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Tribunal Pénal
International pour
l'ex-Yougoslavie

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TRIAL CHAMBER
CHAMBRE DE 1^{ère}
INSTANCE

The Hague, 31 July 2003
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JUDGEMENT IN THE CASE *THE PROSECUTOR v. DR. MILOMIR STAKIĆ*

Today, Trial Chamber II, comprised of Judge Wolfgang Schomburg (Presiding), Judge Volodymyr Vassylenko and Judge Carmen Maria Argibay, delivered its Judgement in the above case.

The Presiding Judge read out a summary that can be found in the attachment.

The trial of Dr. Stakić on the allegations set out in the Indictment began on 16 April 2002 and concluded on 15 April 2003 after 150 days of hearings. He faced charges of genocide or alternatively complicity in genocide, murder as a violation of the laws or customs of war, and the following crimes against humanity: murder, extermination, persecutions, deportation, and other inhumane acts (forcible transfer) in relation to events that took place in the Municipality of Prijedor between 30 April and 30 September 1992.

The Trial Chamber heard 81 live witnesses, including six witnesses called by the Chamber under Rule 98. A total of 1448 exhibits were admitted into evidence, 796 for the Prosecution, 594 for the Defence and 58 Chamber exhibits. The trial is reflected in 15,337 pages of transcript.

The Trial Chamber found that the takeover of Prijedor by the Serbian Democratic Party on 29-30 April 1992 was an illegal *coup d'état* which had been planned and coordinated for months and which had as its final goal the creation of a Serbian municipality eventually to form part of an envisaged pure Serbian state. After the takeover, Dr. Stakić became, *inter alia*, President of the Municipal Assembly and President of the Prijedor Municipal Peoples' (National) Defence Council. From May 1992 he served as President of the Prijedor Municipal Crisis Staff. Dr. Stakić was the leading political figure in the Municipality of Prijedor in 1992.

A comprehensive pattern of atrocities amounting to a campaign of a persecutorial nature was proved to have been committed against non-Serbs in Prijedor municipality in 1992. This included killings on a massive scale in the Omarska, Keraterm and Trnopolje camps, in Bosnian Muslim towns and villages throughout the municipality, and, finally, on Mount Vlasić. The Trial Chamber held Dr. Stakić responsible for more than 1,500 killings and was able to identify by name 486 victims. Rapes, sexual assaults and beatings were committed at the camps and at least 20,000 non-Serbs either fled Prijedor or were deported.

Despite the scale of the atrocities, after a careful analysis of the facts and the state of mind of the actors, the Trial Chamber was unable to infer the necessary *dolus specialis* for genocide, this *dolus specialis* - or specific intent to destroy, in whole or in part, a group as such - being the core element of the crime. Thus, the Trial Chamber was not able to come to the conclusion, based on the evidence in this case, that Dr. Stakić or other actors had the necessary specific intent.

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The Trial Chamber found that the crimes of persecutions and extermination committed against non-Serbs throughout the municipality constituted the core element of the criminal conduct of Dr. Stakić. He was found guilty as a co-perpetrator acting together with his associates in the Crisis Staff, police and army in coordinated co-operation to consolidate Serbian control and dominance in the Municipality of Prijedor.

The Trial Chamber entered convictions for the crimes of **murder** as a violation of the laws and customs of war (Count 5), **extermination** as a crime against humanity (Count 4), and **persecutions** as a crime against humanity (Count 6), committed by *inter alia* **murder** (Count 3), **torture, physical violence, rape, sexual assault, constant humiliation and degradation, destruction of religious buildings**, and finally **deportation** (Count 7) on a massive scale.

The Presiding Judge read out the following Disposition:

We, Judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, established by United Nations Security Council Resolution 827 of 25 May 1993, elected by the General Assembly and mandated to hear this case against Dr. Milomir Stakić and find the appropriate sentence,

HEREBY DECIDE:

The Accused, Dr. Milomir Stakić is **NOT GUILTY** of:

Count 1: Genocide

Count 2: Complicity in Genocide

Count 8: Other Inhumane Acts (forcible transfer), a Crime against Humanity

The Accused, Dr. Milomir Stakić, is **GUILTY** of:

Count 4: Extermination, a Crime against Humanity

Count 5: Murder, a Violation of the Laws and Customs of War

Count 6: Persecutions, Crimes against Humanity, incorporating **Count 3:** Murder, A Crime against Humanity, and **Count 7:** Deportation, a Crime against Humanity

Dr. Milomir Stakić is hereby sentenced to life imprisonment.

The then competent court (Rule 104 of the Rules) shall review this sentence and if appropriate suspend the execution of the remainder of the punishment of imprisonment for life and grant early release, if necessary on probation, if:

(1) **20 years** have been served calculated in accordance with Rule 101(C) from the date of Dr. Stakić's deprivation of liberty for the purposes of these proceedings, this being the "date of review".

(2) In reaching a decision to suspend the sentence, the following considerations, *inter alia*, shall be taken into account:

- The importance of the legal interest threatened in case of recidivism;
- The conduct of the convicted person while serving his sentence;
- The personality of the convicted person, his previous history and the circumstances of his acts;

- The living conditions of the convicted person and the effects which can be expected as a result of the suspension;

(3) Dr. Stakić's consent to the suspension of his sentence is required.

(4) The competent court may determine the term of probation, if any.

In case of early release, pursuant to Rule 101(C) of the Rules, Dr. Milomir Stakić is entitled to credit for 2 years, 4 months and 8 days, as of the date of this Judgement, calculated from the date of his deprivation of liberty for the purposes of these proceedings.

Pursuant to Rule 103(C) of the Rules, Dr. Milomir Stakić shall remain in the custody of the International Tribunal pending the finalisation of arrangements for his transfer to the State where he shall serve his sentence.
