

UNITED
NATIONS



International Tribunal for the
Prosecution of Persons Responsible for
Serious Violations of International
Humanitarian Law Committed in the
Territory of The Former Yugoslavia
since 1991

Case No. IT-95-10-T

Date: 14 December 1999

Original: English
French

IN THE TRIAL CHAMBER

Before: Judge Claude Jorda, Presiding
Judge Fouad Riad
Judge Almiro Rodrigues

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of: 14 December 1999

THE PROSECUTOR

v.

GORAN JELISIĆ

JUDGEMENT

The Office of the Prosecutor:
Mr. Geoffrey Nice
Mr. Vladimir Tochilovsky

Defence Counsel:
Mr. Veselin Londrović
Mr. Michael Greaves

“committed in armed conflict, whether international or internal in character, and directed against any civilian population”.

1. Underlying offences: murder and other inhumane acts

(a) murder⁵⁰

51. The Trial Chamber notes firstly that the English text of the Statute uses the term “murder”. The Trial Chamber observes that in line with the *Akayesu* case⁵¹ of the Tribunal for Rwanda it is appropriate to adopt this as the accepted term in international custom⁵². The Trial Chamber will therefore adopt the definition of murder set out above⁵³. The murders listed in support of the counts of crimes against humanity are the same as those enounced in support of the violations of the laws or customs of war and which, as previously seen, have been established.

(b) other inhumane acts

52. The sub-characterisation “other inhumane acts” specified under Article 5(i) of the Statute is an generic charge which encompasses a series of crimes. It is appropriate to recall the position of the Trial Chamber in the *^elebi}i* case which stated that the notion of cruel treatment set out in Article 3 of the Statute “ carries an equivalent meaning [...] as inhuman treatment does in relation to grave breaches of the Geneva Conventions”⁵⁴. Likewise, the Trial Chamber considers that the notions of cruel treatment within the meaning of Article 3 and of inhumane treatment set out in Article 5 of the Statute have the same legal meaning. The facts submitted in support of these counts are moreover the same as those invoked for cruel treatment under Article 3 which, as the Trial Chamber has already noted, have been established.

⁵⁰ The Trial Chamber notes however that the French version of the indictment specifies crimes under Article 5(a) as “*meurtre*” of the Statute (emphasis added) whilst the Statute uses the term “*assassinat*”.

⁵¹ *Akayesu* Judgement, para. 588.

⁵² “*Meurtre*” is also used in the Statute of the International Criminal Court (Article 7(1)(a)) and in Article 18 of the Draft Code of Crimes against the Peace and Security of Mankind, Official Document (hereinafter “Off. Doc.”) of the United Nations Assembly General (hereinafter “UN”), 51st session, A/51/10 (1996) Suppl. No. 10 (hereinafter “Draft Articles of the ILC”).

⁵³ See section III A) 1, above.

⁵⁴ *^elebi}i* Judgement, para. 552.