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International pour
l'ex-Yougoslavie

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TRIAL CHAMBER

The Hague, 27 September 2007
CT/MOW/1185e

MRKŠIĆ FOUND GUILTY OF AIDING AND ABETTING MURDERS AT OVČARA, AND ŠLJIVANČANIN GUILTY OF TORTURE, RADIĆ ACQUITTED

The Tribunal's Trial Chamber I today sentenced Mile Mrkšić and Veselin Šljivančanin, former senior officers of the Yugoslav People's Army (JNA), to 20 years' imprisonment and five years' imprisonment, respectively, for their role in the crimes at Ovčara. The third accused, former JNA captain Miroslav Radić, was acquitted of all charges.

Mrkšić was found guilty of aiding and abetting the murder, torture and cruel treatment of 194 non-Serb prisoners of war who were taken from Vukovar Hospital following the fall of this Croatian city to JNA and Serb paramilitary forces in November 1991. Šljivančanin was convicted of aiding and abetting the torture of the prisoners.

At the time of the crimes Mrkšić was a colonel in the JNA and commander of all Serb forces including JNA, Territorial Defence and paramilitary forces, in the Vukovar area. Radić was a captain in the JNA and a company commander of the 1st Battalion of the Guards Motorised Brigade. Šljivančanin was a major in the JNA and held the post of head of the security organ of both the Guard's Motorised Brigade and Operational Group South at the time.

The indictment alleged that on about 20 November 1991, after the end of the brutal siege laid to Vukovar since August of the same year, the JNA and Serb paramilitary soldiers, under the command or supervision of Mrkšić, Radić and Šljivančanin, removed about 260 non-Serb individuals from the Vukovar Hospital, transported them to a farm building in Ovčara where they were beaten, tortured and eventually murdered. They were charged with crimes against humanity and war crimes for their alleged participation in a joint criminal enterprise whose goal was to murder and mistreat the prisoners and their personal and command responsibility for the torture and executions.

The Trial Chamber established that the evidence from exhumations of the mass grave in Ovčara and subsequent autopsies identified 194 non-Serbs victims named in the indictment. Trial Chamber stressed that its findings do not preclude that more than 200 persons, of whom 194 have been identified, died at Ovčara that day.

The Trial Chamber dismissed all charges of crimes against humanity against the three, finding that the persons murdered at Ovčara by Serb forces had been *"specifically identified and selected because of their known, or believed, involvement in the Croatian forces in Vukovar. The Serb forces who mistreated the victims and murdered them acted on the understanding that the victims were prisoners of war, not civilians."*

In relation to the alleged existence of a joint criminal enterprise, the Trial Chamber found that there is no direct evidence which establishes this. The judgements states that while *"in the finding of the Chamber the evidence does not establish that these three accused, or any of them, joined in any joint criminal enterprise for the commission of the offences charged in Indictment."*

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The Trial Chamber found that the actual perpetrators of the murders and torture and associated beatings were members of the Serb Territorial Defence forces, led by Mirosljub Vujović, many from the Vukovar area itself, and Serb paramilitary forces. The murders, torture and associated beatings had not been ordered by either Mrkšić or Šljivančanin.

Mile Mrkšić was found guilty of aiding and abetting the murders because, knowing of the presence of the Territorial Defence and paramilitary forces at Ovčara and of the threat they presented to the prisoners of war, apparently in response to pressure from the local Serb government, he withdrew the JNA troops guarding the prisoners, with the consequence that the Territorial Defence and paramilitary forces were able to murder the them. JNA forces which he commanded had earlier established the inhumane conditions of detention, and he failed to act effectively to ensure that the prisoners were properly protected by JNA guards from torture by Serb Territorial Defence and paramilitary forces.

Veselin Šljivančanin was found guilty of aiding and abetting torture because he failed to secure adequate JNA guards at Ovčara or to ensure that JNA guards at Ovčara under his authority acted to prevent the Serb Territorial Defence and paramilitary forces from beating the prisoners.

The evidence has established that Miroslav Radić was at the Vukovar hospital on 19 November 1991 and that JNA soldiers under his command provided the initial security of the hospital. It has further been established that Miroslav Radić was present at the compound of the hospital in the morning of 20 November 1991, but not that he participated in the separation into groups of persons in front of the hospital. The Trial Chamber further found that it has not been established by the Prosecution that Miroslav Radić had knowledge or reason to know that soldiers under his command had committed crimes at Ovčara. The Trial Chamber ordered his immediate release.

The initial indictment against Mrkšić, Šljivančanin and Radić was issued on 7 November 1995. Mrkšić has been in the Tribunal's custody since 15 May 2002 and Šljivančanin was transferred into custody on 1 July 2003. Both accused will be given credit for their time served in the UNDU. The presiding judge Parker ordered immediate release of Miroslav Radić.

Since its first hearing in November 1994, the Tribunal has indicted 161 persons with proceedings completed in the case of 108 accused. No further indictments will be issued. It is planned that the Tribunal complete its mission by the end of 2010.

The full text of the summary of the judgement can be found at the following links

ENGLISH: <http://www.un.org/icty/pressreal/2007/pr1185e-summary.htm>

FRENCH: <http://www.un.org/icty/pressreal/2007/pr1185f-summary.htm>