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Tribunal Pénal
International pour
l'ex-Yougoslavie

JUDGEMENT SUMMARY

(Exclusively for the use of the media. Not an official document)

CHAMBERS

The Hague, 16 November 1998

STATEMENT OF THE TRIAL CHAMBER AT THE JUDGEMENT HEARING

The Prosecutor v. Delalic et al. ("Celebici") 16 November 1998

This morning the Trial Chamber pronounces its Judgement in this case - which has become known as the Celebici case - the second Judgement upon trial to be rendered by the International Tribunal and the first to be completed involving more than one accused person. The trial of the four accused commenced on 10 March 1997 and covered a period of some nineteen months. The Trial Chamber has been presented with a great quantity of evidence on the part of both the Prosecution and the Defence, including the testimony of numerous witnesses and many hundreds of pages of documents, which it has considered carefully, along with the arguments of the parties.

The crimes alleged in the Indictment of the four accused are serious violations of international humanitarian law and, as such, merit the most careful consideration, for they involve many complex issues of fact and law previously unaddressed by any international judicial body. In addition, the trial has raised many procedural and evidentiary matters which an International Tribunal must perforce resolve, and the Trial Chamber has given all of these due attention, always bearing in mind the rights of the accused and the need for a fair and expeditious trial.

The written Judgement of the Trial Chamber is thus a lengthy document, constituting almost 500 pages, which it is not possible to read out this morning in its entirety. Instead, we will briefly describe how the Judgement is laid out and give a summary of its content. After doing this, the Judgement in relation to each of the accused and each count of the Indictment, will be announced.

The Judgement is divided into six sections, each constituting an integral part of the whole. Section I is the introductory part, which introduces the Indictment and sets out the procedural history of the case. Section II discusses the background and preliminary factual findings as to the conflict in the relevant area of Bosnia and Herzegovina, the political structure of, and military forces present in the municipality of Konjic - the municipality with which the present case is concerned - and the existence of the Celebici prison-camp. Section III provides an analysis of the law applicable to the case, being Articles 2, 3 and 7 of the Statute of the International Tribunal, and sets out the elements of each of the offences with which the accused are charged.

Section IV contains the Trial Chamber's analysis of the facts of the case and the evidence before it, as well as its findings in relation to each of the counts of the Indictment. Section V then addresses the matter of sentencing, in general and as applicable to each of the accused. Finally, Section VI presents the Judgement of the Trial Chamber on the guilt or innocence of each of the accused in relation to each of the charges against them and the sentence for each accused in relation to those counts of which they are found guilty is imposed. In addition,

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annexed to the Judgement are various documents, including the Indictment, a glossary of abbreviations used, a map and a plan and various photographs of the Celebici prison-camp.

The Trial Chamber now wishes to highlight certain aspects of the Judgement in each of these sections.

In Section I, the Judgement contains a description of the charges in the Indictment, which are various counts of violations of Article 2 of the Statute – grave breaches of the Geneva Conventions – and Article 3 of the Statute – violations of the laws or customs of war – alleged to have been committed within the Celebici prison-camp in the Konjic municipality in central Bosnia and Herzegovina over a period of months in 1992.

The fourth accused, Esad Landzo, is thus charged pursuant to Article 7(1) of the Statute, with wilful killing and murder, torture and cruel treatment and wilfully causing great suffering or serious injury to body or health. The third accused, Hazim Delic, is similarly charged under Article 7(1) with wilful killing and murder, torture – including rape - and cruel treatment, inhuman treatment, wilfully causing great suffering or serious injury to body or health, the unlawful confinement of civilians, and plunder of private property. Hazim Delic is also charged pursuant to Article 7(3) of the Statute with responsibility as a superior for the crimes which occurred in the Celebici prison-camp at this time.

The second accused, Zdravko Mucic, is also charged pursuant to Article 7(3) with responsibility as a superior for the crimes alleged in the Indictment, due to his position as commander of the Celebici prison-camp at the relevant time. Mr. Mucic is further charged as a direct participant in the unlawful confinement of civilians, the plunder of private property and the wilful causing of great suffering or serious injury to body or health and cruel treatment for the inhumane conditions which existed in the Celebici prison-camp. The first accused, Zejnil Delalic, is charged pursuant to Article 7(3) with responsibility as a superior for the crimes alleged in the Indictment, due to his overall command over the Celebici prison-camp at the relevant time. Mr. Delalic is also charged as a direct participant in the unlawful confinement of civilians.

The introductory section also describes the procedure which was followed for the indictment, arrest and transfer of the accused, as well as the many pre-trial matters which were raised and resolved and the motions which were brought and decided during the trial itself. The Trial Chamber wishes to note the quantity and diversity of such issues raised, including many of important substance and others of less consequence.

In Section II, the Judgement places the crimes alleged in the Indictment in context. It gives an overview of the background to the disintegration of the Socialist Federal Republic of Yugoslavia and the conflicts which developed in Slovenia, Croatia and Bosnia and Herzegovina. It discusses in more depth the military forces which were involved in Bosnia and Herzegovina and then focuses more particularly on the Konjic municipality. The fighting which occurred in Konjic in April, May and June of 1992 is described, including those operations which resulted in the establishment of a detention facility in a former JNA barracks at the village of Celebici to house those Bosnian Serbs arrested by the forces of the Bosnian government. The various buildings and other structures in the Celebici prison-camp which are relevant to the present case are also described.

Section III starts the discussion of the applicable law with an examination of Article 1 of the Statute. Most importantly, it is found that, in the period relevant to the Indictment, a situation of armed conflict existed in Bosnia and Herzegovina, which incorporated the municipality of Konjic. In Konjic, this armed conflict involved the forces of the Bosnian government – the territorial defence forces and the Ministry of Interior forces (MUP), for a time acting jointly with the Croatian Defence Council (HVO) – engaging the Bosnian Serb forces – initially the

JNA and then the Bosnian Serb army (VRS), joined by local volunteers and militia. It is, furthermore, found that there is a clear nexus between the acts of the accused alleged in the Indictment and this armed conflict.

Section III discusses at length the provisions of Article 2 of the Statute and the requirements which must be satisfied in order for a "grave breach of the Geneva Conventions of 1949" to have been committed. In particular, the Judgement focuses on the question of whether the armed conflict with which we are concerned may be characterised as "international" as well as whether the victims of the alleged crimes were "persons protected" by the Geneva Conventions of 1949. The Trial Chamber considers these issues to be fundamentally important, first to the resolution of the present case and, secondly, to establishing the correct legal classification of the conflict in Bosnia and Herzegovina and the extent of legal protection to be afforded to the population of that State, which found itself caught up in the horrors of a brutal war.

The Trial Chamber finds that the conflict in Bosnia and Herzegovina must be regarded as an international armed conflict throughout 1992. There can be no question that forces external to Bosnia and Herzegovina, particularly the forces of the Yugoslav People's Army (JNA), participated in hostilities in that State. In mid-May 1992, there was an attempt by the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to create the appearance that they were no longer involved in Bosnia and Herzegovina, by the division of the JNA into the Bosnian Serb army (VRS) and the Yugoslav army (VJ). The Trial Chamber finds, however, that this was a deliberate attempt to mask the continued involvement of the FRY, whose government remained the controlling force behind the Bosnian Serbs.

The Trial Chamber also finds that, at all relevant times, the persons detained in the Celebici prison-camp, being the victims of the crimes alleged in the Indictment, were persons protected by the Fourth Geneva Convention concerning civilian populations. In particular, it is the firm belief of the Trial Chamber that civilians caught up in an international armed conflict resulting from the dissolution of a State cannot be denied the full protection of the Fourth Geneva Convention solely on the basis of their citizenship status under domestic law.

Section III also contains a discussion of Article 3 of the Statute, concerning violations of the laws or customs of war. This discussion particularly relates to the incorporation of common article 3 of the Geneva Conventions into Article 3 of the Statute and the finding is made that common article 3 is a provision of customary international law which, if violated, entails the individual criminal responsibility of the perpetrator.

After briefly addressing the nature of individual criminal responsibility pursuant to Article 7(1) of the Statute, Section III contains a detailed discussion of the concept of command responsibility under customary international law and as incorporated in Article 7(3). This is the first elucidation of the concept of command responsibility by an international judicial body since the cases decided in the wake of the Second World War. Most importantly, it is found that not only military commanders, but also civilians holding positions of authority, are encompassed by the doctrine. Furthermore, for the attribution of criminal responsibility, not only persons in *de jure* positions of superiority, but also those in such position *de facto*, may be held criminally responsible if they knew or had reason to know that offences had been or were about to be committed by their subordinates and failed to take the necessary and reasonable measures to prevent or punish such offences.

Section III continues with a description of the elements of each of the offences charged in the Indictment, being wilful killing and murder, torture, wilfully causing great suffering or serious injury to body or health, inhuman treatment, cruel treatment, unlawful confinement of civilians and plunder. In this context, the Trial Chamber wishes to note that there can be no question that acts of rape may constitute torture under customary international law.

In Section IV, the law as interpreted in the previous section is applied to the facts of the case. Thus, the position of Zejnil Delalic in relation to the Celebici prison-camp is examined in depth, the discussion being divided between the time periods when he was "co-ordinator" in the Konjic municipality and when he was the commander of Tactical Group 1 of the Bosnian armed forces. A finding is then made on whether he can be considered to have exercised superior authority over the Celebici prison-camp at the relevant time and thus whether he can be held responsible as a commander for the offences alleged to have been committed there. Similarly, the position of Zdravko Mucic is addressed and a finding made on whether, as commander of the Celebici prison-camp, he had superior authority over the guards in the prison-camp, knew or had reason to know of the offences which were being committed there and, further, whether he took all necessary and reasonable measures to prevent or punish such offences. Once again, this examination is engaged in and findings made with respect to Hazim Delic, as deputy commander of the Celebici prison-camp.

Section IV contains an analysis of the evidence before the Trial Chamber in relation to each of the counts of the Indictment and the responsibility of each of the accused is assessed and adjudged. To conclude this Section, there is a discussion of the special defence of diminished responsibility, raised by Esad Landzo.

Pursuant to sub-Rule 85(A)(vi) of the Rules of Procedure and Evidence, the Trial Chamber heard the oral submissions of the Prosecution and the Defence on sentencing, commencing on 12 October 1998. The Trial Chamber also considered the written briefs on sentencing submitted by the parties and, pursuant to sub-Rule 87(C), sets out its discussion and findings in this regard in Section V of the Judgement. It thus takes into consideration various aggravating and mitigating factors, as well as the sentencing practices of the courts of the former Yugoslavia, in relation to those crimes for which each accused is found guilty.

For the foregoing reasons, having considered all of the evidence, the arguments of the parties and the Statute and Rules, the Trial Chamber finds, and imposes sentences as follows:

With respect to the first accused, Zejnil Delalic:

Counts 13 and 14: NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (wilful killings) and a Violation of the Laws or Customs of War (murders).

Counts 33 and 34: NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (torture) and a Violation of the Laws or Customs of War (torture).

Count 35: NOT GUILTY of a Violation of the Laws or Customs of War (cruel treatment).

Counts 38 and 39: NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (wilfully causing great suffering or serious injury to body or health) and a Violation of the Laws or Customs of War (cruel treatment).

Counts 44 and 45: NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (inhuman treatment) and a Violation of the Laws or Customs of War (cruel treatment).

Counts 46 and 47: NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (wilfully causing great suffering or serious injury to body or health) and a Violation of the Laws or Customs of War (cruel treatment).

Count 48: NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (unlawful confinement of civilians).

With respect to the second accused, Zdravko Mucic:

Counts 13 and 14: Superior Responsibility for Murders

GUILTY of a Grave Breach of Geneva Convention IV (wilful killings) and a Violation of the Laws or Customs of War (murders) in respect of Zeljko Cecez, Petko Gligorevic, Gojko Miljanic, Miroslav Vujicic, Pero Mrkajic, Scepko Gotovac, Zeljko Milosevic, Simo Jovanovic and Bosko Samoukovic.

NOT GUILTY in respect of Milorad Kuljanin, Slobodan Babic and Zeljko Klimenta.

NOT GUILTY of a Grave Breach of Geneva Convention IV (wilful killing) and a Violation of the Laws or Customs of War (murder) in respect of Slavko Susic.

GUILTY of a Grave Breach of Geneva Convention IV (wilfully causing great suffering or serious injury to body or health) and a Violation of the Laws or Customs of War (cruel treatment) in respect of Slavko Susic.

For wilful killings, and wilfully causing great suffering or serious injury to body or health, as Grave Breaches of Geneva Convention IV, the Trial Chamber sentences Zdravko Mucic to SEVEN years' imprisonment.

For murders and cruel treatment as Violations of the Laws or Customs of War, the Trial Chamber sentences Zdravko Mucic to SEVEN years' imprisonment.

Counts 33 and 34: Superior Responsibility for Acts of Torture

GUILTY of a Grave Breach of Geneva Convention IV (torture) and a Violation of the Laws or Customs of War (torture) in respect of Milovan Kuljanin, Momir Kuljanin, Grozdana Cecez, Milojka Antic, Spasoje Miljevic and Mirko Dordic.

NOT GUILTY in respect of Mirko Babic.

For torture as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Zdravko Mucic to SEVEN years' imprisonment.

For torture as a Violation of the Laws or Customs of War, the Trial Chamber sentences Zdravko Mucic to SEVEN years' imprisonment.

Count 35: A Violation of the Laws or Customs of War (cruel treatment), is DISMISSED.

Counts 38 and 39: Superior responsibility for causing great suffering or serious injury

GUILTY of a Grave Breach of Geneva Convention IV (wilfully causing great suffering or serious injury to body or health) and a Violation of the Laws or Customs of War (cruel treatment) in respect of Dragan Kuljanin, Vukasin Mrkajic and Nedeljko Draganic.

NOT GUILTY in respect of Dusko Bendo.

NOT GUILTY of a Grave Breach of Geneva Convention IV (wilfully causing great suffering or serious injury to body or health) in respect of Mirko Kuljanin.

GUILTY of a Grave Breach of Geneva Convention IV (inhuman treatment) and a Violation of the Laws or Customs of War (cruel treatment) in respect of Mirko Kuljanin.

For wilfully causing great suffering or serious injury to body or health, and inhuman treatment, as Grave Breaches of Geneva Convention IV, the Trial Chamber sentences Zdravko Mucic to SEVEN years' imprisonment.

For cruel treatment as a Violation of the Laws or Customs of War, the Trial Chamber sentences Zdravko Mucic to SEVEN years' imprisonment.

Counts 44 and 45: Superior responsibility for inhumane acts

GUILTY of a Grave Breach of Geneva Convention IV (inhuman treatment) and a Violation of the Laws or Customs of War (cruel treatment) in respect of Milenko Kuljanin, Novica Dordic, Vaso Dordic, Veseljko Dordic, Danilo Kuljanin and Miso Kuljanin.

For inhuman treatment as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Zdravko Mucic to SEVEN years' imprisonment.

For cruel treatment as a Violation of the Laws or Customs of War, the Trial Chamber sentences Zdravko Mucic to SEVEN years' imprisonment.

Counts 46 and 47: Inhumane conditions

GUILTY of a Grave Breach of Geneva Convention IV (wilfully causing great suffering or serious injury to body or health) and a Violation of the Laws or Customs of War (cruel treatment).

For wilfully causing great suffering or serious injury to body or health as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Zdravko Mucic to SEVEN years' imprisonment.

For cruel treatment as a Violation of the Laws or Customs of War, the Trial Chamber sentences Zdravko Mucic to SEVEN years' imprisonment.

Count 48: Unlawful confinement of civilians

GUILTY of a Grave Breach of Geneva Convention IV (unlawful confinement of civilians).

For unlawful confinement of civilians as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Zdravko Mucic to SEVEN years' imprisonment.

Count 49: A Violation of the Laws or Customs of War (plunder), is DISMISSED.

In imposing sentence for each count under which Zdravko Mucic has been found guilty, the Trial Chamber has taken into account a number of factors. We wish to emphasise the duty of a commander of any detention facility during an armed conflict to ensure the proper treatment of the prisoners contained therein. Mr. Mucic was clearly derelict in this duty and allowed those under his authority to commit the most heinous of offences, without taking any disciplinary action. Furthermore, as commander of the Celebici prison-camp, he was the person with the primary responsibility for the conditions in which the prisoners were kept. As discussed in some depth in our written Judgement, the Trial Chamber is appalled by the inadequacy of the food and water supplies, and medical and sleeping facilities that were provided for the detainees, as well as the atmosphere of terror which reigned in the Celebici prison-camp.

The Trial Chamber has also noted Mr. Mucic's demeanour and general attitude throughout the trial and wishes to emphasise that these are the most solemn of judicial proceedings, involving the most serious of charges, and he has often displayed a lack of appropriate respect as well as a seeming lack of awareness of the gravity of the charges against him.

The Trial Chamber has further considered the factors which stand in Mr. Mucic's favour. We have been made aware of the circumstances prevailing in the Konjic municipality at the relevant time, as well as in the Celebici prison-camp. We have also heard evidence that he attempted to help some of the detainees in the prison-camp, while at the same time not demonstrating such concern in relation to all. It appears that his interest in self-preservation was the dominant consideration guiding his actions.

The Trial Chamber wishes to emphasise the importance during an armed conflict of the obligation on all individuals to act morally and responsibly, despite the surrounding chaos and social breakdown.

With respect to the third accused, Hazim Delic:
Counts 1 and 2: Killing of Scepko Gotovac

GUILTY of a Grave Breach of Geneva Convention IV (wilful killing) and a Violation of the Laws or Customs of War (murder).

For wilful killing as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Hazim Delic to TWENTY years' imprisonment.

For murder as a Violation of the Laws or Customs of War, the Trial Chamber sentences Hazim Delic to TWENTY years' imprisonment.

Counts 3 and 4: Killing of Zeljko Milosevic

GUILTY of a Grave Breach of Geneva Convention IV (wilful killing) and a Violation of the Laws or Customs of War (murder).

For wilful killing as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Hazim Delic to TWENTY years' imprisonment.

For murder as a Violation of the Laws or Customs of War, the Trial Chamber sentences Hazim Delic to TWENTY years' imprisonment.

Counts 5 and 6: Killing of Simo Jovanovic

NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (wilful killing) and a Violation of the Laws or Customs of War (murder).

Counts 11 and 12: Killing of Slavko Susic

NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (wilful killing) and a Violation of the Laws or Customs of War (murder).

GUILTY of a Grave Breach of Geneva Convention IV (wilfully causing great suffering or serious injury to body or health) and a Violation of the Laws or Customs of War (cruel treatment).

For wilfully causing great suffering or serious injury to body or health as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Hazim Delic to SEVEN years' imprisonment.

For cruel treatment as a Violation of the Laws or Customs of War, the Trial Chamber sentences Hazim Delic to SEVEN years' imprisonment.

Counts 13 and 14: Superior responsibility for murders

NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (wilful killings) and a Violation of the Laws or Customs of War (murders).

Counts 15 and 16: Torture of Momir Kuljanin

NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (torture) and a Violation of the Laws or Customs of War (torture).

Count 17: NOT GUILTY of a Violation of the Laws or Customs of War (cruel treatment).

Counts 18 and 19: Torture and rape of Grozdana Cecez

GUILTY of a Grave Breach of Geneva Convention IV (rape as torture) and a Violation of the Laws or Customs of War (rape as torture).

For torture as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Hazim Delic to FIFTEEN years' imprisonment.

For torture as a Violation of the Laws or Customs of War, the Trial Chamber sentences Hazim Delic to FIFTEEN years' imprisonment.

Count 20: A Violation of the Laws or Customs of War (cruel treatment), is DISMISSED.

Counts 21 and 22: Torture and Rape of Milojka Antic

GUILTY of a Grave Breach of Geneva Convention IV (rape as torture) and a Violation of the Laws or Customs of War (rape as torture).

For torture as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Hazim Delic to FIFTEEN years' imprisonment.

For torture as a Violation of the Laws or Customs of War, the Trial Chamber sentences Hazim Delic, to FIFTEEN years' imprisonment.

Count 23: A Violation of the Laws or Customs of War (cruel treatment), is DISMISSED.

Counts 24 and 25: Torture of Spasoje Miljevic

NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (torture) and a Violation of the Laws or Customs of War (torture).

Count 26: NOT GUILTY of a Violation of the Laws or Customs of War (cruel treatment).

Counts 27 and 28: Torture of Mirko Babic

NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (torture) and a Violation of the Laws or Customs of War (torture).

Count 29: NOT GUILTY of a Violation of the Laws or Customs of War (cruel treatment).

Counts 33 and 34: Superior responsibility for acts of torture

NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (torture) and a Violation of the Laws or Customs of War (torture).

Count 35: NOT GUILTY of a Violation of the Laws or Customs of War (cruel treatment).

Counts 38 and 39: Superior responsibility for causing great suffering or serious injury

NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (wilfully causing great suffering or serious injury to body or health) and a Violation of the Laws or Customs of War (cruel treatment).

Counts 42 and 43: Inhumane acts involving the use of an electrical device

GUILTY of a Grave Breach of Geneva Convention IV (inhuman treatment) and a Violation of the Laws or Customs of War (cruel treatment).

For inhuman treatment as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Hazim Delic to TEN years' imprisonment.

For cruel treatment as a Violation of the Laws or Customs of War, the Trial Chamber sentences Hazim Delic to TEN years' imprisonment.

Counts 44 and 45: Superior responsibility for inhumane acts

NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (inhuman treatment) and a Violation of the Laws or Customs of War (cruel treatment).

Counts 46 and 47: Inhumane conditions

GUILTY of a Grave Breach of Geneva Convention IV (wilfully causing great suffering or serious injury to body or health) and a Violation of the Laws or Customs of War (cruel treatment).

For wilfully causing great suffering or serious injury to body or health as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Hazim Delic to SEVEN years' imprisonment.

For cruel treatment as a Violation of the Laws or Customs of War, the Trial Chamber sentences Hazim Delic to SEVEN years' imprisonment.

Count 48: Unlawful confinement of civilians

NOT GUILTY of a Grave Breach of Geneva Convention IV (unlawful confinement of civilians).

Count 49: A Violation of the Laws or Customs of War (plunder), is DISMISSED.

In imposing sentence for each count under which Hazim Delic has been found guilty, the Trial Chamber has primarily taken into account the gravity of these offences and their effects on the victims involved. We have been appalled by the details of Mr. Delic's criminal actions, as recounted by many victims and witnesses. He displayed a singular brutality in causing the deaths of two men detained in the Celebici prison-camp and a calculated cruelty in the torture and mistreatment of many others. He raped two defenceless women on several occasions, seeking to exert his power over them and instil absolute fear in them. The Trial Chamber considers the rape of any person to be a despicable act which strikes at the very core of human dignity and physical integrity. As well as showing no mercy to his chosen victims, he has displayed no remorse before this Trial Chamber.

Throughout Mr. Delic's tenure as deputy commander in the Celebici prison-camp he was instrumental in creating an atmosphere of terror by his actions and his threats to and humiliation of the detainees. It appears that he took a sadistic pleasure in causing the detainees pain and suffering, most clearly illustrated by his frequent use of a device to inflict electrical shocks. Mr. Delic abused his position of authority and trust as deputy commander and, although he has been found not to have command responsibility for the offences of others within the prison-camp, by his actions he encouraged others among the camp guards to engage in their own forms of mistreatment of the detainees.

Once again, the Trial Chamber would emphasise that the breakdown of society and the mechanisms which ordinarily sanction crimes, during times of armed conflict, must not be used in avoidance of the responsibility on all individuals to conduct themselves appropriately and exercise moral choice.

With respect to the fourth accused, Esad Landzo:

Counts 1 and 2: Killing of Scepco Gotovac

GUILTY of a Grave Breach of Geneva Convention IV (wilful killing) and a Violation of the Laws or Customs of War (murder).

For wilful killing as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Esad Landzo to FIFTEEN years' imprisonment.

For murder as a Violation of the Laws or Customs of War, the Trial Chamber sentences Esad Landzo to FIFTEEN years' imprisonment.

Counts 5 and 6: Killing of Simo Jovanovic

GUILTY of a Grave Breach of Geneva Convention IV (wilful killing) and a Violation of the Laws or Customs of War (murder).

For wilful killing as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Esad Landzo to FIFTEEN years' imprisonment.

For murder as a Violation of the Laws or Customs of War, the Trial Chamber sentences Esad Landzo to FIFTEEN years' imprisonment.

Counts 7 and 8: Killing of Bosko Samoukovic

GUILTY of a Grave Breach of Geneva Convention IV (wilful killing) and a Violation of the Laws or Customs of War (murder).

For wilful killing as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Esad Landzo to FIFTEEN years' imprisonment.

For murder as a Violation of the Laws or Customs of War, the Trial Chamber sentences Esad Landzo to FIFTEEN years' imprisonment.

Counts 11 and 12: Killing of Slavko Susic

NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (wilful killing) and a Violation of the Laws or Customs of War (murder).

GUILTY of a Grave Breach of Geneva Convention IV (wilfully causing great suffering or serious injury to body or health) and a Violation of the Laws or Customs of War (cruel treatment).

For wilfully causing great suffering or serious injury to body or health as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Esad Landzo to FIVE years imprisonment.

For cruel treatment as a Violation of the Laws or Customs of War, the Trial Chamber sentences Esad Landzo to FIVE years' imprisonment.

Counts 15 and 16: Torture of Momir Kuljanin

GUILTY of a Grave Breach of Geneva Convention IV (torture) and a Violation of the Laws or Customs of War (torture).

For torture as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Esad Landzo to SEVEN years' imprisonment.

For torture as a Violation of the Laws or Customs of War, the Trial Chamber sentences Esad Landzo to SEVEN years' imprisonment.

Count 17: A Violation of the Laws or Customs of War (cruel treatment), is DISMISSED.

Counts 24 and 25: Torture of Spasoje Miljevic

GUILTY of a Grave Breach of Geneva Convention IV (torture) and a Violation of the Laws or Customs of War (torture).

For torture as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Esad Landzo to SEVEN years' imprisonment.

For torture as a Violation of the Laws or Customs of War, the Trial Chamber sentences Esad Landzo to SEVEN years' imprisonment.

Count 26: A Violation of the Laws or Customs of War (cruel treatment), is DISMISSED.

Counts 27 and 28: Torture of Mirko Babic

NOT GUILTY of a Grave Breach of the Geneva Conventions of 1949 (torture) and a Violation of the Laws or Customs of War (torture).

Count 29: NOT GUILTY of a Violation of the Laws or Customs of War (cruel treatment).

Counts 30 and 31: Torture of Mirko Dordic

GUILTY of a Grave Breach of Geneva Convention IV (torture) and a Violation of the Laws or Customs of War (torture).

For torture as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Esad Landzo to SEVEN years' imprisonment.

For torture as a Violation of the Laws or Customs of War, the Trial Chamber sentences Esad Landzo to SEVEN years' imprisonment.

Count 32: A Violation of the Laws or Customs of War (cruel treatment), is DISMISSED.

Counts 36 and 37: Causing great suffering or serious injury to Nedeljko Draganic

GUILTY of a Grave Breach of Geneva Convention IV (wilfully causing great suffering or serious injury to body or health) and a Violation of the Laws or Customs of War (cruel treatment).

For wilfully causing great suffering or serious injury to body or health as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Esad Landzo to FIVE years imprisonment.

For cruel treatment as a Violation of the Laws or Customs of War, the Trial Chamber sentences Esad Landzo to FIVE years' imprisonment.

Counts 46 and 47: Inhumane conditions

GUILTY of a Grave Breach of Geneva Convention IV (wilfully causing great suffering or serious injury to body or health) and a Violation of the Laws or Customs of War (cruel treatment).

For wilfully causing great suffering or serious injury to body or health as a Grave Breach of Geneva Convention IV, the Trial Chamber sentences Esad Landzo to FIVE years imprisonment.

For cruel treatment as a Violation of the Laws or Customs of War, the Trial Chamber sentences Esad Landzo to FIVE years' imprisonment.

The Trial Chamber has carefully considered carefully all of the evidence concerning Esad Landzo's state of mind at the time of commission of his offences. While we have dismissed his

defence of diminished responsibility, we have noted his young age at the relevant time and his impressionability and immaturity, as well as his particular personality traits and the effect that the armed conflict in his home town had upon him. It is these factors which have led us to impose a less severe sentence than the seriousness and cruelty of his crimes would ordinarily require.

The Trial Chamber does not, however, accept that Mr. Landzo was the mere instrument of his superiors, lacking the ability to exercise independent will. The nature of his crimes is suggestive of significant imagination and a perverse pleasure in the infliction of pain and suffering. It is most disturbing to see such propensity for violence and disregard for human life and dignity in one so young.

In relation to each of the accused thus found guilty and sentenced accordingly, the sentences are to be served concurrently, *inter se*.

In addition, according to sub-Rule 101(D) of the Rules of Procedure and Evidence, Zdravko Mucic, Hazim Delic and Esad Landzo are entitled to credit for time spent in detention pending surrender to the International Tribunal and pending trial. Thus, Zdravko Mucic is entitled to credit for two years, seven months and twenty-nine days in relation to the sentence imposed by the Trial Chamber, as at the date of this Judgement, together with such additional time as may be served pending the determination of any appeal. Hazim Delic and Esad Landzo are each entitled to credit for two years, six months and fourteen days in relation to the sentences imposed by the Trial Chamber, as at the date of this Judgement, together with such additional time as may be served pending any appeal.

Pursuant to Article 27 of the Statute and Rule 103, imprisonment shall be served in a State designated by the President of the Tribunal from a list of States which have indicated their willingness to accept convicted persons. The transfer of Zdravko Mucic, Hazim Delic and Esad Landzo to such State or States shall be effected as soon as possible after the time-limit for appeal has elapsed. In the event that notice of appeal is given, the transfer of the person or persons in respect of whom such notice of appeal is given shall instead be effected as soon as possible after the Appeals Chamber has made its determination. Until that time, in accordance with the provisions of Rule 102, Zdravko Mucic, Hazim Delic and Esad Landzo are to remain in the custody of the International Tribunal.

Pursuant to Rule 99 of the Rules, Zejnil Delalic is entitled to be released immediately from the United Nations Detention Unit, unless the Trial Chamber orders otherwise pursuant to sub-Rule 99(B).