

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

(IT-05-87/1)

VLASTIMIR ĐORĐEVIĆ



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From 1 June 1997 to 30 January 2001, Assistant Minister of the Serbian Ministry of Internal Affairs (MUP) and Chief of the Public Security Department (RJB) of the MUP; responsible for all units and personnel of the RJB in Serbia, including Kosovo between 1 January and 20 June 1999

- Sentenced to **18 years' imprisonment**

Convicted of:

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

Murder (violations of the laws or customs of war)

- Forces of the Federal Republic of Yugoslavia (FRY) and Serbia, acting at the direction, with the encouragement, or with the support of Đorđević perpetrated crimes which resulted in the forced deportation of approximately 800,000 Kosovo Albanian civilians. To facilitate these expulsions and displacements, forces of the FRY and Serbia deliberately created an atmosphere of fear and oppression through the use of force, threats of force and acts of violence.
- The same forces, acting at the direction, with the encouragement, or with the support of the accused, murdered hundreds of Kosovo Albanian civilians and other persons taking no active part in the hostilities and sexually assaulted Kosovo Albanians, in particular women.
- These forces also systematically damaged and destroyed cultural monuments and Muslim sacred sites. They shelled, burned and dynamited mosques throughout the province.

Born	17 November 1948 in Koznica, in Vladičin Han municipality, in Serbia
Indictment	Initial indictment: 2 October 2003, made public on 20 October 2003; redacted third amended joinder indictment: 26 June 2006; fourth amended: 7 July 2008
Arrested	17 June 2007 in Montenegro
Transferred to ICTY	17 June 2007
Initial (and further) appearances	19 June 2007, did not enter a plea; 16 July 2007, pleaded not guilty to all counts; 17 July 2008, pleaded not guilty to an additional count
Trial Chamber Judgement	23 February 2011, sentenced to 27 years' imprisonment
Appeals Chamber Judgement	27 January 2014, sentence reduced to 18 years
Serving sentence	16 October 2014, transferred to Germany to serve his sentence

STATISTICS

Trial days	199
Witnesses called by Prosecution	115
Prosecution exhibits	1585
Witnesses called by Defence	28
Defence exhibits	933

TRIAL	
Commenced	27 January 2009
Closing arguments	13 - 14 July 2010
Trial Chamber II	Judge Kevin Parker (presiding), Judge Christoph Flügge and Judge Melville Baird
Counsel for the Prosecution	Chester Stamp, Patricia Neema, Daniela Kravetz, Matthias Neuner, Priya Gopalan, Silvia D'Ascoli
Counsel for the Defence	Dragoljub Đorđević, Veljko Đurđić
Judgement	23 February 2011, sentenced to 27 years' imprisonment

APPEALS	
Appeals Chamber	Judge Carmel Agius (presiding), Judge Mehmet Güney, Judge Patrick Robinson, Judge Khalida Rachid Khan and Judge Bakhtiyar Tuzmukhamedov
Counsel for the Prosecution	Daniela Kravetz
Counsel for the Defence	Dragoljub Đorđević, Veljko Đurđić
Judgement	27 January 2014

RELATED CASES	
HARADINAJ <i>et al.</i> (IT-04-84)	
LIMAJ <i>et al.</i> (IT-03-66)	
MILOŠEVIĆ (IT-02-54) "KOSOVO, CROATIA & BOSNIA"	
ŠAINOVIĆ <i>et al.</i> (IT-05-87) "KOSOVO"	

INDICTMENT AND CHARGES

All of the charges against Đorđević were in relation to the crimes committed in the territory of Kosovo, beginning on or about 1 January 1999 and continuing until 20 June 1999.

An initial indictment against Nebojša Pavković, Vladimir Lazarević, Vlastimir Đorđević and Sreten Lukić (case number IT-03-70, "Pavković *et al.*") was confirmed on 2 October 2003 and made public on 20 October 2003.

An initial indictment against Slobodan Milošević, Milan Milutinović, Nikola Šainović, Dragoljub Ojdanić and Vljeko Stojiljković (case number IT-99-37) was confirmed on 24 May 1999 and made public on 27 May 1999. This indictment was amended on 29 June 2001. The indictment was further amended on 29 October 2001 (second amended indictment) and on 5 September 2002 (third amended indictment). In the third amended indictment, the charges against Milošević and Stojiljković were removed, due to the death of Stojiljković and the fact that Milošević was being tried separately (case number IT-02-54). The case was given the name Milutinović *et al.*

On 1 April 2005 the Prosecution filed a motion seeking to join cases Milutinović *et al.* and Pavković *et al.* The motion was granted on 8 July 2005, and the Trial Chamber ordered the Prosecution to file an amended joinder indictment. The amended joinder indictment was filed on 16 August 2005. This indictment was challenged by the Defence. Following an order from the Trial Chamber, the Prosecution submitted the second amended joinder indictment on 5 April 2006. On 11 May 2006, the Trial Chamber

ordered the Prosecution to file a final copy of the indictment. On 12 May 2006, the Prosecution filed the third amended joinder indictment.

On 17 May 2006, the pre-trial judge ordered the Prosecution to correct some typographical errors in the third amended joinder indictment and to sever Đorđević, who was still at large, from the other accused, thereby allowing the trial against the remaining accused to commence as scheduled. On 21 June 2006, the Prosecution requested leave to replace the third amended joinder indictment with the corrected version of the indictment (filed on the same day), and leave to sever Đorđević from the case. On 26 June 2006, the Trial Chamber granted the severance and accepted the redacted third amended joinder indictment as the operative indictment against the remaining six accused. Đorđević was assigned a new case number (IT-05-87/1) and the operative indictment against him remained the third amended joinder indictment.

On 2 June 2008, the Prosecution filed a motion for leave to amend the third amended joinder indictment in order to add a murder incident involving 14 victims in the town of Podujevo and the names of four victims killed during two other murder incidents. On 7 July 2008, the Trial Chamber granted the motion and on 9 July the Prosecution filed the fourth amended indictment, which then became the operative indictment in the case.

The operative indictment charged Đorđević on the basis of his individual criminal responsibility (Article 7(1) of the Statute) and on the basis of his superior criminal responsibility (Article 7(3) of the Statute) with:

- **Deportation, other inhumane acts (forcible transfer), murder, persecutions on political, racial or religious grounds** (crimes against humanity, Article 5),
- **Murder** (violations of the laws or customs of war, Article 3).

TRIAL

The trial commenced on 27 January 2009. The Prosecution completed its case on 28 October 2009 (its case was reopened on 17 May 2010 in order to examine one more witness). The Defence case commenced on 30 November 2009 and was completed on 20 May 2010.

The closing arguments took place on 13 and 14 July 2010.

TRIAL CHAMBER JUDGEMENT

The Trial Chamber rendered its judgement on 23 February 2011.

The Chamber was satisfied that the offences charged took place in the context of an armed conflict in which there was a widespread and systematic attack against the civilian Kosovo Albanian population. As discussed in detail in Chapter VI of the judgement, beginning relevantly on 24 March 1999, a consistent pattern of events occurred in many towns, villages and other locations throughout Kosovo. By way of typical example: In the early morning hours, VJ and MUP forces would approach a village, town or other location. The VJ, using tanks, armoured vehicles and other heavy weapons, would shell the residential area causing the Kosovo Albanian population to flee from their homes. Serbian forces, in most cases police, would then enter the area on foot, typically setting houses on fire and looting valuables. Many residents and displaced persons, who witnessed heavy property destruction and damage, as well as killings, by Serbian forces, by their own decision left their town, village or city in large numbers out of fear for their lives and welfare. Serbian forces coordinated the process by directing the mass movements of Kosovo Albanian residents away from their towns and villages, often organising road or rail transport, and in most cases ensuring that the people reached and crossed the border mostly into Albania or the former Yugoslav Republic of Macedonia.

Massive columns or convoys of Kosovo Albanians moving to Albania or to Macedonia formed throughout Kosovo, and eventually crossed the border out of Kosovo. Some Kosovo Albanians even crossed the border into Montenegro. It was the Defence contention that there were many reasons why people left Kosovo at

the time, including the state of war between the FRY and NATO, the NATO bombing, fighting between the KLA and Serbian forces, sanctions and war-time conditions, evacuations and deliberate population movements directed by the KLA. It was also contended that the non-Albanian population of Kosovo was also leaving at a comparable rate. In determining whether the offences of deportation or forcible transfer had been established, the Chamber relied on the evidence establishing the circumstances in which people left towns, villages and cities in the 13 municipalities listed in the indictment. From this evidence, the Chamber was satisfied that the offences of deportation or forcible transfer had been established with respect to some 60 specific locations spread over the 13 municipalities. With respect to each of these locations for which the offences of forcible transfer or deportation were established, the evidence disclosed that the Kosovo Albanian people left Kosovo because they were specifically ordered to do so by Serbian forces, or because the conduct of Serbian forces caused them to leave, in particular shellings, shootings, and killings, and the burning of houses and other buildings.

While factors such as NATO bombing and fighting between the Serbian forces and the KLA might have caused concern in the minds of some Kosovo Albanians, the dominant and compelling factor in causing Kosovo Albanians to leave their homes, and in many cases in causing them to leave Kosovo, was the deliberate campaign of violence and terror conducted against them by Serbian forces. In this respect, it was significant that in most cases identification documents and vehicles licence plates were seized from the Kosovo Albanians before they crossed the border out of Kosovo. These seizures were made by Serbian police and VJ. Had this displacement of Kosovo Albanians been the consequence of NATO bombing or of fighting between the KLA and the Serbian forces, or the like, it is not apparent why Kosovo Albanian refugees would be stripped of their identification documents. Telling, in this respect, was the evidence of General Karol John Drewienkiewicz and Colonel Richard Ciaglinski, two British officers, who observed MUP officers burning tens of thousands of identification documents in a courtyard adjacent to the MUP building in Pristina/Prishtine on 12 and 13 June 1999, which was just before the cessation of hostilities in Kosovo, and when Serbian forces were about to leave Kosovo.

While over 800,000 Kosovo Albanians left Kosovo in the period relevant to the indictment, the trial was only concerned with those from the villages, towns and other locations specified in the indictment. The evidence was not sufficient to enable reliable findings as to the numbers of Kosovo Albanians proved to have been deported from these specific locations to Albania and Macedonia, or, in some cases, to Montenegro, between 24 March 1999 and 20 June 1999. It could be concluded from the evidence that this number was at least 200,000. However, this estimate is incomplete and very conservative and the true figure is likely to be very much higher.

A primary allegation against Đorđević in the indictment was that he participated in a joint criminal enterprise, i.e. a common plan, which had the purpose of changing the ethnic balance in Kosovo. This objective was to be achieved through criminal means consisting of a widespread or systematic campaign of terror and violence against Kosovo Albanians and which included the crimes charged. The Defence submitted that where crimes were committed in Kosovo during the indictment period, these were the result of isolated incidents perpetrated by random individuals. The Defence contended that any coordinated actions by the VJ and MUP in 1998 and 1999 were directed only at "terrorist forces" and were therefore legitimate under customary international law. The Chamber was not able to accept these arguments, and found that the nature of the crimes established and the circumstances in which they were committed clearly demonstrated that the target of the campaign was the Kosovo Albanian population.

The Chamber found that the operations were typically aimed at terrorising the Kosovo Albanian civilian and that this was achieved by a variety of means, including shelling of populated areas with heavy weapons; terrorizing the people there by threats, violence and killings; setting on fire Kosovo Albanian civilian property, and the destruction of villages. The civilian population, or those of it who were not killed, in many cases were forced to leave their homes, villages or towns, in most cases to join others to be transported across a nearby border or to join columns of displaced persons directed by Serbian forces across borders. The scale and coordination of the actions of Serb forces confirms that a common plan existed.

Đorđević's participation in the joint criminal enterprise was crucial to its success. The Chamber found that as Head of the RJB and as an Assistant Minister of Interior, Đorđević had lawful powers and exercised effective control over the police in Kosovo, including regular and reserve police - the PJP and SAJ - during the indictment period. The evidence revealed that Đorđević had detailed knowledge of events on the ground and played a key role in coordinating the work of the MUP forces in Kosovo in 1998 and 1999. Đorđević was a member of the Joint Command which coordinated Serbian forces, including the police, in Kosovo. He was often present on the ground in Kosovo in 1998 and 1999 and also attended meetings of the

MUP Staff in Kosovo. He was aware of the criminal conduct of the police and other Serbian forces in Kosovo from his personal observations and from information provided by others. He was also aware that the Serb population in Kosovo had been given weapons by the army and the MUP to provide an additional Serbian force. Contrary to his evidence that he had been excluded by Minister Stojilković, Đorđević represented the Republic of Serbia in international negotiations on the role of the police in Kosovo in October 1998.

Throughout the trial, the Defence advanced that there were no Serb paramilitary forces in Kosovo at the material time. Despite this denial, it was established by the evidence that there were Serbian paramilitary forces active in Kosovo in the indictment period, many serving with police units. Further, Đorđević was personally and directly involved in the engagement of one such unit, the Scorpions, into the MUP reserve force, in 1999. This unit was directly involved in the shooting of 19 Kosovo Albanian women and children in one town, killing 14 of them. Đorđević was informed of these killings almost immediately after they occurred. The unit was withdrawn from Kosovo but no effective investigation followed. Đorđević was aware of the lack of investigation but nonetheless authorised the re-deployment of members of the same unit back to Kosovo a few days later.

The Chamber was satisfied further that Đorđević was instrumental in MUP efforts to conceal the murders of Kosovo Albanians during the indictment period. The evidence confirmed that from the second week of April 1999, on at least six occasions over a period of several weeks, trucks containing the bodies of Kosovo Albanians killed by Serbian forces in Kosovo arrived at the 13 Maj SAJ training centre in Batajnica near Belgrade. This centre was controlled by the MUP, and was over 400 kilometres from where the people were killed in Kosovo. In addition, at least two further deliveries of bodies were made to the Petrovo Selo PJP Centre, another MUP site in Serbia. Bodies were also recovered from Lake Perućac in Serbia and buried in a mass grave site by the lake. The bodies had been in a truck which was found in the lake. In 2001, the remains of 744 individuals were exhumed from the SAJ Centre in Batajnica, 61 from Petrovo Selo and 84 from Lake Perućac. The remains were of Kosovo Albanians who had been killed in Kosovo in 1999. Despite the condition of the remains after being buried for over two years, it was determined that the most probable cause of death for the vast majority of these bodies was multiple gunshot wounds or was consistent with gunshot wounds.

Đorđević played a leading role in MUP efforts to conceal these murders. He gave instructions for the clandestine transportation to the SAJ training centre of bodies found in a refrigerated truck in the Danube River, and for their secret reburial in a mass grave at the SAJ centre. Furthermore, he gave instructions for the immediate burial of the bodies found in Lake Perućac. In both cases, Đorđević gave specific orders to preclude judicial investigations. The Chamber found that the transportation of bodies from Kosovo for clandestine burial in mass graves on MUP grounds, was undertaken as part of a coordinated operation to remove evidence of crimes committed by Serbian forces against Kosovo Albanians during the indictment period. The Chamber found that this operation was conducted under the direction of Đorđević, in consultation with Minister Stojilković, pursuant to an order of the President of the FRY, Slobodan Milošević. While it was his duty under the law to have the emergence of the bodies properly investigated, the role played by Đorđević ensured that the bodies were not the subject of investigation at the time.

The Chamber was also satisfied that despite being aware of crimes committed by MUP forces in Kosovo, at no time during the indictment period, or thereafter while he remained the head of the RJB, did Đorđević take any measures to ensure the investigation of the crimes or the punishment of those involved in their commission. The Chamber was satisfied that Đorđević's conduct contributed significantly to the campaign of terror and extreme violence by Serbian forces against Kosovo Albanians, which had the purpose of changing the demographic composition of Kosovo.

The Chamber was also satisfied that through his direct involvement in the concealment of bodies of Kosovo Albanian victims of murder, and his complete failure to ensure the investigation of crimes committed by MUP forces during the indictment period, Đorđević aided and abetted the crimes established in the judgement. These facts were sufficiently compelling to also require a conviction for aiding and abetting, as well as the conviction for participating as a member of the JCE, in order to fully encapsulate Đorđević's criminal conduct.

The Chamber was also satisfied of Đorđević's responsibility under Article 7(3) for his failure to prevent the commission of the crimes established in the judgement by persons under his effective control and for his failure to punish the perpetrators of these crimes. However, by virtue of its adverse finding under Article 7(1) it was not open to the Chamber to also convict the accused under Article 7(3).

On 23 February 2011, the Chamber rendered its judgement convicting Vlastimir Đorđević, on the basis of individual criminal responsibility (Article 7 (1) of the Statute of the Tribunal) of:

- Deportation (crimes against humanity, Article 5)
- Other inhumane acts (forcible transfer), (crimes against humanity, Article 5)
- Murder (crimes against humanity, Article 5),
- Murder (violation of the laws or customs of war, Article 3)
- Persecutions (crimes against humanity, Article 5)

Sentence: 27 years' imprisonment

APPEALS PROCEEDINGS

On 24 May 2011, both parties filed their notices of appeal against the judgement. The Prosecution filed a public redacted version of its appeal brief on 17 August 2011, and the Defence filed a public redacted version of its appeal brief on 23 January 2012.

The appeal hearing took place on 13 May 2013.

APPEALS CHAMBER JUDGEMENT

The Appeals Chamber confirmed the Trial Chamber's finding that, during the time relevant to the indictment, Đorđević participated in a JCE which had the purpose of changing the ethnic balance of Kosovo to ensure Serbian control over the province and was implemented through the crimes of murder, deportation, other inhumane acts (forcible transfer), and persecutions.

The Appeals Chamber reversed Đorđević's convictions on the basis of aiding and abetting the crimes committed in Kosovo. It found that "the criminal conduct of Mr Đorđević is fully reflected in a conviction based solely on his participation in JCE".

The Chamber also reversed certain Trial Chamber findings in relation to Đorđević's responsibility for crimes committed in the implementation of the JCE. Specifically, the Trial Chamber's findings on deportation and persecutions through deportation with regard to the displacement of persons from Kosovo to Montenegro were overturned, as the Appeals Chamber found no support for the existence of a de facto border, a condition necessary to establish the crime of deportations.

Further, the Appeals Chamber reversed the first-instance findings on Đorđević's criminal responsibility in relation to a limited number of specific incidents. These included deportation from Kladernica/Klladërnice (Srbica/Skënderaj municipality), and Suva Reka/Suharekë town, as well as other inhumane acts (forcible transfer) at Brocna/Burojë and Tušilje/Tushilë (Srbica/Skënderaj municipality) and Ćuska/Qyushk (Peć/Pejë municipality). Moreover, Đorđević's conviction for murder in relation to the killing of 11 individuals at Podujevo/Podujevë town and Mala Kruša/Krushë e Vogël (Orahovac/Rahovec municipality) was reversed. The conviction for the crime of persecutions in relation to these incidents was also quashed.

The Chamber dismissed the remainder of Đorđević's grounds of appeal, Judge Güney and Judge Tuzmukhamedov dissenting in part.

The Chamber granted the Prosecution's appeal regarding sexual assaults. It found, Judge Güney and Judge Tuzmukhamedov dissenting in part, Đorđević guilty of persecutions through sexual assaults in relation to several incidents, pursuant to the third category of JCE.

Overall, the Appeals Chamber granted one of Đorđević's grounds of appeal in full, and three grounds in part. It also granted one of the two grounds presented by the Office of the Prosecutor.

On 27 January 2014, the Appeals Chamber reduced Đorđević's sentence to 18 years' imprisonment. Judge Güney appended a partially dissenting and separate opinion, and Judge Tuzmukhamedov appended a dissenting opinion.

On 16 October 2014, Vlastimir Đorđević was transferred to Germany to serve his sentence.