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The Hague, 2 November 2001
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JUDGEMENT IN THE CASE *THE PROSECUTOR AGAINST MIROSLAV KVOČKA,*
MILOJICA KOS, MLADO RADIĆ, ZORAN ŽIGIĆ AND DRAGOLJUB PRCAĆ :
(OMARSKA/ KERATERM/ TRNOPOLJE)

***The five accused are sentenced from 5 to 25 years imprisonment
for their participation in a “hellish orgy of persecution”***

Please find below a summary of the Judgement read out in court on Friday 2 November 2001 by Judge Almiro Rodrigues, the presiding Judge of Trial Chamber 1. The Trial Chamber also consisted of Judge Fouad Riad and Judge Patricia Wald.

The full text of the Judgement is available upon request at the Public Information Services; it is also available on the Internet site of the Tribunal.

Introduction

“*Injustice anywhere is a threat to justice everywhere*”, as Martin Luther King said so well. With this maxim in mind, and mindful of the need to ward off such as a threat, the Chamber is today rendering its Judgement in the Prosecutor’s case against Miroslav Kvočka, Milojica Kos, Mlado Radić, Zoran Žigić and Dragoljub Prcać, who stand accused of persecution, other crimes against humanity and war crimes, committed in the region of Prijedor, between 26 May and 30 August 1992 and, more specifically, in the camps of Omarska, Keraterm and Trnopolje.

Before we consider the merits of the case, a few preliminary remarks should be made.

We wish to comment upon the procedural changes that this case has gone through. The time span of the arrests was great: 9 April 1998 for the first (Kvočka, Radić) and 5 April 2000 for the last (Prcać). The Prosecution team changed Lead Counsel several times. Mr. Žigić’s Defence team changed and the Chamber itself was composed in several ways during the pre-trial stage. In all, the trial against the accused Kvočka, Radić, Kos and Žigić opened only on 26 February 2000. Mr. Prcać was arrested on 6 March 2000 and the Chamber, after discussions with the two parties, ordered the joinder of trials out of a concern for the proper administration of justice. The trial recommenced on 2 May 2000, this time against five accused, and proceedings were declared closed on 19 July 2001. During the trial, sixty or so decisions and written orders were rendered, excluding the countless decisions delivered orally. There were six interlocutory appeals. The Chamber sat for 113 days in this case, while also holding hearings in the Krstić case at the same time. The Chamber heard fifty Prosecution witnesses, eighty-nine Defence witnesses and admitted a total of 489 exhibits.

We do not want to elaborate here on the details of the proceedings. Two decisions of particular importance in respect of this trial, however, deserve mention.

The first is the judicial notice taken by the Chamber at the request of the Prosecutor. The Chamber, relying on the Appeals Chamber’s Judgement in the Tadić case, decided that “at the times and places alleged in the indictment, there existed an armed conflict; that this conflict included a widespread and systematic attack against notably the Muslim and Croat civilian population; and that there was a nexus between this armed conflict and the widespread and systematic attack on the civilian population and the existence of the Omarska, Keraterm and Trnopolje camps and the mistreatment of the prisoners therein”. This decision, largely the result of agreement between the two parties, made it possible to limit the facts at issue and to centre the discussion on the individual responsibility of each of the accused.

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The second decision worth mention is the motion for acquittal of 14 December 2000 presented by the Defence for the accused Radić, Kos, Žigić and Prać. The Chamber considered – even without a motion from Kvočka’s Counsel – that the accused Kvočka, Radić, Kos and Prać should be acquitted of the crimes with which they were charged, allegedly committed in Keraterm and Trnopolje, as well as for certain crimes committed against a number of victims, some of whom have been listed. The accused Žigić too was acquitted of a limited number of crimes for which he had been prosecuted.

We come now to the actual pronouncement of the Judgement in the case *The Prosecutor v. Miroslav Kvočka, Milojica Kos, Mlado Radić, Zoran Žigić and Dragoljub Prać*. We will not read the entire written Judgement now but will present a summary which will provide the accused and the public with the main reasons which led the Chamber to decide as it did. We emphasise that the only authentic text is that of the written Judgement and nothing in what we are now going to say can be construed, even in the slightest way, as altering this Judgement.

Mr. Kvočka, Mr. Radić, Mr. Kos, Mr. Žigić and Mr. Prać, the crimes with which you were charged are based on events which followed the attack of the Serb forces on the town of Prijedor in April-May 1992, the arrests carried out by the Serbs and all the mistreatment suffered by almost all of those arrested, mistreatment sometimes as serious as rape, torture or death.

In reaching its decision the Chamber had to respond essentially to three questions: what are the facts? what crimes were committed? can we find you guilty, Mr. Kvočka, Mr. Radić, Mr. Kos, Mr. Žigić and Mr. Prać for one or any of these crimes? What we will present now is a summary of the conclusions reached by the Chamber on these three questions.

I - WHAT ARE THE FACTS?

On 30 April 1992, Serb forces took control of Prijedor. The take-over of Prijedor was followed shortly afterwards by the removal of the non-Serbs, Muslims and Bosnian Croats, from positions of responsibility. Many lost their employment, their children were prevented from going to school and the radio broadcast anti-Muslim and anti-Croat propaganda.

The Croats and Muslims did not accept the situation and considered reacting. Whenever they put up any significant resistance, the Serbs launched attacks, like those against the villages of Hambarine and Kozarac. On 30 May, the Muslim attempt to regain control of Prijedor failed. To avert any desire for resistance by the Croats, and especially the Muslims, the Serbs interrogated any non-Serb who might present a threat, and arrested in particular any persons exerting an authority, moral or otherwise, or representing some kind of power, in particular economic. At the same time, the men were separated from the women, children and elderly. Men in particular were interrogated. The Serbs, thus, found reason to assemble in centres the non-Serbs who had not left the region. This is how the camps of Omarska, Keraterm and Trnopolje were established.

The evidence presented to the Chamber makes it necessary to speak, not of investigation centres or assembly points, but of camps. Trnopolje camp was in fact a rather disparate collection of buildings in a village of the same name. Omarska camp was located in the premises of a former iron mine and Keraterm camp in a ceramics factory.

In view of the charges brought respectively against the accused and the Chamber’s final findings, we will focus on Omarska camp.

Like Trnopolje and Keraterm, Omarska camp was officially established on 30 May 1992 by Simo Drljača (I note that Drljača was indicted by the Tribunal but died during an attempt to apprehend him). Planned initially to function for a fortnight, it in fact remained in operation until 20 August 1992. During this period of almost three months, more than 3,334 detainees at least passed through the camp. Thirty or so women must be added to this list, several of whom occupied high positions locally. All those detained were interrogated. Almost all were beaten. Many would not leave the camp alive.

The living conditions in Omarska camp were appalling. Some of you, perhaps, remember the images filmed by a television team showing emaciated men, with haggard faces and often a look of resignation or complete dejection. These are the images which would make the international community react and are, perhaps, one of the reasons the Tribunal was established.

Let us picture the Omarska camp.

An administrative building, with a dining hall and kitchens on the ground floor, and offices used mainly for interrogations upstairs. From the dining hall and the stairs leading to the offices, we see the area separating the administrative building from the hangars, called the Pista. A little further on is a grassy area with a small light-coloured building called the White House. Further on again, which we cannot see, a very small building, the Red House.

The mistreatment in the camp was constant and widespread and began with the arrival of the detainees.

As soon as they arrived the prisoners were usually beaten, or in any case mistreated, as if to demonstrate to them straight away that they were not to be considered human beings. They were beaten as they were led out of the bus which brought them to the camp; they were lined up against the wall and often an identity document or money was often stolen from them; they were made to sing Serb songs; they were made to sit on the ground or even lie face down on the burning asphalt for hours without being allowed to move or find something to drink.

They were interrogated. They were punched, kicked with boots, beaten with rifle butts and all kinds of objects.

There were no cells in the hangars, only large rooms, where detainees were held in unbearably crowded conditions, sometimes with scarcely the room to move, forced to sleep, in so far as they could, on the ground or on palettes.

The prisoners were fed little, the food was usually rotten, and they had almost no water. There were no real toilets and they had to use buckets or the corner of a room to relieve themselves, or else soil themselves.

The sick or wounded detainees received little or no treatment.

In general the men were wasted, weakened, and exhausted from the fact of living in a climate of violence and fear.

They did not know when their name would be called.

They knew however that when their name was called, it was not so much for interrogation as for beating.

They were beaten during interrogation, as we have said.

They were beaten when they were going to eat, as they were forced to run to the dining hall, they had only a few minutes in which to swallow a pitiful meal.

They were beaten when they wanted to go to the toilets, so that most of them chose not to.

They were also beaten for no other apparent reason than a guard or "visitor" being overcome by the desire for violence. The Chamber received much evidence to demonstrate that people often came from outside the camp and committed different acts of violence on the prisoners. Mr. Žigić was one of these visitors.

Some women were molested, others, or even the same, were raped.

In other words, there was no area of the camp where a detainee could feel safe or, quite simply, hope not to be beaten or subjected to some form of violence.

There were offices in the administration building, in particular, those of the camp commander and the one used for communications.

There were also those for the interrogations. Men screamed. None of the accused heard their cries. Men were beaten violently: when the women had to clean they found traces of blood and human spatter. The accused saw nothing.

The women detainees slept there. They were taken out from there at night. They were mistreated, raped. Some remained prostrate, not speaking a word, during the day. None of the accused noticed anything at all.

The detainees spent hours on the Pista. It was June, July, August. It was often hot, very hot. They did not have anything to drink but were violently hosed down with fire hoses.

The men were dirty. Their wounds became infected. Some had dysentery, attacks of diarrhoea. According to many witnesses the odour was nauseating.

Did the accused smell nothing?

The detainees taken to the White House were almost always beaten, usually ferociously. The men were tortured in front of each other. Sometimes they were made to beat one another. A father was beaten to death in front of his son. The men shrieked with pain. There was blood on the walls and on the ground. The men who came out of there alive had open wounds, could not stand or were unconscious. The corpses removed from there had open wounds to the skull, severed joints, slit throats. Some of the victims were ultimately executed with a bullet.

The accused heard nothing, saw nothing and did nothing.

Detainees sometimes died as a result of beatings. Their bodies were left on the ground between the White House and the Pista, sometimes for several days. They would be loaded into small trucks by detainees.

Did the accused still see nothing?

Some of the bodies, including those of two women, would be discovered in mass graves much later.

The 12th of July is Saint Peter's day (Petrovdan) an important Orthodox celebration when large bonfires are lit. On 12 July 1992, a large bonfire was lit using tyres. Shots were fired at one of the rooms containing detainees. Some were called out of the hangar. Screams were heard. The air smelt of burnt tyres and grilled flesh.

Did none of the accused smell anything or see anything?

Here, we could only give you a broad idea of the horrifying living conditions in the camps, especially Omarska. Clearly, these facts cannot be described as anything but crimes. As one witness told us: *"After the tragedy there, I don't think that I can say that I'll ever be happy again. First, I lost my father and sister. My daughter is suffering extremely serious after-effects from the events and so am I. I would like to know who has the authority to make me leave my house, my town, my country and so become a refugee somewhere on the other side of the world. I hope that those responsible for it will be punished both by God and by you, and I hope that you will do so honestly and fairly"*.

II. WHAT CRIMES WERE COMMITTED?

The Prosecutor characterised all the facts we have just set out and charged the accused with committing:

- persecutions under Article 5 of the Statute by means of murder, torture and beatings, sexual assault and rape, harassment, humiliation and psychological abuse; and confinement in inhumane conditions;
- torture under Articles 3 and 5 of the Statute and cruel treatment under Article 3 of the Statute;
- murder under Article 5 of the Statute and murder under Article 3 of the Statute;
- and, in respect of Mr. Radić alone, rape and torture under Article 5 of the Statute, for facts also characterised as torture or outrages upon personal dignity under Article 3 of the Statute.

We must underscore two things:

- first, the Prosecutor singled out two of the accused as having personally and physically committed many crimes, Mr. Radić, mainly for rape, and Mr. Žigić, for murder and assault;
- second, at the request of the Chamber then hearing the case, the Prosecutor presented a list of each of the accused's victims which made it possible, in particular, to differentiate between the facts ascribed to Mr. Žigić and those to the other accused.

The Defence did not generally challenge the legal characterisation of the facts presented by the Prosecution. What it did principally contest was the role of the accused in the commission of the crimes.

In its Judgement, the Chamber essentially relies on the Tribunal's case-law to define the crimes. For this reason, I will not elaborate here on how the crimes were characterised except to recall that by taking judicial notice of many facts the Chamber decided very early on in the trial that at the times and places alleged in the indictment, there existed a widespread and systematic attack against the Muslim and Croat civilian population in the municipality of Prijedor. Insofar as the same facts were characterised in several ways, the Chamber concludes its Judgement by applying the Appeals Chamber's case-law on

cumulative offences and, in particular, follows the case-law according to which the same facts may give rise to convictions under both Article 3 and Article 5 of the Statute.

Upon analysis, the Chamber concludes that crimes of persecution, murder, torture and cruel treatment were committed.

III. ARE THE ACCUSED, KVOČKA, RADIĆ, KOS, ŽIGIĆ AND PRCAĆ GUILTY OF ANY OF THE CRIMES?

The main question which the Chamber must answer is whether the accused can be found guilty of the crimes. Very briefly, the Prosecution and Defence arguments are as follows.

The Prosecutor asserted that the facts which occurred in Omarska or Keraterm as charged must be taken in the context of all the crimes committed in the Prijedor region at the time. In essence, a discriminatory widespread and systematic attack coincided with the commission of many crimes by different individuals. She argued that some of the crimes could be isolated but that, at camps such as the ones at issue here, the theory of common purpose or joint criminal enterprise had to be applied. Thus, the Prosecutor held that the accused were not only responsible for the crimes they directly and personally committed but also for all the crimes falling within the common purpose. The Prosecutor claimed that the accused, Kvočka, Radić, Kos, Žigić, and Prać, were therefore responsible for all the crimes committed in Omarska, with the accused Žigić also being responsible for the incidents in Keraterm for which he is being prosecuted. As such, all the accused were alleged to be responsible on the basis of Article 7(1) of the Statute, that is, responsible individually. The Prosecutor further contended that the accused, Kvočka, Radić, Kos and Prać, were also responsible as command superiors pursuant to Article 7(3) of the Statute.

In general, the Defence stated that the Prosecution had not put forward the common purpose theory in the indictment, that the accused held no position of authority in the camp and that all of them had subordinate positions or professions unrelated to their post at the time of the facts. Mr. Kvočka was a young policeman without rank. Mr. Radić was an experienced policeman but likewise without rank. Mr. Kos a waiter. Mr. Žigić a taxi driver and musician. And lastly, Mr. Prać was in retirement when recalled to serve at Omarska. Furthermore, the Defence for the accused, Kvočka and Prać, stated that their clients had spent little time in Omarska camp while Mr. Žigić, it was claimed, had spent only eight hours at Keraterm, over the course of ten or so days. And it was argued that although Mr. Žigić might have committed a few excesses due, in particular, to his bad temper and impulsive nature, he could not have committed many of the murders and assaults ascribed to him, especially given a wound he received at the time.

The Chamber was therefore confronted with very different questions, with the response to the first “Was there a joint criminal enterprise?” to a large extent determining the responses to the others.

The Chamber first notes that, in the Čelebići case, the Appeals Chamber considered that, desirable as it may be, identifying exactly how the accused participated in the crimes in the indictment is not in and of itself decisive. Put otherwise, though the Prosecutor did not expressly refer to the common purpose in the indictment, indeed far from it, nothing prohibits the Chamber from taking into consideration the theory which, after all, constitutes only one of the many forms of participation covered by the Statute. To borrow the words of the Appeals Chamber in the Tadić case: “[The Statute] *does not exclude those modes of participating in the commission of crimes which occur where several persons having a common purpose embark on criminal activity that is then carried out either jointly or by some members of this plurality of persons. Whoever contributes to the commission of crimes by the group of persons or some members of the group, in execution of a common criminal purpose, may be held to be criminally liable, subject to certain conditions [...]*”

The Chamber carefully assessed all the arguments presented and assiduously examined all the material in the record as well as the testimony of the very many victims. In so doing, it took care to verify the reliability of all the statements and refrained from taking any systematic or rigid approach. Thus, a witness viewed as credible on one incident could be disregarded on another. The Chamber meticulously weighed all the information which could provide an indication as to the exact position of an accused within the camp, his acts or omissions and the potential nexus between each of the accused and the camps established on 30 May 1992.

And no doubt is possible.

Omarska, Keraterm and Trnopolje camps were not an accident. They were not set up by chance. The evidence demonstrates that they were the result of an intentional policy to impose a system of discrimination against the non-Serb population of Prijedor. The Chamber quite agrees that none of you accused may be charged with participating, even remotely, in producing or planning the system. Moreover, the Chamber does not believe that you were involved in any way in the conception of the camps or in the decision to open them.

When you were working at Omarska camp, Messrs. Kvočka, Radić, Kos and Prcać, you knew full well what was happening. And you, Mr. Žigić, when you entered a camp, it was not so much to work as a guard, which you were only at Keraterm and for a very short time, than to delight in the sadistic pleasure of beating the detainees which you did, alone or with others, without the slightest concern in the world for the suffering you were inflicting on them, sometimes until they died.

However, the Chamber cannot accept that you were not aware you were directly participating in the “camp” component of the system of persecution. The discriminatory policy implemented by others than you did not stop at the gates of the camps.

Quite on the contrary.

Operating on the pretext that they were seeking out possible criminal enemies, the camps were merely one more cog in the machine for persecuting the non-Serb population in Prijedor municipality.

This cog was, of itself, discriminatory by definition. There were not any, so to speak, Serb detainees at Omarska and those who were were accused of collaborating with the non-Serb enemies.

Each of you, in a different way, made it possible for the cog to turn.

For the camps to operate, there had to be a commander, a deputy or acting deputy commander, administrators to keep lists of prisoners, and shift commanders so that the guards could work in rotation.

None of you can reasonably claim that the sole purpose of the camps was to make it easier to carry out investigations and so identify potential criminals, which in and of itself might have been conceived.

Anyone entering one of the camps could immediately see what was really going on there, that is, in the confinement cells where violence was unceasing, deliberate and inflicted by both the people supposed to guard the prisoners and persons from outside; violence inflicted on malnourished and unwashed detainees suffering from dysentery and given little or no treatment; violence which ended with murder. These were the corpses which were left out in the open, in the full view and knowledge of everyone.

Under these circumstances, how can you legitimately claim that you did not know?

You knew this full well, Mr. Kvočka, because you wanted to get your brothers-in-law out of Omarska camp. As a policeman, you were perfectly aware of the difference between a beating and an interrogation.

You knew full well, Mr. Radić, that considerable violence was being used during the interrogations, because, as you yourself said, you spent a great deal of time in the offices.

You too, Mr. Prcać, who were quick to emphasise that your tasks were strictly administrative, as if the whiteness of the paper could conceal the colour of the blood on the walls or the all-pervading stench.

You knew this full well, Mr. Kos, you who put forward your position as a waiter to emphasise that you were not even a policeman and that you were not therefore in command of anything or anyone. But, we know that the guards worked in three shifts of eight hours. We therefore know that you were there at least eight hours a day. That is why the victims were able to identify you as a shift commander and it is of little importance that you were not a policeman beforehand. We must even believe that you liked it because you remained at the camp for the whole while it operated and you later took a police training course.

And you, Mr. Žigić, we know very well that you liked to turn up unexpectedly at Omarska, Keraterm and Trnopolje camps. We know this because you were so excessive that even the other guards complained about you and because reports were prepared so that measures would be taken to prevent you from returning.

The Chamber wishes you to understand fully. The Chamber is not saying that you foresaw or that you wished for events to unfold as they did.

The Chamber states that you were perfectly aware of the system of persecution set in place in Omarska, Keraterm and Trnopolje camps and that you participated in it, each in your own way, fully aware of what you were doing.

You participated in this hellish orgy of persecution.

MR. KVOČKA, PLEASE RISE.

Mr. Kvočka, you are a professional policeman, very knowledgeable about the rules which apply to police work.

While working at Omarska camp from 29 May to 23 June 1992, you were, as you stated yourself, a duty officer. You had no official function, no specific responsibility. You did witness several acts of violence but never participated in them. On the contrary, you claim that you wanted to help some people, in particular, your Muslim brothers-in-law.

Nonetheless, the Chamber considers that isolated acts of kindness to some prisoners do not absolve an individual of crimes which may have been committed.

You were not a low-level official at the very bottom of the ladder and so totally unable to exert an influence on what was happening. The evidence presented at trial demonstrates that you were the camp commander's right hand and, as such, passed on the orders which he issued. Your role, however, did not end there because you replaced the commander in his absence. And you could intervene so that the mistreatment of a detainee would be stopped. You knew that sanctions could be taken against those guards responsible for crimes but you did not take any meaningful steps to do so. You observed the climate of constant violence in the camp and still, day after day, returned to carry out your responsibilities in Omarska. You told us that you would have remained longer in the camp had you been given the choice.

In short, not only did you know of the system of persecution which Omarska camp represented but you also agreed with it and made it possible for the system to function. You did your work so well that the victims had no doubt that you were the camp's deputy commander.

The Chamber accepts that you are a professional policeman who loves his work. The Chamber can accept that of your own accord you would not have taken the decision to mistreat non-Serbs systematically and repeatedly.

But you participated in the workings of that system and, in so doing, incurred criminal responsibility. For the reasons set out in detail in the Judgement, the Chamber finds you guilty of the crime against humanity, persecution, and the war crimes, murder and torture.

You may be seated.

MR. KOS, PLEASE RISE

When you were mobilised into the reserve police on 6 May 1992, Mr. Kos, you were a waiter. You were assigned to Omarska camp from late May until at least early August 1992. Your counsel maintained that, at Omarska camp, you were a young inexperienced recruit with no authority of any kind. The Prosecutor claimed that you were a guard shift commander. The evidence produced has completely satisfied the Chamber that you were indeed the shift commander known by the nickname "Krle". It is interesting to note briefly that Mr. Kvočka described the functions allegedly assigned to you by Željko Meakić in the same way that Mr. Radić defined his own: responsible for radio and telephone communications. In fact, you were a shift commander. The guards addressed you as such and you issued instructions to them. Admittedly, on a very few occasions, you did intervene in order to prevent violent acts from being perpetrated on a detainee.

However, many witnesses implicated you. Firstly, for unquestionably having been in a position to observe that crimes had been or were being committed and for not reacting. Secondly, for having yourself participated in acts of violence against detainees. And, lastly, for having occasionally extorted money from detainees. You were not only a cog in the wheel turning passively with it. You were a major part of that wheel and did not hesitate, at times, to contribute actively to raising the level of violence and terror in the camp. The Chamber thus finds you guilty of the crime against humanity, persecution, and the war crimes, murder and torture.

MR. RADIĆ, PLEASE RISE.

Mr. Radić, since 1972 you have also been a professional policeman. According to your own statements, you worked at Omarska camp from 28 May 1992 until late August 1992, first as a guard and then as the person responsible for radio and telephone communications.

The evidence heard by the Chamber shows that, more specifically, you carried out the functions of shift commander. There were three shift commanders in Omarska: yourself, Mr. Kos and a man named Čkalja. In addition, you were known to the detainees more by your nickname “Krkan” and you had the reputation of being the most violent of the shift commanders.

As shift commander, you were free to move about in the camp, in the offices, on the Pista, and in the White House. Above all, you issued orders to the guards and, in any case, exercised authority over them by assigning their posts and by telling them to take the detainees to various locations. Your authority was so great that, as witnesses told us, you could put an end to violence against prisoners (in particular when they were from the town where you had been a policeman) or reassure a woman about one of the guard’s frightening behaviour toward her.

However, this generosity was very selective.

Testimony clearly showed that the guards in your shift were particularly brutal. You accompanied detainees to the offices where they were to be interrogated and took them out after they had been not only interrogated but also beaten. You did not prevent outsiders, among others, Mr. Tadić and Mr. Žigić, from coming into the camp and being violent with the detainees. Several of them died from the beatings administered by the guards in your shift. You rarely took measures to prevent their violence. Such an attitude could only be encouragement for them to continue.

In addition, your attitude to several of the women detained in Omarska was completely unacceptable. The evidence against you is overwhelming. You did not limit yourself to inappropriate gestures, offensive language or trying to make coinage of your position. You fondled them. You raped them too. Considering the vulnerability of the victims, the deliberately inflicted pain they suffered, and the state of anxiety in which you kept the women detainees in Omarska, the Chamber characterises the acts of sexual violence you committed as acts of torture within the meaning of Article 3 of the Statute.

The Chamber finds you guilty of the crime against humanity, persecution, and the war crimes, murder and torture.

You may be seated, Mr. Radić.

MR. ŽIGIĆ, PLEASE RISE.

The crimes ascribed to you, Mr. Žigić, are different from those ascribed to your co-accused because they occurred not only at Omarska but at Keraterm and Trnopolje as well.

Many witnesses testified to your violent behaviour even against those who barely a few days earlier had been your close friends. The facts are absolutely clear. Sometimes alone, sometimes with others like you, you would grab hold of a detainee. Sometimes you would demand money although that was not always enough to satisfy you.

You enjoyed using force, you enjoyed inflicting pain, you enjoyed pushing the detainees to the limits of their ability to endure suffering and did not hesitate to use weapons sometimes, such as a rod with a metal ball attached to one end. You also enjoyed humiliating detainees by forcing them to lap up water like dogs or to drink their own blood. You persisted in such action when, for example, you forced a detainee to run with a machine-gun while beating him. Your violence was so extreme that a report denouncing you was prepared.

In respect of the crimes for which you stand accused, the Chamber wished to distinguish between those ascribable to you and those for which doubt remains. You are therefore acquitted of the incident known as the “Room 3 massacre” at Keraterm camp and several others as well.

Still, the list of your victims about whom no reasonable doubt persists is long. Very long.

Although you may have abused alcohol and tranquillisers, you were not in such a state of acute intoxication at the time of the facts that your ability to act was gone.

In its Judgement, the Chamber finds you guilty of the crime against humanity, persecution, and the war crimes, torture and cruel treatment.

Mr. Žigić, be seated.

MR. PRCAĆ, PLEASE RISE.

At almost 55 years of age, you were retired when on 29 April 1992 you were mobilised in order for you to resume your profession as a police forensic specialist at the Omarska police station. You were

assigned to Omarska camp on 14 July where you remained until 6 August 1992. The core issue where you are concerned was to determine your position at the camp. According to the Prosecution, you were the deputy commander whereas the Defence alleged that you were only an administrator with no authority.

The witnesses confirmed that you spent most of your time in a room in the administrative building. The room, however, was only a few metres from the offices in which the detainees were interrogated. You had free movement within the camp and were frequently seen carrying lists which were used to call the detainees so that they could be moved from one location in the camp to another, in particular, when they were to be interrogated or when transfers from Omarska camp to another camp or another destination were being organised. The guards turned to you when problems arose. For example, they asked you for permission to bring a detainee out of the White House. The detainees saw you as the camp's deputy commander. The Chamber finds that no proof was offered as to your exact position but notes that you were fully aware of the violence in the camp and of the crimes being committed there. Nonetheless, you almost never intervened and performed your duties diligently, thereby actively contributing to the system of persecution which had been set up. The Chamber finds you guilty of the crime against humanity, persecution, and the war crimes, murder and torture.

IV – SENTENCE

As Berthold Brecht has written, “the womb from which the vile beast emerged is still fertile”. We must give the lie to Brecht. Justice can contribute to this end through the measure of the judgements it pronounces. Each individual situation is unique.

In determining the sentence each of you deserves, we of course took into account the gravity of the crimes respectively ascribed to you.

Furthermore, we wished to state clearly three elements which we find decisive for establishing what sentence is to be pronounced:

- the first relates to the combination of an accused's position in the chain of command and his physical participation in the crimes;
- the second is the need to bring comfort to the victims and to discourage any desire for revenge because, as the Chinese proverb says so judiciously, “if you are looking for vengeance, dig two graves”.
- the third, however, produces an opposite effect and is the observation that, as regards the crimes committed in the territory of the former Yugoslavia, and in Prijedor in particular, there are certainly people whose individual responsibility is much greater than your own; this unquestionably plays a role in mitigating sentence.

For all the reasons we have just stated and which are set out in detail in the Judgement, the Chamber convicts each of you as a member of a criminal enterprise for the crimes committed in Omarska and Mr. Žigić, alone, for the crimes committed in Keraterm and Trnopolje and pronounces the following sentences on you. I ask all the accused to rise.

Mr. Kvočka, the Chamber sentences you to 7 years in prison;

Mr. Kos, the Chamber sentences to 6 years in prison;

Mr. Radić, the Chamber sentences you to 20 years in prison;

Mr. Žigić, the Chamber sentences you to 25 years in prison.

Mr. Prcać, the Chamber sentences you to 5 years in prison.

The Tribunal stands adjourned.
