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Tribunal Pénal
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TRIAL CHAMBERS
CHAMBRES DE PREMIERE
INSTANCE

The Hague, 6 September 2001
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DUŠKO SIKIRICA AND DAMIR DOŠEN:
TRIAL CHAMBER III ISSUES ITS WRITTEN JUDGEMENT ON DEFENCE
MOTIONS TO ACQUIT

On 3 September 2001, Trial Chamber III handed down its written Judgement on Defence Motions to Acquit further to its oral Decision previously rendered on 21 June 2001 (see *Weekly Update* No. 178).

The Trial Chamber dismissed *inter alia* counts 1 (genocide) and 2 (complicity in genocide) of the indictment against Duško Sikirica as well as counts 12 to 15 (torture, inhuman acts and cruel treatment) of the Indictment against Damir Došen.

On the standard for review for the application of Rule 98 *bis* of the Rules of Procedure and Evidence on Motions for Judgement of Acquittal, Trial Chamber III adopted the test that it had enunciated in its Decision on Defence Motions for Judgement of Acquittal on 6 April 2000 in *The Prosecutor v. Dario Kordic & Mario Cerkez* (see *Judicial Supplement* No. 14).

• **With regard to Duško Sikirica:** the Trial Chamber found that this was “*not a case in which the intent to destroy a substantial number of Bosnian Muslims or Bosnian Croats*” could properly be inferred. It did not consider either that there was “*a sufficient evidential basis for inferring an intention to destroy a significant section of the Bosnian Muslim or Bosnian Croat population, such as its leadership, whether in or outside the Keraterm camp.*” The Trial Chamber concluded that the intent to destroy in part the Bosnian Muslim or Bosnian Croat group could not “*be inferred on the basis of the evidence, with reference either to the criterion of the intent to destroy a significant number of the group relative to its totality or to the intent to destroy a significant section of the group, such as its leadership.*” It held that no evidence had “*been adduced to show that there was a specific intent to target the Bosnian Muslims or Bosnian Croats as such, that is, as a group, as distinct from the individual members of that group.*”

The Trial Chamber concluded that the evidence had not established that Duško Sikirica had possessed the very specific intent required by Article 4(2) of the Statute to destroy in part the Bosnian Muslims or Bosnian Croats as a group. It pointed out that the two elements as to the requirement of intent in the chapeau of Article 4(2) of the Statute – “*the intention to destroy in part and the intention to destroy the group as such – are cumulative.*” However, the Trial Chamber held that neither element had been satisfied on the Prosecution case. In sum, it found “*that, on the basis of the evidence adduced by the Prosecution, the specific intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such*” could not be inferred.

• **With regard to Damir Došen:** the Trial Chamber found that there was “*no evidence linking Damir Došen to the incident alleged*” in relation to counts 12 to 15 of the indictment (torture, inhuman acts and cruel treatment).

Copies of the Judgement are available on request and on the internet site of the Tribunal.

Internet address: <http://www.un.org/ictv>

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