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International pour  
l'ex-Yougoslavie

# JUDGEMENT SUMMARY

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

CHAMBERS

The Hague, 23 February 2011

## Judgement Summary for Vlastimir Đorđević

*Please find below the summary of the Judgement read out today by Judge Kevin Parker:*

This Chamber is sitting today to deliver Judgement in the trial of the Accused, Vlastimir Đorđević.

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 sitting.

The Accused, Vlastimir Đorđević is indicted for his alleged involvement in crimes committed by Serbian forces, especially army (the VJ) and police (the MUP), against Kosovo Albanians in Kosovo in 1999, principally between March and June 1999. In particular, it is alleged in the Indictment that Serbian forces systematically shelled towns and villages, burned homes and farms, murdered over eight hundred Kosovo Albanian men, women and children, damaged and destroyed Kosovo Albanian cultural and religious institutions, and sexually assaulted Kosovo Albanian women. It is further alleged that this conduct resulted in the deportation from Kosovo of approximately 800,000 Kosovo Albanians. These allegations support the five charges in the Indictment of crimes against humanity and war crimes. These charges are for the crimes of Deportation, Forcible Transfer, two counts of Murder (one being charged as a war crime and the other as a crime against humanity), and Persecutions.

At the time of the events alleged in the Indictment the Accused held the office of Assistant Minister of Internal Affairs of Serbia. (I will refer to the Ministry of Internal Affairs as the MUP or the Ministry.) Within the Ministry he was the Chief of the Public Security Department (the RJB), which may be likened to the position in many countries of Chief of the Police Force. He held the rank of Colonel-General, which was the highest rank within the MUP. It is alleged that, as Chief of the Public Security Department, he commanded and exercised effective control over in particular, the Special Police Units (PJP) and of the Special Anti-terrorist Unit (SAJ) of the police force, as well as all regular and reserve police, and volunteer groups and other units operating in concert with police.

The Accused is charged under Article 7(1) of the Statute of the Tribunal with planning, instigating, ordering, and otherwise aiding and abetting the alleged crimes. The Accused is also charged under Article 7(1) with committing these five crimes by participating in a Joint Criminal Enterprise (a "JCE"), the purpose of which is alleged to have been to change the ethnic balance in Kosovo, so that Kosovo Albanians were no longer in the majority in order to ensure continued Serbian control in Kosovo. It is also alleged in the Indictment that the Accused is liable, under Article 7(3) of the Statute, for failing to

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prevent the offences committed by police under his command, and for failing to ensure the offenders were punished for the offences they committed.

The Accused was initially Indicted in 2003 together with army General Nebojša Pavković, army General Vladimir Lazarević, and police General Sreten Lukić. This case was subsequently joined with the similar case against Milan Milutinović, the President of Serbia, Nikola Šainović, the Deputy Prime Minister of the Federal Republic of Yugoslavia (FRY) and army General Dragoljub Ojdanić. The trial of these six other persons commenced in 2006 but the case against the Accused was delayed because he was still at large. Eventually, he was arrested on 17 June 2007 in Montenegro and was transferred to The Hague. He pleaded not guilty to all counts in the Indictment and has had to be tried separately from the others. His trial commenced on 27 January 2009. It has been a lengthy and complex case. The Chamber has heard over 140 witnesses and has admitted in evidence over 2,500 exhibits, including many orders and reports of the MUP and the VJ, and records of meetings of the Serbian political, police and military leaderships.

For the Tribunal to have the power to deal with the crimes charged against the Accused, it must be proved by the Prosecution that an armed conflict existed in Kosovo at the time and, for crimes against humanity, that the crimes charged were committed in the context of a widespread or systematic attack against a civilian population. For reasons set out in detail in the written Judgement, the Chamber is satisfied that by the end of May 1998 an armed conflict existed in Kosovo between Serbian forces, in particular forces of the VJ and the MUP, and the force usually referred to as the Kosovo Liberation Army (the KLA). This armed conflict continued until at least June 1999. In addition, on 24 March 1999 NATO commenced military operations in the Federal Republic of Yugoslavia, so that the Chamber is also satisfied that from 24 March 1999, until the end of hostilities in June 1999, an international armed conflict existed in Kosovo between Serbian forces and the forces of NATO. Having considered, in particular, the scale of destruction and damage to Kosovo Albanian civilian property, the loss of civilian lives and the displacement of Kosovo Albanians in Kosovo in 1998 and in 1999, the Chamber is satisfied that the offences charged took place in the context of an armed conflict in which there was a widespread and systematic attack against the civilian Kosovo Albanian population. Hence, the preliminary requirements of Article 3 (war crimes) and Article 5 (crimes against humanity) of the Statute have thus been proved.

As discussed in detail in Chapter VI of the Judgement, beginning relevantly on 24 March 1999, a consistent pattern of events occurred in many towns, villages and other locations throughout Kosovo. By way of typical example: In the early morning hours, VJ and MUP forces would approach a village, town or other location. The VJ using tanks, armoured vehicles and other heavy weapons, would shell the residential area causing the Kosovo Albanian population to flee from their homes. Serbian forces, in most cases police, would then enter the area on foot, typically setting houses on fire and looting valuables. In some cases, following these events, VJ and MUP forces then ordered the whole population to leave, sometimes physically harming individuals and looting people's valuables.

In many of these locations, after the initial shelling by the VJ, Serbian forces, in several cases specifically identified as forces of the MUP, then approached the residents and, typically separated the men from the women and young children, ordered the women and children to leave to go to Albania, and then killed all the men, usually having first divided them into smaller groups and taken each group to an isolated location.

Many residents and displaced persons, who witnessed heavy property destruction and damage, as well as killings, by Serbian forces, by their own decision left their town, village or city in large numbers out of fear for their lives and welfare. Serbian forces coordinated the process by directing the mass movements of Kosovo Albanian residents away from their towns and villages, often organising road or rail transport, and in most cases ensuring that the people reached and crossed the border mostly into Albania or the Former Yugoslav

Republic of Macedonia. Massive columns or convoys of Kosovo Albanian people moving to Albania or to Macedonia formed throughout Kosovo, and eventually crossed the border out of Kosovo. Some Kosovo Albanians even crossed the border into Montenegro.

It was the Defence contention that there were many reasons why people left Kosovo at the time, including the state of war between the FRY and NATO, the NATO bombing, fighting between the KLA and Serbian forces, sanctions and war-time conditions, evacuations and deliberate population movements directed by the KLA. It was also contended that the non-Albanian population of Kosovo was also leaving Kosovo at a comparable rate. In determining whether the offences of deportation or forcible transfer have been established the Chamber has relied on the evidence establishing the circumstances in which people left towns, villages and cities in the 13 municipalities listed in the Indictment. From this evidence, the Chamber is satisfied that the offences of Deportation or Forcible Transfer have been established with respect to some 60 specific locations, which are listed in the written Judgement. With respect to each of these locations for which the offences of Forcible Transfer or Deportation have been established, the evidence does not reveal that people were leaving because of the NATO bombing, or because of fighting between the Serbian forces and the KLA, or because of hardship caused by sanctions or wartime conditions, as the Defence has contended. On the contrary, the evidence discloses, as discussed in detail in the Judgement, that the Kosovo Albanian people left Kosovo because they were specifically ordered to do so by Serbian forces, or because the conduct of Serbian forces caused them to leave, in particular by shelling, shooting, killing and by burning houses and other buildings in their villages, towns and cities. While factors such as NATO bombing and fighting between the Serbian forces and the KLA may have caused some concern in the minds of some Kosovo Albanians, the factor which was dominant and compelling in causing Kosovo Albanians to leave their homes, and in many cases in causing them to leave Kosovo, was the deliberate campaign of violence and terror conducted against Kosovo Albanian civilians by Serbian forces. In this respect it is significant that in most cases identification documents and vehicles licence plates were seized from the Kosovo Albanians before they crossed the border out of Kosovo. This seizure was by Serbian police and VJ. Had this displacement of Kosovo Albanians been the consequence of NATO bombing or of fighting between the KLA and the Serbian forces, or the like, it is not apparent why Kosovo Albanian refugees would be stripped of their identification documents. Telling, in this respect, is the evidence of General Karol John Drewienkiewicz and Colonel Richard Ciaglinski, two British officers, who observed MUP officers burning tens of thousands of identification documents in a courtyard adjacent to the MUP building in Pristina/Prishtinë on 12 and 13 June 1999, which is just before the cessation of hostilities in Kosovo, and when Serbian forces were about to leave Kosovo.

As indicated, the Chamber is satisfied that the offences of Deportation and Forcible Transfer have been established, with respect to some 60 locations listed in the written Judgement. These were spread over the 13 municipalities charged in the Indictment. While over 800,000 Kosovo Albanians left Kosovo in the period relevant to the Indictment, this trial is only concerned with those from the villages, towns and other locations specified in the Indictment. The evidence is not sufficient to enable reliable findings as to the numbers of Kosovo Albanians proved to have been deported from these specific locations to Albania and Macedonia, or, in some cases, to Montenegro, between 24 March 1999 and 20 June 1999. It can be concluded from the evidence that this number was at least 200,000. However, this estimate is incomplete and very conservative and the true figure is likely to be very much higher.

The Indictment also alleges the criminal responsibility of Vlastimir Đorđević for the Murder of hundreds of Kosovo Albanians, including the 840 persons known by name and specifically listed in the Schedules of the Indictment.

The Chamber is satisfied that the charges of Murder as alleged in the Indictment have been proved with respect to the many locations in Kosovo specified in the Judgement. In particular, the Chamber has found that not less than 724 Kosovo Albanians were

murdered by Serbian forces, in most cases police. In the large majority of cases the victims, including many women and children, were civilians, who were unarmed and not in any way participating in any form of armed conflict. I would emphasize that this trial is not concerned with members of the KLA killed in combat with Serbian forces. However, some of those murdered may have been members of the KLA but, when killed, they were prisoners of the Serbian forces, unarmed and unable to participate in any form of armed conflict. No attempt was made to identify or arrest individuals, for the purpose of investigation or trial as terrorists or suspected terrorists. The Chamber notes also that it is clear from the evidence that the murder offences charged in the Indictment are merely examples, and by no means exhaustive, of the crimes committed by Serbian forces, especially police, against the Kosovo Albanian population in the course of the widespread and systematic attack referred to.

By way of three examples, on 26 March 1999 approximately 114 men and boys, the male inhabitants of a village in Orahovac/Rahovec municipality were forced by police into a barn in the village. One of the men was disabled; his wheelchair was used by the police to block an entrance door. When all the men and boys were inside the barn, the police shot them with automatic rifles. The police then poured incendiary liquid over the bodies, placed maize on top of them and set the barn on fire. As another example, not less than 45 members of one family were killed in Suva Reka/Suharekë town by police on 26 March 1999. Some were killed at their homes. An elderly couple was shot as they tried to flee from the houses. Then, 35 members of the family, mainly women and young children, sought refuge in a nearby café. Police threw hand grenades inside the café and then opened fire on them, killing 32 women and children. In another town, Podujevo/Podujevë, in the courtyard of their house, Serbian forces lined up and shot 19 women and children, members of two families. Of these, 14 women and children were killed. While five of the children survived the incident, they sustained severe injuries, many of them permanent. These examples demonstrate that the conduct was not part of a genuine police operation to locate and arrest terrorists.

As detailed in the written Judgement the Chamber was also satisfied that the crimes of Forcible Transfer, Deportation, and Murder established in the Judgement were committed with the intent to discriminate against the Kosovo Albanian population in Kosovo on the basis of their ethnicity.

The Chamber was also satisfied that the offence of Persecutions by the deliberate destruction of mosques by Serbian forces has been established. The destruction of these mosques occurred pursuant to a campaign by Serbian forces, which included the systematic damage and destruction of cultural monuments and Muslim sacred sites of the Kosovo Albanian population.

While the Chamber has found that incidents of sexual assault have been established, no evidence has been presented that the perpetrators acted with intent to discriminate. Intent to discriminate is an essential element which must be proved. Therefore, the charge of persecutions committed through sexual assault has not been established.

The Accused did not personally commit any of the crimes charged. They were committed by Serbian forces, many of whom were police under his command. Nevertheless, it is alleged by the Prosecution on several bases that the Accused is criminally responsible for the commission of the crimes. In this summary the Chamber will, briefly, mention three of these bases for criminal responsibility – Joint Criminal Enterprise, Aiding and Abetting the crimes, and Command Responsibility.

A primary allegation against the Accused in the Indictment is that he participated in a Joint Criminal Enterprise, i.e. common plan, which, as noted earlier, had the alleged purpose of changing the ethnic balance in Kosovo. This objective was to be achieved through criminal means consisting of a widespread or systematic campaign of terror and violence against Kosovo Albanians and which included the crimes charged. The Accused

denied that there was any such common plan formed by a group of persons which included the Accused. The Defence submits that where crimes were committed in Kosovo during the Indictment period, these were the result of isolated incidents perpetrated by random individuals. As mentioned already it contended that any coordinated actions by the VJ and MUP in 1998 and 1999 were directed only at “terrorist forces” and were so legitimate under customary international law.

The Chamber was not able to accept these arguments. While operations leading to the deaths of some Kosovo Albanians may have been conducted under the guise of anti-terrorist operations, and that may have been among the objectives, it is starkly clear from the evidence that these operations were not limited to members of the KLA. The nature of the crimes that have been established and the circumstances in which they were committed clearly demonstrates that the target of this campaign was the Kosovo Albanian population. In the finding of the Chamber, the operations were typically aimed at terrorising the Kosovo Albanian civilian population in cities, towns and villages. This was achieved by a variety of means, including shelling of populated areas with heavy weapons; terrorizing the people there by threats, violence and killings; setting on fire Kosovo Albanian civilian property, and the destruction of villages. The civilian population, or those of it who were not killed, in many cases were forced to leave their homes, villages or towns, in most cases to join others to be transported across a nearby border or to join columns of displaced persons directed by Serbian forces across borders. The scale and coordination of the actions of Serb forces confirms that a common plan existed.

The common plan required the agreement and participation of political leaders of the FRY and Serbia, the leadership of the VJ, including the relevant Corps in Kosovo, and the leadership of the MUP including its Staff in Kosovo. For reasons set out in the written Judgement the Chamber is satisfied that persons in these roles acted in unison to effect the Joint Criminal Enterprise. Among the core members of this group of persons, the political component included Slobodan Milošević, President of the Federal Republic of Yugoslavia, and Nikola Šainović, Deputy Prime Minister of the FRY and responsible for Kosovo. The MUP membership of the Joint Criminal Enterprise included Vlastimir Đorđević, Chief of the RJB, Radomir Marković, Chief of the State Security Department, and Sreten Lukić, head of the MUP Staff for Kosovo.

The Defence contended further that the Accused could not have made a significant contribution to any such common plan. The core of the Defence case is built upon the evidence and submission of the Accused that he did not have effective control over the use of MUP forces in Kosovo, because the late Minister Stojiljković had excluded him. The Accused also denied that the Joint Command for Kosovo, the body which coordinated Serbian forces including the police in Kosovo, existed.

Contrary to the Defence’s position, the Accused’s participation in the joint criminal enterprise was crucial to its success. The Chamber has found that as Head of the RJB and as an Assistant Minister of Interior, the Accused had lawful powers and exercised effective control over the police in Kosovo, including regular and reserve police, the PJP and SAJ, during the Indictment period. The evidence reveals that the Accused had detailed knowledge of events on the ground and played a key role in coordinating the work of the MUP forces in Kosovo in 1998 and 1999. The Accused was a member of the Joint Command, which contrary to the Accused’s evidence, coordinated Serbian forces including the police, in Kosovo. He was often present on the ground in Kosovo in 1998 and 1999 and also attended meetings of the MUP Staff in Kosovo. He was aware of the criminal conduct of the police and other Serbian forces in Kosovo from his personal observations and from information provided by others. He was also aware that the Serb population in Kosovo had been armed by the Army and the MUP to provide an additional Serbian force. Contrary to the Accused’s evidence that he had been excluded by Minister Stojiljković, the Accused represented the Republic of Serbia in international negotiations on the role of the police in Kosovo in October 1998.

The Defence advanced throughout the trial that there were no Serb paramilitary forces in Kosovo at the material time. Despite this denial, it has been established by the evidence that there were Serbian paramilitary forces active in Kosovo in the Indictment period, many serving with police units. Further, the Accused was personally and directly involved in the engagement of one such unit, the Scorpions, into the MUP reserve force, in 1999. This unit was directly involved in the shooting of 19 Kosovo Albanian women and children in one town, killing 14 of them. The Accused was informed of these killings almost immediately after they occurred. The unit was withdrawn from Kosovo but no effective investigation followed. The Accused was aware of the lack of investigation but nonetheless authorised the re-deployment of members of the same unit back to Kosovo a few days later.

The Chamber was satisfied further that the Accused was instrumental in MUP efforts to conceal the murders of Kosovo Albanians during the Indictment period. As discussed in detail in the written Judgement, the evidence confirms that from the second week of April 1999, on at least six occasions over a period of several weeks, trucks containing bodies of Kosovo Albanians killed by Serbian forces in Kosovo arrived at the 13 Maj SAJ Centre in Batajnica near Belgrade. This centre is controlled by the MUP. It is over 400 kilometres from where the people were killed in Kosovo. At least two further deliveries of bodies were made to the Petrovo Selo PJP Centre, another MUP site in Serbia. Bodies were also recovered from Lake Perucac in Serbia and buried in a mass grave site by the lake. The bodies had been in a truck which was found in the Lake. In 2001 the remains of 744 individuals were exhumed from the SAJ Centre in Batajnica, 61 from Petrovo Selo and 84 from Lake Perucac. The remains were of Kosovo Albanians who had been killed in Kosovo in 1999. Despite the condition of the remains after being buried for over two years, it was determined that the most probable cause of death of the vast majority of these bodies was multiple gunshot wounds or was consistent with gunshot wounds.

The Accused played a leading role in the MUP efforts to conceal these murders. He gave instructions for the clandestine transportation of bodies found in a refrigerated truck in the Danube River to the SAJ training centre at Batajnica near Belgrade and their secret reburial in a mass grave at the SAJ centre. He gave instructions for the immediate burial of the bodies found in Lake Perucac on the site. In both cases the Accused gave specific orders to preclude judicial investigations. The Chamber has found that the transportation of bodies from Kosovo for clandestine burial in mass graves on MUP grounds, was undertaken as part of a coordinated operation to remove evidence of crimes committed by Serbian forces against Kosovo Albanians in Kosovo during the Indictment period. In the Chamber's finding, this operation was conducted under the direction of the Accused, in consultation with Minister Stojiljković, pursuant to an order of the President of the FRY, Slobodan Milošević. While it was his duty under the law to have the emergence of the bodies properly investigated, the role the Accused played ensured that the bodies were not the subject of investigation at the time.

The Chamber was also satisfied that despite being aware of crimes committed by MUP forces in Kosovo, at no time during the Indictment period, or thereafter while he remained the head of the RJB, did the Accused take any measures to ensure the investigation of the crimes or the punishment of those involved in their commission.

The Chamber is satisfied that the Accused's conduct, as described in the summary of findings above, contributed significantly to the campaign of terror and extreme violence by Serbian forces against Kosovo Albanians, which had the purpose of changing the demographic composition of Kosovo.

The Chamber is also satisfied that through his direct involvement in the concealment of bodies of Kosovo Albanian victims of murder, and his complete failure to ensure the investigation of crimes committed by MUP forces during the Indictment period, the Accused aided and abetted the crimes established in the Judgement. These facts are sufficiently compelling to also require a conviction for aiding and abetting, as well as the conviction for

participating as a member of the JCE, in order to fully encapsulate the Accused's criminal conduct.

For reasons set out in the written Judgement the Chamber is also satisfied of the Accused's responsibility under Article 7(3) for his failure to prevent the commission of the crimes established in this Judgement by persons under his effective control and for his failure to punish the perpetrators of these crimes. However, by virtue of its adverse finding under Article 7(1) it is not open to the Chamber to also convict the Accused under Article 7(3).

Vlastimir Đorđević: Will you please stand.

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

Count 1: Deportation, a crime against humanity, under Article 5 of the Statute, for having committed the crime of deportation through your participation in a joint criminal enterprise, and for having aided and abetted the deportation of Kosovo Albanians from the locations specified in the Judgement;

Count 2: Other inhumane acts (forcible transfer), under Article 5 of the Statute, for having committed the crime of forcible transfer through your participation in a joint criminal enterprise, and for having aided and abetted the forcible transfer of Kosovo Albanians from the locations specified in the Judgement;

Count 3: Murder, a crime against humanity, under Article 5 of the Statute, for having committed the crime of murder through your participation in a joint criminal enterprise, and for having aided and abetted the murder of not less than 724 Kosovo Albanians, identified in the Schedule to this Judgement;

Count 4: Murder, a violation of the laws or customs of war, under Article 3 of the Statute, for having committed the crime of murder through your participation in a joint criminal enterprise, and for having aided and abetted the murder of not less than 724 Kosovo Albanians taking no active part in the hostilities, identified in the Schedule to this Judgement;

Count 5: Persecutions, on racial grounds, a crime against humanity, under Article 5 of the Statute, for having committed the crime of persecutions through your participation in a joint criminal enterprise, and for having aided and abetted the persecutions against Kosovo Albanians through deportation, forcible transfer, murder, and destruction or damage to property of cultural and religious significance to Kosovo Albanians, at locations specified in this Judgement.

With respect to sentence, the Chamber has set out in the written Judgement the many matters that have been taken into account in determining the appropriate sentence.

You are sentenced to a single sentence of 27 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.