

SUMMARY OF TRIAL CHAMBER JUDGEMENT

The Prosecutor v. Goran Jelusic 14 December 1999

As you know, on 19 October 1999, the Trial Chamber acquitted Goran Jelusic of the crime of genocide but found him guilty of violations of the laws or customs of war and of crimes against humanity.

Today, the Trial Chamber will render its reasoned judgement and pass the sentence upon Goran Jelusic which it has determined in respect of the thirty-one counts retained against him for murdering thirteen persons, inflicting bodily harm upon four persons and stealing from various detainees.

Before pronouncing the sentence, the Trial Chamber wishes to restate briefly the elements of the case which will be set out in more detail in its written Judgement.

The Prosecutor instigated proceedings against Goran Jelusic for the crimes which, for the most part, he allegedly committed in early May 1992 in the municipality of Brcko.

Brcko is a sizeable town in north-east Bosnia-Herzegovina on the border with the Republic of Croatia and at the time had a population of approximately 41,000 of whom 55% were Muslim.

On 30 April 1992, two explosions destroyed the bridges in Brcko spanning the Sava River. These explosions which occurred after the local Serbian representatives had demanded that the town be split into three sectors, including one which was to be exclusively Serbian, may be considered as marking the commencement of hostilities by the Serbian forces.

On 1 May 1992, radio broadcasts ordered the Muslim and Croat inhabitants to surrender their arms. Serbian forces comprised of soldiers and paramilitary and police forces were deployed within the town. Serbian police, paramilitary and military troops, who according to testimony heard by the Trial Chamber were not from Brcko, criss-crossed the town. The Serbian offensive targeted the non-Serbian population of Brcko. Neighbourhood by neighbourhood, the inhabitants were directed to collection centres where the Serbs were separated from the Muslims and Croats.

The Muslim and Croatian women, children and men over sixty were first evacuated from Brcko. The Muslim and Croatian men between 16 and 60 were held in collection centres. Some Muslims were led off to the Brcko police station. Finally, on about 7 May 1992, nearly all the Muslims, and some Croats too, were transferred by bus or lorry to Luka camp. Several women were also taken to the camp.

Luka camp was a former port facility consisting of a series of warehouses located on one side of a narrow road cutting through the camp and administrative buildings on the other side of the road. The detainees were incarcerated in the first two warehouses whilst interrogations were conducted in the first office in the administrative building.

According to testimony heard by the Trial Chamber, hundreds of persons were detained at Luka camp in May 1992 in inhumane and degrading living conditions although far from all the detainees suffered the fate Goran Jelusic was to reserve for some of them. Many were released and some given laissez-passer once Serbian soldiers had vouched for their behaviour.

Those who remained in detention at Luka camp and survived and also some of those who were rearrested after having been released would subsequently be interned at the Batkovic detention camp in July 1992 before most of them were exchanged beginning in October of that year.

It was at the Brcko police headquarters and Luka camp that Goran Jelusic committed his crimes in May 1992.

Little information on the life of Goran Jelusic is available to the Trial Chamber. He was born on 7 June 1968 in Bijeljina. He arrived in Brcko around 1 May 1992. Prior to the events, he had never been convicted for violent acts and it appears that he worked as a farm mechanic.

At the time of the events, he was wearing clothes which allowed him to pass as a policeman. However, the Trial Chamber has not heard any information indicating that he may have belonged to a police, military or paramilitary structure. At Luka camp, it appears that people obeyed him but here again information is lacking. Others could evidently come and go in the camp as they pleased and attack the detainees.

Goran Jelusic was charged with genocide, violations of the laws or customs of war and crimes against humanity for murdering many Bosnian Muslims, cruelly mistreating the detainees at Luka camp and for stealing from certain detainees. Subsequent to a warrant of arrest issued by the Tribunal, he was arrested on 22 January 1998 and immediately transferred to the Tribunal's Detention Unit in The Hague. After several procedural matters had been settled, Goran Jelusic pleaded guilty to the charges of war crimes and crimes against humanity but not guilty to the charge of genocide.

In view of the elements presented when Goran Jelusic pleaded guilty to war crimes and crimes against humanity and in view of the witness testimony submitted by the Prosecution and by the Defence character witnesses, how are the crimes committed by Goran Jelusic to be evaluated and what sentence is called for?

The Trial Chamber wishes to state clearly that the circumstances under which the acts ascribed to the accused were committed make the crimes appear especially abject and revolting.

Goran Jelusic acted violently towards the detainees. For no apparent reason, he punched them, kicked them and beat them with truncheons, clubs and other instruments without consideration for the person's sex or vulnerability.

Above all, Goran Jelusic is guilty of murdering thirteen people whom he executed in cold blood.

Five of these murders were perpetrated near the Brcko police station and always in an identical manner. After interrogating them, Goran Jelusic led the victims out into an alley near the station and then proceeded to execute them, generally with two bullets to the back of the neck fired from a Skorpion pistol fitted with a silencer.

The other eight murders ascribed to him were committed in Luka camp. Here again, the murders were perpetrated the same way. The victims were subjected to interrogations conducted or participated in by Goran Jelusic and then beaten with truncheons and clubs. Next, armed with a Skorpion pistol Goran Jelusic made them go outside and led them to the corner of the buildings where the victims were then executed point-blank with one or two bullets to the back of the neck or the back. Some of them were forced to kneel on a grate and then killed with one or two bullets to the back of the head. One Croatian detainee had his ear cut off before being shot. The bodies were then taken behind the buildings by the detainees, thrown into the river or crammed into refrigerated lorries before being put into mass graves.

Witnesses declared that Goran Jelusic took pleasure from his position, one which gave him a feeling of power, of holding power of life or death over the detainees and of acting as he pleased, and that he took a certain pride in the number of victims that he had executed. Goran Jelusic allegedly proclaimed to the Luka camp detainees that before being able to go and drink his coffee each morning he needed to execute twenty to thirty persons. He also allegedly said to a detainee after one

execution on 15 May 1992 that it had been his eighty-third "case".

Whatever the exact number of his victims, the crimes of Goran Jelusic formed part of the armed operation carried out by the Serbian forces against the Muslim population of Brcko. This offensive displays a certain degree of organisation. The rounding-up of the population at different points in the town, their subsequent transfer to detention centres, the interrogations, the violence and the murders, always perpetrated identically over a brief period of time, demonstrate the widespread or systematic nature of the attack against the civilian population of Brcko.

The Trial Chamber considered that the guilty plea of Goran Jelusic in respect of war crimes and crimes against humanity was entered under conditions allowing this plea to be accepted and Goran Jelusic found guilty of the crimes.

Notwithstanding this, the Prosecutor also included the crime of genocide in the indictment. For the crime of genocide to be proved, the Trial Chamber must be convinced beyond all reasonable doubt either that an act of genocide was perpetrated in which Goran Jelusic may have been an agent or that he himself committed such an act.

Admittedly, through his behaviour and the statements which witnesses claim he made, in particular those expressing a profound contempt for the Muslim population, Goran Jelusic presents the external signs of a perpetrator of genocide within the widely-accepted meaning of the term. The first time he stood before this Trial Chamber, Goran Jelusic even introduced himself using the name Adolf. He allegedly presented himself to the Luka camp detainees as "the Serbian Adolf" and allegedly claimed to have gone to Brcko to kill Muslims. He made scornful and discriminatory remarks, he humiliated his victims and regularly insulted them by calling them "balijas", a particularly degrading insult for members of the Muslim community.

But how is this conduct to be interpreted legally? Is it discriminatory conduct as in the case of persecution? Or are the words and deeds of Goran Jelusic to be interpreted as a consistent desire to destroy a group as such or at least in part? Was he acting under orders? Or on his own initiative?

In fact, his attitude essentially reveals behaviour which, in addition to being unquestionably odious and discriminatory, was opportunistic and inconsistent.

Although lists of names of persons appear to have been compiled, the Trial Chamber knows neither by whom nor to what end. No element submitted during the trial allowed the chain of command within which Goran Jelusic operated to be identified or proved whether he was obeying orders in committing his crimes. It appears from the elements presented to the Trial Chamber that the Prosecutor has not proved beyond all reasonable doubt that all inclusive genocide was committed in Brcko or elsewhere in May 1992 - even in the hypothetical case considered by the Trial Chamber in which the issue of whether an act of genocide can be perpetrated within a geographical area limited to a region or a municipality is raised.

The Trial Chamber intends to dispel any ambiguity in this respect. The Trial Chamber is not stating that there was no genocide in Brcko in May 1992 but merely noting that the elements presented do not allow it to conclude that such "all inclusive" genocide was committed.

Furthermore, it has not been established that to carry out the executions Goran Jelusic relied on the aforesaid lists. The witnesses called by the Prosecutor stated that Goran Jelusic also killed randomly, if not exclusively so. Moreover, on his own initiative and sometimes against all logic, he issued laissez-passer to certain detainees, most notably to a well-known figure in the Muslim community.

Finally, in addition to pointing to his opportunistic nature, psychiatric experts have portrayed Goran Jelusic as having a disturbed personality presenting borderline, anti-social, narcissistic characteristics marked in particular by a certain immaturity and a hunger for recognition.

In this instance, the Trial Chamber is of the opinion that the acts of Goran Jelusic are not the expression of a person with the conscious intention to destroy a group as such. The Trial Chamber recalls that discriminatory intent does not equate to genocidal intent – a peculiar intent which renders genocide special and distinguishes it from the other crimes of international humanitarian law and in particular the crime of persecution.

The Prosecution has therefore also failed to establish that Goran Jelusic committed these acts with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such.

Consequently, the Trial Chamber could only find Goran Jelusic not guilty of the crime of genocide.

Accused Goran Jelusic, rise to receive the Trial Chamber's verdict.

Mr. Jelusic, you have heard the reasons for which the Trial Chamber:

- acquits you of count 1: genocide,
- but finds you guilty on thirty-one counts:

for violations of the laws or customs of war, (counts 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 30, 32, 36, 38, 40, 44);

and for crimes against humanity, (counts 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 31, 33, 37, 39 and 41).

On this basis, in determining its sentence merited by all your crimes, the Trial Chamber has taken into account all the elements provided by the Prosecution and your Defence counsel and all the elements of the case.

The Trial Chamber has *inter alia* taken into consideration as mitigating circumstances your age at the moment of the crime (you were 23 years old); the fact that you were never convicted for a violent crime, that you are the father of a small child and, lastly, your guilty plea.

However, the Trial Chamber must emphasise the repugnant, bestial and sadistic nature of your behaviour. The Trial Chamber considers that your scornful attitude towards your victims, your enthusiasm for committing the crimes, the inhumanity of the crimes and your dangerous nature evidenced by your actions, in the case in point, constitute especially aggravating circumstances which far outweigh the mitigating circumstances.

The crimes which you, Goran Jelusic, have committed shock the conscience of mankind. The Trial Chamber is convinced that those persons who survived and their close relatives carry with them the immeasurable suffering and the memory of those sinister events.

One of the missions of the International Criminal Tribunal is to contribute to the restoration of the peace in the former Yugoslavia. To do so, the identification, prosecution and punishment of the principal political and military officials responsible for the atrocities committed since 1991 in the territories concerned must be a priority. However, where need be, it should be recalled that although the crimes perpetrated during armed conflicts may be more specifically ascribed to one or other of these officials, they could not achieve their ends without the enthusiastic help or contribution, direct or indirect, of individuals such as you, Goran Jelusic.

The Trial Chamber convicts you, Goran Jelusic, because you are:

- guilty of stealing money from persons detained at Luka camp, in particular Hasib Begic, Zejcir Osmic, Enes Zukic and Armin Drapic;

- guilty of causing bodily harm to the Osmic brothers, Zejcir and Resad;
- guilty of causing bodily harm to Muhamed Bukvic;
- guilty of causing bodily harm to Amir Didic;
- guilty of murdering an unidentified male;
- guilty of murdering Hasan Jasarevic;
- guilty of murdering a young man from Sinteraj;
- guilty of murdering Ahmet Hodzic (or Hadzic) alias Papa;
- guilty of murdering a person with the first name Suad;
- guilty of murdering Jasminko Cumurovic alias Jasce;
- guilty of murdering Huso and Smajil Zahirovic;
- guilty of murdering Naza Bukvic;
- guilty of murdering Muharem Ahmetovic;
- guilty of murdering Stipo Glavocevic;
- guilty of murdering Novalija; and lastly
- guilty of murdering Adnan Kucalovic;

Consequently, for all these crimes, for all your crimes, the Trial Chamber sentences Goran Jelusic to 40 years in prison.