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14 March 1999

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

CASE NO. IT-99- -I

**THE PROSECUTOR
OF THE TRIBUNAL**

AGAINST

RADISLAV BRĐANIN

INDICTMENT

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

RADISLAV BRĐANIN

with **A CRIME AGAINST HUMANITY** as set forth below:

BACKGROUND

1. In November 1990, democratic elections were held in Bosnia and Herzegovina. There were three main parties, each of which was identified with one of the three principal population groups in Bosnia and Herzegovina. The Party of Democratic Action, the SDA, was identified, in the main, as the Muslim national party. The Serbian Democratic Party, the SDS, was identified as the principal Serbian national party. The Croatian Democratic Union, the HDZ, was primarily identified as the Croatian national party. On the Republic level, the SDA won the most seats in the Republic Assembly, followed by the SDS and then the HDZ. The remainder of the seats were split between other parties, including the former communist party.

2. By the time of the 1990 elections, the difficulties regarding the union of republics within the former Socialist Federal Republic of Yugoslavia were apparent. The election results meant that, as time went on, the SDS would not have sufficient political authority to keep the Republic of Bosnia and Herzegovina in a Serb-dominated Yugoslavia through the political process. Shortly after the elections, the SDS began

to organise certain areas within Bosnia and Herzegovina into formal regional structures through the concept of "Associations of Municipalities" which were authorised under the 1974 Yugoslav Constitution. The Association of Bosanska Krajina Municipalities, centred in Banja Luka, was transformed and expanded in April 1991. A central part of the new Agreement of the Association of Municipalities included a strong role in the defence of the region, in contravention to the 1974 Constitution.

3. In the summer of 1991, after Slovenia and Croatia declared independence from Yugoslavia, war broke out. The Yugoslav Peoples Army (JNA) withdrew from Slovenia after a very short period and it was allowed to secede. In Croatia, however, the fighting raged throughout the summer and into the autumn. The Serbian forces, including units under the control of the 5th Corps of the JNA that were comprised of both military and police units, engaged in all-out warfare against the armed forces of Croatia in support of the creation of a separate Serbian state, the Republic of Serb Krajina.

4. For the war in Croatia, the JNA issued mobilisation orders to the male population in Bosnia and Herzegovina. Those orders were opposed by the Government of Bosnia and Herzegovina, which issued instructions to the population that they did not have to respond to the mobilisation orders. As a result, very few Bosnian Muslims and Croats responded to the call-up. On the other hand, thousands of Bosnian Serbs responded, exhorted to do so by the SDS and other Serbian nationalist parties.

5. As the war continued and it appeared increasingly likely that Bosnia and Herzegovina would also declare its independence, the SDS began in earnest the creation of a separate Serbian territory in Bosnia and Herzegovina. In September 1991, the various Associations of Municipalities were transformed into Serbian Autonomous Districts, including, on about 17 September 1991, the Association of Bosanska Krajina Municipalities into the Autonomous Region of Krajina (ARK). A separate Assembly of the Serbian People in Bosnia and Herzegovina was established on 24 October 1991, dominated by the leadership of the SDS. On 9 January 1992, that Assembly adopted a declaration on the Proclamation of the Serbian Republic of Bosnia and Herzegovina. The territory of that republic was declared to include "the territories of the Serbian Autonomous Regions and Districts and of other Serbian ethnic entities in Bosnia and Herzegovina, including the regions in which the Serbian people remained in the minority due to the genocide conducted against it in World War Two", and it was declared to be a part of the

federal Yugoslav state. On 12 August 1992, the name of the Bosnian Serb republic was changed to "Republika Srpska".

6. As viewed by the SDS leaders, a major problem in the creation and control of the designated Serbian territory was the significant Bosnian Muslim and Bosnian Croat population that also lived in the areas being claimed. Thus, a significant aspect of the plan to create a new Serbian territory was the permanent removal or "ethnic cleansing" of nearly all of the Bosnian Muslim and Bosnian Croat population.

7. Throughout the fall of 1991, in response to international pressure and the establishment of UNPROFOR guarded areas, forces under the control of the JNA began to redeploy to Bosnia and Herzegovina. In the area of Prijedor, artillery units were positioned on the hills surrounding the areas that were predominately inhabited by Bosnian Muslims and Bosnian Croats, such as the Kozarac area. The returning soldiers who were from the local area were allowed to keep their weapons and ammunition. In addition, units from outside the area were also repositioned on key terrain in the area.

8. During this same time frame in late 1991, the leaders of the SDS began preparations for the physical take-over of power in those municipalities of Bosnia and Herzegovina where the Serbs did not have clear control, and for the subsequent implementation of the general plan for ethnically cleansing those areas, as described above. The take-overs were executed following instructions issued by Radovan Karadžić. Crisis Staffs (*Krizni Štab*) were created at both the regional and municipal level as the bodies which would be responsible for the execution of the majority of the operational phase of the plan and assumed authority over administration of the regions and municipalities. In May 1992, the ARK Crisis Staff publicly declared itself as the highest organ of authority at the regional level and the implementation of its directives and orders was mandatory. The ARK Crisis Staff also declared that the municipal Crisis Staffs were the highest authorities in the municipalities, subject to the authority of the regional Crisis Staff.

9. Beginning in April 1992, Serbian forces seized physical control of those municipalities deemed to be a risk to the accomplishment of the overall plan to create a Serbian state. The forces involved in the take-overs were combined forces comprised of police units, paramilitary groups, Territorial Defence (TO) units, and units of JNA, including many of the units that had taken part in the war in Croatia. Those take-overs initiated a series of events, organised and directed, first by the Crisis Staffs, and later by most of those same individuals acting from their

positions in the regular municipal government structures, that, by the end of 1992, would result in the death or forced departure of most of the Bosnian Muslim and Bosnian Croat population from those areas.

10. In July 1992, on the order of Radovan Karadžić, the regional and municipal Crisis Staffs were redesignated as War Presidencies. The War Presidencies maintained the same structure and virtually the same authority as the Crisis Staffs, and were still commonly referred to by the public as Crisis Staffs.

11. The Crisis Staffs were to be de-activated in each municipality when it was determined that the "threat" to the Serbian people had diminished. The regular municipal organs, the Municipal Assembly and Executive Board, then resumed operation, generally under the direction of the same SDS leaders. Those municipal organs would then approve or validate the orders and actions of the Crisis Staff.

THE ACCUSED

12. **Radislav BRĐANIN** was born on 9 February 1948, in the village of Lipovac, Čelinac Municipality, in Bosnia and Herzegovina. He is a civil engineer by profession and worked in the construction industry prior to 1990. He was elected in 1990 as an SDS deputy from Čelinac to the Council of Municipalities of the Assembly of Bosnia and Herzegovina. He was a member of the Assembly of the Serbian People of Bosnia and Herzegovina. He was selected as the Vice-President of the ARK Assembly and then as the President of the ARK Crisis Staff. He was later appointed as a Vice-President of the Government of Republika Srpska and Minister for Construction, Traffic and Utilities.

INDIVIDUAL CRIMINAL RESPONSIBILITY AND SUPERIOR AUTHORITY

13. **Radislav BRĐANIN** served as a member of the ARK Crisis Staff and its successor the War Presidency during the time period relevant to this indictment. The Crisis Staff was modelled on an entity that had existed as part of the defence plan in the Socialist Federal Republic of Yugoslavia (SFRY), and was designed to take over the functioning of the municipal or republic government during times of war or a state of emergency when the Assembly, normally the highest authority of government, could not meet. The Crisis Staff was to cease functioning as soon as the relevant Assembly was able to re-assume its role. When activated, the Crisis Staff had complete executive and legislative

authority and acted as a collective body, with participation by representatives from the critical areas of the government.

14. The core members of the ARK Crisis Staff included the leaders of the ARK and Banja Luka Municipal Assemblies, the head of the SDS Municipal Board, the SDS-appointed Commander of the Regional Security Centre, and the Commander of the 5th Corps/1st Krajina Corps. These essential members, including **Radislav BRĐANIN**, acted in concert in planning, instigating, ordering, committing or otherwise aiding and abetting the complete range of operations related to the conduct of the hostilities and the destruction of the Bosnian Muslim, Bosnian Croat and other non-Serb communities in the Autonomous Region of the Krajina. The individual members then carried out their particular responsibilities under the plan, according to their position. **Radislav BRĐANIN** carried out the particular responsibilities of his position as the President of the ARK Crisis Staff in support of the overall plan. Throughout its existence, the Crisis Staff worked as a collective body to co-ordinate and implement the overall plan to seize control of and “ethnically cleanse” the area of the ARK.

15. Between 1 April 1992 and 31 December 1992, the members of the Crisis Staff had authority and control over: the attacks on non-Serb villages and areas in the ARK; the seizure and detention of the Bosnian Muslim, Bosnian Croat and other non-Serb populations; the establishment and operation of the detention camps; the killing and physical maltreatment of Bosnian Muslims and Bosnian Croats; and, the deportation or forced transfer of the Bosnian Muslim, Bosnian Croat and other non-Serb population from the ARK. It also had the authority to direct the Regional Centre for Public Security (CSB) and the Public Prosecutor to investigate, arrest and prosecute any persons believed to have committed crimes within the ARK, whether in the camps or elsewhere.

16. Between 1 April 1992 and 31 December 1992, **RADISLAV BRĐANIN** participated in the complete range of operations related to the conduct of the hostilities and the destruction of the Bosnian Muslim, Bosnian Croat and other non-Serb communities in the ARK. As the President of the ARK Crisis Staff, he planned, instigated, ordered, committed, or otherwise aided and abetted the physical take-over of municipalities in the ARK, the violent attacks on Bosnian Muslim and Bosnian Croat villages and areas, the forcible removal of non-Serbs from those areas, the killing and physical maltreatment of Bosnian Muslims and Bosnian Croats, the detention of non-Serbs in camps and other detention facilities, and the forced transfer or deportation of Bosnian

Muslims and Bosnian Croats from the area of the ARK. As President of the ARK Crisis Staff, he held the most important position of executive authority in the ARK. He was responsible for: managing the work of the Crisis Staff, the implementation and co-ordination of Crisis Staff decisions and conclusions, reporting its activities, and for signing its decisions and orders. He also convened, chaired and controlled the agenda of its sessions. In addition, he played a significant role in the propagation of the propaganda campaign that was an essential element in the success of the plan to create a Serbian state.

GENERAL ALLEGATIONS

17. At all times relevant to this indictment, a state of armed conflict and partial occupation existed in the Republic of Bosnia and Herzegovina in the territory of the former Yugoslavia.

18. All of the Bosnian Muslims and Bosnian Croats located in the ARK referred to in this indictment were persons protected by the Geneva Conventions of 1949.

19. All of the accused were required to abide by the laws and customs governing the conduct of armed conflicts, including the Geneva Conventions of 1949.

20. In each paragraph charging crimes against humanity, crimes recognised by Article 5 of the Statute of the Tribunal, the alleged acts or omissions were part of a widespread or systematic attack directed against a civilian population.

CHARGE

COUNT 1 (PERSECUTIONS)

21. The Prosecutor re-alleges and reincorporates by reference paragraphs 1-20 above in Count 1.

22. Beginning in the Spring of 1992, the ARK Crisis Staff, including **Radislav BRĐANIN**, ordered, implemented, supported and assisted a plan designed to expel the Bosnian Muslim, Bosnian Croat and other non-Serb populations from the municipalities designated as part of the ARK and the other areas of Bosnia and Herzegovina that had been proclaimed as part of the Serbian Republic of Bosnia and Herzegovina under such conditions as to ensure they would not want to return. The

goal was to create a Serbian state that would be part of what remained of the SFRY. To achieve this goal, the Bosnian Serb authorities, including **Radislav BRĐANIN**, initiated a three-part plan: (1) to create impossible conditions, involving pressure and terror tactics, that would have the effect of encouraging the non-Serbs to leave the area; (2) to deport and banish those who were reluctant to leave; and, (3) to liquidate those non-Serbs who remained and who did not fit into the concept of the Serbian State. It was declared by the President of the ARK Crisis Staff that 3% was the acceptable limit of non-Serbs in the Serbian state.

23. The execution of that plan included, among other aspects:

- (1) the denial of fundamental rights to Bosnian Muslims and Croats, including the right to employment and freedom of movement;
- (2) the wanton destruction of Bosnian Muslim and Bosnian Croat villages and areas, including the destruction of religious and cultural buildings in the areas attacked;
- (3) the killing of Bosnian Muslims, Bosnian Croats and other non-Serbs;
- (4) causing serious bodily or mental harm to Bosnian Muslims, Bosnian Croats and other non-Serbs;
- (5) detaining Bosnian Muslims and Bosnian Croats under conditions of life calculated to bring about the physical destruction of a part of those populations; and,
- (6) the forced transfer or deportation of Bosnian Muslims and Bosnian Croats from areas of Bosnia and Herzegovina that had been proclaimed as part of the Serbian Republic of Bosnia and Herzegovina.

24. To effect this plan, the ARK Crisis Staff controlled the main media sources through which they promoted and disseminated propaganda that portrayed the Bosnian Muslims and Bosnian Croats as fanatics intending to commit genocide on the Serbian people to gain control of Bosnia and Herzegovina. The purpose of this propaganda was to create support for the SDS program among the Serbian people, and to create among Serb individuals and groups the willingness to commit horrendous crimes against their neighbours under the banner of defending the Serbian people. Beginning in April 1992, the ARK Crisis Staff planned, instigated, ordered, committed or otherwise aided and abetted the physical take-over of municipalities in the area that had significant non-Serb populations, including Sanski Most and Prijedor. They also ordered the removal of non-Serbs and any Serbs who were not recognised as loyal to the SDS from all important positions. This directive was implemented by the ARK Crisis Staff and by the municipal Crisis Staffs throughout the ARK.

25. Throughout the ARK restrictions on movement were imposed that had the effect of confining Bosnian Muslims, Bosnian Croats and other non-Serbs to the villages and areas where they lived. The physical restrictions imposed by the municipalities acting on the directions of the ARK Crisis Staff included roadblocks which were set up particularly around predominately non-Serb villages. Within the main towns, such as Prijedor, checkpoints were even set up in large apartment building complexes to check the identity of people entering and leaving buildings. The roadblocks and checkpoints were used to prevent non-Serbs from leaving the vicinity of their homes or villages.

26. The ARK Crisis Staff then planned, instigated, ordered, committed or otherwise aided and abetted violent attacks on non-Serb villages and areas, including those in Sanski Most and Prijedor by combined forces of the 5th Corps/1st Krajina Corps, paramilitary forces organised by the SDS and other nationalistic Serb parties, and police units, including units from the CSB in Banja Luka.

27. Beginning in April 1992, the attacks on the Bosnian Muslim, Bosnian Croat and other non-Serb villages and areas usually began with artillery bombardments by units under the command or control of the 5th Corps/1st Krajina Corps that targeted civilian homes and businesses, killing many. Those artillery bombardments required significant advance planning and preparation. Following the bombardments, the Bosnian Serb and Serb forces moved in to round-up the survivors. Those forces, co-ordinated or controlled by the 5th Corps/1st Krajina Corps, were a combination of police units, paramilitary units organised and equipped by the SDS and other extreme Serb nationalist parties, and regular military units from the municipal area, the regional area, and some from Serbia. The attacks on villages and other areas of the ARK where Bosnian Muslims, Bosnian Croats and other non-Serbs lived continued through-out June and July 1992. The organising, equipping, training and direction of those diverse units required significant planning and co-operation between the political, police, and military members of the ARK Crisis Staff.

28. During and, in particular, after the attacks on non-Serb areas in the ARK, the Serb forces under the control of the ARK Crisis Staff, systematically looted and destroyed Bosnian Muslim and Bosnian Croat villages and property, including homes, businesses, mosques and churches. The destruction was so extensive that nothing but portions of buildings and rubble are all that remains in many of the Bosnian Muslim and Bosnian Croat villages of the area. In particular, the religious and cultural buildings of the non-Serb population were targeted. As the Serb

forces went through the villages they executed many Bosnian Muslims, Bosnian Croats and other non-Serbs, while others were rounded-up and marched to assembly points for transfer to camps or detention centres. During the process of moving to assembly points or at those assembly points men who were considered of military age or had served as policeman were often pulled out of the groups and beaten or executed.

29. Between 1 April 1992 and 31 December 1992, thousands of the Bosnian Muslims, Bosnian Croats and other non-Serbs who were seized by the Serb forces were transferred to camps and detention facilities established and operated under the direct control of the municipal Crisis Staffs, including: the Omarska, Keraterm and Trnopolje camps in Prijedor municipality; the SJB building, Krings camp, Betonirka camp in Sanski Most; and, the saw mill and medical centre in Kotor Varoš. In those camps and detention facilities, prisoners were killed, tortured, and continually subjected to physical and psychological maltreatment and other inhumane treatment. The Serb forces in the camps - all of whom were subject to the authority and control of the ARK Crisis Staff - targeted the Bosnian Muslim and Bosnian Croat intellectuals, professional and political leaders, and military aged males for especially severe treatment. At a minimum, during the period from the end of May, 1992 to early August, 1992, hundreds of prisoners, whose identities are known and unknown, died. During the same period, thousands of Bosnian Muslims and Bosnian Croats who were not sent to detention centres or camps were forcibly transferred or deported.

30. The Bosnian Serb military and police personnel in charge of these camps, their staff, and others who were given unfettered access to the camps - all of whom were subject to the authority and control of the ARK Crisis Staff - also caused serious bodily and mental harm to the Bosnian Muslim, Bosnian Croat and other non-Serb detainees by subjecting them to sexual assaults, torture, beatings and robbery, as well as other forms of mental and physical abuse. In the Omarska, Keraterm and Trnopolje camps in Prijedor municipality; the SJB building, Krings camp, Betonirka camp in Sanski Most; and, the saw mill and medical centre in Kotor Varoš, among others, severe beatings and torture of prisoners were commonplace. The camp guards and others, including members of the Bosnian Serb forces under the control of the 1st Krajina Corps, who came to the camps and physically abused the detainees, used all manner of weapons during these beatings, including wooden batons, metal rods and tools, lengths of thick industrial cable, rifle butts and knives.

31. The Omarska, Keraterm and Trnopolje camps in Prijedor municipality; the SJB building, Krings camp, Betonirka camp in Sanski Most; and, the saw mill and medical centre in Kotor Varoš were operated in a manner designed to inflict upon the detainees conditions intended to bring about their physical destruction. The conditions were abject and brutal. Daily food rations, when provided to detainees, amounted to starvation rations. Medical care for the detainees was insufficient or non-existent and the general hygienic conditions were grossly inadequate. In all camps, detainees were continuously subjected to or forced to witness inhumane acts, including murder, rape and sexual assaults, torture, beatings and robbery, as well as other forms of mental and physical abuse.

32. In some of the camps, notably the Trnopolje camp in Prijedor and the saw mill in Kotor Varoš, female prisoners were frequently sexually assaulted, raped, and tortured by camp personnel, who were both police and military personnel, and by members of other military units from the area who came to the camps for that purpose. In many instances, women and girls were taken from the camps and were raped, tortured, or sexually abused at other locations.

33. In none of the camps were the detainees afforded proper judicial process. They were detained and subjected to abuse and maltreatment primarily because of their religious, political or racial identity. After the existence of the Omarska and Trnopolje camps in Prijedor became known to the outside world in early August 1992, the Omarska and Keraterm camps were closed on the order of Radovan Karadžić and the survivors were transferred to the Trnopolje camp in Prijedor Municipality and to the Manjača camp in the Banja Luka Municipality. Prisoners from Sanski Most, Ključ, and Kotor Varoš were also sent to the Manjača camp, which was run by the 1st Krajina Corps. Thereafter, the final mass deportation and forced transfer of Bosnian Muslims and Bosnian Croats began.

34. The forced transfers and deportations were organised by the police, military, and other municipal organs operating at the direction of the ARK Crisis Staff. In order to be allowed to leave the area, many Bosnian Muslims and Bosnian Croats were forced to sign documents stating that they were turning over all of their property to the self-declared Bosnian Serb republic. The forced transfers and deportations continued through December 1992 and resulted in the expulsion of more than 100,000 Bosnian Muslims and Bosnian Croats.

35. Between 1 April 1992 and 31 December 1992, **Radislav BRĐANIN**, in concert with others, planned, instigated, ordered, committed or otherwise aided and abetted the acts described in paragraphs 22 through 34 above in order to achieve the expulsion of the Bosnian Muslim, Bosnian Croat and other non-Serb populations from the Autonomous Region of the Krajina. All of those acts, as described above, were committed against members of the Bosnian Muslim, Bosnian Croat and other non-Serb populations because of their political, racial and religious identity.

36. Further, between 1 April 1992 and 31 December 1992, **Radislav BRĐANIN**, knew or had reason to know that Bosnian Serb and Serb forces under the control of the ARK Crisis Staff were committing the acts described in paragraphs 22 through 34 above against members of the Bosnian Muslim, Bosnian Croat and other non-Serb populations because of their political, racial and religious identity or had done so, and he failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

By his participation in these acts and omissions, Radislav BRĐANIN committed:

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

Louise Arbour
Prosecutor

Dated this 12th day of March 1999
At The Hague,
The Netherlands