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International pour
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TRIAL CHAMBER
CHAMBRE DE 1ère INSTANCE

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GENERAL BLASKIC FOUND GUILTY ON ALL CHARGES **AND SENTENCED TO 45 YEARS IMPRISONMENT**

Today, Friday 3 March 2000, Trial Chamber I (consisting of Judge Claude Jorda, Presiding, Judge Almiro Rodrigues and Judge Mohamed Shahabuddeen) issued its reasoned Judgement in the case of Tihomir Blaskic, and imposed sentence upon him.

Blaskic was sentenced to 45 years imprisonment after being found guilty on the basis of his individual and superior criminal responsibility of all the counts contained in the indictment against him, bar one (Count 2) that was withdrawn by the Prosecutor.

Blaskic was found to have personally ordered a significant number of attacks and to have failed to prevent or punish crimes committed by his subordinates.

As Presiding Judge, Claude Jorda, stated in the summary of the Judgement read out in court,

“The crimes you committed, General Blaškić, are extremely serious. The acts of war carried out with disregard for international humanitarian law and in hatred of other people, the villages reduced to rubble, the houses and stables set on fire and destroyed, the people forced to abandon their homes, the lost and broken lives are unacceptable.”

On the multitude of crimes committed in the Lasva Valley, Judge Jorda noted,

“On 16 April 1993 at 05:30 hours and then over the following days, the Lašva Valley became the theatre of many crimes – civilians were killed or wounded, houses set alight, minarets brought down, mosques destroyed, women and children separated from the men and left with no choice but to flee, women raped and men imprisoned, beaten and led off to the front to dig trenches.”

And, specifically on the massacre at Ahmici,

“The Croatian inhabitants left the evening before. Only those who were armed and wanted to kill remained behind. Wanted to kill the terror-stricken Muslims who were awoken in the dead of night, who left their houses to flee and who fell to the bullets of the awaiting soldiers. Muslims, women, children and the old forced out of their homes in order to be killed. Muslims who hid under their beds, in their cellars and who were burnt alive in the flames of their houses.”

BACKGROUND

The second amended indictment, dated 25 April 1997, alleged that from May 1992 to January 1994, members of the armed forces of the Croatian Defence Council (HVO) committed serious violations of international humanitarian law against Bosnian Muslims in

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Bosnia and Herzegovina. It was alleged that at all times material to the indictment the accused held the rank of Colonel in the HVO, and that he became commander of the HVO in the central Bosnian Operative Zone on 27 June 1992. At the beginning of August 1994, he was promoted to the rank of General and appointed Commander of the HVO.

The indictment charged the accused on the basis of both individual responsibility (Article 7(1) of the Statute of the Tribunal) and superior responsibility (Article 7(3)) with:

- Grave breaches of the 1949 Geneva Conventions (Article 2 – wilful killing; wilfully causing great suffering or serious injury to body or health; extensive destruction of property; inhuman treatment; taking civilians as hostages),
- Violations of the laws or customs of war (Article 3 – devastation not justified by military necessity; unlawful attack on civilians; unlawful attack on civilian objects; murder; violence to life and person; plunder of public or private property; destruction or wilful damage to institutions dedicated to religion or education; cruel treatment; taking of hostages), and
- Crimes against humanity (Article 5 – persecutions on political, racial or religious grounds; murder; inhumane acts).

The Trial began on 24 June 1997. The Prosecution completed its case-in-chief on 29 July 1998, the Defence case-in-chief commenced on 7 September 1998. The closing arguments were heard from 26 - 30 July 1999. One hundred and four witnesses were called by the Prosecution, 46 by the Defence and nine by the Trial Chamber.

MAIN LEGAL FINDINGS

In its Judgement, the Trial Chamber declared that the conflict in question was international in nature, both because of the direct involvement of the Croatian Army (HV) and because of Croatia's overall control of the Bosnian Croat forces and authorities.

As Judge Jorda notes in his summary,

“The Republic of Croatia did not content itself merely with remaining a spectator on the sidelines or even seek simply to protect its borders. It intervened in the conflict pitting the Muslims and Croats of central Bosnia against each other.”

An apparently internal armed conflict can be rendered international in two ways: directly, through the direct involvement of a foreign country or, indirectly, if a party to the conflict acts under the overall control of a foreign power. In the case at hand, the Trial Chamber was satisfied that the conflict was international because of the HV's direct involvement in the conflict and because of Croatia's overall control over the Bosnian Croat forces and authorities. Apart from the evidence of direct HV involvement in Bosnia, the Trial Chamber took note of several elements to come to its conclusion: 1) the nationalistic and expansionist political views of then President of the Republic of Croatia, Franjo Tudjman; 2) the shared goals and aspirations between both Croatia and the Bosnian Croats; 3) the decisions made or controlled by Croatia; 4) the sharing of military personnel; 5) control by Croatia over all important appointments in the Croatian community of Herceg-Bosna; 6) financial assistance flowing from Croatia.

Other significant legal findings are as follows:

- 1) The victims were protected persons within the meaning of the Geneva Conventions. Indeed, in an inter-ethnic armed conflict, a person's ethnic background may be regarded as a decisive factor in determining to which nation he owes his allegiance and may thus serve to establish the status of the victims as protected persons. The Trial Chamber considers that this is so in this instance.
- 2) With respect to crimes against humanity, the Trial Chamber insisted that the notion of "civilian population" should be given a broad definition. The factual situation of the victim at the moment the crimes are committed, rather than his actual status, must be taken into account in determining his standing as a civilian. Also, the presence of soldiers within an intentionally targeted civilian population does not alter the civilian nature of the population.
- 3) With respect to General Blaskic's individual responsibility under Article 7(1), the accused does not face charges of having personally committed any of the alleged crimes, that is, for being the actual perpetrator of the *actus reus* of any offence. Instead, he allegedly bears individual criminal responsibility for offences committed by others, on the basis that he "ordered, planned, instigated or otherwise aided and abetted in the planning, preparation, or execution of those crimes" (Article 7(1)).
- 4) With regard to the superior responsibility of General Blaskic pursuant to Article 7(3), the Chamber held that if a commander lacks knowledge that crimes are about to be or have been committed, such lack of knowledge must be held against him, when it is the result of negligence in the discharge of his duties, taking into account his particular position of command and the circumstances prevailing at the time.
