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**RADISLAV KRSTIĆ BECOMES THE FIRST PERSON TO BE CONVICTED OF GENOCIDE
AT THE ICTY AND IS SENTENCED TO 46 YEARS IMPRISONMENT**

Today 2 August 2001, Trial Chamber I of the International Criminal Tribunal for the former Yugoslavia, composed of Judges Rodrigues (Presiding), Riad and Wald, rendered its Judgement in *The Prosecutor v. Radislav Krstić*. The Trial Chamber stated that it was “*convinced beyond any reasonable doubt that a crime of genocide was committed in Srebrenica*” and that General Radislav Krstić is guilty of genocide. Please find below the summary of the Sentencing Judgement of Trial Chamber I, read out by Presiding Judge Almiro Rodrigues at today’s Judgement hearing.

Introduction

“May justice be done lest the world perish” said Hegel. The Trial Chamber is doing its duty in meting out justice and, in this way, hopes to have contributed to creating a better world.

The Trial Chamber is rendering its Judgement today in the Prosecutor’s case against General Krstić who stands accused of genocide, complicity to commit genocide, persecution, extermination, murder and forced transfer or deportation and of crimes committed between July and November 1995 following the attack of the Serbian forces on the town of Srebrenica. At the time the attack was launched, General Krstić was the deputy commander of the Drina Corps, one of the corps which constitute the army of Republika Srpska, often known as the VRS. The exact date General Krstić became the Drina Corps commander has been the subject of professional, courteous but, at times, particularly acrimonious debates between the parties. I will return to this point.

I wish to make several preliminary comments.

First, I wish to point out that throughout the trial the debates proceeded smoothly and the parties conducted themselves in an exemplary manner. In this case, both the Prosecution and Defence demonstrated in the most striking fashion that co-operation and confrontation need not be mutually exclusive. The arguments were always correct and, in particular, were of the highest quality. The final arguments were presentations of excellent legal and factual summaries of the respective positions of the Prosecution and the Defence. I wish to extend my appreciation to all counsel and their teams for the work they have done and the atmosphere in which it was carried out.

I wish to pay tribute to the work of the Office of the Prosecutor in the broadest sense and, in particular, to Mr. Jean-René Ruez, the former team leader in the Office of the Prosecutor. I also have in mind everyone working for the Prosecution and the Defence who travelled on-site: the experts and their assistants, the investigators, technicians, soldiers, security officers and also all those who saw, smelled, touched, exhumed, washed, autopsied, and analysed. It is not difficult to imagine how much patience, perseverance and devotion was required to perform this thankless but indispensable task.

I also wish to thank everyone who offered us their unstinting assistance, frequently after normal working hours.

I also wish to thank the staff of the Detention Unit and the Serbian and Dutch physicians and surgeons who shared their experience with us so that the accused would receive the treatment required for his medical condition.

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Lastly, I wish to underscore the work of the military analysts and experts, Mr. Richard Butler and General Dannatt for the Prosecutor and General Radinović for the Defence.

All this work made it possible to hear 128 witnesses, two of whom were called by the Trial Chamber. In all, more than eleven hundred exhibits (some several hundred pages long) were admitted during the proceedings.

I will move quickly over the details of the proceedings which appear in the annex to the Judgement. I will note only that because of General Krstić's medical condition, the trial was interrupted for several weeks at the start of the year. Nonetheless, as you know, the Trial Chamber's work did not stop since it was hearing two cases at the same time.

I now come to the reason for this hearing, pronouncing of the judgement in the case *The Prosecutor against Radislav Krstić*. I do not intend to read out the entire written Judgement but to present a summary thereof so that you, General Krstić, and the public will know essentially the reasons why the Trial Chamber reached the conclusions it has reached. I wish to point out that the only authoritative text is the written Judgement which will be available after this hearing and nothing I am going to say can be seen as modifying that Judgement in any way.

General Krstić, the crimes of which you stand accused are based on the events which occurred following the attack of the Serbian forces on the town of Srebrenica in July 1995. Srebrenica - the name of a town which has become synonymous with the conflict which devastated the former Yugoslavia. It is a name which immediately calls to mind thousands of people subjected to siege, famine and deprivation of everything - even water and time to breathe. The name of an enclave which the United Nations declared a safe area and which fell almost without a shot being fired. Srebrenica - a name which conjures up images one would prefer not to see: women, children and old people forced to climb into buses leaving for destinations unknown; men separated from their families, stripped of their belongings, men fleeing, men taken prisoner, men never to be seen again, men who would be found - but not always - dead, corpses piled up in mass graves; corpses with their hands tied or their eyes blindfolded - frequently; dismembered corpses as well; unidentified corpses ... corpses.

Srebrenica is also a name for a post-traumatic syndrome, the syndrome displayed by the women, children and old people who did not die and who, ever since July 1995, six years now, still have no news of their husbands and sons, fathers, brothers, uncles, grandfathers. Thousands of amputated lives six years later, robbed of the affection and love of their kin now reduced to ghosts who return to haunt them day after day, night after night.

The Trial Chamber was presented with a great deal of evidence which could be called impressive.

Because of the violence of the crimes, the almost unbearable images put before it, and the pain to which the victims gave voice in their testimony, the Trial Chamber needed to be particularly vigilant so that it could take the necessary distance for carrying out its work of justice with the requisite calm and as objectively as possible. During its meticulous analysis of *inter alia* all the evidence, testimony, exhibits, it was especially attentive to the need to ensure that the evidence it had made it possible to verify whether crimes had been committed. It carried out a scrupulous examination of all these in order to decide on which or any of the criminal characterisations the Prosecutor set out in her indictment a conviction could be entered. Lastly and above all, the Trial Chamber carefully weighed whether one or several of the crimes could be ascribed to General Krstić.

Essentially, the Trial Chamber is responding to three questions: what are the facts, which are the crimes that were committed, can General Krstić be held responsible for any of these crimes? I will now present a summary of the conclusions the Trial Chamber reached in respect of these three questions.

I - What are the facts? Transfer of women, children and old people

The attack of the Serbian forces on the Srebrenica enclave followed several months, actually several years, of confrontation. Srebrenica is located in a part of eastern Bosnia, central Podrinje, which was of particular interest to both parties involved. To the Bosnian Muslims because the town

was predominantly Muslim before the conflict; because it is located between Tuzla to the north and Žepa to the south both of which were under Muslim control; because the fall of Srebrenica could have extremely negative consequences for Sarajevo under siege at the time. To the Bosnian Serbs because the region known as central Podrinje was in that part of Bosnia bordering Serbia and because it was important to establish the continuity, in Bosnia like in neighbouring Serbia, of the territories under Serbian control; and, of course, for the opposite reasons of those of the Bosnian Muslims.

In 1992-1993, there were many clashes between the Serbs and the Bosnian Muslims for control of the region. After several successful operations, the ABiH (the Bosnian Muslim army) was confronted with a counter-offensive mounted by the VRS (the Bosnian Serb army) which finally reduced the enclave to about 150 km². In March 1993, siege was laid to Srebrenica and part of the population was transferred.

On 16 April 1993, the United Nations Security Council declared Srebrenica a “safe area” and an agreement signed by the parties turned it into a demilitarised zone to which an UNPROFOR contingent was dispatched. However, the parties did not agree on the definition and interpretation of the notion of demilitarised zone. In particular, the Bosnian Muslims considered that only the town of Srebrenica itself was demilitarised and the ABiH sent weapons and munitions to the enclave.

Still, the situation remained relatively stable until January 1995 when the Bosnian Serbs adopted a more hard-line position, in particular, in respect of the supply of humanitarian aid.

On 8 March 1995, the President of the Bosnian Serbs, Radovan Karadžić, issued the order under the name of “Directive 7” to separate the enclaves of Srebrenica and Žepa. In respect of what concerned the Drina Corps in particular, President Karadžić wrote “By 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 and Žepa.”

On the basis of this directive, on 31 March 1995, General Ratko Mladić also issued a directive which he sent *inter alia* to the Drina Corps. The Directive organised a large-scale attack known as “Sadejstvo-95” whose objective was to defend the territory of Republika Srpska on all fronts and, in particular, to avoid, and I quote, “at any cost” the lifting of the siege of Sarajevo. General Mladić foresaw that whatever the result of the events and the escalation of the conflict, UNPROFOR land forces and NATO forces would probably not be engaged, except in those cases when they come under direct physical threat. During the operation, he stated that the forces of the Republika Srpska army would collaborate in strategic camouflage and improvement of the tactical position by carrying out, among others, active combat operations (...) around the Srebrenica, Žepa and Goražde enclaves.

In the spring of 1995, the situation in Sarajevo deteriorated significantly. Humanitarian convoys were obstructed and sometimes blocked. Even the Dutch UNPROFOR contingent could not effect its normal troop rotation. Some of the observation posts reported a significant reinforcement of the nearby Serbian positions. The humanitarian situation became catastrophic. The 28th ABiH Division, that is, the Bosnian Muslim army in the Srebrenica enclave, asked that the blockade be lifted. Harassment operations were launched against the Serbian positions. This is known as “Operation Skakavac” and, apparently, crimes were committed while it was being carried out, in particular in the Serbian village of Višnja on 26 June 1995. At the same time, the Bosnian Serb army was on the move. On 31 May 1995, it captured one of the UNPROFOR observation posts.

On 2 July 1995, the Drina Corps commander, General Živanović signed the orders for a planned attack on Srebrenica. On 6 July the attack was launched from south of the enclave. Thousands of Bosnian Muslims fled to the town. The Bosnian Serb forces encountered no resistance. On 9 July, President Karadžić decided that, under the prevailing conditions, the town was to be taken. On 10 July, the panicked Bosnian Muslim population began to flee toward the United Nations facilities in the town (Bravo company) or out of the town towards the north, on the Bratunac road, to Potočari. The commander of the Dutch Battalion often called Dutchbat, asked for air support but did not receive it.

On 11 July, General Mladić, Chief-of-Staff of the Bosnian Serb army, along with General Živanović, General Krstić and many other VRS officers, made a triumphant entry into a Srebrenica deserted by its inhabitants.

By the evening of 11 July, Srebrenica was a dead town in the hands of the Bosnian Serb forces.

The inhabitants of Srebrenica and the refugees there fled en masse to the United Nations base in Potočari. The Bosnian Serb forces would soon learn that there were very few men in the milling crowd gathering around the UNPROFOR camp. In Potočari there were mostly women, children and old people.

There were very few men in Potočari because, even though one cannot know for sure who gave the orders or organised the departures, they took a different route. Whether members of the 28th Division or not, they assembled in the little villages of Jagličići and Šušnjari north-west of Srebrenica and decided to flee through the woods towards Tuzla much further to the north in territory under Bosnian Muslim control. About ten to fifteen thousand men formed a column several kilometres long and left on foot through the woods.

However, General Mladić did not yet know that when, on 11 July, he called the Dutchbat commander Colonel Karremans to a meeting at the Hotel Fontana in Bratunac. Along with General Mladić were many VRS officers, including General Živanović, but not General Krstić. At 20.00 hours on 11 July, General Mladić asked Colonel Karremans whether UNPROFOR could organise the transport of the population. He also asked him to return with a representative of the population of Srebrenica. The second meeting was held in the same hotel on that same day. It was about 23.00 hours. General Mladić was in attendance with General Krstić but without General Živanović. Colonel Karremans came with a teacher, Mr. Mandzić, who represented the population. This time, General Mladić's tone and attitude were much harder. Through the open window came the sounds of a pig being slaughtered. General Mladić had the signboard of the Srebrenica town hall which had been removed from the building placed on the table. The Dutchbat commander said that there were about 15-20,000 refugees and that the humanitarian situation was distressing. General Mladić raised his voice and became threatening. He said that he would organise the transport of the population and demanded that the ABiH lay down its weapons. He also demanded that Mr. Mandzić make sure that this was done although Mr. Mandzić tried, in vain, to explain that he had no power to do so. The answer fell and it was final: that's your problem; bring in the people who can ensure that the weapons are laid down and save your people from destruction.

Another meeting was scheduled for the following day. It began around 10.00 on 12 July. General Mladić was still there with General Krstić beside him. Colonel Popović, to whom we will return later, was also there. The Dutchbat representatives returned with Mr. Mandzić and two other "civilian representatives", Mrs. Omanović, an economist, and Mr. Nuhanović, a businessman. General Mladić again insisted that the condition for the survival of the Bosnian Muslims of Srebrenica was that they lay down their weapons. He said that he would supply the buses to transport the population but that the fuel would have to be provided by UNPROFOR. Everyone understood that the Bosnian Muslims were to leave the enclave. Last, General Mladić said that all the men in Potočari would be separated in order to identify any possible war criminals.

At around noon on 12 July, General Krstić gave a filmed interview to a journalist from Serbia. This took place right next to the United Nations base in Potočari. Behind him, passing trucks could be seen. Buses as well. These were the buses the women, children and old people would get into. The video the journalist made shows resigned people. The men are being separated from the women. Here and there one sees bags, bundles, a few belongings. Further away, a larger pile. The Trial Chamber would learn that these were the belongings of the men who had come to seek refuge in Potočari and who had been ordered to leave them there. The Trial Chamber knows that the belongings were subsequently burned by the Serbian forces.

How did the situation appear to the Bosnian Muslims who had sought refuge in Potočari? It was extremely serious. One needs to remember the shelling, including the shelling of the United Nations base in Srebrenica. One needs to imagine thousands of people crowded into a few buildings without water or food other than a few pieces of candy thrown in by General Mladić in front of the cameras and, we were told, taken back once the cameras had left. One must imagine the heat. One must picture the dozens of soldiers and Serbian armed men coming and going shouting out discriminatory insults. One must see the houses set on fire, the night falling and the rising screams. The witnesses described to the Trial Chamber the prevailing atmosphere of terror, the rapes and murders and the mistreatment so pervasive that some of the refugees committed suicide or attempted to do so.

In the evening of 13 July, all the women, children and old people were transferred. The Trial Chamber concludes that for legal reasons which it explains in its Judgement, there was no expulsion.

There was, however, a forced transfer of the women, children and old people of Srebrenica. The men were systematically separated and were forced to leave behind their meagre possessions, leave behind even their identify papers. They were taken to a white house several metres from the United Nations base. They were beaten. Some were taken behind the house and killed. The survivors were taken away to various detention locations, including Bratunac. Those who were able to get on the buses were stopped right before leaving the territory under VRS control and driven to other detention locations (bus, school, hangar).

During that time, the column, with most of the 28th Division armed forces at the head, tried to go through the forest and cross the east-west Bratunac-Konjević Polje road. There were about ten to fifteen thousand men in the column. About one-third was able to get through, including 3,000 men of the 28th Division. The first of these arrived in Bosnian Muslim controlled territory on 16 July. The others, subjected to shelling and automatic weapons fire, were captured or surrendered, sometimes to the so-called UNPROFOR soldiers who were, in fact, none other than members of the Serbian forces using equipment stolen from Dutchbat. Some of these were killed immediately, Most were taken to collection centres, like a meadow in Sandići or a football field in Nova Kasaba. A last group would be luckier because when they came into contact with the Serbian forces, negotiations were initiated and they would, finally, be able to go to territory under Bosnian Muslim control.

In all, 7 to 8,000 men were captured by the Serbian forces. Almost all of them were killed. Only very few survived and some of them testified before the Trial Chamber and described the horror of the mass executions which they miraculously escaped.

The mass executions began on 13 July

Some of the executions involved only a few individuals, like the one in Jadar on the morning of 13 July. In the afternoon of 13 July, there was another execution at a relatively isolated place, the Cerska Valley. 150 bodies would be exhumed there on which 50 metal ties would be found, some of them still wrapped around the victims' wrists. Late in the afternoon, the Serbian forces indulged in a real killing spree. A large number of Bosnian Muslims, about 1,000 - 1,500, were assembled in a warehouse in Kravica. The soldiers opened fire and lobbed in grenades. Those who tried to escape were killed immediately. The next day, the Serbian forces called out to any survivors. Some of those who responded were forced to sing Serbian songs and then executed. A large machine came to carry away the bodies and, in so doing, ripped off part of the warehouse doorframe. The experts would find traces of hair, blood and human tissue on the floor and walls.

On 13 and 14 July, there were executions in Tišća also, that is, the place where the buses were to stop so that the Serbian forces could verify whether there were still men on board, and if so, to force them to get off. They were then taken to a school and, after their hands were tied, to a field where they were executed.

On 14 July, a thousand Bosnian Muslims were assembled in the Grbavci school (Orahovac) gymnasium. Their eyes were blindfolded and they were taken by truck to a field where they were executed. Machines were already digging up the ground before the executions had been completed.

There were other executions from 14 to 16 July. A group of 1,500 - 2,000 Bosnian Muslims was being detained at the Petkovci school. They were taken to an execution site next to an artificial lake, the Petkovci dam. Their hands were tied and they were barefoot. They were executed with automatic weapons.

This would also be the fate of 1,000 to 1,200 men at the Branjevo military farm. The Trial Chamber heard the testimony of a former VRS soldier convicted by the Tribunal for his participation in that execution - Mr. Dražen Erdemović. The Bosnian Muslim men were brought in by truck, many with their hands tied, some wearing blindfolds. All but one were dressed in civilian clothing. The execution squad fired over and over again until, as Mr. Erdemović said, their fingers hurt. Immediately afterwards, the soldiers went to Pilica. Several hundred Bosnian Muslims were locked up in the village cultural centre, the Pilica Dom. Mr. Erdemović and several others refused to participate any further in the executions and sat down in the café across from the cultural centre from where they could hear the shots and explosions. There would be no survivors. When the investigators forced open the door to the cultural centre, they discovered clear traces of the massacre and the conditions in which it had been perpetrated: bullet marks, traces of explosives, blood stains, bits of human remains, everywhere, high

up on the walls and even under the stage of the theatre. And a single forgotten identity document belonging to a Bosnian Muslim. The cultural centre is located on the side of the main road crossing the village at the point where buses stop. In front of the cultural centre today stands a memorial in honour of the ... Serbian heroes who died for the Serbian cause. There were other executions as well, in particular, in Kozluk and Nezuk. The last mass execution appears to have been on 19 July 1995.

In all, the experts estimate that between seven and eight thousand Bosnian Muslim men were executed between 13 and 19 July 1995.

Despite the efforts which have been made, very few mortal remains have been found. Why? Because in the fall of 1995 measures were taken in order to attempt to cover up the scale of the crimes. The proof of what happened can be seen, in particular, in the aerial photographs provided to the Prosecutor. These photographs have made it possible: to identify the number of mass grave sites at the time the executions were carried out; and to note that other sites appeared after September 1995. The work of the experts has also made it possible to confirm the data by comparing the older mass graves with the more recent ones since the latter are always located in regions with more difficult access than those of the first group. No particular care was taken when the bodies were moved and it has not been uncommon to find bodies with missing limbs. There can therefore be no doubt about the deliberate desire to conceal the existence of mass graves and therefore the mass executions of civilians or persons no longer fit for combat.

II - Which are the crimes that were committed?

The Prosecutor has characterised all the crimes and has charged General Krstić with: genocide (or complicity therein); persecution by means of murder, cruel treatment, acts of terror, destruction of personal property and forced transfer; extermination; murders within the meaning of Article 5 of the Statute; murders within the meaning of Article 3 of the Statute; deportation or the inhumane act of forced transfer.

In its Judgement, the Trial Chamber responds to all these points and concludes by applying the case-law of the Appeals Chamber in respect of cumulative charges. It is clear that the principal question which arose was whether *genocide was committed against, in the Prosecutor's words, "a part of the Bosnian Muslim people as a national, ethnical, or religious group"*.

The notion of genocide is itself a recent one. It appeared for the first time in the Second World War and was codified in December 1948 in the Convention on the Prevention and Punishment of the Crime of Genocide which came into force on 12 January 1951. Article 5 of the Statute of the Tribunal, "Genocide", repeats the definition of the Convention word for word. I quote: "genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." Among the acts of genocide are killing members of the group and causing serious bodily or mental harm to members of the group.

There is little case-law on genocide. While the International Criminal Tribunal for Rwanda has rendered several decisions on this point, the case-law of our Tribunal on the subject is almost non-existent.

In this case, the fact that serious bodily or mental harm was inflicted on the Bosnian Muslims or that they were murdered has not been disputed. The Trial Chamber considers that one also cannot dispute the fact that the victims were chosen because of their membership in a national group, that is, precisely because they were Bosnian Muslims. However, can one claim that there was a will or intent to destroy, in whole or in part, a group as such protected by the Convention?

The Defence submitted that there was not and expressed this opinion exhaustively and most clearly both in its written submissions and final arguments. I will present a very brief, and therefore incomplete, summary of its arguments.

The Defence does not dispute the fact that the Serbian forces attacked Srebrenica's Bosnian Muslim population of fighting age. It claims, however, that precisely for this reason, one cannot speak of genocide, despite the scale of the murders committed. It points out first that the women, children and old people were transferred and not killed. It goes on to state that a part of the column, as I mentioned a few minutes ago, was able to pass into territory under Bosnian Muslim control after negotiations had

taken place. According to the Defence, it cannot even be claimed that all the Bosnian Muslim men of fighting age were targeted. Lastly, and in any case, the Defence sets out that the intent to destroy all the Bosnian Muslim men of fighting age cannot be interpreted as the intent to destroy, in whole or in part, a group as such, within the meaning of Article 4 of the Statute.

The Trial Chamber does not share this view.

The Trial Chamber observes that although Bosnian Muslim men from Srebrenica were able to escape the hands of the Serbian forces after the fall of the enclave, this was due to chance or the Serbian forces' inability to prevent the passage of the end of the column into territory under Bosnian Muslim control given the operations in which it was engaged elsewhere. In other words, the Serbian forces really had no other choice at the time than to allow the rest of the column to pass. Subject only to the reservation which we have just stated, the executions were carried out on such a mass scale that the men from Srebrenica of fighting age were annihilated.

The Trial Chamber points out that the decision to kill all the Bosnian Muslim men of fighting age was taken after the decision to transfer the women, children and old people. For this reason, the Serbian forces had to realise the impact such a decision would have on the group's survival.

The Trial Chamber is not stating, nor does it wish to suggest, that a plan to commit genocide existed prior to the attack on Srebrenica or even right before the city fell. However, according to the Appeals Chamber decision in the Jelisić case, a plan of genocide need not have been formed. Nor is it indispensable that, should such a plan exist, some time must pass between its conception and its implementation.

What we are asserting here, on the basis of all the evidence presented to us, is that a decision was first taken to carry out "ethnic cleansing" of the Srebrenica enclave. Moreover, it is not unreasonable to note that the men could be separated from the women, children and old people. Furthermore, the men taken prisoner could subsequently serve as a "bargaining chip" as was frequently the case throughout the conflict in the former Yugoslavia. What was important at that time was to drive out all the Bosnian Muslims from the enclave, including the women, children and old people.

However, for reasons the Trial Chamber has been unable to clarify, the decision was then taken to kill all the men of fighting age. The result was inevitable: the destruction of the Bosnian Muslim population in Srebrenica. At issue is not only the commission of murders for political, racial or religious reasons, which already constitutes a crime of persecution. At issue is not only extermination of the Bosnian Muslim men of fighting age alone. At issue is the deliberate decision to kill the men, a decision taken with complete awareness of the impact the murders would inevitably have on the entire group. By deciding to kill all the men of Srebrenica of fighting age, a decision was taken to make it impossible for the Bosnian Muslim people of Srebrenica to survive.

Stated otherwise, what was ethnic cleansing became genocide.

The Trial Chamber is also convinced beyond any reasonable doubt that a crime of genocide was committed in Srebrenica.

Finally, for the reasons set forth in detail in its Judgement, the Trial Chamber considers that the following crimes were committed: genocide, persecution, extermination, murder within the meaning of Article 3 of the Statute; murder within the meaning of Article 5; and the forced transfer of Bosnian Muslims.

In light of the rules applicable to cumulative charging, only the crimes of genocide, persecution and murder within the meaning of Article 3 of the Statute have been retained.

III - Is General Krstić guilty of any of these crimes?

The final question which the Trial Chamber must answer is whether General Krstić can be held guilty of these crimes. The Prosecution claims that he can; the Defence claims that he cannot. In order to establish the possible responsibility of General Krstić for these crimes, the Trial Chamber took account of his position as Deputy Commander and then Commander of the Drina Corps at the time these crimes were committed. The Drina Corps, as I have already said, had authority over the entire

area in which the crimes took place. For this reason, the Trial Chamber first reviewed what in the evidence presented by the parties would make it possible to establish whether or not the Drina Corps forces were involved in the crimes. This review allowed the Trial Chamber to conclude beyond any reasonable doubt that the Drina Corps forces participated in, if not all the crimes, at least some of them. However, it appeared also that other forces played a role, and sometimes a decisive one at that, in what happened and, in particular, in the capture of the Bosnian Muslims and the executions. The Judgement thus makes it clear that the following were involved in these crimes:

- the forces of the Ministry of the Interior, more commonly known as the MUP;
- forces answering in principle to the Main Staff and, in particular: the 65th motorised protection regiment; or the 10th sabotage detachment of which Mr. Erdemović was a member;
- the military police forces;
- other armed forces which probably included civilians or reservists who had taken up arms.

However, the evidence also leads to the conclusion that all these forces acted in a co-ordinated manner and were organised for the same objective. The presence of General Mladić in Srebrenica and Potočari was mentioned on several occasions. At the time, General Mladić was the Chief-of-Staff of the General Staff of the armed forces of Republika Srpska, that is, the number 2 man in the military hierarchy right below President Karadžić. The Trial Chamber then sought to verify General Krstić's role at the time of the crimes and, in particular, any role he may have played in their commission. I will sketch out the positions taken by the Prosecution and the Defence.

The Prosecution claims that General Krstić was the Deputy Commander of the Drina Corps at the time the attack on Srebrenica was launched. As such, he was involved in the organisation of the troops who took part in the attack. General Krstić assumed command of the Corps by the evening of 13 July 1995 at the latest. According to the Prosecutor, he is thus responsible for all the crimes committed on the territory of the Drina Corps by virtue of Article 7(1) of the Statute, that is, individually responsible. However, the Prosecutor claims that General Krstić is also responsible as a commander by virtue of Article 7(3) of the Statute.

The Defence contends that General Krstić was a professional officer trained in the JNA and was well aware of the rules applicable to armed conflicts. The Defence never disputed that General Krstić was alongside General Mladić when the town of Srebrenica fell, that he was present at two of the three meetings at the Hotel Fontana, that General Krstić was successively the Deputy Commander and then the Commander of the Drina Corps, a corps whose territorial jurisdiction covered all the territory on which the crimes occurred.

It points out however that General Krstić in no manner committed any crime himself and claims that he cannot be held responsible as a superior either. First, the attack on Srebrenica in which he participated was not unlawful as such. However, according to the Defence, General Krstić became the Commander of the Drina Corps only on 20 July 1995 and learned of the mass executions of Bosnian Muslims in Srebrenica only after that date. He had in fact been tasked by General Mladić to carry out the attack on Žepa on 13 July at the latest. The Defence goes on to claim that General Krstić therefore had to change the position of his forward command post and found himself isolated in respect of the communications he was receiving. Lastly, the Defence asserts that General Krstić had no involvement whatsoever in the digging up and reburial of the bodies.

The Trial Chamber has carefully reviewed all the arguments. It has conducted a scrupulous examination of all the exhibits in the case-file as well as the testimony whether of United Nations staff or victims. The Trial Chamber has meticulously weighed the information provided by the radio taps. In this respect, I recall that the Trial Chamber did not admit the recording in which a voice alleged to be that of K. is heard saying: kill them all! I emphasise this point because it might have appeared that this exhibit was part of the case-file whereas it has NOT been admitted and is not an exhibit. However, the Trial Chamber did admit many other recordings some of which are the subject of a detailed analysis in the Judgement. Lastly, the Trial Chamber analysed the reports of the military experts submitted both by the Prosecution and the Defence. And there is no possible doubt.

When you entered Srebrenica with General Mladić on 11 July 1995, General Krstić, you found a deserted town. You thus knew that the population had fled. You were the Deputy Commander of the Drina Corps and your commander, General Živanović was there along with many other VRS officers.

Assuming that you did not already know, you must have wondered where the population had gone. Because, according to your own statements, your objective was to separate Srebrenica from Žepa and to reduce the enclave to its urban area. It was therefore essential for you to know where at least the forces of the 28th Division might be since they were not there.

You were not at the first meeting in the Hotel Fontana in Bratunac on the evening of 11 July around 20.00 hours. But you were present at the second meeting around 23.00 hours. You say that you did not hear the scream of the pig being killed at that moment. But because you were sitting right next to General Mladić, you heard him speak in an arrogant and threatening voice both to the Dutchbat commander and the “representative” of the Bosnian Muslim population of Srebrenica who was there. You saw when General Mladić had the signboard which had been removed from the Srebrenica town hall put on the table. You heard General Mladić asking the Bosnian Muslim armed forces to surrender and the Dutchbat commander to organise the transfer of the women, children and old people from Potočari. You were there, General Krstić, on 12 July around 10.00 hours when General Mladić told the UNPROFOR officers that the forces of the VRS were going to organise the transfer but that UNPROFOR would have to provide the necessary fuel. You heard General Mladić’s tone of voice, even more menacing than the day before, when he spoke to the people who you knew were acting as representatives of the Bosnian Muslim community of Srebrenica. You gave orders for buses and other transport to come to Potočari quickly. You knew, at least by early morning on 12 July, that a large column of Bosnian Muslims was trying to cross the Bratunac-Konjevic Polje road. In any case, you knew that the column was moving north and therefore represented no danger for the rest of your operations in the other United Nations safe area which you were preparing to attack. You were in Potočari giving an interview when the first buses arrived. You were there when they began to separate the men from the women, children and old people. You could not not have seen their physical condition. You could not not have heard the screams of the men who were taken to the building called the White House as they were being beaten.

In accordance with the orders you received from General Mladić, on 13 July, you focused on the preparations for the attack on Žepa. But you received information on a regular basis. You knew that when the buses arrived at the border of the area under Bosnian Muslim control, Drina Corps soldiers were making the men seeking refuge there get off. On 13 July in the evening, you knew that thousands of men from the column had been captured. On the evening of 13 July, I repeat - 13 July - you took command of the Drina Corps and signed your first order as the corps commander around 20.30 hours. On 14 July, you launched the attack on Žepa. Nonetheless, you remained perfectly well informed of what was going on in the area to the north of the town of Srebrenica. In the night of 14-15 July, troops from the Zvornik Brigade (one of the Drina Corps brigades) moved up from Žepa towards Srebrenica and you knew why they were doing that. On 15 July in the morning, the security chief of the Main Staff called you and asked for your help in dealing with “3,500 packages”. You knew exactly what was meant by “packages”, General Krstić - Bosnian Muslims who were to be executed. You expressed your displeasure. That same officer told you that the MUP forces, the Interior Ministry police, did not want (no longer wanted) to do it. You said you would see what you could do. On 16 July, some of your subordinates, men from the Bratunac Brigade, participated in the mass executions at the Branjevo military farm. On 16 July, the security chief of the Drina Corps whose commander you were, continued to keep you informed about the situation. You asserted to the Trial Chamber that, subsequently, you wanted to take measures against that officer, but out of fear of reprisals against yourself or, more specifically against your family, you decided not to. The Trial Chamber, however, found nothing to confirm your assertions. Not a single soldier of the Drina Corps was punished for the murder of one or several Bosnian Muslims. On the contrary. Nothing makes it possible to establish that you participated in the activities designed to conceal the massacres and, to this end, in the operations of digging up and reburial of the corpses. But how could anyone think that you would not have known about work requiring the use of such large machines? In any case, General Krstić, you were seen being congratulated for the action you took in Srebrenica. You were seen right next to General Mladić when in December 1995 a ceremony was organised for the Drina Corps. Finally, General Krstić, you supported General Mladić against President Karadžić when he tried to remove General Mladić.

GENERAL KRSTIĆ, PLEASE RISE.

The Trial Chamber does not dispute that you are a professional soldier who loves his work. The Trial Chamber can accept that you would not of your own accord have taken the decision to

execute thousands of civilians and disarmed persons. Someone else probably decided to order the execution of all the men of fighting age.

Nonetheless, you are still guilty, General Krstić.

You are guilty of having knowingly participated in the organised forced transfer of the women, children and old people in Srebrenica at the time of the attack on 6 July 1995 against the United Nations safe area.

You are guilty of the murder of thousands of Bosnian Muslims between 10 and 19 July 1995, whether these be murders committed sporadically in Potočari or murders planned in the form of mass executions. You are guilty of the incredible suffering of the Bosnian Muslims whether these be the ones in Potočari or survivors of the executions. You are guilty of the persecution suffered by the Bosnian Muslims of Srebrenica. Knowing that the women, children and old people of Srebrenica had been transferred, you are guilty of having agreed to the plan to conduct mass executions of all the men of fighting age. You are therefore guilty of genocide, General Krstić.

In order to determine the penalty you deserve, we have, of course, taken into account the extreme gravity of the crime. Still, we also wished to show that, in respect of the crimes committed on the territory of the former Yugoslavia, there are certainly people whose individual responsibility is much greater than your own.

At this point I wish to make a personal observation. Kant has said that if justice is ignored, life on this earth has no value.

I believe it is essential to make a distinction between what might be collective responsibility and individual responsibility. The Tribunal has not been established to deal with the possibility of collective responsibility. What is of interest to me in each of the trials in which I have sat in this court is to verify whether the evidence presented before it makes it possible to find an accused guilty. I seek to judge an accused. I do not judge a people. Yes, in the former Yugoslavia there were attacks against civilian populations. Yes, there were massacres and there was persecution. Yes, some of these crimes were committed by Serbian forces. However, to paraphrase a great humanist, I consider that to associate this evil with Serbian identity would be an insult to the Serbian people and would betray the concept of civil society. But it would be just as monstrous not to attach any name to this evil because that could be an offence to the Serbs.

In July 1995, General Krstić, you agreed to evil.

This is why the Trial Chamber convicts you today and sentences you to 46 years in prison.

The court stands adjourned.
