



(IT-95-5/18)

# RADOVAN KARADŽIĆ

**RADOVAN KARADŽIĆ**

*Indicted for genocide, extermination, murder, persecutions, deportation, inhumane acts, acts of violence the primary purpose of which was to spread terror among the civilian population, unlawful attack on civilians, taking of hostages*



Founding member of the Serbian Democratic Party (SDS); President of the SDS until his resignation on 19 July 1996; Chairman of the National Security Council of the so-called Serbian Republic of Bosnia and Herzegovina (later Republika Srpska - "RS"); President of the three-member Presidency of RS from its creation on 12 May 1992 until 17 December 1992, and thereafter sole President of Republika Srpska and Supreme Commander of its armed forces.

*Crimes alleged in the indictment (examples):*

#### **Genocide:**

- He committed in concert with others, planned, instigated, ordered and/or aided and abetted genocide against a part of the Bosnian Muslim and/or Bosnian Croat national, ethnical, and/or religious groups as such. He participated in a joint criminal enterprise (JCE) to permanently remove Bosnian Muslims and Bosnian Croats from the territories of Bosnia and Herzegovina (BiH) claimed as Bosnian Serb territory;
- He participated in a JCE to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children and some elderly men from Srebrenica

#### **Persecutions, extermination, murder, deportation, inhumane acts (crimes against humanity):**

- He committed in concert with others, planned, instigated, ordered and/or aided and abetted persecutions on political and/or religious grounds against Bosnian Muslims and/or Bosnian Croats in the following municipalities: Banja Luka, Bijeljina, Bosanski Novi, Bratunac, Brčko, Foča, Hadžići, Iliđža, Ključ, Novi Grad, Novo Sarajevo, Pale, Prijedor, Rogatica, Sanski Most, Sokolac, Višegrad, Vlasenica, Vogošća and Zvornik as well as persecutions of the Bosnian Muslims of Srebrenica ("Municipalities");
- He is responsible for the acts of extermination and murder that formed part of the objective to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian-Serb claimed territory, and which were carried out between March 1992 and 30 November 1995 by members of the Serb forces and Bosnian Serb political and governmental organs, including killings during and after takeovers in the Municipalities and killings related to detention facilities in the Municipalities;

#### **Murder, acts of violence the primary purpose of which is to spread terror among the civilian population, unlawful attack on civilians, taking of hostages (violations of the laws or customs of war):**

- Between April 1992 and November 1995, Karadžić, in concert with other members of a JCE, established and implemented a military strategy that used sniping and shelling to kill, maim, wound and terrorize the civilian inhabitants of Sarajevo. The sniping and shelling killed and wounded thousands of civilians of both sexes and all ages, including children and the elderly.

- Between approximately 26 May 1995 and 19 June 1995, Bosnian Serb forces detained over 200 UN peacekeepers and military observers in various locations, including Pale, Sarajevo, Banja Luka and Goražde, and held them at various locations in Republika Srpska. Threats were issued to third parties, including NATO and UN Commanders, that further NATO attacks on Bosnian Serb military targets would result in the injury, death or continued detention of the detainees. Some of the detainees were assaulted or otherwise maltreated during their captivity.

<b>Born</b>	19 June 1945, in the municipality of Šavnik, Montenegro
<b>Indictment</b>	Initial indictment: 25 July 1995; separate (Srebrenica): 16 November 1995; amended: 31 May 2000; second amended: 16 February 2009; third amended: 26 February 2009; third amended (marked-up): 19 October 2009
<b>Arrested</b>	21 July 2008 (announced by the Serbian authorities)
<b>Transferred to ICTY</b>	30 July 2008
<b>Initial and further appearances</b>	31 July 2008, postponed his plea for 30 days; 29 August 2008, failed to enter a plea, a plea of not guilty was entered on his behalf; 3 March 2009, failed to enter a plea, a plea of not guilty was entered on his behalf

## STATISTICS

TRIAL	
<b>Commenced</b>	26 October 2009
<b>Trial Chamber III</b>	Judge O-Gon Kwon (presiding), Judge Howard Morrison, Judge Melville Baird and Judge Flavia Lattanzi (Reserve Judge)
<b>Counsel for the Prosecution</b>	Alan Tieger, Hildegard Uertz-Retzlaff
<b>Counsel for the Defence</b>	Self-representation; Richard Harvey (stand-by counsel)

RELATED CASES
BANOVIĆ (IT-02-65/1) "OMARSKA CAMP & KERATERM CAMP"
BLAGOJEVIĆ AND JOKIĆ (IT-02-60) "SREBRENICA"
BOROVNICA (IT-95-3) "PRIJEDOR"
BRĐANIN (IT-99-36) "KRAJINA"
ERDEMOVIĆ (IT-96-22) "PILICA FARM"
GALIĆ (IT-98-29) "SARAJEVO"
KRAJIŠNIK (IT-00-39) "BOSNIA AND HERZEGOVINA"
KRNOJELAC (IT-97-25) "FOČA"
KRSTIĆ (IT-98-33) "SREBRENICA-DRINA CORPS"
KUNARAC <i>et al.</i> (IT-96-23 & 23/1) "FOČA"
KVOČKA <i>et al.</i> (IT-98-30/1) "OMARSKA CAMP & KERATERM CAMP"
MEJAKIĆ <i>et al.</i> (IT-02-65) "OMARSKA CAMP & KERATERM CAMP"
MILOŠEVIĆ (IT-02-54) "KOSOVO, CROATIA & BOSNIA"
MLADIĆ (IT-09-92) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"
MRĐA (IT-02-59) "VLASIC MOUNTAIN"
PLAVŠIĆ (IT-00-39 & 40/1) "BOSNIA AND HERZEGOVINA"
OBRENOVIĆ (IT-02-60/2) "SREBRENICA"
PERIŠIĆ (IT-04-81)
POPOVIĆ <i>et al.</i> (IT-05-88) "SREBRENICA"
SIKIRICA <i>et al.</i> (IT-95-8) "KERATERM CAMP"
STANIŠIĆ & ŽUPLJANIN (IT-08-91)
STAKIĆ (IT-97-24) "PRIJEDOR"
TADIĆ (IT-94-1) "PRIJEDOR"
TOLIMIR (IT-05-88/2)

## INDICTMENT AND CHARGES

The first indictment against Karadžić and Ratko Mladić (with case number IT-95-5) was filed on 24 July 1995 and confirmed on 25 July 1995, it charged them with genocide and other crimes committed against civilians throughout the territory of Bosnia and Herzegovina. On 14 November 1995, the Prosecutor filed a separate joint indictment against the two accused (with case number IT-95-18), which was confirmed on 16 November 1995 and dealt only with events that took place in Srebrenica in July 1995.

Consolidating the two initial indictments into one single document, an amended indictment against Karadžić (case number IT-95-5/18) was filed on 24 May 2000.

On 22 September 2008, the Prosecution filed a motion to amend the indictment seeking, among other things, to remove the charge of complicity in genocide and to divide the count of genocide in two, each new count representing a distinct time period and location. Furthermore, the Prosecution reduced the total number of municipalities in which the accused allegedly committed the crimes from 41 to 27. On 16 February 2009, the Trial Chamber granted the Prosecution's motion with the exception of three alleged incidents of killing that the Prosecution sought to add, as "they were not supported by evidence." On 17 February 2009, the Prosecution filed an urgent motion requesting the Chamber to reconsider its decision regarding one killing incident in the Sušica camp. On 26 February 2009, the Trial Chamber reconsidered its previous decision and ordered the Prosecution to file a new indictment including the alleged incident in the Sušica camp. The third amended indictment was filed on 27 February 2009.

On 22 July 2009, the Trial Chamber ordered the Prosecution to make a written submission on the potential application of Rule 73*bis* to reduce the size of the trial. On 31 August 2009, the Prosecution filed its submission proposing the removal of a number of municipalities from the presentation of evidence as well as individual incidents or crime sites connected to the remaining municipalities, the Srebrenica enclave and the Sarajevo siege. On 8 October 2009, the Prosecution was ordered to file a marked-up version of the indictment in accordance with its submission. The marked-up version of the indictment ("indictment") was filed on 19 October 2009. Seven municipalities (Bosanska Krupa, Bosanski Petrovac, Čajniče, Donji Vakuf, Ilijaš, Kalinovik, and Kotor Varoš) were removed entirely from the new indictment, and the number of incidents charged in an eighth, Višegrad, was reduced to one.

The indictment alleges that, from at least October 1991 until 30 November 1995, Karadžić participated in an overarching joint criminal enterprise ("JCE") to permanently remove Bosnian Muslim and Bosnian Croat inhabitants from the territories of Bosnia and Herzegovina claimed as Bosnian Serb territory, by means which included the commission of the crimes charged in the indictment. He is alleged to share the intent for the commission of each of these crimes with other members of the JCE including: Mladić, Momčilo Krajišnik, Slobodan Milošević, Biljana Plavšić, Nikola Koljević, Mićo Stanišić, Momčilo Mandić, Jovica Stanišić, Franko Simatović, Željko Ražnatović aka "Arkan", and Vojislav Šešelj.

It is further alleged that between April 1992 and November 1995, Karadžić participated in a JCE, including Krajišnik, Mladić, Plavšić, Koljević, Šešelj, Stanislav Galić and Dragomir Milošević, to establish and carry out a campaign of sniping and shelling against the civilian population of Sarajevo, the primary purpose of which was to spread terror among the civilian population. This objective involved the commission of the crimes of terror, unlawful attacks on civilians, and murder charged in the indictment.

The indictment further states that, commencing in the days immediately preceding the 11 July 1995 implementation of the plan to eliminate the Bosnian Muslims in Srebrenica and continuing until 1 November 1995, Karadžić participated in a JCE to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children and some elderly men from Srebrenica. Other members of the JCE included: republic-level members of Bosnian Serb political and governmental organs; regional, municipal and local level members of Bosnian Serb political and governmental organs with responsibility in or for the Srebrenica, Vlasenica, Bratunac and/or Zvornik areas; commanders, assistant commanders, senior officers and chiefs of the Republika Srpska Army (VRS) and police (MUP) operating in or with responsibility over territory within the VRS Drina Corps area of responsibility and/or Trnovo municipality; and members of a Serbian MUP unit called the "Scorpions". Alternatively, some or all of these individuals were not members of the JCE, but were used by members of the JCE to carry out crimes committed in furtherance of its objective.

It is also alleged that, between 26 May and 19 June 1995, Bosnian Serb forces detained over 200 UN peacekeepers and military observers in various locations, including Pale, Sarajevo, Banja Luka and Goražde and held them at various locations in the Republika Srpska, including locations of strategic or military significance in order to render the locations immune from NATO air strikes and to prevent air strikes from continuing. Some detainees were assaulted or otherwise maltreated during their captivity.

**Radovan Karadžić**, is charged on the basis of individual criminal responsibility (Article 7(1)) and superior criminal responsibility (Article 7(3)) with:

- **Genocide, persecutions extermination, murder, deportation, inhumane acts** (genocide, crime against humanity, Articles 4 and 5),
- **Murder, unlawful attacks on civilians, acts of violence the primary purpose of which is to spread terror among the civilian population, taking of hostages** (violations of the laws or customs of war, Article 3).

## RULE 61 PROCEEDINGS

In certain instances, where the Tribunal has been unable to obtain custody of an accused, it has proceeded under Rule 61 of its Rules of Procedure and Evidence. In proceedings under this rule a full Trial Chamber examines an indictment and the supporting evidence in public and, if it determines that there are reasonable grounds for believing that the accused committed any or all of the crimes charged, confirms the indictment and issues an international arrest warrant. The latter is intended to ensure that the accused will be arrested if he crosses international borders. In addition, if the Prosecutor satisfies the Chamber that the failure to service the arrest warrant on the accused was due to the failure or refusal of a State to cooperate with the Tribunal, the Chamber shall so certify. The President of the Tribunal, in consultation with the presiding Judges of the Trial Chambers, may then notify the Security Council of such failure or refusal by a State. A Rule 61 hearing is not a trial *in absentia* and does not provide for a finding of guilt.

After the indictments against both Karadžić and Mladić were confirmed on 24 July 1995 and on 16 November 1995, warrants of arrest were transmitted to the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Bosnia and Herzegovina and the Bosnian Serb administration (which has become Republika Srpska). On 18 June 1996, given that the warrants had not been executed and that the Prosecutor had taken reasonable attempts to inform the accused of their existence, Judge Claude Jorda ordered that both the indictments be submitted to the Trial Chamber for review under Rule 61 of the Rules of Procedure and Evidence. On 11 July 1996, the Trial Chamber confirmed all counts of the indictments, being satisfied that the Prosecutor had presented evidence constituting reasonable grounds for believing that Karadžić and Mladić had committed the alleged crimes. It issued an international arrest warrant, ordering it be sent to all States and to the NATO led multinational military Implementation Force (IFOR), which was then operating in BiH.

The Trial Chamber also considered that the failure to arrest Karadžić and Mladić could be ascribed to the refusal of the Federal Republic of Yugoslavia (Serbia and Montenegro) and Republika Srpska to cooperate with the ICTY. The Trial Chamber noted in particular that this failure was a breach of the obligations made on Republika Srpska's behalf by FRY during the Dayton peace agreements. They stated that as the guarantor of Republika Srpska, the FRY was responsible for that entity's failure to honour its obligations. Accordingly, the Trial Chamber requested the Tribunal's President to report this failure to comply with their legal obligations to the UN Security Council and on 11 July 1996 President Antonio Cassese sent a letter to this effect. Following this letter the Security Council issued a number of resolutions urging compliance with the Tribunal and stating that they would remain actively seized of the matter.

## THE TRIAL

The trial commenced on 26 October 2009. The accused was not present as he claimed he had not been given adequate time to prepare. On 27 October and 2 November 2009, the Prosecution made its opening statement, although Karadžić again failed to attend the proceedings. Subsequently, on 3 November 2009, an administrative hearing was held to discuss the issue. On 5 November 2009, the Chamber issued a decision in which they found that the accused had "substantially and persistently obstructed the proper and expeditious conduct of his trial", thereby meeting the test for appointment of counsel set out by the Appeals Chamber in the Milošević case. The Chamber therefore ordered the Registrar to appoint a counsel to prepare to represent the interests of Karadžić at trial, and ordered that the trial resume on Monday, 1 March 2010. However, the Chamber further stated that Karadžić would continue to represent himself, including by dealing with day-to-day matters and by preparing for trial, but that "should the accused continue to absent himself from the resumed trial proceedings in March, or should he engage in any other conduct that obstructs the proper and expeditious conduct of the trial, he will forfeit his right to self-representation, no longer be entitled to assistance from his assigned defence team, and the appointed counsel will take over as an assigned counsel to represent him."

On 19 November 2009, Richard Harvey was appointed as counsel to the accused.

On 1 and 2 March 2010, the accused made his opening statement.

The Prosecution started presenting evidence on 13 April 2010. Its case was rested on 25 May 2012.

The Defence case commenced on 16 October 2012.

## RULE 98*bis* DECISION

After the conclusion of the presentation of Prosecution evidence, the Trial Chamber can rule on whether there is a case to answer. If the Chamber believes that the Prosecution has not presented sufficient evidence to prove certain charges, it can dismiss those charges and enter a judgement of acquittal before the beginning of the presentation of Defence evidence.

On 28 June 2012, the Trial Chamber issued an oral decision pursuant to Rule 98*bis* dismissing the motion for acquittal on ten counts of the indictment but granting it in relation to count one, in which the accused was charged with genocide for crimes committed in several municipalities in Bosnia and Herzegovina between March and December 1992.

The Prosecution appealed the judgement of acquittal in relation to count 1 and the appeal hearing was held on 17 April 2013. On 11 July 2013, the Appeals Chamber reversed the Trial Chamber's decision and reinstated the charge of genocide under count 1 against the accused.