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TRIAL CHAMBER

CHAMBRE DE 1<sup>ÈRE</sup>  
INSTANCE

The Hague, 18 March 2004  
GA/P.I.S./832e

**JUDGEMENT IN THE CASE**  
**THE PROSECUTOR V. MIODRAG JOKIĆ**

**MIODRAG JOKIĆ SENTENCED TO 7 YEARS' IMPRISONMENT**

Please find below the summary of the Sentencing Judgement delivered by Trial Chamber I, composed of Judges Alphons Orie (Presiding), Amin El Mahdi and Joaquín Martín Canivell as read out by the Presiding Judge.

**SUMMARY OF JUDGEMENT**

1. We are sitting today to deliver the Sentencing Judgement of Miodrag Jokić for events related to the shelling of Dubrovnik on 6 December 1991. What follows is only a summary of the written Judgement and forms no part of it. The written Judgement will be made available to the parties and to the public at the end of this hearing.
2. I will briefly set out the context and facts of the case, as well as the factors the Trial Chamber considered in imposing the sentence. It should be kept in mind that the findings are based not upon litigation of the facts but upon the submissions of the parties in accordance with the plea agreement and, to a lesser extent, upon evidence led in the sentencing proceedings.
3. Miodrag Jokić surrendered voluntarily to the Tribunal on 12 November 2001. After initially pleading not guilty, he concluded a plea agreement with the Prosecution on 25 August 2003. According to this agreement, Jokić pleaded guilty to the six counts contained in the Second Amended Indictment. All six counts charge violations of the laws or customs of war. The Trial Chamber was satisfied that the guilty plea conformed with Rule 62bis of the Tribunal's Rules of Procedure and Evidence (setting out the requirements for a valid guilty plea) and entered a finding of guilt for each of the counts.
4. At the Sentencing Hearing on 4 December 2003, the Prosecution and the Defence addressed the Trial Chamber and called two witnesses each. Jokić himself delivered a brief statement.
5. Miodrag Jokić was born in Donja Toplica, Serbia, on 25 February 1935. He served in the Yugoslav Navy until 8 May 1992.
6. In October 1991 Jokić was appointed commander of the Ninth Naval Sector. The events of 6 December 1991 which took place in and around Dubrovnik were preceded by a military campaign, started on 8 October 1991 and conducted by Jokić, acting individually and in concert with others. Dubrovnik was encircled by federal Yugoslav forces (the JNA) for approximately three months. The Old Town of Dubrovnik was shelled on a number of occasions.
7. At the beginning of December 1991, JNA and Croatian forces were about to reach a comprehensive ceasefire. Miodrag Jokić was the negotiator on the Yugoslav side. However, on 6 December, JNA forces under the command of, among others, Jokić, unlawfully shelled the Old Town of Dubrovnik.

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8. As a result of the shelling on that day, two civilians were killed and three were wounded in the Old Town. Six buildings of the Old Town were destroyed in their entirety and many more buildings suffered damage. Institutions dedicated to religion, charity, education, and the arts and sciences, and historic monuments and works of art and science were damaged or destroyed.

9. The shelling continued for some part of the day. At 2 pm on 6 December 1991, Jokić sent a radiogram to a Croatian government Minister in Dubrovnik, expressing his regret “for the difficult and unfortunate situation.” He claimed in the radiogram that he had not ordered the shelling. Nevertheless, despite the intensity with which the Old Town was being shelled, there was no immediate order given by Jokić to cease fire. The parties agree that Jokić had knowledge of the unlawful shelling from the early hours of the morning of 6 December 1991 and failed to take the necessary measures to prevent or stop the shelling. Moreover, following the shelling, no one on the JNA side, over which Jokić had responsibility as superior officer, was punished or disciplined for the shelling.

10. On 7 December 1991, a comprehensive ceasefire was finally achieved. During the meeting at which the ceasefire was finalized, Jokić apologized to his Croatian counterpart for the events of the day before.

11. I shall now address the question of the crimes to which Miodrag Jokić has pleaded guilty and the form of his responsibility for these crimes. As I indicated above, the crimes were perpetrated on 6 December 1991, the only day to which the Indictment refers.

12. Jokić has been convicted for the crimes of unlawful attack on civilians within the Old Town of Dubrovnik, for the murder of two persons (Tonči Skočko and Pavo Urban) in the course of the attack, and for the cruel treatment, by wounding, of three others (Nikola Jović, Mato Valjalo, and Ivo Vlašica) in the course of the same attack. He has been convicted also for devastation not justified by military necessity and for unlawful attack on civilian objects. Finally, Jokić has been convicted for destruction or wilful damage done to institutions dedicated to religion, charity, and education, the arts and sciences, historic monuments and works of art and science. The Old Town of Dubrovnik was protected not only under the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, but also as a UNESCO World Cultural Heritage site. It was an outstanding architectural site illustrating a significant stage in human history and cultural achievement. The shelling attack on the Old Town was an attack not only against the history and heritage of the region, but also against the cultural heritage of the whole of humankind.

13. Jokić’s responsibility for the crimes for which he has been convicted is described partially by Article 7(1) of the Statute (aiding and abetting) and partially by Article 7(3) of the Statute (superior responsibility). The crimes were committed by soldiers under his command, although, as the Prosecution submitted, the crimes were not *ordered* by Jokić. Part of Jokić’s behaviour, in particular his acts and omissions before the shelling of the Old Town by JNA forces on 6 December 1991, is correctly qualified as aiding and abetting, since it had a substantial effect on the commission of the crimes on that day. Other culpable omissions are properly qualified, in the specific circumstances of the case, as “superior responsibility” pursuant to Article 7(3) of the Statute. These are Jokić’s lack of proper response to the crimes and his failure to punish the perpetrators who were under his authority.

14. The Trial Chamber has considered the purposes of punishment in light of the mandate of the Tribunal. In accordance with the jurisprudence, retribution, deterrence and rehabilitation have been considered as relevant purposes of punishment for international crimes.

15. As for the factors to be taken into account in sentencing, the Trial Chamber first considered the gravity of the crimes, with reference to the particular circumstances of the case, as well as to the form and degree of participation of Jokić in those crimes.

16. An unlawful military attack on civilians resulting in deaths and injuries is a very serious violation of international humanitarian law. It transgresses a core principle of international humanitarian law. Grave and long-lasting consequences can be expected from shelling a populated area. The death of two civilians, and the wounding of another three, must be condemned in the strongest terms.

17. The Trial Chamber also considers the crime of devastation not justified by military necessity and the unlawful attack on civilian objects to be very serious in the present case, in view of the destruction caused by one day of heavy shelling upon the Old Town.

18. The Trial Chamber in its Judgement has paid considerable attention to the crime of destruction or wilful damage done to institutions dedicated to religion, charity, education, and the arts and sciences, and to historic monuments and works of art and science. The Trial Chamber has found that this is a crime representing a violation of an especially protected value. The crime was particularly serious in the present case because the Old Town of Dubrovnik was, in its entirety, listed as a protected UNESCO site. Residential buildings within the city were therefore especially protected, together with the rest of the site, as an outstanding architectural site illustrating a significant stage in the history of humankind.

19. The leadership position of an accused can be an aggravating circumstance for the purposes of punishment in view of the potentially far-reaching consequences of improper exercise of authority from a position of high office. The Trial Chamber has found this aggravating circumstance applicable to Miodrag Jokić, who was an Admiral and, by virtue of this position, had considerable power and authority.

20. However, as I mentioned earlier in my description of Jokić's participation in and responsibility for the crimes, his involvement was peripheral and mostly effected through omissions.

21. The Trial Chamber has considered in mitigation the fact that Jokić, a high ranking officer, voluntarily surrendered to the Tribunal, pleaded guilty to the Second Amended Indictment, and actively cooperated with the Prosecution.

22. Moreover, the Trial Chamber has assigned substantial weight in mitigation to the fact that Jokić publicly expressed his dissent and regret in relation to the shelling not merely when he faced charges before a court of law, but already on 6 December 1991. The Chamber further considered in mitigation Jokić's good conduct following the attack.

23. The Trial Chamber has also taken into consideration Jokić's personal circumstances.

**Would you, Miodrag Jokić please rise:**

For the reasons I summarized above, the Trial Chamber hereby **SENTENCES** you to a single sentence of 7 (seven) years' imprisonment. Pursuant to Rule 101(C) of the Rules, you are entitled to credit for the time spent in detention, which amounts to 116 days.

**THE TRIBUNAL STANDS ADJOURNED.**

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*The full text of the Judgement is available upon request at the Public Information Services of the ICTY and is also available on the ICTY Internet site at: [www.un.org/icty](http://www.un.org/icty)*