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**THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA**

**Case No. IT-95-10-PT**

**IN THE TRIAL CHAMBER**

**Before:** Judge Claude Jorda, Presiding  
Judge Fouad Riad  
Judge Almiro Simões Rodrigues

**Registrar:** Mrs. Dorothee de Sampayo Garrido-Nijgh

**Date Filed:** 19 November 1998

**THE PROSECUTOR**

v.

**GORAN JELISIĆ  
RANKO ČEŠIĆ**

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**PROSECUTOR'S PRE-TRIAL BRIEF**

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**The Office of the Prosecutor:**

Mr. Terree Bowers  
Mr. Vladimir Tochilovsky

**On the brief:**

Mr. Morten Bergsmo  
Ms. Laurel Baig

**Counsels for the Accused:**

Mr. Veselin Londrović  
Mr. Nikola P. Kostich

# 1. INTRODUCTION

1.1 Beginning on about 30 April 1992, Serb forces from Bosnia and Herzegovina and elsewhere in the former Yugoslavia fought to obtain control of Brčko, a town and municipality in the Republic of Bosnia and Herzegovina in the former Yugoslavia. Serb forces forcibly expelled Bosnian Croat and Bosnian Muslim residents from their homes, and, with the assistance of local Serb authorities, held them at collection centres, where many were killed, beaten and otherwise mistreated. Most of the men of military age, and a few women, were taken to Luka camp.

1.2 During most of May 1992, Goran Jelasić acted as a commander of Luka camp. The accused regularly introduced himself as the "Serb Adolf" and said he had come to Brčko to kill Muslims. He often informed the Muslim detainees and others of the number of Muslims he had killed.

1.3 From about 7 May 1992 until early July 1992, Serb forces confined hundreds of Muslim and Croat men, and a few women, at Luka camp in inhumane conditions and under armed guard. From about 7 May 1992 until about 21 May 1992, detainees were systematically killed at Luka. Almost every day during that time, the accused, often assisted by camp guards, entered Luka's main hangar where most detainees were kept, selected detainees for interrogation, beat them and then often shot and killed them.

1.4 The accused, often assisted by camp guards, usually shot detainees at close range in the head or back. Often, the accused and camp guards forced the detainees who were to be shot to put their heads on a metal grate that drained into the Sava River, so there would be minimal clean-up after the shootings. The accused and guards then ordered other detainees to move the bodies to one of two disposal areas where bodies were piled until they were later loaded on trucks and taken to mass graves outside the town of Brčko or disposed of in other ways.

1.6 In early July 1992, the surviving Luka detainees were transferred to another detention camp at Batković.

1.7 During the time Luka camp operated, the Serb authorities, including the accused, killed hundreds of Bosnian Muslim and Bosnian Croat detainees.

1.8 Summaries of the facts on which each witness will testify will be submitted pursuant to Rule 73 *bis*(B)(iv)(a).

## 2. General Elements of the Crime of Genocide

2.1 The Accused committed genocide by systematically killing Bosnian Muslim detainees at the Laser Bus Co., the Brčko police station and the Luka camp, with the intention to destroy a substantial or significant part of the Bosnian Muslim people in Brčko as a national, ethnical or religious group.

2.2 In perpetrating the acts outlined in the indictment, the accused committed genocide by killing members of the group, contrary to Article 4(2)(a) of the Statute. "Killing" under the Statute is much broader than "murder" and includes all forms of "wilful killing".

- *Prosecutor v. Jean-Paul Akayesu, Judgement*, (Case No. ITCR-96-4-t, Tr. Ch., 2 September 1998), at p. 206, para. 500-501 (stating that "meutre" (killing) is homicide committed with the intent to cause death).
- *Report of the International Law Commission on the Work of its Forty-Eighth Session (6 May-26 July 1996)*, UN GAOR, 51st Sess., Supp. No. 10 (UN Doc. No. A/51/10; ILC 1996 Rep.), at p. 91, n. 122, (stating that "killing" is broader than "murder" and was "selected to correspond to the French word 'meurtre', which implies more than 'assassinat'").
- *Article 221-1, Code Pénal, Nouveau Code Pénal, Ancien Code Pénal*, Dalloz, 1996-1997, at p. 154 & 158-159 (providing that "meurtre" covers all forms of voluntary killing, whereas "assassinat" under Article 221-3 only covers premeditated murder).
- *Nehemiah Robinson, Commentary on the Genocide Convention (1960)*, at p. 63 (killing members of the group broader than murder).

2.3 The acts enumerated in Article 4(2) of the Statute must be of a general or total nature: the essence of the crime is an attack upon a group of people as such in undefined numbers. This is contrary to the definitions of the usual crimes against the person, which are always referred to as attacks upon a person as an individual.

- *Sub-Commission on Prevention of Discrimination and Protection of Minorities, Revised and updated report on the*

question of the prevention and punishment of the crime of genocide prepared by Mr. Benjamin Whitaker, UN Doc. E/CN.4/Sub.2/1985/6 (1985), at p. 19, para. 38 (the “essential condition” provided by the words “as such” is that “crimes against a number of individuals must be directed at their collectivity or at them in their collective character or capacity”).

- ILC 1996 Rep., at p. 88 (the intended victim of genocide is the group).
- *Attorney General of Israel v. Adolf Eichmann*, 36 Int'l L. Rep. 5, 233 (1968) (noting that the “special character” of genocide is “indicated by criminal intention necessary in this crime, which is general and total: the extermination of members of a group as such, i.e. a whole people or a part of a people.”).
- Robinson, at p. 58 (individual victims “are important not *per se* but only as members of the group to which they belong.”).

2.4 Whether acts or omissions in question constituted enumerated acts under Article 4(2) of the Statute is to be decided in each instance on the basis of the intent and the possibility of implementing this intent by the harm done.

2.5 The term “committed” in Article 4(2) includes participation, in any manner, by acts which fall within the ambit of Article 7(1). Article 7(1) establishes criminal liability for any “person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime”. By committing the killing of Bosnian Muslims as described in paragraph 2.1 above, the Accused committed genocide.

- Report of the Secretary General pursuant to paragraph 2 of Security Council Resolution 808 (1993) (presented 3 May 1993) UN Doc. No. 5/25704, at para. 54 (stating that “all persons who participate in the planning, preparation or execution of serious violations of international humanitarian law in the former Yugoslavia contribute to the commission of the violation and are, therefore, individually responsible.”).

2.6 Acts of the Accused which would constitute “committed” for the purposes of Article 4 and Article 7(1) can only be determined within the context of the facts and circumstances admitted by the accused or presented during the trial on the merits.

- ***Prosecutor v. Tihomir Blaškić*, Decision Rejecting the Defence Motion *in Limine* Regarding *Mens Rea* Required for Charges Alleging Command Responsibility and for Bill of Particulars re: Command Responsibility Portion of the Indictment, Case No. IT-95-14-PT (4 April 1997) at p. 4-5 (holding that “any question related to the guilt of the accused must be considered in hearings on the merits of the case and cannot be regarded as a pre-trial matter” which is in keeping with the procedures adopted at the Nuremberg and Tokyo trials).**

### 3. The Intent Requirement for the Crime of Genocide

3.1 Article 4(2) of the Statute requires that the Accused must have committed the acts with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. The Accused committed the acts with the requisite intent if:

- (a) he consciously desired the acts to result in the destruction, in whole or in part, of the group, as such; or,
- (b) he knew his acts were destroying, in whole or in part, the group, as such; or
- (c) he knew that the likely consequence of his acts would be to destroy, in whole or in part, the group, as such.

- *Prosecutor v. Jean-Paul Akayesu, Judgement* (Case No. ICTR-96-4-t, Tr. Ch., 2 September 1998), at p. 211, para. 520 (“the offender is culpable only when he has committed one of the offences charged under Article 2(2) of the Statute with the clear intent to destroy, in whole or in part, a particular group. The offender is culpable because he knew or should have known that the act committed would destroy, in whole or in part, a group”).
- Sixth Committee Records, 69th mtg., at p. 61-62 (“The characteristic which distinguishes genocide from the common crime of murder was that intention to destroy a group”; statement of the Panamanian representative).
- *Ibid.*, 72nd mtg., at p. 87 (“genocide [is] characterised by the factor of particular intent to destroy a group”; statement of the Brazilian representative).
- *Ibid.*, 73rd mtg., at p. 97 (rejecting a Soviet proposal to delete the requirement of particular intent).
- *Trial of Bruno Tesch and Two Others (“Zyklon B Case”)*, Law Reports, Vol. I, p. 93 (finding that knowingly supplying a commodity to a branch of the State which was using that commodity for the mass extermination of civilians was a war crime).

- ILC 1996 Rep., at p. 87-88 (“The prohibited acts enumerated in subparagraphs (a) to (e) are by their very nature conscious, intentional or volitional acts which an individual could not usually commit without knowing that certain consequences were likely to result ... However, a general intent to commit one of the enumerated acts combined with a general awareness of the probable consequences of such an act with respect to the immediate victim or victims is not sufficient for the crime of genocide. The definition of this crime requires a particular state of mind or a specific intent with respect to the overall consequences of the prohibited act.”).
- Rome Statute of the International Criminal Court, UN Doc. A/CONF.183/9 (17 July 1998), Article 30(2) (“a person has intent where: (a) In relation to conduct, that person means to engage in the conduct; (b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events.”).

3.2 There is no requirement of premeditation for the crime of genocide.

- Sixth Committee Records, 72rd mtg., at p. 88 (the Greek Representative, Rapporteur, noted that “it appeared very clear that the majority was opposed to including the concept of premeditation.”).
- Sixth Committee Records, 73rd mtg., at p. 90 (wherein State representatives rejected inclusion of the word “deliberate” in Article II of the Genocide Convention).

3.3 To the extent the Accused was in a subordinate position, a subordinate need only have a degree of knowledge of the ultimate objective of the criminal conduct; knowledge of every detail of a comprehensive genocidal plan or policy is not required.

- *Tadić*, Opinion and Judgment, at p. 262, para. 676 (“knowledge and intent can be inferred from the circumstances.”).
- Mauthausen Case, Vol. XI Law Reports 15 (holding that knowledge of criminal acts may be inferred from the conditions of the camp and that guilt may be based on the continued participation in the enterprise).
- ILC 1996 Rep., at p. 89-90 (“The extent of knowledge of the details of a plan or a policy to carry out the crime of genocide would vary depending on the position of the perpetrator in the governmental hierarchy or the military command structure. This does not mean that a subordinate who



actually carries out the plan or policy cannot be held responsible for the crime of genocide simply because he did not possess the same degree of information concerning the overall plan or policy as his superiors.”).

- *Ibid.*, at p. 90 (A subordinate is presumed to know the intentions of his superiors when he receives orders to commit the prohibited acts against individuals who belong to a particular group. He cannot escape responsibility if he carries out the orders to commit the destructive acts against victims who are selected because of their membership in a particular group by claiming that he was not privy to all aspects of the comprehensive genocidal plan or policy ... the necessary degree of knowledge and intent may be inferred from the nature of the order to commit the prohibited acts of destruction against individuals who belong to a particular group and are therefore singled out as the immediate victims of the massive criminal conduct.”).

3.4 Intent may be inferred from the totality of the circumstances, including the general political doctrine which gave rise to the genocidal acts, the repetition of destructive and discriminatory acts, and the placing members of the group in concentration camps where death rate is very high. Circumstances from which the fact finder can infer intent would include acts other than those listed in Article 4(2).

- *Prosecutor v. Radovan Karadžić & Ratko Mladić*, Review of Indictments Pursuant to Rule 61, Case Nos. IT-95-5-R61 & IT-95-18-R61 (11 July 1996) at p. 52, para. 94 (intent may be inferred from a “certain number of facts such as the general political doctrine which gave rise to the acts ... or the repetition of destructive and discriminatory acts. The intent may also be inferred from the perpetuation of acts which violate ... the very foundation of the group ... which are committed as part of the same pattern of conduct.”).
- *Prosecutor v. Nikolić*, Review of Indictment Pursuant to Rule 61, Case No. IT-94-2-R61 (20 Oct. 1995) at p. 20, para. 34 (“the constitutive intent of the crime of genocide may be inferred from the very gravity” of “discriminatory acts of extreme seriousness” such as large-scale killings within a particular region).
- *Trial of Joseph Altstotter and Others* (“Justice Case”), Law Reports, Vol. VI, at p. 62-64 (holding that the accused's knowledge may be presumed).

- *United States v. Wilhelm List* (“*High Command Case*”), XI Trials of War Criminals Before the Nuremberg Military Tribunals Under Control Council Law No. 10, at p. 1261 (holding that intent may be inferred from causative act or omission of accused).
- *Trial of Bruno Tesch and Two Others* (“*Zyklon B Case*”), Law Reports, Vol. I, p. 102 (holding that knowledge can be inferred from the “general atmosphere and conditions of the firm.”).
- Judgment, *In the Criminal Case Against Nikola Jorgic*, Higher State Court of Dusseldorf, 2 StE 8/96, at p. 6 of informal translation (finding intention to commit genocide from political statements made by Serb leaders and from the circumstances of detention, ill-treatment, acts of violence, looting, and the destruction of houses and mosques).

3.5 The accused’s motives for acts not directly related to the genocidal acts may be relevant to assessing the weight, if any, to be accorded to those acts in determining the specific intent for genocide.

- *United States v. von Weizsaecker* (“*Ministries Case*”), XIV Trials of War Criminals Before the Nuernberg Military Tribunals Under Control Council Law No. 10, 314, at 340-341 (“We reject the claim that good intentions render innocent that which is otherwise criminal, and which asserts that one may with impunity commit serious crimes, because he hopes thereby to prevent others, or that general benevolence toward individuals is a cloak or a justification for participation in crimes against the unknown many.”).
- *The Unites States v. Oswald Pohl* (“*The WVHA Judgement*”), V Trials of War Criminals Before the Nürnberg Military Tribunals Under Control Council Law No. 10, 958, at p. 1054 (“It is not an unusual phenomenon in life to find an isolated good deed emerging from an evil man. Because of convenience, caprice, or even a sudden ephemeral gleam of benevolence forcing its way through a calloused heart, even a murderer can help a child to safety. A grim humour can cause a slayer to save his intended victim. But whatever the cause which motivated Mumenthy’s benevolence to Bickel, the kind deed is not enough to obliterate his indifference to the wholesale suffering of which he could not but be aware, and to alleviate which, in spite of his protestations, he did little or nothing.”).
- *Ibid.*, at p. 1014-15 (finding the defendant Tschentscher guilty of war crimes and crimes against humanity, the court considered that the accused’s humanitarian actions in

furnishing food to needy inmates were also driven by other motives, including a desire that the inmates “recover somewhat so that they would regain a better physical condition and be able to perform their work better.”).

3.6 The defense that an accused committed genocidal acts pursuant to an order of a superior does not relieve him of criminal responsibility according to Article 7(4) of the Statute. Article 33(2) of the Statute of the International Criminal Court provides that “orders to commit genocide or crimes against humanity are manifestly unlawful” and can never relieve a subordinate of criminal responsibility.

- Rome Statute of the International Criminal Court, UN Doc. A/CONF.183/9 (17 July 1998), Article 33.
- *Prosecutor v. Dražen Erdemović*, Judgement, (Case No. IT-96-22-A, Ap. Ch., 7 October, 1997), at p. 25, para. 34 (“... the obedience to superior orders does not amount to a defence per se but is a factual element which may be taken into consideration in conjunction with other circumstances of the case in assessing whether the defences of duress or mistake of fact are made out.”).

## 4. The Requirement that the Group be Destroyed in Whole or in Part

4.1 “Destruction” means the material destruction of the group in whole or in part. Material destruction encompasses outright extermination and incremental destruction. Incremental destruction would include killing, and “slow death” and debilitation, which do not result in the death of the victims. Genocide does not require the extermination of the group.

- *Prosecutor v. Radovan Karadžić & Ratko Mladić, Review of Indictments Pursuant to Rule 61, Case Nos. IT-95-5-R61 & IT-95-18-R61 (11 July 1996) at p. 52-53, para. 94, (taking an expansive view of destruction).*
- ILC 1996 Rep., at p. 90 (enumerated acts contemplate material destruction of a group).
- Robinson, at p. 58 (“actual destruction need not occur; intent is sufficient”).

4.2 Genocide is not conditioned upon the actual destruction of the group in whole or in part, but on the intent to achieve this aim. What is required is action against large numbers within a group, not individuals.

- Sixth Committee Records, 73rd mtg., at p. 96 (rejecting an interpretation of genocide as acts “which result in ... [the] destruction” of the group and noting that “[i]t was, indeed, the intent to destroy a group which differentiated the crime of genocide”; statement of United States representative).
- Judgment, *In the Criminal Case Against Nikola Jorgic, Higher State Court of Dusseldorf, 2 StE 8/96, at p. 6 of informal translation (noting that “the biological-physical destruction of the group is not required”; citing commentary).*
- Robinson, at p. 63 (“Genocide is not necessarily characterized by the intent to destroy a whole group; it suffices if the purpose is to eliminate portions of the population marked by specific racial, religious, national, or ethnic features.”).

4.3 In whole or in part means destruction of a substantial part of the protected group. Substantial part of the protected group means either:

(a) a reasonably significant number relative to total number of the group; or

(b) a significant section of the group, such as its leadership.

- **Sub-Commission on Prevention of Discrimination and Protection of Minorities, Revised and updated report on the question of the prevention and punishment of the crime of genocide prepared by Mr. Benjamin Whitaker, UN Doc. E/CN.4/Sub.2/1985/6 (1985), at p. 16, para. 29 (defining “substantial part” as a significant number or section of the group).**
- **ILC 1996 Rep., at p. 89 (it is not necessary to annihilate the entire group, a “substantial part” is sufficient).**
- **Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), UN SCOR, Annex, UN Doc. S/1994/674 (27 May 1994), at para. 93-4 (“Destruction of a group in whole or in part does not mean that the group in its entirety must be exterminated. ... If essentially the total leadership of a group is targeted, it could also amount to genocide.”).**
- **Report of the Preparatory Committee on the Establishment of an International Criminal Court, UN Doc. No. A/CONF.183/2/Add.1 (14 April 1998), at 13, n.1 (“The reference to ‘intent to destroy, in whole or in part ... a group, as such’ was understood to refer to the specific intention to destroy more than a small number of individuals who are members of a group.”).**
- **Compare United States Genocide Convention Implementation Act, 18 U.S.C.S. sec. 1091, para. (a) (1998) (incorporating the term “in whole or in substantial part” in its definition of genocide).**

4.4 Intent to destroy a significant number of people of the same group -- even if these persons constitute only part of a group within a country, within a region or within a single community -- would satisfy the requisite intent for genocide.

- ***Prosecutor v. Nikolić*, Review of Indictment Pursuant to Rule 61 of the Rules of Procedure and Evidence, Case No. IT-94-2-R61, (20 October 1995) at p. 20, para. 34 (murder and inhumane treatment of civilians in a single detention camp**

“took the form of discriminatory acts of extreme seriousness which tend to show its genocidal character”).

- Robinson, at p. 63 (genocide occurs where only part of the group within a country, a region or single community is targeted).
- Judgment, *In the Criminal Case Against Nikola Jorgic, Higher State Court of Dusseldorf, 2 StE 8/96*, at p. 6 of informal translation (finding the accused guilty of genocide for having “the intention to destroy in whole or in part the group of Muslims characterised by religion and ethnicity, in north-eastern Bosnia, or at least in the Doboje region.”).
- *See also* U.S. Genocide Convention Implementation Act, sec. 1093, para. (8) (including formulation which defines the term “substantial part” as “a part of a group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity within the nation of which such group is a part.”).

4.5 The murder of an individual person would be an act of genocide if it were part of an actual or intended series of similar acts aimed at the destruction of the group (or part of the group) to which the individual belonged. In contrast to attacks on individuals, the essence of genocide is an attack upon a group of people as such.

- *Prosecutor v. Jean-Paul Akayesu, Judgement*, (Case No. ICTR-96-4-t, Tr. Ch., 2 September 1998), at p. 211, para. 521-522 (“... the victim is chosen not because of his individual, identity, but rather on account of his membership of a national, ethnical, racial or religious group. The victim of the act is therefore a member of a group, chosen as such, which, hence, means that the victim of the crime of genocide is the group itself and not only the individual”. Furthermore, “... the perpetration of the act charged therefore extends beyond its actual commission, for example, the murder of a particular individual, for the realisation of an ulterior motive, which is to destroy, in whole or in part, the group of which the individual is just one element.”)
- *Prosecutor v. Radovan Karadžić & Ratko Mladić, Review of the Indictments Pursuant to Rule 61 of the Rules of Procedure and Evidence, Case Nos. IT-95-5-R61 & IT-95-18-R61* (11 July 1996) at p. 52, para. 92 (“The degree to which the group was destroyed in whole or in part is not necessary to conclude that genocide has occurred. That one of the acts enumerated in the definition was perpetrated with a specific intent suffices.”).

- *Official Records of the General Assembly, Third Session, Part I, Sixth Committee* (1948), 73rd meeting at p. 90-91 (“Sixth Committee Records”) (“[T]he crime of genocide exist[s] as soon as an individual becomes the victim of acts of genocide. If a motive for the crime existed, genocide existed even if only a single individual were the victim.”; statement of French delegate).
- Robinson, at p. 62. (“[T]he murder of an individual would be considered an act of Genocide if it was part of a series of similar acts aimed at the destruction of the group to which he belonged.”).
- Sub-Commission on Prevention of Discrimination and Protection of Minorities, Revised and updated report on the question of the prevention and punishment of the crime of genocide prepared by Mr. Benjamin Whitaker, UN Doc. E/CN.4/Sub.2/1985/6 (1985), at p. 19, para. 38 (the “essential condition” provided by the words “as such” is that “crimes against a number of individuals must be directed at their collectively or at them in their collective character or capacity”).
- ILC 1996 Rep., at p. 88 (the intended victim of genocide is the group).
- *Attorney General of Israel v. Adolf Eichmann*, 36 Int'l L. Rep. 5, 233 (1968) (noting that the “special character” of genocide “is indicated by criminal intention necessary in this crime, which is general and total: the extermination of members of a group as such”).
- Robinson, at p. 58 (individual victims “are important not *per se* but only as members of the group to which they belong”).
- Sixth Committee Records, 69th mtg., at p. 62 (the isolated killing of a member of a group “would in fact be genocide if committed with the intent to destroy a group.”; statement of the Panamanian representative).

4.6 Whether the targeted group is sufficiently large is a case-by-case determination by the trier of fact. The factual opportunity of the Accused to destroy a group in a specific geographical area within his sphere of control, temporal restrictions included, must be taken into consideration.

- Robinson, at p. 63 (“It will be up to the courts to decide in each case whether the number was sufficiently large.”).

- *Prosecutor v. Nikolić*, Review of Indictment Pursuant to Rule 61 of the Rules of Procedure and Evidence, Case No. IT-94-2-R61, (20 October 1995) at p. 20, para. 34 (murder and inhumane treatment of civilians in a single detention camp “took the form of discriminatory acts of extreme seriousness which tend to show its genocidal character”).

4.7 “Ethnical” is a term that is to be broadly defined and considered more inclusive in concept in order to “expand protection to doubtful cases” where a group cannot be clearly categorised as either a national group or a racial group. Ethnicity as a distinctive identity is a subjective concept determined primarily by self-identification and community acceptance rather than by objective factors.

- Robinson, at p.63 (defining group generally “as an assemblage of persons regarded as a unit because of their comparative segregation from others”).
- Sixth Committee Records, 75th mtg., at p. 116 (recounting statement of the representative of Haiti indicating that some States favoured the inclusion of the term “ethnical” in the Convention because “intermingling between races in certain regions had made the problem of race so complicated that it might be impossible, in certain cases, to consider a given group as a racial group, although it could not be denied classification as an ethnical group.”).

4.8 “As such” means the intention is to destroy, in whole or in part, the group, not merely one or more individuals who are coincidentally members of the group. The prohibited act must be committed against an individual because of his membership in the group, and as an incremental step in the overall objective of destroying the group. The group itself is the ultimate target or intended victim.

- Sub-Commission on Prevention of Discrimination and Protection of Minorities, Revised and updated report on the question of the prevention and punishment of the crime of genocide prepared by Mr. Benjamin Whitaker, UN Doc. E/CN.4/Sub.2/1985/6 (1985), at p. 19, para. 38 (the “essential condition” provided by the words “as such” is that “crimes against a number of individuals must be directed at their collectivity or at them in their collective character or capacity”).
- ILC 1996 Rep., at p. 88 (the intended victim of genocide is the group).



- *Attorney General of Israel v. Adolf Eichmann*, 36 Int'l L. Rep. 5, 233 (1968) (noting that the “special character” of genocide is “indicated by criminal intention necessary in this crime, which is general and total: the extermination of members of a group as such”).
- Robinson, at p. 58 (individual victims “are important not *per se* but only as members of the group to which they belong”).



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Dated this 19th day of November 1998  
At The Hague  
The Netherlands