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Yugoslavia

Tribunal Pénal  
International pour  
l'ex-Yougoslavie



# JUDGEMENT SUMMARY

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CHAMBERS

The Hague, 7 December 2005

## SUMMARY OF SENTENCING JUDGEMENT FOR MIROSLAV BRALO

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

On 19 July 2005, Miroslav Bralo pleaded guilty to charges contained in eight counts of an amended Indictment that was filed by the Prosecution that same day. The guilty pleas were accompanied by a written, public Plea Agreement reached between Mr. Bralo and the Prosecution, containing a Factual Basis for the crimes contained in the amended Indictment. Being satisfied that the guilty pleas were voluntary, were unequivocal, and were made in an informed manner, Trial Chamber I entered convictions against Mr. Bralo for each of the eight counts.

Following Mr. Bralo's conviction, his case was transferred to this Trial Chamber, which held a Sentencing Hearing on 20 October 2005. At the Hearing, the Prosecution and the Defence made oral submissions to assist the Chamber in its determination of an appropriate sentence. In addition, the Chamber received written briefs from the Prosecution and the Defence, which included witness statements and other documents considered relevant by the parties. The Chamber also heard briefly from Mr. Bralo himself at the Hearing.

On the basis of these submissions, and its analysis of the Factual Basis appended to the Plea Agreement, the Trial Chamber has made its determination of sentence. Before pronouncing this sentence, I will outline the factors that were given consideration, in accordance with the Tribunal's Statute and Rules.

First, the Trial Chamber analysed the gravity of the crimes committed by Mr. Bralo. In the course of this analysis, the Trial Chamber also considered all of the circumstances surrounding the commission of the crimes that serve to aggravate their seriousness.

With regard to the first count of the Indictment—the charge of persecution as a crime against humanity—the Trial Chamber notes that this is an extremely serious offence, involving a deliberate intention to discriminate against a particular group of people in the context of a widespread or systematic attack upon a civilian population. The population in question is the Bosnian Muslim community in the villages of Ahmići and Nadioci, which was attacked in April 1993 by forces of the Croatian Defence Council (HVO). Mr. Bralo participated in this attack as a member of the “Jokers,” the anti-terrorist platoon of the 4<sup>th</sup> Military Police Battalion of the HVO. He has admitted criminal conduct amounting to persecution in the course of the attack, including the murder of Mirnesa Salkić, setting fire to numerous houses, setting and detonating explosives that destroyed the lower mosque in Ahmići, the killing of an unidentified adult male, and assistance in the killing of fourteen Bosnian Muslim civilians—all members of the Salkić and the Mehmet Čeremić families—nine of whom were children. The Trial Chamber finds that gravity of this crime is further aggravated by the large number of victims and the young age of some of those victims. The Trial Chamber has also taken into consideration the statements submitted by the Prosecution on the impact that Mr. Bralo's crime of persecution has had, and continues to have, on those directly affected by it. The statements of all of these people paint a picture of shattered lives and livelihoods, and of tremendous ongoing pain and trauma.

With regard to the second count of the Indictment, which relates to the murder of three captured Muslim men by Mr. Bralo in April or May 1993, charged as a violation of the laws or customs of war, the Trial Chamber again notes that this is an extremely serious crime. Moreover, its gravity is aggravated by the fact that there were multiple murder victims. The Chamber has also taken into consideration the impact of this crime on the families of the deceased, and has heard evidence of the

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immense fear and distress experienced by one of these family-members as a consequence of Mr. Bralo's actions.

The third, fourth, fifth and sixth counts of the Indictment all relate to Bralo's participation in the rape and imprisonment of a Bosnian Muslim woman—Witness A—by the “Jokers.” In May 1993, Mr. Bralo repeatedly raped this woman in front of other soldiers, threatened to kill her, beat another man in her presence, bit her, and ejaculated over her body. This brutal rape and torture, along with her imprisonment for approximately two months to be further violated at the whim of her captors, are crimes of a most depraved nature. The Trial Chamber finds that the gravity of Mr. Bralo's criminal conduct is aggravated by the manner in which he sought to debase, terrify and humiliate her, and takes note of the comments given by Witness A on the trauma that she has experienced, and continues to experience.

Finally, the seventh and eighth counts of the Indictment pertain to Mr. Bralo's involvement in the unlawful confinement and inhuman treatment of Bosnian Muslim civilians, who were used in April and May 1993 as labourers in the digging of trenches around the village of Kratine. These civilians were also used as “human shields” to protect the HVO forces from sniper-fire. Mr. Bralo and others prevented these civilians from escaping, and he also forced them to perform a Catholic religious ritual. The Trial Chamber again finds that these offences are of an extremely serious nature and that Mr. Bralo's conduct violated the basic tenets of international humanitarian law. The gravity of these crimes is also aggravated by the number of victims involved.

The Trial Chamber therefore concludes that you, Mr. Bralo, committed a range of appalling crimes, which must be condemned unequivocally. There can be no excuse or justification for your actions, nor can your reasons for abusing so many people be fathomed.

For the purposes of sentencing, the Trial Chamber weighs against the gravity of the crimes any mitigating circumstances that have been established. The Defence has put forward many factors for consideration in mitigation, some of which the Trial Chamber accepts. First and foremost among the mitigating circumstances stands the fact that Mr. Bralo pleaded guilty to his crimes, well in advance of trial. Such a guilty plea is a profound acknowledgement of personal responsibility and provides a much greater contribution to the reconciliation of people in the affected region than a finding of guilt after a trial in which the accused consistently denies his crimes. It also spares vulnerable victims and witnesses from having to testify at trial, and furthers the judicial process of the Tribunal. In addition, it is noteworthy that Mr. Bralo admitted to a crime of persecution that was not originally charged in the indictment against him, leading to the addition of count 1 of the amended Indictment.

Evidence of Mr. Bralo's remorse has also been submitted, including his written and oral statements and his attempts to assist in the location and exhumation of the bodies of those who were killed by him and others in the course of the attack on Ahmići, and in the identification of mined areas. The Trial Chamber accepts that his remorse is indeed sincere and heartfelt, and that he has undergone a personal transformation since the commission of his crimes. The Trial Chamber is confident that this transformative process will continue as he serves his sentence and that his punishment will have a further rehabilitative effect. The Trial Chamber also accepts that Mr. Bralo has made efforts to atone for his crimes by engaging in community work and assisting in the location of the remains of some of his victims.

Another factor considered in mitigation of sentence is Mr. Bralo's voluntary surrender to the Tribunal. In addition, his family and personal circumstances, his behaviour in detention, and his co-operation with the Prosecution have also been taken into account, although these are given only limited weight by the Trial Chamber.

The Trial Chamber has also given consideration to the general practice regarding prison sentences in the former Yugoslavia, and finds that Article 142 of the Criminal Code of the Socialist Federative Republic of Yugoslavia has some bearing in the present case, for it covers crimes committed during an armed conflict, including killings, torture, inhuman treatment, rape, and unlawful detention. This provision permitted a range of sentences from five years imprisonment to death for crimes of this nature. Subsequent to the abolition of the death penalty in Bosnia and Herzegovina, long-term imprisonment is foreseen instead.

Having carefully considered all of these factors, the Trial Chamber has arrived at its sentence.

Mr. Bralo, would you please stand?

In light of the crimes of which you have been convicted, which are of an extremely serious and brutal nature, and in the absence of any mitigating circumstances, the Trial Chamber would (and I emphasise *would*) sentence you to at least 25 years' imprisonment. However, there are factors that merit a material modification of this sentence, in particular your guilty plea prior to trial, and your remorse and steps towards rehabilitation. In light of these factors, the Trial Chamber sentences you to a term of 20 years' imprisonment. You are entitled to credit for the period of time that you have already served in detention, namely from 12 November 2004 up until, and including, today. You will remain in the custody of this Tribunal pending the finalisation of arrangements for your transfer to the State where your sentence will be served.

The hearing is adjourned.