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Tribunal Pénal
International pour
l'ex-Yougoslavie

JUDGEMENT SUMMARY

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TRIAL CHAMBER

The Hague, 12 December 2007

PROSECUTOR V. DRAGOMIR MILOŠEVIĆ SUMMARY OF JUDGEMENT

Please find below the summary of the judgement today read out by Judge Robinson:

This case is about the siege of Sarajevo. The evidence discloses an horrific tale of the encirclement and entrapment of a city over a period of approximately 15 months and its bombardment by the forces of the Sarajevo-Romanija Corps, also known as the SRK, under the command of General Dragomir Milošević, the Accused. In many places, the SRK positions overlooked the positions of the Army of Bosnia and Herzegovina - the ABiH-, thus providing the SRK with strategic points around the city. The evidence shows that during that 15-month period the SRK, from commanding positions on the hills of Sarajevo, carried out a campaign of sniping and shelling that resulted in injury to and death of a great number of civilians in the city of Sarajevo.

The Accused has been charged with war crimes and crimes against humanity.

The Prosecution led evidence that Dragomir Milošević, as Commander of the SRK, carried out a “campaign of shelling and sniping” of civilians, civilian areas and the civilian population of Sarajevo. This campaign was allegedly conducted by Bosnian Serb forces comprising or attached to the SRK, or affiliated with the Armed forces of the Republika Srpska. It alleged that the attacks were deliberate, indiscriminate, excessive and disproportionate in relation to the anticipated concrete and direct military advantage. Further, according to the Prosecution, the alleged “campaign” had the primary purpose of spreading terror within the civilian population of Sarajevo.

The main Defence arguments were that during the entire conflict in Bosnia and Herzegovina, the area of Sarajevo and its environs was the theatre of serious conflict and heavy fighting. Accordingly, the Defence argued that Sarajevo as a whole, and certain neighbourhoods of the city, could not be considered to be a civilian area. The existence of an armed conflict was also central to the Defence case; it argued that the intensity of the conflict showed that the activities of the SRK were a necessary and legitimate response to activities of the ABiH, and did not, as argued by the Prosecution, constitute a deliberate attack against the civilian population. The Defence also argued that many deaths and injuries during the conflict resulted directly from the high level of intensity of combat activities, in effect offering this as an explanation for civilian casualties.

The Trial Chamber finds that the evidence that was led in three scheduled incidents was insufficient to establish that the origin of fire was SRK-held territory. The remaining scheduled incidents were all proven.

The Trial Chamber, after reviewing the evidence, rejects the Defence submission on the status of Sarajevo. The reasons for this decision are set out in the Judgement.

The SRK used a number of means to effect its campaign. It employed highly skilled and trained snipers using rifles with telescopic sights; it used mortars to shell the city and perhaps the worst feature of the campaign was the use of modified air bombs; worst,

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because the bombs were inaccurate and served no military purpose. The SRK targeted the city with indiscriminate shelling.

Evidence shows that the ABiH did not have or use modified air bombs; only the SRK possessed and used them. Of the 15 scheduled shelling incidents, eleven involved the use of these modified air bombs. The effect of these modified air bombs was overwhelming, in terms of injuries, deaths, destruction and the psychological impact on the civilian population. Referring to a modified air bomb exploding in Sokolovići, W-82 stated that “they could have coped” with the sniping and shelling of the neighbourhood “until the air bomb landed on 23 July 1995.”

While the evidence shows that there were lulls in fighting between the armies and in the shelling of the city, it also shows that there was always a constant level of sniping. In this respect, John Jordan recalled that in nice weather, “people came out, made it a target-rich environment and the snipers got busy.” The very role of snipers requires that any shot they take is deliberate, intended to kill or seriously injure the target. The Trial Chamber again cites John Jordan, who said he responded to a number of incidents over the years in Sarajevo where one member, often the youngest member, of a family was shot. It was his view that “[w]hen you’re targeting civilians like this, particularly families who may or may not be Muslim, shooting the child has the effect of literally disembowelling the whole family.” The Trial Chamber admitted into evidence video footage, which depicts a slowly moving UNPROFOR armoured personnel carrier sheltering people behind it from sniper fire. When shown to Martin Bell, he called this one of the iconic images of the war and said:

“The French were trying to bring confidence to the people and a degree of security down there [...]. They instituted this idea of the slowly moving armoured vehicle with the people sheltering. And I think it conveys probably more than any single sniping incident the daily perils of the people in the city.”

As part of the twelve scheduled sniping incidents, the Trial Chamber heard evidence pertaining to five incidents in which trams were targeted and several passengers killed or seriously injured by SRK snipers. In addition to these five, the Trial Chamber heard of other incidents involving the sniping of trams. All these incidents took place during cease-fires. There are passages in evidence that clearly demonstrate the sheer fear and horror experienced by those passengers. Nothing illustrates more graphically the intent of the perpetrators and the victimisation of the passengers than the evidence that was repeated time and again of a tram slowing down to pass the S-curve in the vicinity of the Holiday Inn and being deliberately targeted while it was so doing. Slavica Livnjak described how she would bend her head every time she negotiated the S-curve with her tram. The tram and its passengers were virtually sitting ducks or, to use another avian metaphor, in the words of a witness, “clay pigeons.”

Shelling with mortars was a common occurrence too, and caused many deaths and injuries among the civilian population in the city of Sarajevo. Of all the incidents in the campaign of shelling, the mortar attack on the Markale Market on the 28th of August 1995 is one of the most horrendous. This event is etched in the memory of many of the witnesses that appeared before the Trial Chamber. The Trial Chamber found that the Markale Market was shelled by the SRK, with a 120 mm mortar, which killed 34 civilians and wounded 78 civilians. One of the police officers who investigated the incident described what he saw as “the last, deepest circle of Dante’s hell.”

The main argument of the Defence in relation to the Markale Market shelling was that this was a staged event; an explosion caused by a static explosive and not a 120 mm mortar. This submission, as well as the other Defence arguments in relation to this event, is rejected for reasons set out in the Judgement.

As described by many witnesses, there was no safe place in Sarajevo; one could be killed or injured anywhere and anytime. W-107 stated that her daughters often returned from collecting water or firewood and “I would find that they had soiled their clothes because of the fear that they had.” On one occasion, Rialda Musaefendić saw that the bread that was delivered had bullets in it resulting from the truck being fired on by Bosnian Serbs. Bakir Nakaš described the situation as follows:

“The city was still under siege, no electricity, no regular water supply, no regular energy supply; under shelling and sniping continually. Life was not normal in any way for the residents of Sarajevo, nor was our work, the work of health workers in the city’s health institutions. Likewise, we lacked all energy supplies, electricity, and our supplies were reduced, limited, in terms of medical supplies, food and such like.”

This constant threat to their safety had a profound effect on the civilians in the city of Sarajevo. Col. Demurenko, Chief of Staff of UNPROFOR Sector Sarajevo from January 1995 to December 1995, testified that “if one looks at the human suffering, then it was a case of a full siege, just like in Leningrad during Second World War.” He expressed his surprise at the “ambivalent attitude, blunted attitude toward life” and the prevalent atmosphere of “lethargy” in Sarajevo. Martin Bell explained that:

“[the civilians inside the confrontation lines] looked haggard, they looked hunted. Their only business of the day was to get through the day, to survive. Survival was what it was about. They were truly desperate times.”

Dragomir Milošević, the commander of the SRK, held a tight chain of command. He ensured that he was kept abreast of the activities of his units by improving an already existing reporting system; he decided on matters such as the replenishment of ammunition, the placement of mortars and the training of snipers. Also, he regularly visited the SRK units along the confrontation lines.

It was under his command that modified air bombs were introduced to the Sarajevo theatre; they were regularly used to shell the city. Several orders show that Dragomir Milošević decided on the deployment and placement the bomb launchers too. Moreover, the evidence shows that Dragomir Milošević ordered the shelling by way of modified air bombs. One need only refer to the order of 6 April 1995, in which he ordered the Ilidža Brigade to “immediately prepare a launcher with an aerial bomb and transport the bomb for launching. [...] The most profitable target must be selected in Hrasnica or Sokolović Kolonija, where the greatest casualties and material damage would be inflicted.” The next day, a modified air bomb hit Hrasnica, killing Ziba Ćustović, injuring three civilians and causing massive destruction to the civilian neighbourhood in which it exploded.

The Trial Chamber considers that the Accused’s position as commander of the SRK obligated him to prevent the commission of crimes and to ensure that the troops under his command conducted themselves with respect for international humanitarian law. However, the evidence presented to the Trial Chamber shows that the Accused abused his position and that he, through his orders, planned and ordered gross and systematic violations of international humanitarian law. Moreover, the Accused made regular use of a highly inaccurate weapon with great explosive power: the modified air bomb. It is clear from the evidence that the SRK well know that these weapons were indiscriminate and inaccurate. The modified air bombs could only be directed at a general area, making it impossible to predict where they would strike. Each time a modified air bomb was launched, the Accused was playing with the lives of the civilians in Sarajevo.

This Judgement, like most Judgements in this Tribunal, illustrates the need for full respect by those engaged in armed conflict for the fundamental norms of international humanitarian law. These norms have developed over the centuries to the point that they now constitute binding legal obligations. Foremost among the norms is that which requires

the protection of persons not taking an active part in the hostilities, that is, civilians. These norms, in turn, are based on values that are fundamental for every human being, namely the integrity of the individual, the right to life and the right to be protected from fear, pain and violence. As such, they are applicable without distinction of any kind, including ethnicity, nationality and religion.

Mr. Milošević, please rise.

The Trial Chamber finds you, Dragomir Milošević, GUILTY pursuant to Article 7(1) of the Statute on the following counts:

Count 1, terror, a violation of the laws or customs of war;

Count 2, murder, a crime against humanity;

Count 3, inhumane acts, a crime against humanity;

Count 5, murder, a crime against humanity;

Count 6, inhumane acts, a crime against humanity;

The finding of guilt on Count 1 has the consequence that Counts 4 and 7, unlawful attacks against civilians, a violation of the laws or customs of war are DISMISSED. The Trial Chamber sentences you, Dragomir Milošević, to a sentence of thirty-three (33) years' imprisonment. Pursuant to Rule 101(C) of the Rules, you are entitled to credit for time spent in detention. You are also entitled to credit for such additional time you may serve pending the determination of any appeal. Pursuant to Rule 103(C) of the Rules, you shall remain in the custody of the Tribunal pending finalisation of arrangements for your transfer to the State where you shall serve your sentence.

The Trial Chamber emphasises that this is but a summary of its findings and that the only authoritative account is the written judgement, which will be made available after this hearing.

The hearing is now adjourned.
