

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

(IT-02-60)

# BLAGOJEVIĆ & JOKIĆ



## VIDOJE BLAGOJEVIĆ

*Convicted of aiding and abetting murder, persecutions on political, racial and religious grounds and inhumane acts (forcible transfer)*



Commander of the Bratunac Brigade of the Bosnian Serb Army (VRS) who were operating in the Bratunac and Zvornik municipalities in the eastern region of Bosnia and Herzegovina

- Sentenced to **15 years' imprisonment**

*Crimes convicted of (examples):*

**Aiding and abetting murder, persecutions on political, racial and religious grounds and inhumane acts (forcible transfer) (crime against humanity)**

**Aiding and abetting murder (violation of the laws or customs of war)**

- He aided and abetted in the persecutions of the Bosnian Muslim population of the Srebrenica enclave, a UN-designated safe area around the town of Srebrenica located in eastern Bosnia and Herzegovina, about 15 kilometres from the Serbian border. He did this through the underlying acts of murder, cruel and inhumane treatment, terrorising the civilian population and forcible transfer.
- He aided and abetted the commission of murder of Bosnian Muslim men in Bratunac.

## VIDOJE BLAGOJEVIĆ

<b>Born</b>	22 June 1950 in the Bratunac Municipality, Bosnia and Herzegovina
<b>Indictments</b>	Initial: 30 October 1998; amended: 27 October 1999; amended joinder: 26 May 2003
<b>Arrested</b>	10 August 2001, by the multinational Security Force (SFOR)
<b>Transferred to ICTY</b>	10 August 2001
<b>Initial appearance</b>	16 August 2001, pleaded not guilty to all charges
<b>Trial Chamber Judgement</b>	17 January 2005, sentenced to 18 years' imprisonment
<b>Appeals Chamber Judgement</b>	9 May 2007, sentence reduced to 15 years' imprisonment
<b>Serving sentence</b>	25 January 2008, transferred to Norway to serve his sentence; credit was given for time spent in custody

## DRAGAN JOKIĆ

*Convicted of aiding and abetting extermination, persecutions on political, racial and religious grounds and murder*



Chief of Engineering of the Zvornik Brigade of the VRS who were operating in the Bratunac and Zvornik municipalities in the eastern region of Bosnia and Herzegovina

- Sentenced to **nine years' imprisonment**

*Crimes convicted of (examples):*

**Aiding and abetting extermination and persecutions on political, racial and religious grounds (crime against humanity)**

**Aiding and abetting murder (violations of the laws or customs of war)**

- Dragan Jokić aided and abetted the murders of Bosnian Muslim men committed at Orahovac, Pilica/Branjevo Military Farm, and Kozluk by providing engineering resources and personnel to be used to dig mass graves for the executed victims.
- He rendered practical assistance, which had a substantial effect on the commission of the crime of extermination: he knew about the detention of Bosnian Muslims at the Grbavci School at Orahovac, at the Pilica School, and at Kozluk and he sent Zvornik Brigade heavy digging equipment and personnel to operate this equipment to dig mass graves where executions were either ongoing or had just taken place.
- Through his aiding and abetting murder, Dragan Jokić participated in the persecutorial campaign against the Bosnian Muslim population.

<b>DRAGAN JOKIĆ</b>	
<b>Born</b>	20 August 1957 in Grbavci, Zvornik Municipality, Bosnia and Herzegovina
<b>Indictments</b>	Initial: 30 May 2001, made public 15 August 2001; amended joinder: 26 May 2003
<b>Surrendered</b>	15 August 2001
<b>Transferred to ICTY</b>	15 August 2001
<b>Initial appearance</b>	21 August 2001, pleaded not guilty to all charges
<b>Trial Chamber Judgement</b>	17 January 2005, sentenced to nine years' imprisonment
<b>Appeals Chamber Judgement</b>	9 May 2007, sentence affirmed
<b>Awaiting transfer</b>	

## STATISTICS

Trial days	145
Witnesses called by Prosecution	48
Prosecution exhibits	876
Witnesses called by Defence	56
Defence exhibits	364

TRIAL	
Commenced	14 May 2003
Closing arguments	29 September - 1 October 2004
Trial Chamber I	Judge Liu Daqun (presiding), Judge Volodymyr Vassylenko, Judge Carmen Maria Argibay
Counsel for the Prosecution	Peter McCloskey, Antoinette Issa, Stefan Waespi, Milbert Shin, Salvador Viada
Counsel for the Defence	For Vidoje Blagojević: Michael Karnavas, Suzana Tomanović For Dragan Jokić: Miodrag Stojanović, Branko Lukić
Judgement	17 January 2005

APPEALS	
Appeals Chamber	Judge Fausto Pocar (presiding), Judge Mohammed Shahabuddeen (pre-appeal judge), Judge Mehmet Güney, Judge Andréia Vaz, Judge Theodor Meron
Counsel for the Prosecution	Norman Farrell, Marie-Ursula Kind
Counsel for the Defence	For Vidoje Blagojević: Vladimir Domazet For Dragan Jokić: Branislava Isailović, Chrissa Loukas
Judgement	9 May 2007

RELATED CASES	
<i>by geographical area</i>	
ERDEMOVIĆ (IT-96-22) "PILICA FARM"	
KARADŽIĆ & MLADIĆ (IT-95-5/18) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"	
KRSTIĆ (IT-98-33) "SREBRENICA-DRINA CORPS"	
MILOŠEVIĆ (IT-02-54) "KOSOVO, CROATIA & BOSNIA"	
NIKOLIĆ MOMIR (IT-02-60/1) "SREBRENICA"	
OBRENOVIĆ (IT-02-60/2) "SREBRENICA"	
ORIĆ (IT-03-68)	
PERIŠIĆ (IT-04-81)	
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 initial indictment against Vidoje Blagojević was confirmed on 30 October 1998 and he was charged with genocide and in the alternative complicity in genocide, extermination as a crime against humanity, murder as a crime against humanity and a violation of the laws or customs of war, and persecutions on political, racial and religious grounds as a crime against humanity, under both Article 7(1) and Article 7(3) of the Statute. The indictment was amended on 27 October 1999: two new charges were added, namely deportation as a crime against humanity and inhumane acts based on forcible transfer as a crime against humanity. The indictment was kept sealed until Vidoje Blagojević's arrest.

An indictment against Dragan Jokić was confirmed on 30 May 2001 and made public on 15 August 2001. The indictment alleged individual criminal responsibility for extermination as a crime against humanity, murder as a crime against humanity and as a violation of the laws or customs of war, and persecutions on political, racial and religious grounds as a crime against humanity.

The amended joinder indictment filed on 27 May 2002, alleged that Vidoje Blagojević was appointed Commander of the 1st Bratunac Light Infantry Brigade (Bratunac Brigade) of the Bosnian Serb Army (VRS) in May 1995. It was alleged that his brigade was responsible for the security of the territory opposite the northern, eastern and southern boundaries of the Srebrenica safe area and directly participated in its capture.

The indictment further alleged that during the VRS attack on the Srebrenica safe area and the subsequent killing and execution of Bosnian Muslim men, Vidoje Blagojević, as the Colonel in charge of the Bratunac Brigade, was present in the Bratunac Brigade zone of responsibility exercising command through at least 17 July 1995. He was then alleged to have led a battalion of his troops as part of a VRS operation attacking the Muslim enclave of Žepa. After its fall, he allegedly returned to the Bratunac zone of responsibility where he remained until 22 September 1995. He remained the Bratunac Brigade Commander until mid-1996 when he was re-assigned to the VRS Main Staff, later named the VRS General Staff.

As a brigade commander, he was responsible for planning, directing and monitoring the activities of all the subordinate formations of his brigade, in accordance with the directives received from his higher command at the Corps and Main Staff levels.

The indictment alleged that Dragan Jokić held the rank of Major with the position of Chief of Engineering of the Zvornik Brigade. As Chief of Engineering, he was a member of the Zvornik Brigade staff and the advisor to the Zvornik Brigade Commander and to the Chief of Staff/Deputy Commander for matters relating to Engineering Services, such as defence works, mining activities, road construction and excavation projects. He was also allegedly responsible for planning, directing, organising and monitoring the activities of the Zvornik Brigade Engineering Company which implemented the directives of the Brigade Commander and/or the Chief of Staff/Deputy Commander. In addition, he is alleged to have been the Duty Officer of the Zvornik Brigade for a 24-hour period from the morning of 14 July 1995 until the morning of 15 July 1995. The Duty Officer was the central point of co-ordination and communications for the Zvornik Brigade zone of responsibility.

The accused were charged as follows:

Vidoje Blagojević on the basis of his individual criminal responsibility (Article 7(1) of the Statute) and his superior criminal responsibility (Article 7(3) of the Statute) with:

- Complicity to commit genocide (Article 4),
- Extermination, murder, persecutions on political, racial and religious grounds, inhumane acts (forcible transfer) (crimes against humanity, Article 5), and
- Murder (violations of the laws or customs of war, Article 3)

Dragan Jokić on the basis of his individual criminal responsibility (Article 7(1) of the Statute) with:

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

## PRE-TRIAL PROCEEDINGS

On 28 March 2002, the Trial Chamber rejected Dragan Jokić's request for provisional release which he had filed on 10 January 2002. On 18 April 2002, a Bench of the Appeals Chamber granted Dragan Jokić leave to appeal the decision. On 28 May 2002, the Appeals Chamber granted the appeal and ordered that Dragan Jokić be provisionally released. On 11 April 2003, the Trial Chamber terminated Dragan Jokić's provisional release and ordered that the accused surrender to the custody of the Tribunal on 29 April 2003 for the commencement of trial proceedings.

Dragan Obrenović was also charged in relation with the events that occurred after the fall of Srebrenica and on 11 September 2001, the Prosecution filed a motion to join the indictments of Vidoje Blagojević, Dragan Jokić and Dragan Obrenović. Following its oral decision of 15 January 2002, the Trial Chamber ordered that the three accused be joined. Pursuant to the oral directive of the Trial Chamber, the Prosecution submitted an amended indictment on 22 January 2002 to reflect the joinder of the three accused. In the amended indictment, the count of genocide was dropped against Vidoje Blagojević.

On 26 March 2002 an indictment was confirmed against Momir Nikolić for crimes related to the events in Srebrenica. On 3 April 2002, the Prosecution filed a motion to join the case of Momir Nikolić to that of Vidoje Blagojević, Dragan Jokić and Dragan Obrenović. On 17 May 2002, the Trial Chamber issued a decision to jointly charge and try Vidoje Blagojević, Dragan Obrenović, Dragan Jokić and Momir Nikolić under case number IT-02-60.

On 6 May 2003, the Prosecution filed the "Joint Motion for Consideration of Plea Agreement between Momir Nikolić and the Office of the Prosecutor". An amended plea agreement was filed by the Prosecution on 7 May 2003. This agreement involves a guilty plea by Momir Nikolić for count 5 of the amended joinder indictment which alleges persecutions, a crime against humanity. On 7 May 2003, the Prosecution withdrew the remaining counts sought against Momir Nikolić. Pursuant to the amended plea agreement, and on 7 May 2003 the Trial Chamber accepted the plea agreement. On 2 December 2003, the Trial Chamber sentenced Momir Nikolić to 27 years' imprisonment. On 8 March 2006, the Appeals Chamber reduced Momir Nikolić's sentence to 20 years' imprisonment (see case number IT-02-60/1).

On 20 May 2003, the Prosecution submitted a motion for consideration of the plea agreement between Dragan Obrenović and the Prosecution. Under the plea agreement, Dragan Obrenović pleaded guilty to count 5 of the indictment alleging persecutions, a crime against humanity and the Prosecution withdrew the remaining counts sought against him. On 21 May 2003 the Trial Chamber accepted the guilty plea and the dismissal of the remaining counts against Dragan Obrenović. On 23 May 2003, the Trial Chamber separated the proceedings against Dragan Obrenović (see case number IT-02-60/2). On 10 December 2003 the Trial Chamber sentenced Dragan Obrenović to 17 years' imprisonment.

## TRIAL

The trial against Vidoje Blagojević and Dragan Jokić commenced on 14 May 2003 and closed on 1 October 2004. During this time, the Trial Chamber heard 104 witnesses and admitted the testimony of another 57 witnesses pursuant to Rule 92 *bis*. Evidence provided by more than 15 experts from fields including, demographics, military affairs and forensic pathology, was admitted in the form of reports and testimony. The Prosecution presented its case from 14 May 2003 to 27 February 2004. The Defence for Vidoje Blagojević presented its case from 14 April until 25 June 2004 (232 exhibits) and the Defence for Dragan Jokić presented its case from 1 until 23 July 2004 (132 exhibits).

On 14 and 15 September 2004, the Trial Chamber and the parties conducted a site visit in the Srebrenica, Bratunac and Zvornik municipalities to assist the Trial Chamber in assessing the evidence admitted in the case. The parties presented their closing arguments from 29 September until 1 October 2004.

## RULE 98*bis* DECISION

After the conclusion of the presentation of Prosecution evidence, the Trial Chamber can rule of whether there is a case to answer. If the Chamber believes that the Prosecution has not presented sufficient evidence to prove certain charge(s), it can dismiss those charges before the beginning of the presentation of defence evidence.

Following the conclusion of the Prosecution's case on 2 March 2004 both Vidoje Blagojević and Dragan Jokić filed separate motions for full acquittals under Rule 98*bis*. On 5 April 2004, the Trial Chamber entered a judgement of acquittal for Vidoje Blagojević on counts 2 to 4 of the indictment, insofar as his individual criminal responsibility was alleged under Article 7(1) for planning, instigating, ordering and committing the crimes. The Trial Chamber further entered a judgement of acquittal on counts 5 and 6 of the indictment, insofar as Vidoje Blagojević's individual criminal responsibility is alleged under Article 7(1) for planning, instigating and ordering the crimes.

Dragan Jokić was acquitted on Counts 2 to 5 of the indictment insofar as his individual criminal responsibility is alleged under Article 7(1) for planning, instigating and ordering the crimes. In respect to all other grounds of appeal the motions of the defendants were dismissed.

## TRIAL CHAMBER JUDGEMENT

The Trial Chamber issued its judgement on 17 January 2005. In its summary, the Trial Chamber made the following findings:

### Findings related to Potočari

Following the attack on the Srebrenica enclave, 20,000 to 30,000 Bosnian Muslims fled to Potočari, a village located at the northern-eastern part of the enclave where the Dutch Battalion of the United Nations Protection Forces (DutchBat) had its headquarters. DutchBat was unable to cope with the massive influx of refugees. It did not have adequate supplies of food, water or medicine for the refugees, which was due in large part to the blockade of supplies into the enclave and to the Dutch Battalion in the months preceding the attack. Negotiations between Ratko Mladić, commander of the VRS, and DutchBat on the night of 11 July resulted in the decision to bus the Bosnian Muslim population out of Potočari to non-Serb held territory.

On 12 and 13 July, members of the VRS, members of police units from the Ministry of Interior (MUP) and members of the civilian authorities of Bratunac were present in Potočari as well as members of the Dutch Battalion. Among the VRS forces were some members of the Bratunac Brigade Military Police, members of the Bratunac Brigade command and, at least, members of the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Bratunac Brigade infantry battalions.

The Trial Chamber found that the Bosnian Muslim population in Potočari were subjected to cruel and inhumane treatment in Potočari. Some of the Bosnian Muslims in Potočari were subjected to beating, which caused severe pain and suffering. They did not have sufficient space, food or water, and were subjected to extreme forms of degradation. Men were separated from their family members, thus creating great anxiety among the population about the fate of the men.

The Trial Chamber further found that an atmosphere of terror was created in Potočari: armed members of the VRS were present and walked among the Bosnian Muslim refugees, taking people at will for beatings and other forms of serious abuse. Furthermore, identification documents were taken from the men, which sent a message among the Bosnian Muslim population that the men may not need their documents anymore because their fate - death - had been decided.

The Trial Chamber found that members of the Bosnian Muslim population were murdered in Potočari. While there is little evidence to establish that there was an organized plan to murder Bosnian Muslims in Potočari, in the environment where beatings, severe abuse and intimidation were not only tolerated but seemingly encouraged, it was foreseeable that such murders would be committed.

Finally, the Trial Chamber further found that Bosnian Muslim women, children and elderly were forcibly transferred from Potočari to non-Serb held territory in Bosnia. While there is evidence that the Bosnian Muslims boarded the buses voluntarily and expressed the desire to leave Potočari, the Trial Chamber found that in the context of the situation as it existed in Potočari, this transfer cannot be described as "voluntary" but must be viewed as coerced or forced. Due to the humanitarian crisis that prevailed in Potočari - created by the Bosnian Serb forces, including the Bratunac Brigade - and the atmosphere of terror that reigned in Potočari, particularly on the night of 12 July, the Bosnian Muslim population, and indeed the DutchBat, faced no choice but to move to another location, where their safety, well-being and indeed, survival, could be ensured.

The majority of the Bosnian Muslim men in Srebrenica fled the enclave on the night of 10 July with the objective of breaking through to non-Serb held territory around Tuzla. Over the course of the following

days, more than 7,000 Bosnian Muslim men were captured, detained and transported to execution sites in the Bratunac and Zvornik Municipalities, where they were murdered.

The first stage of the operation against the Bosnian Muslim men included their detention in the town of Bratunac on the nights of 12 and 13 July. Vidoje Blagojević was present in Bratunac on both dates. Men who were forcibly separated from their families in Potočari as well as men who were captured during the search of the terrain were bused to Bratunac. The men were either detained on the buses or in buildings in the Vuk Karadžić school complex. The small town of Bratunac was thus filled with Bosnian Muslim men. The Bratunac Brigade Military Police played a role in securing - or rather guarding - the detainees, thereby ensuring the continued control of the Bosnian Serb forces over these men.

The Trial Chamber found that during their detention in Bratunac, the Bosnian Muslim men were subjected to cruel and inhumane treatment. They were detained in inhumane conditions; they were not given sufficient food, water or medical treatment, and were detained in overcrowded spaces, often without basic facilities. The men were subjected to random acts of violence: beatings, verbal abuse and threats to their well-being were continuous. Shooting could be heard throughout the night, as could the occasional scream of a detainee taken outside of the school or off the bus and murdered.

The Bratunac Brigade Military Police were involved in guarding the detainees, and in the case of the Vuk Karadžić school, had a role in controlling who entered and left the premises.

While most men captured from the column were brought to Bratunac, on 13 July the Bosnian Muslim men captured and held in the Sandići meadow were either forced to walk to, or were bussed, the short distance to the Kravica Warehouse, which is located on the main Bratunac-Konjević Polje road, in the Bratunac municipality. The nearly 1,000 men who were detained in the Kravica Warehouse were murdered on the night of 13 July, as Bosnian Serb forces fired automatic weapons directly into the warehouse. Once the majority of the men were killed, the Bosnian Serb forces called out the survivors and summarily executed them outside the warehouse, in plain view of the road.

On the morning of 14 July, a convoy of approximately 30 buses filled with Bosnian Muslim men left Bratunac for Zvornik. Members of the Bratunac Brigade served as an escort for this convoy. The Bosnian Muslim men were taken to various temporary detention centres in the Zvornik municipality including the Grbavci school, the Petkovci school and the Pilica school. Between 14 and 16 July, the men were blindfolded, put on buses and taken to nearby fields where, group after group of helpless, terrified Bosnian Muslim men were executed. The fields in Orahovac, the Petkovci Dam and the Branjevo Military Farm were literally killing fields filled with bodies of Bosnian Muslim men.

The Pilica Cultural Centre was filled to capacity with approximately 500 Bosnian Muslim men. This detention facility turned into an execution site on 16 July. As men cowered in the corner seeking protection or were forced to stand on the stage of the cultural centre, VRS soldiers fired automatic weapons and threw grenades into the building. There are no known survivors of this mass execution.

Loaders and excavators were either already at the sites at the time of the executions or arrived soon thereafter to bury the dead in mass graves. The Zvornik Engineering Company often provided both the machinery and the operators for the burial operation.

#### *Legal Findings in Relation to the Crimes Charged*

The Trial Chamber found that the facts, as briefly described herein, establish that the crimes of genocide, extermination, murder, persecutions through murder, cruel and inhumane treatment, terrorising the civilian population and forcible transfer, and inhumane acts (forcible transfer) were committed in July 1995 following the fall of the Srebrenica enclave.

In relation to the crime of genocide, the Trial Chamber found that the acts through which genocide was committed were killing members of the group and causing serious bodily or mental harm to members of the group. The group was defined as the Bosnian Muslims of Srebrenica.

The Trial Chamber found that serious bodily or mental harm was inflicted on members of the Bosnian Muslim group through various means including: by forcing the displacement of the Bosnian Muslim population from Srebrenica, by separating men from the rest of the population, by terrorising the Bosnian Muslim population in Potočari, by subjecting members of the group to serious physical or mental abuse in Potočari and in detention centres, and by causing severe trauma to those men who managed to survive the executions.

The Trial Chamber further found that in the circumstances of this case, through the manner and means in which it was carried out, the forcible transfer of the Bosnian Muslim population from the Srebrenica enclave, in combination with the killings or on its own, caused serious mental harm so as to be an act of genocide.

The Trial Chamber found that the specific intent to destroy in whole or in part the Bosnian Muslim group as such can be inferred from the events which followed the "Krivaja 95" military operation, which had as its ultimate objective the elimination of the Srebrenica enclave, namely, the forced removal of the Bosnian Muslims out of the Srebrenica enclave, the separation of male members of the Bosnian Muslim community in Potočari, the forcible transfer of the Bosnian Muslim women, children and elderly from Serb-held territory, and ultimately, the murder of more than 7,000 Bosnian Muslim men and boys.

The Trial Chamber found that the term "destroy" refers only to the physical and biological destruction of the group; it did not include cultural genocide. The Trial Chamber further found that such destruction should not simply be equated with killing. While killing large numbers of a group may be the most direct means of destroying a group, other acts or series of acts, can also lead to the destruction of the group.

The Trial Chamber found that depending on the circumstances and manner in which a forcible transfer is carried out, it may lead to the destruction of the protected group. In this case, the forcible transfer was directed at a protected group: the Bosnian Muslims of Srebrenica. It was preceded by the separation of the community by gender. The Trial Chamber found the separation of the Bosnian Muslim men from the rest of the Bosnian Muslim group to be a critical piece of evidence in establishing that the Bosnian Serbs who organised and implemented the transfer did not want the Bosnian Muslim group to ever reconstitute itself as a group in Srebrenica or elsewhere, and therefore they intended to physically destroy the group.

In relation to the displacement of the Bosnian Muslim population from the Srebrenica enclave, the Trial Chamber found that the Bosnian Muslim population was forcibly transferred from the area in which they were lawfully present for reasons other than those recognised under international law, namely the security of the population or imperative military necessity. The Trial Chamber finds that the transfer was "forcible" because the Bosnian Muslim population did not have a free or genuine choice to remain in the Srebrenica enclave, including in the area around the Dutch battalion headquarters in Potočari. This lack of a genuine choice was a result of the actions and behaviour of the officers and soldiers of the VRS towards the refugees, including the commission of serious crimes by members of the Bosnian Serb forces in Potočari, the organised, inhumane and frequently aggressive process of separating out and removing the male members of the population, and the conditions and atmosphere of terror that were created in Potočari. Furthermore, the Trial Chamber finds that the Bosnian Serb forces who organised and implemented the transfer of the Bosnian Muslim population did not intend that the displacement of the population as a temporary measure.

#### *Findings in relation to the individual criminal responsibility of the accused*

While recognising that there was a functional chain for the security organ also operating in July 1995, the Trial Chamber finds that Vidoje Blagojević, as commander of the Bratunac Brigade, was in command and had control over the forces and resources of the Bratunac Brigade in July 1995. Dragan Jokić served as Duty Officer at the Zvornik Brigade from the morning of 14 July to the morning of 15 July. Furthermore, he served as Chief of Engineering of the Zvornik Brigade.

Vidoje Blagojević and Dragan Jokić are both charged with individual criminal responsibility for participation in a joint criminal enterprise. The Trial Chamber did not find that the elements that must be established to find individual criminal responsibility pursuant to a joint criminal enterprise are all met in the present case. Moreover, the Trial Chamber found that the mode of liability that more accurately reflects the criminal conduct of both the accused, on the basis of their criminal intent, is aiding and abetting the commission of the crimes.

The Trial Chamber found that there were acts committed by Vidoje Blagojević or members of the Bratunac Brigade which provided practical assistance to the murder operation that resulted in the death of more than 7,000 Bosnian Muslim men and boys. These acts included the separation of the men from the rest of the Bosnian Muslim population in Potočari, the guarding of Bosnian Muslim men in the town of Bratunac from 12 to 14 July, the participation of the Bratunac Brigade battalions, and indeed, Vidoje Blagojević himself, in the search operation.

The Trial Chamber further found, however, that there was insufficient evidence to establish that Vidoje Blagojević had knowledge that these acts assisted in the commission of the crime of murder, in relation to the mass executions. Accordingly, Vidoje Blagojević's responsibility for aiding and abetting murder in relation to the mass executions has not been established.

The Trial Chamber found that there are acts committed by members of the Bratunac Brigade which provided practical assistance to the murders committed in the town of Bratunac. The Trial Chamber found that Vidoje Blagojević knew that members of the Bratunac Brigade gave practical assistance to the murder of men in Bratunac. Accordingly, the Trial Chamber found that Vidoje Blagojević aided and abetted the commission of murder in Bratunac.

The Trial Chamber found that Vidoje Blagojević did not have knowledge that the crime of extermination was being committed at the time of its commission, and therefore cannot incur any liability for acts which may have been taken by himself or members of the Bratunac Brigade which assisted the principals and had a substantial effect on the commission of extermination. Accordingly, Vidoje Blagojević liability for aiding and abetting extermination has not been established and he is acquitted of the charge of extermination in count 2 of the indictment.

As for the crime of persecutions, the Trial Chamber found that Vidoje Blagojević knew of the discriminatory basis upon which the underlying acts of murder, cruel and inhumane treatment, terrorising the civilian population and forcible transfer were committed.

The Trial Chamber found that members of the Bratunac Brigade rendered practical assistance which had a substantial effect on the commission of persecutions through cruel and inhumane treatment and terrorising the civilian population. The Trial Chamber found that Vidoje Blagojević had knowledge of the participation of members of the Bratunac Brigade in these acts and further knew that these acts assisted in the crime of persecutions through terrorising the civilian population and cruel and inhumane treatment.

Finally, the Trial Chamber found that members of the Bratunac Brigade, including members of the Military Police and members of the battalions which secured the Potočari area, rendered practical assistance to the forcible transfer of the Bosnian Muslim population out of the Srebrenica area. Through their participation in separating the population, loading and escorting the buses, and patrolling the area around which the population was held until the transfer was complete, the contribution made to it by members of the Bratunac Brigade had a substantial effect on the commission of the crime.

The Trial Chamber further found that Vidoje Blagojević knew of the assistance rendered by members of his brigade, and that the acts undertaken by them assisted in the commission of forcible transfer. Vidoje Blagojević, as a commander involved in the Krivaja 95 operation, knew the objective and result of that operation: the elimination of the Srebrenica enclave. This objective necessarily entailed removing the Bosnian Muslim population from that area. Over the course of 12-14 July, Vidoje Blagojević, through his presence at the forward command post, in Srebrenica and in Bratunac, would have seen for himself the manifestation of that objective as busload after busload of Bosnian Muslim women, children and elderly travelled from Potočari to Kladanj through Bratunac, and then the temporary detention of the Bosnian Muslim men in Bratunac pending their transfer out of the area. Vidoje Blagojević knew that the forcible transfer was carried out on discriminatory grounds, as the objective of the forcible transfer was to remove the Bosnian Muslims from that part of Bosnia. Accordingly, the Trial Chamber found that Vidoje Blagojević is liable for aiding and abetting persecutions through the underlying acts of murder, cruel and inhumane treatment, terrorising the civilian population and forcible transfer.

Having established that Vidoje Blagojević bears criminal responsibility for aiding and abetting persecutions through forcible transfer, the Trial Chamber finds that Vidoje Blagojević aided and abetted the crime of inhumane acts (forcible transfer).

Based on its findings in relation to murder, persecutions and other inhumane acts (forcible transfer), the Trial Chamber further found that Vidoje Blagojević knew that by allowing the resources of the Bratunac Brigade to be used he was making a substantial contribution to the killing of Bosnian Muslim men and to the infliction of serious bodily or mental harm on the Bosnian Muslim population.

The Trial Chamber found that Vidoje Blagojević knew of the principal perpetrators' intent to destroy in whole or in part the Bosnian Muslim group as such. The Trial Chamber inferred this knowledge from all the circumstances that surrounded the take-over of the Srebrenica enclave and the acts directed at the Bosnian Muslim population which followed. Accordingly, the Trial Chamber found that Vidoje Blagojević is guilty of complicity in genocide by aiding and abetting genocide.

The Trial Chamber did not find that Vidoje Blagojević bears responsibility under Article 7(3).

In relation to Dragan Jokić, the Trial Chamber found that murder, both as a violation of the laws or customs of war and as a crime against humanity, has been established.

The Trial Chamber believes it has not been proven beyond reasonable doubt that Dragan Jokić had knowledge that he was sending someone to Kravica warehouse or to participate in any way in the burials following the Kravica warehouse massacre.

The Trial Chamber is convinced that Dragan Jokić knew that Bosnian Muslim prisoners were detained at the Grbavci School awaiting their execution when he told someone to go there. The Trial Chamber therefore finds that Dragan Jokić knew that he was sent to Orahovac specifically in order to dig mass graves for the victims of the executions. By telling him to take the excavator to Orahovac, Dragan Jokić provided practical assistance that had a substantial effect on the commission of the crime.

It has not been established beyond reasonable doubt that Dragan Jokić provided substantial assistance to the mass execution that was subsequently committed at Petkovci School and Dam. The Trial Chamber has not found evidence that members of the Zvornik Brigade took part in this execution.

The Trial Chamber found that Dragan Jokić knew of the detention of Bosnian Muslim prisoners at the Pilica School as early as 14 July. Furthermore, the Trial Chamber found beyond reasonable doubt that Jokić, as Chief of Engineering, was informed of the 16 July request for heavy machinery and was in contact with Engineering Company members in order to effectuate the request. As a result of Dragan Jokić's actions, Zvornik Brigade engineering resources and personnel were sent. The Trial Chamber is convinced beyond reasonable doubt that Dragan Jokić knew that these resources were sent in order to dig mass graves.

The Trial Chamber found Dragan Jokić provided practical assistance that had a substantial effect on the commission of the crimes and the Trial Chamber is convinced that Dragan Jokić knew that the Zvornik Brigade's engineering resources were to be used to dig mass graves for the executed victims.

The Trial Chamber therefore found that it has been established beyond reasonable doubt that Dragan Jokić aided and abetted the murders committed at Orahovac, Pilica/Branjevo Military Farm, and Kozluk.

The Trial Chamber also found that extermination was committed. The Trial Chamber found beyond reasonable doubt that Dragan Jokić rendered practical assistance, which had a substantial effect on the commission of the crime of extermination.

The Trial Chamber was furnished with evidence that Dragan Jokić knew about the detention of Bosnian Muslims at the Grbavci School at Orahovac, at the Pilica School, and at Kozluk. Further, the fact that Dragan Jokić sent Zvornik Brigade heavy digging equipment and personnel to operate this equipment to dig mass graves where executions were either ongoing or had just taken place proves beyond reasonable doubt that Dragan Jokić knew that the murders were committed on a vast scale.

Under count 5, Persecutions, the Prosecution charged Dragan Jokić with the four underlying acts of murder, cruel and inhumane treatment, terrorising the civilian population, and destruction of property. The Trial Chamber recalls its findings that for the underlying acts with which Dragan Jokić have been charged the murder, the cruel and inhumane treatment, and the terrorising of the Bosnian Muslim civilians constituted part of the persecutorial campaign against the Bosnian Muslim population.

The Trial Chamber found that no evidence has been presented which would enable it to conclude that Dragan Jokić rendered practical assistance, encouragement or moral support, which had a substantial effect on the cruel and inhumane treatment or the terrorising of the civilian population. The Trial Chamber therefore concluded that Dragan Jokić does not bear any liability for these underlying acts.

With regard to the underlying act of murder, the Trial Chamber found beyond reasonable doubt that Dragan Jokić aided and abetted the commission of the murders committed at Orahovac, Pilica/Branjevo Military Farm, and Kozluk. The evidence showed that from 14 July onwards Dragan Jokić knew that thousands of Bosnian Muslim men and boys were being detained in the Zvornik Brigade area. The evidence further establishes that Dragan Jokić knew that these men and boys were detained on discriminatory grounds because they were Bosnian Muslim. The Trial Chamber is therefore convinced that Dragan Jokić knew that the crimes committed at Orahovac, Pilica/Branjevo Military Farm, and Kozluk were committed by the principal perpetrators against the victims because they were Bosnian Muslim. Consequently, the Trial Chamber finds that by his actions as described previously Dragan Jokić aided and abetted the crime of persecutions committed through murder at Orahovac, Pilica/Branjevo Military Farm, and Kozluk.

The Trial Chamber assessed the gravity of the offences for which the accused have been convicted, including the individual participation of each accused in the crimes.

In relation to Vidoje Blagojević, the Trial Chamber found that he was not one of the major participants in the commission of the crimes. The Trial Chamber found that while commanders of the Main Staff and the MUP played the key roles in designing and executing the common plan to kill thousands of Bosnian Muslim men and to forcibly transfer over 30,000 Bosnian Muslims, Vidoje Blagojević's contribution to the commission of the crimes was primarily through his substantial assistance to the forcible transfer and due to his knowledge of the objective to eliminate the Bosnian Muslim enclave of Srebrenica. The Trial Chamber found that it has not been established that he had knowledge of the executions when he rendered this assistance. The Trial Chamber must consider, however, that the practical assistance he rendered had a substantial effect on the commission of the crime of genocide.

Dragan Jokić, like Vidoje Blagojević did not play a major role in the commission of the crimes. In addition, the Trial Chamber found that he was not in a command position. He could not issue orders on his own, but conveyed the orders from superiors to the members of the engineering company of the Zvornik Brigade. However, he substantially assisted in the commission of the crimes by sending machinery of the engineering company to the execution sites and members of the engineering company to take part in the burial operation.

The Trial Chamber considered the relevant aggravating and mitigating circumstances in determining the sentence for each accused.

The Trial Chamber found Vidoje Blagojević not guilty and therefore acquitted of extermination and guilty of the following crimes:

- Complicity to commit genocide by aiding and abetting genocide (genocide, Article 4)
- Aiding and abetting murder, persecutions on political, racial and religious grounds and inhumane acts (forcible transfer) (crimes against humanity, Article 5)
- Aiding and abetting murder (violations of the laws or customs of war, Article 3)

Vidoje Blagojević is found not guilty under Article 7(3) of these crimes.

Sentence: 18 years' imprisonment.

Vidoje Blagojević is entitled to credit for time spent in custody - 1256 days.

The Trial Chamber found Dragan Jokić not guilty of murder as a crime against humanity and guilty of the following crimes:

- Aiding and abetting extermination and persecutions on political, racial and religious grounds (crimes against humanity, Article 5)
- Aiding and abetting murder (violations of the laws or customs of war, Article 3)

Sentence: 9 years' imprisonment.

Dragan Jokić is entitled to credit for time spent in custody - 917 days.

## APPEALS CHAMBER JUDGEMENT

Prosecution filed its appeal brief on 9 May 2005.

Vidoje Blagojević's brief on appeal was filed on 20 October 2005 and the third amended appellate brief of Dragan Jokić was filed on 6 July 2006.

The appeals hearing took place on 5 and 6 December 2006.

On 9 May 2007, the Appeals Chamber rendered its judgement reducing the sentence for Vidoje Blagojević to 15 years' imprisonment whereas they affirmed the sentence of nine years' imprisonment for Dragan Jokić.

In his appeal, Vidoje Blagojević submitted that the Trial Chamber erred in fact in finding that he had knowledge of the commission of the crime of genocide or the genocidal intent of the principal

perpetrators. In disputing his awareness of the commission of genocide and of the genocidal intent of the principal perpetrators, Vidoje Blagojević pointed to the Trial Chamber's finding that he lacked knowledge about the mass killings, which the Trial Chamber determined formed part of the genocide. The Prosecution responded that the fact that Vidoje Blagojević was unaware of the mass killings was irrelevant to his liability as an aider and abettor of the crime of genocide.

The Appeals Chamber accepted that the forcible transfer operation, the separations, and the mistreatment and murders in Bratunac town were relevant considerations in assessing whether the principal perpetrators had genocidal intent. However, the Appeals Chamber was not convinced by the Trial Chamber's reasoning that the forcible transfer operation alone or coupled with the murders and mistreatment in Bratunac town would suffice to demonstrate the principal perpetrators' intent to "destroy" the protected group.

The Appeals Judgement in the case of Radislav Krstić clearly held that "forcible transfer does not constitute in and of itself a genocidal act", and it was simply a relevant consideration as part of the overall factual assessment. Similarly, the Appeals Chamber noted that "opportunistic killings" by their very nature provided a very limited basis for inferring genocidal intent. In the view of the Appeals Chamber no reasonable trier of fact could find beyond reasonable doubt that, without knowledge of the mass killings, Vidoje Blagojević's awareness of the other facts related to the forcible transfer operation showed that he had knowledge of the principal perpetrators' genocidal intent.

On the basis of the foregoing, the Appeals Chamber granted Vidoje Blagojević's sixth ground of appeal and reversed his conviction for complicity in genocide, Judge Shahabuddeen dissenting.

Under this ground of appeal, Vidoje Blagojević raised four errors of law and fact in connection with his conviction for aiding and abetting, including an alleged legal error in the definition of aiding and abetting and alleged factual errors related to his knowledge of the underlying crimes, whether he made Bratunac Brigade resources available, and whether this constituted substantial assistance.

The Appeals Chamber considered that Vidoje Blagojević failed to identify any legal error on the part of the Trial Chamber in setting forth the applicable law on aiding and abetting. Further, with regard to his knowledge of the underlying crimes, he simply incorporated by reference arguments advanced elsewhere in his appeal which the Appeals Chamber addressed and rejected with the exception of his challenge to his conviction for complicity in genocide.

Vidoje Blagojević's submissions were found insufficient to call into question the reasonableness of the Trial Chamber's findings that he permitted Bratunac Brigade resources to facilitate the commission of the crimes. Furthermore, he did not demonstrate error in the Trial Chamber's finding that the Bratunac Brigade substantially contributed to the commission of the crimes. In making its findings, the Trial Chamber was aware of the more limited scope of assistance provided by the Bratunac Brigade in relation to other elements of the VRS and civilian authorities. Nonetheless, the Trial Chamber described the contribution of the resources made available by Vidoje Blagojević as "practical assistance" to the crimes which had a substantial effect on the commission of the crimes. The Appeals Chamber recalled that, in a similar context, it reached the same conclusion in the Krstić Appeals Judgement.

For the reasons given in connection with the sixth ground of appeal, the Appeals Chamber granted Vidoje Blagojević's seventh ground of appeal with respect to the crime of genocide, and dismissed his appeal against the Trial Chamber's findings related to aiding and abetting in all other respects. Judge Shahabuddeen dissented.

The Chamber dismissed all other grounds of appeal by Vidoje Blagojević with a dissenting opinion of Judge Shahabuddeen.

Regarding Dragan Jokić, the Appeals Chamber dismissed all 7 grounds of appeal. The Prosecution's ground of appeal was also dismissed.

Vidoje Blagojević was transferred to Norway on 25 January 2008 to serve his sentence, and Dragan Jokić is awaiting transfer to serve his sentence. They are entitled to credit for time spent in custody.