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TRIAL CHAMBER

CHAMBRE DE 1ÈRE
INSTANCE

The Hague, 30 March 2004
RS/P.I.S./834e

JUDGEMENT IN THE CASE
THE PROSECUTOR V. MIROSLAV DERONJIC

MIROSLAV DERONJIC SENTENCED TO 10 YEARS' IMPRISONMENT

Please find below the summary of the Sentencing Judgement delivered by Trial Chamber II, composed of Judges Wolfgang Schomburg (Presiding), Florence Mumba and Carmel Agius, as read out by the Presiding Judge.

SUMMARY OF JUDGEMENT

1. The following is the summary of the Trial Chamber's Judgement, which will be made available in English, French and B/C/S at the end of this session. However, the only authoritative account of the Trial Chamber's findings and of its reasons for those findings is to be found in the written Judgement.
2. The Accused, Mr. Miroslav Deronjić, was born on 6 June 1954 in the Municipality of Bratunac.
3. Miroslav Deronjić was indicted on 3 July 2002. The Trial Chamber wishes to emphasize that it is seized only of Miroslav Deronjić's criminal responsibility for Persecutions committed on the 9th of May 1992 in the village of Glogova.
4. It is for this Trial Chamber to balance the extreme gravity of the crimes against his contribution to coming closer to the truth by, *inter alia*, accepting his individual responsibility for the crimes, committed this single day.

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5. On 6 July 2002, Miroslav Deronjić was arrested in Bratunac, and transferred to the UNDU on 8 July 2002. At his initial appearance on 10 July 2002, Miroslav Deronjić pleaded not guilty to all the six counts of the initial indictment that has been amended twice. The latest version of September 2003, reduced to only one charge of Persecutions pursuant to Article 5 (h) of the Statute, forms the basis of these proceedings.
6. The Accused pleaded guilty to this Indictment. It forms part of a plea agreement submitted jointly by the Parties together with a separate Factual Basis.
7. The Trial Chamber ordered, *proprio motu*, an expert report on the Accused's social background, which was submitted by Mrs. Ana Najman (Belgrade). The Trial Chamber admitted further into evidence an expert report on sentencing law compiled by Prof. Dr. Ulrich Sieber, Director of Max Planck Institute for foreign and international criminal law in Freiburg/Germany, in the *Dragan Nikolić* case.
8. A Sentencing Hearing was held on 27-28 January 2004 and 5 March 2004. The Accused testified as a witness on 27 January 2004.

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9. The Trial Chamber will first turn to the professional career of Miroslav Deronjić and then to the facts of the case.

10. From September 1990 to the end of April 1992, Miroslav Deronjić was President of the Bratunac Municipal Board of the Serbian Democratic Party (SDS) of Bosnia and Herzegovina. He was President of three crisis staffs in the Municipality of Bratunac from October 1991 through June 1992. The Bratunac Crisis Staff was established by the end of April 1992, when it took over authority from the Executive Committee of the Municipality and the organs of the Municipal Assembly. It was transformed to a War Commission, established by the Presidency of the Serb Republic of Bosnia and Herzegovina in June 1992, Miroslav Deronjić being a member of it. In summer 1993 he became a member of the Main Board of the SDS. On 11 July 1995 Miroslav Deronjić was appointed a Civilian Commissioner for Srebrenica municipality. In 1996, he became vice-president of the SDS under President Karadžić until Miroslav Deronjić's resignation in 1997.

11. The Municipality of Bratunac, located in the eastern part of the Republic of Bosnia and Herzegovina, was of major strategic significance to the Bosnian Serbs linking this area to a contiguous Serbian state.

12. According to the 1991 census, the Municipality of Bratunac consisted of 33,619 inhabitants: nearly two-thirds were Bosnian Muslims and nearly one-third were Bosnian Serbs.

13. The village of Glogova, located in this Municipality, was predominantly inhabited by Bosnian Muslims prior to 9 May 1992. Its population in 1991 consisted of 1,913 residents, of whom 1,901 were Muslims.

14. From April to December 1991 a number of preparatory meetings were held by the Bosnian Serb leadership, creating the idea of a "Greater Serbia", cleansed from all other ethnicities. The development culminated in a meeting held on 19 December 1991, presided over by Radovan Karadžić. He declared that a state would be formed, a Serb Republic of Bosnia and Herzegovina. The presidents of the municipal boards, including Miroslav Deronjić, were given "strictly confidential" written instructions. They were directed to municipalities where Bosnian Serbs constituted either a majority of the population (Variant A) or a minority of the population (Variant B). The Municipality of Bratunac was a Variant B municipality.

15. In spring of 1992, an armed conflict between Serbs and non-Serbs broke out in the Republic of Bosnia and Herzegovina. Military forces carried out widespread and systematic attacks against the Bosnian Muslim population of this region.

16. In April/May 1992 the Accused was aware that for the aforementioned common purpose the use of force had also been planned and had already been implemented in neighbouring municipalities. The Accused acted accordingly in Glogova.

17. The "use of force" included, *inter alia*, forcible removal of the Muslim population from their homes and the use of arms against Bosnian Muslims, many of whom were killed during these events.

18. The Municipality of Bratunac was taken over by Bosnian Serb forces on 17 April 1992. Between the end of April and early May 1992, Miroslav Deronjić, exercising *de facto* and *de jure* control as President of the Bratunac Crisis Staff over the TO, and *de facto* control over the Bratunac police forces, authorised the TO and the Bratunac police forces to disarm the Bosnian Muslim population in the village of Glogova. From that point, Glogova was not only a disarmed but also an undefended village.

19. On or about 27 April 1992, Milutin Milošević, Chief of the Serb SUP, speaking on behalf of Miroslav Deronjić, told the villagers that Glogova would not be attacked because they had turned over their weapons.

20. At a Crisis Staff meeting of 8 May 1992, Miroslav Deronjić announced that the operation against Glogova would be carried out the following day. He explained the strategic significance of taking Glogova. The plan to create Serbian ethnic territory could not be implemented in the Municipality of Bratunac without first taking Glogova and displacing its entire Muslim population to non-Serb territory. He emphasised that if there was no resistance from the Muslim residents of Glogova, they should all be brought to the centre of the village and transported by bus and truck to Kladanj, outside the Municipality of Bratunac. Miroslav Deronjić also stated that if everything went well in Glogova, the operation to permanently remove Bosnian Muslims would continue the following days in the town of Bratunac and, *inter alia*, the communities of Voljavica and Suha.

21. At this session of the Crisis Staff, Miroslav Deronjić, in his capacity as its President, gave the order to attack the undefended and disarmed village of Glogova, burn it down, and forcibly displace its Bosnian Muslim residents, taking into account and accepting the substantial likelihood that some of them would be killed during the attack.

22. The names of 64 unarmed Bosnian Muslim residents from Glogova, executed by members of the attacking forces on 9 May 1992, are known to the Trial Chamber. These names are listed in Section XII of the Judgement.

23. The attack on Glogova was a joint operation, co-ordinated and monitored by Miroslav Deronjić. The attacking forces were members of the JNA, the Bratunac TO, the Bratunac police, and other paramilitary forces.

24. The attacking forces removed the Bosnian Muslim civilians from their homes by force and displaced them from the village of Glogova. Specifically, women and children who *survived* the attack were placed on buses and expelled to Muslim held territory outside the Municipality of Bratunac. Neither the Indictment nor the Factual Basis specifies in detail what happened to the victims during the attack and on and after their transport.

25. The Accused pleaded guilty to the fact that during the attack on Glogova, he was present while the attacking forces systematically set fire to the Bosnian Muslim houses, buildings, fields and haystacks, causing the wanton and extensive destruction of Bosnian Muslim dwellings, businesses and personal property in the village of Glogova. He accepted the foreseeable consequence that the mosque was also destroyed.

26. As a result of the attack ordered by Miroslav Deronjić, a substantial part of Glogova was razed to the ground and no Muslims were left in the village.

27. The Trial Chamber wishes to emphasise that it is not seized of the continuation of the operation throughout the entire Municipality of Bratunac, implementing the same plan. On 10 May 1992 the operation continued in the town of Bratunac and, *inter alia*, the communities of Voljavica and Suha. Between 8 and 12 May 1992, according to the Accused, in total, 100 to 200 people were killed in the Municipality of Bratunac.

28. On 10 or 11 May 1992, Miroslav Deronjić was invited to Pale to report about the events in Glogova and/or in the Municipality of Bratunac. Present at the meeting in Pale were Radovan Karadžić, Velibor Ostojić, and Ratko Mladić, as well as some 50 other participants, including the presidents of the crisis staffs from other municipalities. On the wall behind them were maps that identified the ethnic composition of areas in Bosnia and Herzegovina in various colours. Serb areas were designated in blue. After having given his report and having shown his municipality on the map, Miroslav Deronjić was applauded and Velibor Ostojić commented: “*now we can colour Bratunac [sic!] blue*”.

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29. The Trial Chamber will now discuss the gravity of the crime and aggravating circumstances.

30. The Trial Chamber agrees with the Prosecution that “the crime for which Miroslav Deronjić is to be sentenced is precisely the type of crime about which the Security Council expressed its grave

alarm in Resolution 808. The events in Glogova on the 9th of May 1992 are a classical case of ethnic cleansing, and precisely the reason why the Security Council established this Tribunal. The attack on Glogova was not an isolated or random event, but a critical element in a larger scheme to divide Bosnia and Herzegovina and create Serb-ethnic territories.” The Trial Chamber also concurs with the Prosecution that the crime of Persecutions, to which the Accused has pleaded guilty, is “inherently very serious”.

31. The Trial Chamber takes the following factors into account when evaluating the gravity of the crime and aggravating circumstances for determining the sentence:

- the large number of victims,
- Miroslav Deronjić’s abuse of his superior position as a political leader in the Municipality of Bratunac,
- his authorisation of the disarmament of the citizens of Glogova,
- his role in ordering, and his actions during the attack on Glogova, based, as regards the ethnic cleansing, on a direct intent,
- the special vulnerability and helplessness of the ambushed victims of the attack.

32. The Trial Chamber in particular takes into account the long-term effects of the attack on the victims of Glogova and their relatives. Many of the former residents of Glogova suffer to this day from the lasting effects of the horrors of the attack on their village and state, as far as it has been disclosed by the Prosecutor to the Trial Chamber, *inter alia*:

It is getting from bad to worse every day.

[...]

Sometimes it is so difficult that you wish that you had not survived.

[...]

I wish that I could go to sleep at night. I have pain all over my body and I have to keep the windows open as I feel that I would suffocate otherwise. When I do go to sleep, I wake up often because of nightmares about the Chetniks who are chasing us. Only a few nights ago I woke up screaming after seeing such a nightmare and could not explain to my children what I had seen.

[...]

I have flash backs during some nights and I do not have sound sleep. I wake up and think that the war is still on and run for shelter. Some times I run out of the house. That is the reason that I sleep only on the ground floor.

[...]

My youngest son who is about 23 years old now is also suffering and has health problems. I had managed to hide him in my clothes in the day Glogova was attacked while the men were being killed. He has been very badly affected by this. He cannot go to sleep and his legs go numb. I am afraid that he might loose his mind. He often has nightmares and after he wakes up from them he runs to the window to get some fresh air. He sometimes cannot dare to go back and try to sleep on his own.

[...]

I have myself gone to Glogova for about 10 times and each time when I come back from that place, I feel that I am dead.

[...] I cannot help remembering that my daughter who was just 13 was taken away by soldiers[...]

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In conclusion, taking into consideration only the gravity of the crime and all the accepted aggravating circumstances, the Trial Chamber unanimously finds that only an extremely serious punishment could be imposed. There are, however, mitigating circumstances to which the Trial Chamber will now turn.

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33. The Prosecution correctly submits that “mitigating circumstances relate to the assessment of a penalty but do not derogate the gravity of the crime”.

34. The Trial Chamber focuses mainly on

- the guilty plea of the Accused and

- the substantial co-operation by the Accused,

but gives consideration to all mitigating factors presented by the Parties, i.e. remorse, the Accused’s character and behaviour, and finally, his contribution to prevent all attempts to revise history.

35. The Trial Chamber recognises the importance of Miroslav Deronjić’s guilty plea as his acceptance of individual criminal responsibility.

36. The Trial Chamber in this respect accepts the submission by the Defence on the importance of the admission of guilt and that “the most important is to prove that a crime was committed, and therefore to unmask the policy on any of the three sides which led to this crime. In this sense, a sentence is a relative category because [...] there is no sentence that can give the victims full satisfaction for their losses.”

37. The Trial Chamber concludes that Miroslav Deronjić’s guilty plea and his readiness to testify in other trials assists the Tribunal in its search for the truth. It also shelters the victims and witnesses from testifying about painful and traumatic events, thereby reopening old wounds.

38. The Trial Chamber accepts the submission by the Prosecution that the Accused’s substantial co-operation resulted in providing unique and corroborative information to the Prosecution, giving testimony in other proceedings before the Tribunal, providing original documentation and identifying new crimes and perpetrators unknown to the Prosecution.

39. The Trial Chamber takes into consideration the fact that the Accused has testified in other proceedings before this Tribunal, namely as a court witness in the *Momir Nikolić* sentencing hearing, the *Krstić* appeal and the *Blagojević et al.* trial, and as a Prosecution witness in the *Milošević* and *Krajišnik* trials. It is not for this Trial Chamber to assess the evidence in other proceedings before this Tribunal. However, the Trial Chamber has to recall that the Accused himself acknowledged that he had given partly untruthful statements in his prior interviews with the Prosecution.

40. Considering all the above-mentioned mitigating circumstances and giving particular importance to the guilty plea and the substantial co-operation, the Trial Chamber is satisfied that a substantial reduction of the sentence is warranted.

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41. As part of the Plea Agreement, the Prosecution recommended a term of imprisonment of ten years. The Defence made a recommendation that a sentence of not more than six years of imprisonment is an appropriate sentence for the Accused.

DISPOSITION

FOR THE FOREGOING REASONS, having considered all of the evidence and the arguments of the Parties, the Trial Chamber

HAVING HEARD your guilty plea, Mr. Miroslav Deronjić, and

HAVING ENTERED A FINDING OF GUILT for the crimes contained in the charge of Persecutions in the Second Amended Indictment,

HEREBY ENTERS A SINGLE CONVICTION against you, Mr. Miroslav Deronjić, for **Persecutions**, a Crime against Humanity,

incorporating:

the attack on the village of Glogova,

the killing of Bosnian Muslim civilians in Glogova,

the forcible displacement of Bosnian Muslim civilians of Glogova from the Municipality of Bratunac,

the destruction of an institution dedicated to religion (the mosque in Glogova), and

the destruction of Muslim civilian property in Glogova.

WE SENTENCE you, Mr. Miroslav Deronjić, by majority, Judge Schomburg dissenting, **to 10 years of imprisonment** and

STATE that, pursuant to Rule 101 (C) of the Rules, you are entitled to credit for the period during which you are detained in custody, calculated from the date of your deprivation of liberty, i.e. the sixth of July 2002, including any additional time you may serve pending the determination of an appeal, if any.

Pursuant to Rule 103 (C) of the Rules, you shall remain in the custody of the Tribunal pending the finalisation of arrangements for your transfer to the State where your sentence will be served.

SUMMARY OF THE DISSENTING OPINION OF JUDGE SCHOMBURG

1. I have authenticated this Judgement as Presiding Judge. I regret that as a member of the bench, for fundamental reasons, I am not able to support the sentence.

2. The sentence is not proportional to the crimes it is based on and amounts to a singing from the wrong hymn sheet. The Accused deserves a sentence of no less than twenty years of imprisonment

3. There are two main reasons leading me to the conclusion that the imposed sentence, recommended by the Prosecutor is not within mandate and spirit of this Tribunal.

4. First, already the series of indictments, including the Second Amended Indictment, arbitrarily present facts, selected from the context of a larger criminal plan and, for unknown reasons, limited to one day and to the village of Glogova only.

5. Second, even based on these fragments of facts, the heinous and long planned crimes committed by a high ranking perpetrator do not allow for a sentence of only ten years, which may possibly even be a *de facto* deprivation of liberty of only six years and eight months, taking into account the possibility of an early release.

6. As no victim or relative of a victim has been given the opportunity to address this Trial Chamber in person, I should like to give the last word to one of them, who has stated:

[...] I saw Miroslav Deronjić plead guilty on the television. The Bosnian Muslims in the community that I have spoken to, felt relieved because he admitted his guilt. This is a positive thing and can heal the wounds of the community provided that he is punished adequately. A mild punishment however would not serve any purpose; he does not deserve any compassion as he did not show any, not only to people of Glogova but also to the other Muslim Bosnians of Bratunac and Srebrenica.¹

The full text of the Judgement is available upon request at the Public Information Services of the ICTY and is also available on the ICTY Internet site at: www.un.org/icty

¹ Exh. PS-19/1, para.14