



“PRIJEDOR” (IT-97-24)

# MILOMIR STAKIĆ



## MILOMIR STAKIĆ

*Convicted of extermination, murder and persecutions*



From 30 April 1992 until 30 September 1992, President of the Serb controlled Prijedor Municipality Crisis Staff and Head of the Municipal Council for National Defence in Prijedor in north-western Bosnia and Herzegovina

- Sentenced to 40 years' imprisonment

*Crimes convicted of (examples):*

### Persecutions (crimes against humanity)

- As the leading figure in the Prijedor municipal government, Milomir Stakić played an important role in a campaign aimed at ethnically cleansing Prijedor municipality by deporting and persecuting Bosnian Muslims and Bosnian Croats.
- He planned and ordered the deportation of around 20,000 primarily non-Serb residents from the Prijedor municipality.
- He actively participated in the establishment of the camps Omarska, Keraterm and Trnopolje where detainees were subjected to serious mistreatment and abuse which amounted to torture, on a daily basis: detainees were severely beaten, often with weapons such as cables, batons and chains.

### Extermination (crime against humanity), murder (violation of the laws or customs of war)

- Milomir Stakić was a member of a joint criminal enterprise, the purpose of which was to consolidate Serb control over Prijedor municipality at any cost, resulting in widespread killings committed by Serb forces in towns, surrounding areas, and in detention facilities throughout the municipality.
- He was responsible for the murder of more than 1,500 people in the Prijedor municipality, including the killing of around 120 men in Keraterm camp on 5 August 1992 and executions of approximately 200 people at Korićanske Stijene on Mount Vlašić on 21 August 1992.

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| <b>Born</b>                            | 19 January 1962, in Marička, Bosnia and Herzegovina  |
| <b>Indictments</b>                     | Initial: 13 March 1997; made public on 23 March 2001; amended: 6 August 2001; second amended: 5 October 2001; third amended: 4 March 2002; fourth amended: 11 April 2002 |
| <b>Arrested</b>                        | 23 March 2001, by Serbian authorities  |
| <b>Transferred to ICTY</b>             | 23 March 2001  |
| <b>Initial and further appearances</b> | 28 March 2001, pleaded not guilty to the charge of complicity in genocide; 2 August 2001, pleaded not guilty to all charges  |
| <b>Trial Chamber judgement</b>         | 31 July 2003, sentenced to life imprisonment   |
| <b>Appeals Chamber judgement</b>       | 22 March 2006, sentenced to 40 years' imprisonment   |
| <b>Serving sentence</b>                | 12 January 2007, transferred to France to serve the remainder of his sentence; credit was given for time served since 23 March 2001                                      |

## STATISTICS

|                                 |     |
|---------------------------------|-----|
| Trial days                      | 150 |
| Witnesses called by Prosecution | 42  |
| Witnesses called by Defence     | 40  |
| Witnesses called by Chambers    | 6   |
| Prosecution exhibits            | 796 |
| Defence exhibits                | 594 |
| Chambers exhibits               | 58  |

| TRIAL                       |  |
|-----------------------------|--|
| Commenced                   | 16 April 2002  |
| Closing arguments           | 11 and 14 April 2003   |
| Trial Chamber II            | Judge Wolfgang Schomburg (presiding), Judge Volodymyr Vassylenko, Judge Carmen María Argibay |
| Counsel for the Prosecution | Joanna Korner, Nicholas Koumjian, Ann Sutherland   |
| Counsel for the Defence     | Branko Lukić, John Ostojić   |
| Judgement                   | 31 July 2003   |

| APPEALS                     |   |
|-----------------------------|---|
| Appeals Chamber             | Judge Fausto Pocar (presiding), Judge Mohamed Shahabuddeen, Judge Mehmet Güney, Judge Andrésia Vaz, Judge Theodor Meron |
| Counsel for the Prosecution | Mark McKeon, Helen Brady, Xavier Tracol, Barbara Goy, Katharina Margetts  |
| Counsel for the Defence     | Branko Lukić, John Ostojić  |
| Judgement                   | 22 March 2006   |

| RELATED CASES<br><i>by geographical area</i>                            |  |
|---|--|
| BANOVIĆ (IT-02-65/1) "OMARSKA CAMP & KERATERM CAMP"                     |  |
| BOROVNICA (IT-95-3) "PRIJEDOR"  |  |
| BRĐANIN (IT-99-36) "KRAJINA"  |  |
| KARADŽIĆ & MLADIĆ (IT-95-5/18) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"  |  |
| KOVAČEVIĆ & DRLJACA (IT-97-24) "PRIJEDOR"                               |  |
| KRAJISNIK (IT-00-39 & 40) "BOSNIA AND HERZEGOVINA"                      |  |
| KVOČKA <i>et al.</i> (IT-98-30/1) "OMARSKA, KERATERM & TRNOPOLJE CAMPS" |  |
| MEJAKIĆ <i>et al.</i> (IT-02-65) "OMARSKA CAMP & KERATERM CAMP"         |  |
| MILOŠEVIĆ (IT- 02-54) "KOSOVO, CROATIA & BOSNIA"                        |  |
| MRĐA (IT-02-59) "VLAŠIĆ MOUNTAIN"                                       |  |
| PLAYŠIĆ (IT-00-39 & 40/1) "BOSNIA AND HERZEGOVINA"                      |  |
| SIKIRICA <i>et al.</i> (IT-95-8) "KERATERM CAMP"                        |  |
| STANIŠIĆ, MIĆO (IT-04-79)   |  |
| TADIĆ (IT-94-21) "PRIJEDOR"   |  |
| ŽUPLJANIN (IT-99-36) "KRAJINA"  |  |

## INDICTMENT AND CHARGES

Milomir Stakić was originally indicted with Simo Drljača and Milan Kovačević in an indictment confirmed on 13 March 1997 and kept under seal until his arrest on 23 March 2001. This indictment charged Milomir Stakić with one count of complicity in genocide. On 10 July 1997, Milan Kovačević was arrested in Prijedor and transferred to The Hague. That same day, Simo Drljača was killed while resisting arrest and his name was consequently deleted from the indictment on 12 May 1998. Trial proceedings against Milan Kovačević began on 6 July 1998. On 1 August 1998, Milan Kovačević passed away in the Detention Unit. On 24 August 1998, the Trial Chamber issued an order terminating the proceedings against him.

On 6 August 2001, the Prosecution filed an amended indictment charging Milomir Stakić with individual and superior responsibility for a total of twelve counts - two counts of genocide, five counts of crimes against humanity and five counts of violations of the laws or customs of war.

On 5 October 2001, the Prosecution filed the second amended indictment which included two additional counts of inhumane acts. After the Defence's objection to the form of the indictment, the Trial Chamber ordered the Prosecutor to reorganise the indictment. The second amended indictment (reorganised) was filed on 27 November 2001.

On 4 March 2002, the Prosecution filed the third amended indictment with the aim of streamlining the case. In this indictment, the number of counts was reduced to eight and the relevant time period was reduced to cover between 30 April 1992 and 30 September 1992.

On 11 April 2002, the Prosecution filed the fourth amended indictment following an oral ruling by the pre-trial Judge of 10 April 2002. The fourth amended indictment contained the same charges as the third amended indictment with only a few minor changes.

Milomir Stakić was charged on the basis of individual criminal responsibility (Article 7(1) of the Statute) and superior criminal responsibility (Article 7(3) of the Statute) with:

- Genocide; complicity in genocide (genocide, Article 4),
- Murder; extermination; persecutions; deportation; inhumane acts (crimes against humanity, Article 5),
- Murder (violations of the laws or customs of war, Article 3).

## THE TRIAL

The trial against Milomir Stakić commenced on 16 April 2002 before Judge Wolfgang Schomburg (presiding), Judge Volodymyr Vassylenko and Judge Carmen María Argibay. The Prosecution completed its case-in-chief on 27 September 2002. Forty Prosecution witnesses testified in court. In addition, the Prosecution submitted 19 witness statements pursuant to Rule 92*bis*. Two forensic expert witnesses were called by the Trial Chamber. The Chamber admitted 796 exhibits tendered into evidence by the Prosecution.

The Defence case commenced on 18 November 2002 and lasted until 1 April 2003. Forty Defence witnesses testified in court. In addition, the Defence submitted seven witness statements pursuant to Rule 92*bis* and two expert reports pursuant to Rule 94*bis*. The Chamber admitted 594 exhibits tendered into evidence by the Defence.

Six witnesses were called by the Trial Chamber.

The closing arguments by the Prosecution and the Defence took place on 11 April 2003 and 14 April 2003. Following the close of the arguments, the accused was given permission by the Chamber to make a statement on 15 April 2003.

There were 150 court days.

## TRIAL CHAMBER JUDGEMENT

Milomir Stakić was convicted for his participation in the extermination, murder and persecution of the

non-Serb population in Prijedor. The municipality of Prijedor is located in the north-western region of Bosnia and Herzegovina known as the Bosanska Krajina. The town of Prijedor is the largest settlement in the municipality. According to the 1991 census, out of a total population of 112,543, 43,9% regarded themselves as Muslims, 42.3% as Serbs, 5.7% as Yugoslavs, 5.6% as Croats and 2.5% as "others". The census, for the first time, identified the Bosnian Muslims as the largest ethnic group in the municipality of Prijedor. The shifting demographic balance in favour of the Muslim population was considered a challenge by the Serbs and became one of the central issues in the municipality's political life during 1991 and 1992.

During the war in Croatia, the tension increased between the Serbs and the communities of Muslims and Croats. There was a huge influx of Serb refugees from Slovenia and Croatia into the municipality. At the same time, Muslims and Croats began to leave the municipality because of a growing sense of insecurity and fear amongst the population.

Pro-Serb propaganda became increasingly visible. The Serb media propagandised the idea that the Serbs had to arm themselves in order to avoid a situation similar to that which happened during World War II when the Serbs were massacred. As a result of the takeover of the transmitter station on Mount Kozara in August 1991 by the Serbian paramilitary unit the "Wolves of Vučjak", TV Sarajevo was cut off. It was replaced by broadcasts from Belgrade and Banja Luka with interviews from Serbian Democratic Party (SDS) politicians who argued that, while Serbs sought to preserve Yugoslavia, the Muslims and Croats wanted to destroy the country.

At the meeting of the Prijedor Municipal Board of the SDS on 27 December 1991 it was decided to overthrow the existing authorities in the town, replace legitimate central authorities with SDS or SDS-loyal personnel, and form independent Serb bodies. At the session on 7 January 1992, the Serbian members of the Prijedor Municipal Assembly and the presidents of the local Municipal Boards of the SDS proclaimed the Assembly of the Serbian People of the Municipality of Prijedor. Milomir Stakić was elected President of this Assembly.

By the end of April 1992, a number of clandestine Serb police stations were created in the municipality and more than 1,500 armed men were ready to take part in the takeover.

In the night of the 29 to 30 April 1992, the takeover of power took place "without a single bullet fired". Employees of the public security station and reserve police gathered in Čirkin Polje, part of the town of Prijedor. They were broadly divided into five groups. One group was responsible for the Municipal Assembly building, one for the SUP building, one for the courts, one for the bank and the last for the post-office.

The Trial Chamber found that the takeover of Prijedor was an illegal coup d'état which had been planned and coordinated for months and which had as its final goal the creation of a Serbian municipality eventually to form part of an envisaged pure Serbian state. After the takeover, Milomir Stakić became, amongst other things, President of the Municipal Assembly and President of the Prijedor Municipal Peoples' (National) Defence Council. From May 1992, he served as President of the Prijedor Municipal Crisis Staff. The Trial Chamber established that Milomir Stakić was the leading political figure in Prijedor municipality in 1992.

A comprehensive pattern of atrocities amounting to a campaign of a persecutorial nature was proved to have been committed against non-Serbs in Prijedor municipality in 1992. This included killings on a massive scale in the Omarska, Keraterm and Trnopolje camps, in Bosnian Muslim towns and villages throughout the municipality, and, finally, on Mount Vlašić. The Trial Chamber held Milomir Stakić responsible for more than 1,500 killings and was able to identify, by name, 486 victims. Rapes, sexual assaults and beatings were committed at the camps and at least 20,000 non-Serbs either fled Prijedor or were deported.

Despite the scale of the atrocities, the Trial Chamber was unable to infer the necessary *dolus specialis* for genocide, this *dolus specialis* - or specific intent to destroy, in whole or in part, a group as such - being the core element of the crime. Thus, based on the evidence in this case, the Trial Chamber did not conclude that Milomir Stakić had the necessary specific intent to commit genocide.

The Trial Chamber found that the crimes of persecutions and extermination committed against non-Serbs throughout the municipality constituted the core element of the criminal conduct of Milomir Stakić and on 31 July 2003, the Trial Chamber rendered its judgement.

Milomir Stakić was found guilty, on the basis of individual criminal responsibility (Article 7(1) of the Statute) and as a co-perpetrator acting together with his associates in the Crisis Staff, police and army in a coordinated co-operation to consolidate Serbian control and dominance in Prijedor municipality of the following crimes:

- Murder (violation of the laws or customs of war, Article 3),
- Extermination, persecutions (committed by *inter alia* murder and deportations torture, physical violence, rape, sexual assault, constant humiliation and degradation, destruction of religious buildings deportation on a massive scale) (crimes against humanity, Article 5).

Sentence: life imprisonment.

## APPEALS CHAMBER JUDGEMENT

Both the Prosecution and the Defence appealed the Trial Chamber's judgement. Milomir Stakić also appealed his sentence. In addition, the Appeals Chamber, in accordance with the Tribunal's Rules of Procedure and Evidence, considered certain issues of its own initiative. Most of the Appeals Chamber's findings related to specific legal issues.

In its judgement, the Appeals Chamber affirmed the Trial Chamber's decision to convict Milomir Stakić for his responsibility in exterminating, murdering and persecuting the non-Serb population in Prijedor. The Appeals Chamber also found that the Trial Chamber incorrectly failed to convict him for deporting and forcibly transferring the non-Serb population. The Appeals Chamber agreed with the Trial Chamber's decision to acquit Milomir Stakić of genocide and complicity in genocide.

One of the issues the Appeals Chamber addressed of its own initiative was how to legally define Milomir Stakić's responsibility for the crimes he committed. The Appeals Chamber found that Milomir Stakić participated in a joint criminal enterprise whose purpose was to commit crimes against the Bosnian Muslim and Bosnian Croat populations of Prijedor. These crimes were part of a campaign to persecute the non-Serb population of Prijedor, with the final goal of creating a Serbian municipality eventually to form part of an envisaged pure Serbian state.

The Appeals Chamber found that the Trial Chamber committed some errors in determining Milomir Stakić's sentence. However, it also found that the impact of these errors on the sentence is very limited.

On 22 March 2006, the Appeals Chamber confirmed the convictions against Milomir Stakić and rendered its judgment, sentencing him to 40 years' imprisonment.

On 12 January 2007, Milomir Stakić was transferred to France to serve the remainder of sentence. Credit was given for the time served since his arrest on 23 March 2001.