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CHAMBERS

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Five Senior Serb Officials Convicted of Kosovo Crimes, One Acquitted

Five former high-ranking Yugoslav and Serbian political, military and police officials were today convicted by Trial Chamber III of the Tribunal for crimes against humanity committed in Kosovo in 1999.

Former Yugoslav Deputy Prime Minister, Nikola Šainović, Yugoslav Army (VJ) General, Nebojša Pavković and Serbian police General Sreten Lukić were each sentenced to 22 years' imprisonment for crimes against humanity and violation of the laws or customs of war.

Yugoslav Army General, Vladimir Lazarević and Chief of the General Staff, Dragoljub Ojdanić were found guilty of aiding and abetting the commission of a number of charges of deportation and forcible transfer of the ethnic Albanian population of Kosovo and each sentenced to 15 years' imprisonment.

Milan Milutinović, the former President of Serbia, was acquitted of all charges.

Today's Judgement is the first handed down by the Tribunal for crimes perpetrated by Federal Republic of Yugoslavia (FRY) and Serbian forces against Kosovo Albanians during the 1999 conflict in Kosovo.

The Prosecution charged the six with crimes committed during a campaign of terror and violence directed against the ethnic Albanian population of Kosovo in early 1999. Each of the Accused was alleged to have participated in a joint criminal enterprise, the purpose of which was to modify the ethnic balance in Kosovo to ensure continued control by the Serbian authorities. The plan was to be executed by criminal means, including deportations, murders, forcible transfers and persecutions of Kosovo Albanians.

Analysing evidence from the trial proceedings in relation to crime sites across 13 of Kosovo's municipalities, the Trial Chamber found that there was a broad campaign of violence directed against the Kosovo Albanian civilian population during the course of NATO air-strikes in FRY that began on 24 March 1999. This campaign was conducted by army and Interior Ministry police forces (MUP) under the control of FRY and Serbian authorities, who were responsible for mass expulsions of Kosovo Albanian civilians from their homes, as well as incidents of killing, sexual assault, and the intentional destruction of mosques.

"It was the deliberate actions of these forces during this campaign that caused the departure of at least 700,000 Kosovo Albanians from Kosovo in the short period of time between the end of March and beginning of June 1999," Judge Iain Bonomy, Presiding, stated in the courtroom.

Such crimes are found to have happened in 13 municipalities of Kosovo: Orahovac/Rahovec, Prizren, Srbica/Skenderaj, Suva Reka/Suharekë, Peć/Pejë, Kosovska Mitrovica/Mitrovicë, Priština/Prishtinë, Đakovica/Gjakovë, Gnjilane/Gjilan, Uroševac/Ferizaj, Kačanik/Kaçanik, Dečanin/Dečan and Vučitrn/Vushtrri.

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The Trial Chamber found that these crimes were committed in the execution of a joint criminal enterprise, the purpose of which was to “*use violence and terror to force a significant number of Kosovo Albanians from their homes and across the borders, in order for the state authorities to maintain control over Kosovo*”.

This “*widespread campaign of violence that was directed against the Kosovo Albanian population between March and June 1999*” was “*conducted in an organised manner, utilising significant state resources,*” the Trial Chamber found.

The Trial Chamber enumerated other elements supporting the existence of a joint criminal enterprise. They included, “*the events leading up to the conflict; the arming of non-Albanian civilians in Kosovo and simultaneous disarming of Kosovo Albanians; the breakdown of negotiations to end the Kosovo crisis at the same time as the October [1998] Agreements were being breached by the FRY and Serbian authorities; and the concealment of bodies of Kosovo Albanians killed by VJ and MUP forces*”.

The Trial Chamber found that Nikola Šainović, Nebojša Pavković, and Sreten Lukić all participated in the joint criminal enterprise, and made a significant contribution to its execution.

The Chamber found that **Nikola Šainović** was “*one of the closest and most trusted associates of [Slobodan] Milošević,*” the former FRY President and “*one of the most crucial members of that common [joint criminal] enterprise*”.

“*He was a powerful official in the FRY Government, who not only relayed information to Milošević and conveyed Milošević’s instructions to those in Kosovo, but also had a great deal of influence over events in the province and was empowered to make decisions,*” Judge Bonomy read.

Although he was aware of the crimes committed by VJ and MUP forces, Šainović failed to use his “*extensive authority in Kosovo*” or his own initiative to ensure they stop.

Sainović was found guilty of deportation, forcible transfer, murder and persecution as a crime against humanity and violations of laws or customs of war. He was sentenced to 22 years’ imprisonment.

Nebojša Pavković was the commander of VJ’s 3rd Army, which encompassed both the Priština Corps and the Niš Corps, and therefore “*had substantial de jure and de facto command authority over VJ forces in Kosovo in 1998 and 1999*”.

“*There is no doubt that his contribution to the joint criminal enterprise was significant, as he utilised the VJ forces at his disposal to terrorise and violently expel Kosovo Albanian civilians from their homes,*” the Chamber found.

The commission of murder, sexual assault and the deliberate destruction of or damage to mosques, by the VJ and MUP forces, were reasonably foreseeable to Pavković yet “*he sometimes under-reported and minimised the serious criminal wrongdoing in his reports sent up to the Supreme Command Staff*”.

Pavković was found guilty of deportation, forcible transfer, murder and persecution as a crime against humanity and violations of laws or customs of war. He was sentenced to 22 years’ imprisonment.

The Trial Chamber found that **Sreten Lukić** was “*a de facto commander of MUP forces in Kosovo from mid-1998 to mid-1999, as well as being the bridge between the*

actions of the MUP on the ground in Kosovo and the overarching policies and plans decided in Belgrade". It concluded that he was thus an important participant in the joint criminal enterprise.

The evidence established that Lukić had detailed knowledge of events in Kosovo as they developed, as well as being informed of allegations of criminal conduct by MUP personnel there. However, the Chamber was not convinced by the evidence that Lukić was involved in the concealment of these crimes through the clandestine transportation of civilian bodies from Kosovo to other parts of Serbia.

Sreten Lukić was found guilty of deportation, forcible transfer, murder and persecution as a crime against humanity and violation of laws or customs of war. He was sentenced to 22 years' imprisonment.

As for **Dragoljub Ojdanić**, the Chamber found that, as Chief of the General Staff, he "*exercised command and control over all units and organs of the VJ*".

While it did not find him to have had the intent to expel Kosovo Albanians from their homes, the Chamber found that, "*Ojdanić provided practical assistance, encouragement, or moral support to members of the VJ who he knew intended to commit deportation and forcible transfer. His conduct had a substantial effect on the actual commission of these crimes by VJ forces in some of the locations charged in the Indictment*".

On this basis he was found to have aided and abetted the commission of a number of the charges of deportation and forcible transfer in the Indictment. He was not, however, found responsible for murder or persecution.

Ojdanić was found guilty of deportation and forcible transfer as a crime against humanity. He was sentenced to 15 years' imprisonment.

General **Vladimir Lazarević**, the Commander of Pristina Corps, was not "*necessarily aware of all the political decision-making that generally took place in Belgrade, and did not participate in high-level meetings there,*" the Chamber found. However, Lazarević was supportive of the commission of crimes throughout Kosovo by Yugoslav Army and Police forces in a widespread and systematic attack targeting Kosovo Albanians and was therefore found to have aided and abetted the commission of a number of the charges of deportation and forcible transfer in the Indictment. Lazarević was sentenced to 15 years' imprisonment.

The Chamber found that the Prosecution had not proved that the former Serbian President, **Milan Milutinović**, made a significant contribution to the joint criminal enterprise, nor that he had actual control over the actions of the VJ and MUP forces in Kosovo.

Milutinović did not have direct individual control over the VJ, a federal institution, the Chamber found. "*In practice, it was [Slobodan] Milošević, sometimes termed the 'Supreme Commander', who exercised actual command authority over the VJ during the NATO campaign*".

Milutinović was therefore acquitted on all counts of the Indictment.

Credit will be given for the time each of the accused has already spent in detention.

In addition to today's rulings, the Trial Chamber invited parties to file submissions with regards to three alleged crime sites which the Prosecution was instructed, in accordance with rule 73 *bis*(D), not to present evidence on during the trial.

On 11 July 2006, the Chamber decided - pending any further Order - that evidence related to incidents in Racak/Reçek, Padalište/Padaliste, and Dubrava/Dubravë Prison should not be presented so as to "improve the expeditiousness of the proceedings while ensuring that they remain fair". In the same Decision the Chamber noted that "in no way... [are] the three locations of less significance or are not representative of the Prosecution's case against the accused".

The Trial Chamber today invited all parties to file any submissions they may have on the matter within 14 days.

The *Milutinović and others* trial was one of the Tribunal's largest and most complex. The trial proceedings began on 10 July 2006, and concluded on 27 August 2008. During their course the Chamber heard oral testimony from a total of 235 witnesses, and admitted over 4,300 exhibits.

In total, the Tribunal has indicted nine of the most senior Serb and Yugoslav officials for the crimes carried out in Kosovo by Serb forces in 1999.

Former Yugoslav leader Slobodan Milošević was the first sitting head of state to be charged for war crimes when the Tribunal indicted him in 1999 for alleged crimes in Kosovo. He stood trial between 2002 and 2006 for the alleged offences in Kosovo, as well as for alleged crimes in Croatia and Bosnia and Herzegovina, but died from natural causes on the eve of the trial's end and prior to a judgement being rendered.

Vlajko Stojiljković, a senior police official close to Milošević, was indicted but committed suicide in Belgrade in 2002. Vlastimir Đorđević, former Assistant Minister of the Serbian Ministry of Internal Affairs and Chief of its Public Security Department and a fugitive from justice until his arrest in June 2007, had his trial commence at the Tribunal on 27 January 2009.

Since its establishment the Tribunal has indicted 161 persons for serious violations of humanitarian law committed on the territory of the former Yugoslavia between 1991 and 2001. Proceedings against 116 have been concluded.

The full text of the summary of the Judgement can be found, in English, at:
<http://www.icty.org/x/cases/milutinovic/tjug/en/090226summary.pdf>

Courtroom proceedings can be followed on the Tribunal's website at www.icty.org