

United Nations
Nations Unies

International Criminal Tribunal
for the former Yugoslavia
Tribunal Penal International
pour l'ex-Yougoslavie

“SREBRENICA-DRINA CORPS” (IT-98-33)**RADISLAV KRSTIĆ****RADISLAV KRSTIĆ***Convicted of aiding and abetting genocide, murders, extermination and persecutions*

Chief-of-Staff/Deputy Commander of the Bosnian Serb Army (VRS) Drina Corps; promoted to rank of General-Major in June 1995; assumed command of the Drina Corps on 13 July 1995

- Sentenced to **35 years'** imprisonment

*Crimes convicted of (examples):***Aiding and abetting genocide, murders (violations of the laws or customs of war), extermination and persecutions (crimes against humanity)**

- From 15 July 1995, at the latest, Radislav Krstić was aware of the intent to commit genocide on the part of some members of the VRS Main Staff, and with that knowledge, he permitted them to use personnel and resources under his command to facilitate the killings.
- While 25,000 Bosnian Muslim women, children and elderly were forcibly transferred from the Srebrenica enclave (see map), VRS forces devised and implemented a plan to eliminate all Bosnian Muslim men of military age at Srebrenica, regardless of their civilian or military status.
- Between 13 and 19 July 1995, as many as 7,000 to 8,000 men were systematically murdered or killed in mass executions.
- Serious bodily or mental harm was done to those few who survived the mass executions.

Murder (violation of the laws or customs of war) and persecutions (crimes against humanity)

- Radislav Krstić played a leading role in an operation code-named “Krivaja 95” which planned an attack on the Srebrenica enclave.
- Part of this operation was the shelling of Srebrenica calculated to terrify the Bosnian Muslim population and to drive them to Potočari, a nearby settlement north of Srebrenica town, where a total lack of food, shelter and necessary services would accelerate their fear and panic and ultimately their willingness to leave the territory.
- Upon the arrival of the Serb forces in Potočari, the Bosnian Muslim refugees taking shelter in and around the UN compound there were subjected to a terror campaign comprised of threats, insults, looting and burning of nearby houses, beatings, rapes and murders.
- From his presence at two meetings convened by VRS Commander General Ratko Mladić at the Hotel Fontana in Bratunac, a town (and municipality) located in eastern Bosnia and Herzegovina, Radislav Krstić knew that the Bosnian Muslim civilians were in fact facing a humanitarian crisis and were subject to criminal acts.
- Radislav Krstić thus incurred liability for the incidental murders, rapes, beatings and abuses committed in the execution of this criminal enterprise between 10 and 13 July 1995 in Potočari.

- Radislav Krstić ordered the procurement of the buses for the forcible transfer of 25,000 Bosnian Muslim women, children and elderly to Kladanj, a town in Bosnian government-held territory, and their subsequent departure carrying the civilians from Potočari.

| Born | 15 February 1948 in Vlasenica, Bosnia and Herzegovina |
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| Indictment | Initial: 2 November 1998; redacted: 7 December 1998; amended: 22 November 1999 |
| Arrested | 2 December 1998, by the multinational Stabilisation Force (SFOR) |
| Transferred to ICTY | 3 December 1998 |
| Initial and further appearances | 7 December 1998, pleaded not guilty to all charges; 25 November 1999, pleaded not guilty to all charges |
| Trial Chamber judgement | 2 August 2001, sentenced to 46 years' imprisonment |
| Appeals Chamber judgement | 19 April 2004, sentenced to 35 years' imprisonment |
| Serving sentence | 20 December 2004, transferred to the United Kingdom to serve the remainder of his sentence; credit was given for time served since 3 December 1998 |

STATISTICS

| | |
|---------------------------------|---------------------------------------|
| Trial days | 98 |
| Witnesses called by Prosecution | 103 |
| Witnesses called by Defence | 13 (including Radislav Krstić) |
| Prosecution exhibits | 910 |
| Defence exhibits | 183 |
| Chamber exhibits | 5 |

| TRIAL | |
|-----------------------------|---|
| Commenced | 13 March 2000 |
| Closing arguments | 26 - 29 June 2001 |
| Trial Chamber I | Judge Almiro Rodrigues (presiding), Judge Fouad Riad, Judge Patricia Wald |
| Counsel for the Prosecution | Mark Harmon, Peter McCloskey, Andrew Cayley, Magda Karagiannakis |
| Counsel for the Defence | Nenad Petrušić, Tomislav Višnjić |
| Judgement | 2 August 2001 |

| APPEALS | |
|-----------------------------|---|
| Appeals Chamber | Judge Theodor Meron (presiding), Judge Fausto Pocar, Judge Mohamed Shahabuddeen, Judge Mehmet Güney, Judge Wolfgang Schomburg |
| Counsel for the Prosecution | Norman Farrell, Mathias Marcussen, Magda Karagiannakis, Xavier Tracol, Dan Moylan |
| Counsel for the Defence | Nenad Petrušić, Norman Sepenuk |
| Judgement | 19 April 2004 |

| RELATED CASES <i>by geographical area</i> | |
|--|--|
| BLAGOJEVIĆ & JOKIĆ (IT-02-60) “SREBRENICA” | |
| ERDEMOVIĆ (IT-96-22) “PILICA FARM” | |
| KARADŽIĆ & MLADIĆ (IT-95-5/18) “BOSNIA AND HERZEGOVINA” & “SREBRENICA” | |
| MILOŠEVIĆ (IT-02-54) “KOSOVO, CROATIA AND BOSNIA” | |
| NIKOLIĆ MOMIR (IT-02-60/1) “SREBRENICA” | |
| OBRENOVIĆ (IT-02-60/2) “SREBRENICA” | |
| ORIĆ (IT-03-68) | |
| PERIŠIĆ (IT-04-81) | |
| POPOVIĆ <i>et al.</i> (IT-05-88) “SREBRENICA” | |
| STANIŠIĆ & SIMATOVIĆ (IT-03-69) | |
| TOLIMIR (IT-05-88/2) “SREBRENICA” | |
| TRBIĆ (IT-05-88/1) “SREBRENICA” | |

INDICTMENT AND CHARGES

Radislav Krstić was originally indicted on 30 October 1998 for genocide, crimes against humanity and violations of the laws or customs of war, based on his alleged role in the events in and around the Bosnian Muslim enclave of Srebrenica between 11 July 1995 and 1 November 1995. Vinko Pandurević, Commander of the 1st Zvornik Light Infantry Brigade and Vidoje Blagojević, Commander of the 1st Bratunac Light Infantry Brigade, were also indicted. The indictment was confirmed on 2 November 1998 by the Trial Chamber.

A redacted version of the indictment, where all references to the co-accused were deleted, was read out to Radislav Krstić at his initial appearance at the Tribunal on 7 December 1998 and filed on 10 June 1999. At his initial appearance, Radislav Krstić pleaded not guilty to each of the counts. Upon the order of the Trial Chamber, the Prosecution filed, on 27 October 1999, the final indictment, which contained the additional charges of deportation, a crime against humanity, or, alternatively, inhumane acts (forcible transfer), a crime against humanity. The indictment was confirmed on 22 November 1999. On 25 November 1999, Radislav Krstić entered a plea of not guilty to the new counts.

Radislav Krstić was charged on the basis of individual criminal responsibility (Article 7 (1) of the Statute) and/or alternatively, superior criminal responsibility (Article 7(3)) with:

- Genocide; alternatively, complicity to commit genocide (genocide, Article 4),
- Extermination; murder; persecutions on political, racial and religious grounds; deportation; alternatively, inhumane acts (forcible transfer) (crimes against humanity, Article 5),
- Murder (violations of the laws or customs of war, Article 3).

THE TRIAL

The trial of Radislav Krstić commenced on 13 March 2000 before Trial Chamber I (Judge Almiro Rodrigues (presiding), Judge Fouad Riad, Judge Patricia Wald). The closing arguments for the Prosecution were held on 26 and 27 June 2001 and for the Defence on 28 and 29 June 2001.

TRIAL CHAMBER JUDGEMENT

The facts of this case related mainly to the events which took place in the area of Srebrenica around July 1995. Srebrenica is a town located in eastern Bosnia and Herzegovina. It gave its name to a UN so-called “safe area”, which was established in 1993 as an enclave of safety to protect the civilian population there from the surrounding war. Despite some violations by both sides of the conflict of the safe area, a two-year period of relative stability followed the establishment of the safe area, although the prevailing conditions for the inhabitants of Srebrenica were poor.

The Take-Over of Srebrenica and its Aftermath

In March 1995, Radovan Karadžić, President of the self-proclaimed Republika Srpska (RS), issued a directive (Directive No. 7) to the Bosnian Serb Army concerning the long-term strategy of their forces around the enclave. “By planned and well-thought out combat operations,” the VRS was directed to “create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica”. Through planned operations and by unobtrusively restricting the issuing of permits, the logistics support of UN Protection Forces (UNPROFOR) to the enclave and the supply of material resources to the Muslim population was to be reduced and limited, making them dependent on the good will of Serb-led forces. At the same time, the Bosnian Serb Army sought to avoid condemnation by the international community and international public opinion.

As set down in the directive, the humanitarian situation deteriorated to a catastrophic level.

On the basis of Directive No. 7, the VRS Main Staff issued on 31 March 1995 Directive No. 7.1., signed by General Ratko Mladić. It directed the Drina Corps to, among other things, conduct “active combat operations ... around the enclaves” (including the other nearby safe-areas of Žepa and Goražde). As a consequence, Bosnian Serb forces captured an UNPROFOR observation post in the southeast corner of the Srebrenica enclave. In response to this aggression, a raiding party of Bosnian Muslims attacked the nearby Serb village of Višnjica, in the early morning of 26 June 1995. During this attack, some houses were burned and several people were killed.

Following this, the then commander of the Drina Corps, General-Major Milenko Živanović, signed two orders laying out the plans for the attack on the Srebrenica safe area. The operation was code-named Krivaja 95. The Drina Corps was the VRS military formation tasked with planning and carrying out the operation. The initial plan for Krivaja 95 did not include a VRS scheme to bus the Muslim civilian population out of the enclave, nor to execute all the military aged Bosnian Muslim men, as it eventually happened. However, the plan was aimed at reducing the safe area of Srebrenica to its urban core around the town as a step towards the larger VRS goal of plunging the Bosnian Muslim population into a humanitarian crisis and, ultimately, eliminating the enclave.

The military offensive on Srebrenica began in earnest on 6 July 1995. Once the southern perimeter of the enclave began to collapse, about 4,000 Bosnian Muslim residents fled north into Srebrenica town. The advancing Bosnian Serbs “cleansed” the houses in the southern part of the enclave.

Late on 9 July 1995, emboldened by the military success and the surprising lack of resistance from the Bosnian Muslims, as well as the absence of any significant reaction from the international community, Radovan Karadžić issued a new order authorising the VRS Drina Corps to capture the town of Srebrenica. NATO plans to bomb VRS artillery positions overlooking and shelling the town were abandoned following VRS threats to kill Dutch peacekeepers being held by the VRS, as well as threats to shell the UN compound at Potočari, and surrounding areas in the north of the enclave, where thousands of civilians had fled.

Thousands of residents, desperate for protection, crowded around the UNPROFOR compound in Srebrenica town, and eventually forced their way inside. The chaotic scene was exacerbated when mortar shells landed inside the compound around noon, wounding several people. Following the shelling of the compound and with the encouragement of the Dutch UN peacekeepers, Bosnian Muslim residents from Srebrenica began to move towards Potočari. Shells fell alongside the road and VRS forces were seen bringing up the rear of the crowd. Faced with the reality that Srebrenica had fallen under Bosnian Serb forces control, thousands of Bosnian Muslim residents from Srebrenica fled to Potočari seeking protection within the UN compound there. By the evening of 11 July 1995, approximately 20,000 to 25,000 Bosnian Muslim refugees were gathered in Potočari. Although the vast majority were women, children, elderly or disabled, witnesses estimated that there were at least 300 men inside the perimeter of the UN compound and between 600 and 900 men in the crowd outside.

Late in the afternoon of 11 July 1995, General Ratko Mladić and the then Deputy Commander and Chief-of-Staff of the Drina Corps Radislav Krstić and other VRS officers, took a triumphant walk through the empty streets of Srebrenica town.

Conditions in Potočari were deplorable. There was little food or water available and the July heat was stifling. The people were scared. As the situation in Potočari escalated towards crisis, on the evening of 11 July, word spread that able-bodied men should take to the woods, form a column together with the members of the 28th Division of the Army of Bosnia-Herzegovina (ABiH) and attempt to breakthrough towards Bosnian-Muslim held territory in the northwest. At around 10 p.m., the “division command”, together with the Bosnian Muslim municipal authorities of Srebrenica, made the decision to form a column. The men were afraid they would be killed if they fell into Bosnian Serb hands in Potočari. At around midnight on 11 July, a column of between 10,000 and 15,000 men started moving along the axis between Konjević Polje and Bratunac. On 12 July 1995, Bosnian Serb forces launched an attack against the column. By the afternoon, or the early hours at the latest, Bosnian Serb forces had captured large numbers of these men at the rear. The largest groups of men from the column were captured on 13 July 1995, several thousands were collected in or near the Sandići Meadow and on the Nova Kasaba football field. Only the head of the column eventually managed to break through to Bosnian government-held territory.

On 11 July 1995, at about the same time as the decision to form the column was taken by the Bosnian Muslim men, General Ratko Mladić summoned UNPROFOR leaders for the first of three meetings with VRS officials at the Hotel Fontana in Bratunac. General Ratko Mladić led the meeting. General Milenko Živanović, then Commander of the Drina Corps, was present along with other Drina Corps officers. A second meeting convened at the Hotel Fontana took place at around 11 p.m. General Ratko Mladić again presided the meeting. This time General Milenko Živanović was not present but General Radislav Krstić was. General Ratko Mladić put on a show calculated to intimidate the attendees. As the meeting began, the death cries of a pig being slaughtered just outside the window could be heard in the meeting room. Plans to transport the Bosnian Muslim civilians out of the enclave crystallised at this second meeting. General Ratko Mladić stated that he would provide the vehicles to transport the Srebrenica refugees out of Potočari. He demanded that all ABiH troops within the area of the former enclave lay down their arms. He made it clear that, if this did not happen, the survival of the Bosnian Muslim population would be in

danger.

On 12 July at about 10 a.m., General Ratko Mladić convened the third and final meeting to discuss the fate of the Srebrenica Muslims. Once again, he dominated the meeting, with General Radislav Krstić sitting at his side. General Ratko Mladić conveyed the clear message at this meeting that the Bosnian Muslim refugees could survive only by leaving Srebrenica. In addition to that, he made it clear that their survival was conditional also upon a military surrender of the men.

By around noon on 12 July 1995, dozens of buses and trucks arrived in Potočari. In the afternoon, Bosnian Serb forces, under the direction of General Ratko Mladić, started to bus 25,000 Bosnian Muslim women, children and elderly out of Potočari to Bosnian government-held territory near Kladanj. The operation continued on 13 July 1995. Most of the women, children, and the elderly arrived safely.

As the transfer proceeded, General Ratko Mladić appeared accompanied by television crews who filmed him handing out sweets to children. Other than this one televised gesture, General Ratko Mladić and his men made no attempt to alleviate the suffering of the refugees who were desperate for food and water. Witnesses testified that once the television cameras were switched off, the sweets were even taken away from the children.

The already miserable conditions were compounded by an active campaign of terror, which increased the panic of the residents, making them frantic to leave. The refugees in the compound could see Serb soldiers setting haystacks and houses on fire. Serb soldiers mingled in the crowd cursing Bosnian Muslims and telling them to leave; that they would be slaughtered. Sporadic killings occurred. As evening fell, the terror deepened. Screams, gunshots and other frightening noises were audible throughout the night and no one could sleep. Soldiers picked people out of the crowd taking them away. Some returned, others did not. That night, a Dutch UNPROFOR medical orderly came across two Serb soldiers raping a young woman. Bosnian Muslim refugees could see the rape, but could do nothing about it because of Serb soldiers standing nearby. Several individuals were so terrified that they committed suicide by hanging themselves. On the morning of 13 July 1995, refugees searching for water came upon clusters of corpses next to a nearby stream. Finding dead bodies in such a prominent place strengthened their resolve to flee as soon as possible.

The Bosnian Muslim military aged-men, who had not joined the column and were still in Potočari (numbering approximately 1,000), were separated from the women, children and elderly and transported to the nearby town of Bratunac. Subsequently, they were grouped with Bosnian Muslim men captured from the column. No discernible effort was made to keep separate the prisoners from Potočari and the men captured from the column in the woods. After being detained in Bratunac for between one and three days, the prisoners were transported elsewhere, as the buses used to transfer the women, children and elderly, became available.

Thousands of Bosnian Muslim prisoners were executed. Some were killed individually or in small groups by the soldiers who captured them and some were killed in the places where they were temporarily detained. Most, however, were slaughtered in carefully orchestrated mass executions, commencing on 13 July 1995, in the region just north of Srebrenica. Prisoners not killed on 13 July 1995 were subsequently bussed to execution sites further north of Bratunac, within the zone of responsibility of the VRS Zvornik Brigade. The large-scale executions in the north took place between 14 and 17 July 1995.

Most of the mass executions followed a well-established pattern. The men were taken first to empty schools or warehouses. After being detained there for some hours, they were loaded onto buses or trucks and taken to another site for execution. Usually, the execution fields were in isolated locations. Once at the killing fields, the men were taken off the trucks in small groups, lined up and shot. Those who survived the initial round of gunfire were individually shot with an extra round, though sometimes only after they had been left to suffer for a time. Immediately afterwards, and sometimes even during the executions, earth moving equipment arrived and the bodies were buried, either on the spot where they were killed, or in another nearby location. At several of the sites, a few wounded survivors pretended to be dead and then crawled away.

Although forensic experts were not able to conclude with certainty how many bodies were in the mass-graves, they were able to conservatively estimate that a minimum of 2,028 separate bodies were exhumed from the mass-graves. Only one of the 1,843 bodies for which sex could be determined was female. The Trial Chamber could not rule out the possibility that a percentage of the bodies in the gravesites examined may have been killed in combat. Overall, however, the forensic and demographic evidence presented by the Prosecution was consistent with the testimony of witnesses who appeared before the Trial Chamber and recounted the mass execution of thousands of Bosnian Muslim men at Cerska

Valley, Kravica warehouse, Orahovac, Branjevo Farm, Petkovci Dam and Kozluk. The Trial Chamber was satisfied that the total number of executed men was likely to be within the range of 7,000 and 8,000.

The forensic evidence presented to the Trial Chamber suggested that, commencing in the early autumn of 1995, Bosnian Serbs engaged in a concerted effort to conceal the mass killings by relocating bodies from the initial primary grave sites to remote secondary graves.

Involvement of Drina Corps in the Srebrenica Crimes

The Trial Chamber found no evidence that the VRS Drina Corps devised or instigated any of the atrocities that followed the take-over of Srebrenica in July 1995. The evidence strongly suggested that the criminal activity was being directed by the VRS Main Staff under the direction of General Ratko Mladić. It was General Ratko Mladić who victoriously led the VRS officers through the empty streets of Srebrenica town on 11 July 1995 and it was he who threatened and intimidated the Bosnian Muslim and UNPROFOR representatives at the Hotel Fontana meetings. He was directing events in Potočari, both the transport of the women, children and elderly from there, as well as the separation of the men. Eyewitnesses reported the physical presence of General Ratko Mladić at the Sandići Meadow and Nova Kasaba football fields where thousands of Bosnian Muslim prisoners were detained. He was also identified as physically observing executions. There is further evidence suggesting the involvement of other individuals of the Main Staff in the criminal activity.

However, the Main Staff did not have the resources on its own to carry out the activities that occurred in the area of the Srebrenica enclave following its take-over. Hence the Main Staff had to rely upon the VRS Drina Corps to assist in the execution of its design.

The VRS Drina Corps was not oblivious to the overall VRS strategy of eliminating the Srebrenica enclave. Although Krivaja 95 started out as a limited operation, it quickly accelerated into a plan seizing Srebrenica when the opportunity presented itself. From that point, the Drina Corps continued to shell the enclave intensively with the intent to cause the Bosnian Muslim civilians to flee the area. The Prosecution failed to prove that VRS Drina Corps units committed any of the opportunistic crimes that occurred in Potočari on 12 and 13 July 1995. However, the VRS Drina Corps were fully cognisant of the catastrophic humanitarian situation of the Bosnian Muslim refugees in Potočari and the fact that Bosnian Serb forces were terrorising the population there.

When the plan to transport the Bosnian Muslim population out of Potočari was devised, the VRS Drina Corps were called upon to procure the buses. Drina Corps personnel were also present in Potočari, overseeing the transportation operation, knowing full well that the Bosnian Muslims were not exercising a genuine choice to leave the area.

It was not established that the Drina Corps was involved in devising the plan to execute the military aged Bosnian Muslim men of Srebrenica. Furthermore, the Prosecution did not prove the involvement of the VRS Drina Corps in the executions that happened on 13 July 1995. However, although there may have been some initial desire on the part of the VRS Main Staff to limit the knowledge about the executions, this could not be sustained. First, the executions formed an integral part of the VRS follow-up activities after the take-over of Srebrenica and could not be neatly or secretly compartmentalised. The VRS Drina Corps was preoccupied with both the transportation operation and the passage of the Bosnian Muslim men at the time and thus, inevitably, had to know that the men were being taken prisoner. Additionally, the massive scale of atrocities all occurred within a section of the VRS Drina Corps zone of responsibility. In the absence of sufficient personnel and equipment of its own, the Main Staff had to rely upon resources of the Drina Corps to assist with the executions.

As a consequence, the Trial Chamber found that, by the evening of 13 July 1995, the Drina Corps Command must have been aware of the VRS plan to execute all of the thousands of military aged Bosnian Muslim men captured in the area of the former enclave.

In contrast to the scant evidence implicating the VRS Drina Corps in the commission of the mass executions that took place on 13 July 1995, there was substantial and compelling evidence showing that between 14 July and 17 July 1995, the resources of subordinate VRS Drina Corps Brigades were utilised to assist with the mass executions. Given that these subordinate Brigades continued to operate under the Command of the VRS Drina Corps, the Command itself must have known of the involvement of its units in the executions as of 14 July 1995.

The Prosecution did not prove that units of the VRS Drina Corps were engaged in the reburial of bodies from the primary gravesites to secondary gravesites in the early autumn of 1995. However, given the scale

of the operation, the Drina Corps must at least have known this activity was being carried out within its zone of responsibility.

The Role of General Radislav Krstić in the Srebrenica Crimes

Radislav Krstić was the Deputy Commander and Chief-of-Staff of the VRS Drina Corps from June 1995 until July 1995. From early July onwards, Radislav Krstić began to assume more and more de facto responsibility within the Drina Corps. On the evening of 13 July 1995, General Ratko Mladić appointed Radislav Krstić as Commander of the Drina Corps and, from that point in time, Radislav Krstić operated as the Drina Corps Commander and the entire Corps recognised him as such.

Radislav Krstić was the person primarily directing Krivaja 95 from 6 July 1995, at least until General Ratko Mladić arrived on 9 July 1995. Regardless of whether or not he was sidelined upon the arrival of General Ratko Mladić, it is clear that Radislav Krstić was fully informed of the conduct of the operation. Given his position as Deputy Commander/Chief-of-Staff of the VRS Drina Corps and his prominent role in the drafting and execution of Krivaja 95, the Trial Chamber found that Radislav Krstić must have known the VRS military activities against Srebrenica were calculated to trigger a humanitarian crisis, eventually leading to the elimination of the enclave. From his vantage point in the hills, he had an unobstructed view of the impact of the shelling upon the terrorised Bosnian Muslim residents of Srebrenica town.

As a result of his attendance at two of the three Hotel Fontana meetings, Radislav Krstić was fully apprised of the catastrophic humanitarian situation confronting Bosnian Muslim refugees in Potočari and was put on notice that the survival of the Bosnian Muslim population was in question following the take-over of Srebrenica.

Radislav Krstić ordered the procurement of buses for the forcible transfer of the Bosnian Muslim population from Potočari and issued orders to his subordinates about securing the road along which the buses would travel to Kladanj. He generally supervised the transportation operation. Radislav Krstić was heard ordering his subordinate that no harm should befall the Bosnian Muslim civilians who were being transported out of Potočari.

As a result of his presence in Potočari on 12 July 1995, Radislav Krstić must have known of the appalling conditions facing the Bosnian Muslim refugees and the general mistreatment inflicted by VRS soldiers on that day.

There is no evidence that Radislav Krstić was personally present at any of the execution sites. Indisputably, at the time the executions commenced, he was engaged in preparations for combat activities for Žepa, another UN safe-area nearby Srebrenica, and from 14 July 1995 onwards, in launching the attack itself.

Nonetheless, as of 13 July 1995, the Drina Corps Command must have known about the plan to execute all of the military aged Bosnian Muslim men and, as of 14 July 1995, the Corps Command must have known of the involvement of VRS Drina Corps subordinate units in the mass executions. Given his position in the Drina Corps Command, first as Chief-of-Staff and then as Commander, Radislav Krstić must also have known about these matters. Furthermore, when Colonel Ljubiša Beara, who was the Chief of Security of the Main Staff of the VRS at the time, contacted him on 15 July, Radislav Krstić undertook to arrange that men from the Bratunac Brigade assist with the Branjevo Farm and the Pilica Dom executions.

The Prosecution failed to establish that Radislav Krstić was directly involved in the reburial activity. However, Radislav Krstić must have at least known that this massive operation was occurring within his zone of responsibility. Radislav Krstić was aware that men under his command had participated in the execution of Bosnian Muslim men and failed to punish any of them.

The Trial Chamber found that Radislav Krstić participated in two criminal plans, initially to ethnically cleanse the Srebrenica enclave of all Muslim civilians and later to kill the military aged men of Srebrenica. For his participation in these crimes, Radislav Krstić was found guilty of murder, persecutions and genocide. The fact that Radislav Krstić occupied the highest level of a VRS Corps commander was considered as an aggravating factor because he had utilised that position to participate directly in genocide.

On 2 August 2001, in the light of the above considerations, the Trial Chamber rendered its judgement, convicting the accused to 46 years' imprisonment.

APPEALS CHAMBER JUDGEMENT

On 15 August 2001, Counsel for Radislav Krstić filed a notice of appeal against the Trial Chamber judgement. The Prosecution filed a notice of appeal on 16 August 2001.

The Defence appealed Radislav Krstić's conviction for genocide committed against Bosnian Muslims in Srebrenica. They argued that the Trial Chamber both misconstrued the legal definition of genocide and erred in applying the definition to several circumstances of the case.

The Appeal's Chamber dismissed the appeal with regard to the legal definition of genocide. With regard to alleged factual errors, the Appeal's Chamber dismissed the appeal on some issues, but granted it with regard to the following issues:

The Appeal's Chamber found that the Trial Chamber's conclusion that the soldiers of the VRS Bratunac Brigade participated in the executions at Branjevo Farm and the Pilica Dom on 16 July 1995 was not one that reasonable arbiter of fact could have made. There was no direct evidence to establish the involvement of the Drina Corps in carrying out these executions, and as such could not be relied upon as evidence of Radislav Krstić's direct involvement in assisting executions. All the evidence could establish was that he knew that those murders were occurring and that he permitted the Main Staff to use personnel and resources under his command to facilitate them. In these circumstances the criminal responsibility of Radislav Krstić was that of an aider and abettor to the murders, extermination and persecutions, and not of a principal co-perpetrator.

Furthermore, according to the Appeal's Chamber, Radislav Krstić was aware of the intent to commit genocide on the part of some members of the VRS Main Staff. However, there was a demonstrable failure by the Trial Chamber to supply adequate proof that Radislav Krstić possessed the genocidal intent. Radislav Krstić, therefore, was pronounced not guilty of genocide as a principal perpetrator, but guilty as aider and abettor to genocide.

The Prosecution challenged the Trial Chamber's decision that it was not permissible to enter cumulative convictions based on Radislav Krstić's convictions for extermination and persecution of the Bosnian Muslims of Srebrenica between 13 and 19 July 1995, and for murder and inhumane acts as crimes against humanity committed against the Bosnian Muslim civilians in Potocari between 10 and 13 July 1995. Additionally, the Prosecution argued that the sentence imposed by the Trial Chamber was inadequate.

The Appeal's Chamber considered that the Trial Chamber's conclusion that the convictions for extermination, persecution and genocide were impermissibly cumulative was erroneous. Instead they concluded that these offences become subsumed within the offence of persecution and thus confirmed the Trial Chamber's conclusion.

The Prosecution's appeal with regard to the inadequateness of the sentence was dismissed. However, in light of Appeals Chamber's findings in relation to Radislav Krstić's form of responsibility, an adjustment of the sentence was necessary.

The Appeal's Chamber adopted the Trial Chamber's findings as to the aggravating factors. However, it recognised four mitigating factors (the nature of Radislav Krstić's provision of Drina Corps assets and resources; the fact that he had only recently assumed command of the Corps during combat operations; the fact that he was present in and around Potocari for the most of two hours; his efforts to ensure the safety of the Bosnian Muslim civilians transported out of Potocari).

On 21 November 2003, an evidentiary hearing took place and the appeals hearing took place on 26 and 27 November 2003.

The Appeals Chamber rendered its judgement on 19 April 2004, convicting Radislav Krstić for aiding and abetting genocide; aiding and abetting murder (violations of the laws or customs of war); extermination and persecutions (crimes against humanity) committed between 13 and 19 July 1995; and for murder (violations of the laws or customs of war) and persecutions (crimes against humanity) committed between 10 and 13 July 1995 in Potocari.

The Appeals Chamber unanimously sentenced Radislav Krstić to 35 years' imprisonment. Judge Shahabuddeen appended a Partial Dissenting Opinion.

On 20 December 2004, Radislav Krstić was transferred to the United Kingdom to serve his sentence.