

History Now Will Be Milosevic's Judge

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AMSTERDAM, Netherlands (AP) -- One of history's most important trials has ended abruptly with the death of former Yugoslav leader [Slobodan Milosevic](#). After four years, hundreds of witnesses, tens of thousands of documents and tens of millions of dollars, Milosevic can never be pronounced guilty or innocent.

The trial's premature conclusion also raises questions about the conduct of tribunal judges who made key decisions that led to an exhausting, expensive five-year process.

"That's \$200 million down the drain" said Michael Scharf, a former State Department attorney and an expert in international criminal law.

As in previous cases with the death of a defendant, the indictment was to be withdrawn.

"The proceedings will be terminated," tribunal spokeswoman Alexandra Milenov said.

Milosevic, 64, who was extradited to The Hague in June 2001, was found lifeless in his bed early Saturday at the [U.N.](#) detention center. He had been defending himself against 66 counts of war crimes, crimes against humanity and genocide in Croatia, Bosnia and Kosovo during the 1990s.

"It's a huge setback for justice," said Richard Dicker, legal adviser of Human Rights Watch. "Most of all, it's a setback for the victims."

Chief U.N. war crimes prosecutor [Carla Del Ponte](#) said she regretted Milosevic's death because she believed she would have won his conviction.

According to the schedule dictated by the court, he had only a few weeks to go before winding up his defense and handing over the massive case to the three judges to begin their deliberations.

The International Criminal Tribunal for the former Yugoslavia was created in 1993 to try those responsible for atrocities during the Balkan wars then raging. It was the first experiment in international war crimes jurisprudence since World War II, and was the model for the creation of more tribunals.

But the success of the court was being weighed by the happenings in Courtroom I, where the defiant, combative Serb leader sparred with witnesses and judges alike.

His victims and former enemies lamented their lost chance to hear the verdict of impartial judges.

"Justice was late," said Hashim Thaci, the leader of ethnic Albanian armed insurgency against Milosevic's forces in 1998-99 in Kosovo's capital Pristina. "God took him."

The possibility of his death before the trial's conclusion was the trial judges' nightmare. With his history of chronic heart problems, frequent flu attacks, late nights preparing his defense and the stress of the courtroom, Milosevic was always at high risk.

"Milosevic came from Belgrade with a heart problem, so they knew from the beginning they would have this problem. The problem was, it was impossible to change course part way through" and still be fair to both sides, said Heikelina Verrijn Stuart, a Dutch lawyer who has closely followed the trial.

Last year, the judges suggested splitting the Croatia, Bosnia and Kosovo cases so that at least one could be completed quickly. Both Milosevic and the prosecutors objected, and the idea was dropped.

The judges also imposed a court-appointed legal team for Milosevic. Sensing his spotlight in history and the chance to grandstand for his home audience in Serbia, he refused to even speak to the two British attorneys. Ultimately, they withdrew.

The judges "were deathly afraid that they would try him to death. And they did. That's exactly what happened," said Scharf, director of the Frederick K. Cox International Law Center at Case Western Reserve University in Cleveland.

In hindsight, the legal experts said, the judges made a series of mistakes. They should not have allowed an ailing man to defend himself, they should not have agreed to join the three indictments into a single case and they should not have isolated Milosevic from other defendants facing the same charges.

If others had been in the dock, the case would have continued.

Milosevic "ended up cheating history. One of main purposes of the tribunal was to create a historic record of atrocities and of who was responsible that would pierce years of propaganda," Scharf said.

The testimony and much of the records in the Milosevic case are still available to prosecutors to use in other war crimes trial and for scholars. More than 70 defendants are currently involved in court proceedings.

Those records also are being cited heavily in another U.N. court, the International Court of Justice, which is hearing a civil suit by Bosnia against Serbia for genocide -- the first time a state has been put on trial for humanity's worst crime.

The evidence coming out at the two courts "is helping to build an indisputable record of criminality," said Dicker of the New York-based Human Rights Watch.

"It would have been far better to have a verdict handed down by the tribunal on Milosevic's responsibility," said Dicker. But "history has already passed its verdict on Slobodan Milosevic's role and responsibility."