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Tribunal Pénal
International pour
l'ex-Yougoslavie

JUDGEMENT SUMMARY

(Exclusively for the use of the media. Not an official document)

TRIAL CHAMBER

The Hague, 7 May 1999
PR400a

Trial Judgement Summary for Zlatko Aleksovski

Please find below the summary of the Judgement read out today by Judge Rodrigues:

Mr. Aleksovski, in a few moments, I shall read the decision taken by the Trial Chamber relating to the crimes with which you have been charged; namely, inhuman treatment, the fact of willfully causing great suffering or serious injury to body or health, outrages upon personal dignity. But before that, I would like to remind everybody of the background of your trial. The crimes that have been held against you took place between the months of January and May 1993. I shall also remind everyone that the Tribunal Statute was adopted by the Security Council of the United Nations on May 25th, 1993. These facts took place in Central Bosnia in the Lašva Valley in the area of Busovača; more precisely, in Kaonik. Kaonik lies at the meeting point of several roads leading in the north-west to Vitez, in the north towards Zenica, to the south towards Busovača, and beyond towards Kiseljak and Sarajevo. The victims of the crimes which have been brought against you are, for the majority of them, Muslim individuals who found themselves in this area and who, after having been arrested by Croat armed forces of Bosnia, were led to Kaonik prison, at which you were the warden. An indictment was brought against you, as also against other individuals, by the Office of the Prosecutor. This indictment was confirmed on November 10th, 1995, and an arrest warrant was issued against you. On June 8th, 1996, the Croat authorities arrested you and placed you in detention. It was only on April 28th, 1997, that Croatia transferred you to the detention unit of the United Nations in The Hague. Your initial appearance took place the very next day before the Judges of this Tribunal. You pleaded not guilty. Your trial proper started before this Trial Chamber on January 6th, 1998, and ended on March 23rd, 1999. Since that date, my colleagues and I have been deliberating, assessing, and reviewing all the evidence, briefs, and written documents of the trial. The conclusions which we have reached have seemed of such a nature that they justify amply the fact that the hearing be organised in the shortest of delays, without waiting for the final judgement to be put down in writing. This judgement will be made public as early as possible, but the urgency seems to be such that we have not waited for the return of the senior trial attorney of this trial, Mr. Grant Niemann, to which I would like to pay homage. May he be made aware that we are very sorry that he is not present today for we have always been very pleased with his work. I would like to say the same for Mr. Mikuličić: We are very sorry not to see them here today.

Mr. Aleksovski, I shall now read the decision of the Trial Chamber. Would you please rise, Mr. Aleksovski? The Trial Chamber, noting Articles 2, 3, 7, 20, 21, 23, and 24 of the Statute of the Tribunal and Rules 98 ter, 101, and 108 of the Rules of Procedure and Evidence; Noting that Zlatko Aleksovski is charged, according to Article 2 of the Statute of the Tribunal, of serious violations of the Geneva Conventions of 1949, or grave breaches of the said Geneva Conventions, ("*inhuman treatment*" and "*wilfully causing great suffering or serious injury to body or health*" respectively) and charged as proscribed by Article 3 common to the Geneva Conventions of 1949 with a violation of the laws and customs of war

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Media Office/Communications Service

Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands

Tel.: +31-70-512-8752; 512-5343; 512-5356 Fax: +31-70-512-5355

("outrages upon the personal dignity") mainly on the basis of the following factual allegations set out in paragraph 31 of the indictment: *"From January 1993 until at least the end of May 1993, Zlatko Aleksovski accepted hundreds of detained Bosnian Muslim civilians from the HVO or their agents into his custody at the detention facilities in Kaonik. The detainees were from a widespread area, including but not exclusive to Vitez and Busovača municipalities. Many of the detainees under his control were subjected to inhumane treatment, including, but not limited to, excessive and cruel interrogation, physical and psychological harm, forced labour (digging trenches) in hazardous circumstances, being used as human shields and some were murdered or otherwise killed."*

Noting that Zlatko Aleksovski was arrested on June 8th, 1996, in the territory of the Republic of Croatia by the Croatian police acting pursuant to an arrest warrant issued by the Tribunal and that, after having spent ten months and twenty days in detention in the Republic of Croatia, he was transferred to the Tribunal's detention unit at The Hague on April 28th 1997;

Noting that the trial against Mr. Zlatko Aleksovski commenced on January 6th, 1998 and ended on 23rd March, 1999, when the hearing was declared closed pursuant to Rule 87 of the Rules;

Having reviewed carefully all the evidence presented to the Trial Chamber during the course of the trial along with the written and oral submissions of the Office of the Prosecutor and the Defence counsel;

Emphasising that the result of its deliberations compels the Trial Chamber to issue today a brief summary of its factual and legal findings, the full text of which will be presented in writing at a later date;

Considering that at the material time a state of armed conflict existed between the armed forces of the Bosnian Croats and the Bosnian Muslims and considering that a nexus existed between that armed conflict and the alleged criminal conduct of Zlatko Aleksovski;

Considering that a majority of the Trial Chamber deems that Article 2 of the Statute can apply only where the alleged offence is committed against persons regarded as *"protected persons"* within the meaning of the Geneva Conventions of 1949 and that, in the present case, it has not been proved that the victims of the acts ascribed to Zlatko Aleksovski were such *"protected persons"*;

Considering that the legal consequence of the previous finding must be that Zlatko Aleksovski be declared not guilty of the two counts of grave breaches which rely upon Article 2 of the Statute; namely, Counts 8 and 9 of the indictment;

Considering that the Trial Chamber unanimously determines that severe beatings and other forms of violence with acute physical and psychological consequences which were inflicted on some detainees at Kaonik prison constitute violations of Article 3 of the Statute;

Considering that it has been proven beyond reasonable doubt that Zlatko Aleksovski participated in the commission of such violations to the extent necessary to hold him criminally responsible in respect of those violations pursuant to Article 7(1) of the Statute;

Considering that it has been proven beyond reasonable doubt that Zlatko Aleksovski, as the commander (or director or warden) of Kaonik prison, knew or had reason to know that persons in a subordinate position to that of himself were about to commit crimes or had done so and that Zlatko Aleksovski failed to take the necessary and reasonable measures to prevent such crimes or to punish the perpetrators thereof and that Zlatko Aleksovski therefore should be held criminally responsible in respect of those crimes pursuant to Article 7(3) of the Statute;

Considering that Articles 23 and 24 of the Statute and Rule 101 of the Rules lay down the sentencing guidelines for determining the appropriate sentence in respect of a finding of guilt;

Considering that a convicted person, pursuant to Sub-rule 101(D) of the Rules, is entitled to credit "for the period, if any, during which the convicted person was detained in custody pending surrender to the Tribunal or pending trial or appeal";

Considering that, for the purpose of the application of Sub-rule 101(D), Zlatko Aleksovski has been detained since June 8th, 1996, and that he therefore to date is entitled to credit for time served for a period of two years, ten months, and twenty-nine days;

Considering that, for the purpose of filing a notice of appeal pursuant to Rule 108, the time limit will run from the date of the present decision;

For the foregoing reasons, the Trial Chamber declares Zlatko Aleksovski:

Not guilty of a grave breach (inhuman treatment) as stipulated in Count 8 of the indictment;

Not guilty of a grave breach of the Geneva Conventions (willfully causing great suffering or serious injury to body or health) as stipulated in Count 9;

Guilty of a violation of the laws and customs of war (outrages upon personal dignity) as stipulated in Count 10;

Consequently sentences Zlatko Aleksovski to two years and six months' imprisonment;

Therefore orders the immediate release of Zlatko Aleksovski notwithstanding any appeal;

States further that the notice of appeal, if any, shall be filed not more than 15 days from the date of this decision; and

Further states that the Trial Chamber's written judgement giving reasons for the present decision will follow.

Mr. Aleksovski, I hope you have understood well the decision of the Chamber. I shall come back to it. But before doing so, I should like to address myself to all those who have contributed to the efficiency of these proceedings. I believe that we have every reason to be pleased with the quality of our debates. Each side has been able to present his point of view, to produce his evidence, to voice his preoccupations without fear or hatred. Mr. Aleksovski chose not to testify. I personally regret it, but his choice was made freely. We were also careful to make sure that Mr. Aleksovski could attend in the best possible conditions, bearing in mind the condition of his health, so that he should be fully capable of participating in all our sittings. Frequently, I almost forgot that there was an accused here, but I was always aware that there was a person, Mr. Zlatko Aleksovski.

Our work, however, was possible thanks to the dedication of numerous staff members whose competencies contributed to the efficient functioning of the sittings. There were those that one sees, and I have in mind specifically the registrar; those who one hears, the interpreters and translators; those whose words one reads, the court reporters, to use the English expression; those whose presence one only guesses, that is, the audio-visual technicians; those who are not visible, the officers and security guards; those who are further away but equally necessary, the personnel of the Victims and Witnesses Unit, who had the difficult task of ensuring, particularly at the psychological level, the presence of the victims who have come to testify; those whose qualities Mr. Aleksovski learned to appreciate in the detention unit; those who are present on a daily basis, the legal officers of the Chamber; and all those who have, generally speaking, allowed international justice

to be exercised. Because, after all, that is what all this is about, Mr. Aleksovski, because when the Tribunal renders its decision, it is international justice that is at work.

The decision that I have just read, for me, means at least two things:

First of all, the acts that you were charged with are grave. They are crimes in international law. For some people, you have been acquitted; for others, you are today condemned. As you know, Mr. Aleksovski, the same reality has always at least two aspects to it. That is why justice exists. The seriousness of the crimes for which a sentence has been passed upon you exceeds, without any doubt, by its very nature, the scope of your own person because, after all, it is a question of war crimes. On the other side, there are the victims, who have the right to be recognised as victims, who have the right to find in our decision a sanctioning of an attitude which morality, even more than law, condemns, and who can appease their thirst for justice. The sanction imposed upon you via the Tribunal by the International Community wishes also to send a clear signal to all those who wish to avoid the obligations that all of us have to respect if we wish peoples to belong to a civilised society and to be able to live together in co-operation and in peace. The condemnation that I have just conveyed to you is yours because these are crimes that you have been charged with personally and only those. I should like that to be very clear in your mind. We have taken into account all the elements that apply to you in the indictment but only that. We have examined all the evidence regarding the three counts against you but only those counts.

The second point that today's decision appears to mean to me is that it is up to you to determine straightaway what lesson you wish to draw from this. I am not talking about the possibilities of appeal that are open to you, and it is up to you alone, together with your counsel, to decide whether you wish to use them or not. I wish to speak of the reflection that all persons in your position should engage in, in my view. There is a Chinese proverb that says: If you wish to dig revenge, dig two tombs. To be judged in a fair manner, as you have been, also means to face one's responsibilities within a framework where there is no place for revenge, and if your trial has achieved at least that, that is, to eliminate the desire for vengeance among your victims, then a great deal has already been accomplished. But to accept, as you have done, to be judged under these conditions, also means to refuse to dig a second grave. If there is any revenge to be taken, it is against yourself, to look within in order to be able to resume your life with your family in peace, particularly with your children, and I hope that you will find that strength within you, to know how to take that kind of revenge.

Mr. Aleksovski, the decision of the Chamber means that you are free. To be more precise, you will be free as soon as the necessary measures have been taken, which means in a matter of hours. I hope that you will know how to make the best of that freedom. Mr. Aleksovski, do you have anything to say? You have the floor then.

MR. ALEKSOVSKI: Your Honours, thank you for giving me this opportunity to address you, and I shall take the advantage of this opportunity to address you and also to convey my modest opinion about all this. In the first place, I should like to go back to 1993 with a few thoughts, and I appeal to all of you to look back, both those on this side of the glass partition and all the people sitting on the other side of the glass partition, including my wife. This applies to 1993. "In these terrible, turbulent times, I see signs of bad times." These are verses of Enes Kisevic, a well-known poet. To say that there was madness -- you will understand what I am saying. You are experts. You have others who will tell you what it is, but it was more than madness and I cannot explain it to you nor can anyone. I am not referring only to the Lašva Valley but throughout the territory of the former Yugoslavia. It was madness. I haven't changed from the very beginning. From my first encounter with Mr. Heintz when I was brought to the detention unit, I said that I looked forward to the trial and that I trusted this Tribunal. You will say, as all jurists do, that this means that you accept two years and six months as your sentence, but I will not comment on that as that is not my expertise. As Mr. Niemann said, Zlatko Aleksovski is a university graduate and he knew how

things should be done in a detention unit. If I had treated those men in the way they should be treated in prison, believe me, two years and six months would be too short a sentence. I told Mr. Niemann here, he was two metres away from me, we shook hands on a couple of occasions and exchanged a few words, I said that I was not the manager of a hospital, and even in a hospital, there are complaints. There are complaints everywhere. I wish to tell you and the whole world that never have I hated anyone, that never have I wanted to play a part in inflicting anything bad on anyone nor will I ever do that. I will use your words. I was and am and wish to remain a citizen of mankind. Thank you.

JUDGE RODRIGUES: Is that all, Mr. Aleksovski? You may be seated. Thank you, Mr. Aleksovski. That brings to an end this hearing.