

## **Tribunal Loses “Masterful” Judge**

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Richard May’s handling of the Milosevic trial has won and praise and admiration from colleagues and tribunal watchers.

When the Hague tribunal announced last month that Judge Richard May – one of the court’s most respected judges – had fallen ill and planned to resign this May, court officials were shocked.

For the past two years, the gravel-voiced May has presided over the trial of Slobodan Milosevic, negotiating the fine line between ensuring that the former Yugoslav president was accorded all the rights for a fair trial and, at the same time, putting the accused in his place whenever he tried to use the court as a platform to cast aspersions on the tribunal.

“He has a tremendous capacity for matters of procedure and treated those masterfully, beyond the capacity of many of his contemporaries,” said Marieke Wierda, a senior associate at the International Center for Transitional Justice who clerked at the tribunal from 1997 until 2000.

Indeed, from Milosevic’s very first appearance before the court on July 3, 2001, May left no doubt who was in charge.

Milosevic entered the courtroom defiant and determined not to participate in his trial. Judge May commented matter-of-factly that he was aware that Milosevic had chosen not to be represented by counsel, but that he would be free to reconsider this decision “in due course”.

He then went on to ask Milosevic whether he would like the indictment against him read out in the courtroom – a question put to all indictees.

Milosevic refused to answer and an awkward silence filled the courtroom, but May didn’t flinch.

He conferred briefly with the two other judges on the bench, then stated, “The trial chamber will treat your response as a waiver of your right to have the indictment read out.”

He then went on to ask Milosevic how he wished to plead.

Milosevic refused to enter a plea, and instead accused the tribunal of putting him on trial to “produce false justification for the war crimes of NATO committed in Yugoslavia”.

May told Milosevic that this was “not a time for speeches”, and switched off his microphone. He asked the defendant again whether he wished to enter a plea, and when Milosevic refused to answer, May announced the judges would enter a plea of not guilty on his behalf, as permitted by the tribunal’s rules.

With that, the tone was set and for the next two and a half years of proceedings in which the unruly Milosevic would be routinely chastised by a judge who refused to let him get away with mocking the court.

At Milosevic's next appearance before the court, he complained about "Mr May" switching off the microphone, calling it uncivilised. But when he again launched into a speech about how the "so-called tribunal" was a "political tool", May switched off his microphone again.

As the trial progressed, May would do the same on several occasions, but more often than not, he would simply chastise him and order him to move on to another point. In time, the stone-faced British judge and the tempestuous former Yugoslav president would become inseparable in the minds of everyone following the trial.

"It's hard to imagine the trial without May," said one long-time court observer. "Who else will be able to control Milosevic?"

Richard George May was born in London in 1939. He attended Haileybury College and Cambridge University. He graduated in 1964, then became a barrister in England's south east circuit court. He worked for 12 years as a criminal prosecutor.

Soon, May decided to enter politics. In 1970, he ran as Labour's parliamentary candidate for Dorset South. From 1974-1979, he served as a Labour member of Westminster City Council where he helped campaign for centre for homeless children and low income housing in the centre of London.

Finally, in 1979, he stood in a failed bid as Labour's candidate against Margaret Thatcher in Finchley, in north London. He lost, then watched as Thatcher was swept into power as prime minister.

Thereafter, May went back to the law, and was appointed a part-time judge in 1985. Two years later, he became a full-time circuit judge in the Midlands.

In 1997, the UN General Assembly appointed May to the tribunal's bench, where he joined 15 other permanent judges, each from a different country.

It became apparent as soon as he arrived in The Hague that May had a penchant for matters of rules and procedure.

Wierda, his former clerk, recalled one of the first hearings May held at the tribunal, a status conference for Milan Kovacevic, a Bosnian Serb official charged with orchestrating the ethnic cleansing of Prijedor.

There was no courtroom available for the hearing (at the time, facilities at the tribunal were extremely limited) but in the interest of expediency, May decided to stage the hearing anyway, in one of the tribunal's meeting rooms.

None of the participants - the prosecution, the judges or the defence counsel - were robed and nobody was really sure how formal the proceedings would be.

May soon let them know.

When the defence counsel arrived late to the hearing, May said, "Defence counsel will explain why he is late to this hearing."

The lawyer started to explain, but before he could say anything, May interrupted him.

“Defence counsel will be on his feet when he addresses this court,” May said.

Soon after, May was appointed the chair of the tribunal’s rules committee, where he helped develop the rules of procedure and evidence for an unprecedented exercise in meting out international criminal justice that utilises aspects of both common law and civil law.

In that capacity, tribunal president Judge Theodor Meron said May was “a pioneer and a leader in this great adventure”, and managed to “balance the duty to punish serious crimes and the right of the accused to a fair trial”.

During his tenure at the tribunal, May participated in cases against Serbs, Croats and Muslims, and in each case he showed a masterful control over the courtroom, coupled by a dry sense of humor.

His former clerk, Wierda, recalled that during the proceedings against Milan

Kovacevic - a Bosnian Serb official accused of orchestrating the ethnic

cleansing of Prijedor - the defense counsel for one of the accused, Dusan

Vucicevic, was being uncooperative.

He had failed to comply with numerous deadlines issued by the court.

When Vucicevic tried to blame his client’s noncompliance on cultural differences, Judge May remarked, “Courtesy, Mr Vucicevic, is common to all continents.”

Outside of the courtroom, May was known to be gracious and pleasant.

“In the privacy of his chambers, he would quickly shake off his strict courtroom demeanor,” said Wierda.

During a ceremony to commemorate May’s service to the tribunal, President Meron described the British magistrate as “a treasured colleague, a valued mentor and a steadfast friend” who is “quick to recognize and appreciate good work from those who assist him”.

Indeed, the only people who complained about working with May were his security guards. While other judges had cars and drivers, he preferred to walk or use public transport – a habit that made their job more difficult.

During his tenure at the tribunal, May landed some of the court’s biggest cases. He presided over the trials

of Dario Kordic and Mario Cerkez, the highest-ranking Bosnian Croats to face trial at the tribunal, as well as deliberating on the judgement against Bosnian Serb leader Biljana Plavsic.

However, by far his most challenging case was that of Milosevic – a case that, in the words of Meron, May led with “patience and creativity”.

Milosevic refused to appoint a defence counsel, the court briefly considered forcing one upon him so as to prevent the nightmare scenario which eventually ensued – Milosevic taking the floor to make political speeches.

As was often the case at that tribunal, there was no precedent for such a matter, but May created one.

Although he understood the dangers of ceding so much courtroom time to Milosevic, May ruled that it would be unfair to force counsel on the accused.

“In an adversarial system, the imposition of defence counsel on an unwilling accused would effectively deprive that accused of the possibility of putting forward a defense,” he wrote in issuing his chamber’s decision.

That decision would make May’s life difficult for the next two years, as it would be up to him to rein in Milosevic when he began harassing witnesses, making speeches or wasting court time by going off at tangents.

In order to show that Milosevic was receiving a fair trial, May had to let the former Yugoslav president speak, probably more than he would have liked to. During the first phase of the trial, Milosevic was given what some critics said was too much leeway to air his grievances against NATO for its bombing of Yugoslavia.

However, as the trial progressed, and Milosevic began making the same points over and over again – that Serbia was a victim of NATO aggression, not a perpetrator of crimes against Albanians; that Albanians were terrorists; that he was a peacemaker who tried but failed to stop the Bosnian Serbs from committing crimes – May became increasingly intolerant.

“We’ve heard this before Mr Milosevic,” May would say. “It’s time to move on to another point.”

Although he appeared to enjoy his job as the presiding judge over the Milosevic trial, his colleagues said he did not welcome the media’s attention.

Indeed, by all accounts, he was uncharacteristically modest for a man of his achievement.

“To some extent, I think the spotlight was unwelcome,” said Wierda.

During the ceremony to commemorate his service, prosecutor Geoffrey Nice pointed out that May never revealed his extensive knowledge about the case unless it was to aid counsel or a witness.

Whereas some judges might have shown off their knowledge, May made a point of not doing so.

Nice also pointed out that May shared a room with a former colleague for 15 years before he learned that May had left Cambridge with 1st Class degree.

May's final day presiding over the Milosevic trial was in mid February. The trial went on for several days without him, and courtroom observers, not having noticed anything irregular about May in the preceding days, assumed he had a cold.

However, on February 22, when his resignation was announced, the tribunal said May was suffering from a serious illness. Tribunal officials have not elaborated on what is ailing May, but when the judge appeared before a special session to commemorate his service last week, he looked like a shadow of himself.

He appeared tired and drawn and his thick head of gray hair was noticeably thinner. However, his sense of humour and his thundering voice were still in tact.

He thanked all of those who spoke on his behalf, then turned to Jeffrey Nice. "Thank you also for your promotion to 1st class at Cambridge – which I did not achieve," May said.

He kept his speech short, and asked the court to forgive him for it, "It is now time for me to go, but I do so with pride in the past of the tribunal and confidence in its future."

With that, he got up and left the courtroom over which he presided for the past six years.

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