

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

PROSECUTOR

v.

**MIROSLAV BRALO
IT-95-17-PT**

PLEA AGREEMENT

Introduction

1. This document constitutes the plea agreement (hereinafter “Agreement”) between the accused, Miroslav Bralo, through his counsel, Jonathan Cooper, and the Office of the Prosecutor. The purpose of this Agreement is to set forth in its entirety the understanding of the parties as to the nature of the Agreement, the possible consequences of Mr. Bralo’s plea of guilty, and to assist the Trial Chamber in ensuring, pursuant to Rule 62 *bis* of the Tribunal’s Rules of Procedure and Evidence (hereinafter “Rules” or “Rule”), that the plea is voluntary and informed and to set forth the Factual Basis for the crimes and the accused’s participation in them.

2. The terms of the Agreement are as follows:

Plea

3. Miroslav Bralo agrees to plead guilty to the following crimes, as alleged in the Amended Indictment:
 - a) persecutions on political, racial and religious grounds, a crime against humanity (hereinafter “Persecutions”), punishable under Articles 5(h) and 7(1) of the Statute of the Tribunal (hereinafter “Statute”);
 - b) murder, a violation of the law or customs of war, punishable under Articles 3 and 7(1) of the Statute;
 - c) torture or inhuman treatment, a grave breach of the Geneva Conventions of 12 August 1949 (hereinafter “Grave Breach”), punishable under Articles 2(b) and 7(1) of the Statute;
 - d) torture, a violation of the law or customs of war, punishable under Articles 3 and 7(1) of the Statute;

- e) outrages upon personal dignity including rape, a violation of the law or customs of war, punishable under Articles 3 and 7(1) of the Statute; and
 - f) unlawful confinement, a Grave Breach, punishable under Articles 2(g) and 7(1) of the Statute.
4. A written factual basis supporting the crimes alleged in the Amended Indictment and Miroslav Bralo's participation in them has been prepared and filed with the Trial Chamber (hereinafter "Factual Basis"). Miroslav Bralo has reviewed with his attorneys the Factual Basis. Miroslav Bralo adopts the Factual Basis and agrees that he is pleading guilty to the charges contained in the Amended Indictment because he is in fact guilty and acknowledges full responsibility for his actions that are described therein.

Nature of the Offence

5. Miroslav Bralo understands that the Prosecution would have had to prove each of the elements set out in the Annex to this Agreement beyond a reasonable doubt for him to be found guilty of the crimes alleged in the Amended Indictment.

Penalty and Sentencing

6. In respect of each of the counts to which Miroslav Bralo is entering a guilty plea, Miroslav Bralo understands that the maximum sentence that can be imposed by the Trial Chamber as to each count contained in the Amended Indictment is a term of imprisonment for a term up to and including the remainder of the convicted person's life as described in Rule 101(A).
7. In determining the sentence, the Trial Chamber shall, pursuant to Article 24(2) of the Statute, take into consideration such factors as the gravity of the offence and the individual circumstances of the convicted person as well as those factors described in Rule 101(B): any aggravating circumstances; any mitigating circumstances including the substantial co-operation with the Prosecutor before or after conviction; the general practice regarding prison sentences in the courts of the former Yugoslavia.
8. Pursuant to Rule 101(C), Miroslav Bralo shall be given credit for the period during which he was detained in custody pending the imposition of sentence by the Trial Chamber.

Agreement between the parties

9. It is agreed that Miroslav Bralo's guilty pleas represent a full accounting of his criminal behaviour for the events charged before the International Criminal Tribunal for the former Yugoslavia. It is agreed that no promises or inducements have been made by the Prosecutor to induce Miroslav Bralo to enter this Agreement.

Waiver of Rights

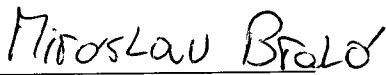
10. By pleading guilty, Miroslav Bralo understands that he will be waiving the following rights in these proceedings:
- (a) the right to plead not guilty and require the Prosecution to prove the charges in the Indictment beyond a reasonable doubt at a public trial;
 - (b) the right to prepare and put forward a defence to the charges at such public trial;
 - (c) the right to be tried without undue delay;
 - (d) the right to be tried in his presence, and to defend himself in person at trial or through legal assistance of his own choosing at trial;
 - (e) the right to examine at his trial, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf at a trial under the same conditions as witnesses against him; and
 - (f) the right not to be compelled to testify against himself.

It is understood that by pleading guilty, the accused does not waive his right to be represented by counsel at all stages of the proceedings.

Declaration of Miroslav Bralo

11. I, Miroslav Bralo, have read this plea agreement, which sets forth in its entirety the understanding of the parties, and have carefully reviewed every part of it with my attorney, Jonathan Cooper. My attorney has advised me of my rights, of possible defences, and of the consequences of entering into the Agreement. No promises or inducements have been made to me, other than those contained in this Agreement. Furthermore, no one has threatened me or forced me in any way to enter into this agreement and I have entered into this agreement freely and voluntarily and am of sound mind. I understand the terms of this agreement and I voluntarily agree to each of the terms.

Dated this 18th day of July 2005


Miroslav Bralo

Declaration of Counsel

12. I, Jonathan Cooper, am counsel for Miroslav Bralo. I have carefully reviewed every part of this Agreement with my client. Further, I have fully advised my client of his rights, of possible defences, of the maximum sentence and the consequences of entering into this Agreement. To my knowledge, my client is of sound mind and his decision is an informed and voluntary one.

Dated this 18th day of July 2005


Jonathan Cooper
Counsel for Miroslav Bralo

Signed and dated this 18th day of July 2005 at The Hague, The Netherlands.

Miroslav Bralo
Miroslav Bralo

Jonathan Cooper
Jonathan Cooper
Counsel for Miroslav Bralo

Carla Del Ponte
Carla Del Ponte
Prosecutor



Mark B. Harmon
Mark B. Harmon
Senior Trial Attorney

Fergal Gaynor
Fergal Gaynor
Trial Attorney

ANNEX

These are the elements of the crimes alleged in the Amended Indictment:

COUNT 1: Persecutions (a crime against humanity)

- a) the existence of an armed conflict;
- b) the existence of a widespread or systematic attack directed against a civilian population;
- c) the accused's conduct was related to the widespread or systematic attack directed against a civilian population;
- d) the accused had knowledge of the wider context in which his conduct occurred;
- e) the accused committed acts or omissions against a victim or victim population violating a basic or fundamental human right;
- f) the accused intended to commit the violation;
- g) the accused's conduct was committed on political, racial or religious grounds; and
- h) the accused's conduct was committed with a conscious intent to discriminate or awareness of a conscious intent to discriminate of a principal perpetrator.

COUNT 2: Murder (as a violation of the laws or customs of war)

- a) the existence of an armed conflict;
- b) a nexus between the armed conflict and the criminal act or omission;
- c) the acts or omissions of the accused caused the death of one or more persons;
- d) the acts or omissions of the accused were intended to kill, or inflict serious injury in reckless disregard of human life.
- e) the victim or victims were persons taking no active part in hostilities, including members of the armed forces who had laid down their arms and those placed hors de combat.

COUNT 3: Torture or inhuman treatment (as Grave Breaches)

- a) The offence occurred within the context of an international armed conflict;
- b) the offence was committed against a person or property protected by any of the four Geneva Conventions of 1949; and
- c) *either* (for torture):
 - i. the accused inflicted, by act or omission, severe mental or physical pain or suffering;
 - ii. the act or omission occurred for a prohibited purpose (Such aims include obtaining information or a confession, punishing, intimidating, or coercing the victim or a third person, or discriminating, on any ground, against the victim or a third person.); and
 - iii. the act or omission was intentional.
- d) *or* (for inhuman treatment):
 - i. The act or omission of the accused caused serious physical or mental suffering or injury or constituted a serious attack on human dignity; and
 - ii. The act or omission was wilful.

COUNT 4: Torture (as a violation of the laws or customs of war)

- a) The existence of an armed conflict;
- b) a nexus between the armed conflict and the criminal act;
- c) the act or omission of the accused caused severe physical or mental pain or suffering;
- d) the act or omission was intentional; and
- e) pain or suffering was inflicted intentionally, for such purposes as: obtaining information or a confession, punishing, intimidating, humiliating, or coercing the victim or a third person, or discriminating on any ground against the victim or a third person.

COUNT 5: Outrages upon personal dignity, including rape (as a violation of the laws or customs of war)

- a) The existence of an armed conflict;
- b) a nexus between the armed conflict and the criminal acts;
- c) the accused intentionally committed or participated in an act or omission which would generally be considered to cause serious humiliation, degradation or otherwise be a serious attack on human dignity;
- d) the act or omission was intentional, that is deliberate and not accidental, and the accused knew that the act or omission could have that effect;

- e) the victim was subjected to sexual penetration, however slight (a) of the vagina or anus of the victim by a penis or any other object; or (b) of the mouth of the victim by a penis;
- f) the conduct was carried out with coercion, force or threat of force against the victim or a third person.

COUNTS 6 and 7: Unlawful confinement (as a Grave Breach)

- a) The offence occurred within the context of an international armed conflict;
- b) the offence was committed against a person or property protected by any of the four Geneva Conventions of 1949;
- c) the accused unlawfully confined or arbitrarily deprived an individual of liberty without any justifiable legal basis or the continuing confinement or arbitrary deprivation of liberty was unlawful because the requisite procedural and substantive protections, as prescribed in the Geneva Conventions, were violated; and
- d) the accused's acts or omissions were wilful.

COUNT 8: Inhuman treatment (as a Grave Breach)

- a) The offence occurred within the context of an international armed conflict;
- b) the offence was committed against a person or property protected by any of the four Geneva Conventions of 1949;
- c) the act or omission of the accused caused serious physical or mental suffering or injury or constituted a serious attack on human dignity; and
- d) the act or omission was wilful.