



United Nations
Nations Unies



International
Criminal Tribunal
for the former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

JUDGEMENT SUMMARY

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

CHAMBERS

The Hague, 6 September 2011

Summary of the Judgement in the Case of *Prosecutor v. Momčilo Perišić*

Please find below the summary of the Judgement read out today by Judge Moloto:

The Trial Chamber will now deliver its Judgement in the case of *Prosecutor v. Momčilo Perišić*. For the purposes of this hearing, the Chamber will briefly summarise its findings. I stress that this is a summary only. The authoritative account of the Chamber's findings can be found in the written Judgement, which will be made available at the end of this session.

This Trial has lasted nearly three years. The Trial Chamber heard over 100 witnesses and 3,794 exhibits are part of the trial record.

1. Introduction

Momčilo Perišić is a retired General of the Yugoslav Army. On 26 August 1993, he was appointed Chief of General Staff of the Yugoslav Army, a position he held until 24 November 1998. During that time, General Perišić was the top military officer of the Yugoslav Army, headquartered in Belgrade, Serbia.

Under Article 7(1) of the Statute, General Perišić is charged with aiding and abetting war crimes and crimes against humanity perpetrated in Sarajevo and Srebrenica, Bosnia, between 1993 and 1995 by the Army of Republika Srpska, known as the VRS.

The Prosecution alleges that the VRS conducted a campaign of shelling and sniping against Sarajevo civilians throughout the Bosnian war. It submits that General Perišić, as Chief of the Yugoslav Army, knowingly aided and abetted the crimes of Murder, Inhumane Acts and Attacks on Civilians in Sarajevo by providing substantial assistance to the VRS. That assistance allegedly included considerable quantities of weaponry, as well as the provision of salaries and other benefits to the top officers of the VRS, including General Ratko Mladić, the VRS Commander.

www.icty.org

Follow the ICTY on [Twitter](#) and [YouTube](#)

Media Office/Communications Service

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

Tel.: +31-70-512-8752; 512-5343; 512-5356 Fax: +31-70-512-5355

Further, the Prosecution alleges that, by providing logistic and personnel assistance, General Perišić aided and abetted the crimes of Murder, Inhumane Acts, Persecutions and Extermination perpetrated by the VRS during its takeover of Srebrenica in 1995.

In addition to aiding and abetting, General Perišić is charged, under Article 7(3) of the Statute, with having failed to prevent crimes perpetrated by his subordinates and/or punish them for their criminal behaviour. The crimes in question include the previously mentioned crimes in Sarajevo and Srebrenica, as well as separate crimes of Murder, Inhumane Acts and Attacks on Civilians related to the shelling of Zagreb, Croatia, by the Army of Serbian Krajina, known as the SVK.

Before focusing on General Perišić's individual criminal responsibility, the Trial Chamber will announce its findings on the crimes perpetrated in Sarajevo, Srebrenica and Zagreb.

2. The Crimes Perpetrated in Bosnia and Croatia

The Trial Chamber has found that, from September 1992 to November 1995, the VRS conducted a lengthy campaign of shelling and sniping in Sarajevo that resulted in the deaths of hundreds of civilians and the wounding of thousands of others. The Trial Chamber examined the facts surrounding nine shelling and ten sniping incidents that occurred in Sarajevo. It found that the VRS had perpetrated the crimes of Murder as a crime against humanity, Murder as a war crime, Inhumane Acts as a crime against humanity, and Attacks on Civilians as a war crime.

In the summer of 1995, the VRS invaded the town of Srebrenica, which the United Nations Security Council had previously established as a safe area for civilians. After taking over Srebrenica, the VRS proceeded to forcibly remove and massacre thousands of Muslim civilians and persons not taking an active part in hostilities. The Trial Chamber found that the VRS committed the crimes of Murder as a crime against humanity, Murder as a war crime, Inhumane Acts as a crime against humanity, Persecutions as a crime against humanity, and Extermination as a crime against humanity.

The Trial Chamber has determined that the SVK fired rockets on the city of Zagreb on 2 May 1995, killing 5 people and injuring 146. The SVK again fired rockets on Zagreb on the next day, killing two persons and injuring 54. The Chamber found that the SVK perpetrated the crimes of Murder as a crime against humanity, Murder as a war crime, Inhumane Acts as a crime against humanity, and Attacks on Civilians as a war crime.

Having found that crimes were committed in Sarajevo, Srebrenica and Zagreb, I will now summarise the Trial Chamber's findings on the logistic and personnel assistance that

General Perišić allegedly provided to the VRS and SVK in conducting their operations in Bosnia and Croatia.

3. Logistic Assistance

The Trial Chamber found that General Perišić oversaw the Yugoslav Army's provision of extensive logistic assistance to the VRS and the SVK. Logistic assistance notably included vast quantities of infantry and artillery ammunition, fuel, spare parts, training and technical assistance.

The Yugoslav Army already provided logistic assistance to these armies before General Perišić became its Chief in August 1993. However, logistic assistance became more centralised, structured and coordinated during his tenure. General Perišić organised a procurement procedure for the Yugoslav Army General Staff to review requests for logistic assistance. He also regularly met and conferred with General Mladić and General Čeleketić, the VRS and SVK's respective Commanders, about their armies' military needs. General Perišić and the Yugoslav Army General Staff did not grant all requests for assistance, although they approved a substantial proportion of them, including millions of infantry bullets and thousands of shells. For instance, in 1994, the VRS Main Staff estimated that it had obtained from the Yugoslav Army over 25 million infantry bullets and over 7,500 shells, among other ammunition.

The Supreme Defence Council of the Federal Republic of Yugoslavia granted General Perišić and the Yugoslav Army the authority to provide logistic assistance to the VRS and SVK. Even though General Perišić was not officially a member of the Supreme Defence Council, he participated in the Council's meetings, along with its members, notably Slobodan Milošević and Zoran Lilić, who then respectively held the titles of President of Serbia and President of the Federal Republic of Yugoslavia. General Perišić regularly urged the Council to continue providing important logistic assistance to the VRS and SVK, insisting that they could not wage war without significant military support.

While the international community had dispatched personnel to monitor the border between Yugoslavia and Bosnia for arm deliveries, Serb authorities were able to evade border monitors. Sanctions by the international community did not preclude the VRS and SVK from regularly receiving considerable quantities of weaponry from Serbia.

The Trial Chamber will now turn to the personnel assistance overseen by General Perišić.

4. Personnel Assistance

A large number of VRS and SVK officers were drawn from the ranks of the Yugoslav Army. They officially remained members of the Yugoslav Army even as they were fighting in Bosnia and Croatia under the banners of the VRS and SVK. General Perišić proposed and carefully implemented the idea to create “Personnel Centres” to regularise the status of these officers and allow them to lawfully remain part of the Yugoslav Army. VRS officers retained their salaries and benefits as Yugoslav Army members through what was known as the 30th Personnel Centre, and SVK officers through the 40th Personnel Centre. General Perišić further intended the Personnel Centres system to help legalise the deployment of additional personnel to these armies.

In December 1993, General Perišić stated that there were over 7,000 Yugoslav Army officers serving in the VRS and SVK through the Personnel Centres. While many officers voluntarily accepted transfer, General Perišić made clear that those who refused to be sent to the VRS or SVK would be dismissed from the Yugoslav Army in one way or another. General Perišić and other leading Yugoslav officials sought to keep the real function of the Personnel Centres secret in order to avoid further criticism or sanctions from the international community.

The Trial Chamber shall now summarise its legal conclusions on the aiding and abetting counts charged under Article 7(1).

5. Findings on the Article 7(1) Counts

The following considerations and findings are made by majority, Judge Moloto dissenting. The Majority finds that crimes were inextricably linked to the VRS’s war strategy and objectives. The VRS regularly made no distinction between civilian and military targets. In fact, it targeted Bosnian Muslim civilians as a matter of course. The crimes charged in this case were not perpetrated by rogue soldiers acting independently. Rather, they were part of a lengthy campaign overseen by top VRS officers on the Yugoslav Army’s payroll, including General Mladić.

General Perišić is not charged with helping the VRS wage war *per se*, yet, under the VRS’s strategy, there was no clear distinction between military warfare against Bosnian Muslim troops and attacks against Muslim civilians. General Perišić repeatedly exercised his authority to provide logistic and personnel assistance that made it possible for the VRS to wage a war that he knew encompassed systematic crimes against Muslim civilians.

The siege of Sarajevo and the ensuing sniping and shelling of its civilians were means of implementing the Bosnian Serb objective of dividing Sarajevo into Serb and Muslim sectors. Attacks against civilians aimed to intimidate the population of Sarajevo and break its morale and spirit, as well as to destabilise Bosnia and Herzegovina as a country.

Another Bosnian Serb objective was the establishment of a corridor in the Drina River valley and the elimination of the Drina River as a border between Serbia and Republika Srpska. This objective was pursued through criminal means, as the Bosnian Serb leadership sought to eliminate Muslim enclaves in that area. Once the VRS took over the Srebrenica enclave, it proceeded to forcibly remove and massacre its Muslim population, perpetrating atrocities on a vast scale.

The VRS largely depended on logistic and personnel assistance overseen by General Perišić in order to conduct its operations in Sarajevo and Srebrenica. The Majority finds that General Perišić's actions had a substantial effect on the crimes the VRS perpetrated because its military operations encompassed systematic crimes against civilians. Besides witness testimony, the Majority relied upon numerous sources of information for its conclusions, including material delivery forms, personnel files, internal military reports, communication records, and minutes of the Supreme Defence Council featuring discussions between General Perišić, Slobodan Milošević, Zoran Lilić and other top officials.

As stated earlier, General Perišić oversaw the Yugoslav Army's comprehensive logistic assistance to the VRS. Part of this help was given to VRS units involved in perpetrating the charged crimes: the Drina Corps, Krajina Corps and Sarajevo-Romanija Corps. Overall, logistic assistance from the Yugoslav Army was critical to the VRS's operations because its resources were limited, its financial situation was dire, and its ammunition reserves verged on depletion as the war progressed.

The Bosnian Serb leadership regularly pressed General Perišić to keep sending assistance, as it was well aware that its military operations largely depended on Yugoslav Army support. Radovan Karadžić admitted, for instance, that "nothing would happen without Serbia. We do not have those resources and we would not be able to fight". Similarly, General Mladić admitted that "we would not be able to live" if assistance was discontinued. General Perišić himself stated on several occasions that the VRS would have faced much greater difficulties in waging war if military assistance had been withheld. Slobodan Milošević remarked that "everything that has been made there was made thanks to Serbia and the army", a statement with which General Perišić concurred.

In addition to orchestrating the logistic assistance system, General Perišić assumed a lead role in establishing the 30th Personnel Centre to serve the needs of key VRS officers. Besides General Mladić, members of the 30th Personnel Centre included high-ranking officers responsible for crimes in Sarajevo and/or Srebrenica, namely Stanislav Galić, Dragomir Milošević, Milenko Živanović, Radislav Krstić, Vujadin Popović Vinko Pandurević, Milan Gvero, Ljubiša Beara, Radivoje Miletić and Dragan Obrenović. These officers continued to receive their salaries as regular Yugoslav Army members. Moreover, they retained all their

rights and benefits as members, receiving compensation for service under difficult conditions, housing benefits, pension benefits, as well as medical insurance and treatment for themselves and their families.

The Majority finds that General Perišić aimed to help the VRS retain and recruit qualified officers by providing such rights and benefits as incentives to serve in the VRS. General Perišić was well aware that the payment of salaries was, in his own words, of “great help” to the VRS. Republika Srpska had serious difficulties with remunerating VRS personnel in light of its grave financial problems.

Finally, the Majority finds that General Perišić had knowledge that the VRS’s operations encompassed grave crimes against civilians. General Perišić received information from a variety of sources concerning the VRS’s criminal behaviour and discriminatory intent against Muslims. Under General Perišić’s direction, the Yugoslav Army’s intelligence and security organs monitored the views of the international community and international media concerning the conflict in Bosnia and Herzegovina. The Yugoslav Army General Staff also received diplomatic reports about proceedings at the United Nations Security Council concerning grave abuses against civilians in Sarajevo and other parts of Bosnia and Herzegovina.

In particular, General Perišić was alerted to the fact that the VRS was conducting a campaign of sniping and shelling against civilians during its siege of Sarajevo. These regular attacks were well documented and widely reported for a period of three years. General Perišić could not have reasonably discounted this information simply because he and his allies considered it biased against the Serbs. The fact that information could, in certain instances, be biased or one-sided does not undermine the finding that General Perišić had notice of the VRS’s crimes in Sarajevo, namely murder, attacks on civilians and inhumane acts.

With regard to the atrocities perpetrated during the takeover of Srebrenica in July 1995, the Majority underlines that General Perišić had already been notified long before this tragedy that the VRS had a propensity to target civilians. Further, he was aware of the escalating tensions in the Srebrenica area and that the VRS was preparing a military attack there. The Majority is satisfied that General Perišić knew that it was highly probable that the VRS would forcibly transfer Bosnian Muslims and commit killings and other abuses with discriminatory intent once Srebrenica had fallen under VRS control. In other words, General Perišić knew of the likelihood that the VRS would perpetrate the crimes of Murder, Inhumane Acts and Persecution in Srebrenica. However, the Trial Chamber unanimously finds that the evidence does not establish beyond a reasonable doubt that General Perišić could reasonably have foreseen, based on his knowledge of the VRS’s prior conduct, that

the VRS would engage in the radical, systematic extermination of thousands of Muslims in Srebrenica.

The Trial Chamber will now render its findings on the counts charged under Article 7(3) of the Statute.

6. Findings on the Article 7(3) Counts

The Trial Chamber recalls that, besides aiding and abetting crimes, General Perišić is accused of failing to prevent crimes perpetrated by his subordinates and/or punish them for their criminal behaviour.

In order for General Perišić to be culpable under this mode of liability, the Trial Chamber must consider whether a superior-subordinate relationship existed between General Perišić and the perpetrators, including whether he exercised effective control over them. The Trial Chamber underlines that mere cooperation or the mere ability to exercise influence is not sufficient to establish effective control.

Firstly, the Chamber finds that the VRS's crimes in Sarajevo and Srebrenica were perpetrated by officers who were *de jure* subordinated to General Perišić, namely officers who were members of the 30th Personnel Centre and officially remained part of the Yugoslav Army. However, possession of *de jure* authority, in the absence of an inquiry into the *de facto* state of affairs, is generally insufficient to establish effective control under the applicable legal standard, which requires proof of the material ability to prevent or punish the criminal behaviour of subordinates.

The trial record neither contains evidence of command orders by General Perišić to members of the 30th Personnel Centre nor evidence of disciplinary or criminal proceedings initiated by Perišić against them. Rather, the evidence reflects General Perišić's inability to impose binding orders on General Mladić, the VRS Commander, who maintained a measure of independence throughout the war. Even though General Perišić had a collaborative relationship with Mladić and substantially aided his operations, the evidence does not establish that he exercised effective control over him or any other Yugoslav Army officer serving in the VRS through the 30th Personnel Centre. The evidence does not establish beyond a reasonable doubt that a superior-subordinate relationship existed at the relevant time between General Perišić and perpetrators of the crimes committed in Sarajevo and Srebrenica. Accordingly, the Trial Chamber holds that General Perišić is not criminally responsible for failing to prevent the VRS's crimes or punish their perpetrators.

Secondly, General Perišić is charged with failing to punish the perpetrators of the SVK's rocket attacks on Zagreb in May 1995. The Trial Chamber similarly finds that the lead

perpetrators of these crimes were SVK officers who were *de jure* subordinated to General Perišić because they officially remained part of the Yugoslav Army and were members of the 40th Personnel Centre. However, unlike against VRS officers, General Perišić initiated disciplinary proceedings against officers serving in the SVK through the 40th Personnel Centre. The Trial Chamber by majority, Judge Moloto dissenting, finds that General Perišić exercised effective control over Yugoslav Army officers serving in the SVK through the 40th Personnel Centre. This conclusion is further based on the finding that General Perišić had the ability to issue command orders to senior SVK officers serving in the 40th Personnel Centre, who considered them binding. The Majority therefore finds that a superior-subordinate relationship existed at the relevant time between General Perišić and perpetrators of the criminal attacks on Zagreb on 2 and 3 May 1995.

The Majority finds that, although General Perišić was immediately notified of both of the SVK's rocket attacks on Zagreb; he failed to take "necessary and reasonable measures" to punish the perpetrators, whose grave crimes were left unsanctioned. The Majority thus holds that General Perišić is culpable of failing to punish his subordinates for their crimes in Zagreb.

7. Final Verdict and Sentence

General Perišić: please rise for the Tribunal's final verdict and sentence.

The Trial Chamber finds you not guilty and therefore acquits you of Count 13: Extermination as a crime against humanity in relation to Srebrenica.

The Trial Chamber finds by majority, Judge Moloto dissenting, that you are guilty as an aider and abettor, under Article 7(1), of the following counts:

- Count 1: Murder as a crime against humanity in relation to Sarajevo;
- Count 2: Murder as a violation of the laws or customs of war in relation to Sarajevo;
- Count 3: Inhumane Acts (injuring and wounding civilians) as a crime against humanity in relation to Sarajevo;
- Count 4: Attacks on Civilians as a violation of the laws or customs of war in relation to Sarajevo;
- Count 9: Murder as a crime against humanity in relation to Srebrenica;
- Count 10: Murder as a violation of the laws or customs of war in relation to Srebrenica;

- Count 11: Inhumane Acts (inflicting serious injuries, wounding, forcible transfer) as a crime against humanity in relation to Srebrenica;
- Count 12: Persecutions on political, racial or religious grounds as a crime against humanity in relation to Srebrenica.

Regarding Article 7(3) as a separate mode of liability for Counts 1 through 4 and Counts 9 through 12, the Trial Chamber finds that you are not guilty as a superior for failing to prevent crimes by subordinates or punish their perpetrators.

The Trial Chamber finds by majority, Judge Moloto dissenting, that you are guilty as a superior, under Article 7(3), for failing to punish your subordinates for their crimes on the following counts:

- Count 5: Murder as a crime against humanity in relation to Zagreb;
- Count 6: Murder as a violation of the laws or customs of war in relation to Zagreb;
- Count 7: Inhumane Acts (injuring and wounding civilians) as a crime against humanity in relation to Zagreb;
- Count 8: Attacks on Civilians as a violation of the laws or customs of war in relation to Zagreb.

In evaluating the proper sentence for these crimes, the Majority has considered both aggravating and mitigating circumstances outlined in the official Judgement. In particular, the Majority emphasises that the VRS's crimes lasted over a long period of time and that the victims were numerous and particularly vulnerable. The Majority further underlines that you kept providing assistance to the VRS for months after being informed of the VRS's enormous massacre in Srebrenica.

For these crimes, the Majority sentences you, Momčilo Perišić, to a single term of 27 years in prison. You are entitled to credit for the time period you have been in custody, which amounts to 1,078 days. You may be seated.

This concludes the delivery of the Judgement, which will now be made available to the public. This marks the end of the trial.