



INSTITUTE FOR THE RESEARCH OF GENOCIDE  
CANADA

## **Institute for Research of Genocide Canada calls for action**

**Institute for Research of Genocide Canada invites all organizations and individuals in the world to write to Mr. Theodore Meron, President of the International Criminal Tribunal for former Yugoslavia with a request to initiate change the original decision of the Trial Chamber III of the International Criminal Tribunal for the Former Yugoslavia which acquitted former war criminal Radovan Karadzic of committing one count of genocide in the municipalities of Bratunac, Foca, Kljuc, Prijedor, Sanski Most, Vlasenica and Zvornik.**

**Email address of Mr. Theodore Meron: [meront@un.org](mailto:meront@un.org)**

**We invite you to comply with your responsibilities, based on rules of procedure of the Tribunal to initiate changes of the original decision of the Board of the Judicial Tribunal in accordance with the Convention on Genocide, and in accordance with the already existing documentation on the genocide that is located in the tribunal**

We are writing to you with a grave concern regarding the decision made on June 28, 2012 by the Trial Chamber III of the International Criminal Tribunal for the Former Yugoslavia (ICTY) which acquitted former war criminal Radovan Karadzic of committing one count of genocide in the municipalities of Bratunac, Foca, Kljuc, Prijedor, Sanski Most, Vlasenica and Zvornik. The ICTY found that “the evidence even if taken at its highest, does not reach the level from which a reasonable trier of fact could infer that genocide occurred in the Municipalities.” Despite this ruling, it is crucial to note that on June 16, 2004, the ICTY determined that there was sufficient evidence to prosecute the late former president of Yugoslavia and Serbia, Slobodan Milosevic, for genocide committed in the same aforementioned municipalities located in Bosnia and Herzegovina (BiH).

In March of 2004, Slobodan Milosevic filed a motion seeking acquittal on several counts of genocide including Counts 1 and 2 for genocide or complicity to commit genocide in BiH. Milosevic was accused of being part of a joint criminal enterprise in the commission of genocide, and in its decision on the motion for acquittal in June 2004, with Judge Patrick Robinson presiding, the court stated that “On the basis of the inference that may be drawn from this evidence, a Trial Chamber could be satisfied beyond reasonable doubt that there existed a joint criminal enterprise, which included members of the Bosnian Serb leadership, whose aim and intention was to destroy a part of the Bosnian Muslim population, and that genocide was in fact committed in Brcko, Prijedor, Sanski Most,

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Srebrenica, Bijeljina, Kljuc and Bosanski Novi. The genocidal intent of the Bosnian Serb leadership can be inferred from all the evidence..." (§246, our emphasis) Judge Kwon, who is presiding in the Karadzic case also served as a judge in the Milosevic case [*Milosevic* (IT-02-54) "Kosovo, Croatia and Bosnia"] and at that time in 2004, he recorded his dissenting opinion which stated that: "With respect to the count of genocide under the first category of joint criminal enterprise, I do not agree with the majority that there is sufficient evidence upon which a Trial Chamber could find beyond reasonable doubt that the accused had the *dolus specialis* required for genocide, i.e., the intent to destroy the Bosnian Muslims as a group in whole or in part." Unfortunately, eight years later, Judge Kwon has imposed his position in the Karadzic case as well [*Karadzic* (IT-95-5/18-1)], insisting that genocide was not committed in the seven Bosnian municipalities.

The previous judgment in the Milosevic case was based on the evidence that the court cited at that time and should have been sufficient to suggest that genocide was committed in the seven municipalities in the 2012 ruling. In June of 2004, the ICTY stated that "The scale and pattern of the attacks, their intensity, the substantial number of Muslims killed in the seven municipalities, the detention of Muslims, their brutal treatment in detention centers and elsewhere, and the targeting of persons essential to the survival of the Muslims as a group are all factors that point to genocide." (§246) It was also determined that "a Trial Chamber could be satisfied beyond reasonable doubt that the Accused was a participant in the joint criminal enterprise, found by the Trial Chamber in paragraph 246 to include the Bosnian Serb leadership, and that he shared with its participants the aim and intention to destroy a part of the Bosnian Muslims as a group..." (§288, our emphasis)

With that said, we are compelled to bring to your attention our grave concern about the discrepancy between these two decisions as well as the role played by Judge Kwon.

It is important to note that numerous scientific research sources from around the world point to the fact that the Republic of BiH was attacked by classical military aggression. These well documented crimes occurred at the expense of an independent and sovereign state of BiH. At the heart of these policies stood a fascist ideology which was aimed at forming a Greater Serbia.

Specifically, in BiH, the genocidal aggression sought to create Republika Srpska as an ethnically pure territory through the murder and forcible expulsion of all non-Serbs. This war against BiH and its people was realized through the opening of concentration camps where the innocent civilians were tortured, killed and raped. Aside from extermination of everything that was not of Serbian origin, the Yugoslav National Army and Republika Srpska paramilitary forces systematically destroyed cultural objects in an attempt to completely erase any trace of their existence.



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The systematic pattern in a violent takeover of power coupled with the intensity of attacks, the murder, expulsions, deportation, and cruel treatment of the Bosniak population provides unequivocal evidence of intent and genocide against Bosniaks within BiH. Such genocidal policies carried out in the municipalities of Bratunac, Foca, Kljuc, Prijedor, Sanski Most, Vlasenica and Zvornik were done in a systematic and organized manner, and should be considered as genocide under the “Genocide Convention”.

If the goal of the ICTY is to prove the guilt of individual war criminals, then with the recent acquittal of Radovan Karadzic of one count of Genocide, the ICTY and the United Nations Security Council has abdicated the role for which it was intended, namely to document and prove that genocide was committed against the citizens of BiH.

The acquittal in the Karadzic case favors the perpetrators over the victims of genocide committed in BiH and tries to equalize and balance the crimes among the three constituent peoples in BiH with the ultimate goal of changing the war of aggression into a civil war, and the crime of genocide into a lesser crime of ethnic cleansing.

In our view, the recent decision of the ICTY continues a broader effort by the international community to conceal, deny and relativize the genocide against Bosniaks. The decision of the Tribunal is contrary to the international law and is in contradiction with the relevant documentation that the Tribunal has in its possession.

This decision by the ICTY stands to have negative political consequences, and it hinders the process of democratization as well as the struggle for peace and reconciliation within the region. We urge you to communicate with the ICTY regarding this decision to change or ignore a finding the Court had already made in 2004 regarding the commission of genocide in the municipalities.

If the most recent decision is not appealed or contested, it will lead us to believe that the ICTY has been a failure. This acquittal will serve to embolden those who deny genocide and will enable future perpetrators of genocide to believe that they will be able to act with impunity.

Lastly, it should not escape our attention that Judge Kwon’s dissenting opinion in the Milosevic case in 2004, regarding the commission of genocide in the municipalities, has now been imposed on the Karadzic case in 2012. We urge the ICTY as well as Judge Kwon to recognize that this case should not be seen as an opportunity to assert a personal opinion after eight years in order to finally win an argument. What is at stake in this judgment has much broader and more profoundly significant implications for the achievement of justice and the prevention of genocide for generations to come.

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We beseech you to communicate our concerns immediately to the relevant offices at the United Nations and at the ICTY.

Thank you for your consideration.

Professor Emir Ramic

Director of the Institute for Research of Genocide, Canada