



The International Residual Mechanism for Criminal Tribunals ("Mechanism") was established on 22 December 2010 by the United Nations Security Council to continue the jurisdiction, rights, obligations and essential functions of the International Criminal Tribunal for Rwanda ("ICTR") and the International Criminal Tribunal for the former Yugoslavia ("ICTY") which closed in 2015 and 2017, respectively.

JUDGEMENT SUMMARY

TRIAL CHAMBER

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

The Hague, 30 June 2021

Judgement Summary for *Prosecutor v. Jovica Stanišić and Franko Simatović*

Please find below the summary of the Judgement read out today by Judge Burton Hall

1. The Trial Chamber is sitting today to pronounce its Judgement in the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*. I will read a summary of the Judgement, highlighting the Trial Chamber's key findings. The written reasons for the Judgement will follow as soon as possible after the conclusion of the editorial process. This procedure is provided for in Rules 122(A) and (C). The written Judgement, when filed, will be the only authoritative version of the Judgement.
2. Before addressing the merits, I would like to express appreciation to those who have assisted us in bringing this case - which is being tried for a second time - to a close. We have received excellent support throughout this case from our court officers and reporters and the staff in language services, information technology, witness support and protection, detention, general services, and security. Your work was never easy and was made even more difficult as a result of the COVID-19 pandemic. The Trial Chamber thanks you.
3. Our task in conducting this case has also benefited from the skilled and seasoned advocacy of Mr. Stringer, Ms. Harbour, Mr. Jordash, Mr. Bakrač, Mr. Petrović, and their teams. This is the last time we will be in this courtroom together. We thank you for your professionalism, pragmatism, and collegiality, which have greatly assisted the Trial Chamber.
4. As I continue to the substance of today's ruling, I request those within and without the courtroom, whose native language is one of the variants of the languages spoken in the countries that



comprised the former Yugoslavia, to kindly note that I intend no disrespect if my Anglophone trained tongue, at times, proves inadequate when identifying the names of persons or places.

5. This case has a long history. The proceedings commenced before the International Criminal Tribunal for the former Yugoslavia in 2003, around 18 years ago, when the Accused were indicted and transferred to the Tribunal. The first trial concluded on 30 May 2013 with a verdict of acquittal on all counts. In December 2015, the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia quashed the acquittals and ordered a full re-trial in this case.

6. That decision started the case anew before the Mechanism, necessitating a new initial appearance and pre-trial process. In the course of the retrial, the Trial Chamber received the evidence of 145 witnesses, including the live testimony of 80 witnesses, and admitted into evidence more than 6,300 exhibits. It also issued nearly 450 decisions and orders. Today's pronouncement – to be followed by the filing of the written reasons - will be our last.

7. This case concerns Jovica Stanišić, who was Deputy Chief and later Chief of the Serbian State Security Service, and Franko Simatović, one of the Service's senior intelligence officers. The Prosecution has charged them with war crimes and crimes against humanity, including murder, deportation, forcible transfer, and persecution, allegedly committed by Serb forces in Croatia and Bosnia and Herzegovina between April 1991 and December 1995. In Croatia, these crimes allegedly occurred on the territory of the former Serb Autonomous Regions of Krajina and of Slavonija, Baranja, and Western Srem. In Bosnia and Herzegovina, the Indictment focuses solely on crimes allegedly committed in the municipalities of Bijeljina, Zvornik, Bosanski Šamac, Doboј, and Sanski Most, and in an area near the village of Trnovo.

8. The Prosecution does not allege that the Accused physically committed the war crimes and crimes against humanity charged in the Indictment. Rather, it alleges that they committed them by participating in a joint criminal enterprise. In the alternative, the Prosecution alleges that the Accused are responsible for having planned, ordered, and/or aided and abetted in the commission of the crimes.

9. At the outset, the Trial Chamber notes that it was presented with extensive evidence on the historical context and political developments forming the backdrop of the conflict that enveloped the former Yugoslavia from 1990 through 1995. While it has thoroughly considered such evidence, the Trial



Chamber does not see its task as writing the definitive history of the dissolution of the Socialist Federal Republic of Yugoslavia. Identifying the historical scars, defining the complex political and socio-economic reasons, the turbulent processes of political transformation, the diverging political agendas, and peoples' hopes and aspirations that accompany the dissolution of a state must be left to historians.

10. The task before this Trial Chamber is very specific. It is to ascertain whether the Accused incur individual criminal responsibility for the crimes of murder, deportation, forcible transfer, and persecution, as charged in the Indictment.

11. A state of armed conflict existed during the time relevant to the crimes charged in the Indictment. The evidence presented at trial also amply demonstrates that, during this period, there was a widespread and systematic attack directed against the non-Serb civilian population in the areas of Croatia and Bosnia and Herzegovina relevant to the Indictment.

12. Starting with the attack on the village of Kijevo in August 1991 in the Serb Autonomous Region of Krajina, a clear pattern emerges of crimes and acts of violence committed by Serb forces, including members of the Yugoslav Peoples' Army, and units of the Milicija Krajina and Territorial Defence, in Croat-majority villages in Krajina. These attacks resulted in the mass exodus of the majority of non-Serb inhabitants from the area. Croat property was looted, houses were torched, churches and schools were destroyed, and Croat civilians were mistreated, arbitrarily detained, beaten, expelled, or killed. Villages were razed to the ground and emptied of their Croat residents. The Judgement contains detailed findings on the brutal killings of non-Serb civilians and on other crimes and acts of violence committed by Serb forces between October and December 1991 in the area of Hrvatska Kostajnica, including near the village of Baćin, and in the villages of Vukovići, Poljanak, Lipovača, Saborsko, Škabrnja, and Bruška.

13. In parallel, attacks on Croat-majority villages in the Serb Autonomous Region of Slavonija, Baranja, and Western Srem intensified in August 1991, with the takeover of towns and villages in the area by Serb forces. These forces included the Yugoslav Peoples' Army, local Territorial Defence, local police, and paramilitary groups, such as Arkan's Serbian Volunteer Guard. Following the attacks, an atmosphere of terror reigned through Croat-majority settlements. Local non-Serbs were subjected to harassment, mistreatment, arbitrary detentions, and forced labour, and their property and religious buildings were looted and torched. The Judgement contains detailed findings on the brutal killings by



Arkan's men and other Serb forces of non-Serb civilians, detained at the Dalj police station and at the Erdut training camp, in the period between September and December 1991. Following the violent takeovers of towns and villages in the area, non-Serbs were forcibly expelled or left with no choice but to flee from the ensuing violence.

14. Turning to Bosnia and Herzegovina, a similar pattern of crimes ensued from the beginning of April 1992, following the violent takeovers by Serb forces, including the Yugoslav Peoples' Army and paramilitary units, of towns and villages in the municipalities of Bijeljina, Zvornik, Bosanski Šamac, Doboј, and Sanski Most. Civilians, primarily Bosnian Muslims and Bosnian Croats, were killed, beaten and otherwise mistreated, arbitrarily arrested and detained, tortured, and subjected to forced labour and sexual violence. Their property was looted and torched, and their religious monuments - destroyed.

15. In Bijeljina, which was the first municipality to be taken over by Serb forces in April 1992, a reign of terror was instituted by paramilitary groups, such as Arkan's Serbian Volunteer Guard, the White Eagles, and Mauzer's Serbian National Guard, together with members of the local police. These groups engaged in criminal activities on a massive scale, terrorizing the non-Serb residents, as well as Serbs considered to be disloyal, by looting, committing murders and rapes, and arbitrarily detaining and mistreating non-Serbs in various detention facilities in the municipality. In the coming months, mass movements of Bosnian Muslims leaving the municipality due to the campaign of terror, violence, and mistreatment, took place.

16. In the course and immediate aftermath of the attack on Zvornik in April 1992, Serb forces, including paramilitary groups, such as Arkan's Serbian Volunteer Guard, Šešelј's Men, Yellow Wasps, and local Bosnian Serb authorities, killed and forcibly expelled local non-Serb residents from the municipality. Detention facilities in Zvornik municipality were established, where many non-Serbs were kept in deplorable conditions, beaten, mistreated, tortured, and killed. The crimes and acts of violence forced the majority of the Bosnian Muslim population to leave the municipality.

17. This pattern of crimes was replicated in Bosanski Šamac, following the takeover of the municipality by Serb forces, including paramilitary groups, in April 1992. Numerous crimes were committed against the non-Serb population throughout the municipality, including looting, rape, and the destruction of religious buildings and cultural monuments. Serb forces arbitrarily detained Bosnian



Muslims and Bosnian Croats in at least six detention facilities throughout Bosanski Šamac, where detainees were kept in inhumane conditions, and were subjected to forced labour, severe mistreatment, repeated beatings, and torture, forced to engage in sexual acts, and killed. On or about 7 May 1992, in a detention facility located in the village of Crkvina, 16 Bosnian Muslim and Bosnian Croat men were killed. The crimes and acts of violence committed by Serb forces during and following the takeover of Bosanski Šamac, forced the majority of the non-Serb population to leave the municipality.

18. The pattern of crimes continued with the takeover by Serb forces, including paramilitary groups, of Dobož in May 1992. Non-Serb residents were harassed, their houses were looted, and religious monuments demolished. Numerous detention facilities sprang across the municipality, where Bosnian Muslim and Bosnian Croat civilians were kept in appalling conditions, severely mistreated, beaten, used to perform forced labour, tortured, and killed. On 12 July 1992, members of Serb forces killed 16 non-Serb civilians by using them as human shields. The living conditions and the numerous crimes and acts of violence targeting the Bosnian Muslim and Bosnian Croat residents of Dobož forced the majority of them to leave the municipality.

19. Following the takeover by Serb forces of Sanski Most in May 1992, a campaign of terror was unleashed against the non-Serb residents of the municipality. Homes and religious monuments were destroyed and Bosnian Muslim civilians expelled or killed. Discriminatory policies were put in place and local Bosnian Muslims and Bosnian Croats were arbitrarily arrested, mistreated, and detained in deplorable conditions. In September 1995, Arkan's Serbian Volunteer Guard killed a large number of non-Serb civilians at Trnova and Sasina. In July 1995, during the Treskavica/Trnovo operations, six Muslim men and boys were killed by the paramilitary group "Scorpions".

20. The Trial Chamber finds that, in relation to the events described above, the Prosecution has proven beyond reasonable doubt the allegations of murder, as a crime against humanity and a violation of the laws or customs of war, charged under Counts 2 and 3 of the Indictment.

21. Having considered the circumstances surrounding the departure of the non-Serb civilians from the areas in Croatia and Bosnia and Herzegovina relevant to the Indictment, the Trial Chamber also finds that all the elements of deportation and other inhumane acts (forcible transfer), as crimes against humanity, charged under Counts 4 and 5 of the Indictment, have been satisfied.



22. The Trial Chamber further finds that the murders and forcible displacements were carried out with discriminatory intent, and thus satisfy the elements of persecution, as a crime against humanity, charged under Count 1 of the Indictment.

23. The Trial Chamber considers that the systematic pattern of crimes committed against non-Serb civilians by Serb forces constitutes the most compelling evidence, demonstrating the existence of a common criminal purpose.

24. For the reasons stated in the Judgement, the Trial Chamber is convinced that, from at least August 1991, a joint criminal enterprise existed. The common criminal purpose of this enterprise was to forcibly and permanently remove the majority of non-Serbs from the above mentioned areas through the commission of the crimes charged in the Indictment. This common criminal purpose was shared by certain senior political, military, and police leadership in Serbia, in the Serb Autonomous Regions of Krajina and Slavonija, Baranja, and Western Srem, and in the Serb Republic of Bosnia and Herzegovina, which was later renamed *Republika Srpska*.

25. The Trial Chamber now turns to the question of whether the Accused participated in this joint criminal enterprise and shared its members' intent. The Indictment alleges that the Accused participated in the joint criminal enterprise by providing channels of communication between and among the core members of the joint criminal enterprise in Belgrade and locally, and by directing and organizing the formation of, and the financing, training, logistical support and other substantial assistance or support to various Serb forces, including special units of the Serbian State Security Service, which were involved in the commission of the crimes described above.

26. In relation to the Serb forces in the Serb Autonomous Region of Krajina, as explained in the written Judgment, the Trial Chamber finds that both Accused were involved in providing some form of assistance in the first half of 1991 to local security structures, including assistance in relation to the training of members of the Krajina police, Krajina Territorial Defence, and other volunteers at the Golubić camp and, subsequently, at the Knin fortress. The Prosecution, however, did not prove beyond reasonable doubt that the common criminal purpose existed before August 1991. Accordingly, the Trial Chamber is not satisfied that, through this conduct, the Accused contributed to the furtherance of the common criminal purpose.



27. The Trial Chamber has reached a similar conclusion with respect to any contribution the Accused may have made in relation to Serb authorities and forces in the Serb Autonomous Region of Slavonija, Baranja, and Western Srem.

28. In relation to the Serb forces in Bosnia and Herzegovina, the Trial Chamber considers that Stanišić was in frequent contact with Radovan Karadžić before and after the formation of the Bosnian-Serb Republic. However, there is not sufficient reliable evidence demonstrating beyond reasonable doubt the nature and type of any specific assistance that the Accused may have provided to Karadžić or to other alleged members of the joint criminal enterprise in relation to the establishment of separate Serb police and military structures in Bosnia and Herzegovina.

29. For the reasons articulated in the Judgement, the Trial Chamber further finds that the Prosecution has failed to prove beyond reasonable doubt that the Accused contributed to the furtherance of the common criminal purpose by directing and organizing the formation, financing, training, logistical support, and the provision of other substantial assistance or support to paramilitary units, including the Serbian Volunteer Guard, headed by Arkan, or to the Scorpions in connection with their commission of the charged crimes.

30. Turning to the Serbian State Security Service special units, the Prosecution alleges that Stanišić and Simatović had authority over these units, commonly known as “Frenki’s Men” or “Red Berets”, in short the “Unit”, and used the Unit to commit crimes that advanced the common criminal purpose. The Prosecution submits that the Accused established the Unit on 4 May 1991 and that, under both Accused’s control with Simatović as its Commander, the Unit existed continuously throughout the Indictment period and its members committed crimes.

31. The Trial Chamber is convinced that the Accused participated in the formation of and directed a special purpose unit under the authority of the Serbian State Security Service. This formation began in the summer of 1991 with the training of recruits at the Golubić training camp, near Knin. At least around August or September 1991, Simatović selected around 28 of the best trainees and trainers to form a specialized unit that would operate secretly under the Serbian State Security Service. These Unit members were taken to Belgrade and then to the Ležimir camp in Fruška Gora, Serbia, and the Pajzoš camp in Ilok, Croatia, where they continued to train together and to train others, through the first part



of 1992. However, the Prosecution has not proven beyond reasonable doubt that Unit members, or those trained by them, participated in crimes in Croatia that can be attributed to the Accused.

32. With respect to crimes committed in Bosnia and Herzegovina, the Trial Chamber finds that, in March 1992, Unit members trained a group of around 18 men from Bosanski Šamac. Another group, including former special police officers, namely, Srećko Radovanović, also known as Debeli, and Slobodan Miljković, also known as Lugar, were also trained in this period and were absorbed into the Unit.

33. The Trial Chamber finds that, on 11 April 1992, Unit members including Debeli, Lugar, and Dragan Đorđević, also known as Crni, flew from Pajzoš by army helicopter to a village near Bosanski Šamac. These Unit members and others were accompanied by the group of Bosanski Šamac locals. On arrival, the group was re-subordinated to the Yugoslav Peoples' Army and took orders from the area commander.

34. As discussed in the Judgement, these men also participated in the commission of the crimes charged in the Indictment in relation to Bosanski Šamac. The evidence is not sufficient, however, to establish that the Accused had authority over them or otherwise instructed and supported them during the commission of the crimes. Nevertheless, the Trial Chamber considers that the Accused provided practical assistance, which had a substantial effect on the commission of the crimes in Bosanski Šamac, by training and deploying Unit members and local Serbs from Bosanski Šamac to participate in the takeover of the municipality.

35. For the reasons explained in the Judgement, the Prosecution has not proven beyond reasonable doubt that, other than in relation to Bosanski Šamac, the Accused contributed to or provided practical assistance to the commission of the crimes charged in the Indictment through special purpose units of the Serbian State Security Service.

36. In relation the Accused's intent, the Trial Chamber finds that Stanišić had a comprehensive knowledge of the events on the ground in Croatia and Bosnia and Herzegovina during the Indictment period. The Trial Chamber finds that Simatović also had unimpeded access to information about events on the ground, one of his primary tasks during the Indictment period being the collection of intelligence.



Having considered the totality of the evidence before it, and in view of the scale and pattern of crimes that occurred during and in the aftermath of operations by Serb forces in the areas covered by the Indictment, the Trial Chamber finds proven beyond reasonable doubt that both Accused were aware of the campaign of murder, persecution, and forcible displacement targeting non-Serbs in Croatia and Bosnia and Herzegovina during the Indictment period.

37. When considered in the context of the Accused's interactions and their extensive and detailed knowledge of the events unfolding on the ground during the Indictment period, the only reasonable inference from the evidence is that the Accused were also aware of the shared intent of the members of the joint criminal enterprise to forcibly and permanently remove the majority of non-Serbs from large areas of Croatia and Bosnia and Herzegovina, through the commission of the crimes charged in Indictment.

38. The Trial Chamber may infer the existence of a particular fact, upon which the guilt of the accused depends, from circumstantial evidence. However, it must be the only reasonable conclusion that could be drawn from the evidence presented. If there is another conclusion, which is also reasonably open from the evidence, the conclusion of guilt beyond reasonable doubt cannot be drawn. Having considered the entire evidence before it, the Trial Chamber does not find that the only reasonable inference from the evidence is that Stanišić and Simatović shared the intent to further the common criminal purpose. Accordingly, for the reasons explained in the Judgement, the Prosecution has not proven beyond reasonable doubt that the Accused participated in a joint criminal enterprise.

39. Nonetheless, the Trial Chamber is satisfied that the Accused provided practical assistance, which had a substantial effect on the commission of the crimes of murder, forcible displacement, and persecution committed in Bosanski Šamac, and were aware that their acts assisted in their commission. Accordingly, the Trial Chamber finds them criminally responsible for aiding and abetting the commission of the crimes in Bosanski Šamac. The Trial Chamber does not find the Accused responsible for planning, ordering, or aiding and abetting any other charged crime.

40. For the foregoing reasons and for reasons explained in the Judgement, the Trial Chamber finds Jovica Stanišić and Franko Simatović responsible for aiding and abetting, under Article 7(1) of the ICTY Statute, the crimes of murder, deportation, forcible transfer, and persecution committed in Bosanski



Šamac. The Trial Chamber therefore finds Jovica Stanišić and Franko Simatović guilty of Counts 1 to 5 of the Indictment.

41. Having considered all relevant factors, the Trial Chamber sentences Jovica Stanišić to a single sentence of 12 years of imprisonment, and Franko Simatović to a single sentence of 12 years of imprisonment. In accordance with Rule 125(C), Mr. Stanišić and Mr. Simatović are entitled to credit for the period of time they have been detained in custody pending surrender to the ICTY, during the original trial and appeal proceedings, and during this retrial. Pursuant to Rule 127(C), Mr. Stanišić and Mr. Simatović shall remain in the custody of the Mechanism pending the finalization of arrangements for their transfer to the states where they shall serve their sentences.

42. The trial of *Prosecutor v. Jovica Stanišić and Franko Simatović* has come to a close. The written reasons for this Judgement will be filed as soon as possible. The Court is adjourned.
