CASE INFORMATION SHEET



"VIŠEGRAD" (IT-98-32)



MITAR VASILJEVIĆ



Mitar **VASILJEVIĆ**

Convicted of aiding and abetting persecutions and murder



From mid-April 1992, a member of the "White Eagles", a Bosnian Serb paramilitary unit which operated together with the police and various military units stationed in Višegrad, eastern Bosnia and Herzegovina

- Sentenced to 15 years' imprisonment

Crimes convicted of:

Aiding and abetting persecutions on political, racial or religious grounds (crimes against humanity) and murder (violations of the laws or customs of war)

· Mitar Vasiljević participated in an incident which resulted in the death of five Muslim men. After holding them at the Vilina Vlas hotel in Višegrad, Vasiljević led seven Muslim men, at gunpoint, to the bank of the Drina River and ordered them to line up; all of the men were subsequently shot at and five were killed.

| Born | 25 August 1954, Durevići, Bosnia and Herzegovina |
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| Indictment | Initial: 6 October 1998; amended: 20 July 2001 |
| Arrested | 25 January 2000, by the multinational Stabilisation Force (SFOR) |
| Transferred to ICTY | 25 January 2000 |
| Initial appearance | 28 January 2000, pleaded not guilty to all charges |
| Trial Chamber judgement | 29 November 2002, sentenced to 20 years' imprisonment |
| Appeals Chamber judgement | 25 February 2004, sentenced to 15 years' imprisonment |
| Sentence served | 6 July 2004, transferred to Austria to serve the remainder of his |
| | sentence; credit was given for time served since 25 January |
| | 2000; early release granted on 12 March 2010 |

STATISTICS

| Trial days | 54 |
|---------------------------------|-----|
| Witnesses called by Prosecution | 36 |
| Witnesses called by Defence | 28 |
| Prosecution exhibits | 133 |
| Defence exhibits | 40 |

| TRIAL | | |
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| Commenced | 10 September 2001 | |
| Closing arguments | 6, 8 and 14 March 2002 | |
| Trial Chamber II | Judge David Anthony Hunt (presiding), Judge Ivana Janu, Judge | |
| | Chikako Taya | |
| Counsel for the Prosecution | Dermot Groome, Frédéric Ossogo, Sabine Bauer | |
| Counsel for the Defence | Vladimir Domazet, Radomir Tanasković | |
| Judgement | 29 November 2002 | |

| APPEALS | | |
|-----------------------------|--|--|
| Appeals Chamber | Judge Theodor Meron (presiding), Judge Wolfgang Schomburg, Judge | |
| | Mohamed Shahabuddeen, Judge Mehmet Güney, Judge Inés Mónica | |
| | Weinberg de Roca | |
| Counsel for the Prosecution | Helen Brady, Michelle Jarvis, Steffen Wirth | |
| Counsel for the Defence | Vladimir Domazet, Gert-Jan Knoops | |
| Judgement | 25 February 2004 | |

| RELATED CASES |
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| by geographical area |
| KARADŽIĆ (IT-95-5/ 18) "BOSNIA AND HERZEGOVINA" & "SREBRENICA" |
| KRAJIŠNIK (IT-00-39 & 40) "BOSNIA AND HERZEGOVINA" |
| LUKIĆ MILAN & LUKIĆ SREDOJE (IT-98-32/1) "VIŠEGRAD" |
| MILOŠEVIĆ (IT-02-54) "KOSOVO, CROATIA & BOSNIA" |
| MLADIĆ (IT-09-92) "BOSNIA AND HERZEGOVINA" & "SREBRENICA" |
| PLAVŠIĆ (IT-00-39 & 40/1) "BOSNIA AND HERZEGOVINA" |
| STANIŠIĆ, MIĆO (IT-04-79) |

INDICTMENT AND CHARGES

The initial indictment against Mitar Vasiljević, Milan Lukić and Sredoje Lukić was confirmed on 26 October 1998, and charged Vasiljević with fourteen counts of crimes against humanity and violations of the laws or customs of war. Vasiljević was arrested and transferred to the Tribunal on 25 January 2000. On 28 January 2000, he pleaded not guilty to all fourteen counts of the indictment.

An amended indictment against Vasiljević, Milan Lukić and Sredoje Lukić was orally confirmed on 20 July 2001. Vasiljević now stood charged with ten counts of crimes against humanity and violations of the laws or customs of war. Although the amended indictment did not alter any factual allegations or legal theories found in the original indictment, in light of new evidence and further investigations, it did withdraw four counts against Vasiljević relating to the burning of a house in Bikavac.

On 24 July 2001, with Milan and Sredoje Lukić still at large, the Trial Chamber ordered that Vasiljević be tried separately.

Vasiljević was charged on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal), with:

- Murder; extermination; persecutions on political, racial or religious grounds; inhumane acts (crimes against humanity, Article 5)
- Murder; violence to life and person (violations of the laws or customs of war, Article 3)

THE TRIAL

On 10 September 2001, the trial commenced before Trial Chamber II (Judge David Anthony Hunt (presiding), Judge Ivana Janu and Judge Chikako Taya). The closing arguments took place on 6, 8 and 14 March 2002.

TRIAL CHAMBER JUDGEMENT

Višegrad is a small town in south-eastern Bosnia and Herzegovina; it lies on the east side of the Drina River, approximately 120 kilometres east of Sarajevo and 15 kilometres west of the Serbian border. According to the census taken before the conflict in 1991, the municipality of Višegrad had a population of 21,199 people, of which 62.8% were of Muslim ethnicity, 32.8% were of Serb ethnicity and 4.4% were classified as "other".

Ethnic tensions flared up in Višegrad following the multi-party elections in November 1990. Members of the Serb and Muslim ethnicities armed themselves, and early in 1992 violence between them began. The attack upon the non-Serb civilian population took many forms, starting with the Serb take-over of the town and the systematic and large-scale criminal campaign of murders, rapes and mistreatment of the non-Serb population of the municipality, particularly the Muslims, which eventually culminated in one of the most comprehensive and ruthless campaigns of ethnic cleansing in the Bosnian conflict. Hundreds of mostly Muslim men, women and children were killed. One of the most violent of the paramilitary groups operating in the area was led by Milan Lukić (a former resident of Višegrad). This paramilitary group, known as the 'White Eagles', entered the town of Višegrad and committed many serious crimes there with the complicity, or at least with the acquiescence, of the Serb authorities who had taken control of the area.

The trial was concerned principally with two incidents which took place in Višegrad during the month of June 1992. The first incident, referred to as the 'Drina River incident', took place on 7 June. Milan Lukić, and a number of other men, led seven Bosnian Muslim men to the bank of the Drina River, where they forced the Muslim men to line up on the bank of the river, and to face the river. Despite pleas by the Muslims for their lives, they were shot from behind. When it appeared that someone was still alive, the men lying in the water were shot at again, at close range. Five of the Muslim men were killed, but the other two men escaped by pretending to be dead as they lay in the water.

In relation to the first incident, Vasiljević admitted that he had been present at the shooting of the men on the bank of the Drina River. He claimed that his presence there was accidental, and that he had not realised that the men were to be killed until they were approaching the river, at which time he tried to persuade Lukić to spare the lives of these men. The Trial Chamber is satisfied that the accused did not try to persuade Lukić to spare their lives, that he willingly accompanied Lukić and his group with the seven Muslim men to the Drina River, and that he was participating with that group in a joint criminal enterprise that all seven of the men be killed. As only five died, he has been found to have incurred individual criminal responsibility for the murder of those five men, both as a crime against humanity and as a violation of the laws or customs of war. In relation to the two men who escaped being killed in that shooting, the Trial Chamber was satisfied that the attempted killing amounted to a serious attack on the human dignity of the two men, and that it caused them immeasurable mental suffering. The accused was thus been found to have incurred individual criminal responsibility for inhumane acts as a crime against humanity.

The second incident, known as the 'Pionirska Street incident', took place on 14 June 1992. About 70 Bosnian Muslim women, children and elderly men were directed to enter a house in Pionirska Street, in the Mahala neighbourhood of the Višegrad municipality. Before the victims were locked in the house a flammable substance was spread around the area. The large group were then forced inside the house and it was set on fire. Approximately 60 individuals, including 46 members of the same family, died in the fire. Only a few escaped.

In relation to the charges of Vasiljević's involvement in this incident, the Trial Chamber had serious doubts as to the reliability of the evidence of the witnesses who claimed to have seen or identified the accused during the transfer of the group to the house and the setting on fire of that house. Based on medical records presented by the defence which established that he had been admitted to Užice Hospital on 14 June 1992 at 9.35 p.m., the Trial Chamber determined that Vasiljević could not have been in Pionirska Street from approximately 8.00 p.m. on 14 June 1992. This conclusion was based on the fact, accepted by the Chamber, that it takes at least one hour to drive the 70 km from Višegrad, where Vasiljević suffered his injury, to Užice, a town in Serbia. Moreover, the Trial Chamber determined that the transfer of the group of victims to the crime scene did not take place before 9.30 p.m. Since the Trial Chamber was not

convinced beyond a reasonable doubt that the accused was present when the house was set on fire, Vasiljević was cleared of the charges relating to the incident.

On 29 November 2002, the Trial Chamber rendered its judgement, convicting Vasiljević, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with:

- Persecutions on political, racial or religious grounds (crimes against humanity, Article 5),
- Murder (violations of the laws or customs of war, Article 3).

Sentence: 20 years' imprisonment.

APPEALS CHAMBER JUDGEMENT

On 30 December 2002, Vasiljević raised eight grounds of appeal against his conviction and sentence. The Prosecution did not appeal the Trial Chamber judgement.

With regard to the 'Drina River incident', the Appeals Chamber concluded that the Trial Chamber erred in finding that Vasiljević pointed his gun at the seven Muslim men while at the Vilina Vlas Hotel. Moreover, the Appeals Chamber concluded that the Trial Chamber erred in finding that Vasiljević at that time had knowledge that the seven men were to be killed and not exchanged. Since he lacked, at that time, the knowledge that the seven men were to be killed, the fact that he prevented the men from fleeing at the hotel was not decisive as to whether or not he shared the intent to kill them.

The Appeals Chamber concluded that there was no evidence that Vasiljević had the intent to kill the seven men. The Trial Chamber found that Vasiljević assisted Milan Lukić and his men by preventing the seven men from fleeing. It did not find, however, that he shot at the men himself, nor did it find that he exercised control over the firing. Compared to the involvement of Lukić and, potentially, one or both of the other men, the participation of Vasiljević in the overall course of the killings did not reach the same level. The acts of Vasiljević were ambiguous as to whether or not he intended that the seven men be killed. The Appeals Chamber concluded that the Trial Chamber erred by finding that the only reasonable inference from the evidence was that Vasiljević shared the intent to kill the seven men. The Appeals Chamber concluded that this error led to a miscarriage of justice because without the proof of Vasiljević's intent to kill, he could not be found responsible as a co-perpetrator. Further, the Appeals Chamber found that the intent to kill the seven men, including the two survivors, constituted the basis for the Trial Chamber's finding that Vasiljević was a co-perpetrator to a joint criminal enterprise. In the absence of this intent, he could not be held responsible for committing the crime of persecutions by murders and inhumane acts as a co-perpetrator to the joint criminal enterprise.

The Appeals Chamber therefore allowed Vasiljević's appeal of his convictions as a co-perpetrator of persecutions, a crime against humanity under count 3 of the indictment, and of murder, a violation of the laws or customs of war under count 5 of the indictment. It set aside these convictions and found Vasiljević guilty of counts 3 and 5 of the indictment as an aider and abettor to persecutions and murder. The Appeals Chamber was of the view that aiding and abetting as a form of responsibility generally warrants a lower sentence than is appropriate to responsibility as a co-perpetrator. The Chamber therefore imposed a new sentence on Vasiljević that was more appropriate to his level of involvement in the crimes committed.

All other grounds of appeal were rejected.

The Appeals Chamber rendered its judgement on 25 February 2004. Vasiljević was sentenced to 15 years' imprisonment.

On 6 July 2004, Vasiljević was transferred to Austria to serve his sentence. Credit was given for time served since 25 January 2000.

On 12 March 2010, Vasiljević was granted early release.