

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

Case No. IT-03-72-I

THE PROSECUTOR

v.

MILAN BABIC

TAB 1 **FACTUAL STATEMENT**

Introduction

1. The purpose of this factual statement is to demonstrate that there exists an adequate factual basis for Milan BABIC's plea of guilty to Count 1 of the Indictment, *The Prosecutor v. Milan BABIC*, Case No. IT-03-72-PT ("Indictment"). This factual statement does not contain all of the facts concerning Milan BABIC's conduct relative to the Indictment, and does not preclude additional agreed or proven facts being brought to the attention of the Trial Chamber at the time of sentencing.

Positions Held by Milan BABIC

2. Milan BABIC was born on 26 February 1956 in Kukar, municipality of Sinj, Croatia. After completion of his military service in 1983/1984, he remained in the reserve as a member of the reserve medical corps. In 1990, he had obtained the rank of First Lieutenant.
3. Milan BABIC studied dentistry in Belgrade and sometime after receiving his diploma, he was appointed Director of the Health Centre in Knin.
4. Prior to 1990, he was a member of the League of Communists of Croatia. In December 1989, he was a delegate to the last Congress of the League of Communists in Croatia, held in Zagreb. From February 1990, he was a prominent political figure in the Serbian Democratic Party ("SDS") in Croatia, and he held a senior position in the SDS municipal committee in Knin. After Jovan Raskovic's death in 1992, Milan BABIC assumed the position of President of the SDS party, in which function he remained until 1995.
5. From 1990 until 1994, Milan BABIC held the position of the President of the Municipal Assembly in Knin. From 31 July 1990 onwards, he was the President of the Serbian National Council ("SNC"). From December 1990, Milan BABIC was President of the Temporary Executive Council of the "Serbian Autonomous District/ *Srpska autonomna oblast* ("SAO") Krajina," and on 30 April 1991, Milan BABIC was elected President of the Executive Council of the SAO Krajina. Subsequently, on 29 May 1991, he became President of the government of the SAO Krajina. On 1 August 1991, Milan BABIC signed a decision applying the Law on Defence of the Republic of Serbia to the territory of the SAO Krajina making Milan BABIC *de jure* Commander of all armed forces of the SAO Krajina, including special purpose units of the Krajina Ministry, and Commander of the Territorial Defence forces of the SAO Krajina. In fact, he had no actual authority or effective control over the actions of these forces. On 19 December 1991, the SAO Krajina proclaimed itself the Republic of Serbian Krajina/ *Republika Srpska Krajina* ("RSK") with Milan BABIC as President. Milan BABIC held this position until 15 February 1992. In April 1994, Milan BABIC became the Minister of Foreign Affairs of the RSK government and on 27 July 1995 he was elected Prime Minister of the RSK government, a position he held for one week until 4 August 1995.

Activities of Milan BABIC During the Relevant Period

6. Milan BABIC believed that Croatian Serbs, in particular those living in areas around Knin, had been discriminated against by the Croatian authorities. He was fearful that if Croatia seceded from Yugoslavia, the Serbian population would become a minority that was discriminated against in a new State of Croatia. Milan BABIC's concerns were reinforced by abuses committed against Croatian Serbs which he heard about. In addition, there was a media campaign directed by Belgrade that portrayed the Serbs in Croatia as being threatened with genocide by the Croat majority and Milan BABIC fell prey to the propaganda.
7. On 17 February 1990, Milan BABIC attended the founding session of the SDS Krajina in Knin. The SDS was founded by Jovan Opacic and Jovan Raskovic, who became the first President of the SDS. Milan BABIC was asked by them to address the founding session of the SDS, which was attended by approximately 10,000 people, and he complied with this request. He was also asked to be on the Main Board of the Party and accepted. The SDS platform, *inter alia*, recited the problems faced by Serbs in Croatia and evoked the threat of genocide, stating that the Serb Diaspora in Croatia was a "historical victim which dates from before Starcevic's *Pravas* (Party of Right) movement and the True Right genocide." The platform endorsed redrawing regional and municipal lines to reflect the ethnic composition of the areas, and asserted the right of territories with a "special ethnic composition" to become autonomous through a referendum. The party platform did not, however, endorse abuse of non-Serbs within the redrawn regional and municipal lines.
8. In the multi-party elections held in Croatia in April and May of 1990, Milan BABIC was elected President of the Knin municipality. The SDS won a majority in five municipalities: Knin, Donji Lapac, Gracac Benkovac, and, after a second election, in Glina.
9. Starting in early 1990, Milan BABIC spoke at rallies in the Krajina and to the media. In his early speeches, Milan BABIC spoke about Serb autonomy within Croatia. In some of his later speeches, his rhetoric became more radical. He spoke of a fear of genocide against Serbian residents of Croatia and endorsed the proposition that all Serbs should have the right to live in a Serbian state. Because Milan BABIC was a respected politician among Serbs in Croatia, his speeches and interviews contributed to this propaganda effort.
10. In June 1990, Milan BABIC participated in the formation of the Association of Serbian Municipalities of Northern Dalmatia and Lika and became the President of the Association. The Draft Statute of the Association stated that its purpose was to introduce Serbian regional autonomy in Croatia pursuant to the Croatian constitution with local control in Serb areas of civic and cultural life. Initially, this Association included the municipalities of Knin, Benkovac, Gracac, Donji Lapac, Obrovac, and Titova Korenica. On 6 July 1990, Milan BABIC convened a meeting of the Association and of all municipalities in Croatia with a Serb majority to consider proposed changes to the Croatian Constitution which were perceived as counter to the interest of those with a Serbian identity. The meeting rejected the proposed Constitutional changes which included the abolition of regionalisation, the abolition of the option of forming associations of municipalities, the introduction of exclusively Croat symbols, and a change in the name of the language.
11. In response to the fear of becoming a discriminated against minority in Croatia, on 25 July 1990, Milan BABIC and other SDS Krajina leaders participated in a Serbian assembly in Srb, attended by approximately one hundred thousand Croatian Serbs. The Assembly passed a Declaration "on the Sovereignty and Autonomy of the Serbian Nation" in Croatia. The Declaration stated that the Serbian nation within Croatia was "a sovereign nation with all the rights entailed in the sovereignty of a nation." The Declaration also established the Serbian Assembly, with its seat in Srb, as the political representative of the Serbian nation in Croatia, and the Serbian National Council ("SNC") as the executive body of the Assembly. The Declaration stated that the SNC had the right to hold a referendum of Serbian people on issues related to sovereignty, and was responsible for implementing the decisions of the Assembly. The Declaration further stated that the Assembly

declared null and void all constitutional and legal changes in Croatia that were inconsistent with the Serbs' sovereignty as a nation or their right to autonomy. Finally, the Declaration stated that if Croatia remained in Yugoslavia, the Serbs in Croatia would demand cultural autonomy, but if Yugoslavia became a confederation of independent republics, the Serbs in Croatia would demand political and territorial autonomy.

12. The first meeting of the SNC was held on 31 July 1990 in Knin. At the second session of the SNC, held on 16 August 1990 in Dvor na Uni, the Council called for a referendum on Serbian autonomy to be held between 19 August and 2 September in all settlements where Serbs lived in Croatia. The voters could vote in favour or against autonomy and sovereignty for Serbs in Croatia. The referendum was adopted by 97.7% of those who voted, most of whom were Serbs. On 30 September 1990, the SNC declared "the autonomy of the Serbian people on ethnic and historic territories on which they live and which are within the current boundaries of the Republic of Croatia as a federal unit of the Socialist Federal Republic of Yugoslavia."
13. On 17 August 1990, the Croatian government declared the referendum illegal. Rumours began to circulate that the Croatian police was moving to suppress the referendum. Milan BABIC had been informed by Dusan Orlovic and Milan Martic that there was movement by Croatian Police and went to Golubic so as to see what was going on. Milan Martic and others were distributing weapons to the Serb population. Serbs organised by Milan Martic also began to arm themselves and erect barricades in Knin in what became known as the "log-revolution."
14. In August 1990, Milan BABIC contacted Slobodan Milosevic to complain about the treatment of Serbs in the area around Knin. Milosevic directed Milan BABIC to meet with the President of the SFRY, Borisav Jovic. On 13 August 1990, Milan BABIC and other leaders from Knin met with Jovic and told him about the problems that the Serbian community had with the Croatian authorities. Jovic said that he would give the Serbs in Croatia his political support and that they would have the support and protection of the JNA in their struggle. This assurance was later repeated by Milosevic himself on other occasions.
15. Milan BABIC originally viewed President Milosevic as the leader and protector of all ethnic Serbs in Yugoslavia. Milan BABIC sought the assistance of Milosevic in protecting the Serb population of Krajina and was assured by Milosevic that they would be protected by the JNA. The trust which Milan BABIC had placed in Milosevic was undermined in March 1991. Milosevic showed him a proposed western border of a new Serbian state on a map, which he understood was agreed to by Milosevic and Tudjman, dividing Bosnia and Herzegovina. Milan BABIC was stunned because he perceived this to be contrary to the interests of the SAO Krajina and everything that Milosevic had told him before about protecting them.
16. From August 1990, a parallel structure started emerging in the Krajina comprised of members of the Ministry of Interior of Serbia, the State Security service of Serbia, the SDS in Croatia and policemen in the Serbian municipalities in Croatia which ultimately answered directly and exclusively to Slobodan Milosevic. The central figures of this parallel structure in Serbia, aside from Milosevic himself, were Jovica Stanisic from the Serbian DB and his subordinate Franko "Frenki" Simatovic. In the Krajina, the central figures were Milan Martic and Dragan Vasiljkovic, aka Captain Dragan. Through the parallel structure, Milosevic manufactured incidents, which provoked reaction and fear among the Serbs, including Milan BABIC, and intensified intervention by the Croatian police. This spiralled up into intolerance, violence, and eventually war. Milan BABIC was not a member of this parallel structure and had no ability to control their actions.
17. Milan BABIC was aware of this parallel structure and shared its goal of creating a state for all Serbs. Although Milan BABIC had different views on the methods and means to obtain the goal of a Serbian state, he provided support to the parallel structure's aim of achieving a state for all Serbs through conflict and force by failing to publicly speak out against their methods, continuing to

exercise the duties of his office, participating in the arming of Serbs in Croatia, creating and staffing political and military structures for a separate Serb entity in Croatia, and obtaining financing for these military structures. Further, in order to achieve the goal of a state for all Serbs throughout Yugoslavia, Milan BABIC met frequently with members of the joint criminal enterprise described in the Indictment, in particular with Slobodan Milosevic, Milan Martić, and Radovan Karadžić.

18. On 21 December 1990, under the leadership of Milan BABIC, the Association of Municipalities of Northern Dalmatia and Lika became the Serbian Autonomous Region of Krajina ("SAO Krajina"). The territory of the SAO Krajina was comprised of the municipalities in the Association of Municipalities of Northern Dalmatia and Lika, any other municipalities with a Serbian majority that decided to join the SAO Krajina, and any local communes that decided after referendum to join a municipality that had itself decided to join the SAO Krajina. The Statute of the SAO Krajina stated that the SAO Krajina "shall bear the form of territorial autonomy" within Croatia and that the citizens of the SAO Krajina would rule themselves through referendums or through representatives elected to the SAO Krajina Assembly. Milan BABIC was the leader of the SAO Krajina and in April 1991 was formally appointed President of the Executive Council. In May 1991, he became Prime Minister of the SAO Krajina.
19. Following a nomination by a majority of the Temporary Executive Council of SAO Krajina, on 4 January 1991 Milan BABIC appointed Milan Martić to be Secretary for Internal Affairs of the SAO Krajina. When the appointment was made, Milan BABIC was aware that Martić was a key figure in the parallel structure, and that from October 1990, through a group known as the Council of People's Resistance, Martić fought efforts to bring about a peaceful resolution to the conflict between the Serbs in Croatia and the Croatian authorities. Specifically, Martić and this resistance sought to provoke the Croatian authorities by attacking the Croatian police, shooting non-Serb civilians, destroying non-Serb shops, houses, vehicles with explosives, and mining and blowing up a railway line. Through these provocations, Martić and the parallel structure hoped to escalate the conflict, force the federal authorities to declare a state of emergency, and cause the JNA to intervene.
20. The government of the SAO Krajina never had any effective control over Martić and the police force in Krajina. Attempts to remove him were unsuccessful due to the support that Martić received from Milosevic and other members of the parallel structure.
21. In March 1991, after an incident at Pakrac, Milan BABIC met with Milosevic to ask him what was going on. He was told that he should not worry and return to Knin. He met with Milosevic a second time and asked for the protection of the Krajina. Milosevic told him that he had already purchased 20,000 weapons from Hungary. Milan BABIC did not know about this and told Milosevic that he had no knowledge. Milan BABIC was later shown the weapons that had arrived from the Serbian TO warehouses. Milan BABIC was also aware that in July and August 1991, weapons were obtained through Colonel Smiljanic of the JNA and that the weapons were brought into the Krajina from the military airport in Bihac.
22. Milan BABIC also told Milosevic that the Krajina needed professionals to train the police. On 1 April 1991, Milan BABIC issued a request to the Government of the Republic of Serbia asking that the forces of the Ministry of the Interior of the Republic of Serbia provide technical and personnel support for the police in the SAO Krajina. In April 1991, Frenki Simatović, Milan Martić, and Captain Dragan established a training camp in Golubic to create special units of the Krajina police. This camp was funded, armed, and supplied by the MUP of Serbia. Milan BABIC was called to visit the camp and, in response, he visited the camp on two occasions.
23. On 18 March 1991, Milan BABIC endorsed, in his capacity as President of the Knin Municipal Assembly, a decision of the Assembly "completely and permanently" separating the Knin Municipality from the Republic of Croatia. On 1 April 1991, in his capacity as President of the

Executive Council of the SAO Krajina, Milan BABIC endorsed a decision of the Executive Council joining the SAO Krajina to the Republic of Serbia. The decision stated that the Constitution and laws of Serbia would apply to the SAO Krajina. One half hour later, Milosevic called Milan BABIC and told him that the authorities in Krajina had to come out in favour of Yugoslavia, and not in favor of Serbia. He did not explain why, but Milan BABIC believed that Milosevic wanted the direct involvement of Serbia in the events in the Krajina to remain secret. This was consistent with Milosevic's plan to make it appear that others were breaking away from Yugoslavia, whereas that part of Yugoslavia that he envisaged to remain in a newly organised state should appear to have remained there in a passive way. The JNA would protect the Serb areas. After repeated interventions by Milosevic, the Krajina authorities reversed their positions and started to say they wanted to remain in Yugoslavia and not be annexed to Serbia.

24. On 30 April 1991, the Assembly decided to hold a referendum in the SAO Krajina on 12 May 1991. Originally the question was to be whether the voters wished to have the Krajina annexed to Serbia and Montenegro. Because of Milosevic's intervention, however, the question was changed to the following: "Are you in favour of SAO Krajina annexing to the Republic of Serbia and remaining in Yugoslavia with Serbia, Montenegro and others who wish to preserve Yugoslavia?" The referendum was approved by 99.80% of those voting.
25. On 29 May 1991, the SAO Krajina Assembly, with Milan BABIC's acquiescence, appointed Milan Martić Minister of Defence of the SAO Krajina. On the same day, the Assembly passed a decision establishing special purpose units of the Ministry of Interior of the SAO Krajina under the name "Milicija Krajine" (the Krajina Militia), which were put under the authority of the Ministry of Defence. At this time, Milan BABIC was aware that forces under the command of Milan Martić were engaged in attacks on Croat civilians. On 27 June 1991, the Assembly re-appointed Martić as Minister of Interior of the SAO Krajina (a role he had not in fact given up while Minister of Defence). Nobody was immediately appointed to replace Martić as Minister of Defence and so for a period of time Milan BABIC assumed the role
26. Beginning in July 1991, Milan BABIC signed orders as Minister of Defence of the SAO Krajina creating TO formations within the SAO Krajina and appointing commanders to these formations. On 11 July 1991, Milan BABIC issued an order mobilising all staffs and units of the TO in the SAO Krajina. As noted above, on 1 August 1991 Milan BABIC issued a decision applying the law on defence of the Republic of Serbia to the SAO Krajina and making himself the Commander of the armed forces of the SAO Krajina, including all special purpose units of the SAO Krajina, and of the Territorial Defence ("TO") of the SAO Krajina. Milan BABIC performed the duties connected with this position. On 8 August 1991, Milan BABIC appointed Milan Martić, under pressure from Milosevic, to be Deputy Commander of the SAO Krajina TO. Milan BABIC also signed orders creating TO formations and appointing TO commanders throughout the territory.
27. In September 1991, at Milan BABIC's request, a TO Staff of the SAO Krajina was formed and on 30 September 1991, Milan BABIC appointed Ilija Dujic to be the Commander of the TO, however Milan BABIC only ratified a decision made in Belgrade. On 28 November 1991, Milan BABIC relieved Dujic of his post at Dujic's request and Milan BABIC then appointed Colonel Radoslav Maksic to be TO commander with the approval of the JNA. In October 1991, Milan BABIC met with JNA General Vukovic from the 9th (Knin) Corps, and subsequently with General Blagoje Adžić concerning the TO's relationship to the JNA. Milan BABIC wrote a report asking the JNA to resolve certain problems of co-ordination with the TO. The TO commanders reported directly to the JNA, and it was Slobodan Milosevic who was directly responsible for the appointment of the TO Main Staff in the Krajina. Although Milan BABIC tried to assume command over the TO in September 1991, he was not successful and the TO only took orders from the JNA. Milan BABIC met with Tomislav Simović, the Minister of Defence of Serbia, seeking financial assistance for the TO of the SAO Krajina.

28. Already aware of the plans of the other JCE members regarding the forcible removal of the Bosnian Muslims, from August 1991, following the attack on Kijevo, Milan BABIC became aware that the JNA and the parallel structure were not protecting the Serbs in Croatia but were, along with local Serb TO forces in the Krajina and Martić's police, engaged in a war for territory to create the western borders of a new Serbian state. Milan BABIC saw that the creation of a Serbian state would include the forcible permanent removal of the non-Serb populations from Serb dominated areas of Croatia through a discriminatory campaign of persecution.
29. This war to create a Serbian state was the basis of the joint criminal enterprise described in the indictment whose purpose was the permanent forcible removal of the majority of Croat and other non-Serb population from approximately one-third of the territory of the Republic of Croatia ("Croatia") in order to make it part of a new Serb-dominated state. Milan BABIC became aware that this Serbian state was being created and maintained through the ethnic resettlement of the Croat and other non-Serb population within the Serb dominated areas of Croatia. Although he had different views on the appropriate methods and means to obtain the goal of a Serbian state he continued to co-operate and support those who sought to execute this plan with violent means. The areas targeted by this plan included those regions that were referred to by Serb authorities as the "SAO Krajina," the "SAO Western Slavonia," the "SAO Slavonia, Baranja and Western Srem" (after 19 December 1991, the "SAO Krajina" became known as the RSK; on 26 February 1992, the "SAO Western Slavonia" and the "SAO Slavonia, Baranja and Western Srem" joined the RSK), as well as the "Dubrovnik Republic/ *Dubrovačka republika*." Milan BABIC's own focus in this regard was on the SAO Krajina. The plan was accomplished in part through a campaign of Persecutions, a Crime against Humanity, in violation of Article 5 of the Statute of the Tribunal.
30. From August 1991, Milan BABIC was aware of the intent of the members of the joint criminal enterprise to forcibly resettle the Croatian and other non-Serb populations within the targeted areas. While he favoured a peaceful solution to the crisis, he knowingly and intentionally participated in the common design involving the perpetration of the crime of Persecutions. As Milan BABIC himself put it, he became an "ethnic egoist, a person who exclusively wanted to see to the interests of people to which [he] belonged" while he "neglected the interests and suffering of the other peoples, at the time the Croatian people."
31. A number of individuals participated in this joint criminal enterprise at different times during its existence, including Slobodan MILOSEVIC; Milan MARTIC; Goran HADZIC; Jovica STANISIC, Franko SIMATOVIC, also known as "Frenki," Vojislav SESELJ; General Blagoje ADZIC; General Ratko MLADIC and other known and unknown members of the Yugoslav People's Army ("JNA"); the Serb Territorial Defence ("TO") of Croatia, Serbia and Montenegro; local and Serbian police forces ("MUP forces"), including the State Security/ *Državna bezbednost* ("DB") of the Republic of Serbia, and Serb police forces of the SAO Krajina and the RSK commonly referred to as "Martić's Police," "*Marticevci*," "SAO Krajina Police" or "SAO Krajina Milicija" (hereinafter "Martić's Police").
32. On 8 September 1991, Milan Martić and a JNA security officer were arrested in Otoko in the municipality of Bosanska Krupa. Various members of the joint criminal enterprise, including Slobodan Milosevic, Radovan Karadzic, Jovica Stanisic, various JNA Generals, and Milan BABIC, were involved in securing the release of Martić.
33. Milan BABIC, participated in the joint criminal enterprise in the following ways:
 - a. In his capacity as the President of the SNC and subsequently as President/Prime Minister in the SAO Krajina and the RSK, he formulated, promoted, participated in, and encouraged the development and implementation of the SDS in Krajina and SAO Krajina/RSK governmental policies which advanced the objective of the joint criminal enterprise. Throughout 1991,

Milan BABIC attended meetings with the Serbian, SFRY and Bosnian Serb leadership defining these policies and presented its positions in international negotiations after receiving instructions from Slobodan Milosevic on the positions to be taken.

- b. He was instrumental in the establishment, support and maintenance of the government bodies ruling the SAO Krajina/RSK, which in co-operation with the JNA and the parallel power structure implemented the objectives of the joint criminal enterprise and participated in the commission of crimes listed in the indictment.
 - c. He assisted in the re-organisation and recruitment of the Territorial Defence forces (TO) of the SAO Krajina and subsequently the RSK, which participated in the crimes listed in the indictment. From at least 1 June 1991 to including 15 February 1992, Milan BABIC was the *de jure* commander of the TO forces.
 - d. While he did not endorse Milan Martić's methods and criminality, nor did he share his state of mind with respect to ethnic cleansing, Milan BABIC, nevertheless co-operated with Milan Martić, which led to Martić's command and control over "Martić's Police" involved in the commission of crimes. In the summer of 1991 Milan BABIC tried to get control over Martić's Police and the parallel structure without success, and thereafter he continued to co-operate with them.
 - e. He participated in the provision of financial, material, logistical and political support necessary for the military take-over of territories in the SAO Krajina, which resulted in the subsequent forcible removal of the Croat and other non-Serb population by the TO forces, who acted in co-operation with the JNA and "Martić's Police."
 - f. He made ethnically based inflammatory speeches during public events and in the media that added to the atmosphere of fear and hatred amongst Serbs living in Croatia and as such helped form the opinion of the public that Serbs could only be safe in a state of their own.
 - g. He requested the assistance of or facilitated the participation of JNA forces to establish and maintain the SAO Krajina, furthering the objective of the joint criminal enterprise.
 - h. He encouraged and assisted in the acquisition of arms and their distribution to Croatian Serbs to further the objective of the joint criminal enterprise.
34. The plan and conduct of the joint criminal enterprise entailed a widespread and systematic attack against the non-Serb civilian population in areas of Croatia. The campaign of Persecutions committed in furtherance of the joint criminal enterprise included those acts set forth in paragraphs 13 through 15 of the Indictment, including Annex I. While he was aware that crimes such as imprisonment (paragraph 15(b)), deportation and forcible transfer (paragraph 15(c)) and the destruction of property (paragraph 15(d)) as described in the indictment, were being committed in the targeted territories, Milan BABIC did not know the details and the scale of the events that were occurring in the villages throughout the targeted areas at the time. However, he knew from what he observed that the crimes listed in the indictment were the likely outcome of the pursuit of the objective of the joint criminal enterprise and the campaign of persecutions. At the end of 1991 or beginning of 1992, in relation to the imprisonment he took steps to alleviate the problems by appointing professional prison staff. With respect to the murders charged in paragraph 15(a) of the indictment, Milan BABIC did not know they were occurring at the time but knew from what he observed that such killings were the likely outcome of the pursuit of the objective of the joint criminal enterprise and the campaign of persecutions.