

United Nations
Nations UniesInternational Criminal Tribunal
for the former Yugoslavia
Tribunal Pénal International
pour l'ex-Yugoslavie

(IT-04-81)

MOMČILO PERIŠIĆ



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Convicted of murder, inhumane acts, persecutions on political, racial or religious grounds, attacks on civilians



From about 26 August 1993 until 24 November 1998, Chief of the General Staff of the Yugoslav Army (VJ)

- Sentenced to 27 years' imprisonment

Crimes convicted of (examples):

Murder; inhumane acts; persecutions on political, racial or religious grounds (crimes against humanity)
Murder; attacks on civilians (violations of laws or customs of war)

- Between August 1993 and November 1995, Perišić aided and abetted a military campaign of artillery and mortar shelling and sniping onto civilian areas of Sarajevo and upon its civilian population, killing and wounding thousands of civilians.
- Perišić failed to take necessary and reasonable steps to punish his subordinates for the shelling of civilian areas in the city of Zagreb, on 2 and 3 May 1995, which resulted in the death and wounding of civilians.
- He aided and abetted crimes against the Bosnian Muslim population of Srebrenica which included unlawful killings, inhumane acts, forcible transfers and persecution on political, racial or religious grounds, with the knowledge that the assistance he provided would be used in the commission of these crimes.

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| Born | 22 May 1944 in Koštunići, Serbia |
| Indictment | Initial, 24 February 2005, made public on 7 March 2005; amended: 29 August 2005; revised second amended: 17 January 2008 |
| Surrendered | 7 March 2005 |
| Transferred to ICTY | 7 March 2005 |
| Initial appearance | 9 March 2005, pleaded not guilty to all charges |
| Trial Chamber Judgement | 6 September 2011, sentenced to 27 years' imprisonment |

STATISTICS

| | |
|---------------------------------|------|
| Trial days | 203 |
| Witnesses called by Prosecution | 82 |
| Prosecution exhibits | 2913 |
| Witnesses called by Defence | 22 |
| Defence exhibits | 846 |
| Chamber exhibits | 3 |

| TRIAL | |
|-----------------------------|--|
| Commenced | 2 October 2008 |
| Closing arguments | 28-31 March 2011 |
| Trial Chamber I | Judge Bakone Justice Moloto (presiding), Judge Pedro David, Judge Michèle Picard |
| Counsel for the Prosecution | Mark Harmon, Daniel Saxon |
| Counsel for the Defence | Novak Lukić, Gregor Guy-Smith |
| Judgement | 6 September 2011 |

| APPEALS | |
|-----------------------------|---|
| Appeals Chamber | Judge Theodor Meron (presiding), Judge Mehmet Güney, Judge Liu Daqun, Judge Andréia Vaz, and Judge Carmel Agius |
| Counsel for the Prosecution | Helen Brady |
| Counsel for the Defence | Novak Lukić, Gregor Guy-Smith |

| RELATED CASES <i>by geographical area</i> | |
|---|--|
| BLAGOJEVIĆ & JOKIĆ (IT-02-60) "SREBRENICA" | |
| ERDEMOVIĆ (IT-96-22) "PILICA FARM" | |
| KARADŽIĆ (IT-95-5/18) "BOSNIA AND HERZEGOVINA" & "SREBRENICA" | |
| KRSTIĆ (IT-98-33) "SREBRENICA-DRINA CORPS" | |
| MILOŠEVIĆ (IT-02-54) "KOSOVO, CROATIA AND BOSNIA" | |
| MLADIĆ (IT-09-92) "BOSNIA AND HERZEGOVINA" & "SREBRENICA" | |
| NIKOLIĆ MOMIR (IT-02-60/1) "SREBRENICA" | |
| OBRENOVIĆ (IT-02-60/2) "SREBRENICA" | |
| ORIĆ (IT-03-68) | |
| 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

The indictment against Perišić was confirmed 24 February 2005, and made public on 7 March 2005. The Prosecution filed the amended indictment on 26 September 2005.

On 20 November 2006, the Trial Chamber invited the Prosecution, pursuant to Rule 73*bis*, to reduce the scope of the indictment by at least one-third. On 4 December 2006, the Prosecution declined to accept the invitation but indicated its preference to further amend the indictment. On 15 May 2007, the Trial Chamber ordered the Prosecution to file a new indictment containing all the amendments proposed by the Prosecution, and ordered them not to lead evidence on terror in relation to the Sarajevo counts, pursuant to Rule 73*bis*. The Prosecution filed the second amended indictment on 13 September 2007. On 17 January 2008, the Trial Chamber ordered the Prosecution to file a revised indictment. Subsequently, on 5 February 2008, the Prosecution filed the revised second amended indictment.

The indictment states that Perišić was the Chief of the General Staff of the Yugoslav Army (VJ) from about 26 August 1993 until 24 November 1998. According to the indictment, Perišić, as the most senior officer in the VJ, had *de jure* and *de facto* authority to:

- make and implement decisions for the VJ General Staff and all subordinate units;
- issue orders, instructions and directives, and ensure their implementation; and
- transfer and second VJ personnel to the Army of Republika Srpska (VRS) and the Army of Serbian Krajina (SVK) via the 30th and 40th Personnel Centres of the VJ General Staff for short temporary assignments or longer indefinite periods.

The accused is charged on basis of individual criminal responsibility for aiding and abetting in the planning, preparation, or execution of murder, inhumane acts, persecutions on political, racial or religious grounds, extermination, and attacks on civilians. He is also charged, in his capacity as a superior officer, for failing to take necessary and reasonable measures to prevent or punish the commission crimes by his subordinates.

According to the indictment, between August 1993 and November 1995, Perišić aided and abetted the planning, preparation, or execution of a military campaign of artillery and mortar shelling and sniping onto civilian areas of Sarajevo and upon its civilian population, killing and wounding thousands of civilians. These crimes were, in part, planned, instigated, ordered, committed and aided by members of the 30th Personnel Centre of the VJ General Staff including but not limited to General Ratko Mladić, Commander of the VRS; General Stanislav Galić, Commander of the Sarajevo Romanija Corps (until August 1994); and General Dragomir Milošević, Commander of the Sarajevo Romanija Corps (after August 1994). Perišić had reason to know that subordinates of his, including Mladić, Galić, Milošević and other VJ officers serving in the VRS via the 30th Personnel Centre had participated in the perpetration of crimes in Sarajevo. Perišić, failed to initiate an inquiry into what role members of the 30th Personnel Centre of the VJ General Staff may have played in the commission of these crimes.

The indictment further alleges that, on 2 May 1995, on the order of Milan Martić, General Milan Čeleketić of the Army of the Serbian Krajina (SVK) ordered his subordinates to fire an “Orkan” multiple-barrel rocket launcher fitted with “cluster bomb” warheads into central Zagreb and the airport (Pleso). On 3 May 1995, on the orders of Martić, the “Orkan” multiple-barrel rocket launcher fitted with “cluster bomb” warheads was once again fired into the centre of Zagreb. These unlawful attacks caused the death of at least seven civilians and the wounding of at least 194 civilians.

The subordinates of Perišić who participated in the perpetration of crimes in Zagreb included Milan Čeleketić and other senior officers of the SVK who served in the SVK via the 40th Personnel Centre of the VJ General Staff. Perišić had reason to know that they had participated in the perpetration of the crimes, but he failed to initiate an inquiry into what role members of the 40th Personnel Centre of the VJ may have played in the commission of these crimes.

It is also alleged that, on 6 July 1995, the Bosnian Serb Army (VRS) and other Bosnian Serb forces under the command and control of General Mladić attacked the Srebrenica enclave. The attack on the enclave continued until 11 July 1995, when Mladić and the forces under his command and control entered Srebrenica. Perišić knew an attack was planned, and also knew that some members of the VRS would

engage in criminal conduct against the Bosnian Muslim civilian population of Srebrenica after its capture; criminal conduct which would include persecution, forcible transfers and killings.

The indictment further states that, between 12 July and about 20 July 1995, thousands of Bosnian Muslim men were captured by, or surrendered to, Bosnian Serb forces. Thousands of Bosnian Muslim prisoners captured in the area around Srebrenica were summarily executed from 13 July to 19 July 1995 and thereafter many were buried in mass graves. The crimes committed in and around Srebrenica were, in part, planned, instigated, ordered, committed and aided by members of the 30th Personnel Centre of the VJ. Perišić had reason to know that his subordinates had participated in the perpetration of crimes in Srebrenica, but he failed to initiate an inquiry into what role members of the 30th Personnel Centre of the VJ may have played in the commission of these crimes.

Perišić is charged on the basis of individual criminal responsibility (Article 7(1) of the Statute) and on the basis of superior criminal responsibility (Article 7(3) of the Statute) with:

- **Murder; inhumane acts; persecutions on political, racial or religious grounds; extermination** (crimes against humanity, Article 5)
- **Murder; attacks on civilians** (violations of laws or customs of war, Article 3).

PRE-TRIAL

Perišić was granted provisional release on 9 June 2005. On 27 August 2008, the Trial Chamber terminated the provisional release and ordered Perišić to return to the Detention Unit on 18 September 2008.

THE TRIAL

The trial commenced on 2 October 2008. The Prosecution rested its case on 25 January 2010. The Defence case commenced on 22 February 2010. It was rested on 11 January 2011. The closing arguments were heard from 28 until 31 March 2011.

TRIAL CHAMBER JUDGEMENT

The Trial Chamber found that, from September 1992 to November 1995, the VRS conducted a lengthy campaign of shelling and sniping in Sarajevo which resulted in the deaths of hundreds of civilians and the wounding of thousands of others. In the summer of 1995, the VRS invaded the town of Srebrenica, which the United Nations Security Council had previously established as a safe area for civilians. After taking over Srebrenica, the VRS proceeded to forcibly remove and massacre thousands of Muslim civilians and persons not taking an active part in hostilities.

The Trial Chamber determined that the SVK fired rockets on the city of Zagreb on 2 May 1995, killing 5 people and injuring 146. The SVK again fired rockets on Zagreb on the next day, killing two persons and injuring 54. The Chamber found that the SVK perpetrated the crimes of murder as a crime against humanity, murder as a war crime, inhumane Acts as a crime against humanity, and attacks on civilians as a war crime.

The Trial Chamber found that Perišić oversaw the Yugoslav Army's provision of extensive logistic assistance to the VRS and the SVK. Logistic assistance notably included vast quantities of infantry and artillery ammunition, fuel, spare parts, training and technical assistance.

The Supreme Defence Council of the Federal Republic of Yugoslavia granted Perišić and the Yugoslav Army the authority to provide logistic assistance to the VRS and SVK. Even though Perišić was not officially a member of the Supreme Defence Council, he participated in the Council's meetings, along with its members, notably Slobodan Milošević and Zoran Lilić, who at that time held the titles of President of Serbia and President of the Federal Republic of Yugoslavia, respectively. Perišić regularly urged the

Council to continue providing logistic assistance to the VRS and SVK, insisting that they could not wage war without significant military support.

A large number of VRS and SVK officers were drawn from the ranks of the Yugoslav Army. They officially remained members of the Yugoslav Army even as they were fighting in Bosnia and Croatia under the banners of the VRS and SVK. Perišić proposed and carefully implemented the idea of creating “Personnel Centres” to regularise the status of these officers and allow them to lawfully remain part of the Yugoslav Army. VRS officers retained their salaries and benefits as Yugoslav Army members through what was known as the 30th Personnel Centre, and SVK officers through the 40th Personnel Centre. Perišić was well aware that the payment of salaries was, in his own words, of “great help” to the VRS.

Finally, the majority found that Perišić knew that the VRS’s operations encompassed grave crimes against civilians. Perišić received information from a variety of sources concerning the VRS’s criminal behaviour and discriminatory intent against Muslims. Under Perišić’s direction, the Yugoslav Army’s intelligence and security organs monitored the views of the international community and international media concerning the conflict in Bosnia and Herzegovina. The Yugoslav Army General Staff also received diplomatic reports about proceedings at the United Nations Security Council concerning grave abuses against civilians in Sarajevo and other parts of Bosnia and Herzegovina. In particular, Perišić was alerted to the fact that the VRS was conducting a campaign of sniping and shelling against civilians during its siege of Sarajevo. These regular attacks were well documented and widely reported for a period of three years. Perišić could not have reasonably discounted this information simply because he and his allies considered it biased against the Serbs. The fact that information was, in some instances, biased or one-sided does not undermine the finding that Perišić had notice of the VRS’s crimes in Sarajevo, namely murder, attacks on civilians and inhumane acts.

With regard to the atrocities perpetrated during the takeover of Srebrenica in July 1995, the majority underlined that Perišić had already been notified long before this tragedy that the VRS had a propensity to target civilians. Further, he was aware of the escalating tensions in the Srebrenica area and that the VRS was preparing a military attack there. The majority was satisfied that Perišić knew that it was highly probable that the VRS would forcibly transfer Bosnian Muslims and commit killings and other abuses with discriminatory intent once Srebrenica had fallen under VRS control. In other words, Perišić knew of the likelihood that the VRS would perpetrate the crimes of murder, inhumane acts and persecution in Srebrenica. However, the Trial Chamber unanimously found that the evidence did not establish beyond a reasonable doubt that Perišić could reasonably have foreseen, based on his knowledge of the VRS’s prior conduct, that the VRS would engage in the radical, systematic extermination of thousands of Muslims in Srebrenica. The evidence did not establish beyond a reasonable doubt that a superior-subordinate relationship existed at the relevant time between Perišić and perpetrators of the crimes committed in Sarajevo and Srebrenica. Accordingly, the Trial Chamber held that Perišić was not criminally responsible for failing to prevent the VRS’s crimes or punish their perpetrators.

The Trial Chamber by majority, Judge Moloto dissenting, found that Perišić exercised effective control over Yugoslav Army officers serving in the SVK through the 40th Personnel Centre. This conclusion was further based on the finding that Perišić had the ability to issue command orders to senior SVK officers serving in the 40th Personnel Centre, who considered them binding. The majority therefore found that a superior-subordinate relationship existed at the relevant time between Perišić and perpetrators of the criminal attacks on Zagreb on 2 and 3 May 1995. The Majority found that, although Perišić was immediately notified of both of the SVK’s rocket attacks on Zagreb, he failed to take “necessary and reasonable measures” to punish the perpetrators, whose grave crimes were left unsanctioned. The majority thus held that Perišić was culpable of failing to punish his subordinates for their crimes in Zagreb.

On 6 September 2011, the Chamber rendered its judgement convicting Perišić, as an aider and abettor, on the basis of individual criminal responsibility (Article 7 (1) of the Statute of the Tribunal), of:

- Murder (crimes against humanity, Article 5) in relation to Sarajevo and Srebrenica;
- Murder (violation of the laws or customs of war, Article 3) in relation to Sarajevo and Srebrenica;
- Inhumane acts/injuring and wounding civilians (crimes against humanity, Article 5) in relation to Sarajevo;
- Attacks on civilians (violation of the laws or customs of war, Article 3) in relation to Sarajevo;

- Inhumane acts/inflicting serious injuries, wounding and forcible transfer (crimes against humanity, Article 5) in relation to Srebrenica
- Persecutions on political, racial or religious grounds (crimes against humanity, Article 5) in relation to Srebrenica

Furthermore, the Chamber convicted Perišić, on the basis of superior criminal responsibility (Article 7 (3) of the Statute of the Tribunal) of:

- Murder (crimes against humanity, Article 5) in relation to Zagreb;
- Murder (violation of the laws or customs of war, Article 3) in relation to Zagreb;
- Inhumane acts/injuring and wounding civilians (crimes against humanity, Article 5) in relation to Zagreb;
- Attacks on civilians (violation of the laws or customs of war, Article 3) in relation to Zagreb;

Perišić was found not guilty and acquitted of one count of extermination in relation to Srebrenica and as a superior for failing to prevent crimes by subordinates or punish their perpetrators in relation to Sarajevo and Srebrenica.

Sentence: 27 years' imprisonment

APPEALS PROCEEDINGS

On 8 November 2011, Perišić's Defence filed its notice of appeal.