



Organization for Security and Co-operation in Europe
Mission to Croatia
Headquarters

15 March 2006

Spot Report

Reactions in Croatia to the deaths of Slobodan Milosevic and Milan Babic

The recent deaths of former Yugoslav President, Slobodan Milosevic, and former President of the so-called “Republic of Serbian Krajina” (RSK), Milan Babic, both while in custody at the Scheveningen detention unit in The Hague, have generated a sober response within Croatia. Slobodan Milosevic died following a heart attack in his prison cell in the morning of 11 March. Milan Babic hung himself in his prison cell on 5 March. Regarding war crimes cases related to Croatia, Milosevic’s death may have political implications while Babic’s suicide will have some legal ramifications.

Legal implications

Slobodan Milosevic, former President of Serbia and then Yugoslavia between 1990 and 2000, was charged with three separate ICTY Indictments related to the armed conflicts in Kosovo (29 October 2001), Croatia (28 July 2004), and Bosnia and Herzegovina (21 April 2004). Out of a total of 66 counts, Milosevic was charged with 32 counts in the Croatia Indictment, which included individual criminal responsibility for crimes against humanity, grave breaches of the Geneva Conventions, and violations of the laws and customs of war. This formed part of a joint criminal enterprise aimed at the ‘forcible removal of the majority of the Croat and other non-Serb population from approximately one-third of the territory of the Republic of Croatia that [Milosevic] planned to become part of a new Serb-dominated state.’

Milosevic’s trial began on 12 February 2002. The presentation of evidence by the Defense was to be completed in April this year with a sentence due by the end of 2006. With the death of the accused prior to the trial’s conclusion and in line with the presumption of innocence, Milosevic’s responsibility for the crimes described in the indictments against him cannot be determined. On 14 March the Trial Chamber made a formal announcement terminating the trial against Slobodan Milosevic due to his death.

The death of Milosevic has no direct legal bearing on current ICTY proceedings related to war crimes committed in Croatia between 1991 and 1995. However, evidence presented in the Milosevic trial may be used in pending or forthcoming ICTY trials against Serbs for war crimes committed in Croatia. The Milosevic trial has no legal bearing on the Ademi/Norac trial which has been transferred to the Croatian judiciary from the ICTY under *Rule 11bis*, or on the ICTY cases currently being conducted against former Croatian generals, Ivan Cermak, Mladen Markac and Ante Gotovina.

Milan Babic, who held a number of high-level positions including President in the so-called former “RSK” is the second Croatian Serb to commit suicide while in ICTY detention.¹

Babic was serving a 13-year sentence in The Hague after pleading guilty on 27 January 2004 to participation in a plan to forcibly and permanently remove the non-Serb population from the area of the former RSK. The crimes he admitted to include murder, deportation or forcible transfer, unlawful imprisonment of non-Serb civilians, as well as the destruction of their property. Babic is explicitly referred to in the Croatian Indictment against Slobodan Milosevic, as a co-perpetrator in a joint criminal enterprise.

As part of a plea bargain, Babic had testified in a series of trials related to Croatian indictments. He was a crucial prosecution witness in proceedings against Milosevic in 2002, describing the parallel command structure of the RSK, revealing that it was ultimately controlled by Milosevic in Belgrade. He was also a key prosecution witness in the case of Milan Martić, another former President of the RSK between 1994 and 1995.² Babic’s testimony in the Martić trial will probably stand despite his suicide, since he had already been subject to robust cross-examination.

Apart from the Martić case, Babic’s death will have a direct impact on other ICTY proceedings against indicted Serbs where he was due to give a highly valued, inside testimony. In the Croatian case, these include proceedings against Croatian Serb Jovica Stanisic³ and Franko Simatovic. Babic’s earlier testimonies are saved in case files and may be used in future trials. However, the fact that his testimony cannot be directly presented at a trial or be subject to cross examination makes the work of ICTY Prosecutors much more difficult.

Public and Political Reactions

The death of Slobodan Milosevic has dominated the headlines in Croatia since his passing on 11 March. Predominantly referring to Milosevic as the ‘Balkan Executioner’ the majority of newspapers reported on the widespread feeling of regret that Milosevic died before the Hague tribunal could convict him for war crimes and genocide. Continued controversy over the cause of his death, i.e., natural, as a result of poisoning, or self-inflicted due to manipulation of his own medication, is also being reported extensively.

Public commentary by Croatia’s political establishment was limited in the number of statements but not in scope. On 11 March, the Government issued a statement saying that the death of Slobodan Milosevic marked ‘a definitive end to the most difficult, dramatic and devastating period in the lives of countries and nations in this part of Europe in the last half a century.’ The statement described Milosevic as the architect of ‘four successive wars’ whose objectives had been ‘ethnic cleansing and territorial conquest’, resulting in ‘genocide, immeasurable human suffering and mass devastation.’ Milosevic’s legacy was put forward as a ‘warning that nations in the region must find the strength to focus on the future and turn a

¹ The first was Slavko Dokmanovic, war-time Mayor of Vukovar, who committed suicide in June 1998 during his trial for the massacre of some 250 non-Serbs in Vukovar in 1991.

² Milan Martić is charged with 19 counts of crimes against humanity and violations of the laws and customs of war committed in the former RSK and western Bosnia between 1991 and 1995, including missile attacks on Zagreb in 1995.

³ Jovica Stanisic and Franko Simatovic are both accused of war crimes against prisoners of war and civilians in Croatia between 1991 and 1993.

new page in their relations, one based on the principles of mutual recognition, tolerance, reconciliation and co-operation.’

President Stjepan Mesic has been the most vocal in his reactions to the former President’s death. Commenting on the morning of Milosevic’s death, the President echoed the sentiments of many Croatians that it was a shame Milosevic had not lived long enough to receive the sentence he deserved. He added later that Milosevic was one of the most notorious criminals of the twentieth century and Croatia was dissatisfied that he did not live to hear his verdict. According to the President, life-imprisonment for Milosevic would have had a cathartic effect on Serbia, helping those fighting for “Serbia’s Europeanization,” in contrast to his death which “helps those who do not recognize facts, who are still dreaming of a Greater Serbia.” Asked how justice could now be achieved, President Mesic advocated increased efforts to arrest Radovan Karadzic, Ratko Mladic and members of the former Yugoslav army leadership, Generals Blagoje Adzic and Veljko Kadijevic.

Characterizing Slobodan Milosevic as the “Butcher of the Balkans,” Croatian Speaker of Parliament, Vladimir Seks, said that justice had not been served. Croatian associations representing former prisoners of Serb-run camps and families who lost loved ones in the 1991-1995 wars also expressed regret that Milosevic had not been sentenced for his crimes. Some have complained that not a single high-ranking Serb has been sentenced while the ICTY continues to indict and sentence Croats.

Public reactions to the suicide of Milan Babic, a week earlier on 5 March, were largely unsympathetic. Despite his admission of guilt for war crimes committed in Croatia and his repeated pleas to the Croatian people for forgiveness, Babic was largely regarded with contempt in Croatia. Asked to comment on the suicide of Babic, Prime Minister Ivo Sanader said that he expected a full report on the matter but did not think it would negatively affect other ongoing trials at the ICTY.

General Ante Gotovina has confirmed that he sent the Milosevic family condolences following the death of his fellow ICTY inmate. His lawyer Luka Miletic stated that this was done “in the spirit of forgiveness”, which was an integral part of his client’s Catholic faith. This suggests that there may be some attempt to capitalise on the controversy surrounding Milosevic’s death, if only to portray ICTY inmates in a more sympathetic light, in Gotovina’s case as a man of peace and reconciliation.

It is too early to determine how the deaths of Babic and Milosevic in ICTY detention will affect the Croatian public’s perception of the ICTY’s fairness towards defendants and its detention conditions. To date this has not been the case.