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International pour
l'ex-Yougoslavie

JUDGEMENT SUMMARY

(Exclusively for the use of the media. Not an official document)

TRIAL CHAMBER

The Hague, 27 September 2007

SUMMARY OF JUDGEMENT FOR MILE MRKŠIĆ, MIROSLAV RADIĆ AND VESELIN ŠLJIVANČANIN

Please find below the summary of the judgement today read out by Judge Parker:

This Chamber is sitting today to deliver Judgement in the trial of the three Accused persons, Mile Mrkšić, Miroslav Radić and Veselin Šljivančanin.

For the purposes of this hearing, the Chamber will summarise briefly its findings, emphasising that this is a summary only, and that the only authoritative account of the Chamber's findings, and of its reasons for those findings is to be found in the written Judgement, copies of which will be made available to the Parties at the conclusion of this hearing.

The three Accused, Mile Mrkšić, Miroslav Radić and Veselin Šljivančanin, are indicted for their alleged involvement in the mistreatment and execution of 264 Croat and other non-Serb persons taken from Vukovar hospital by Serb forces on 20 November 1991. This followed the capitulation of the Croat forces at Vukovar on 18 November 1991. It is alleged that these persons were taken to a hangar at Ovčara, where Serb forces mistreated them and later that day executed them. These allegations support five counts of crimes against humanity under Article 5 of the UN Statute establishing this Tribunal (namely, persecutions, extermination, murder, torture and inhumane acts) and three counts of war crimes under Article 3 of the Statute (namely, murder, torture, and cruel treatment).

It should be made clear that the Indictment is limited to the alleged offences relating to the mistreatment and execution of Croat and other non-Serb persons from Vukovar hospital on 20 November 1991. It does not include the attack directed against the city of Vukovar and its civilian population by the JNA and other Serb forces in 1991, or the devastation brought on Vukovar over the prolonged military engagement in 1991, or the very many civilian casualties and the extensive damage to property resulting from the military operations, or other deaths that occurred after the surrender of the Croatian forces in Vukovar on 18 November 1991. Most of these matters are the subject of another Indictment of this Tribunal, in respect of which an arrest warrant against Goran Hadžić has yet to be executed. Nevertheless, these matters are of some relevance to establishing elements of the offences charged in this case and have been considered in the Judgement. It is not open to the Chamber, however, to make any finding of guilt or innocence of the three Accused in this trial in respect of such matters.

At the time of the alleged offences the Accused Mile Mrkšić was a colonel in the Yugoslav People's Army (in this summary I will refer to it as the "JNA"). He commanded both the prestigious Guards Motorised Brigade of the JNA and Operational Group South. As commander of OG South he had command of all Serb forces including JNA, Territorial Defence and paramilitary forces, in the geographic area in which all the charged offences are alleged to have occurred. Later he became a general and for a time he commanded the army of the then Serbian Krajina. Miroslav Radić was a captain in the JNA at the time of the alleged offences. He was a company commander of the 1st battalion of the Guards Motorised Brigade. Veselin Šljivančanin was a major in the JNA and held the post of head of

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

Media Office/Communications Service

Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands

Tel.: +31-70-512-5343; 512-5356 Fax: +31-70-512-5355

the security organ of both the Guards Motorised Brigade and Operational Group South at the time of the alleged offences. He was later promoted to the rank of colonel.

After several months of intense military operations between JNA and other Serb forces and Croatian forces, the Croatian forces in the area of Vukovar capitulated on 18 November 1991. By agreement reached that day, Croatian fighters from the Mitnica area surrendered to JNA forces of Operational Group South. The surrender later that day was monitored by representatives of the International Committee of the Red Cross. The prisoners of war were then taken to a large hangar at Ovčara near Vukovar, which had been selected earlier that day on orders of Mile Mrkšić. The prisoners of war were held there overnight and the following morning they were transported to a prisoner of war facility in Sremska Mitrovica which was across the border in Serbia. No incidents occurred during this evacuation.

Also on 18 November 1991, in Zagreb, an agreement was reached between the government of Croatia and JNA representatives for the evacuation of Vukovar hospital. Wounded or sick patients of Vukovar hospital who were "fit to make the journey" were to be evacuated to Croatia. The hospital was to be under the protection of the International Committee of the Red Cross. The evacuation was to be monitored by the European Community Monitoring Mission, who were to have full access to all stages of the evacuation. Despite contrary views expressed by a number of Croat witnesses, the agreement did not apply to hospital staff, their family members or persons who were not patients in the hospital.

On 18 November Vukovar hospital, which had been severely damaged in the fighting, was full beyond its capacity. A large number of civilians had also gathered there in the hope that they would also be evacuated. Inside the hospital there were sick, wounded, hospital staff, and some family members of hospital staff. Despite the contrary evidence of some Croat witnesses, there were also members of the Croatian forces, pretending to be patients or hospital staff. OG South entered Vukovar hospital on 19 November 1991. The Accused Miroslav Radić placed guards at the entrance until later that day when the military police of the Guards Motorised Brigade took over the duty of securing the hospital. In the afternoon on 19 November 1991 most of the civilians who had gathered at the hospital were transported by the JNA to Velepromet, a large warehouse located nearby.

International representatives, both ECMM and ICRC, were in Vukovar on 18 and 19 November. ECMM's access to the hospital on 18 and 19 November was prevented by the JNA. An ICRC representative was allowed only limited access to the hospital on 19 November. International representatives were told by a senior JNA officer of OG South in Mile Mrkšić's presence, that the members of the Croatian forces, i.e. whether patients or otherwise, would not be allowed to leave the hospital in the evacuation. If they were allowed to leave "Serb irregulars or local citizens would attack the convoy". They would be held by the JNA as prisoners of war, and later they would be exchanged for JNA prisoners. The ECMM were told not to get involved in the evacuation. The agreement for the evacuation of the wounded, signed the previous day was being ignored.

On 19 November 1991, Mile Mrkšić ordered the evacuation of Vukovar hospital. This was to occur on 20 November 1991. He put the Accused Veselin Šljivančanin in charge. He was to separate the people in the hospital into two groups, war crimes suspects and civilians. The war crimes suspects, i.e. the members of the Croatian forces, were to be transported under JNA guard to the prisoner of war facility in Sremska Mitrovica, in Serbia. Civilians were to be taken, as they chose, to Croatia or Serbia. Veselin Šljivančanin was given responsibility for the security of the prisoners of war until they reach Sremska Mitrovica.

On 20 November 1991 at about 0700 hours staff of Vukovar hospital were called to a meeting organised by the Accused Veselin Šljivančanin. While the meeting was in progress JNA soldiers went through the hospital and told those who were able to walk to leave. At

the exit, JNA soldiers separated the men from women, children and the elderly. The men were searched by JNA soldiers, and ordered to board waiting buses under armed guard. There were over 200 men, and also two women, in this group. They were all Croat or non-Serb. They were, or were believed to have been, involved in the Croat forces. At the same time, on the other side of the hospital, the women, children and a few elderly men were gathered and boarded different buses to go to either to Serbia or Croatia. The buses with the male prisoners left Vukovar hospital at approximately 1000 hours. They went in a convoy first to the JNA barracks in Vukovar.

Attempts by the ECMM and ICRC representatives to reach the hospital by that morning were prevented by the JNA. They were held for two hours in the city centre at a bridge over the Vuka River. A JNA armoured vehicle blocked their way to the hospital. The Accused Veselin Šljivančanin was at the bridge and suggested falsely that the representatives could not proceed further for safety reasons. While they were held at the bridge, the buses carrying the men from the hospital, travelling in the opposite direction, crossed over the Vuka River on a nearby bridge, heading towards the JNA barracks. Following this, the ECMM and ICRC representatives were finally able to reach the hospital at about 1030 hours. They found primarily women and children remaining there. The men had been removed, apart from a few elderly and male staff.

The buses carrying the prisoners of war, i.e. the men from the hospital, arrived at the JNA barracks in Vukovar at around 1030 hours. Local Serb Territorial Defence and paramilitary forces milled around the buses, physically threatening and verbally abusing the men on the buses. Order was eventually established when JNA military police removed the Territorial Defence members and the paramilitaries from the barracks compound. JNA soldiers had also removed some 12 to 15 identified men from the buses. These men were beaten with rifle-butts, punched and kicked and then taken back to the hospital, where the Accused Veselin Šljivančanin, in consultation with leaders of the local Territorial Defence, questioned them about their possible involvement in the Croatian forces. These men were hospital staff or family members of hospital staff, they had been returned to the hospital on the orders of Veselin Šljivančanin. Some of these men were sent back to the JNA barracks, the others were left to join the convoy of women and children.

In the meantime, that morning the self-described “government” of Slavonia, Baranja and Western Srem, operating in the area of Vukovar, which had been established by Serb people in the area, held a meeting at Velepomet. This government will be referred to as the local Serb government. Goran Hadžić was present as the Prime Minister of the “government” and Slavko Dokmanović, as the Minister of Agriculture. Captain Jakšić of the Vukovar Territorial Defence was present, as well as two senior officers of the JNA: Lieutenant-Colonel Panić, Chief of Staff of OG South and Colonel Vujić from the security administration in Belgrade were among those present. At this meeting there was strong opposition to the JNA removing prisoners of war from Vukovar to Sremska Mitrovica in Serbia. Some spoke of putting the war criminals on trial in Vukovar before local judiciary. At this meeting Lieutenant-Colonel Panić conveyed from the Accused Mile Mrkšić that he (Mrkšić) was prepared to act in accordance with the decision of the “government” meeting as to what should be done with the prisoners of war from Vukovar hospital. However, the evidence indicates that no final decision was reached during the actual meeting, although late that day the Prime Minister Goran Hadžić stated that an agreement had been reached for the prisoners to be detained in “our detention camps” in the surroundings of Vukovar. What followed is consistent with this.

After this meeting of the local Serb government the buses still loaded with the men, prisoners from the hospital under armed guard, left the JNA barracks together and went not to Sremska Mitrovica in Serbia but to the hangar at Ovčara. They arrived there between 1330 and 1430 hours. The buses were emptied one by one and, as they were unloading a gauntlet of two rows of soldiers, about 10 to 15 on each side was formed. The prisoners had to pass between the soldiers who were beating them severely with wooden sticks, rifle-butts, poles, chains and even crutches. The prisoners of war were then forced into the

hangar and remained imprisoned there under inhumane conditions until late that evening. The vast majority of the prisoners in the hangar was further severely beaten, in many cases with implements such as iron rods and rifle-butts, and kicked. Several prisoners, believed to have been prominent with the Croatian forces, were beaten particularly severely. Witnesses believed that some may have died of the beatings. Some sort of a roster system was established with different "shifts" of beaters taking turns in mistreating the prisoners.

The soldiers who participated in the violent gauntlet in front of the hangar and in the beatings inside the hangar were Serb Territorial Defence soldiers, including a leader Mirosljub Vujović, and paramilitary soldiers. They had followed the buses to Ovčara and remained there until late that evening. One or more JNA soldiers may have also participated in the beatings at their own volition.

When the buses with prisoners of war arrived at the hangar there were some 15-20 JNA soldiers to secure the prisoners. They were primarily JNA military policemen. More JNA military police arrived later. Their efforts at securing the prisoners were inconsistent and insufficient. At times members of the Territorial Defence and paramilitaries were kept outside the hangar, but at other times, especially when the prisoners first arrived, they had unrestricted access to the prisoners of war.

A number of senior JNA officers came to Ovčara in the afternoon of 20 November. They saw what was happening. Some of them took steps to ensure that the military police were more effective. These efforts were either not effective, or were only effective for a limited time.

That evening at a time between 2000 and 2100 hours the order came from the command of Mile Mrkšić at OG South for the JNA military police guarding the prisoners of war to withdraw. They did withdraw before 2100 hours leaving the Serb Territorial Defence and paramilitary forces with unrestricted access to the prisoners. The prisoners of war were left in the custody of the Vukovar Territorial Defence who were at the time under the command of Mirosljub Vujović.

The prisoners were then taken by Territorial Defence and paramilitary forces in small groups to an isolated location and shot. Their bodies were buried there in a mass grave that had been dug earlier that day. The grave remained undiscovered until almost one year later, and the exhumation process did not begin until 1996. 200 bodies were exhumed. Detailed autopsies have been conducted. The Chamber finds from all the evidence that all 200 persons died on 20/21 November 1991 at Ovčara from trauma caused by physical violence, in almost all cases from one or more gunshot wounds.

190 of the 200 persons buried in the mass grave have been identified. They are among those named in the Indictment. The evidence also establishes that another four identified persons, who were held as prisoners at the hangar that day have not been seen since. Each of them was severely beaten that day by Serb forces. It cannot be determined from the evidence whether their bodies are among the 10 unidentified bodies found in the mass grave. In the Judgement, the Chamber has set out the effect of some other evidence relating to other persons named in the Indictment as victims of murder. For reasons given, the Chamber has not been able to conclude whether some or all of these persons died at Ovčara as alleged. Our findings, of course, do not preclude that more than 200 persons, of whom 194 have been identified, died at Ovčara that day. However, the available evidence does not enable that to be determined. It is established that 194 of the victims named in the Indictment were murdered at Ovčara by Serb forces on 20/21 November 1991.

Counts 1, 2, 3, 5 and 6 of the Indictment are charged as crimes against humanity under Article 5 of the Statute of the Tribunal. For reasons set out in the Judgement it is necessary, for the purposes of Article 5 of the Statute, that the victims of the underlying crime must be civilians. "Civilian" in Article 5 of the Statute does not include combatants or fighters hors de combat. In the present case the persons removed by the JNA forces

from the Vukovar hospital on 20 November 1991 and murdered at Ovčara by Serb forces had been specifically identified and selected because of their known, or believed, involvement in the Croatian forces in Vukovar. The Serb forces who mistreated the victims and murdered them acted on the understanding that the victims were prisoners of war, not civilians. The jurisdictional prerequisites of Article 5 of the Statute have not been established. It follows that convictions should not be rendered in respect of Counts 1, 2, 3, 5 and 6. These charges will be dismissed with respect to all three Accused, and in this summary the Chamber will not discuss these counts any further.

Counts 4, 7 and 8 of the Indictment which are based essentially on the same conduct, are charged as war crimes under Article 3 of the Statute. Article 3 applies to offences against prisoners of war. The Chamber is satisfied that an armed conflict existed in Croatia in the material time and that the other jurisdictional requirements for Article 3 have been established. The conduct of each Accused will, therefore, be fully considered in connection with these charges of war crimes.

Count 4 alleges the offence of murder with respect to at least 264 persons identified in the Indictment. For reasons which have been explained, Count 4 has been established with respect to 194 identified victims of murder. The evidence that is available does not enable findings to be made about the other persons listed in the Indictment.

Counts 7 and 8 alleges, respectively, the offence of torture and of cruel treatment. These charges rely on the imprisonment of the prisoners of war at the hangar at Ovčara, their physical abuse, the conditions of detention, and the deprivation of medical care. The evidence demonstrates that prisoners of war were beaten, in many cases gravely, as punishment for their actual or believed involvement in the Croat forces. This establishes the elements of the offence of torture (Count 7). The same beatings would also constitute cruel treatment (Count 8) but as the physical acts are the same, only a conviction for torture is appropriate. However, the elements of the offence cruel treatment (Count 8) are also established with respect to the conditions of detention at Ovčara. The reasons are more fully given in the written Judgement.

There remains the further critical issue whether the three Accused or any of them have been proved to have been criminally responsible for the offences established by the Prosecution.

The main allegation in the Indictment in this respect is that the Accused were involved in a joint criminal enterprise, a common purpose of which was the commission of the crimes alleged in the Indictment. In essence the allegation is that the three Accused men acted together to achieve the murder of the prisoners of war from the hospital and their mistreatment. There is no direct evidence which establishes this. While, on an incomplete understanding of some of the events of the 20/21 November 1991, and some isolated pieces of evidence, such a view could be suggested, in the finding of the Chamber the evidence does not establish that these three Accused, or any of them, joined in any joint criminal enterprise for the commission of the offences charged in Indictment.

While many of these facts were strenuously contested, the evidence establishes, in the Chamber's view, that on the orders of the Accused Mile Mrkšić given on 19 November 1991, implemented by the Accused Veselin Šljivančanin, the prisoners of war were taken from the hospital on the morning of 20 November 1991 and eventually to Ovčara. The Chamber is satisfied, however, that the original intention of Mile Mrkšić was for the prisoners of war to be taken to Sremska Mitrovica, among other things with a view to their being later exchanged for Serb prisoners of war held by the Croatian authorities. This was the order given to Veselin Šljivančanin, and communicated to many others involved in the evacuation. It was what had been done with other prisoners of war in the preceding days.

During the morning of 20 November 1991, the Accused Mile Mrkšić changed his mind and then his orders. First, the prisoners were held in buses at the JNA barracks, and then

at the hangar at Ovčara, but in each case they were still guarded, albeit less than effectively, by JNA military police. Eventually, late in the day, the Accused Mile Mrkšić decided, and ordered, that the JNA military police guarding the prisoners be withdrawn. The effect of the evidence is that it was at the time of this order that the Accused Mile Mrkšić finally decided that the prisoners of war should be left in the custody of the Vukovar Territorial Defence. The full reasons for his conduct are known only to Mile Mrkšić. The wishes of the local Serb government which had no lawful authority or power to direct the Accused Mile Mrkšić or the JNA as to what should be done with the prisoners of war, appear to have been a significant factor.

What is material is that the evidence does not indicate that at any time either Veselin Šljivančanin or Miroslav Radić, had any involvement in the process by which Mile Mrkšić came to reach his decision that the JNA should relinquish its custody of the prisoners of war by withdrawing the JNA military police who were guarding them. These factual circumstances preclude any conclusion that the Accused men were acting together in a joint criminal enterprise.

The Indictment also alleges that Mile Mrkšić is, among other forms of liability, responsible for having ordered the commission of the crimes with which he was charged. However, there is a complete absence of evidence to support such a conclusion. Even though, as the commander of Operational Group South, Mile Mrkšić was in the position of authority in respect of the Territorial Defence and paramilitary forces who perpetrated the crimes of cruel treatment, torture and murder, at Ovčara, it has not been established that he ordered them to commit the crimes charged.

Mile Mrkšić, however, knew of intense feelings of animosity harboured by the Serb Territorial Defence and paramilitary forces against members of the Croat forces. In particular this had been demonstrated in the course of that day by the conduct at the JNA barracks and at Ovčara, which had been reported to Mile Mrkšić by a number of JNA officers. He had also been informed of killings at Velepomet the preceding day. By ordering the JNA military police to withdraw from Ovčara, when he knew of the high risk to the prisoners of war of serious violence and death at the hands of Territorial Defence and paramilitary forces, Mile Mrkšić aided and abetted the offences of murder that were committed as a consequence of his order for withdrawal. For these reasons, the Chamber find that Mile Mrkšić is responsible under Article 7(1) of the Statute for having aided and abetted the offence of murder.

Further, Mile Mrkšić took no steps during the afternoon of 20 November 1991 to reinforce the guards at Ovčara, or improve in any way the measures for securing the prisoners of war from violence and other cruel treatment at the hands of the Territorial Defence and paramilitary forces, despite having been informed of the severe mistreatment that was occurring. By his failure to act, Mile Mrkšić rendered both practical assistance and encouragement to those at Ovčara who sought revenge on the prisoners of war. He is, therefore, found responsible under Article 7(1) of the Statute for having aided and abetted the crimes of torture and cruel treatment.

The Prosecution case against Miroslav Radić is that, through his participation in the evacuation of the hospital, he too participated in the joint criminal enterprise alleged in the Indictment, or aided and abetted the crimes. It is also alleged that the crimes at Ovčara were committed by soldiers under his command and that he is also responsible as the superior of the direct perpetrators.

The evidence has established that Miroslav Radić was at the hospital on 19 November 1991 and that JNA soldiers under his command provided the initial security of the hospital. It has further been established that Miroslav Radić was present at the compound of the hospital in the morning of 20 November 1991, but not that he participated in the triage in front of the hospital. There is no evidence that Miroslav Radić was at Ovčara on 20 November 1991. For reasons mentioned when discussing the responsibility of Mile Mrkšić,

there is no evidence which establishes that he participated in a joint criminal enterprise alleged. Two witnesses gave quite different evidence suggesting that Miroslav Radić was informed that soldiers under his command had participated in the mistreatment and killing of prisoners of war at Ovčara. A further witness suggested he was aware of the events at Ovčara. The Chamber was not able to accept the honesty of two of these witnesses or the reliability of the third witness. Hence, for reasons fully set out in the written Judgement, the Chamber finds that it has not been established by the Prosecution that Miroslav Radić had knowledge or reason to know that soldiers under his command had committed crimes at Ovčara.

Turning next to the Accused Veselin Šljivančanin, the Chamber observes that for reasons expressed when discussing the responsibility of Mile Mrkšić, the evidence does not establish that Veselin Šljivančanin participated in any joint criminal enterprise as alleged in the Indictment.

The Indictment alleges that Veselin Šljivančanin is responsible, under Article 7(1) of the Statute, for having ordered the commission of the crimes alleged in the Indictment. There is no evidence to suggest that Veselin Šljivančanin ordered any forces at Ovčara to commit any of the offences charged in the Indictment. Further, the crimes in this case were perpetrated by Territorial Defence and paramilitary forces. Veselin Šljivančanin had no power of command over those forces. On the evidence Veselin Šljivančanin cannot be held responsible, under Article 7(1) of the Statute, for having ordered the commission of any of the crimes established in this case. Nor does the evidence establish his responsibility under Article 7(3) for having failed to prevent the commission of crimes, or to punish the perpetrators.

It is the Chamber's finding that on 20 November 1991 Veselin Šljivančanin exercised command authority conferred on him by Mile Mrkšić, over the military police involved in the evacuation of prisoners of war from the hospital and guarding them on the buses and at Ovčara. It is not alleged, nor does the evidence establish, that members of the military police perpetrated any of the crimes in this case. On the contrary, they were involved, albeit often unsatisfactorily in securing the prisoners of war from mistreatment by the Territorial Defence and paramilitary forces. As the facts of this case reveal, the security provided to the prisoners of war at Ovčara was insufficient. The number of military police troops at Ovčara was far too low and their performance was at times unsatisfactory, so that for much of the time the prisoners were exposed to the hostile acts of the Territorial Defence and paramilitary forces who had gathered at Ovčara. Contrary to his own and other evidence the Chamber finds that he was at Ovčara for a time when mistreatment to the prisoners was occurring. He was thus able to observe the brutal conduct of the Territorial Defence and paramilitary forces and became aware that serious crimes were being committed against the prisoners of war. In addition, he knew of past events of the same nature, in particular of the mistreatment including killings of Croat prisoners of war by local Serb Territorial Defence and paramilitary forces at Velepomet on the preceding day, as well as of other similar incidents that had taken place in the area of Vukovar in the months of October and November 1991. However, he chose not to resort to any of the measures available to him to seek to prevent what was occurring. He failed to discharge the duty of care for the prisoners of war kept in the custody of the JNA, a duty which was imposed on him by the laws of war and which was part of his responsibility as the security organ, and by the specific responsibility placed on him by Mile Mrkšić. Veselin Šljivančanin could have sought or ordered additional troops to Ovčara. He could have given orders to the military police present there to enhance the protection. He failed to give appropriate orders and take other appropriate action. This facilitated the continuing mistreatment of prisoners of war and thus the commission of the crimes of torture and cruel treatment, as it can only have been obvious to him in the circumstances. For these reasons, the responsibility of Veselin Šljivančanin, pursuant to Article 7(1) of the Statute, for having aided and abetted the crimes of torture and cruel treatment has been established.

He has not been found responsible, however, for having aided and abetted the crime of cruel treatment committed by the imposition of inhumane conditions of detention in the hangar at Ovčara, as the evidence does not demonstrate that Veselin Šljivančanin entered the hangar and was able to observe the conditions of detention in the hangar.

The crime of murder was committed during the night after the withdrawal of all JNA military police from Ovčara, pursuant to the order of Mile Mrkšić. By that order, Veselin Šljivančanin necessarily ceased to be responsible for the security of the prisoners of war, and his command authority in respect of the military police that had provided security came to an end. He is not responsible, therefore, for the murders committed by Territorial Defence and paramilitary troops after the JNA military police were withdrawn from Ovčara.

With respect to the sentence, the Chamber has set out in the written Judgement the many factors that have been taken into account in assessing appropriate sentences. In particular, the Chamber has taken into account, as it is required to do, the sentencing structure in the former Yugoslavia. The Chamber notes that the effect today of the law in Serbia and Croatia for murder and for aiding and abetting murder committed in 1991 in the circumstances of this case is to allow a maximum penalty of imprisonment for 20 years. It has also looked at sentences imposed in this Tribunal but it has not found other cases where the circumstances are sufficiently similar to this case to provide any useful guide.

The Chamber would emphasize that this case concerns essentially the tragic events at Ovčara on 20 November when, as it has been proved, 194 identified persons were murdered and, earlier, prisoners of war were tortured by being severely beaten as punishment for their participation in the Croat forces in the struggle for Vukovar. They were also cruelly treated by being held captive by the JNA in inhumane conditions. The evidence shows that the actual perpetrators of the murders and torture and associated beatings were members of the Serb Territorial Defence forces, many from the Vukovar area itself, and Serb paramilitary forces. The murders, torture and associated beatings had not been ordered by either Mile Mrkšić or Veselin Šljivančanin.

Mile Mrkšić is to be punished for aiding and abetting the murders because, knowing of the presence of the Territorial Defence and paramilitary forces at Ovčara and of the threat they presented to the prisoners of war, apparently in response to pressure from the local Serb government, he withdrew the JNA troops guarding the prisoners, with the consequence that the Territorial Defence and paramilitary forces were able to murder the prisoners. JNA forces which he commanded had earlier established the inhumane conditions of detention, and he failed to act effectively during the afternoon to ensure that the prisoners were properly protected by JNA guards from torture by Serb Territorial Defence and paramilitary forces.

Veselin Šljivančanin is to be punished for aiding and abetting torture because he failed either or both to act to secure adequate JNA guards at Ovčara or to ensure that JNA guards at Ovčara under his authority acted to prevent the Serb Territorial Defence and paramilitary forces from beating the prisoners of war to punish them for their role in the Croat forces at Vukovar.

Mile Mrkšić: Will you please stand.

The Chamber finds you **GUILTY**, pursuant to Article 7(1) of the Statute, of the following counts:

- Count 4: Murder, a violation of the laws or customs of war, under Article 3 of the Statute, for having aided and abetted the murder of 194 persons identified in the Schedule to this Judgement, at a site located near the hangar at Ovčara on 20 and 21 November 1991;

- Count 7: Torture, a violation of the laws or customs of war, under Article 3 of the Statute, for having aided and abetted the torture of prisoners of war at the hangar at Ovčara on 20 November 1991;
- Count 8: Cruel treatment, a violation of the laws or customs of war, under Article 3 of the Statute for having aided and abetted the maintenance of inhumane conditions of detention at the hangar at Ovčara on 20 November 1991.

Mile Mrkšić, you are sentenced to a single sentence of 20 years imprisonment. Full credit will be given for the time you have spent in custody. You will remain in the custody of the Tribunal pending the finalisation of arrangements for your transfer to the State where you will serve your sentence.

You may sit down.

Miroslav Radić: Will you please stand

The Chamber finds you **NOT GUILTY** on all counts in the Indictment. The Chamber orders that you be released from the United Nations Detention Unit immediately on the completion of the necessary modalities.

You may sit down.

Veselin Šljivančanin: Will you please stand

The Chamber finds you **GUILTY**, pursuant to Article 7(1) of the Statute, of the following count:

- Count 7: Torture, a violation of the laws or customs of war, under Article 3 of the Statute, for having aided and abetted the torture of prisoners of war at the hangar at Ovčara on 20 November 1991;

The Chamber finds you **NOT GUILTY** on all other counts in the Indictment.

Veselin Šljivančanin, you are sentenced to 5 years imprisonment. Full credit will be given for the time you have spent in custody. You will remain in the custody of the Tribunal pending the finalisation of arrangements for your transfer to the State where you will serve your sentence.

You may sit down.

This concludes this Trial.

The Chamber will now adjourn.