



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of the
former Yugoslavia Since 1991

Case No.: IT-96-21-ES

Date: 15 July 2008

Original: English

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Fausto Pocar, President

Registrar: Mr. Hans Holthuis

Order of: 15 July 2008

PROSECUTOR

v.

ESAD LANDŽO

PUBLIC

**ORDER ISSUING A PUBLIC REDACTED VERSION OF
ORDER OF THE PRESIDENT ON COMMUTATION OF SENTENCE**

Office of the Prosecutor:

Mr. Serge Brammertz

Counsel for Esad Landžo:

Ms. Cynthia Sinatra

Handwritten signature

I, **FAUSTO POCAR**, President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991 (“International Tribunal”),

NOTING the “Order of the President on Commutation of Sentence”, filed on 13 April 2006, in which I granted Esad Landžo’s request for early release (“Order”);


CONSIDERING that Paragraph 6 of the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence and Early Release of Persons Convicted by the Tribunal (“Practice Direction”)¹ provides that the President may authorize disclosure of otherwise confidential information collected pursuant to Paragraphs 2 through 5 of the Practice Direction for the purpose of rendering a public decision;

CONSIDERING that some of the information contained in the Order is to remain confidential;

HEREBY ISSUE a Public Redacted Version of the Order.

Done in English and French, the English version being authoritative.

Done this 15th day of July 2008,
At The Hague,
The Netherlands.



Judge Fausto Pocar
President

[Seal of the International Tribunal]

¹ IT/146/Rev. 1, 15 August 2006.



International Tribunal for the
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THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Fausto Pocar, President

Registrar: Mr. Hans Holthuis

Decision of: 13 April 2006

PUBLIC REDACTED

ORDER OF THE PRESIDENT ON COMMUTATION OF SENTENCE

Counsel

Cynthia Sinatra

1. On 17 January 2006, the Finnish authorities notified me of Esad Landžo's eligibility for early release under Finnish law on completion of two-thirds of his sentence on 2 May 2006, pursuant to Article 28 of the Statute of the International Tribunal ("Statute"), Rules 123, 124 and 125 of the Rules of Evidence and Procedure ("Rules") and the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence and Early Release of Persons Convicted by the International Tribunal (IT/146) ("Practice Direction").
2. Mr. Landžo was a guard in the Čelebići camp and was convicted of eighteen counts of grave breaches of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949, and violations of the Laws or Customs of War under Article 2 (Grave Breaches of the Geneva Conventions) and Article 3 (Violations of the Laws or Customs of War) of the Statute of the Tribunal. On six counts involving the killing of three detainees by beating to death, he was sentenced to 15 years imprisonment; on six counts involving the torture of three detainees, he was sentenced to 7 years imprisonment; and on six counts involving the cruel treatment of three detainees, he was sentenced to 5 years imprisonment. The sentences were ordered to run concurrently.¹
3. On 20 February 2001, the Appeals Chamber *proprio motu* upheld Esad Landžo convictions imposed under Article 2 but dismissed his impermissibly cumulative convictions under Article 3 based upon the same underlying acts.² The Appeals Chamber remitted the case back to a Trial Chamber to determine whether any adjustment needed to be made to the sentence of Esad Landžo in light of its holding.³ On 9 October 2001, a new Trial Chamber upheld the 15 year sentence imposed by the first Trial Chamber.⁴ Esad Landžo appealed the new Trial Chamber's confirmation of his sentence to the Appeals Chamber and on 8 April 2003, the Appeals Chamber dismissed his appeal.⁵ The Appeals Chamber held that Esad Landžo was entitled to credit for time spent in custody from 2 May 1996 to the date of its Judgment.⁶ On 10 July 2003, Esad Landžo was transferred to the custody of the Finnish authorities.
4. On 24 January 2006, I requested the Registry to procure the relevant reports pursuant to Article 2 of the Practice Direction. On 20 March 2006, the Registry forwarded the relevant materials to me.

¹ *Prosecution v Delić et al.*, Case No. IT-96-21-T, Judgement, 16 November 1998, paras 1285-1286.

² *Prosecution v Delić et al.*, Case No. IT-96-21-A, Judgement, 20 February 2001, para. 427.

³ *Ibid.*, para. 431.

⁴ *Prosecution v Delić et al.*, Case No. IT-96-21-Tbis-R117, Sentencing Judgement, 9 October 2001.

⁵ *Prosecution v Delić et al.*, Case No. IT-96-21-Abis, Judgement on Sentence Appeal, 8 April 2003.

⁶ *Ibid.*, para. 61.

5. Rule 125 provides that in determining whether commutation is appropriate, the President should consider *inter alia* the gravity of the crimes, the treatment of similarly-situated prisoners, the prisoner's demonstration of rehabilitation, and any substantial co-operation of the prisoner with the Prosecution.

6. The report from the Prison Governor and the Assistant Prison Governor of Hämeelinna Prison, Finland, recommends the release of Esad Landžo on completion of two-thirds of his sentence on 2 May 2006.⁷ That report states that Esad Landžo has worked in the prison laundry since 1 June 2004. His behaviour towards other prisoners and personnel is proper in every respect and there have been no indications of substance use or any evidence of disciplinary sanctions being applied. While Esad Landžo rarely interacts with other prisoners, he has occasionally been in the gym and regularly played football during the summer. He behaved well during a day trip organized by the prison and while being escorted to run errands in the town of Hämeenlinna. He has been in long-term therapy and consults the prison psychologist twice a month.

7. The report from the Prison psychologist is made in support of consideration of Esad Landžo's parole. The psychologist has met with him every other week since his transfer to Hämeenlinna prison. The psychologist claims that he feels deep remorse for his actions, accepts responsibility for them, and feels he has been changed for the better by his experience of imprisonment. The psychologist concludes that his prison term in Finland has been exemplary. He has behaved in a friendly and proper manner to all, learnt English during his imprisonment, and shown a desire to live an honest and crime-free life. The psychologist reports that he will need psychological support once released, and that it is probably too risky for him to return to reside in his home country.⁸ On the basis of the reports from the Finnish prison authorities, I am satisfied that Esad Landžo has demonstrated strong signs of rehabilitation.

8. The report of the Prosecutor is that it "is not aware of any cooperation whatsoever".⁹ However, the Prosecutor does not say whether any cooperation was in fact ever sought and thus, I consider it to be neutral.

⁷ Report of Tuomo Kärjenmäki, Prison Governor, Hämeelinna Prison, and Harri Rämö, Assistant Prison Governor, Hämeelinna Prison, 17 November 2005.

⁸ Report of Raija Saari-Itävaara, Psychologist, Hämeelinna Prison, 8 November 2005.

⁹ David Tolbert, Deputy Prosecutor, Memorandum of 8 March 2006.

9. On 20 March 2006, the Registrar forwarded the reports of the Finnish authorities and the Prosecution to Esad Landžo. Pursuant to Article 4 of the Practice Direction, Esad Landžo is afforded ten days in which to comment on the above reports. On 31 March, Counsel acting pro bono for Esad Landžo, made submissions on his behalf. She emphasised that Esad Landžo was only 19 years of age at the time of the crimes and that he has shown signs of rehabilitation during his incarceration. [Redacted]

10. [Redacted]

11. Rule 124 and Article 5 of the Practice Direction direct me to consider the application and to forward my comments, along with the material supplied, to the remaining Judges of the sentencing Chamber and the members of the Bureau. In accordance with those provisions, I consulted the remaining members of the sentencing Chamber and the Appeals Chamber that remain Judges of this Tribunal as well as the members of the Bureau. I expressed my view that although Esad Landžo had been convicted of serious offences, he had shown positive signs of rehabilitation. All Judges consulted were in favour of granting early release.

11. In light of the above, I am satisfied that the Government of Finland's application for the early release of Esad Landžo should be granted, effective 2 May 2006. [Redacted] The Registrar is requested to transmit this decision to the authorities of the Government of Finland as soon as practicable.

Done in French and English, the English version being authoritative.

Done this 13th day of April 2006,
At The Hague,
The Netherlands.

Fausto Pocar
President of the International Tribunal

[Seal of the International Tribunal]