

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

CASE NO. IT-02-62

THE PROSECUTOR

OF THE TRIBUNAL

AGAINST

Janko BOBETKO

INDICTMENT

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

JANKO BOBETKO

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

THE ACCUSED

1. **Janko BOBETKO** was born on 10 January 1919 in the village of Crnac in the Sisak region of Croatia. He served in the Partisan Resistance between 1941 and 1945. Following the war, he attended and graduated from a Military Academy of the Yugoslav National Army (JNA).

2. In 1966 he was appointed Chief of Staff and Deputy Commander of the JNA's 5th Military District (Croatia & Slovenia). He retired from the JNA on 2 December 1971.

3. On 10 April 1992, **Janko BOBETKO** was appointed by the late Franjo Tudjman, President of the Republic of Croatia, as Corps General (General Zbora) of the Croatian army, Hrvatska Vojska (HV) and Commander of the Southern Front. In 1992 he commanded the HV forces which conducted military operations in the areas of Dubrovnik, Ploce and the Neretva Valley.

4. On 7 September 1992, **Janko BOBETKO** was elected to the Committee of Interior Policy and National Security of the Croatian National Assembly, and remained a member until 8 April 1994.

On 10 September 1992, he was appointed a member of the National Defence Council of the Republic of Croatia. On 20 January 1993, he was appointed a member of the National Defence and Security Council of the Republic of Croatia.

5. On 20 November 1992, **Janko BOBETKO** was appointed Chief of Staff of the HV, replacing General Anton Tus. He served as the Chief of Staff until he retired on 15 July 1995.

INDIVIDUAL AND SUPERIOR CRIMINAL RESPONSIBILITY

6. **Janko BOBETKO**, at all the times relevant to this indictment, was the Chief of the Main Staff of the HV, with the rank of Corps General. As Chief of the Main Staff, he was the most senior military commander of the HV, exercising authority over, and responsibility for, all formations within the HV which were subordinated to the Main Staff. In this capacity, he was directly responsible to the Commander in Chief ("the Supreme Commander"), President Franjo Tudjman, to whom he acted as principal military adviser and was also the principal military adviser to the Minister of Defence, Gojko Susak.

7. **Janko BOBETKO**, by virtue of his high-ranking position as the Chief of the Main Staff of the HV, played a central role in developing, planning, authorising, ordering and/or executing the Croatian military operation in the Medak Pocket in September 1993 (hereinafter referred to as "the Medak Pocket operation"), during which serious violations of international humanitarian law and Crimes against Humanity were committed, as alleged in this indictment.

8. **Janko BOBETKO**, by virtue of his high ranking position as Chief of the Main Staff of the HV, had the power, authority and responsibility to prevent or punish breaches of military discipline and violations of international humanitarian law and Crimes against Humanity, including by referral to appropriate authorities for investigation and prosecution.

9. **Janko BOBETKO** not only had reason to know that Croatian forces subordinated to him were responsible for the persecution and killing of Serb civilians and surrendered soldiers, and the plunder and destruction of buildings and property during the Medak pocket operation, but he knew of such acts, having been informed by senior subordinates within the HV and representatives of the international community. Although he had knowledge that the said crimes were committed by Croatian forces, he failed to take necessary and reasonable measures to prevent such acts, or to punish the perpetrators thereof.

GENERAL ALLEGATIONS

10. At all times relevant to this indictment, a state of armed conflict existed in the Krajina region of the Republic of Croatia, as described in this indictment.

11. **Janko BOBETKO** 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 this indictment.

12. **Janko BOBETKO** 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.

13. At all times relevant to this indictment, the accused **Janko BOBETKO** was required to abide by the laws and customs governing the conduct of war, including Common Article 3 of the Geneva Conventions of 1949.

14. The alleged acts or omissions constituting Crimes against Humanity, which are crimes punishable under Article 5 of the Statute of the Tribunal, were part of a widespread or systematic attack directed against a civilian population, specifically the civilian population of the Medak Pocket.

15. In this indictment, references to "Croatian forces" means and includes the armed forces of the Republic of Croatia, being the HV, and units of the special forces of the Ministry of the Interior ("MUP") which participated in the Medak Pocket operation and were subordinated to the Gospić Military District of the HV.

16. 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 paragraphs 18 to 40 below.

17. The general allegations contained in paragraphs 10 to 16 are re-alleged and incorporated into each of the related charges set out below.

STATEMENT OF THE FACTS

18. The area hereinafter referred to as the Medak Pocket is approximately four to five kilometers wide and five to six kilometers long and consisted of the localities of Divoselo, Citluk and part of Pocitelj 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 Gospić in the Republic of Croatia. It was primarily a rural area with forest and open fields. Prior to the attack, approximately 400 Serb civilians inhabited the area.

19. On 25 June 1991, following multi-party elections in Croatia in 1990, Croatia declared its independence. For some months prior to that an armed conflict had existed 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.

20. 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).

21. 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.

22. 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 Miljevacki Plateau in June 1992, the area of the Maslenica bridge in northern Dalmatia in January 1993 and the Medak Pocket in September 1993.

23. 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 Gospic Operational Zone, including the 9th Guards Brigade, 111th Home Guard Regiment, Gospic Home Guard Battalion, Lovinac Home Guard Battalion and units of the special forces of the MUP, entered the Pocket. After approximately two days of fighting, they had taken control of Divoselo, Citluk and part of Pocitelj, after which the Croatian advance halted.

24. At this time, Janko BOBETKO was the Chief of Main Staff of the HV whilst Brigadier Rahim ADEMI was Acting Commander of the Gospic Military District. Colonel Mirko NORAC was the Commander of the 9th Guards Brigade.

25. 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.

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

27. 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.

28. During the Medak Pocket operation at least 100 Serbs including 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 29 civilians and 5 soldiers *hors d'combat* are contained in the First Schedule to the indictment.

29. 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.

30. During the above period, property belonging to Serb civilians was plundered by the Croatian forces, or by persons in civilian clothes under the supervision of the Croatian forces. These included personal belongings, household goods and building materials, furniture, farm animals, farm machinery and other equipment.

31. 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 were riddled with bullets, farm animals were killed and wells were polluted.

32. 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 destroyed, thereby depriving the Serbian civilian population of their homes and livelihood.

CHARGES COUNT 1

(PERSECUTIONS)

33. Before, during and in the aftermath of the Croatian military operation in the Medak Pocket, from 9 September 1993 until on or about 17 September 1993, **Janko BOBETKO**, acting individually and/or in concert with others, 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.

34. The crime of persecution was perpetrated through the following:

a) the unlawful killing of at least 100 Serb civilians and captured and/or wounded soldiers from the Medak Pocket. As an illustrative example, 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, burning with cigarettes, jumping on bodies, tying bodies to a car and dragging them along the road, mutilation and other forms of mistreatment. Details of some of the 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 PJEVAC; the public killing of Boja VUJNOVIC 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 from

the Medak Pocket. 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 29 and 31 of this indictment. This destruction continued until the final withdrawal of the Croatian forces on 17 September 1993;

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 in paragraph 30 of this indictment.

35. Alternatively, **Janko BOBETKO** 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 34 above, or had done so. **Janko BOBETKO** failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions **Janko BOBETKO** did commit:

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

COUNTS 2 & 3

(MURDER)

36. **Janko BOBETKO** knew, or had reason to know, that Croatian forces under his command, direction and/or control, or subordinated to him, between 9 September 1993 and about 17 September 1993, were engaged in the unlawful killing of at least 100 Serb civilians and captured and/or wounded soldiers from the Medak Pocket, or had done so. **Janko BOBETKO** failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions **Janko BOBETKO** did commit:

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

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

COUNT 4

(PLUNDER OF PROPERTY)

37. From 9 September 1993 to about 17 September 1993, property of Serb civilians living in the Medak Pocket was plundered. **Janko BOBETKO** acting individually and/or in concert with others, 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. Details of some of the villages, hamlets or areas where acts of plunder of property were committed are set out in the Third Schedule to this indictment.

38. Alternatively, **Janko BOBETKO** 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 37 above, or had done so. **Janko BOBETKO** failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions **Janko BOBETKO** did commit:

Count 4: Plunder of public or private property, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, which is 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)

39. From 9 September 1993 to about 17 September 1993, most Serb villages of the Medak Pocket were destroyed. **Janko BOBETKO**, acting individually and/or in concert with others, 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. Details of some of the villages, hamlets or areas where acts of wanton destruction were committed are set out in the Third Schedule to this indictment.

40. Alternatively, **Janko BOBETKO** 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 39 above, or had done so. **Janko BOBETKO** failed to take necessary and reasonable measures to prevent the commission of such acts or punish the perpetrators thereof.

By these acts and omissions **Janko BOBETKO** did commit:

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

Carla Del Ponte
Prosecutor

This 23 day of August 2002

The Hague

The Netherlands