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TRIAL CHAMBER

CHAMBRE DE 1^{ÈRE}
INSTANCE

The Hague, 17 January 2005
JP/P.I.S./928e

JUDGEMENT IN THE CASE
THE PROSECUTOR v. VIDOJE BLAGOJEVIĆ AND DRAGAN JOKIĆ

- **VIDOJE BLAGOJEVIĆ SENTENCED TO 18 YEARS' IMPRISONMENT**
- **DRAGAN JOKIĆ SENTENCED TO 9 YEARS' IMPRISONMENT**

Please find below the summary of the Judgement delivered by Trial Chamber I Section A, composed of Judge Liu (Presiding), Judge Vassylenko, and Judge Argibay, as read out by the Presiding Judge.

SUMMARY IN THE CASE

What follows is a summary of the written Judgement and forms no part of it.

Trial Chamber I is sitting today to render our Judgement in the case of the Prosecutor v. Vidoje Blagojević and Dragan Jokić. Both men are charged for crimes committed against Bosnian Muslims following the fall of the Srebrenica enclave in July 1995.

The horrible crimes committed following the fall of Srebrenica are well-known: the mass-murder of more than 7,000 Bosnian Muslim men and boys, and the forcible transfer of the Bosnian Muslim women, children and elderly from this part of eastern Bosnia. These crimes were committed with a level of brutality and depravity not previously seen in the conflict in the former Yugoslavia and are among the darkest days in modern European history.

At the outset, the Trial Chamber emphasises that while the crimes committed in and around Srebrenica in July 1995 form the basis for this case, this case and this trial is ultimately about two men, Vidoje Blagojević and Dragan Jokić, and their alleged individual criminal responsibility.

The Trial Chamber will therefore first list the charges brought against the Accused and provide a brief overview of the procedural history of the case. It will then provide a summary of the factual allegations that underpin the crimes charged in this case. Next, it will examine the specific crimes and the criminal responsibility, if any, for each accused. Finally, it will render its verdict.

The Accused

In July 1995, Vidoje Blagojević was the Commander of the Bratunac Brigade and held the rank of Colonel. It is alleged that by virtue of his position as Commander of the Bratunac Brigade, Colonel Blagojević participated in the forcible transfer of women and children from the Srebrenica enclave to Kladanj on 12 and 13 July, and that he was responsible for all prisoners captured, detained, or killed within the Bratunac Brigade zone of responsibility, including those prisoners that were subsequently transported, with his knowledge, to the Zvornik Brigade zone for further detention and execution.

Vidoje Blagojević is charged with six counts, under both Article 7(1) and Article 7(3) of the Statute of the Tribunal, namely: complicity to commit genocide; extermination, a crime against humanity; murder, as a crime against humanity and as a violation of the laws or customs of war;

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persecutions, a crime against humanity; and finally, inhumane acts (forcible transfer), a crime against humanity.

In July 1995, Dragan Jokić was the Chief of Engineering of the Zvornik Brigade and held the rank of Major. Furthermore, from the morning of 14 July to the morning of 15 July, Dragan Jokić served as Duty Officer of the Zvornik Brigade.

Major Jokić, as Chief of Engineering of the Zvornik Brigade, is accused of having assisted in the planning, monitoring, organising and carrying out of the burials involved in the murder operation and of having, as Brigade Duty Officer, assisted in co-ordinating communication between officers of the Army of the Republika Srpska – or the VRS – and commands involving the transportation, detention, execution and burial of Bosnian Muslims from Srebrenica, and issued or transmitted reports and updates to superiors on the progress of the overall murder operation.

Accordingly, Dragan Jokić is charged with four counts under Article 7(1) of the Statute, namely, extermination, a crime against humanity; murder, as a crime against humanity and as a violation of the laws or customs of war punishable under Article 3 of the Statute; and with persecutions, a crime against humanity.

Procedural Background

Vidoje Blagojević was first indicted on 30 October 1998. Following an amendment to his indictment in 1999, the case against him was joined in January 2002 with two other accused also charged with crimes following the fall of Srebrenica, including Dragan Jokić, who had been indicted on 30 May 2001. In May 2002, a fourth accused, Momir Nikolić, was joined to the case. Momir Nikolić and Dragan Obrenović were subsequently separated from these proceedings following their guilty pleas.

The trial 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*. 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. More than 1,000 exhibits were admitted during the trial.

Following the conclusion of trial proceedings, the Trial Chamber and the Parties conducted a site visit in the Srebrenica, Bratunac and Zvornik municipalities to assist the Trial Chamber in assessing the evidence admitted in the case.

The Facts

The Trial Chamber will first provide a summary of the crimes committed in relation to the Bosnian Muslim population in Potočari, and will then address the crimes committed against the Bosnian Muslim men.

Potočari

Following the attack on the Srebrenica enclave, 20,000 to 30,000 Bosnian Muslims fled to Potočari, a village located at the northern-eastern part of the enclave where the Dutch Battalion of the United Nations Protection Forces 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, which was due in large part to the blockade of supplies into the enclave and to the Dutch Battalion in the months preceding the attack. Negotiations between General Ratko Mladić, commander of the VRS, and DutchBat on the night of 11 July resulted in the decision to bus the Bosnian Muslim population out of Potočari to non-Serb held territory.

On 12 and 13 July, members of the VRS, members of police units from the Ministry of Interior – or MUP – and members of the civilian authorities of Bratunac were present in Potočari as well as members of the Dutch Battalion. Among the VRS forces were some members of the Bratunac

Brigade Military Police, members of the Bratunac Brigade command and, at least, members of the 1st, 2nd and 3rd Bratunac Brigade infantry battalions.

The Trial Chamber finds that the Bosnian Muslim population in Potočari were subjected to cruel and inhumane treatment in Potočari. 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 families members, thus creating great anxiety among the population about the fate of the men.

Muniba Mujić tried to follow her brother as he was taken away by VRS soldiers. She testified about the conversation she had with a soldier at the time:

So I said: “Can I please take my bag to my brother [...]” and he said: “No, you won’t. Don’t take that bag, they won’t need it.” Because Nenad had told me they would not need that any more, that seemed very suspicious to me. I found it very hard, and I started to cry and I went past him. But his things were left behind, and I just wanted to get to my brother. I didn’t care about the things, so I went past him.

The Trial Chamber further finds that an atmosphere of terror that was created in Potočari: armed members of the VRS were present and walked among the Bosnian Muslim refugees, taking people at will for beatings and other forms of serious abuse. Furthermore, identification documents were taken from the men, which sent a message among the Bosnian Muslim population that the men may not need their documents anymore because their fate – death – had been decided.

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

Finally, the Trial Chamber further finds that Bosnian Muslim women, children and elderly were forcibly transferred from Potočari to non-Serb held territory in Bosnia. While there is evidence that the Bosnian Muslims boarded the buses voluntarily and expressed the desire to leave Potočari, the Trial Chamber finds 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 the DutchBat, faced no choice but to move to another location, where their safety, well-being and indeed, survival, could be ensured.

The Bosnian Muslim Men

The majority of the Bosnian Muslim men in Srebrenica fled the enclave on the night of 10 July with the objective of breaking through to non-Serb held territory around Tuzla. 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. Colonel 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 bused to Bratunac town. 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.

The Trial Chamber finds that during their detention in Bratunac, the Bosnian Muslim men were subjected to cruel and inhumane treatment. They were detained in inhumane conditions; they were not given sufficient food, water or medical treatment, and were detained in overcrowded spaces, often without basic facilities. The men were subjected to random acts of violence: beatings, verbal

abuse and threats to their well-being were continuous. Shooting could be heard throughout the night, as could the occasional scream of a detainee taken outside of the school or off the bus and murdered.

The Bratunac Brigade Military Police were involved in guarding the detainees, and in the case of the Vuk Karadžić school, had a role in controlling who entered and left the premises.

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, which is located on the main Bratunac-Konjević Polje road, in the Bratunac municipality. The nearly 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. Once the majority of the men were killed, the Bosnian Serb forces called out the survivors and summarily executed them outside the warehouse, in plain-view of the road.

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 Grbavci school, the Petkovci school and the Pilica school. 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 Pekovci Dam and the Branjevo Military Farm were literally killing fields filled with bodies of Bosnian Muslim men.

Witness P-111, a Bosnian Muslim man, who was 17 years old at the time the crimes were committed, described the desperate atmosphere at Petkovci Dam at the men were brought to be executed:

[M]any people were screaming “give us water and then kill us.” We were really so thirsty, we just couldn’t take it any more, even if we were going to be killed within moments of that. [...] We were playing for time. We were just living for another extra few seconds. [...] As others were killing, as others were being killed, I was praying that I be killed, too, because I was in terrible pain. But I dared not call out to them. So I just thought that my mother would never know where I was, as I was thinking that I’d like to die.

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.

Legal Findings in Relation to the Crimes Charged

The Trial Chamber finds that the facts, as briefly described herein, establish that the crimes of genocide, extermination, murder, persecutions through murder, cruel and inhumane treatment, terrorising the civilian population and forcible transfer, and inhumane acts (forcible transfer) were committed in July 1995 following the fall of the Srebrenica enclave. The Trial Chamber will not repeat its findings on the law in detail here, but will highlight certain findings.

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

The Trial Chamber finds that serious bodily or mental harm was inflicted on members of the Bosnian Muslim group through various means including: by forcing the displacement of the Bosnian

Muslim population from Srebrenica, by separating men from the rest of the population, by terrorising the Bosnian Muslim population in Potočari, by subjecting members of the group to serious physical or mental abuse in Potočari and in detention centres, and by causing severe trauma to those men who managed to survive the executions.

The Trial Chamber further finds that in the circumstances of this case, through the manner and means in which it was carried out, the forcible transfer of the Bosnian Muslim population from the Srebrenica enclave, in combination with the killings or on its own, caused serious mental harm so as to be an act of genocide.

The Trial Chamber finds that the specific intent to destroy in whole or in part the Bosnian Muslim group as such can be inferred from the events which followed the “Krivaja 95” military operation, which had as its ultimate objective the elimination of the Srebrenica enclave, namely, the forced removal of the Bosnian Muslims out of the Srebrenica enclave, 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 finds that the term “destroy” refers only to the physical and biological destruction of the group; it does not include cultural genocide. The Trial Chamber further finds 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.

The Trial Chamber finds that depending on the circumstances and manner in which a forcible transfer is carried out, it may lead to the destruction of the protected group. In this case, the forcible transfer was directed at a protected group: the Bosnian Muslims of Srebrenica. It was preceded by the separation of the community by gender. The Trial Chamber finds the separation of the Bosnian Muslim men from the rest of the Bosnian Muslim group to be a critical piece of evidence in establishing that the Bosnian Serbs who organised and implemented the transfer did not want the Bosnian Muslim group to ever reconstitute itself as a group in Srebrenica or elsewhere, and therefore they intended to physically destroy the group.

In relation to the displacement of the Bosnian Muslim population from the Srebrenica enclave, the Trial Chamber finds that the Bosnian Muslim population was forcibly transferred from the area in which they were lawfully present for reasons other than those recognised under international law, namely the security of the population or imperative military necessity. The Trial Chamber finds that the transfer was “forcible” because the Bosnian Muslim population did not have a free or genuine choice to remain in the Srebrenica enclave, including in the area around the Dutch battalion headquarters in Potočari. This lack of a genuine choice was a result of the actions and behaviour of the officers and soldiers of the VRS towards the refugees, including the commission of serious crimes by members of the Bosnian Serb forces in Potočari, the organised, inhumane and frequently aggressive process of separating out and removing the male members of the population, and the conditions and atmosphere of terror that were created in Potočari. Furthermore, the Trial Chamber finds that the Bosnian Serb forces who organised and implemented the transfer of the Bosnian Muslim population did not intend that the displacement of the population as a temporary measure.

Findings in Relation to the Individual Criminal Responsibility of the Accused

At this juncture, the Trial Chamber recalls that the purpose of a trial is not just to determine whether serious violations of international humanitarian law were committed in a certain area but ultimately to determine who bears individual criminal responsibility for those crimes.

The Trial Chamber has assessed the individual criminal responsibility of Vidoje Blagojević and Dragan Jokić in the context of all the events which followed the fall of Srebrenica in July 1995.

While recognising that there was a functional chain for the security organ also operating in July 1995, the Trial Chamber finds that Colonel Blagojević, as commander of the Bratunac Brigade, was in command and had control over the forces and resources of the Bratunac Brigade in July 1995.

Liability may therefore be attached to Colonel Blagojević when it has been found that he knew about the commission of a crime and that he permitted the use of personnel or resources to facilitate the commission of this crime.

Dragan Jokić served as Duty Officer at the Zvornik Brigade from the morning of 14 July to the morning of 15 July. Furthermore, he served as Chief of Engineering of the Zvornik Brigade. The Trial Chamber will assess whether through actions he took in fulfilling these two functions he entails criminal liability for the crimes committed.

Vidoje Blagojević and Dragan Jokić are both charged with individual criminal responsibility for participation in a joint criminal enterprise. The Trial Chamber, for reasons that are discussed in detail in the judgement, does not find that the elements that must be established to find individual criminal responsibility pursuant to a joint criminal enterprise are all met in the present case. Moreover, the Trial Chamber finds that the mode of liability that more accurately reflects the criminal conduct of both the accused, on the basis of their criminal intent, is aiding and abetting the commission of the crimes.

The Trial Chamber will now assess the liability of Vidoje Blagojević and Dragan Jokić for aiding and abetting the crimes established.

Vidoje Blagojević

The Trial Chamber finds that there are acts committed by Colonel 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 include 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, the participation of the Bratunac Brigade battalions, and indeed, Colonel Blagojević himself, in the search operation.

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

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

The Trial Chamber finds that Colonel Blagojević did not have knowledge that the crime of extermination was being committed at the time of its commission, and therefore cannot 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, Colonel Blagojević liability for aiding and abetting extermination has not been established and he is acquitted of the charge of extermination in Count 2 of the Indictment.

As for the crime of persecutions, the Trial Chamber finds that Colonel Blagojević knew of the discriminatory basis upon which the underlying acts of murder, cruel and inhumane treatment, terrorising the civilian population and forcible transfer were committed. Murder has been discussed above.

The Trial Chamber finds 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 terrorising the civilian population. The Trial Chamber finds that Colonel 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 Trial Chamber finds 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.

The Trial Chamber further finds that Colonel 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. Colonel 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, Colonel Blagojević, through his presence at the forward command post, in Srebrenica town and in Bratunac, would have seen for himself the manifestation of that objective as busload after busload of Bosnian Muslim women, children and elderly travelled from Potočari to Kladanj through Bratunac, and then the temporary detention of the Bosnian Muslim men in Bratunac pending their transfer out of the area. Colonel 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 Trial Chamber finds that Colonel Blagojević is 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 Colonel Blagojević bears criminal responsibility for aiding and abetting persecutions through forcible transfer, the Trial Chamber finds that Colonel Blagojević aided and abetted the crime of inhumane acts (forcible transfer).

In order to assess Colonel Blagojević's liability for complicity in genocide, it must determine first whether he rendered acts of practical assistance that had a substantial effect on the commission of the killings and serious bodily or mental harm that underlie the crime of genocide. If this finding is in the affirmative, the Trial Chamber will first determine whether Colonel Blagojević had knowledge that his acts assisted in the commission of these underlying acts. Then, the Trial Chamber will then whether Colonel Blagojević's knew of the principal perpetrator's specific intent to destroy the Bosnian Muslim group in whole or in part.

Based on its findings in relation to murder, persecutions and other inhumane acts (forcible transfer), the Trial Chamber further finds that Colonel Blagojević knew that by allowing the resources of the Bratunac Brigade to be used he was making a substantial contribution to the killing of Bosnian Muslim men and to the infliction of serious bodily or mental harm on the Bosnian Muslim population.

The Trial Chamber finds that Colonel Blagojević knew of the principal perpetrators' intent to destroy in whole or in part the Bosnian Muslim group as such. The Trial Chamber infers 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 Trial Chamber finds that Colonel Blagojević is guilty of complicity in genocide by aiding and abetting genocide.

The Trial Chamber does not find that Colonel Blagojević bears responsibility under Article 7(3), for reasons set out in the judgement.

Dragan Jokić

The Trial Chamber has found that murder, both as a violation of the laws or customs of war and as a crime against humanity, has been established.

a. Kravica and Glogova

The Trial Chamber believes it has not been proven beyond reasonable doubt that Dragan Jokić had knowledge that he was sending someone to Kravica warehouse or to participate in any way in the burials following the Kravica warehouse massacre.

b. Orahovac

The Trial Chamber is convinced that Dragan Jokić knew that Bosnian Muslim prisoners were detained at the Grbavci School awaiting their execution when he told someone to go there. The Trial Chamber therefore finds that Dragan Jokić knew that he was sent to Orahovac specifically in order to dig mass graves for the victims of the executions. By telling him to take the excavator to Orahovac, Dragan Jokić provided practical assistance that had a substantial effect on the commission of the crime.

c. Petkovci School and Dam near Petkovci

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

d. Pilica School and Branjevo Military Farm

The Trial Chamber finds that Dragan Jokić knew of the detention of Bosnian Muslim prisoners at the Pilica School as early as 14 July. Furthermore, the Trial Chamber finds 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 Dragan Jokić's actions, Zvornik Brigade engineering resources and personnel were sent. The Trial Chamber is convinced beyond reasonable doubt that Dragan Jokić knew that these resources were sent in order to dig mass graves.

e. Kozluk

The Trial Chamber finds Dragan Jokić provided practical assistance that had a substantial effect on the commission of the crimes and the Trial Chamber is convinced that Dragan Jokić knew that the Zvornik Brigade's engineering resources were to be used to dig mass graves for the executed victims.

f. Conclusion

The Trial Chamber that it has been established beyond reasonable doubt that Dragan Jokić aided and abetted the murders committed at Orahovac, Pilica/Branjevo Military Farm, and Kozluk.

(ii) Extermination

The Trial Chamber has found that extermination was committed. The Trial Chamber finds beyond reasonable doubt that Dragan Jokić rendered practical assistance, which had a substantial effect on the commission of the crime of extermination.

The Trial Chamber has been furnished with evidence that Dragan Jokić knew about the detention of Bosnian Muslims at the Grbavci School at Orahovac, at the Pilica School, and at Kozluk. Further, the fact that Dragan Jokić sent Zvornik Brigade heavy digging equipment and personnel to

operate this equipment to dig mass graves where executions were either ongoing or had just taken place proves beyond reasonable doubt that Dragan Jokić knew that the murders were committed on a vast scale.

(iii) Persecutions

Under Count 5, Persecutions, the Prosecution charges Dragan Jokić with the four underlying acts of murder, cruel and inhumane treatment, terrorising the civilian population, and destruction of property. The Trial Chamber recalls its findings that for the underlying acts with which Dragan Jokić have been 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 Trial Chamber finds that no evidence has been presented which would enable it to conclude that Dragan 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 Trial Chamber therefore concludes that Dragan Jokić does not bear any liability for these underlying acts.

With regard to the underlying act of murder, the Trial Chamber has found beyond reasonable doubt that Dragan Jokić aided and abetted the commission of the murders committed at Orahovac, Pilica/Branjevo Military Farm, and Kozluk. The evidence shows that from 14 July onwards Dragan Jokić knew that thousands of Bosnian Muslim men and boys were being detained in the Zvornik Brigade area. The evidence further establishes that Dragan Jokić knew that these men and boys were detained on discriminatory grounds because they were Bosnian Muslim. The Trial Chamber is therefore convinced that Dragan 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 Trial Chamber finds that by his actions as described previously Dragan Jokić aided and abetted the crime of persecutions committed through murder at Orahovac, Pilica/Branjevo Military Farm, and Kozluk.

Sentencing

The Trial Chamber has assessed the gravity of the offences for which the accused have been convicted, including the individual participation of each accused in the crimes.

In relation to Vidoje Blagojević, the Trial Chamber finds that he was not one of the major participants in the commission of the crimes. The Trial Chamber has 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, Vidoje 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 Trial Chamber found that it has not been established that he had knowledge of the executions when he rendered this assistance. The Trial Chamber must consider, however, that the practical assistance he rendered had a substantial effect on the commission of the crime of genocide.

Dragan Jokić, like Vidoje Blagojević did not play a major role in the commission of the crimes. In addition, the Trial Chamber has found that he was not in a command position. He could not issue orders on his own, but 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 Trial Chamber has considered the relevant aggravating and mitigating circumstances in determining the sentence for each Accused.

Disposition

For the foregoing reasons, the Trial Chamber finds:

The Accused **Vidoje Blagojević** is found **NOT GUILTY** and therefore acquitted of the following counts:

- **Count 2:** Extermination

The Accused **Vidoje Blagojević** is found not guilty under Article 7(3) of the Statute but **GUILTY** pursuant to Article 7(1), through aiding and abetting, of the Statute of the following counts:

- **Count 1B:** Complicity to Commit Genocide;
- **Count 3:** Murder, as a crime against humanity;
- **Count 4:** Murder, as a violation of the laws or customs of war;
- **Count 5:** Persecutions, as a crime against humanity; and
- **Count 6:** Inhumane Acts (forcible transfer)

The Trial Chamber sentences **Vidoje Blagojević** to a single sentence of imprisonment for **18 years**.

Vidoje Blagojević was arrested and taken into the custody of the Tribunal on 10 August 2001 and has remained in custody for 1256 days. He is entitled to credit for that period towards service of the sentence imposed, together with the period he will serve in custody pending a determination by the President pursuant to Rule 103(A) as to the State where the sentence is to be served. He is to remain in custody until such determination is made.

In relation to **Dragan Jokić**, the Trial Chamber declines to enter a conviction for:

- **Count 3:** Murder, as a crime against humanity

The Accused **Dragan Jokić** is found **GUILTY** pursuant to Article 7(1), through aiding and abetting, of the Statute of the following counts:

- **Count 2:** Extermination, as a crime against humanity;
- **Count 4:** Murder, as a violation of the laws or customs of war; and
- **Count 5:** Persecutions, as a crime against humanity

The Trial Chamber sentences **Dragan Jokić** to a single sentence of imprisonment for **9 years**.

Dragan Jokić voluntarily surrendered to the Tribunal on 15 August 2001. He was granted provisional release during the pre-trial phase. Accordingly, he has been in custody for 917. He is entitled to credit for that period towards service of the sentence imposed, together with the period he will serve in custody pending a determination by the President pursuant to Rule 103(A) as to the State where the sentence is to be served. He is to remain in custody until such determination is made.
