

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

“SREBRENICA” (IT-05-88)

# POPOVIĆ *et al.*

*The Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Radivoje Miletić, Milan Gvero, & Vinko Pandurević*



## VIJADIN POPOVIĆ

*Convicted of genocide, extermination, murder, persecutions*



Lieutenant Colonel and the Chief of Security of the Drina Corps of the Bosnian Serb Army (VRS)

- Sentenced to **life imprisonment**

### *Crimes convicted of (examples):*

- Popović was fully engaged in the organisation of the killing operation being carried out in the Zvornik area. He was a member of the Joint Criminal Enterprise (JCE) to murder the Bosnian Muslim males of Srebrenica, and he participated in that JCE with persecutory intent. Popović was entrenched in several aspects of the operation, and he participated with resolve. He was ubiquitous in the Zvornik area, present at all but one of the major killing sites. Popović knew that the intent was not just to kill those who had fallen into the hands of the Bosnian Serb Forces, but to kill as many as possible with the aim of destroying the group. Popović's ensuing robust participation in all aspects of the plan demonstrates that he not only knew of this intent to destroy, he also shared it.

## VIJADIN POPOVIĆ

<b>Born</b>	14 March 1957 in Popovići, Bosnia and Herzegovina
<b>Indictment</b>	Initial: 26 March 2002; consolidated amended: 11 November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
<b>Surrendered</b>	14 April 2005
<b>Transferred to ICTY</b>	14 April 2005
<b>Initial and further appearances</b>	18 April 2005, pleaded not guilty to all charges; 4 April 2006, pleaded not guilty to all charges
<b>Trial Chamber Judgement</b>	10 June 2010, sentenced to life imprisonment

## LJUBIŠA BEARA

*Convicted of genocide, extermination, murder, persecutions*




Colonel and Chief of Security of the VRS Main Staff

- Sentenced to **life imprisonment**

*Crimes convicted of (examples):*

- Beara was a member of the JCE to murder the Bosnian Muslim males from Srebrenica, and he participated in that JCE with persecutory intent. Beara's vigorous efforts to organise locations and sites, recruit personnel, secure equipment and oversee executions all display his grim determination to kill as many as possible as quickly as possible. The Trial Chamber found that Beara was a man intent on destroying a group by killing all the members of it within his reach, and that, beyond all reasonable doubt, he harboured genocidal intent.

<b>LJUBIŠA BEARA</b>	
<b>Born</b>	14 July 1939 in Sarajevo, Bosnia and Herzegovina
<b>Indictment</b>	Initial: 26 March 2002; amended: 24 March 2005; revised amended: 30 March 2005; consolidated amended: 11 November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
<b>Surrendered</b>	9 October 2004
<b>Transferred to ICTY</b>	10 October 2004
<b>Initial and further appearances</b>	12 October 2004, did not enter a plea; 9 November 2004, did not enter a plea; 11 November 2004, pleaded not guilty to all charges; 5 April 2005, pleaded not guilty to all charges; 4 April 2006, pleaded not guilty to all charges
<b>Trial Chamber Judgement</b>	10 June 2010, sentenced to life imprisonment

<b>DRAGO NIKOLIĆ</b> <i>Convicted of aiding and abetting genocide, extermination, murder, persecutions</i>	
	2nd Lieutenant who served as Chief of Security for the Zvornik Brigade of the VRS  - Sentenced to <b>35 years' imprisonment</b>

*Crimes convicted of (examples):*

- On 15 July, Nikolić, working closely with Beara and Popović, was involved in organising the detention and execution of prisoners at Ročević School. He demonstrated a resolve to carry out his assigned tasks in this murderous operation. His contribution to the JCE to murder was persistent and determined. It was found that Nikolić participated in the JCE to murder with persecutory intent, that he had knowledge of the genocidal intent of others and that he made a substantial contribution to genocide.

<b>DRAGO NIKOLIĆ</b>	
<b>Born</b>	9 November 1957 in Brana Bačić, Bosnia and Herzegovina
<b>Indictment</b>	Initial: 6 September 2002; consolidated amended: 11 November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
<b>Surrendered</b>	15 March 2005
<b>Transferred to ICTY</b>	17 March 2005
<b>Initial and further appearances</b>	23 March 2005, did not enter a plea; 20 April 2005, pleaded not guilty to all charges; 4 April 2006, pleaded not guilty to all charges
<b>Trial Chamber Judgement</b>	10 June 2010, sentenced to 35 years' imprisonment

**LJUBOMIR BOROVIČANIN***Convicted of aiding and abetting extermination, persecutions, forcible transfer and murder*

Deputy Commander of the Republika Srpska Ministry of Internal Affairs (MUP) Special Police Brigade; from 10 July 1995, Commander of a joint force of MUP units subordinated to the Drina Corps of the VRS to participate in the Srebrenica operation

- Sentenced to 17 years' imprisonment

*Crimes convicted of (examples):*

- On 13 July, Borovčanin arrived at Kravica Warehouse where over 1,000 Bosnian Muslim men were detained. Borovčanin had the means to protect the prisoners and knew that it was probable that the prisoners would be killed. His failure to protect the Bosnian Muslim prisoners then still detained substantially contributed to the full-scale execution which later took place at Kravica Warehouse.

**LJUBOMIR BOROVIČANIN**

<b>Born</b>	27 February 1960 in Han Pijesak, Bosnia and Herzegovina
<b>Indictment</b>	Initial: 6 September 2002; consolidated amended: 11 November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
<b>Surrendered</b>	1 April 2005
<b>Transferred to ICTY</b>	1 April 2005
<b>Initial and further appearances</b>	7 April 2005, did not enter a plea; 5 May 2005, pleaded not guilty to all charges; 4 April 2006, pleaded not guilty to all charges except for Count 2, for which he did not enter a plea; 13 July 2006, pleaded not guilty to Counts 1 and 2
<b>Trial Chamber Judgement</b>	10 June 2010, sentenced to 17 years' imprisonment
<b>Serving sentence</b>	10 November 2011, transferred to Denmark to serve his sentence; credit was given for time spent in custody

**RADIVOJE MILETIĆ***Convicted of murder, persecutions, forcible transfer*

Chief of Operations and Training administration of the VRS Main Staff

- Sentenced to 19 years' imprisonment

*Crimes convicted of (examples):*

- Milić made a significant contribution to the JCE to forcibly remove and furthermore shared the common intent of the JCE. In addition, Milić carried out his acts in furtherance of the plan to remove the Bosnian Muslim with the specific intent to discriminate on political, racial or religious grounds. Based on his level of involvement and his in-depth knowledge and broad overview of the massive operation to forcibly remove the Bosnian Muslims from Srebrenica, it was foreseeable to Milić that murder would be committed in Potočari and that these murders would be committed with the specific intent to discriminate on political, racial or religious grounds.

**RADIVOJE MILETIĆ**

<b>Born</b>	6 December 1947 in Štović, Bosnia and Herzegovina
<b>Indictment</b>	Initial: 10 February 2005; consolidated amended: 11 November 2005;

	second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
<b>Surrendered</b>	24 February 2005
<b>Transferred to ICTY</b>	28 February 2005
<b>Initial and further appearances</b>	2 March 2005, did not enter a plea; 31 March 2005, did not enter a plea; 15 April 2005, pleaded not guilty to all charges; 6 July 2006, pleaded not guilty to all charges
<b>Trial Chamber Judgement</b>	10 June 2010, sentenced to 19 years' imprisonment

**MILAN GVERO***Convicted of persecutions and forcible transfer*

Assistant Commander for Morale, Legal and Religious Affairs of the VRS Main Staff

- Sentenced to **five years' imprisonment***Crimes convicted of (examples):*

- Gvero made a significant contribution to the JCE to forcibly remove, and shared the common intent. Furthermore, he acted with the specific intent to discriminate on political, racial or religious grounds.

**MILAN GVERO**

<b>Born</b>	4 December 1937 in Mrkonjić Grad, Bosnia and Herzegovina
<b>Indictment</b>	Initial: 10 February 2005; consolidated amended: 11 November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
<b>Surrendered</b>	24 February 2005
<b>Transferred to ICTY</b>	24 February 2005
<b>Initial and further appearances</b>	2 March 2005, pleaded not guilty to all charges; 6 July 2006, pleaded not guilty to all charges
<b>Trial Chamber Judgement</b>	10 June 2010, sentenced to five years' imprisonment; early release granted on 28 June 2010

**VINKO PANDUREVIĆ***Convicted of aiding and abetting murder, persecutions, forcible transfer*

Lieutenant Colonel and Commander of the Zvornik Brigade of the Drina Corps of the VRS

- Sentenced to **13 years' imprisonment***Crimes convicted of (examples):*

- Upon his return to the Standard Barracks at noon on 15 July, Pandurević had reason to know that his subordinates had committed, were committing or were about to commit crimes in relation to the detention, execution, and burial of the Bosnian Muslim prisoners in the area of Zvornik. It was found that Pandurević did not genuinely attempt to take any measures within his material powers in order to prevent any further or continued participation of his subordinates in the murder operation.

**VINKO PANDUREVIĆ**

<b>Born</b>	25 June 1959 in Jasik, Bosnia and Herzegovina
<b>Indictment</b>	Initial: 2 November 1998; amended: 27 October 1999, made public on 7 December 2001; amended: 24 March 2005; consolidated amended: 11

	November 2005; second consolidated amended: 14 June 2006; revised second consolidated amended: 15 August 2006
<b>Surrendered</b>	23 March 2005
<b>Transferred to ICTY</b>	23 March 2005
<b>Initial and further appearances</b>	31 March 2005, did not enter a plea; 3 May 2005, pleaded not guilty to all charges; 4 April 2006, pleaded not guilty to all charges
<b>Trial Chamber Judgement</b>	10 June 2010, sentenced to 13 years' imprisonment

## STATISTICS

<b>Trial days</b>	<b>425</b>
<b>Witnesses called by Prosecution</b>	<b>182</b>
<b>Prosecution exhibits</b>	<b>2906</b>
<b>Witnesses called by Defence</b>	Popović: 27 Beara: 43 Nikolić: 22 Borovčanin: 14 Miletić: 15 Gvero: 5 Pandurević: 6
<b>Defence exhibits</b>	Popović: 488 Beara: 119 Nikolić: 234 Borovčanin: 563 Miletić: 666 Gvero: 122 Pandurević: 282
<b>Witnesses called by Trial Chamber</b>	<b>1</b>
<b>Chamber exhibits</b>	<b>3</b>

TRIAL	
<b>Commenced</b>	14 July 2006
<b>Closing arguments</b>	2 - 15 September 2009
<b>Trial Chamber II</b>	Judge Carmel Agius (presiding), Judge O-Gon Kwon, Judge Kimberly Prost and Judge Ole Bjørn Støle (Reserve Judge)
<b>Counsel for the Prosecution</b>	Peter McCloskey, Nelson Thayer
<b>Counsel for the Defence</b>	For Vujadin Popović: Zoran Živanović, Mira Tapušковиć For Ljubiša Beara: John Ostojić, Theodor Scudder For Drago Nikolić: Jelena Nikolić, Stéphane Bourgon For Ljubomir Borovčanin: Christopher Gosnell, Tatjana Čmerić For Radivoje Miletić : Natacha Fauveau Ivanović, Nenad Petrušić For Milan Gvero: Dragan Krgović, David Josse For Vinko Pandurević: Peter Haynes, Simon Davis
<b>Judgement</b>	10 June 2010

APPEALS	
<b>Appeals Chamber</b>	Judge Patrick Robinson (presiding), Judge Mehmet Güney, Judge Fausto Pocar, Judge Liu Daqun and Judge Andréia Vaz
<b>Counsel for the Prosecution</b>	Peter Kremer
<b>Counsel for the Defence</b>	For Vujadin Popović: Zoran Živanović, Mira Tapušковиć For Ljubiša Beara: John Ostojić For Drago Nikolić: Jelena Nikolić, Stéphane Bourgon For Ljubomir Borovčanin: Christopher Gosnell, Tatjana Čmerić For Radivoje Miletić: Natacha Fauveau Ivanović, Nenad Petrušić For Milan Gvero: Dragan Krgović, David Josse For Vinko Pandurević: Peter Haynes, Simon Davis

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 & 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)
PERIŠIĆ (IT-04-81)
STANIŠIĆ & SIMATOVIĆ (IT-03-69)
TOLIMIR (IT-05-88/2) "SREBRENICA"
TRBIĆ (IT-05-88/1) "SREBRENICA"

## INDICTMENT AND CHARGES

The initial indictment against Popović was confirmed on 26 March 2002 (case number IT-02-57). He was charged with six counts of genocide or, alternatively, complicity to commit genocide, extermination, murder, persecutions and forcible transfer in the area of Srebrenica between 11 July and 1 November 1995. His initial appearance took place on 18 April 2005, when he entered a plea of not guilty to all counts.

The initial indictment against Beara was confirmed on 26 March 2002 (case number IT-02-58). His initial appearance took place on 12 October 2004 and a further initial appearance was held on 9 November 2004. An additional initial appearance took place on 11 November 2004, when he entered a plea of not guilty to all counts. On 26 November 2004, the Prosecutor filed an amended indictment. On 24 March 2005, the proposed amendments were, with the exception of one paragraph, confirmed by Judge Bonomy. Amendments to the indictment included deletion of the charge of complicity to commit genocide, addition of the charge of conspiracy to commit genocide, the deletion of certain factual allegations, clarification of the elements of counts 2 (extermination) and 6 (forcible transfer) and the correction of one factual error. The Prosecutor filed the revised amended indictment on 30 March 2005. On 5 April 2005, Beara entered a plea of not guilty to the new charges in the amended indictment.

The initial indictment against Nikolić was filed on 6 September 2002 (case number IT-02-63). He was charged with five counts of genocide or, alternatively, complicity to commit genocide, extermination, murder and persecutions in the area of Srebrenica between 11 July and 1 November 1995. His initial appearance took place on 23 March 2005. A further initial appearance was held on 20 April 2005, when he entered a plea of not guilty to all counts.

The initial indictment against Borovčanin was filed on 6 September 2002 (IT-02-64). He was charged with six counts of genocide or, alternatively, complicity to commit genocide, extermination, murder, persecutions and forcible transfer in the area of Srebrenica between 11 July and 1 November 1995. His initial appearance took place on 7 April 2005. A further initial appearance was held on 5 May 2005, when he entered a plea of not guilty to all counts.

The initial indictment against Miletić, Gvero and Zdravko Tolimir was confirmed on 10 February 2005 (case number IT-04-80) and made public on 25 February 2005. The accused were charged with five counts of murder, persecutions and inhumane acts (forcible transfer) and deportation. The initial appearance of Miletić and Gvero took place on 2 March 2005, when Gvero entered a plea of not guilty to all counts. A further initial appearance was held on 31 March 2005 and an additional initial appearance held on 15 April 2005, when Miletić entered a plea of not guilty to all counts.

Pandurević was initially charged with eight counts of genocide or, alternatively, complicity to commit genocide, extermination, murder, persecutions, deportation and inhumane acts in the area of Srebrenica

between 11 July and 1 November 1995 (see *Prosecutor v. Radislav Krstić, Vidoje Blagojević and Vinko Pandurević*, case number IT-98-33). On 10 February 2005, the Prosecutor filed a motion to amend the indictment to include Milorad Trbić, which was confirmed on 24 March 2005 (case number IT-05-86). The initial appearance of Pandurević took place on 31 March 2005. A further initial appearance was held on 3 May 2005, when he entered a plea of not guilty to all counts.

On 10 June 2005, the Prosecution filed a motion seeking to join the six cases against the nine accused into a single case. The motion was granted on 21 September 2005.

On 31 October 2005, the Trial Chamber granted the motion to file a consolidated amended indictment. That indictment was filed by the Prosecution on 11 November 2005.

Following a number of motions alleging defects in the form of the consolidated amended indictment, on 31 May 2006, the Trial Chamber ordered the Prosecution to file an amended indictment implementing a number of changes. The second consolidated amended indictment was filed on 14 June 2006.

On 26 June 2006, the Trial Chamber ordered that the case of Trbić be severed from the case IT-05-88, and the Prosecution was ordered to file two new versions of the second consolidated amended indictment, one removing all charges against Trbić and the other against Trbić only (case number IT-05-88/1). The Prosecution filed the indictment against Trbić on 18 August 2006.

On 13 July 2006 the Trial Chamber issued an oral order to remove charges against Tolimir from the indictment. The Prosecution filed the revised second consolidated amended indictment on 4 August 2006, which no longer included charges against Trbić or Tolimir. Subsequently, on 15 August 2006, the Trial Chamber officially severed Tolimir from the case IT-05-88 and ordered a new indictment against him to be filed. The case against Tolimir was assigned the new case number IT-05-88/2 and on 28 August 2006 the Prosecution filed the operative indictment against him only.

The operative indictment alleges that, on 8 March 1995 President of Republika Srpska Radovan Karadžić set out in Directive 7 the order to remove the Muslim population from the Srebrenica and Žepa enclaves. This Directive ordered the complete "physical separation of the Srebrenica and Žepa enclaves as soon as possible, preventing even communication between individuals between the two enclaves. By planned and well-thought-out combat operations, create an unbearable situation of total insecurity, with no hope of further survival or life for the inhabitants of Srebrenica or Žepa."

On 11 and 12 July 1995 the Srebrenica enclave was taken over by the Bosnian Serb Army (VRS) and the Ministry of Interior (MUP) troops and the plan to remove the Muslim population from Srebrenica was implemented, along with the plan to murder all the able-bodied men of Srebrenica.

The indictment alleges that, on 10 and 11 July 1995, thousands of Bosnian Muslims from the enclave, including women, children, and some men, fled to the UN Compound in Potočari, near Srebrenica, where they sought the protection of the UN Dutch Battalion. At the same time, approximately 15,000 Bosnian Muslim men from the enclave, with some women and children, gathered at the villages of Šusnjari and Jagličići and fled on 11 July in a huge column through the woods towards the city of Tuzla. Approximately one third of this group consisted of armed Bosnian Muslim military personnel. The rest were civilians and unarmed military personnel.

The indictment states that, in the evening hours of 11 July and morning of 12 July 1995, the plan to forcibly transport the Muslim population from Potočari was developed. Ratko Mladić, Commander of the Main Staff of the VRS, and members of his staff developed a plan to murder the hundreds of able-bodied men identified from the crowd of Muslims in Potočari. Beara, Chief of the Main Staff Security Organ, was in charge of organising, co-ordinating and facilitating the detention, transportation, summary execution and burial of the Muslim victims. Beara was supervised in this task by Tolimir, Assistant Commander for Security and Intelligence of the Main Staff. Beara was assisted in these tasks by the respective Corps and Brigade security officers involved in these events, namely, Popović, Drina Corps, Chief of Security; Momir Nikolić, Bratunac Brigade Chief of Security and Drago Nikolić, Zvornik Brigade Chief of Security. The above-named security officers relied upon commanders Mladić, Krstić, Pandurević, Borovčanin, Blagojević and others, for the men, materials, directions and orders to carry out the murder operation. Miletić was standing in for the Chief of Staff of the Main Staff of the VRS and acted as principal adviser to Mladić, the primary facilitator through which his intent, orders and directives were organised and processed for

execution by the Staff and subordinate units. Gvero was one of seven Assistant Commanders who reported directly to the Commander of the Main Staff, Mladić.

In order to force the Muslim populations of Srebrenica and Žepa to leave the area, the Bosnian Serb Army made life unbearable for the inhabitants of the enclave, militarily defeated the Muslim forces and disabled the local UN forces, prevented and controlled outside international protection of the enclaves, including air strikes and international monitoring, and controlled the movement of people out of the enclaves.

The indictment further alleges that the plan to murder the able-bodied men of Srebrenica began on the afternoon of 12 July with the forcible separation of the able-bodied men in Potočari from their families. From the afternoon of 12 July through the entire day of 13 July, over 1,000 able-bodied Muslim men were separated from their friends and families and transported to Bratunac and held temporarily in buildings and vehicles through 14 and 15 July.

It is alleged that on the morning of 13 July and continuing all that day, over 6,000 able-bodied Muslim men surrendered to or were captured by Bosnian Serb forces stationed along the road between Bratunac, Konjević Polje and Milići. The majority of those prisoners were transported to Bratunac or Kravica where they were temporarily detained in buildings and vehicles, along with the Muslim men who had been separated from the crowds in Potočari. The large-scale systematic murder of Muslim men from Srebrenica began on the morning of 13 July at approximately 11 a.m. and continued throughout July 1995.

The indictment states that by 1 November 1995, the entire Muslim population had been either removed or had fled from Srebrenica and Žepa and over 7,000 Muslim men and boys from Srebrenica had been murdered by VRS and MUP forces.

From about 1 August 1995 through about 1 November 1995, Bosnian Serb Army and MUP personnel including Popović, Drago Nikolić and Pandurević participated in an organised and comprehensive effort to conceal the killings and executions by reburial of bodies exhumed from initial mass graves to secondary graves.

For these crimes, the accused are charged as follows:

Beara, Popović and Drago Nikolić are charged on the basis on their individual criminal responsibility (Article 7(1) of the Statute) with:

- Genocide (Article 4)
- Conspiracy to commit genocide (Article 4)
- Extermination, murder, persecutions, forcible transfer and deportation (crimes against humanity, Article 5)
- Murder (violations of the laws or customs of war, Article 3)

Pandurević and Borovčanin are charged on the basis of their individual criminal responsibility (Article 7(1) of the Statute) and on the basis of their superior criminal responsibility (Article 7(3) of the Statute) with:

- Genocide (Article 4)
- Conspiracy to commit genocide (Article 4)
- Extermination, murder, persecutions, forcible transfer and deportation (crimes against humanity, Article 5)
- Murder (violations of the laws or customs of war, Article 3)

Miletić and Gvero are charged on the basis on their individual criminal responsibility (Article 7(1) of the Statute) with:

- Murder, persecutions, forcible transfer and deportation (crimes against humanity, Article 5)
- Murder (violations of the laws or customs of war, Article 3)

## PRE-TRIAL

On 19 July 2005, Miletić and Gvero were granted provisional release and they were released on 22 July 2005. On 20 June 2006, the Trial Chamber ordered their return to the Detention Unit by 4 July 2006.

## THE TRIAL

The trial of *Popović et al.* commenced on 14 July 2006.

The Prosecution case closed on 7 February 2008. The Defence case commenced on 2 June 2008 and closed on 12 March 2009.

On 10 and 11 March and then on 25 March 2009, the Prosecution called three witnesses in their reopened case. Furthermore, the Prosecution called four rebuttal witnesses in the period from 23 March until 5 May 2009. From 30 June until 15 July 2009, the Defence teams of three of the accused called a number of witnesses in their reopened cases.

The parties presented their closing arguments between 2 and 15 September 2009.

## RULE 98bis DECISION

After the conclusion of the presentation of Prosecution evidence, the Trial Chamber can rule on whether there is a case to answer. If the Chamber believes that the Prosecution has not presented sufficient evidence to prove certain charges, it can dismiss those charges and enter a judgement of acquittal before the beginning of the presentation of Defence evidence.

On 3 March 2008, the Trial Chamber in the *Popović et al.* case issued an oral decision pursuant to Rule 98bis and dismissed the motions for acquittal filed by the Defence teams of Beara, Nikolić, Borovčanin, Miletić, Gvero and Pandurević.

## TRIAL CHAMBER JUDGEMENT

The Trial Chamber found that there was a joint criminal enterprise (JCE) to murder and a joint criminal enterprise to forcibly remove with several participants. The Trial Chamber also found that "opportunistic" killings were committed in the course of the JCE to murder and, by majority, Judge Kwon dissenting, also in the course of the JCE to forcibly remove. The Chamber further found that some members of the JCE to murder had genocidal intent and thus genocide was committed. It also found that members of both JCEs had the requisite special intent for the crime of persecution. It was also established beyond reasonable doubt that there was a widespread and systematic attack against a civilian population. This attack commenced with the issuance of Directive 7 and had various components, including the strangulation of the enclaves through the restriction of humanitarian supplies, the gradual weakening and disabling of UNPROFOR, and a planned military assault on the enclaves, and culminated in the removal of thousands of people from Srebrenica and Žepa. Therefore, applying the legal elements of the crimes charged in the indictment to the facts found to be proven, the Trial Chamber found that the following crimes were committed by members of the Bosnian Serb forces in various locations alleged in the indictment: genocide; conspiracy to commit genocide; extermination, a crime against humanity; murder, a crime against humanity and a violation of the laws or customs of war; murder, cruel and inhumane treatment, terrorising civilians, and forcible transfer, as acts of persecution, a crime against humanity; and forcible transfer as an inhumane act, a crime against humanity. The Trial Chamber found that the elements of the crime of deportation had not been established.

### Individual Criminal Responsibility

**Vujadin Popović** was the Chief of Security of the Drina Corps in 1995 and he held the rank of Lieutenant-Colonel. He was present with the Bosnian Serb forces in Potočari on 12 July, and the Trial Chamber found that Popović was aware of the large number of men among the thousands of Bosnian Muslims gathered at Potočari on that day. The Trial Chamber was satisfied beyond reasonable doubt that Popović was fully engaged in the organisation of the killing operation being carried out in the Zvornik area. The Trial Chamber found that Popović was a member of the JCE to murder the Bosnian Muslim males of Srebrenica,

and that he participated in that JCE with persecutory intent. The Chamber found that Popović was not a member of the JCE to forcibly remove the Bosnian Muslim civilian population from the enclaves.

In July 1995, **Ljubiša Beara** was Chief of Security in the VRS Main Staff and he held the rank of Colonel. He was the superior to Popović and Nikolić in the professional sense. The Trial Chamber was of the opinion that Beara, as the most senior officer of the Security Branch, had the clearest overall picture of the massive scale and scope of the killing operation. From his presence in Bratunac on the night of 13 July, to his personal visits to the various detention and execution sites and the significant logistical challenges he faced throughout, Beara had a very personal view of the staggering number of victims destined for execution. Steeped in this knowledge, Beara became, in the opinion of the Trial Chamber a driving force behind the murder enterprise. The Chamber found that Beara was a member of the JCE to murder the Bosnian Muslim males from Srebrenica, and that he participated in that JCE with persecutory intent. The Chamber found that Beara was not a member of the JCE to forcibly remove the Bosnian Muslim civilian population from the enclaves. The Chamber was satisfied that, in July 1995, Beara was a man intent on destroying a group by killing all the members of it within his reach, and that, beyond all reasonable doubt, he had harboured genocidal intent.

In July 1995, **Drago Nikolić** was the Chief of Security in the Zvornik Brigade, and held the rank of second lieutenant in the VRS. The Trial Chamber found that on 13 July when he joined in the common plan, Nikolić was aware of the plan to murder on a large scale, but not of some of the key features of the operation which would evidence genocidal intent. However, the Chamber further found that from his interactions with Popović and Beara, and from his own observations at the school and execution site at Orahovac on 14 July, Nikolić soon became aware that this killing operation was being carried out with genocidal intent. Nonetheless, for the reasons set out in detail in the judgement, including the nature of Nikolić's acts and participation as well as his personal circumstances and position, the Chamber was not satisfied beyond reasonable doubt that he shared this genocidal intent. However, the Chamber found that, while he had no genocidal intent, he participated in the JCE to murder with persecutory intent, that he had with knowledge of the genocidal intent of others and that he made a substantial contribution to genocide.

During the time relevant to the indictment, **Ljubomir Borovčanin** was Deputy Commander of the Special Police Brigade ("SBP") of the MUP Forces. On 10 July 1995, Borovčanin was appointed Commander of a joint force of MUP units which was subordinated to the Drina Corps and sent to Bratunac to participate in the Srebrenica operation. Borovčanin was present in Bratunac and Potočari between 11 and 13 July, when the plan to forcibly remove culminated in the actual forcible transfer of the Bosnian Muslim women, children and the elderly. The evidence did not demonstrate that Borovčanin was aware of the plan, nor of its incremental implementation, prior to his arrival in Bratunac. On 12 July, however, with his presence in Potočari and what he witnessed there, the Trial Chamber found, by majority, Judge Kwon dissenting, that Borovčanin came to know that there was a forcible transfer of the civilian population of Srebrenica taking place. The evidence was insufficient, however, to demonstrate that Borovčanin shared the intent to forcibly transfer. The Chamber further found that Borovčanin knew that the prisoners at Kravica Warehouse would probably be killed by members of the Bosnian Serb Forces there with discriminatory intent. Furthermore, Borovčanin was the superior of the SBP 2nd Šekovići Detachment, and, having arrived at the Kravica Warehouse shortly after the murder of a busload of prisoners, he had knowledge which was sufficient to put him on notice that his subordinates had committed the crime of murder. Nevertheless, he failed to take the necessary and reasonable measures required to punish his subordinates for the murders of the prisoners.

In 1995, **Radivoje Miletić** was the Chief of the Administration for Operations and Training at the VRS Main Staff. The Trial Chamber found that when all Miletić's individual acts and contributions were considered cumulatively, it was clear that he made a significant contribution to the JCE to forcibly remove. Furthermore, he shared the common intent of the JCE. In addition, Miletić carried out his acts in furtherance of the plan to remove the Bosnian Muslim with the specific intent to discriminate on political, racial or religious grounds. Based on his level of involvement and his in-depth knowledge and broad overview of the massive operation to forcibly remove the Bosnian Muslims from Srebrenica, it was foreseeable to him that murder would be committed in Potočari and that these murders would be committed with the specific intent to discriminate on political, racial or religious grounds. Judge Kwon dissented on the foreseeability to Miletić of the killings in Potočari.

In 1995, **Milan Gvero** was the Assistant Commander for Moral, Legal and Religious Affairs of the VRS Main Staff and directly subordinated to Ratko Mladić. In this position and as one of the most senior officers in the VRS Main Staff, Gvero played an important role in VRS operations, and this was no different for the operations in Srebrenica and Žepa. Through his knowledge of key documents from 1992 and his involvement in the drafting of Directive 7, Gvero knew of the plan to forcibly remove the populations from the Srebrenica and Žepa enclaves from its very inception and of the VRS' role in this plan. The Trial Chamber found that Gvero made a significant contribution to the JCE to forcibly remove, and shared the common intent. Furthermore, Gvero acted with the specific intent to discriminate on political, racial or religious grounds. However, since it had not been demonstrated that Gvero was either involved in any of the logistical aspects of the forcible transfer operation or present in Potočari to see the conditions there, the Chamber was not satisfied that it was foreseeable to him that murder would be committed in Potočari.

**Vinko Pandurević** was Commander of the Zvornik Brigade and held the rank of lieutenant colonel in 1995. As Commander of Tactical Group-1 ("TG-1"), Pandurević was aware of the criminal objective described in Directive 7 and of the plan to forcibly remove the Bosnian Muslim populations from the Srebrenica and Žepa enclaves. Pandurević and TG-1 participated in the attack on Srebrenica on 6 July, and entered Srebrenica town on 11 July. While the Trial Chamber found insufficient evidence to conclude that Pandurević intended to carry out the common purpose of the JCE to forcibly remove, the Chamber was satisfied that Pandurević's participation in the military attack and take-over of the Srebrenica enclave substantially contributed to the forcible transfer of the civilian population from Srebrenica. The Chamber further found that Pandurević did not genuinely attempt to take any measures within his material powers in order to prevent any further participation of his subordinates in the murder operation. With respect to his duty to punish however, in the unique and extraordinary circumstances Pandurević faced, the Chamber considered that his actions were such that he was not responsible for a failure to punish. On 16 July, Pandurević opened a corridor to allow passage of the column through Zvornik Brigade territory to the territory held by the ABiH 2nd Corps, contrary to the orders he had received from his superiors. Thousands of men passed through this corridor. After the corridor was closed, on 18 July and during the subsequent few days, elements of the Zvornik Brigade participated in searching the terrain for ABiH soldiers. Around 20 July, ten wounded Bosnian Muslim prisoners were transferred from the Zvornik Hospital to the clinic of the Zvornik Brigade. On 23 July, Pandurević requested instructions from the Drina Corps regarding the wounded Bosnian Muslim prisoners in his custody. The Chamber was satisfied that Pandurević was informed that Popović would come to take the wounded prisoners. The Chamber was further satisfied that the wounded men were placed in Popović's custody on 23 July and that Popović was responsible for their death. Although it was found that Pandurević did not possess the intent to murder the ten wounded Bosnian Muslim prisoners, the Chamber found, by majority, Judge Kwon dissenting, that Pandurević knew it was probable that the wounded prisoners would be murdered once they were transferred into Popović's custody. By failing to intervene, Pandurević failed to discharge his legal duty to protect the wounded prisoners and therefore substantially contributed to the murder of those ten men.

On 10 June 2010, the Chamber rendered its judgement convicting the accused as follows:

**Vujadin Popović and Ljubiša Beara**, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal), were found guilty of:

- Genocide
- Extermination, persecution (crimes against humanity, Article 5);
- Murder (violation of the laws or customs of war, Article 3)

Sentence: life imprisonment

**Drago Nikolić**, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal), was found guilty of:

- Aiding and abetting genocide
- Extermination, persecution (crimes against humanity, Article 5);

- Murder (violation of the laws or customs of war, Article 3)

Sentence: 35 years' imprisonment

**Ljubomir Borovčanin**, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal), was found guilty of aiding and abetting:

- Extermination, persecution, inhumane acts/forcible transfer (crimes against humanity, Article 5);
- Murder (violation of the laws or customs of war, Article 3)

On the basis of superior criminal responsibility (Article 7(3) of the Statute of the Tribunal), he was found guilty of:

- Murder (crimes against humanity, Article 5);
- Murder (violation of the laws and customs of war, Article 3)

Sentence: 17 years' imprisonment

**Radivoje Miletić**, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal), was found guilty of:

- Murder, persecution, inhumane acts/forcible transfer (crimes against humanity, Article 5);

Sentence: 19 years' imprisonment

**Milan Gvero**, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal), was found guilty of:

- Persecution, inhumane acts/forcible transfer (crimes against humanity, Article 5);

Sentence: five years' imprisonment

**Vinko Pandurević**, on the basis of individual and superior criminal responsibility (Article 7(1) and 7(3) of the Statute of the Tribunal), was found guilty of aiding and abetting:

- Murder, persecution, inhumane acts/forcible transfer (crimes against humanity, Article 5);
- Murder (violation of the laws and customs of war, Article 3)

On the basis of superior criminal responsibility (Article 7(3) of the Statute of the Tribunal), he was found guilty of:

- Murder (crimes against humanity, Article 5);
- Murder (violation of the laws and customs of war, Article 3)

Sentence: 13 years' imprisonment

Judge Prost appended a separate opinion and Judge Kwon appended dissenting and separate opinions to the judgement.

On 28 June 2010, Milan Gvero was granted early release.

## APPEALS PROCEEDINGS

On 8 September 2010, the Prosecution and the Defence teams of Miletić and Beara filed their notices of appeal. The other Defence teams filed their notices confidentially. Neither the Prosecution nor the Defence has appealed the judgement in relation to Borovčanin. The Prosecution filed a public redacted version of its appeal brief on 25 January 2011. The Defence teams filed their appeal briefs (public redacted versions) in the following order: on 11 April 2011 for Pandurević; on 14 April for Popović; on 18 April 2011 for Miletić; on 16 June 2011 for Beara; and on 3 August 2011 for Drago Nikolić.

On 10 November 2011, Borovčanin was transferred to Denmark to serve his sentence.