

United Nations  
Nations UniesInternational Criminal Tribunal  
for the former Yugoslavia  
Tribunal Pénal International  
pour l'ex-Yougoslavie

“KRAJINA” (IT-99-36)

# RADOSLAV BRĐANIN



## RADOSLAV BRĐANIN



Leading political figure in the Autonomous Region of Krajina (ARK); held key positions at the municipal, regional and republic levels, including that of first vice-president of the ARK Assembly, president of the ARK Crisis Staff, and later acting deputy prime minister for production, minister for construction, traffic and utilities, and acting vice-president of the government of Republika Srpska

- Sentenced to **30 years' imprisonment**

### *Crimes convicted of:*

#### **Persecutions; torture; deportation; inhumane acts (forcible transfer) (crimes against humanity)**

- Brđanin aided and abetted the torture committed by Bosnian Serb forces in the context of the armed attacks of the Bosnian Serb forces on non-Serb towns, villages and areas after 9 May 1992 until the end of December 1992. This torture included intentional infliction of severe pain or suffering on Bosnian Muslim or Bosnian Croat non-combatants by inhumane treatment including sexual assaults, rape, brutal beatings, and other forms of severe maltreatment in police stations, military barracks and private homes or other locations, as well as during transfers of persons and deportations.
- In the Petar Kočić School on the outskirts of Bosanska Krupa at least 50 Bosnian Muslims were detained. In a small room, detainees were given electric shocks. Wires from a car battery were attached through clamps to the fingers and toes of detainees.

#### **Wanton destruction of cities, towns or villages or devastation not justified by military necessity; destruction or wilful damage done to institutions dedicated to religion (violations of the laws or customs of war)**

- Brđanin aided and abetted, in his role as president of the of ARK Crisis Staff, Bosnian Serb forces as they shelled towns and villages predominantly inhabited by Bosnian Muslims and Bosnian Croats, causing extensive damage to houses and business premises. Bosnian Serb forces also entered the towns and villages, looting and setting on fire apartments, houses and business premises belonging to Bosnian Muslims and Bosnian Croats. The purpose of such attacks was to create terror, destroy these properties, cities, towns and villages, and prompt non-Serbs to abandon their houses, villages or towns and leave permanently.

#### **Wilful killing; torture (grave breaches of the 1949 Geneva Conventions)**

Brđanin aided and abetted members of the Bosnian Serb forces in the commission of the killing of at least three Bosnian Muslim civilians in Hambarine on 23 May 1992; the killing of about 140 Bosnian Muslim and Bosnian Croat civilians in Kozarac and the surrounding areas around 24 May 1992; the killing of at least eight Bosnian Muslims in Mehmed Sahurić's house in Kamičani between 24 and 26 May 1992; the killing of eight Bosnian Muslim men in the village of Jaskići on 14 June 1992; and the killing of at least 300 Bosnian Muslim and Bosnian Croat men in the village of Biščani on 20 July 1992.

<b>Born</b>	9 February 1948 in Popovac, municipality of Čelinac, Bosnia and Herzegovina
<b>Indictment</b>	Initial indictment, 14 March 1999; amended indictment 16 December 1999; further amended indictment 9 March 2001; third amended indictment 16 July 2001; corrected fourth amended indictment 10 December 2001; fifth amended indictment 7 October 2002; sixth amended indictment, 9 December 2003
<b>Arrested</b>	6 July 1999, by SFOR
<b>Transferred to ICTY</b>	6 July 1999
<b>Initial appearance</b>	12 July 1999, pleaded not guilty to all the charges; 11 January 2000, pleaded not guilty to all the charges
<b>Trial Chamber Judgement</b>	1 September 2004, sentenced to 32 years' imprisonment
<b>Appeals Chamber Judgement</b>	3 April 2007, sentence reduced to 30 years' imprisonment
<b>Serving sentence</b>	4 March 2008, transferred to Denmark to serve the remainder of his sentence; credit was given for time spent in detention since 6 July 1999

## STATISTICS

<b>Trial days</b>	<b>284</b>
<b>Witnesses called by Prosecution</b>	<b>202</b>
<b>Witnesses called by Defence</b>	<b>19</b>
<b>Witnesses called by Chambers</b>	<b>1</b>
<b>Prosecution Exhibits</b>	<b>2736</b>
<b>Defence Exhibits</b>	<b>350</b>

### TRIAL

<b>Commenced</b>	23 January 2002
<b>Closing arguments</b>	19-22 April 2004
<b>Trial Chamber II</b>	Judge Carmel A. Agius (presiding), Judge Ivana Janu, Judge Chikako Taya
<b>Counsel for the Prosecution</b>	Joanna Korner, Anna Richterova, Ann Sutherland, Julian Nicholls
<b>Counsel for the Defence</b>	John Ackerman, David Cunningham
<b>Judgement</b>	1 September 2004

### APPEALS

<b>Appeals Chamber</b>	Theodor Meron (Presiding), Judge Mohamed Shahabuddeen Judge Mehmet Güney , Judge Christine Van Den Wyngaert, Judge Andrésia Vaz
<b>Counsel for the Prosecution</b>	Peter Kremer, Helen Brady
<b>Counsel for the Defence</b>	John Ackerman
<b>Judgement</b>	3 April 2007

### RELATED CASES

TALIĆ (IT-99-36/1) "KRAJINA"
STANIŠIĆ & ŽUPLJANIN (IT-08-91) "KRAJINA"

## INDICTMENT AND CHARGES

An initial indictment against Brđanin and Momir Talić charged both accused with individual and superior responsibility in respect of the alleged persecution of Bosnian Muslims and Bosnian Croats in the Autonomous Region of Krajina (ARK) in 1992. An amended indictment, confirmed on 16 December 1999, expanded the number of counts. Both accused challenged the form of the indictment resulting in three further amended indictments being filed.

Talić was provisionally released because of health reasons on 20 September 2002 and his case was separated from the Brđanin case on the same date. He died on 28 May 2003 in Belgrade and proceedings against him were terminated on 12 June 2003.

The fifth amended indictment, severing Talić and streamlining the indictment against Brđanin, was confirmed on 7 October 2002. The sixth amended indictment was filed on 9 December 2003 following the Trial Chamber Decision on the Motion for Acquittal of 28 November 2003 in which some of the charges were conceded by the prosecution to have not been proven beyond reasonable doubt.

Brđanin was charged with crimes committed in 13 municipalities in the ARK - Banja Luka, Bosanska Krupa, Bosanski Novi, Bosanski Petrovac, Čelinac, Donji Vakuf, Ključ, Kotor Varoš, Prijedor, Prnjavor, Sanski Most, Šipovo and Teslić - between 1 April 1992 and 31 December 1992.

Brđanin was charged on the basis of individual criminal responsibility (Article 7(1) of the Statute) and superior criminal responsibility (Article 7(3) of the Statute) with:

- **Genocide; complicity in genocide** (genocide, Article 4 )
- **Persecutions; extermination; torture; deportation; inhumane acts (forcible transfer)** (crimes against humanity, Article 5)
- **Wanton destruction of cities, towns or villages or devastation not justified by military necessity; destruction or wilful damage done to institutions dedicated to religion** (violations of the laws or customs of war, Article 3)
- **Wilful killing; torture; unlawful and wanton extensive destruction and appropriation of property not justified by military necessity** (grave breaches of the 1949 Geneva Conventions, Article 2)

## TRIAL

The Brđanin and Talić trial commenced on 23 January 2002 with the Prosecution case. The Brđanin Defence case started on 21 October 2003. The closing arguments were delivered between 19 and 22 April 2004.

### RULE 98*bis* DECISION

After the conclusion of the presentation of Prosecution evidence, the Trial Chamber can rule on whether there is a case to answer. If the Chamber believes that the Prosecution has not presented sufficient evidence to prove certain charges, it can dismiss those charges and enter a judgement of acquittal before the beginning of the presentation of Defence evidence.

On 28 November 2003, the Trial Chamber issued a decision pursuant to Rule 98*bis* acquitting the accused of count 1 (genocide) in the context of the third category of joint criminal enterprise. The Chamber also struck out factual allegations set out in the indictment with regard to the municipalities of Bihać-Ripač, Bosanska Dubica and Bosanska Gradiška.

The Prosecution appealed the judgement of acquittal. On 19 March 2004, the Appeals Chamber reversed the Trial Chamber's decision and reinstated the charge of genocide under count 1 with respect to the third category of joint criminal enterprise.

## TRIAL CHAMBER JUDGEMENT

The break up of the Socialist Federal Republic of Yugoslavia ("SFRY"), and in particular the secession of Slovenia and Croatia, had a significant impact on the socio-political situation in BiH. By the second half of 1991, it appeared increasingly unlikely that Bosnia and Herzegovina (BiH) would remain within the SFRY. The Trial Chamber found that, during this period, the Bosnian Serb leadership devised a plan to link Serb-populated areas in BiH together, to gain control over these areas, and to create a separate Bosnian Serb state, from which most non-Serbs would be permanently removed ("strategic plan"). The Bosnian Serb leadership knew that the strategic plan could only be implemented by the use of force and fear.

On 9 January 1992, the newly created Assembly of the Serbian People in Bosnia and Herzegovina (SerBiH Assembly) proclaimed the Serbian Republic of Bosnia and Herzegovina (SerBiH) (which on 12 August 1992 was renamed Republika Srpska). It was composed of so-called Serbian autonomous regions and districts, which included the Autonomous Region of Krajina (ARK). During the 16th session of the SerBiH Assembly, which took place on 12 May 1992, at a time when the armed conflict had already begun, Radovan Karadžić articulated the six strategic goals of the Serbian People of Bosnia and Herzegovina. The first and most fateful of these goals was the "separation from the other two national communities - separation of states". In essence, these goals constituted a plan to seize and control territory, establish a Bosnian Serb state, defend defined borders and separate the ethnic groups within BiH by forcibly and permanently removing most of the non-Serb population from the territory of the proclaimed Bosnian Serb state. Ratko Mladić, the commander of the newly established Army of the Serbian Republic of Bosnia and Herzegovina (VRS) accepted that the force he headed would be instrumental in implementing these political strategic goals and, indeed, made them operational imperatives.

On 5 May 1992, the ARK Executive Council issued a decision on the formation of the ARK Crisis Staff, appointing the accused as its president. The Trial Chamber was satisfied that, as with municipal crisis staffs in their respective areas of jurisdiction, the ARK Crisis Staff was established primarily to ensure co-operation between the political authorities, the army and the police at the regional level, with a view to co-ordinating the implementation of the strategic plan by the different authorities. The ARK Crisis Staff was the highest civilian authority in the ARK, exercised *de facto* authority over the municipalities and the police, and had great influence over the army and Serb paramilitary groups. The Trial Chamber was satisfied beyond reasonable doubt that Brđanin not only formally represented the ARK Crisis Staff as its president, but was in fact at the very heart of the ARK Crisis Staff as its key figure. He was the driving force behind the major decisions issued by the ARK Crisis Staff.

Amongst the political figures in the Bosnian Krajina, it was Brđanin who was identified by the Bosnian Serb leadership as best representing the interests of the SerBiH. He was chosen to play a leading role in co-ordinating the implementation of the strategic plan in the ARK. For this purpose, the top leadership of the SerBiH granted Brđanin a high degree of authority and autonomy in areas of fundamental political importance, which was indicative of the trust he enjoyed at the highest political level. In a telephone conversation on 31 October 1991, Karadžić assured Brđanin that he had all the power in the Bosnian Krajina and indicated that he should take more decisions without consulting the party leadership.

The Trial Chamber found that Brđanin made one of his most substantial contributions to the implementation of the strategic plan by way of a propaganda campaign against Bosnian Muslims and Bosnian Croats which he conducted at the different stages of his political career. His positions of authority gave him access to the media, which he used to make public statements creating fear and hatred between Bosnian Serbs on the one hand, and Bosnian Muslims and Bosnian Croats on the other.

The Trial Chamber was satisfied beyond reasonable doubt that, although Brđanin's public statements may have been motivated in part by his drive towards self-advancement, they were intentional and had a disastrous impact on people of all ethnicities. They incited Bosnian Serbs to commit crimes and contributed to creating a climate where people were prepared to tolerate the commission of crimes, and where well-meaning Bosnian Serbs felt dissuaded from extending any kind of assistance to non-Serbs. The non-Serb population of the Bosnian Krajina understood Brđanin's public statements as direct threats to leave the areas under Bosnian Serb occupation, and many of them did so in fear for their lives. A number of witnesses gave evidence that Brđanin's public statements constituted the main reason why they left the area.

The Trial Chamber was of the view that 'joint criminal enterprise' was not an appropriate mode of liability to describe the individual criminal responsibility of Brđanin, given the extraordinarily broad nature of the case, where the Prosecution sought to include within a joint criminal enterprise a person as remote as Brđanin from the commission of the crimes charged in the indictment. The Trial Chamber therefore dismissed joint criminal enterprise as a mode of liability in this case.

Planning was also dismissed as a mode of liability under Article 7(1) of the Statute as the Trial Chamber found that there was insufficient evidence to conclude that Brđanin was involved in the immediate preparation of the concrete crimes.

Regarding criminal responsibility under Article 7(3), the Trial Chamber found that although the ARK Crisis Staff had *de facto* authority over the municipal authorities and the police, and influence over the army and paramilitary organisations, Brđanin, as President of the ARK Crisis Staff or in any of his other positions between April and December 1992, did not have effective control over members of the municipal authorities, the police, the army or paramilitary organisations that would have allowed him to prevent or punish the commission of crimes by those individuals.

Thus, the Trial Chamber dismissed superior criminal responsibility under Article 7(3) of the Statute as a possible mode of liability.

The remaining modes of liability under Article 7(1) of the Statute were examined successively for each of the crimes charged in the indictment, with the Trial Chamber reaching the following conclusions:

- Regarding wilful killing, the Chamber was satisfied that the ARK Crisis Staff decisions on disarmament between 9 and 18 May 1992 constituted practical assistance to the attacks of the Bosnian Serb forces on non-Serb towns, villages and areas, and that these decisions are attributable to the accused. The Chamber was further satisfied that Brđanin was aware that, during these armed attacks, the Bosnian Serb forces would commit a number of crimes, including the crime of wilful killing of a number of non-Serbs, and that the members of the Bosnian Serb forces carrying out the killings in question had the required intent to kill. Through the ARK Crisis Staff decisions on disarmament, Brđanin had a substantial effect on the commission of these killings. The ARK Crisis Staff demanded disarmament through public announcements, orders and decisions. Calls for disarmament usually involved the issuance of an ultimatum to hand in illegally owned weapons, but although these calls were directed to all "paramilitary units and individuals who illegally possess weapons", they were selectively enforced against non-Serbs. Therefore, the Chamber was satisfied that the accused aided and abetted in the killing committed by the Bosnian Serb forces in the context of the armed attacks of the Bosnian Serb forces on non-Serb towns, villages and areas after 9 May 1992. In sum, the Chamber was satisfied beyond reasonable doubt that at least 1,669 Bosnian Muslims or Bosnian Croats were killed by Bosnian Serb forces in these events, all of whom were non-combatants. At the same time, the Trial Chamber was not satisfied that it had been sufficiently proved that the same ARK Crisis Staff decisions, or any of the acts of Brđanin, rendered him criminally responsible for other killings mentioned in the indictment.

- The Chamber was not satisfied that the evidence established beyond reasonable doubt that Brđanin was aware that by issuing ARK Crisis Staff decisions on disarmament he would be assisting in the killings on a massive scale such as to amount to the crime of extermination. Nor had it been established beyond reasonable doubt that Brđanin knew that the members of the Bosnian Serb forces intended to commit killings on a massive scale such as to amount to the crime of extermination. Furthermore, on the basis of the evidence presented, the Chamber did not find beyond reasonable doubt that genocide was committed in the relevant ARK municipalities between April and December 1992.

- Applying the same reasoning for the acts of torture charged in the indictment as for the acts of wilful killing, the Chamber found that Brđanin aided and abetted the torture committed by Bosnian Serb forces in the context of the armed attacks of the Bosnian Serb forces on non-Serb towns, villages and areas after 9 May 1992, the date when the ARK Crisis Staff issued its first decision on disarmament. In addition, the Chamber was satisfied that Brđanin aided and abetted the commission of the underlying acts of torture in camps and other detention facilities throughout the ARK by Bosnian Serb forces. It was established beyond reasonable doubt that, with the exception of the Jasenica and the Petar Kočić elementary schools, all the camps and detention facilities mentioned in the evidence came into being once the ARK Crisis Staff had been established.

- With regard to the crimes of deportation and forcible transfer, the Chamber was satisfied that the ARK Crisis Staff decisions of 28 and 29 May 1992, advocating the resettlement of the non-Serb population, prompted the municipal authorities and the police who implemented them to commit the crimes of deportation and forcible transfer. The Chamber was also of the view that the only reasonable conclusion that could be drawn when the terms of these decisions were considered in the light of Brđanin's unambiguous statements, made repeatedly from early April 1992 onwards, calling upon the non-Serb population to leave the Bosnian Krajina and stating that only a small percentage of non-Serbs would be allowed to stay, was that the decisions could only have been meant as a direct incitement to deport or forcibly transfer non-Serbs from the territory of the ARK. The Chamber was satisfied that, with the exception of the failed attempt at displacing the Bosnian Muslim population of Gornji Agići, Donji Agići and Crna Rijeka in Bosanski Novi on 24 May 1992, the deportations to Karlovac and forcible transfers to Travnik originating in the ARK, all took place after the adoption of the ARK Crisis Staff decisions previously mentioned. Furthermore, Brđanin's espousal of the strategic plan, of which the crimes of deportation and forcible transfer formed an integral part, and the implementation of which he coordinated in his position as president of the ARK Crisis Staff, demonstrated that he intended to induce the commission of the crimes of deportation and forcible transfer. On that basis, the Chamber found that the accused instigated the forcible transfers and deportations. In addition, the Chamber was satisfied that Brđanin aided and abetted the execution of those crimes through his inflammatory and discriminatory public statements, the decisions on disarmament previously mentioned, and finally through the ARK Crisis Staff decision of 12 June 1992 setting up the Agency for the Movement of People and Exchange in Banja Luka.

- The Chamber reiterated the reasoning used for the crime of wilful killing for the crime of destruction, namely that the ARK Crisis Staff decisions on disarmament constituted practical assistance to the attacks of the Bosnian Serb forces on non-Serb towns, villages and areas, and that Brđanin was aware that crimes, including the crime of wanton destruction of cities, towns and villages or devastation not justified by military necessity, would be committed. The Chamber was thus satisfied that Brđanin aided and abetted in the wanton destruction of cities, towns and villages or devastation not justified by military necessity committed by the Bosnian Serb forces on non-Serb towns, villages and areas in Bosanski Novi, Bosanski Petrovac, Čelinac, Donji Vakuf, Ključ, Kotor Varoš, Prijedor, Sanski Most, Šipovo and Teslić after 9 May 1992. With the same reasoning and having examined the evidence carefully, the Chamber was satisfied that Brđanin aided and abetted the destruction or wilful damage done to institutions dedicated to religion committed by the Bosnian Serb forces in the context of the armed attacks of the Bosnian Serb forces on non-Serb towns, villages and areas in Bosanski Novi, Bosanski Petrovac, Čelinac, Donji Vakuf, Ključ, Kotor Varoš, Prijedor, Prnjavor, Sanski Most, Šipovo and Teslić after 9 May 1992.

- Finally, the Chamber defined the crime of persecution as an act or an omission which discriminates in fact and denies or infringes upon a fundamental right laid down in international customary or treaty law and is carried out deliberately with the intent to discriminate on one of the listed grounds, specifically race (the concept of "race" including ethnicity), religion or politics. The Chamber found that the campaign of persecution against Bosnian Muslims and Bosnian Croats included killings, torture, physical violence, rapes and sexual assaults, constant humiliation and degradation, destruction and appropriation of non-Serb property and institutions dedicated to religion, deportation and forcible transfer, and the denial of fundamental rights, namely the denial of the fundamental rights to employment, freedom of movement, right to proper medical care and proper judicial process. The Chamber had, as described above, already established the responsibility of the accused for aiding and abetting certain crimes of wilful killing, torture, destruction and devastation of cities, towns, villages and institutions dedicated to religion, as well as deportation and forcible transfer. Brđanin was also found responsible for instigating certain incidents of deportation and forcible transfer. The Chamber was further satisfied that Brđanin aided and abetted persecution with respect to physical violence, rapes, sexual assaults, constant humiliation and degradation, as well as appropriation of property. Furthermore, the Chamber was satisfied that Brđanin ordered the denial of the fundamental right to employment through a decision of the ARK Crisis Staff of 22 June 1992, providing for the dismissal of virtually all non-Serbs in the ARK, an act which amounted to persecution. Moreover, he aided and abetted persecution with respect to denying the right to freedom of movement and the right to proper judicial process. However, the Chamber found that the evidence was insufficient to establish Brđanin's responsibility for the denial of the right to proper medical care. In relation to all these underlying acts, the Chamber was satisfied that not only the physical perpetrators but also Brđanin possessed the intent to discriminate against the Bosnian Muslim and Bosnian Croat victims.

On 1 September 2004, the Trial Chamber rendered its judgement: Brđanin, on the basis of individual criminal responsibility (Article 7(1) of the Statute), was found guilty of:

- Persecutions; torture; deportation; inhumane acts (forcible transfer), (crimes against humanity, Article 5)
- Wanton destruction of cities, towns or villages or devastation not justified by military necessity; destruction or wilful damage done to institutions dedicated to religion, (violations of the laws or customs of war, Article 3)
- Wilful killing; torture (grave breaches of the 1949 Geneva Conventions, Article 2)

He was acquitted on all the other counts.

Sentence: 32 years' imprisonment

## APPEALS CHAMBER JUDGEMENT

Brđanin filed his notice of appeal on 1 October 2004. The Prosecution filed its notice on 30 September 2004. On 28 January 2005, the Prosecution filed its appeal brief. On 25 July 2005, Brđanin filed his appeal brief. An appeals hearing took place on 7 and 8 December 2006.

The first matter in Brđanin's appeal related to his conviction for torture in the camps and detention facilities. Brđanin claimed that the Trial Chamber erred in finding that he aided and abetted this torture. The Appeals Chamber agreed that there was insufficient evidence for a reasonable trier of fact to find that Brđanin's conduct had a substantial effect on the commission of torture. The Trial Chamber inferred that Brđanin's failure to intervene to prevent torture in the camps and detention facilities, together with his public attitude, had the effect of encouraging personnel in camps and detention facilities to commit torture. The Appeals Chamber, however, reversed Brđanin's convictions for torture in camps and detention facilities given a lack of evidence that the personnel were even aware of Brđanin's public attitude towards the camps and facilities. The Appeals Chamber overturned Brđanin's conviction for aiding and abetting members of the Bosnian Serb forces in the commission of the following crimes: the torture of a number of Bosnian Muslim civilians in the Kozila camp in early July 1992; the torture of a number of Bosnian Muslim women in the Keraterm camp in July 1992; the torture of a number of Bosnian Muslim women in the Trnopolje camp between May and October 1992; the torture of a number of Bosnian Muslim women in the Omarska camp in June 1992; the torture of a number of Bosnian Muslim men in the SUP building in Teslić; and the torture of a number of Bosnian Muslim and Bosnian Croat civilians in the community building in Pribinić in June 1992.

The Appeals Chamber also reversed the conviction entered by the Trial Chamber for wanton destruction of cities, towns or villages, or devastation not justified by military necessity to the extent that this conviction related to the municipality of Bosanska Krupa. For the other municipalities, however, the Appeals Chamber concluded that the Trial Chamber did not err in finding Brđanin responsible beyond reasonable doubt for aiding and abetting the crimes of (1) wanton destruction of cities, towns, and villages or devastation not justified by military necessity; and (2) destruction or wilful damage done to religious institutions.

Regarding the appeal by the Prosecution, the Appeals Chamber granted grounds 1 and 2 of their appeal. As to Ground 1, the Appeals Chamber found that a member of a JCE could be held responsible for crimes committed by non-members of the enterprise, provided that the crime could be imputed to one member of the joint criminal enterprise and that this member, when using the non-member principal perpetrator, acted in accordance with the common plan.

As to Ground 2, the Appeals Chamber found that the Trial Chamber erred in holding that the Prosecution must prove that the accused had a specific agreement with the principal perpetrator to commit a particular crime. Nonetheless, the Chamber found that the Prosecution must prove other elements, including the fact that the accused shared the common criminal purpose and that the crime in question formed part of that common criminal purpose. Also with regard to Ground 2, the Appeals Chamber found

that the Trial Chamber erred in finding that the doctrine of JCE applies only to relatively small-scale cases. Prior cases provide clear authority for JCEs on scales much larger than one municipality.

However, the Prosecution also submitted that it would be unfair to enter convictions for JCE against Brđanin based on the Prosecution prevailing with regard to Ground 1 of its appeal. This is because, at trial, the parties shared an understanding that the principal perpetrators must belong to the JCE for Brđanin to be convicted via JCE. In light of this understanding *inter partes*, it would be unfair to enter new convictions against Brđanin on this basis, as he could reasonably have thought at trial that he could defeat the Prosecution's case by showing that the principal perpetrators were not JCE members. Thus, he might have foregone other lines of defence on this assumption.

Therefore, the Appeals Chamber found that new convictions could be entered against Brđanin in the specific and peculiar circumstances of this case only if the principal perpetrators were found to be JCE members. The Appeals Chamber concluded that the Trial Chamber did not find that all the principal perpetrators were JCE members. Nor did the Trial Chamber specify *which* principal perpetrators were JCE members. Accordingly, in light of the understanding *inter partes*, the Appeals Chamber entered no new convictions under the JCE doctrine.

Judge Shahabuddeen took a different view from the majority in regard to certain aspects of the Prosecution's appeal on JCE, and filed a partially dissenting opinion to that effect. Judge Meron also filed a brief separate opinion outlining his own views with relation to a particular aspect of the Prosecution's appeal. Judge Van Den Wyngaert appended a declaration on this issue.

Finally, since the Appeals Chamber reversed certain convictions, it reduced the sentence given to Brđanin. However, in light of the relative gravity of the crimes for which Brđanin's convictions had been overturned and that of the crimes for which Brđanin's convictions had been upheld, as well as the relevant aggravating and mitigating circumstances, this reduction was quite limited.

On 3 April 2007, the Appeals Chamber rendered its judgement and reduced Brđanin's sentence to 30 years' imprisonment.

On 4 March 2008, Brđanin was transferred to Denmark to serve his sentence.