL RESPONSIBILITY

7. Mirko NORAC is individually responsible for the crimes charged against him in this indictment pursuant to Article 7(1) of the Statute of the Tribunal. Individual criminal responsibility includes planning, instigating, ordering, or otherwise aiding and abetting in the planning, preparation or execution of any acts or omissions set forth in the Indictment.
8. Mirko NORAC, by virtue of his high-ranking position as a Colonel in the HV and Commander of the 9th Guards Motorised Brigade of the HV and Sector 1, from 9 to 17 September 1993, played a central role in developing, planning, ordering and/or executing the Medak Pocket operation, during which serious violations of international humanitarian law and Crimes Against Humanity were committed, as alleged in this indictment.
9. Mirko NORAC, at all times relevant to this indictment, held the position of Commander of the 9th Guards Motorised Brigade of the HV with the rank of Colonel. The 9th Guards Motorised Brigade of the HV was one of the constituent units of Sector 1 of the Gospi} Operational Zone, and the main HV unit involved in the Medak Pocket Operation. Mirko NORAC, as Commander of Sector 1, was empowered to issue orders, and in fact did issue orders. His responsibilities included planning, deploying, directing, executing and monitoring the activities of all sub-units and subordinate formations comprising Sector 1. These included the 9th Guards Motorised Brigade, the Gospi} Home Guard Battalion, the Lovinac Home Guard

Battalion, units of the 111th Brigade and units of the Special Forces of the MUP.

10. Mirko NORAC is also, or alternatively, criminally responsible as a superior for the acts of his subordinates pursuant to Article 7(3) of the Statute of the Tribunal. A superior is criminally responsible for the acts of his subordinates, if the superior knew, or had reason to know, that his subordinates were about to commit such acts, or had done so, and the superior failed to take necessary and reasonable measures to prevent such acts, or to punish the perpetrators thereof.
11. Mirko NORAC, by virtue of his high ranking position as a Colonel in the HV and the Commander of the 9th Guards Motorised Brigade of the HV and Sector 1, had the power, authority and responsibility to prevent or punish serious violations of international humanitarian law committed during the Medak Pocket operation.
12. Mirko NORAC not only had reason to know that, during the Medak Pocket operation, various subordinates under his operational control were responsible for the persecution and killing of Serb civilians and surrendered soldiers, and the plunder and destruction of buildings and property, but he in fact knew of such acts. Mirko NORAC failed to take necessary and reasonable measures to prevent such acts, or to punish the perpetrators thereof.

GENERAL ALLEGATIONS

13. At all times relevant to this indictment, a state of armed conflict existed in the Krajina region of the Republic of Croatia in the territory of the former Yugoslavia.
14. At all times relevant to this indictment, the accused Mirko NORAC was required to abide by the laws and customs governing the conduct of war, including Common Article 3 of the Geneva Conventions of 1949.
15. The acts or omissions alleged against the accused in this indictment which constitute Crimes Against Humanity are crimes punishable under Article 5 of the Statute of the Tribunal, and were part of a widespread or systematic attack directed against a civilian population, specifically the Serb population of the Medak Pocket.
16. In this indictment, every reference to "Croatian forces" means and includes the armed forces of the Republic of Croatia, being the HV, and also units of the MUP that participated in the Medak Pocket operation.
17. All references to the Medak Pocket operation means and includes all operations conducted by Croatian forces in and immediately around the area of the Medak Pocket, as described in paragraph 27 below.
18. The general allegations contained in paragraphs 13 to 17 are re-alleged and incorporated into each of the related charges set out below.

CHARGES

COUNT 1 (PERSECUTIONS)

19. Before and during the Croatian military operation in the Medak Pocket, from 9 September to on or about 17 September 1993, Mirko NORAC, acting individually and/or in concert with others including Janko BOBETKO and Rahim ADEMI, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of persecutions of Serb civilians of the Medak Pocket on racial, political or religious grounds. In so far as the accused is responsible for criminal behaviour constituting the crime of persecutions pursuant to Article 7(1) of the Statute, his responsibility is established, inter alia, by evidence of his presence at the relevant time in the areas where such behaviour occurred, his ensuing awareness of the behaviour, steps taken by him to restrict access to the area to his subordinates, and the resulting inference that this behaviour could not have occurred in such a widespread or systematic manner unless it was a consequence of his orders.

20. The crime of persecutions was perpetrated through the following:

- a) the unlawful killing of Serb civilians and captured and/or wounded soldiers from the Medak Pocket. As illustrative examples, details of some of those killed are provided in the First Schedule to this indictment;

- b) cruel and inhumane treatment of Serb civilians and captured and/or wounded soldiers from the Medak Pocket, by inter alia, causing serious injuries by means of shooting, stabbing, cutting of fingers, severe beatings with rifle butts, burning with cigarettes, jumping on bodies, tying bodies to a car and dragging them along the road, mutilation and other forms of mistreatment. As an illustrative example, details of some of these acts of cruel and inhumane treatment referred to herein are set out in the Second Schedule to this indictment;
- c) terrorising the predominantly Serb civilian population of the Medak Pocket by, inter alia, the mutilation and desecration of the body of Boja PJEVA] ; the public killing of Boja VUJNOVI] by burning her alive whilst mocking her; expressing an intention to kill all civilians; placing racist graffiti on buildings; and leaving sinister and menacing messages on a destroyed building, all of which resulted in the civilian population being forced to abandon their homes and property and to leave the area permanently;
- d) the destruction of personal property belonging to Serb civilians of the Medak Pocket, in that on or after 9 September 1993, the Croatian forces in the area systematically destroyed up to 164 homes and approximately 148 other buildings (and the contents thereof) by the use of explosives and fire, and as further described in paragraphs 38 and 40 of this indictment. This destruction continued unabated after the cease-fire of 15 September was put into effect and continued until the final withdrawal of the Croatian forces on 17 September 1993. As an illustrative example, some villages, hamlets or areas where acts of plunder of property were committed are set out in the Third Schedule to this indictment.

e) the systematic plunder of Serb civilian property during and after the military operation in the Medak Pocket by elements of the Croatian forces, in conjunction with Croatian civilians, who unlawfully removed personal goods such as electrical goods and furniture from buildings that were or about to be destroyed, removed animals and farm equipment, dismantled buildings and carried parts thereof away by truck, and as further described. As an illustrative example, some villages, hamlets or areas where acts of plunder of property were committed are set out in the Third Schedule to this indictment.

21. Alternatively, Mirko NORAC knew, or had reason to know, that Croatian forces under his command, direction and/or control, or subordinated to him, were committing the acts described in paragraph 20 above, or had done so. Mirko NORAC failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions, Mirko NORAC did commit:

Count 1: a CRIME AGAINST HUMANITY, namely Persecutions on political, racial or religious grounds, punishable under Article 5 (h) read with Articles 7(1) and 7(3) of the Statute of the Tribunal.

COUNTS 2 & 3

(MURDER)

22. Between 9 September and about 17 September 1993, Mirko NORAC knew, or had reason to know, that Croatian forces under his command, direction and/or control, or subordinated to him, were engaged in the unlawful killing of Serb civilians living in the Medak Pocket and Serb soldiers who were captured and/or wounded, or had done so. Mirko NORAC failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof. Particulars of some of the killed civilians and soldiers hors d'combat are contained in the First Schedule to this indictment.

By these acts and omissions, Mirko NORAC did commit:

Count 2: a CRIME AGAINST HUMANITY, namely Murder, punishable under Article 5 (a) read with Article 7(3) of the Statute of the Tribunal.

Count 3: a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, namely Murder, as recognised by Common Article 3(1)(a) of the Geneva Convention of 1949, punishable under Article 3 read with Article 7(3) of the Statute of the Tribunal.

COUNT 4

(PLUNDER OF PROPERTY)

23. From 9 September to on or about 17 September 1993, property of Serb civilians living in the Medak Pocket was plundered. Mirko NORAC, acting individually and/or in concert with others including Janko BOBETKO and Rahim ADEMI, planned, instigated, ordered,

committed or otherwise aided and abetted in the planning, preparation or execution of the plunder of property of Serb civilians of the Medak Pocket. As an illustrative example, some villages, hamlets or areas where acts of plunder of property were committed are set out in the Third Schedule to this indictment.

24. Alternatively, Mirko NORAC knew, or had reason to know, that Croatian forces under his command, direction and/or control, or subordinated to him, were committing the acts described in paragraph 23 above, or had done so. Mirko NORAC failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions, Mirko NORAC did commit:

Count 4: a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, Plunder of public or private property, punishable under Article 3(e) read with Articles 7(1) and 7(3) of the Statute of the Tribunal.

COUNT 5

(WANTON DESTRUCTION OF CITIES, TOWNS OR VILLAGES)

25. From 9 September to on or about 17 September 1993, most Serb villages of the Medak Pocket were destroyed. Mirko NORAC, acting individually and/or in concert with others including Janko BOBETKO and Rahim ADEMI, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of the destruction of property of Serb civilians of the Medak Pocket.

As an illustrative example, some villages, hamlets or areas where acts of wanton destruction were committed are set out in the Third Schedule to this indictment.

26. Alternatively, Mirko NORAC knew, or had reason to know, that Croatian forces under his command, direction and/or control, or subordinated to him, were committing the acts described in paragraph 25 above, or had done so. Mirko NORAC failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions, Mirko NORAC did commit:

Count 5: a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, namely Wanton destruction of cities, towns or villages, punishable under Article 3(b) read with Articles 7(1) and 7(3) of the Statute of the Tribunal.

STATEMENT OF THE FACTS

27. The Medak Pocket was approximately four to five kilometres wide and five to six kilometres long and consisted of the localities of Divoselo, [^]itluk and part of Po-itelj and numerous small hamlets. It was situated within the self-proclaimed Republika Srpska Krajina (the Republic of Serbian Krajina, hereinafter referred to as "the RSK") to the south of the city of Gospi} in the Republic of Croatia. It was primarily a rural area with a combination of forest and open fields.

Prior to the attack, approximately 400 Serb civilians inhabited the area.

28. Following multi-party elections in Croatia in 1990, on 25 June 1991, Croatia declared its independence. For some months prior to that, an armed conflict had erupted between Croatian Serbs and Croatian forces. In September 1991, the Croatian Government stated that the Croatian Serbs and the JNA controlled about one-third of the territory of Croatia.

29. On 19 December 1991, the Assembly of the Serbian Autonomous Region of Krajina, together with Serbs from other parts of Croatia, declared independence from Croatia and formed the RSK, with its own military force, the Srpska Vojska Krajina (the Serbian Army of Krajina or "SVK").

30. In February 1992, following the Vance Plan, the United Nations Security Council established under its authority a United Nations Protection Force ("UNPROFOR") that was to be deployed in United Nations Protected Areas ("UNPA's") in Croatia. The UNPA's were areas in Croatia where Serbs constituted the majority, or a substantial minority, of the population and where inter-communal tensions had led to armed conflict in the recent past. There were four UNPA's: Sectors North, South, East and West. The Serb-held or disputed territories in Croatia that were outside the UNPA's were generally referred to as "pink zones". The Medak Pocket was situated in such a "pink zone", close to Sector South.

31. The Croatian forces launched several military operations against the RSK in 1992 and 1993. These operations were launched into the

UNPA's or adjacent "pink zones" at the Miljeva-ki Plateau in June 1992, the area of the Maslenica bridge in northern Dalmatia in January 1993 and the Medak Pocket in September 1993.

32. The Croatian attack on the Medak Pocket commenced with shelling of the area in the early morning of 9 September 1993. At approximately 0600 hours, Croatian forces comprising HV units from the Gospi} Operational Zone, including the 9th Guards Brigade, 111th Brigade, Gospi} Home Guard Battalion, Lovinac Home Guard Battalion and units of Special Forces of the MUP, entered the Pocket. After approximately two days of fighting, they had taken control of Divoselo, ^itluk and part of Po-itelj, after which the Croatian advance halted.

33. At this time, Corps General Janko BOBETKO was the Chief of Main Staff of the HV whilst Brigadier Rahim ADEMI was acting Commander of the Gospi} Operational Zone. Colonel Mirko NORAC was the Commander of the 9th Guards Brigade.

34. Following the intervention of international representatives, negotiations at a political and military level between the Croatian and RSK authorities were initiated shortly after the attack, with the objective of achieving a cessation of hostilities and a withdrawal of Croatian forces from the areas captured during the operation.

35. As a result of such negotiations, an agreement was signed on 15 September 1993 by General Mile Novakovi}, on behalf of the Serbian side and Major-General Petar Stipeti}, on behalf of the Croatian side. The latter was ordered to sign the agreement by Janko BOBETKO.

36. Under the terms of this agreement, a cease-fire was to take effect at 1200 hours on 15 September 1993 and the Croatian forces were to leave the territory entered on 9 September 1993, leaving the Medak Pocket under UNPROFOR control. The Croatian withdrawal from the Medak Pocket was completed at 1800 hours on 17 September 1993.
37. During the Croatian military operation in the Medak Pocket, at least 29 local Serb civilians were unlawfully killed and others sustained serious injury. Many of the killed and wounded civilians were women and elderly people. Croatian forces also killed at least five Serb soldiers who had been captured and/or wounded. Details of some of the killed civilians and soldiers hors d'combat are contained in the First Schedule to this indictment.
38. Approximately 164 homes and 148 barns and outbuildings, being a majority of buildings in the villages within the Medak Pocket were destroyed, mostly by fire and explosives, after the Croatian forces had taken effective control. A substantial portion of this destruction took place between the cease-fire on 15 September 1993 and the completion of the Croatian withdrawal at 1800 hours on 17 September 1993.
39. Between 9 and 17 September 1993, property belonging to Serb civilians was plundered by the Croatian forces, or by persons in civilian clothes under the supervision of the Croatian forces, for anything of value. These included personal belongings, household goods, furniture, housing items, farm animals, farm machinery and other equipment.

40. Serb-owned civilian property that was not subjected to plunder as described above was burned or otherwise destroyed. Household goods and furniture were destroyed, farm machinery was damaged or destroyed with bullets, farm animals were killed and wells were polluted.

41. As a result of these widespread and systematic unlawful acts during the Croatian military operation, the Medak Pocket became uninhabitable. The villages of the Pocket were completely destroyed, thereby depriving the Serbian civilian population of their homes and livelihood.

Carla Del Ponte
Prosecutor

This 29th day of April 2004
The Hague
The Netherlands