

United Nations
Nations UniesInternational Criminal Tribunal
for the former Yugoslavia
Tribunal Pénal International
pour l'ex-Yougoslavie

(IT-02-60)

BLAGOJEVIĆ & JOKIĆ

**VIDOJE BLAGOJEVIĆ***Convicted of aiding and abetting murder, persecutions on political, racial and religious grounds and inhumane acts (forcible transfer)*

Commander of the Bratunac Brigade of the Bosnian Serb Army (VRS), which operated in the Bratunac and Zvornik municipalities in the eastern region of Bosnia and Herzegovina

- Sentenced to **15 years' imprisonment**

Crimes convicted of (examples):

Aiding and abetting murder, persecutions on political, racial and religious grounds and inhumane acts (forcible transfer) (crimes against humanity)

Aiding and abetting murder (violation of the laws or customs of war)

- Blagojević aided and abetted in the persecutions of the Bosnian Muslim population of the Srebrenica enclave, a UN-designated 'safe area' around the town of Srebrenica in eastern Bosnia and Herzegovina, about 15 kilometres from the Serbian border. He did this through the underlying acts of murder, cruel and inhumane treatment, terrorising the civilian population and forcible transfer.
- Blagojević aided and abetted the commission of murder of Bosnian Muslim men in Bratunac.

VIDOJE BLAGOJEVIĆ

Born	22 June 1950 in the Bratunac Municipality, Bosnia and Herzegovina
Indictments	Initial: 30 October 1998; amended: 27 October 1999; amended joinder: 26 May 2003
Arrested	10 August 2001, by the multinational Security Force (SFOR)
Transferred to ICTY	10 August 2001
Initial appearance	16 August 2001, pleaded not guilty to all charges
Trial Chamber Judgement	17 January 2005, sentenced to 18 years' imprisonment
Appeals Chamber Judgement	9 May 2007, sentence reduced to 15 years' imprisonment
Serving sentence	25 January 2008, transferred to Norway to serve his sentence; credit was given for time spent in custody

DRAGAN JOKIĆ*Convicted of aiding and abetting extermination, persecutions on political, racial and religious grounds and murder*

Chief of Engineering of the Zvornik Brigade of the VRS which operated in the Bratunac and Zvornik municipalities in the eastern region of Bosnia and Herzegovina

- Sentenced to nine years' imprisonment

Crimes convicted of (examples):

Aiding and abetting extermination and persecutions on political, racial and religious grounds (crimes against humanity)

Aiding and abetting murder (violation of the laws or customs of war)

- Jokić aided and abetted the murders of Bosnian Muslim men committed at Orahovac, Pilica/Branjevo Military Farm and Kozluk, by providing engineering resources and personnel to be used to dig mass graves for the executed victims.
- Jokić rendered practical assistance, which had a substantial effect on the commission of the crime of extermination: he knew about the detention of Bosnian Muslims at the Grbavci School at Orahovac, at the Pilica School and at Kozluk, and he sent Zvornik Brigade heavy digging equipment and personnel to dig mass graves where executions were either ongoing or had just taken place.
- Through his aiding and abetting murder, Jokić participated in the persecutorial campaign against the Bosnian Muslim population.

DRAGAN JOKIĆ

Born	20 August 1957 in Grbavci, Zvornik Municipality, Bosnia and Herzegovina
Indictments	Initial: 30 May 2001, made public 15 August 2001; amended joinder: 26 May 2003
Surrendered	15 August 2001
Transferred to ICTY	15 August 2001
Initial appearance	21 August 2001, pleaded not guilty to all charges
Trial Chamber Judgement	17 January 2005, sentenced to nine years' imprisonment
Appeals Chamber Judgement	9 May 2007, sentence affirmed
Sentence served	22 December 2008, transferred to Austria to serve his sentence; credit was given for time spent in custody; early release granted on 13 January 2010

STATISTICS

Trial days	145
Witnesses called by Prosecution	48
Prosecution exhibits	876
Witnesses called by Defence	56
Defence exhibits	364

TRIAL	
Commenced	14 May 2003
Closing arguments	29 September - 1 October 2004
Trial Chamber I	Judge Liu Daqun (presiding), Judge Volodymyr Vassilenko, Judge Carmen Maria Argibay
Counsel for the Prosecution	Peter McCloskey, Antoinette Issa, Stefan Waespi, Milbert Shin, Salvador Viada
Counsel for the Defence	For Vidoje Blagojević: Michael Karnavas, Suzana Tomanović For Dragan Jokić: Miodrag Stojanović, Branko Lukić
Judgement	17 January 2005

APPEALS	
Appeals Chamber	Judge Fausto Pocar (presiding), Judge Mohammed Shahabuddeen (pre-appeal judge), Judge Mehmet Güney, Judge Andrésia Vaz, Judge Theodor Meron
Counsel for the Prosecution	Norman Farrell, Marie-Ursula Kind
Counsel for the Defence	For Vidoje Blagojević: Vladimir Domazet For Dragan Jokić: Branislava Isailović, Chrissa Loukas
Judgement	9 May 2007

RELATED CASES <i>by geographical area</i>	
ERDEMOVIĆ (IT-96-22) "PILICA FARM"	
KARADŽIĆ (IT-95-5/18) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"	
KRSTIĆ (IT-98-33) "SREBRENICA-DRINA CORPS"	
MILOŠEVIĆ (IT-02-54) "KOSOVO, CROATIA & BOSNIA"	
MLADIĆ (IT-09-92) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"	
NIKOLIĆ MOMIR (IT-02-60/1) "SREBRENICA"	
OBRENOVIĆ (IT-02-60/2) "SREBRENICA"	
ORIĆ (IT-03-68)	
PERIŠIĆ (IT-04-81)	
POPOVIĆ <i>et al.</i> (IT-05-88) "SREBRENICA"	
STANIŠIĆ & SIMATOVIĆ (IT-03-69)	
TOLIMIR (IT-05-88/2) "SREBRENICA"	
TRBIĆ (IT-05-88/1) "SREBRENICA"	

INDICTMENT AND CHARGES

The initial indictment against Blagojević was confirmed on 30 October 1998. He was charged with genocide or in the alternative complicity in genocide, extermination as a crime against humanity, murder as a crime against humanity and a violation of the laws or customs of war, and persecutions on political, racial and religious grounds as a crime against humanity, under both Article 7(1) and Article 7(3) of the Statute. The indictment was amended on 27 October 1999: two new charges were added, namely deportation as a crime against humanity and inhumane acts based on forcible transfer as a crime against humanity. The indictment was kept sealed until Blagojević was arrested.

An indictment against Jokić was confirmed on 30 May 2001 and made public on 15 August 2001. The indictment alleged individual criminal responsibility for extermination as a crime against humanity, murder as a crime against humanity and as a violation of the laws or customs of war, and persecutions on political, racial and religious grounds as a crime against humanity.

The amended joinder indictment filed on 27 May 2002 alleged that Blagojević was appointed Commander of the 1st Bratunac Light Infantry Brigade (Bratunac Brigade) of the Bosnian Serb Army (VRS) in May 1995. It was alleged that his brigade was responsible for the security of the territory opposite the northern, eastern and southern boundaries of the Srebrenica safe area and directly participated in its capture.

The indictment further alleged that during the VRS attack on the Srebrenica safe area and the subsequent killing and execution of Bosnian Muslim men, Blagojević was present in the Bratunac Brigade zone of responsibility exercising command up until at least 17 July 1995. He was then alleged to have led a battalion of his troops as part of a VRS operation attacking the Muslim enclave of Žepa. After the fall of the enclave, he was alleged to have returned to the Bratunac zone of responsibility where he remained until 22 September 1995. He remained the Bratunac Brigade Commander until mid-1996 when he was re-assigned to the VRS Main Staff, later named the VRS General Staff.

As a brigade commander, he was responsible for planning, directing and monitoring the activities of all the subordinate formations of his brigade, in accordance with the directives received from his higher command at the Corps and Main Staff levels.

The indictment alleged that Jokić held the rank of Major with the position of Chief of Engineering of the Zvornik Brigade. As Chief of Engineering he was a member of the Zvornik Brigade staff and the advisor to the Zvornik Brigade Commander and to the Chief of Staff/Deputy Commander for matters relating to Engineering Services, such as defence works, mining activities, road construction and excavation projects. He was also alleged to have been responsible for planning, directing, organising and monitoring the activities of the Zvornik Brigade Engineering Company which implemented the directives of the Brigade Commander and/or the Chief of Staff/Deputy Commander. In addition, he was alleged to have been the Duty Officer of the Zvornik Brigade for a 24-hour period from the morning of 14 July 1995 until the morning of 15 July 1995. The Duty Officer was the central point of co-ordination and communications for the Zvornik Brigade zone of responsibility.

The accused were charged as follows:

Vidoje Blagojević on the basis of his individual criminal responsibility (Article 7(1) of the Statute) and his superior criminal responsibility (Article 7(3) of the Statute) with:

- Complicity to commit genocide (Article 4),
- Extermination, murder, persecutions on political, racial and religious grounds, inhumane acts (forcible transfer) (crimes against humanity, Article 5), and
- Murder (violations of the laws or customs of war, Article 3)

Dragan Jokić on the basis of his individual criminal responsibility (Article 7(1) of the Statute) with:

- Extermination, murder, persecutions on political, racial and religious grounds (crimes against humanity, Article 5), and
- Murder (violations of the laws or customs of war, Article 3).

PRE-TRIAL PROCEEDINGS

On 28 March 2002, the Trial Chamber rejected Jokić's request for provisional release which he had filed on 10 January 2002. On 18 April 2002, a Bench of the Appeals Chamber granted Jokić leave to appeal the decision. On 28 May 2002, the Appeals Chamber granted the appeal and ordered that Jokić be provisionally released. On 11 April 2003, the Trial Chamber terminated Jokić's provisional release and ordered that the accused surrender to the custody of the Tribunal on 29 April 2003 for the commencement of trial proceedings.

Dragan Obrenović was also charged in relation with the events that occurred after the fall of Srebrenica, and on 11 September 2001 the Prosecution filed a motion to join the indictments of Blagojević, Jokić and Obrenović. Following its oral decision of 15 January 2002, the Trial Chamber ordered that the indictments against the three accused be joined. Pursuant to the oral directive of the Trial Chamber, the Prosecution submitted an amended indictment on 22 January 2002 to reflect the joinder of the three cases. In the amended indictment, the count of genocide against Blagojević was dropped.

On 26 March 2002 an indictment was confirmed against Momir Nikolić for crimes related to the events in Srebrenica. On 3 April 2002, the Prosecution filed a motion to join the case of Nikolić to that of Blagojević, Jokić and Obrenović. On 17 May 2002, the Trial Chamber issued a decision to jointly charge and try Blagojević, Jokić, Obrenović and Nikolić under case number IT-02-60.

On 6 May 2003, the Prosecution filed the "Joint Motion for Consideration of Plea Agreement between Momir Nikolić and the Office of the Prosecutor". An amended plea agreement was filed by the Prosecution on 7 May 2003. This agreement involved a guilty plea by Nikolić for count 5 of the amended joinder indictment which alleged persecutions, a crime against humanity. On 7 May 2003, the Prosecution, pursuant to the amended plea agreement which was accepted by the Trial Chamber, withdrew the remaining counts sought against Nikolić. On 2 December 2003, the Trial Chamber sentenced Nikolić to 27 years' imprisonment. On 8 March 2006, the Appeals Chamber reduced Nikolić's sentence to 20 years' imprisonment (see case number IT-02-60/1).

On 20 May 2003, the Prosecution submitted a motion for consideration of the plea agreement between Obrenović and the Prosecution. Under the plea agreement, Obrenović pleaded guilty to count 5 of the indictment alleging persecutions, a crime against humanity and the Prosecution withdrew the remaining counts sought against him. On 21 May 2003 the Trial Chamber accepted the guilty plea and the withdrawal of the remaining counts against Obrenović. On 23 May 2003, the Trial Chamber separated the proceedings against Obrenović (see case number IT-02-60/2). On 10 December 2003 the Trial Chamber sentenced Obrenović to 17 years' imprisonment.

TRIAL

The trial of Blagojević and Jokić commenced on 14 May 2003 and closed on 1 October 2004. During this time, the Trial Chamber heard 104 witnesses and admitted the testimony of another 57 witnesses pursuant to Rule 92 *bis* (Admission of Written Statements and Transcripts in Lieu of Oral Testimony). Evidence provided by more than 15 experts from fields including demographics, military affairs and forensic pathology, was admitted in the form of reports and testimony. The Prosecution presented its case from 14 May 2003 to 27 February 2004. The Defence for Blagojević presented its case from 14 April until 25 June 2004 (232 exhibits) and the Defence for Jokić presented its case from 1 until 23 July 2004 (132 exhibits).

On 14 and 15 September 2004, the Trial Chamber and the parties conducted a site visit in the Srebrenica, Bratunac and Zvornik municipalities to assist the Chamber in assessing the evidence admitted in the case. The parties presented their closing arguments from 29 September until 1 October 2004.

RULE 98*bis* DECISION

After the conclusion of the presentation of Prosecution evidence, the Trial Chamber can rule on whether there is a case to answer. If the Chamber believes that the Prosecution has not presented sufficient evidence to prove certain charges, it can dismiss those charges before the beginning of the presentation of defence evidence.

Following the conclusion of the Prosecution's case on 2 March 2004 both Blagojević and Jokić filed separate motions for full acquittals under Rule 98bis.

On 5 April 2004, the Trial Chamber entered a judgement of acquittal for Blagojević on counts 2 to 4 of the indictment (extermination; murder as a crime against humanity; and murder as a violation of the laws or customs of war), insofar as his individual criminal responsibility was alleged under Article 7(1) for planning, instigating, ordering and committing the crimes. The Chamber further entered a judgement of acquittal on counts 5 and 6 of the indictment (persecutions; inhumane acts), insofar as Blagojević's individual criminal responsibility was alleged under Article 7(1) for planning, instigating and ordering the crimes.

Jokić was acquitted on Counts 2 to 5 of the indictment insofar as his individual criminal responsibility was alleged under Article 7(1) for planning, instigating and ordering the crimes.

In respect to all other grounds of appeal the motions of the defendants were dismissed.

TRIAL CHAMBER JUDGEMENT

The Trial Chamber issued its judgement on 17 January 2005. In its summary, the Trial Chamber delineated the following findings:

Following the attack on the Srebrenica enclave, 20,000 to 30,000 Bosnian Muslims fled to Potočari, a village located in the northern-eastern part of the enclave where the Dutch Battalion of the United Nations Protection Forces (DutchBat) had its headquarters. DutchBat was unable to cope with the massive influx of refugees. It did not have adequate supplies of food, water or medicine for the refugees, due in large part to the VRS having prevented aid convoys from getting through during the previous months. Negotiations between Ratko Mladić, commander of the VRS, and DutchBat on the night of 11 July and the morning of 12 July resulted in an agreement that the VRS would transport the Bosnian Muslim civilian population out of the enclave to territory held by the Army of Bosnia and Herzegovina (ABiH).

The Trial Chamber found that the Bosnian Muslim population in Potočari were subjected to cruel and inhumane treatment. Some of the Bosnian Muslims in Potočari were subjected to beating, which caused severe pain and suffering. They did not have sufficient space, food or water, and were subjected to extreme forms of degradation. Men were separated from their family members, thus creating great anxiety among the population about the fate of the men.

The Trial Chamber found that members of the Bosnian Muslim population were murdered in Potočari. While there was little evidence to establish that there was an organised plan to murder Bosnian Muslims in Potočari, in an environment where beatings, severe abuse and intimidation were not only tolerated but seemingly encouraged, it was foreseeable that such murders would be committed.

The Trial Chamber further found that Bosnian Muslim women, children and elderly were forcibly transferred from Potočari to Bosnian Muslim held territory. While there is evidence that the Bosnian Muslims boarded the buses voluntarily and expressed the desire to leave Potočari, the Trial Chamber found that in the context of the situation as it existed in Potočari, this transfer cannot be described as "voluntary" but must be viewed as coerced or forced. Due to the humanitarian crisis that prevailed in Potočari - created by the Bosnian Serb forces, including the Bratunac Brigade - and the atmosphere of terror that reigned in Potočari, particularly on the night of 12 July, the Bosnian Muslim population, and indeed DutchBat, faced no choice but to move to another location, where their safety, well-being and indeed, survival, could be ensured.

A column of around 10,000 to 15,000 Bosnian Muslim refugees attempted to flee the enclave on the night of 11 July with the objective of breaking through to Bosnian Muslim held territory around Tuzla. The column consisted predominately of boys and men between the ages of 16 and 65. Over the course of the following days, more than 7,000 Bosnian Muslim men were captured, detained and transported to execution sites in the Bratunac and Zvornik Municipalities, where they were murdered.

The first stage of the operation against the Bosnian Muslim men included their detention in the town of Bratunac on the nights of 12 and 13 July. Blagojević was present in Bratunac on both dates. Men who were

forcibly separated from their families in Potočari, as well as men who were captured during the search of the terrain, were bussed to Bratunac. The men were either detained on the buses or in buildings in the Vuk Karadžić School complex. The small town of Bratunac was thus filled with Bosnian Muslim men. The Bratunac Brigade Military Police played a role in securing - or rather guarding - the detainees, thereby ensuring the continued control of the Bosnian Serb forces over these men.

While most men captured from the column were brought to Bratunac town, on 13 July the Bosnian Muslim men captured and held in the Sandići meadow were either forced to walk to, or were bussed, the short distance to the Kravica Warehouse, located on the main Bratunac-Konjević Polje road, in the Bratunac municipality. At least 1,000 men who were detained in the Kravica Warehouse were murdered on the night of 13 July, as Bosnian Serb forces fired automatic weapons directly into the warehouse.

On the morning of 14 July, a convoy of approximately 30 buses filled with Bosnian Muslim men left Bratunac for Zvornik. Members of the Bratunac Brigade served as an escort for this convoy. The Bosnian Muslim men were taken to various temporary detention centres in the Zvornik municipality including the schools at Grbavci, Petkovci and Pilica. Between 14 and 16 July, the men were blindfolded, put on buses and taken to nearby fields where group after group of helpless, terrified Bosnian Muslim men were executed. The fields in Orahovac, the Petkovci Dam and the Branjevo Military Farm were literally killing fields filled with the bodies of Bosnian Muslim men.

The Pilica Cultural Centre was filled to capacity with approximately 500 Bosnian Muslim men. This detention facility turned into an execution site on 16 July. As men cowered in the corner seeking protection or were forced to stand on the stage of the cultural centre, VRS soldiers fired automatic weapons and threw grenades into the building. There are no known survivors of this mass execution.

Loaders and excavators were either already at the sites at the time of the executions or arrived soon thereafter to bury the dead in mass graves. The Zvornik Engineering Company often provided both the machinery and the operators for the burial operation.

The Trial Chamber found that the facts established that the crimes of genocide, extermination, murder, persecutions through murder, cruel and inhumane treatment, terrorising the civilian population, inhumane acts and forcible transfer were committed in July 1995 following the fall of the Srebrenica enclave.

In relation to the crime of genocide, the Trial Chamber found that the acts through which genocide was committed were the killings of members of the group and the causing of serious bodily or mental harm to members of the group. The group was defined as the Bosnian Muslims of Srebrenica.

The Trial Chamber found that the specific intent to destroy in whole or in part the Bosnian Muslim group as such could be inferred from the events which followed the "Krivaja 95" military operation, which had as its ultimate objective the elimination of the Srebrenica enclave and, therefore, the Bosnian Muslim community living there. These events were: the forced removal from the Srebrenica enclave of the Bosnian Muslims, the separation of male members of the Bosnian Muslim community in Potočari, the forcible transfer of the Bosnian Muslim women, children and elderly from Serb-held territory, and ultimately, the murder of more than 7,000 Bosnian Muslim men and boys.

The Trial Chamber found that the term "destroy" referred only to the physical and biological destruction of the group; it did not include cultural genocide. The Trial Chamber further found that such destruction should not simply be equated with killing. While killing large numbers of a group may be the most direct means of destroying a group, other acts or series of acts can also lead to the destruction of the group.

Both Blagojević and Jokić were charged with individual criminal responsibility for participation in a joint criminal enterprise. The Trial Chamber did not find that the elements that must be established to find individual criminal responsibility pursuant to a joint criminal enterprise were all met in the case. Moreover, the Trial Chamber found that the mode of liability that more accurately reflected the criminal conduct of both the accused, on the basis of their criminal intent, was aiding and abetting the commission of the crimes.

The Trial Chamber found that Blagojević was in command of and had control over the forces and resources of the Bratunac Brigade in July 1995, and that Jokić served as Duty Officer at the Zvornik

Brigade from the morning of 14 July to the morning of 15 July, and furthermore that he served as Chief of Engineering of the Zvornik Brigade.

The Chamber found that there were acts committed by Blagojević or members of the Bratunac Brigade which provided practical assistance to the murder operation that resulted in the death of more than 7,000 Bosnian Muslim men and boys. These acts included the separation of the men from the rest of the Bosnian Muslim population in Potočari, the guarding of Bosnian Muslim men in the town of Bratunac from 12 to 14 July, and the participation of the Bratunac Brigade battalions, and indeed Blagojević himself, in the search operation.

The Chamber further found, however, that there was insufficient evidence to establish that Blagojević had knowledge that these acts assisted in the commission of the crime of murder, in relation to the mass executions. Accordingly, Blagojević's responsibility for aiding and abetting murder in relation to the mass executions was not established.

The Chamber found that there were acts committed by members of the Bratunac Brigade which provided practical assistance to the murders committed in the town of Bratunac, and that Blagojević knew that members of the Bratunac Brigade gave practical assistance to the murder of men in Bratunac. Accordingly, the Chamber found that Blagojević aided and abetted the commission of murder in Bratunac.

The Chamber found that Blagojević did not have knowledge that the crime of extermination was being committed at the time of its commission, and therefore could not incur any liability for acts which may have been taken by himself or members of the Bratunac Brigade which assisted the principals and had a substantial effect on the commission of extermination. Accordingly, Blagojević's liability for aiding and abetting extermination was not established and he was acquitted of the charge of extermination in count 2 of the indictment.

The Chamber further found that members of the Bratunac Brigade rendered practical assistance which had a substantial effect on the commission of persecutions through cruel and inhumane treatment and the terrorising of the civilian population. The Chamber found that Blagojević had knowledge of the participation of members of the Bratunac Brigade in these acts and further knew that these acts assisted in the crime of persecutions through terrorising the civilian population and cruel and inhumane treatment.

Finally, the Chamber found that members of the Bratunac Brigade, including members of the Military Police and members of the battalions which secured the Potočari area, rendered practical assistance to the forcible transfer of the Bosnian Muslim population out of the Srebrenica area. Through their participation in separating the population, loading and escorting the buses, and patrolling the area around which the population was held until the transfer was complete, the contribution made to it by members of the Bratunac Brigade had a substantial effect on the commission of the crime. In addition, the Chamber found that Blagojević knew of the assistance rendered by members of his brigade, and that the acts undertaken by them assisted in the commission of forcible transfer. Blagojević, as a commander involved in the Krivaja 95 operation, knew the objective and result of that operation: the elimination of the Srebrenica enclave. This objective necessarily entailed removing the Bosnian Muslim population from that area. Over the course of 12-14 July, Blagojević, through his presence at the forward command post, in Srebrenica and in Bratunac, would have seen for himself the manifestations of that objective as busload after busload of Bosnian Muslim women, children and elderly travelled from Potočari to Kladanj through Bratunac, and the Bosnian Muslim men were temporarily detained in Bratunac pending their transfer out of the area. Blagojević knew that the forcible transfer was carried out on discriminatory grounds, as the objective of the forcible transfer was to remove the Bosnian Muslims from that part of Bosnia. Accordingly, the Chamber found that Blagojević was liable for aiding and abetting persecutions through the underlying acts of murder, cruel and inhumane treatment, terrorising the civilian population and forcible transfer.

Having established that Blagojević bore criminal responsibility for aiding and abetting persecutions through forcible transfer, the Chamber found that Blagojević aided and abetted the crime of inhumane acts (forcible transfer).

The Chamber found that Blagojević knew of the principal perpetrators' intent to destroy in whole or in part the Bosnian Muslim group as such. The Chamber inferred this knowledge from all the circumstances that surrounded the take-over of the Srebrenica enclave and the acts directed at the Bosnian Muslim

population which followed. Accordingly, the Chamber found that Blagojević was guilty of complicity in genocide by aiding and abetting genocide.

In relation to Jokić, the Chamber found that murder, both as a violation of the laws or customs of war and as a crime against humanity, had been established.

The Chamber was convinced that Jokić knew that Bosnian Muslim prisoners were detained at the Grbavci School awaiting their execution when he ordered some of his men to transport a piece of excavation equipment there. The Chamber therefore found that Jokić knew that he was sent to Orahovac specifically in order to dig mass graves for the victims of the executions, and that by ordering that the excavator be taken to Orahovac, Jokić provided practical assistance that had a substantial effect on the commission of the crime.

It was not established beyond reasonable doubt that Jokić provided substantial assistance to the mass execution that was subsequently committed at Petkovci School and Dam. The Trial Chamber did not find evidence that members of the Zvornik Brigade took part in that execution.

The Chamber found that Jokić knew of the detention of Bosnian Muslim prisoners at the Pilica School as early as 14 July. Furthermore, the Chamber found beyond reasonable doubt that Jokić, as Chief of Engineering, was informed of the 16 July request for heavy machinery and was in contact with Engineering Company members in order to effectuate the request. As a result of Jokić's actions Zvornik Brigade engineering resources and personnel were sent. The Chamber was convinced beyond reasonable doubt that Jokić knew that these resources were sent in order to dig mass graves. The Chamber therefore found that it had been established beyond reasonable doubt that Jokić knew that murders were committed on a vast scale at Orahovac, Pilica/Branjevo Military Farm, and Kozluk, and that Jokić aided and abetted the commission of those murders.

Under count 5, Persecutions, the Prosecution charged Jokić with the four underlying acts of murder, cruel and inhumane treatment, terrorising the civilian population, and destruction of property. The Chamber recalled its findings that, with regard to the underlying acts with which Jokić was charged, the murder, the cruel and inhumane treatment, and the terrorising of the Bosnian Muslim civilians constituted part of the persecutorial campaign against the Bosnian Muslim population.

The Chamber found that no evidence had been presented which would have enabled it to conclude that Jokić rendered practical assistance, encouragement or moral support, which had a substantial effect on the cruel and inhumane treatment or the terrorising of the civilian population. The Chamber therefore concluded that Dragan Jokić did not bear any liability for these underlying acts.

With regard to the underlying act of murder, the Chamber found beyond reasonable doubt that Jokić aided and abetted the commission of the murders committed at Orahovac, Pilica/Branjevo Military Farm, and Kozluk. The evidence showed that from 14 July onwards Jokić knew that thousands of Bosnian Muslim men and boys were being detained in the Zvornik Brigade area. The evidence further established that Jokić knew that these men and boys were detained on discriminatory grounds because they were Bosnian Muslim. The Chamber was therefore convinced that Jokić knew that the crimes committed at Orahovac, Pilica/Branjevo Military Farm, and Kozluk were committed by the principal perpetrators against the victims because they were Bosnian Muslim. Consequently, the Chamber found that by his actions Jokić aided and abetted the crime of persecutions committed through murder at Orahovac, Pilica/Branjevo Military Farm, and Kozluk.

The Chamber then turned to assessing the gravity of the offences for which each of the accused had been convicted, including the individual participation of each of the accused in the crimes.

In relation to Blagojević, the Chamber found that he was not one of the major participants in the commission of the crimes. The Chamber found that while commanders of the Main Staff and the MUP played the key roles in designing and executing the common plan to kill thousands of Bosnian Muslim men and to forcibly transfer over 30,000 Bosnian Muslims, Blagojević's contribution to the commission of the crimes was primarily through his substantial assistance to the forcible transfer and due to his knowledge of the objective to eliminate the Bosnian Muslim enclave of Srebrenica. The Chamber found that it had not been established that he had knowledge of the executions when he rendered this assistance. The Chamber considered, however, that the practical assistance he rendered had a substantial effect on the commission of the crime of genocide.

Like Blagojević, Jokić did not play a major role in the commission of the crimes. In addition, the Chamber found that he was not in a command position. He could not issue orders on his own, and rather conveyed the orders from superiors to the members of the engineering company of the Zvornik Brigade. However, he substantially assisted in the commission of the crimes by sending machinery of the engineering company to the execution sites and members of the engineering company to take part in the burial operation.

The Chamber considered the relevant aggravating and mitigating circumstances in determining the sentence for each accused.

The Chamber found Blagojević not guilty of extermination, and guilty of the following crimes:

- Complicity to commit genocide by aiding and abetting genocide (genocide, Article 4)
- Aiding and abetting murder, persecutions on political, racial and religious grounds and inhumane acts (forcible transfer) (crimes against humanity, Article 5)
- Aiding and abetting murder (violations of the laws or customs of war, Article 3)

Sentence: 18 years' imprisonment.

The Chamber found Jokić not guilty of murder as a crime against humanity, and guilty of the following crimes:

- Aiding and abetting extermination and persecutions on political, racial and religious grounds (crimes against humanity, Article 5)
- Aiding and abetting murder (violations of the laws or customs of war, Article 3)

Sentence: 9 years' imprisonment.

APPEALS CHAMBER JUDGEMENT

The Prosecution filed its appeal brief on 9 May 2005.

Blagojević's appeal brief was filed on 20 October 2005 and the third amended appellate brief of Jokić was filed on 6 July 2006.

The appeals hearing took place on 5 and 6 December 2006.

In his appeal, Blagojević submitted that the Trial Chamber erred in fact in finding that he had knowledge of the commission of the crime of genocide or the genocidal intent of the principal perpetrators. In disputing his awareness of the commission of genocide and of the genocidal intent of the principal perpetrators, Blagojević pointed to the Trial Chamber's finding that he lacked knowledge about the mass killings, which the Trial Chamber determined formed part of the genocide. The Prosecution responded that the fact that Blagojević was unaware of the mass killings was irrelevant to his liability as an aider and abettor of the crime of genocide.

The Appeals Chamber accepted that the forcible transfer operation, the separations, and the mistreatment and murders in Bratunac town were relevant considerations in assessing whether the principal perpetrators had genocidal intent. However, the Appeals Chamber was not convinced by the Trial Chamber's reasoning that the forcible transfer operation alone or coupled with the murders and mistreatment in Bratunac town would suffice to demonstrate the principal perpetrators' intent to "destroy" the protected group.

The Appeals Chamber noted that the appeals judgement in the case of Radislav Krstić clearly held that "forcible transfer does not constitute in and of itself a genocidal act", and it was simply a relevant consideration as part of the overall factual assessment. Similarly, the Appeals Chamber noted that "opportunistic killings" by their very nature provided a very limited basis for inferring genocidal intent. In

the view of the Appeals Chamber no reasonable trier of fact could find beyond reasonable doubt that, without knowledge of the mass killings, Blagojević's awareness of the other facts related to the forcible transfer operation showed that he had knowledge of the principal perpetrators' genocidal intent.

On the basis of the foregoing, the Appeals Chamber granted Blagojević's sixth ground of appeal and reversed his conviction for complicity in genocide, Judge Shahabuddeen dissenting.

Under ground seven of his appeal, Blagojević raised four errors of law and fact in connection with his conviction for aiding and abetting, including an alleged legal error in the definition of aiding and abetting and alleged factual errors relating to his knowledge of the underlying crimes, whether he made Bratunac Brigade resources available, and whether this constituted substantial assistance.

The Appeals Chamber considered that Blagojević failed to identify any legal error on the part of the Trial Chamber in setting forth the applicable law on aiding and abetting. Further, with regard to his knowledge of the underlying crimes, he simply incorporated by reference arguments advanced elsewhere in his appeal, which the Appeals Chamber addressed and rejected, with the exception of his challenge to his conviction for complicity in genocide.

Blagojević's submissions were found to be insufficient to call into question the reasonableness of the Trial Chamber's findings that he permitted Bratunac Brigade resources to facilitate the commission of the crimes. Furthermore, he did not demonstrate error in the Trial Chamber's finding that the Bratunac Brigade substantially contributed to the commission of the crimes. In making its findings, the Trial Chamber was aware of the more limited scope of assistance provided by the Bratunac Brigade in relation to other elements of the VRS and civilian authorities. Nonetheless, the Trial Chamber described the contribution of the resources made available by Blagojević as "practical assistance" to the crimes which had a substantial effect on the commission of the crimes. The Appeals Chamber recalled that, in a similar context, it reached the same conclusion in the Krstić Appeals Judgement.

For the reasons given in connection with the sixth ground of appeal, the Appeals Chamber granted Blagojević's seventh ground of appeal with respect to the crime of genocide, and dismissed his appeal against the Trial Chamber's findings related to aiding and abetting in all other respects. Judge Shahabuddeen dissented.

The Appeals Chamber dismissed all other grounds of appeal by Blagojević, with a dissenting opinion by Judge Shahabuddeen.

Regarding Jokić, the Appeals Chamber dismissed all 7 of his grounds of appeal. The Prosecution's ground of appeal was also dismissed.

On 9 May 2007, the Appeals Chamber rendered its judgement reducing Blagojević's sentence to 15 years' imprisonment. Jokić's sentence of nine years' imprisonment was affirmed.

Blagojević was transferred to Norway on 25 January 2008 to serve his sentence, while Jokić was transferred to Austria on 22 December 2008. Both were entitled to credit for time spent in custody.

On 13 January 2010, Jokić was granted early release.