

**UNITED
NATIONS**



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

**REPORT TO THE PRESIDENT
DEATH OF SLOBODAN MILOŠEVIĆ**

JUDGE KEVIN PARKER
VICE-PRESIDENT
MAY 2006

To H.E. Judge Fausto Pocar
President

Slobodan Milošević died in his cell at the United Nations Detention Unit in the Scheveningen Penitentiary Facility on Saturday morning, 11 March 2006. By order made that day, pursuant to Rule 33 of the Rules of Detention, you assigned me to conduct a full inquiry into the circumstances surrounding his death and to report my findings to you. The terms of inquiry were without restriction.

I was assisted by Catherine Marchi-Uhel, Head of Chambers, Robert Reid, Deputy Chief of Investigation, Philip Berikoff, Deputy Chief of Security, and Vessela Terzieva, my Legal Officer. The task has made very heavy demands on them. Their efficiency and commitment have been outstanding.

I submit my report.

The Hague
30 May 2006

Judge K.H. Parker
Vice-President

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REPORT

1. Slobodan Milošević died in his cell at the United Nations Detention Unit (“UNDU”) in the Scheveningen Penitentiary Facility on Saturday morning, 11 March 2006. The time of death has not been conclusively determined. Standard assessment suggests around 0745 hours. The post mortem report indicates between 0700 and 0900 hours. He was alone in the locked cell.
2. Coronial and police investigations, under the aegis of the District Office of the Public Prosecutor in The Hague, have been undertaken. These include a very detailed autopsy, including full pathological and toxicological investigations, conducted by the Netherlands Forensic Institute.
3. Despite allegations, which received much attention in some segments of the media, that he was the victim of murder, especially by poisoning, these investigations have confirmed that Mr. Milošević died of natural causes from a heart attack and that there was no poison or other chemical substance found in his body that contributed to the death.
4. This Inquiry relies on the reports and findings of those investigations, which were conducted entirely independently of this Tribunal. There has also been an independent audit of UNDU by a specialist Swedish Team.

Events of 11 March 2006

5. Slobodan Milošević was detained in the E1 wing of UNDU. At 0900 hours on Saturday, 11 March 2006, two guards unlocked the cells of E1 wing. On weekends cells are usually unlocked at the later time of 0900 hours and those detainees who wish to go out to the exercise yard for sport are taken out for an hour. A guard opened Mr. Milošević’s cell and called “Good Morning!” but heard no response. He saw that Mr. Milošević was lying on his bed and assumed that he was still asleep. Mr. Milošević did not usually participate in the outdoor sport sessions, but on weekends he would normally be awake at 0900 hours and would be given his medications. The guard left Mr. Milošević’s cell open while he gave medications to some other detainees in the wing. As Mr. Milošević had not stirred the guard decided to give Mr. Milošević his medications later when he woke. At about 0905 hours the two guards locked the cells of all detainees on E1 wing who did not go to sport, including that of Mr. Milošević, and left the floor with the detainees going to sport. The actions of the guard in not taking a closer look at Mr. Milošević cannot be fairly criticised in the circumstances as they presented themselves to the guard at the time. In particular, as will be apparent later in this Report, the need for Mr. Milošević to rest at weekends was by then a significant feature of the management of his health.

6. At 1005 hours sport was finished and the two guards returned with their detainees to E1 wing. The two guards then once again opened all cells. One of the guards looked through the observation window into the cell of Mr. Milošević and saw that he was still lying on his bed. The guard unlocked the door and entered the cell. As he approached the bed he saw that Mr. Milošević's face was greyish in colour and that his arm was hanging over the side of the bed. His face muscles were sunken and his ears were blue. The guard summoned a colleague from the guardroom. Together they sought to confirm whether Mr. Milošević was dead. The second guard called Mr. Milošević by name, shook his foot and tried in vain to detect any pulse beat. There was no response. It was apparent to both guards that Mr. Milošević had died.

7. The guards then left the cell locking the door, telephoned the shift supervisor, who was in the control booth, informed him of the situation and asked him to make all necessary telephone calls. Two other guards immediately ran from the control booth to confirm that Mr. Milošević was dead. The shift supervisor called the Commanding Officer of UNDU, his deputy and the medical officer, Dr Falke. No signs of life could be found. The guards then left the cell and again locked the door while waiting for the doctor. Meanwhile, other guards returned all detainees on the wing and the adjacent wing back to their cells and locked the doors.

8. By about 1030 hours Dr Falke arrived at UNDU. He went immediately to Mr. Milošević's cell accompanied by a guard and confirmed the death of Mr. Milošević. The cell door was then locked and sealed. The Dutch police had also been informed and arrived at UNDU shortly after Dr Falke. They immediately pursued their various inquiries, including interviewing Dr Falke and all guards who were on duty. Two detectives, three forensic experts, and Haaglanden uniformed police officers attended at UNDU. The sealed door to Mr. Milošević's cell was unsealed to allow access by the Dutch police.

9. Further Dutch police officers arrived and two coroners. At 1615 hours two Dutch municipal coroners conducted an external examination of the body of Mr. Milošević. At about 1800 hours, after consultations with the Tribunal's Registrar, the Dutch Public Prosecutor ordered that Mr. Milošević's body is taken into custody and that a full forensic autopsy be conducted.

10. At about 1910 hours Mr. Milošević's body was removed from E1 wing and later was transported to the Netherlands Forensic Institute. The cell of Mr. Milošević was sealed by the Dutch police after the removal of his body.

Background and trial

11. Slobodan Milošević was born on 20 August 1941 in Pozarevac, in the present-day Republic of Serbia. He began his political career in 1983 and from 1984 to 1988 he held various leadership positions within the League of Communists of Serbia. On 16 July 1990, after the creation of the Socialist Party of Serbia, Mr. Milošević became its President and held this post until 2001. In May 1989 Mr. Milošević became the President of Serbia and in July 1997 he was elected the President of the Federal Republic of Yugoslavia. Following defeat in the September 2000 Presidential elections, on 6 October 2000 Mr. Milošević was forced to step down.

12. Slobodan Milošević was initially indicted before this Tribunal on 24 May 1999 for crimes against humanity and war crimes committed in the territory of Kosovo after January 1999. On 8 October 2001 he was also indicted for crimes against humanity and war crimes committed in Croatia between August 1991 and June 1992. On 22 November 2001 he was further charged with genocide, crimes against humanity, and war crimes committed in the territory of Bosnia and Herzegovina from 1 March 1992 until 31 December 1995. On 27 November 2001 the Office of the Prosecutor (“Prosecution”) moved for joinder of the three Indictments against Slobodan Milošević. On 13 December 2001 the Trial Chamber joined the Croatia and Bosnia Indictments but ordered that the Kosovo Indictment be tried separately. On 1 February 2002 the Appeals Chamber reversed the decision of the Trial Chamber and ordered that the three Indictments be tried in one trial.

13. Slobodan Milošević was transferred to UNDU on 29 June 2001. He adamantly insisted on representing himself in all pre-trial proceedings and in the trial which commenced on 12 February 2002. He was entitled to do so under Article 21(4)(d) of the Statute of the Tribunal. He did so despite often repeated medical advice that it was dangerous for him to bear the burden and stress of representing himself. In the course of the presentation of its case, which continued until 25 February 2004, the Prosecution called 352 witnesses. The evidence of some 200 of them was presented, fully or partly, in the form of written statements.

14. The trial was interrupted frequently during the Prosecution case because of Mr. Milošević’s health. In August 2002 the trial schedule was reduced, on the recommendation of the cardiologist treating Mr. Milošević, Dr van Dijkman, to allow four consecutive days of rest every two weeks of trial. This was further reduced in September 2003 on the advice of Dr van Dijkman to a trial schedule of only three sitting days a week. This schedule remained basically in place until the termination of the proceedings, although on numerous occasions additional adjournments were granted, either or both because of the health of Mr. Milošević or to allow him additional preparation time. Altogether 66 trial days were lost during the Prosecution case because of the health of Mr.

Milošević.

15. The Defence case was initially scheduled to begin three months after the close of the Prosecution case. Nevertheless, the start of the Defence case had to be postponed on five occasions on the account of Mr. Milošević's ill-health. The conduct of the trial was further affected by the resignation because of ill-health of the Presiding Judge and the appointment of a new Judge to the bench.

16. The case for Mr. Milošević commenced on 31 August 2004. On 2 September 2004, in view of detailed medical reports it had received regarding Mr. Milošević's health, the Trial Chamber made an order assigning counsel to Mr. Milošević. The effect of the modalities provided by that order would have been that the assigned defence counsel would have primary responsibility for conducting and presenting the defence case. The modalities of this order were reversed by the Appeals Chamber in November 2004, returning the effective conduct and presentation of the defence case to Mr. Milošević. Despite the availability to him of assigned counsel he continued to present his case in court and was heavily involved in the ongoing preparation of his witnesses and his case.

17. Over a year later, on 12 December 2005, in court session, Slobodan Milošević requested to be provisionally released to Russia for health reasons. On 23 February 2006 the Trial Chamber denied Mr. Milošević's request. An appeal against this decision was filed by Mr. Milošević on 2 March 2006 but this had not been heard when he died nine days later.

18. On 8, 9, and 10 March 2006 the trial again stood adjourned, this time to enable Mr. Milošević to proof Mr. Momir Bulatović, the President of the Republic of Montenegro at times relevant to the Indictment, who was about to testify for Mr. Milošević in the trial. The death of Mr. Milošević on Saturday 11 March 2006 brought the trial to a premature end. At the time of his death the trial was drawing to a close. The trial schedule was for the defence evidence to conclude in May 2006.

This Inquiry

19. This Inquiry commenced on the day of the death of Mr. Milošević. More than 60 persons, who had information concerning various issues relevant to this death, have been interviewed and have made statements or given reports. All detainees who were in the cell block of Mr. Milošević have been interviewed and have given statements. All UNDU staff who had contact with Mr. Milošević in the days before his death have been interviewed. Meetings were held with Mr. Marko Milošević, the son of Mr. Slobodan Milošević, and also with members of his legal defence team.

Their statements have been recorded.

20. The files and confidential papers of the Trial Chamber which was conducting the trial of Mr. Milošević have been provided, together with all UNDU and Registry records relevant to his health.

21. Many doctors were approached by the Inquiry, including all doctors known to have treated, or to have been consulted by, Mr. Milošević during his detention at UNDU. These include doctors in Serbia, Russia, France, Belgium and the Netherlands. Some of them provided the Inquiry with additional written comments. Some others were interviewed and their statements were recorded.

22. In particular, on 23 March 2006 letters inviting further comments were sent to Dr Zdravko Mijailović from the Military Medical Academy in Belgrade, Dr Margarita Shumilina, Professor Elena Golukhova and Professor Leo Bockeria from the Bakoulev Centre for Cardiovascular Surgery in Moscow, Professor Florence Leclercq from Hospital Arnaud de Villeneuve in Montpellier, Professor Tavernier from University Hospital Ghent, Dr Vukašin Andrić, University Clinical Centre Kosovo, to Drs Sedney, Aart and Spoelstra from the Bronovo Hospital in The Hague, Dr Croese and Dr Rodrigues, physicians from The Hague, Dr van der Sloot, from the Amsterdam Medical Centre, Dr de Laat from Leiden University Medical Centre, Dr Touw from The Hague Hospital Pharmacy, and Professor Uges from University Medical Centre, Groningen in the Netherlands. The medical officer at UNDU, Dr Falke, also provided two statements following interviews.

23. In two letters of 24 March and 4 April 2006, Dr Zdravko Mijailović, Chief of the Clinic of Cardiology at the Military Medical Academy in Belgrade, who had been the treating cardiologist of Mr. Milošević for some years before he came to The Hague, expressed his willingness to assist the Inquiry. However, in letters of 10 and 18 April 2006 Dr Zdravko Mijailović informed the Inquiry that he had been refused approval to do so by the authorities of Serbia and Montenegro. As of the date of delivery of this report, no response from the Embassy of Serbia and Montenegro had been received to a request by the Inquiry for such approval.

24. On 27 March 2006 the Inquiry received a letter from Drs Croese and Rodrigues, as well as a letter from Dr Spoelstra, an ear, nose, throat specialist at Bronovo Hospital. Professor Elena Golukhova a cardiologist, and Professor Leo Bockeria, the Head of the Bakoulev Centre in Moscow, respectively, sent their written observations concerning the health and the treatment of Mr. Milošević to the Inquiry. In early April 2006 a letter from Professor Uges from the University Medical Centre Groningen was received and on 4 April 2006 a more detailed statement was made.

25. In early April 2006 the Inquiry contacted Professor Tavernier and Professor Leclercq by

telephone. A telephone interview with Professor Leclercq was held on 12 April 2006. Further questions were sent to her on 15 May 2006 and her response was received on 23 May 2006. On 13 April 2006 Professor Tavernier was interviewed. Additional comments from him were sought and received on 15 May 2006.

26. On 4 May 2006 a meeting was held with the pathologists who conducted the autopsy of Mr. Milošević. Further questions were put to them on 10 May 2006 and their response was received on 24 May 2006. On 17 May 2006 a meeting with the toxicologists who conducted the toxicological examination was held and a written statement was received on 24 May 2006.

27. The Dutch coronial and investigative authorities had been called in immediately on 11 March 2006 and these acted entirely independently of the Tribunal in conducting their own inquiries in accordance with the Dutch legal requirements. On 12 March 2006 the preliminary results of an autopsy conducted by the Dutch authorities were released. On 17 March 2006 the District Office of the Public Prosecutor in The Hague announced the provisional conclusion of the preliminary toxicology examination. On 4 April 2006 the Inquiry received the report of the Dutch authorities' investigation into the death of Mr. Milošević. This included reports of a full pathology examination, a toxicological investigation, and microscopic and neuro-pathological examinations. On 11 May 2006 the final report of the toxicological investigation was received.

28. Difficulties were encountered in interviewing several Dutch medical practitioners involved in the treatment of Mr Milošević. By letter received on 11 May 2006 advice was received from lawyers advising them that this was because of an issue of patient confidentiality under Dutch law and Dutch medical ethics. In particular, it was explained that pursuant to the Dutch law they could not provide further information. Under Dutch law it appears that this issue arises for treating doctors. The confidentiality obligation continues despite the death of the patient. Fortunately, for the most part, earlier reports provided by these doctors, before issues of confidentiality were imposed by Mr. Milošević, enables a satisfactory appreciation to be made of most issues relevant to the Inquiry.

Cause of death

29. Following his death there were widespread media reports that Mr. Milošević had been murdered, especially by poisoning. When this Inquiry commenced on the day of his death the procedures adopted deliberately included full attention to the possibility of murder and suicide.

30. Mr. Milošević was found dead in a cell that had been locked overnight. There were no apparent signs of violence or a struggle in the cell, and no indications of injury or interference to the

body. No other detainees in that wing of UNDU and no guard on duty had noted any sign or sound suggesting any untoward conduct during the night. Full investigation by the Dutch police revealed similar results.

31. On the day following his death the Dutch authorities released the preliminary results of the autopsy conducted on Slobodan Milošević. These showed that Mr. Milošević died of a heart attack. On 17 March 2006 The Hague District Public Prosecutor announced the preliminary results of a toxicological investigation carried out after the autopsy. The provisional results indicated that no poisons had been found in Mr. Milošević's body, that a number of medicines, which had been prescribed for Mr. Milošević had been found, but not in toxic concentrations, and that no traces of rifampicin had been found after the autopsy. Rifampicin is an antibiotic usually used to treat leprosy and tuberculosis, which has a side effect by which the therapeutic effect of some antihypertensive drugs can be diminished or neutralised. Rifampicin had been found in a blood sample taken from Mr. Milošević on 12 January 2006. It had not been prescribed for Mr. Milošević by his treating doctors.

32. On 4 April 2006 the full report of the Dutch authorities' investigation into the death of Mr. Milošević, including the results of the full pathology examination and of some further toxicological investigations, were provided to the Inquiry. On 11 May 2006 the final toxicological report was provided to the Inquiry. This also contained the results of investigations carried out by the *Institut für Rechtsmedizin, Universitätsklinikum Bonn* (Germany) where exactly the same samples were sent for confirmation of the results obtained earlier by the Netherlands Forensic Institute, as well as the results of some additional investigations conducted by the Netherlands Forensic Institute.

33. The pathology examination found no signs of any external violence which might have influenced the occurrence of the death. It found severe cardiac anomalies, which resulted in a heart attack that fully explained the death.

34. The toxicological investigation found traces of the following medications in the body of Mr. Milošević: enalapril, an ACE inhibitor used in treatment of hypertension; amlodipine, a calcium antagonist used for treatment of hypertension and angina pectoris; hydrochlorothiazide, a diuretic used for treatment of hypertension; metoprolol, a medicine used for treatment of angina pectoris, hypertension, and cardiac arrhythmia; simvastatin, a cholesterol-synthesis inhibitor; and benzodiazepine, probably temazepam, a substance with a calming, sleep-inducing and muscle-relaxing effect. These medications were medications prescribed for Mr. Milošević or medications that, with the concurrence of the treating doctor, were made available to him on request. None of these were present to any excessive concentrations. Further, the toxicological report found traces of

caffeine, cotinine and OH-cotinine, products of nicotine conversion, and ethanol (alcohol), which could have formed post mortem or ante mortem. No traces of rifampicin were found during the detailed toxicological investigation.

35. These results were confirmed by the toxicological investigations carried out by the *Institut für Rechtsmedizin, Universitätsklinikum* in Bonn, Germany, which also noted that there had been an indication of a possible but unconfirmed presence of a conversion product of droperidol, an antipsychotic, in the urine. This result could not be definitely demonstrated by that laboratory. No such result had been found at the Netherlands Forensic Institute which made identical testing. With reference to this possibility it is noted that droperidol was not prescribed for Mr. Milošević, it is not available in the Netherlands, it is not held at UNDU. Even if there had been a trace of droperidol in Mr. Milošević's urine, which the Inquiry is advised is extremely unlikely given these circumstances, the toxicological report confirms that this could have no relevance to his death.

36. The autopsy report establishes that Mr. Milošević's death was caused by natural causes and excluded any toxicologically identified factors which could have contributed to his death. These findings, from detailed investigations conducted entirely independently of the Tribunal, demonstrate that Mr. Milošević had not been poisoned and that no other substance (medications or otherwise) present in his body was a cause of his death or contributed to it. He died from natural causes, a heart attack.

37. These same investigations and findings also exclude the possibility of suicide. This is also confirmed by the other circumstances. There is nothing in his medical documentation that could suggest a heightened risk of suicide. Mr. Milošević's non-compliance with his therapeutic plan and his tendency to self-medicate, to be discussed below, cannot reasonably be interpreted as a sign of suicidal intent. No person who had contact with Mr. Milošević in the days before his death saw any reason to think that he was at risk of suicide or self harm. The objective circumstances in which he was found and the detailed medical investigation into the cause of his death provide no foundation for the possibility of suicide.

38. The full autopsy examination disclosed no signs of any external violence that may have influenced the occurrence of the death of Mr. Milošević. The pathology and toxicological examinations exclude any toxicological contribution to the death *i.e.* there had been no poisoning of Mr. Milošević and none of the medications found in his body were of a nature, or were present in quantities, that could have contributed to his death.

39. These results confirm that Mr. Milošević died from natural causes, a heart attack.

Medical treatment of Mr. Milošević

40. Slobodan Milošević was first admitted to UNDU on 29 June 2001. He was examined by Dr Falke, the UNDU medical officer, who remained his physician until his death in March 2006. Dr Falke immediately arranged for Mr. Milošević to be examined by Dr van Dijkman, a specialist cardiologist from Bronovo Hospital in The Hague. This occurred on 2 July 2001 and then again on 24 August 2001. Dr van Dijkman became Mr. Milošević's primary treating cardiologist during his custody and examined him a number of times, both at UNDU and at Bronovo Hospital.

41. Some time after his admission to UNDU, reports of a detailed medical examination, including of a coronary angiogram, conducted on Mr. Milošević between 11 April and 13 April 2001 in the Military Medical Academy in Belgrade were made available to Dr Falke. These reports indicated that Mr. Milošević had a heart hypertrophy and a myocardial bridge, and that he suffered from unregulated hypertension with probable presence of angina pectoris. It was noted in the reports that he had occasionally complained of a sharp chest pain, which could not be relieved by nitroglycerine. It was reported that this was due to coronary arterial spasms. The reports indicated concerns whether Mr. Milošević was adhering to his therapeutic plan as his blood pressure remained high despite the fact that, according to him, he was following his therapy, and because planned further examinations in Belgrade could not be conducted because of his "lack of motivation". These reports were made available by Dr Falke to Dr van Dijkman who also saw a film of the coronary angiogram of April 2001 and reported on it in his report of 19 August 2002.

42. Dr Mijailović, Mr. Milošević's treating cardiologist from Belgrade who examined him in the Military Medical Academy in April 2001, visited Mr. Milošević in UNDU on a few occasions. Dr Mijailović met with Dr Falke and discussed with him Mr. Milošević's medical history as well as his personality, and in particular, the difficulties both experienced in persuading Mr. Milošević to comply with his doctors' recommendations for treatment. Dr Mijailović also sent a letter to Dr Falke identifying Mr. Milošević's risk factors—arterial hypertension, lipid disorder, smoking, family history of cardiac diseases, and years of prolonged stress, as well as his current cardiovascular conditions—untreated hypertrophy with alterations to the organ, heart hypertension and a myocardial bridge, disorders in coronary micro circulations, and indications of angina pectoris. Dr Mijailović noted further that Mr. Milošević was at a high risk of a stroke, a heart attack, a sudden cardiac death, or sudden malignant heart rhythm disorder, and recommended the following tests: 24 hour Holter and ECG monitoring, standard ECG and a complete echocardiography. Dr Mijailović also recommended medicinal treatment with beta-blockers, ACE inhibitors, diuretics, and sedatives and reduction of the risk factors, namely workload, stress, salt

diet, smoking.

43. The trial of Mr. Milošević commenced in February 2002. In July 2002 Dr Mijailović examined Mr. Milošević in UNDU pursuant to an order from the Trial Chamber. The planned examination of Mr. Milošević took place on 16 July 2002 and was conducted by Dr Mijailović and two Dutch physicians, Drs Croese and Rodrigues. Dr Mijailović found that at the time Mr. Milošević had a very high blood pressure and recommended appropriate medication therapy to lower the blood pressure, as well as rest and a full medical examination, *i.e.* 24 hour Holter blood pressure monitoring, ECG, and ultrasound of the heart. Similar were the conclusions of Drs Croese and Rodrigues. They established severely increased blood pressure with organ damage (left ventricular hypertrophy) and possibly arteriosclerotic changes within the fundi, and recommended that Mr. Milošević's workload be reduced and additional treatment by a cardiologist provided. The laboratory results of the blood sample taken during the examination revealed moderately increased cholesterol levels. The other values were within the normal range.

44. In late July 2002 Mr. Milošević's medical reports were sent to Dr van der Sloot, a cardiologist from the Amsterdam Medical Centre, University of Amsterdam. He proposed that medical investigations be conducted at the Amsterdam Medical Centre the following day. The planned examination, however, did not take place as Mr. Milošević refused to be hospitalised for the tests.

45. During a further examination of Mr. Milošević on 16 August 2002, Dr van Dijkman was presented with the film of the coronary angiogram conducted in April 2001 in Belgrade. He reported that Mr. Milošević suffered from essential hypertension with hypertrophy of the left ventricle. He also indicated that on the basis of the coronary angiogram conducted in Belgrade no sclerosis of the coronary arteries was observed. Following this examination Dr van Dijkman recommended that sufficient periods of rest be incorporated into the trial schedule and, in particular, that a period of four consecutive days of rest be allowed every two weeks of trial. This recommendation was followed by the Trial Chamber and that became the established trial schedule.

46. On 15 November 2002, in response to a sharp increase of Mr. Milošević's blood pressure, he was examined again by Dr van Dijkman. An ECG and an echo-doppler examination were conducted. Dr van Dijkman recommended again sufficient rest periods in combination with antihypertensive medications and noted the importance of lifestyle as the first step in treating diagnosed high blood pressure.

47. On 24 January 2003, on Mr. Milošević's request, three medical doctors from the Military Medical Academy in Belgrade, who had previously been treating Mr. Milošević, visited and

examined him in UNDU. Dr Falke, a nurse and an interpreter were present during the examination. The available medical documentation was presented to the visiting doctors. In the course of the examination the doctors recommended some additional or control diagnostic tests such as ultrasound of the abdominal aorta and carotid arteries, 24 hour Holter monitoring, X-ray of the lung and the heart, spirometry, certain corrections of the drug therapy and evening walks. The visiting doctors agreed with the earlier recommendations of Dr van Dijkman, Dr Falke, Dr Croese, and Dr Rodrigues for regulating Mr. Milošević's blood pressure with medications and sufficient rest, although they proposed some slight adjustments to his medications on the basis of their experience from treating Mr. Milošević for 10 years.

48. On 25 March 2003, following a further high blood pressure crisis, Mr. Milošević's medical reports were sent for consultation to Dr van der Sloot at the Amsterdam Medical Centre. He agreed with the treatment implemented earlier by Dr van Dijkman and indicated that, if Mr. Milošević took his medications properly and used his rest time adequately, his blood pressure would not raise as much as in the past.

49. On 23 September 2003, in response to a high blood pressure crisis, Dr van Dijkman visited Mr. Milošević in UNDU. He found that Mr. Milošević displayed symptoms of exhaustion and extreme fatigue and that his blood pressure had risen to unacceptable levels (210/120 mmHg). Dr van Dijkman noted that the timetable of the Tribunal hindered the proper medication treatment. He increased Mr. Milošević's medications and recommended rest for two weeks. He also recommended that following these two weeks of rest, a regime of four days of rest and three days in court be followed. This was implemented by the Trial Chamber and a court schedule of three sitting days a week was followed for the remainder of the trial.

50. Professor Elena Golukhova visited Mr. Milošević in The Hague in early 2004. While it is recorded that she visited Mr. Milošević in January 2004, no report from her appears ever to have been disclosed to the Tribunal or the medical officer at UNDU by Mr. Milošević. Its existence was unknown until Professor Bockeria drew attention to it in his letter to this Inquiry of 5 April 2006. Professor Golukhova has helpfully provided details of her findings in a letter to the Inquiry. She indicated that during the 2003 (early 2004) examination it was found that Mr. Milošević had high blood pressure, which was poorly controlled by beta-blockers and ACE inhibitors, significant ECG abnormalities, namely signs of left ventricular hypertrophy, T-wave abnormalities and ventricular beats, borderline cholesterol level, and that in addition he was smoking. She recommended that T1 scintigraphy, coronary angiography, electrophysiology study and some other investigations be conducted on Mr. Milošević. She indicated that, according to the European guidelines relevant to

his condition, Mr. Milošević had a high risk of fatal arrhythmias and sudden cardiac death.

51. The Prosecution case in the trial having concluded on 25 February 2004, the Trial Chamber adjourned for three months to allow Mr. Milošević to prepare his defence. Shortly before the trial was due to resume, a report from Dr van Dijkman dated 11 May 2004 indicated that Mr. Milošević's blood pressure, monitored daily in the last two weeks, was consistently high. Mr. Milošević was recommended to cease the preparation of his defence and his antihypertensive medications were increased. Mr. Milošević's intake of these medications was closely monitored. It is significant that with this monitoring of his medication intake, a report of follow-up examinations dated 19 May 2004 stated that after a 48 hour blood pressure monitoring, it was observed that his blood pressure values had reduced to acceptable levels. Mr. Milošević, however, also complained of general fatigue and pressure in his head, which, in Dr van Dijkman's opinion, was probably the result of the side effects of the increased medications and of a mental stress of an unknown nature. This report also indicated that a funduscopy conducted a few days earlier found a hypertensive retinopathy with a few signs of vascular sclerosis, which was consistent with the results of an earlier examination of November 2002. Following this examination and at Mr. Milošević's request, one of his antihypertensive drugs, of which Mr. Milošević complained, was discontinued and his medications adjusted.

52. On 8 and 9 June 2004, Mr. Milošević's blood pressure was again monitored over a period of 24 hours. Dr van Dijkman found that the results of this monitoring were higher than the results of the blood pressure monitoring in May 2004, but he did not consider these values to be so high as to require Mr. Milošević to cease activities. Dr van Dijkman recommended that Mr. Milošević continued with his current therapeutic plan.

53. On 2 July 2004, after an increase of Mr. Milošević's blood pressure, Dr van Dijkman recommended further rest until the blood pressure reached normal values. This was done.

54. On 6 July 2004, in light of the delays to the trial caused by Mr. Milošević's health problems, the Trial Chamber ordered the Registrar, *inter alia*, to identify a cardiologist with no prior involvement in the treatment of Mr. Milošević to examine him and to report to the Chamber on his fitness to represent himself and the likely impact on the trial schedule if he continued to do so. The Registry contacted professional cardiological organisations in other countries requesting that they nominate a specialist of high standing. Responses from cardiological societies in Belgium and Switzerland, among others, were received. Upon the recommendation of the Belgian Society of Cardiology, Dr Rene Tavernier, Chief of Clinic in the Department of Cardiology of the University Hospital in Ghent and a Professor of Cardiology at the Medical School of the University of Ghent,

was appointed by the Registry to conduct the medical examination.

55. Professor Tavernier reviewed the medical documentation and conducted an examination of Mr. Milošević. He established that Mr. Milošević had a target organ damage and suffered from grade III hypertension with a very high added risk. He indicated further that despite treatment with five antihypertensive drugs in adequate doses the blood pressure remained high, a phenomenon known as resistant hypertension. In his view, this was due to a combination of severe pre-existing essential hypertension, Mr. Milošević's lifestyle involving three-day a week work on his defence, and his poor adherence to his therapeutic plan. He concluded that Mr. Milošević was not fit to represent himself and that resumption of trial under these conditions would result in early recurrence of very high blood pressure.

56. On 18 August 2004 a report from Dr van Dijkman provided to the Chamber, stated that, in order to gain more insight into Mr. Milošević's adherence to his therapeutic plan, blood samples were taken and examined by Dr Touw, Chief of the Clinical Pharmaceutical and Toxicology Laboratory of the Pharmacy of The Hague Hospital. Dr Touw's report found that the serum concentrations of metoprolol, one of Mr. Milošević's antihypertensive drugs, were lower than norms stated in literature for ingestion of his prescribed doses, and that nordazepam, a benzodiazepine derivative used in the case of anxiety, which Mr. Milošević had refused to take from UNDU medical staff when it was prescribed, was detected in the two blood samples taken from Mr. Milošević. On the basis of specific testing of samples Dr Touw was also able to dismiss the possibility that the low concentrations of Mr. Milošević's antihypertensive medications in his blood may be due to a rare condition known as rapid metabolism. As noted later in this report, this coincides in time with the finding of non-prescribed medications, including nordazepam, in the "privileged" office in UNDU which was used by Mr. Milošević for his defence preparation.

57. Mr. Milošević's defence case had commenced on 31 August 2004. Nevertheless, Mr. Milošević's blood pressure remained within acceptable values for many months. In mid April 2005 his blood pressure again reached very high levels. On 20 April 2005 Mr. Milošević was examined again by Dr van Dijkman. His laboratory analyses showed a normal kidney function and normal electrolytes and his ECG remained unchanged. Dr van Dijkman concluded that if the medication had been taken properly, the high blood pressure could have been caused by the additional stress related to his trial. He recommended an additional antihypertensive medication, more rest and regular blood pressure monitoring.

58. In June and July 2005 Mr. Milošević's blood pressure remained within acceptable values (between 130/85 and 160/95). On 4 August 2005 Dr van Dijkman examined Mr. Milošević and

further found that his heart tones were normal and his ECG was unchanged. He concluded that with the current trial schedule of three working days per week an acceptable blood pressure situation had been achieved and recommended that this schedule be maintained. It was.

59. On 4 November 2005, at Mr. Milošević's request, he was examined by Drs F. Lelcercq from France, M. Shumilina from Russia, and V. Andrić from Kosovo, who visited him at UNDU. The joint conclusion of these three doctors was that his state of health was not stable and that further tests were necessary in order to identify the origin of his current complaints. Rest for a period of at least 6 weeks, which was to be followed by additional procedures, was recommended. No further details about the additional tests or procedures were provided in the joint conclusion.

60. On 15 November 2005, in a court session, Mr. Milošević tendered the reports of the three doctors and their joint conclusion. The Trial Chamber adjourned the trial from 16 November to 29 November 2005 because Mr. Milošević said he could not continue. On the same day the Trial Chamber ordered the Registrar to arrange for an examination by the treating cardiologist and the treating ear, nose, throat specialist on the content and recommendations of the visiting doctors. These reports and the reports of the visiting doctors will be examined in more detail later in this Report.

61. On 21 November 2005 Dr Falke informed the Trial Chamber that Mr. Milošević's blood pressure had risen again to unacceptable levels and that he was not fit to attend court. This was the first time in a year when the trial had to be interrupted because of Mr. Milošević's cardiovascular problems. The trial was adjourned until 29 November 2005.

62. On 22 November 2005 Dr van Dijkman examined Mr. Milošević and found that there were no changes of his cardiovascular status. In his report he advised sufficient rest, but expressed the opinion that the period of rest of at least six weeks recommended earlier by the visiting doctors was too much.

63. On 23 November 2005, Mr. Milošević was examined by Dr de Laat, an ear, nose, throat specialist from the Leiden University Medical Centre. In his report he commented in detail on the views expressed in the report of Dr Andrić from Kosovo. He agreed there was a perceptible hearing loss but considered that with different technical arrangements Mr. Milošević could continue with the trial.

64. When the trial resumed on 29 November 2005 Mr. Milošević requested a further period of rest. This was granted by the Trial Chamber in a decision on 12 December 2005 when the trial was adjourned until 23 January 2006 which allowed six weeks rest as had been proposed by the three

visiting doctors in November.

65. In court on 12 December 2005, however, Mr. Milošević also proposed to the Trial Chamber that he be granted provisional release and allowed to go to Moscow for health reasons, relying on the reports of the three visiting doctors. On 20 December 2006 a formal motion was filed seeking Mr. Milošević's provisional release to enable medical treatment at the Bakoulev Scientific Centre for Cardiovascular Surgery in Moscow. In addition to the reports of the three visiting doctors from November, a further email of Dr Shumilina dated 19 December 2005 to an assigned counsel for Mr. Milošević was relied on. In this email Dr Shumilina recommended the following additional tests: a complex ultrasonic of the vascular pathology, especially brachiocephal arteries and veins; echocardiography and stress echoardiography; Holter monitoring and daily monitoring of the blood pressure; "estimation" of the homeostasis: investigation of the brachiocephal and coronary vessels with contrast media; and PEI (position-emission imaging) of the brain and of the heart. Her email also indicated that endovascular or surgical decompression of the right vertebral artery, the stenting of brachiocephal or cardiac arteries, carotid endarterectomy, or even bypass surgery may be necessary to perform.

66. This motion for provisional release to Moscow was denied by the Trial Chamber in a decision delivered on 23 February 2006. The Trial Chamber noted that no real attempt had been made to demonstrate that Mr. Milošević's needs could not be met in the Netherlands. The Trial Chamber observed that an application for provisional release on medical grounds cannot be granted unless such a showing was made. An appeal against this decision was filed on 2 March 2006.

67. Meanwhile, in light of a sudden increase in Mr. Milošević's blood pressure, further blood tests were taken on 21 and 28 November and 5 and 16 December 2005. The concentrations of metoprolol in all samples were found to be lower than corresponded to the prescribed dose and too low to be effective to treat hypertension. In addition, the concentrations of amlodipine were below those expected for the prescribed dosage. Further, diazepam was found in the first two samples, and nordazepam was found in the first three samples. Dr Falke spoke to Mr. Milošević about these results on 19 December 2005 indicating that he doubted whether Mr. Milošević was taking his medications as prescribed. This was denied by Mr. Milošević.

68. With respect to the presence of diazepam and nordazepam, it is noted that in October 2005 Mr. Milošević was prescribed diazepam for a pain in his back. A week after ingestion diazepam transforms into its metabolites nordazepam and oxydiazepam. However, it is the advice of a consultant toxicologist, Professor Uges to this Inquiry, that after two weeks neither diazepam nor nordazepam would be found in the blood. The last regular dosage of the prescribed diazepam was

taken by Mr. Milošević on 17 October 2005, but at his request he had a further capsule on 7 November 2005. The presence of diazepam and nordazepam in the tests commencing on 21 November 2005 cannot be explained, therefore, by the diazepam provided to him at UNDU. It is to be noted that these tests concentrations were low and Professor Uges in a report of 24 January 2006 recommended more specific testing to confirm the presence of diazepam and nordazepam in the percentages originally found by Dr Touw.

69. Following their discussion on 19 December 2005, in early January 2006, Mr. Milošević proposed to Dr Falke that there should be a strictly controlled test to demonstrate that he was taking his prescribed medications correctly. On 12 January 2006 he took his prescribed medications in the presence of a nurse and he was then kept under observation by a guard for two hours. A blood sample was then taken. Dr Touw reported the results from his normal testing of this blood sample in a report dated 20 January 2006. The levels of metoprolol were much below expected levels and inadequate for effective blood pressure control. No amlodipine results were provided. In his report Dr Touw concluded that the persistently high blood pressure being experienced by Mr. Milošević might be explained by the failure to achieve adequate concentrations of amlodipine and metoprolol, in spite of the prescribed adequate or even high dosages. One theoretical explanation considered in Dr Touw's report was interaction with another medication. Dr Touw identified rifampicin as such a medication.

70. In December 2005 a memorandum from the Commanding Officer of UNDU, expressing concern at his inability to adequately prevent unauthorised medications reaching Mr. Milošević because of the "privileged" arrangements for visitors and an office at UNDU, was sent to the Trial Chamber by the Deputy Registrar. These arrangements had been provided pursuant to an order of the Trial Chamber to enable Mr. Milošević to work on his defence case. On 3 January 2006 the Chamber directed the Registrar to provide immediately to the Trial Chamber, copies of all of the medical and pharmacological data that formed the basis for these memoranda, and to identify an appropriate expert to produce a report for the Trial Chamber analysing the data and expressing an expert opinion on its significance.

71. For this task, the Registrar identified Professor Uges at the Laboratory for Clinical and Forensic Toxicology in Groningen. The efforts of the Trial Chamber to obtain this report were delayed, because Mr. Milošević refused his consent for the relevant medical information to be provided to Professor Uges, which led to an order by the Trial Chamber pursuant to Rule 34(D) of the Rules of Detention. The information was then provided to Professor Uges who provided a report on 24 January 2006. Submissions were then invited from the parties in the trial which were filed by 14 February. The submissions for Mr. Milošević *inter alia* disputed the factual basis of the

memorandum of the Commanding Officer of UNDU. Other events intervened, as described elsewhere, and this dispute had not been resolved when Mr. Milošević died.

72. In the meantime Dr Falke and Dr Touw continued to follow up on the blood sample of Mr. Milošević from the strictly controlled test on 12 January 2006 and Dr Touw's report following this test, dated 20 January, which, for the first time suggested the possibility of the use of rifampicin. Some of the remaining blood sample taken from Mr. Milošević on 12 January 2006 was forwarded to Professor Uges. His laboratory at Groningen was equipped to conduct the specialised testing necessary to detect rifampicin. Rifampicin had never been prescribed for Mr. Milošević.

73. Rifampicin is an antibiotic usually used to treat tuberculosis and leprosy. Sometimes it is used in advanced cases of liver failure. If it is taken when not needed, it does not have a particularly damaging effect unless taken in significantly excessive quantities. Rifampicin affects the enzyme in the liver which is responsible for the breaking down of amlodipine. The combination of rifampicin and metoprolol can considerably decrease the bio-availability of metoprolol, resulting in ineffective concentrations of metoprolol. Mr. Milošević had been prescribed both metoprolol and amlodipine by his treating doctors at UNDU. These effects of rifampicin are well known and this information is available to the general public as well as doctors.

74. Professor Uges detected rifampicin and its metabolite desacetylrifampicin in concentrations of 0.8 mg/l and 1.1 mg/l, respectively, in the blood sample taken from Mr. Milošević on 12 January 2006. The activity of the medication is the sum of both, which in the present case was 1.9 mg/l. The lowest common concentration in the blood when taking a normal dosage of rifampicin of 600 mg/day is known to be 0.5-1 mg/l for the sum of both components. The presence of rifampicin offers an explanation for the failure to achieve adequate levels of the prescribed antihypertensive drugs in Mr. Milošević's blood, despite adequate, even high prescribed dosages.

75. Professor Uges sent the results to Dr Touw on 17 February. On 23 February 2006 Dr Touw sent the results to Dr Falke. Dr Falke consulted with medical colleagues and then with a lawyer. His concern was whether under Dutch law he could disclose these results to the Trial Chamber without Mr. Milošević's consent. He also discussed the problem he faced informally with the Commanding Officer of UNDU and his deputy, and then with the Registrar and the Deputy Registrar. He then confronted Mr. Milošević with the test results on Friday, 3 March 2006 and told him he would disclose these results. On 3 March 2006 he sent a letter to the Registrar informing him of the results and of the effect of this drug. The President was informed on Monday, 6 March 2006 and at his direction the Trial Chamber was informed on Tuesday, 7 March. The trial stood adjourned on 8, 9 and 10 March to allow Mr. Milošević to proof his next witness. On 9 March

2006 the Trial Chamber ordered submissions from the parties concerning the rifampicin by 16 March 2006. Mr. Milošević died on Saturday, 11 March 2006.

76. The discovery of rifampicin was in a blood test taken on 12 January 2006 when Mr. Milošević volunteered to take a further blood test while the consumption of the prescribed medications was carefully monitored. This was the first time that a blood test of Mr. Milošević had undergone the additional specific testing for rifampicin. Normal testing would not have disclosed the presence of rifampicin. Mr. Milošević was not aware that the sample he gave would be tested for rifampicin. While the sample was taken on 12 January 2006 the result did not reach Dr Falke until 23 February because this was a second testing conducted at the Laboratory for Drug Analysis and Toxicology in Groningen following the normal first testing by Dr Touw. Mr. Milošević was not told of the results until 3 March 2006 because of the difficult legal position in which Dr Falke found himself by virtue of the Dutch legal provisions concerning medical confidentiality (an issue which is further considered later in this Report).

77. It is the advice of Professor Uges that an effect of taking rifampicin is a marked reddish discolouration of the urine. Such discolouration would have been obvious to Mr. Milošević on 12 January 2006, yet he made no mention of this to Dr Falke or the nurse at UNDU. Were rifampicin being administered without his knowledge it is highly likely he would have reported such abnormal discolouration of his urine.

78. Rifampicin is not held at UNDU and no detainee has ever been prescribed this medication at UNDU.

79. Mr. Milošević had volunteered to Dr Falke in early January to undergo a strictly controlled testing, which was conducted on 12 January 2006, following Dr Falke informing him on 19 December 2005 of his concern from test results received by Dr Falke in December that Mr. Milošević was not taking his medication. UNDU records disclose that Mr. Milošević received visits on 16 days between 19 December 2005 and 12 January 2006. In every case the visitors were legal associates of Mr. Milošević who were “privileged” visitors (see further discussion of privileged visits later in this Report).

80. On 8 March 2006 Mr. Milošević wrote to the Ministry of Foreign Affairs of the Russian Federation through the Russian Embassy in The Hague. The contents of this letter were the basis of much media controversy about the cause of the death of Mr. Milošević. This information appears to have reached representatives of the media through a legal associate of Mr. Milošević. In the letter Mr. Milošević says:

I believe that the persistent attempts to deny me treatment in Russia are motivated by the fear that a careful specialist analysis would reveal ongoing, deliberate actions to damage my health throughout all this time, and which could not be concealed from Russian specialists.

In support of this claim, I would cite a simple example which I am enclosing. A document delivered to me on 7 March makes clear that on 12 January (i.e. two months ago), they found an exceptionally potent drug in my blood, which, as they themselves say, is used to treat leprosy and tuberculosis, despite the fact that I have never used any antibiotics in all the five years I have been in their prison. Throughout this time, I have not had a single infectious illness (except for flu).

Even the fact that they waited two months cannot be explained in any way other than this is a case of manipulation. In any event, the people who are giving me leprosy drugs certainly cannot be treating me, nor can those against whom I defended my country during the war and in whose interests it is to silence me.

Gentlemen, you are aware that Russian physicians who are among the most reputable in the world have concluded that I require urgent examination and treatment for vascular problems of the head. I know very well that this is the case because I feel very poorly. I am writing to you, in anticipation that you will help protect me against criminal activities in an institution that works under the UN insignia, and that I will be able, as soon as possible, to receive adequate medical treatment in your hospital, in whose doctors, like Russia, I have full confidence.

81. It will be appreciated that the factual scenario presented in this letter about the course of the testing of rifampicin does not accord with what did occur as revealed by the written records of the material events, the testing and the statements of those involved. In this respect it should be made quite clear that Professor Uges had no connection whatever with the treatment of Mr. Milošević or the testing of his blood samples until the Trial Chamber order of 3 January 2006 when it sought to obtain an entirely independent expert report. Nothing discovered in the course of this Inquiry provides any support for the allegations that Mr. Milošević was the victim of criminal activities and of deliberate action to damage his health. The factual circumstances revealed by the Inquiry are entirely to the contrary.

82. Meanwhile, on 1 February 2006, during a regular inspection of the cell of Mr. Milošević another medication, prilazid plus, was found. This was an antihypertensive medication, which contained cilazapril, an ACE inhibitor, and hydrochlorothiazide, a diuretic. The medication originated from Serbia. It had not been prescribed for Mr. Milošević by his treating doctors at UNDU.

83. The trial had resumed on 23 January 2006. On 22 February 2006, in a court session, Mr. Milošević complained of noises in his head and stated that the symptoms identified by Dr de Laat in November 2005 had worsened and were making him tired. He indicated he could not continue because of a thundering noise in his head. The Trial Chamber ordered the Registrar to arrange for Mr. Milošević to be examined by a specialist. The trial was then adjourned. On 23 February 2006 Mr. Milošević was again examined by Dr de Laat from the University Medical Centre Leiden. The results of the audiometry conducted during this examination showed no change from the results of

the audiometry conducted on 23 November 2005. The other test showed normal values. After an examination of the ear, air in the middle ear on both sides was established. The report concluded that the booming sounds and the tinnitus that Mr. Milošević complained of were not incapacitating. It was noted that following Mr. Milošević's examination in November 2005, adequate measures to adjust the headphone system were taken in the courtroom, and that the communications facilities provided were adequate. The report further stated that the feeling of pressure in the ears was usually experienced by patients with a similar anamnesis. It was indicated that some rest was advisable but no other measures were advised to be necessary.

84. At the time, however, Mr. Milošević refused his consent to the report of Dr de Laat being provided to the Trial Chamber. The report had been given by Dr de Laat to Dr Falke who advised the Trial Chamber that, without the consent of Mr. Milošević, under Dutch law he could not make it available to the Trial Chamber. This issue of medical confidentiality under Dutch law and the operation of Rule 34 of the Rules of Detention is discussed later in this Report. On Thursday 9 March 2006 the Deputy Registrar reported the situation to the Trial Chamber in a written submission.

85. It is apparent that events before the Trial Chamber concerning Mr. Milošević's health were approaching something of a watershed. The presence of rifampicin in Mr. Milošević's blood had just been reported to the Trial Chamber. Attempts by the Trial Chamber from 3 January 2006 to deal with the Memorandum of the Commanding Officer of UNDU, following the results of blood tests in November and December 2005, had been delayed because of a refusal of Mr. Milošević to give consent to his medical information being disclosed and were still the subject of disputes by Mr. Milošević about the factual basis for the Memorandum. Mr. Milošević had refused his consent for the report of Dr de Laat, on his complaints about hearing problems which led to an adjournment on 22 February, being provided to the Trial Chamber. The death of Mr. Milošević on Saturday, 11 March 2006 intervened so that none of these issues were able to be resolved by the Trial Chamber.

86. One other matter should be mentioned. Several detainees who shared the floor with Mr. Milošević at UNDU stated that in March 2006, a few days before his death, Mr. Milošević complained of a chest pain. Paško Ljubičić remembered that Mr. Milošević had told him that he had some pains and had pointed to his chest. Željko Mejakić saw him putting his hands on his chest and complaining of a chest pain. Ljubomir Borovčanin remembered that he was complaining of a pain on the left side of his body, below his ribcage. In fact on 2 March 2006 Mr. Milošević had seen the duty nurse at UNDU complaining of a pain in his belly. The nurse reported her observations of his complaint to Dr Falke by telephone. Dr Falke advised treatment that night with a painkiller and confirmed his diagnosis the next day when he examined Mr. Milošević at UNDU.

He diagnosed an abdominal colic, possibly in the left kidney. Mr. Milošević had what is often described as “sand” in his kidneys, *i.e.* a very fine deposit, which can cause pain if “sand” is passed. He was much improved when Dr Falke saw him. This was not a pain in the chest. No other report was made of pain by Mr. Milošević to Dr Falke or the nurses in the weeks before his death, and no report of chest pain had been made during his detention at UNDU. Mr. Milošević had consistently told the various doctors who examined him in connection with his hypertension during his detention at UNDU that he did not experience chest pain. The only record indicating occasional chest pain is in reports from the Belgrade Military Medical Academy of 31 May 2001 and 4 June 2001. These note that this pain was due to coronary arterial spasm, a condition not known to be dangerous, and that it could not be relieved by sublingual nitroglycerine, which is an indicator that the pain is not of cardiac origin.

Provisional release for medical tests and treatment in Moscow

87. There was a significant difference of professional opinion in respect of material parts of the reports of the three visiting doctors who had examined Mr. Milošević at his request at UNDU in November 2005, Drs F. Leclercq, M. Shumilina and V. Andrić. These three doctors were selected by Mr. Milošević. Dr Leclercq, the chief of a cardiology ward at Hopital Arnaud de Villeneuve in Montpellier, was recommended to Mr. Milošević by another French doctor whom he had apparently consulted in UNDU although no report of this doctor was ever provided to Dr Falke at UNDU or the Tribunal. Dr Shumilina, an angiologist at the Bakoulev Scientific Centre for Cardiovascular Surgery in Moscow, was nominated by the Head of the Bakoulev Centre after he was approached by Mr. Milošević’s brother, Borislav. Dr Andrić, an ear, nose and throat specialist from the University Clinical Centre in Kosovo, had appeared earlier as a witness for Mr. Milošević in his trial. When these reports were given to the Trial Chamber it acted immediately to order and obtain reports from the treating specialists in two of the relevant fields of medicine, and a little later from another specialist in the third field. The Trial Chamber was able to consider these in the context of whether Mr. Milošević should be granted provisional release at that advanced stage of the trial to enable him to go to the Bakoulev Medical Centre in Moscow.

88. Dr Shumilina’s report, based on her examination of Mr. Milošević including a doppler ultrasound and a magnetic resonance tomography, recorded her opinion that he had hypoplasia of the right vertebral artery, thoracic outlet compression syndrome, stenosis of the right internal carotid artery with stenosis of the septum, arterial sclerosis, and a disorder of the cerebral venous circulation. It also observed that the presence of an almost constant tinnitus in the ears over the course of two months and of vertigo was indicative of a decompensation of cerebral circulation, inadequate treatment and of the need for additional tests. She recommended, in particular, X-ray of

the cervical spine with functional tests, assessment of blood rheology, triplex scan of the brachiocephalic arteries and veins, transcranial doppler ultrasound and angiography, as well as ethiopathogenic treatment in a specialised hospital.

89. Dr Vukašin Andrić found that the results of his physical examination of the ears, nose and throat were normal. He concluded that Mr. Milošević had bilateral impairment of the peripheral vestibulo-cochlear apparatus of primarily vascular origin exacerbated by the use of earphones over the period of several years, and that this condition was irreversible. He recommended immediate rest by reducing sound stimulation to minimum and treatment with two medications.

90. The cardiologist who examined Mr. Milošević at his request in November 2005 was Professor Leclercq of France. She concluded, in particular, that “Mr. Milošević was a patient with a cardiovascular risk and the left ventricular hypertrophy increases this risk.” She proposed testing with a coronary scanner or scintigraphy, ambulatory blood pressure measurements over 24 hours, microalbuminuria, and a doppler of neck vessels and renal arteries as well as having a neuro-radiologist interpret the MRI. Her treatment recommendations were for “no change to antihypertensive treatment and other cardiovascular therapy,” and “laboratory tests to be done twice a year (ionogram and kidney function in particular)”.

91. As mentioned earlier in this Report, Dr J. de Laat, a physicist-audiologist expressed quite different opinions from those of Professor Andrić as to the cause and nature of the concerns raised by Mr. Milošević. He agreed there was a perceptive hearing loss, more so in the right ear, but considered that with different technical arrangements Mr. Milošević could continue with the trial. As the autopsy report, especially the pathology results, does not reveal any connection between these concerns and the death of Mr. Milošević, this will not be pursued further in this report.

92. Dr N.J.M. Aarts, a neurological radiologist, disagreed with many of the views expressed by Dr Shumilina which dealt with various conditions of Mr. Milošević’s head and cerebral circulation. In particular he did not agree that the findings indicated a pathological condition. Dr Aarts also was of the view that the arterial sclerosis noted was normal in view of the age of Mr. Milošević whereas Dr Shumilina considered that it was a natural development of long term non-corrected arterial hypertension. On 14 December 2005 Dr Shumilina sent a letter in response to Dr Aarts’ report. She disagreed with his observations. As the autopsy report, especially the pathology results, does not indicate any connection between the matters raised by Dr Shumilina and the death of Mr. Milošević this will not be pursued further in this report.

93. Dr van Dijkman observed, in his response to Professor Leclercq made on 18 November 2005 pursuant to an order from the Trial Chamber, that this did not add much to what was already

known and there were no new suggestions for adjustments of the medicinal treatment. With respect to the tests proposed, he observed in particular that the information available from earlier testing was sufficient to deal with the possibility of coronary insufficiency, that the heart catheterisation in the past showed no indication of coronary atherosclerosis, stress MRI with perfusion may be considered and a CT scan to determine the calcium score of the coronaries. However, he suggested that this should be carried out in a relatively quiet period for the patient as this would involve reducing anti-hypertensive medication. He could arrange a 24 hour pressure measurement the next week. Dr van Dijkman concluded that he could see “no grounds to change the current course of action [...] and there are no reasons from the cardiologic point of view to alter the current trial regime.”

94. While the Trial Chamber did grant Mr. Milošević an adjournment of six weeks from 12 December 2005, which met one of the recommendations of Drs Leclercq, Shumilina and Andrić, it denied Mr. Milošević’s motion to be granted provisional release to Moscow. The decision, however, turned on the failure of Mr. Milošević to demonstrate that his health needs could not be met in the Netherlands.

Adequacy of medical treatment

95. The pathology findings in the autopsy report identified severe cardiac anomalies: Mr. Milošević’s heart was too heavy with a pathological thickening of the left ventricle wall (hypertrophy) and 3 cm of the descending branch of the left coronary artery ran through the muscle tissue of the left chamber rather than over it (myocardial bridge). These conditions were not new, they had been identified before Mr. Milošević came to UNDU. Other findings include a blockage to a maximum of 50% of the left coronary artery due to arteriosclerosis and that areas of connective tissue and small scars occurred sporadically in the cardiac muscle. The pathology report observed:

As to the question of why this heart attack occurred precisely when it did, the autopsy and subsequent microscopic examination showed no anatomical factors which could be considered as triggering factors for a heart attack. The toxicological investigation showed no toxicologically identified factors which could induce a heart attack. Therefore, no (additional) factors were found which would explain why the heart attack occurred precisely when it did.

The conclusion was:

Slobodan Milošević, aged 64, appeared to have had severe anomalies of the cardiac muscle and coronary arteries, which resulted in a heart attack. This heart attack fully explains the death.

It should be noted that this is quoted from the English language translation of the report. The original in Dutch uses the word “hartinfarct” which has been translated as “heart attack.”

96. In a letter of 5 April 2006 to the Inquiry Professor Bockeria who is the Head and Chairman

of the Bakoulev Centre for Cardiovascular Surgery in Moscow commented:

So the patient died because of myocardial infarction due to narrowing of the LAD [left descending artery] and muscular bridge over that vessel. He could be treated easily at any place of the world either by minimally invasive surgery on the beating heart or by angioplasty and stenting.

Professor Bockeria had supported the joint recommendations of the three visiting doctors in December 2005 but his letter had not detailed specific treatment. He went on to observe that Mr. Milošević's brother, who had been a friend of Professor Bockeria for several years, had been treated at the Bakoulev Centre when he had a heart attack shortly after the death of Mr. Milošević. Professor Bockeria commented that Mr. Milošević's brother had the same vessel (LAD) disease, three stents were introduced and "he is now doing very well".

97. While a need for surgery of this nature had not been identified in the reports of the three visiting doctors in November 2005 or in Professor Bockeria's letter to the Tribunal in support of Mr. Milošević's motion for provisional release in December 2005, the effect of this letter to the Inquiry of 5 April 2006 appears to be that, had Mr. Milošević been thoroughly examined over some weeks of hospitalisation as proposed at the Bakoulev Centre in Moscow, the need for surgical intervention of this nature would have become apparent and with such surgery the death would have been prevented. The question, at least implicitly raised by this comment, is whether this ought to have been foreseen by those responsible for Mr. Milošević's treatment at UNDU.

98. To assist the Inquiry with this issue and with a better understanding of the findings of the pathological examinations in the autopsy report, reference was made to the two expert cardiologists who were familiar with Mr. Milošević's case but who had not treated him and were quite independent of those who had. These were Professor Leclercq of France who had been retained by Mr. Milošević to examine him in November 2005, and Professor Tavernier of Belgium who had examined Mr. Milošević in mid 2004 at the request of the Trial Chamber when the Judges wanted an opinion independent of the treating doctors.

99. These two cardiologists were approached quite separately. The opinions they offered about the essential questions were nevertheless in substantial accord. Professor Tavernier regarded Mr. Milošević as having "a very high added [cardiovascular] risk" and in Professor Leclercq's words to this Inquiry he was "at high cardiovascular risk". In their observations to the Inquiry which took account of the autopsy findings, both of them were of the opinion that the treatment regime prescribed for Mr. Milošević at UNDU was appropriate. Each expressed the opinion that the pathology investigations in the autopsy report indicated that the precise mechanism by which Mr. Milošević died was a sudden cardiac death resulting from "a very fast life-threatening rhythm disturbance" in the words of Professor Tavernier, or a "grave ventricular rhythm disorder" in

Professor Leclercq's words. These are merely different ways of expressing the same arrhythmic occurrence caused by disruption to the electrical waves that pass through the heart.

100. Having reviewed the various tests proposed for Mr. Milošević by the visiting doctors in November 2005, Dr Tavernier expressed the view that

“[...] there is no test that if carried out would have helped detect or prevent the cause of death. When you have a heart hypertrophy and a high blood pressure you have to change your life-style and take your medications. Having taken additional tests would not have resulted in new recommendations or changing the prescribed medications.”

As Professor Leclercq put the situation in her opinion

“[...] unfortunately, the possibilities of preventive treatment are almost nil.”

The two cardiologists differed over the value of one of the tests proposed in November 2005, scintigraphy, which in Professor Leclercq's view could have enabled an assessment of whether there was a need for therapy to treat stenosis (blocking of the left coronary artery). Their opinions were in agreement, however, that the degree of stenosis that existed, a maximum of 50% determined in the autopsy, was not a cause of Mr. Milošević's death. Both Professors expressed the view that the myocardial bridge did not need treatment. While each agreed that the effect of the myocardial bridge would be to restrict the flow of blood through the artery at times and, as Professor Tavernier also added, that in combination with hypertrophy the bridge can probably increase the likelihood of ischemia, neither considered that in this case the myocardial bridge could have caused the death of Mr. Milošević.

101. Both Professor Leclercq and Professor Tavernier noted the wording of the pathological report in its use of the term “hartinfarct,” which they understood as “myocardial infarction.” In Professor's Leclercq's opinion, “I do not think that that the description in the pathology report suggests a myocardial infarction in the sense in which I would use that term as a cardiologist.” Professor Tavernier did not consider that the report was demonstrating what he, as a cardiologist, would describe as an acute myocardial infarction. Clarification of the exact mechanism that had caused the heart attack was, therefore, sought from the pathologists who advised:

- hypertrophy of the myocardium (heart muscle) causes parts of this muscle to be at risk for lack of oxygen, because of the amount of muscle being too large for the blood supply to it. Thus, in the case of hypertrophy of the myocardium, at any moment a larger or smaller, even a very small part of the myocardium can have a lack of oxygen.
- myocardial bridging causes the temporary diminishing of blood flow in its branch of the left coronary artery. As a result a part of the myocardium may suffer from lack of oxygen.
- both of the above mechanisms may “work together” at the same moment.

- a lack of oxygen in the myocardium may cause muscle fibres to die, this in turn may cause
 - either abnormal electrical currents in the myocardium, causing it to contract in an uncoordinated way, without effective pumping action (sudden cardiac arrhythmia).
 - or diminished pumping action of the heart, causing the heart to be unable to pump enough blood through the blood vessels (heart failure).

Further, in response to a question whether the hypothesis was consistent with their findings that this was a sudden cardiac death caused by structural changes in the heart muscle causing disruption to the electrical wave that goes through the heart, the pathologists replied that:

the anomalies we found in the heart can cause disruption of the electrical wave that goes through the heart*) and this can cause sudden cardiac death.

This, or any, electrical current is no longer present after death and therefore cannot be measured after death.

*) by changes to the speed with which the electrical current travels through the heart.

102. In this case there is a difference of professional opinion affecting both the need to treat Mr. Milošević by surgical intervention and whether such surgery would have prevented the death of Mr. Milošević. These differing opinions are held by very experienced medical specialists of unquestioned high standing. Because of the views expressed by experts of the calibre of Professor Tavernier of Belgium and Professor Leclercq of France, however, this Inquiry cannot reach the conclusion that there was a failure to provide proper medical care to Mr. Milošević by those treating him at UNDU. Nor can it be concluded that surgery as identified by Professor Bockeria in his letter of 5 April 2006 would have prevented the death of Mr. Milošević.

Mr. Milošević's compliance with his prescribed therapy

103. The medical officer at UNDU, Dr Falke, noticed shortly after the arrival of Mr. Milošević at UNDU that he was not following his medical recommendations. In particular, he did not make the changes to his lifestyle that he was strongly encouraged to. He did not stop smoking, he did not observe a diet, and he did not exercise. This remained the case until his death although it was noted not long before he died that he appeared to be observing a diet which involved a lot of grapefruit. This was not a diet that had been recommended by the treating doctors at UNDU.

104. On several occasions Mr. Milošević, alone or apparently after receiving advice from other doctors on the telephone, made changes to his prescribed medicinal plan. On 19 July 2002, he refused to take adalat, an antihypertensive medication that was prescribed for him. On 4 and 11 November 2002 he refused to increase his antihypertensive medication as advised and prescribed. On 24 March 2003, he reduced his medication by half. On 23 April 2005 he stopped cozar, one of his antihypertensive drugs, on his own accord. Further, on several occasions, Mr.

Milošević refused to undergo specific medical tests and examinations proposed by his treating doctors. On 25 July 2002 a complete cardiovascular evaluation was proposed by Dr van der Sloot from the Amsterdam Medical Centre. This was refused by Mr. Milošević on 29 July 2002. A visit to a neurologist was refused by him on 18 February 2003. On 19 April 2004 Mr. Milošević refused hospitalisation for clinical observation for a week, which was proposed to him by his cardiologist, Dr van Dijkman. Approximately three months later, on 14 July 2004, he again refused hospitalisation, despite the advice of his cardiologist that there were clear indications for this.

105. Non-prescribed medications and other unauthorised substances were found on several occasions in Mr. Milošević's "privileged" office allocated to him for work on his Defence, and in his cell in UNDU. The first such incident occurred as early as 6 February 2002. During a search of Mr. Milošević after he had received a visit, presolol, an antihypertensive medication, was found in the pocket of his jacket. This same medication was also found in Mr. Milošević's luggage when he arrived at UNDU on 29 June 2001.

106. On 9 July 2004, during an inspection of the "privileged" office in UNDU medications that had not been prescribed for him and a bottle of whisky were found. The medications were midalozam, a sleeping pill, and prazepam, a minor tranquiliser. It is noted that in February 2006 it was submitted to the Trial Chamber that these drugs were found in an envelope labelled "Misa" and that they were brought into the office and put in a drawer by Mr. Dragoslav Ognjanović, nicknamed "Misa," one of Mr. Milošević's legal associates. It was contended that these medications were never intended for Mr. Milošević. However, blood samples had been taken from Mr. Milošević on 15 July and 29 July 2004. Nordazepam and prazepam were detected in both samples. Neither of these had been prescribed for Mr. Milošević. As confirmed to the Inquiry by a consultant toxicologist, Professor Uges, these results indicated that Mr. Milošević was in fact taking prazepam in July 2004 and are consistent with him having been doing so on 9 July 2004. No explanation has been offered for the bottle of whisky. In this respect it is noted that the normal metal cap on the bottle had been replaced by a plastic cap which would not register on the metal detection equipment at the entrance. As a further indication of Mr. Milošević's different attitude towards treatment prescribed for him, he always had refused to take similar drugs to prazepam when these were prescribed for him by his treating doctors at UNDU.

107. Further, the results of the blood tests of 15 and 29 July 2004 revealed that in both samples metoprolol, one of his antihypertensive medications, was present, but in lower concentrations than corresponded to the dosages prescribed. A possible explanation for these low concentrations was that Mr. Milošević had a fast metabolism for his prescribed medications, a rare condition. This possibility was excluded after a specific testing was carried out on 6 August 2004. Mr. Milošević

initially refused to give blood for this purpose.

108. On 3 December 2004, during a routine cell inspection, medications were found in Mr. Milošević's cell. He explained that they were for his throat and threw them into a garbage container. However, the tablets were retrieved. They proved to be cilazaprel/hydrochlorothiazide, an antihypertensive medication also used as a diuretic, and co-trimoxazol, an antibiotic. Both medications originated from the former Yugoslavia. They had not been prescribed by the treating doctors at UNDU.

109. As discussed earlier in this report, in November and December 2005 a series of blood tests were conducted on Mr. Milošević. The concentrations of metoprolol and amlodipine were lower than corresponded to his prescribed doses and too low to be effective. In two of the blood samples diazepam was found. Nordazepam was detected in three of these samples. Neither diazepam nor nordazepam had been prescribed at the time by treating doctors at UNDU. Further, in a blood sample taken on 12 January 2006 at Mr. Milošević's request after administration of his antihypertensive medications was monitored, rifampicin was detected. The significance of these tests has been discussed earlier.

110. On 1 February 2006, during an inspection of the cell of Mr. Milošević, another medication, prilazid plus was found. The medication originated from Serbia. It had not been prescribed for Mr. Milošević by his treating doctors at UNDU.

111. The effect of the events known by the end of 2005 is to indicate that, in significant respects, during his detention at UNDU, Mr. Milošević disrupted his prescribed treatment and ignored medical advice given to him by the medical officer at UNDU, his treating cardiologist, Dr van Dijkman, and others. While Mr. Milošević has denied a number of these matters, the circumstances point to the conclusion that throughout his detention Mr. Milošević failed to act on advice to adjust his lifestyle to lessen the cardiovascular risk which he presented, and that on occasions he refused to accept advice to take medications, or varied the prescribed dosage, refused to undergo recommended tests, and administered to himself medications which had not been prescribed by his treating doctors. The conclusion may also be drawn from the known circumstances, despite denial by Mr. Milošević, that he administered rifampicin to himself, this being a medication that could significantly countervail the effectiveness of medications prescribed to lower his blood pressure. If this were the case the circumstances would also support a conclusion that he was manipulating the effectiveness of his prescribed treatment for other purposes, at obvious risk to himself.

Mr. Milošević's "privileged" regime of detention

112. In order to better ensure that the Accused received a fair trial and, for this purpose, to aid him in conducting his own defence, as he resolutely determined to do, the Trial Chamber had ordered the appointment of *Amici Curiae* and granted the Accused's request for the assistance of "legal associates" (all lawyers), with whom the Accused enjoyed "privileged" communications. Moreover, throughout the case, the Trial Chamber, in consultation with the Registry, sought to ensure that the Accused was afforded assistance and resources to enable him to conduct his own defence effectively. The difficulties of doing so in such a complex trial led to unprecedented facilities being made available to Mr. Milošević during the trial, particularly pursuant to a detailed order of the Trial Chamber of 17 September 2003.

113. The order of 17 September 2003 provided that "the Accused must be provided with facilities in a privileged setting to confer with witnesses and others and work with documents and material relevant to his defence, logistical support with regard to witnesses and facilities to prepare for the presentation of his case".

114. The facilities provided included, as summarized by the then Deputy Registrar in a report to the Trial Chamber in February 2004, (a) A room in UNDU which is secure, thus providing him with a place to interview witnesses and work with and review documents and materials relevant to his defence. This was also to be used for proofing of witnesses, meetings between the Accused and his legal associates and meetings with others relevant to his defence; the Accused was the only individual with access to that room; (b) A privileged telephone in this room to enable Mr. Milošević to contact potential witnesses; (c) A room within the Tribunal's main premises for the Accused to meet sensitive witnesses and others when the need arises; during the times when the Accused used the room for those purposes, it would be treated as a privileged setting and; (d) A Pro Se Legal Liaison Officer, solely dedicated to providing assistance to the Accused in the preparation of his defence. Mr. Milošević also had the use of facilities including a computer with internet access and equipment such as a facsimile machine in this privileged room in UNDU.

115. On 31 August 2004, the Commanding Officer of UNDU submitted to the then Deputy Registrar an Internal Memorandum setting out concerns about the adverse effect of the privileged facilities at UNDU on his capacity to ensure that Mr. Milošević would not take non-prescribed medication. In a further Internal Memorandum to the then Deputy Registrar dated 14 October 2004, the Commanding Officer of UNDU outlined his concerns that the privileged setting provided to Mr. Milošević may be misused. Such concerns resulted from a number of incidents in which it was discovered that Mr. Milošević had non-authorized items in his privileged

room in UNDU, including non-prescribed medication. The Commanding Officer of UNDU concluded by saying “[i]t has become increasingly difficult for UNDU to ensure the safety and security of Mr. Milošević or the safety of his visitors.”

116. These Internal Memoranda were provided to the Trial Chamber on 26 October 2004. On 6 December 2004 the Commanding Officer of UNDU again sent an Internal Memorandum to the Deputy Registrar highlighting apparent abuses of the “privileged setting” and discovery of non-prescribed medication during a routine cell inspection. The Deputy Registrar requested that Dr Falke assess and report back on the impact of such non-prescribed medications that had been found on the condition of Mr. Milošević. Dr Falke responded on 13 December 2004 and confirmed that the “medications were not prescribed by [him] or a treating specialist” and that “[t]his occurrence disrupts the appropriate treatment”.

117. At the request of the Deputy Registrar the Head of the Tribunal’s Office of Legal Aid and Detention investigated the possible misuse of Mr. Milosevic’s privileged regime at UNDU. In particular the possible abuse of the privileged telephone for non-defence purposes, the presence of unauthorized medication in Mr. Milošević’s room and a strong suspicion that some of Mr. Milošević’s legal associates were involved in the misuse of the privileged regime and in the import or export of materials to and from UNDU were investigated. The resulting report dated 14 December 2004 disclosed that concrete evidence of the suspected abuses had not been found.

118. In this respect it should be noted that without knowledge of the content of conversations, which was precluded because the telephone was “privileged”, it could not be established that frequent telephone calls to members of his family, to former political colleagues, to journalists, and to friends, were not for the purposes of his defence. While the presence of unauthorised medication was clear, there was no clear proof of how this medication came to be in the privileged room.

119. While no formal amendment was made to the Trial Chamber’s order of 17 September 2003, on 15 December 2004, in a memorandum to the Commanding Officer of UNDU, the Deputy Registrar set out measures to be taken to curb further abuse of the privileged setting by Mr. Milošević. The measures in question included reminding Mr. Milošević that the privileged telephone in his office was only to be used for “defence related purposes”, informing him of the strong suspicion that he had been abusing this facility, investigating each future incident involving unauthorized items, issuing warnings and requesting a written explanation from Mr. Milošević and his legal associates on each occasion when an unauthorised item was discovered, increasing security measures to ensure that legal associates are searched (while respecting privileged material) as thoroughly and frequently as possible, installing a one way viewing window and posting security

to observe Mr. Milošević at all times whilst he is in the privileged office.

120. Despite efforts to implement these measures, a year later, in a memorandum to the Trial Chamber dated 20 December 2005, the Registrar stressed the difficulties being encountered in the implementation of the 17 September 2003 order which made it increasingly difficult to ensure the safety, security and health of Mr. Milošević. Attached to this memorandum was a memorandum from the Commanding Officer of UNDU of 19 December 2005 in which it was advised that :

[T]he medical officer reported to me the fact that he could no longer take full responsibility for the maintenance of Mr. Milosevic's health. He intimated to me that the tests revealed that Mr. Milosevic was not taking his medication as prescribed and indeed that he was also taking some other medication that has not been prescribed by the medical team ... if the accused does not follow the regime prescribed by the physicians then I, and therefore you cannot take responsibility for the health of Mr. Milosevic.

121. As mentioned earlier in this report, on 3 January 2006, the Trial Chamber issued an order to secure a report on the significance of the medical and pharmacological basis for this memorandum. This order could not be implemented, initially, because Mr. Milošević refused to consent to the medical data being disclosed. A report was eventually obtained on 24 January 2006 and over much of February 2006 there was strenuous opposition by Mr. Milošević to this initiative before the Trial Chamber and there had not been a resolution of this when Mr. Milošević died.

122. Meanwhile, as detailed elsewhere, on 1 February 2006, further unauthorized items had been found in the cell of Mr. Milošević, including a small phial of tablets of an antihypertensive drug originating from Serbia and not prescribed by the treating doctors at UNDU. This was reported to the Trial Chamber the following day through the Deputy Registrar by a memorandum of the Deputy Commanding Officer of UNDU in which he said:

This is not the first occasion on which we have had reason to bring Mr. Milosevic's possession of non-prescribed drugs to your attention. In light of the concerns addressed by Mr. McFadden in his correspondence of 31-Aug-04, 14-Oct-04, 06-Dec-04 and particularly 19-Dec-05, this discovery appears to corroborate our belief that Mr. Milosevic is self-medicating and therefore making it impossible for us to take responsibility for his health.

123. In February 2006 changes were made to the privileged facilities provided at UNDU to Mr. Milošević. The order of the Trial Chamber of 17 September 2003 still applied, however, the changes were possible because UNDU had transferred to a new block of cells. By these changes Mr. Milošević had the use of the cell adjacent to his own for his office, but interviews with witnesses and legal advisers were to be conducted in another room on another floor. Different arrangements were able to be implemented for the use of the privileged telephone. These changes were implemented by 22 February 2006. Their effect was to enable some improvement to the ability of the staff at UNDU to monitor possible abuses of the privileged facilities used by Mr.

Milošević for his defence.

124. A significant issue presented by these events is how Mr. Milošević was able to be in possession of medications which had not been prescribed by his treating doctors and which were not supplied to him by the UNDU. The known circumstances clearly suggest that they were supplied to him by persons visiting him at UNDU, *i.e.* they were “smuggled” into UNDU.

125. UNDU is a separate institution, but is physically located within the Dutch Penitentiary at Scheveningen. A visitor to UNDU must first pass through the security system maintained by the Dutch Penitentiary for all visitors. This includes scanning by X-ray machines and electronic screening of the visitors themselves to detect metallic and electronic objects. Random physical searches are also performed. Having passed through the security system of the Dutch Penitentiary, visitors to UNDU then pass through the UNDU security system which also involves electronic screening of visitors and objects and an inspection of belongings. Brief cases, bags, boxes and other containers are subject to physical inspection. While the UNDU procedures accord with best current practices standards, it would be naïve to consider that even these measures will always ensure that no unauthorised objects can be smuggled into UNDU. In the case of Mr. Milošević, however, this matter was more complicated. First, in addition to personal visitors, Mr. Milošević had a large number of visitors in connection with the preparation and conduct of his defence. These have typically included persons presently or previously involved in political, governmental and military activities, journalists and potential witnesses, as well as a number of legal associates. Secondly, because of his trial schedule visits were often beyond normal visiting hours and for long periods. Thirdly, it was quite usual for these visitors to have with them a variety of documents, books and other papers, which were carried in brief cases, bags, folders, bundles or boxes, and variety of other materials such as videos, films, tapes, maps, etc. Fourthly, as such visitors were for the purpose of his defence, it was necessary that UNDU guards respect the confidentiality or “privilege” attached to such working materials. This was so not only for his legal associates but also for others whom Mr. Milošević said were visiting in connection with his defence preparation. Fifthly, having entered UNDU, these visitors then met with Mr. Milošević in his privileged office so that the visits could not be conducted in the physical presence or hearing of a guard.

126. The concept of privileged visitors appears to have led to uncertainty as to the extent to which guards might properly inspect the contents of brief cases, bags and the like, and the various articles brought to UNDU by the many privileged visitors to Mr. Milošević. An attempt was made to clarify this by the memorandum of the then Deputy Registrar to the Commanding Officer of UNDU of December 2004 which was mentioned earlier in this report. This memorandum was written following the first complaint of the Commanding Officer that security at UNDU was being

compromised by the arrangements in place for Mr. Milošević. The memorandum made it clear that the contents of brief cases, etc, could be inspected, but, the heart of the uncertainty remained because guards were still required to respect the privileged nature of documents, etc. The practical effect of this was to limit the extent to which guards could effectively search bundles, folders and boxes of documents and the like.

127. It was before this memorandum that a bottle of whisky had been found in Mr. Milošević's privileged office. Even with the clarification provided by this memorandum, there remained scope for objects, such as typically packaged pills and capsules, to pass undetected through security checks within bundles and folders of documents. Articles of this nature may also be concealed in the clothing of visitors.

128. An improvement to the security arrangements for the privilege office was authorised by the Deputy Registrar's memorandum. This was the installation of a one way window to the office. This enabled visual oversight of the office. The changed physical arrangements which became possible in February 2006 after UNDU relocated to a different unit, by which interviews were conducted in a room separated from the privileged office, further reduced, but did not eliminate, the capacity for abuse of the privileged office.

129. It must be accepted that the arrangements in this case for the provision of privileged facilities within UNDU for the purposes of his defence compromised the security of UNDU and provides an explanation for Mr. Milošević's ability to gain access to a variety of medication which had not been prescribed by his treating doctors. Of course, for this problem to have arisen, it was necessary that Mr. Milošević was prepared to put his own life and health at risk by using non-prescribed medications, and for him to be able to arrange access to these medications and persuade visitors to smuggle them into UNDU. The availability of a privileged telephone in the office may well have facilitated arrangements to obtain medications.

130. The experience of this case, however, indicates that it is necessary, with other detainees who conduct their own defences, to seek to avoid any repetition of such conduct. It must also be kept in mind that the safety of other detainees may be compromised by breaches of the security at UNDU. Each case where an accused person wishes to conduct his own defence is likely to present distinctive features and, therefore, can be expected to lead to differences in the arrangements which are appropriate to provide to the accused for the conduct of his defence. It is suggested that it will be important in such cases, for the Trial Chamber, the Registrar and the Commanding Officer of UNDU to have close regard to the experience of this case, in determining arrangements in such future cases. As any such arrangements will introduce novelty for staff at UNDU specific training

should also be given to avoid the uncertainty experienced because of the arrangements for Mr. Milošević.

Medication procedures

131. The circumstances of this case also suggest that at times Mr. Milošević failed to take prescribed medications. It must be emphasised that a detainee cannot be forced to take medication prescribed for his use. It is important, however, that it is known to the medical officer when a detainee is not taking prescribed medication. There is in place in UNDU a well regulated system whereby daily medications prescribed for a detainee are individually packaged, with directions, and delivered to the guardroom supervising that detainee by a nurse. A guard takes the medication to the detainee at the prescribed time for it to be taken. The package is opened in front of the detainee and the guard watches the detainee take the medication. This is recorded in a logbook. Any failure to take the medication is also recorded and reported by the guard. As has been noted in this report there were a number of times during his detention at UNDU when Mr. Milošević refused to take prescribed medications or varied the prescribed dosage. These events were recorded and the medical officer was able to act to deal with the situation in one way or another.

132. The circumstances indicate, however, that at times Mr. Milošević appeared to take his prescribed medication but in fact did not do so. This may have involved isolated acts of insufficient care in the supervision of his taking of the medication, but it appears likely that subterfuge of some kind or another was employed by Mr. Milošević to mislead the guard. This may have involved no more than allowing the capsule or pill to remain hidden under the tongue until the guard left thinking that the pill had been swallowed. It is noted that when a strictly controlled test was conducted on 12 January 2006 a nurse actually administered the medication and a guard then watched Mr. Milošević for two hours. Steps such as this can overcome subterfuge but they are hardly practical for normal practice.

133. The established system appears to be well designed and implemented. Staff are well versed in its administration. While prolonged supervision with considerable vigilance can be effective to overcome subterfuge by a detainee, the time and labour cost which this involves cannot be justified as a matter of standard procedure. Given that subterfuge in the taking of medications is not an ongoing problem at UNDU no change in the present system is recommended. Obviously, if a failure to take medication is suspected, special supervision can be imposed.

Confidentiality of medical information under Dutch law

134. The provisions of the Dutch laws relating to the obligations of medical practitioners to

respect the privacy of medical information about a patient have been brought into sharp relevance by Mr. Milošević's conduct. The rights of the patient and the restrictions imposed on treating doctors may be somewhat surprising to those familiar with other legal systems. As a statement of imprecise generality, no medical information can be disclosed by a treating doctor without the consent of the patient. Limited exceptions are provided, which are not specifically framed with the situation of UNDU in mind. These are judicial decisions which have considered and developed the effect and operation of the laws. The obligations of a treating doctor continue after the death of a patient. Doctors who disclose medical information without consent can be liable to criminal prosecution, professional disciplinary action, and civil legal proceedings for damages. Mr. Milošević refused to consent to medical information being provided by the UNDU medical officer for assessment by an expert when the Trial Chamber sought to determine the effect on his health of repeated self-medication. On another occasion he refused to allow a medical report to be shown to the Trial Chamber even though the Trial Chamber had ordered the report to be prepared for it when the trial had to be adjourned because of Mr. Milošević's complaints of ill health. Further, Dutch doctors involved in the treatment of Mr. Milošević have declined on legal advice to provide medical information to this Inquiry because they understand, from Mr. Milošević's conduct before his death, that they do not have his consent to disclose information to the Inquiry.

135. It is to be noted that one of the specialist doctors appointed by the Tribunal to treat Mr. Milošević at UNDU was subjected to proceedings before the Regional Disciplinary Board of Medical Affairs in The Hague because of a report he provided to the Trial Chamber pursuant to an order from the Trial Chamber in 2004. These proceedings were eventually withdrawn by Mr. Milošević in March 2005 after negotiations with lawyers acting for the doctor. In the letter withdrawing the complaint it was said that the proceedings were instituted by a Dutch lawyer without the consent or instructions of Mr. Milošević. This experience had nevertheless served to heighten the caution on this issue of the Dutch doctors who were engaged by the Tribunal to treat Mr. Milošević.

136. The Rules of Detention of the Tribunal make provisions relevant to this issue, in particular in Rule 34. In particular, the Registrar is bound to keep confidential information relating to the physical and mental health of detainees, and "information contained in the detainee's medical records may be consulted or disclosed:

- (i) for medical reasons only with the consent of the detainee, or
- (ii) in the interest of justice and the good administration of trial, by order of a Judge or Chamber of the Tribunal, after consultations with the medical officer".

137. Further, Rule 35 provides for the medical officer to report a medical condition of a detainee relevant to the administration of UNDU and the treatment being received, and when he considers the health of a detainee has been or will be adversely affected by any condition of detention. These matters are reported through the Commanding Officer and Registrar to the President for action.

138. Rule 31 also provides that detainees may consult a doctor of his own choice, but requires that the medical officer shall be informed of the outcome of such a consultation.

139. Mr. Milošević consulted a number of doctors who visited him at UNDU. In some cases, however, he failed to provide the medical officer with reports in respect of these consultations.

140. There is a clear expectation that this Tribunal will ensure the provision of proper medical care of detainees. It is also obvious from experience of this case that the health of a patient can materially affect the capacity of the Tribunal to efficiently conduct the trial of a detainee. There will be occasions when, regardless of the wishes of a detainee, a Trial Chamber or the President will need to review medical information and may need to obtain medical reports concerning the health of a detainee. This need could also arise in the case of an Inquiry such as the present. Reports are also required of consultations with doctors engaged by a detainee.

141. The experience of this case indicates that there is a need to review the present Rules and in particular, to give consideration to the interrelationship between the Rules and the present legal position in the Netherlands relevant to this issue.

Compliance with rules and procedures

142. When the death of Mr. Milošević was reported to the shift supervisor a little after 1005 hours he telephoned the Commanding Officer, his deputy, and then the medical officer. The written procedures list those to be called in a medical emergency. The medical officer is listed first, although it is not specifically stipulated that the calls should be made in the listed order. In this case the issue is not material as Mr. Milošević had died earlier. It would be a wise precaution, however, if the standard procedures clearly required the medical officer to be called first. The written procedures should be clarified and this should also be reinforced by staff training.

143. It is unnecessary to set out in detail all the provisions of the Rules of Detention relevant to this case, in particular to the Security of UNDU and the provision of health care to detainees. Specific issues raised by this case have been dealt with earlier in this Report. No other matter has come to the notice of the Inquiry, which warrants specific mention or discloses a failure to observe the Rules of Detention.

Findings and recommendations

Having regard to the matters considered in this Report the following findings and recommendations for future action are made:

1. Slobodan Milošević died in his cell at the United Nations Detention Unit in the Scheveningen Penitentiary Facility on Saturday morning, 11 March 2006. He was alone in the locked cell.
2. Entirely independently of this Tribunal, a coronial and police investigation under the aegis of the District Office of the Public Prosecutor in The Hague was undertaken. This included an autopsy with full pathological and toxicological investigations conducted by the Netherlands Forensic Institute. The findings of this inquiry confirm that Mr. Milošević died of natural causes from a heart attack. No poison was found in his body. No other chemical substance present in his body contributed to his death. No rifampicin was found in his body. There were no indications of external violence.
3. Nothing has been found to support allegations reported in some sections of the media that Mr. Milošević had been murdered, in particular by poisoning. The results of the independent investigation by the Dutch authorities demonstrate that such allegations are entirely false.
4. Mr. Milošević had serious health problems when he arrived at UNDU. Mr. Milošević was referred to an experienced cardiologist of high standing, Dr van Dijkman, when he arrived at UNDU. Dr van Dijkman remained his primary treating cardiologist throughout his detention at UNDU. On several occasions his condition and treatment were reviewed by other doctors, including consultant cardiologists, some of whom were retained by Mr. Milošević himself. The treatment plan was subject to ongoing review, in particular because it proved difficult to adequately control his hypertension.
5. At different times during his detention, if other significant health problems arose, Mr. Milošević was referred on such occasions to experienced doctors specialising in the appropriate field.
6. Throughout his detention the primary treating physician of Mr. Milošević was the medical officer of UNDU, Dr Falke. Dr Falke managed the treatment of Mr. Milošević in accordance with available advice of Dr van Dijkman and other specialists.
7. On a number of occasions Mr. Milošević refused to accept the advice of his treating doctors.

He refused to take some prescribed medications and varied prescribed dosages of others. He also self-medicated as evidenced by the finding on occasions of non-prescribed medications in his privileged office and his cell, and the presence of non-prescribed medications in blood tests. Such events occurred at different times throughout his detention, the most recent being 1 February 2006. On occasions he refused to be tested or refused to be hospitalised.

8. In addition, during the trial the Trial Chamber sought and obtained expert cardiological and other reports about the health of Mr. Milošević, variously from treating doctors and from doctors not involved in the treatment of Mr. Milošević. This provided a further means of evaluating the treatment being provided at UNDU. The trial schedule was progressively reduced by the Trial Chamber twice during the trial, each time on cardiological advice. From September 2003 the trial schedule was limited to three sitting days a week. In addition, on many occasions the Trial Chamber adjourned the trial on medical advice because of Mr. Milošević's health.
9. Having regard to these matters proper care was taken by the Tribunal in the provision of medical care to Mr. Milošević during his detention at UNDU.
10. There is a difference of expert opinion whether surgical intervention was appropriate and would have prevented Mr. Milošević's death. Professor Bockeria of Moscow has indicated this view to the Inquiry since the death of Mr. Milošević. This was not advised by Dr van Dijkman. Other cardiologists, Professor Leclercq from France and Professor Tavernier from Belgium, who are independent of the treating doctors, agree with the treatment provided to Mr. Milošević at UNDU. They do not agree that surgery was necessary or that it would have prevented the death of Mr. Milošević. In these circumstances it cannot be concluded that there was a failure to provide proper care by those treating Mr. Milošević at UNDU.
11. The unique arrangements established at UNDU to enable Mr. Milošević to conduct his own defence compromised the security at UNDU. Since September 2003 these arrangements were pursuant to an order of the Trial Chamber. Because of these arrangements Mr. Milošević was able to obtain medications not prescribed for him by treating doctors at UNDU. The security deficiencies had been partially, but not entirely, remedied. The recent relocation of UNDU to a different cell block facilitated this.
12. It is recommended that regard be given to the experience of this case in determining arrangements in future cases where a detainee conducts his own defence. Specific training should also be given to enable staff to be clear of the effects on their normal powers and

duties of any such arrangements.

13. Twice in 2006 Mr. Milošević refused to consent to medical information being provided as ordered by the Trial Chamber. Further, a number of Dutch doctors, acting on legal advice, have refused to provide this Inquiry with medical information concerning Mr. Milošević. These issues involve the operation of existing Dutch laws concerning the confidentiality of medical information relating to a patient. There is a need to reconsider provisions of the Rules of Detention, in particular Rules 34 and 35, taking into account the position under the law of the Netherlands on this topic. Such reconsideration is recommended.
14. It is recommended that the written procedures of UNDU be clarified so that it is clear that, in a medical emergency, the medical officer is the first person called. This should also be reinforced by staff training. In this case the Commanding Officer was called first. This had no consequence as Mr. Milošević was already dead.

[signed]

The Hague
30 May 2006

K.H. PARKER
VICE-PRESIDENT