

Hague tribunal stops Milosevic defending himself

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Judges have stopped Slobodan Milosevic from conducting his own defence at the war crimes tribunal in The Hague and imposed a defence counsel on the former Yugoslav president. They also ordered the first defence witnesses to appear at the trial on September 7.

The imposition of a defence counsel is a transparent attempt to prevent Milosevic from raising politically embarrassing questions with regard to the responsibility of the western powers for deliberately destabilising Yugoslavia and encouraging its break up along ethnic and communal lines. The pretext for this move has been to exploit Milosevic deteriorating health to insist that his right to mount a self defence be ended.

Milosevic has conducted his own defence since February 2002, when his trial started at the International Criminal Tribunal for the former Yugoslavia (ICTY) on charges of war crimes and genocide in Croatia (1991-1995), Bosnia and Herzegovina (1992-1995) and Kosovo (1998-1999).

Doctors say that Milosevic's very high blood pressure puts him at risk of a heart attack, especially during periods of stress. Because of his ill health and on the advice of doctors, the judges have stopped the trial more than a dozen times since it started. However, the judges claim that Milosevic has delayed the trial not only because of his poor health, but by deliberately refusing to take tranquillisers prescribed by the court appointed heart specialist. Judge Patrick Robinson argued, "There is a danger that the trial may last an unreasonably long time, or worse, not be concluded if the accused continues to represent himself."

The prosecution accused Milosevic of somehow obtaining a type of benzodiazepine tranquilliser drug, used to counter insomnia and anxiety when he shouldn't have. They said he had previously refused another type of benzodiazepine prescribed by UN doctors. They also accused him of not taking his anti-hypertension medication in order to provoke high blood pressure and stop the proceedings.

The judges' move was hailed by leading prosecutor Geoffrey Nice, who accused Milosevic of "almost certain manipulation" of his health problems. But Nice could not resist expressing his satisfaction that the decision would impede Milosevic's ability to use "the ICTY as a political platform".

Milosevic denounced the decision, saying that his refusal to take tranquillisers was because they affected his ability to concentrate. He demanded the appeals chamber "consider this decision of yours illegal, which violates international law, which violates every conceivable covenant on human rights.

"At a moment when I am supposed to exercise my right to defend, you decided to deprive me of that right. That's a scandal. You cannot deny me the right to defend myself," he added.

In truth the health issue has only been seized on in order to implement a long-standing aim. The prosecution has pressed for Milosevic's right to represent himself be curtailed since the very start of the trial and for the court to impose a defence counsel. In June this year, the court acceded to these demands and called for a "radical review of the trial process" which has now resulted in the appointment of two British lawyers who have "the right to determine what course to follow".

Milosevic may "with the leave of the Trial Chamber, continue to participate actively in the conduct of his case, including, where appropriate, examining witnesses, following examination by court assigned counsel."

The new lawyers are Steven Kay, who was a defence lawyer in the first case at the tribunal in 1995 and appointed a court observer soon after the Milosevic case started, and Gillian Higgins, who was appointed in February this year. Kay pointed out that being a defence lawyer was completely different from being a court observer and that it would be difficult to take over the case quickly and thoroughly, adding, "The scale—it doesn't get bigger than this."

The decision to impose the lawyers comes just as Milosevic finished the opening statement of his defence case. He has threatened to subpoena western leaders such as former US President Bill Clinton, British Prime Minister Tony Blair and heads of various secret services and asked for binding orders for the release of intelligence documents of several western countries.

That the prosecution want to restrict Milosevic's legal right to defend himself is an indication of how badly wrong things have gone for the tribunal's imperialist backers.

The western powers believed the trial would simply be a case of confirming Milosevic's guilt—which had already been decided and agreed upon by a pliant media—as supposedly the sole author of the ethnic conflict that erupted following the break up of Yugoslavia and which was the occasion for imperialist intervention into the Balkan region.

Instead Milosevic has effectively challenged claims that the Serbian leadership was solely responsible for a campaign of genocide and ethnic cleansing and insisted that the conditions for the conflict were created deliberately by the West.

It is to take nothing away from Milosevic's own responsibility for what happened in the former Yugoslavia to acknowledge the success and validity of aspects of his defence case. Milosevic now portrays himself as the stalwart opponent of the West and a champion of the Serbian people and of Yugoslavia's integrity and sovereignty. But he in reality bears a great responsibility for the tragic events in the Balkans that initially resulted from his own pro-capitalist measures.

The policies he and other former Stalinist bureaucrats and nationalists such as Franjo Tudjman in Croatia implemented under the dictates of the western powers—measures imposed through International Monetary Fund structural adjustment programmes—gave rise to explosive social tensions and the beginnings of an oppositional movement in the working class. It was to divert this movement that Milosevic, Tudjman et al increasingly played the nationalist card in order to divide the working class against each other.

But it was the western powers which most determinedly seized on the political weapon of nationalism, having decided that a fractured Yugoslavia would be more easily assimilated into their own sphere of influence. It was this policy that led them to conflict with Milosevic, whose control of Serbia made him the man most anxious to preserve the status quo of a federal state against the aspiring bourgeois cliques in Yugoslavia's constituent republics.

Milosevic has consistently argued that the main responsibility for the eruption of ethnic conflict in the region rests with the United States, Germany and the other NATO powers, and that they who should be charged with war crimes.

In his opening defence statement, for example, he said that the history of the Balkan conflict had been presented in a “lopsided manner to protect those really responsible”.

One of the “main culprits” involved in the destruction of the former Yugoslavia, he added, was Hans-Dietrich Genscher—the German foreign minister from 1974 to 1992. Genscher's crusade for Croatian independence was the first sign of a more assertive Germany following the collapse of the Soviet Union and German reunification. Milosevic also said that Germany was aided by the Vatican which had historically viewed Croatia as a Catholic bulwark against communism and supported Croat nationalism.

The policy of the European Union and United States up to that time had been for the “territorial integrity” of Yugoslavia. But on December 11, 1991, Genscher suddenly announced Germany's recognition of the two breakaway republics of Slovenia and Croatia.

Milosevic was able to point to initial concerns within Germany's imperialist rivals at this development, whose initial result was an exodus of Serbs from Croatia into Bosnia. He quoted several former US secretaries of state—Cyrus Vance, Lawrence Eagleburger and Warren Christopher—who blamed Germany for starting the bloody conflict in former Yugoslavia.

Christopher, for example, told *USA Today*, “There were serious mistakes made in the whole process of recognition of the independence of the former Yugoslav states of Croatia and Slovenia and the Germans bear a particular responsibility in persuading their colleagues and the European Community... many serious students of the matter think the problems we face today stem from the recognition of Croatia and thereafter of Bosnia.”

Milosevic then argued that the ICTY itself recognised this fact and opened itself up to “glaring contradictions”. In the indictment for Croatia and Bosnia—unlike the later cleaned-up indictment for Kosovo—it still says it was the recognition of the breakaway republics that “led to war”. It was Milosevic's opinion that “the authors probably didn't realise that it [the Croatia and Bosnia indictment] would be used later in the hastily added indictment.”

It is in order to clamp down on Milosevic's ability to raise such embarrassing questions that the court has imposed a defence counsel on him.

In line with its efforts to portray Milosevic as a kind of Balkan Hitler, the court has also had legal problems proving the charge of

genocide against him. According to the prosecution the Serbian leadership were involved in a “Joint Criminal Enterprise” that carried out a “Strategic Plan” to create a Greater Serbia by driving out or killing ethnic minorities. But despite calling nearly 300 witnesses to give evidence, the prosecution have been unable to produce a “smoking gun” insider who can testify to such a plan or orders for genocide.

On the very day Milosevic's right to defend himself was denied, for example, the highest ranking Bosnian Serb leader detained at the ICTY—Radislav Brdjanin, wartime leader of the autonomous Krajina region of Bosnia—was acquitted of genocide and extermination charges. Of all the Serbs charged with genocide, only one, General Radislav Krstic, has been convicted and on appeal that charge was reduced to aiding and abetting genocide.

Milosevic also attacked the very basis on which the ICTY was set up and is run. The ICTY was established in May 1993 by United Nations Security Council resolution 827 Article 29, which allows it to set up “subsidiary bodies” to carry out peacekeeping tasks. However, the Security Council set up the tribunal without an international treaty allowing member states to legally transfer part of their national jurisdiction to the tribunal. The tribunal is supposed to be funded by the United Nations, but much funding has come from individual countries, big business and private foundations such as George Soros's Open Society Foundation. As Milosevic noted Soros's foundation has been a major benefactor of Human Rights Watch and other NGOs that have aided the work of the ICTY. Richard Dicker, head of Human Rights Watch's international justice programme, was quick to approve of the decision to impose a defence counsel on Milosevic, saying, “The alternative to this decision would be judges abdicating their role to manage the trial.”

Milosevic's first defence witness began testifying on September 7—Smilja Avramov, a retired Serbian law professor and ultra-nationalist. During proceedings Milosevic said that the two lawyers imposed on him in fact represented the court. He refused to meet them, denouncing a court-appointed defence as “a legal fiction”.

As an indication of the shape of things to come, presiding Judge Patrick Robinson cut off his microphone and declared, “I don't want to hear the same tired refrain.”



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