



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.

**HAZIM DELIĆ**

**PUBLIC**

**ORDER ISSUING A PUBLIC REDACTED VERSION OF  
DECISION ON HAZIM DELIĆ'S MOTION FOR COMMUTATION OF SENTENCE**

**Office of the Prosecutor:**

Mr. Serge Brammertz

**Counsel for Hazim Delić:**

Mr. Tom Moran  
Ms. Cynthia J. Cline

**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 “Decision on Hazim Delić’s Motion for Commutation of Sentence”, filed on 24 June 2008, in which I granted Hazim Delić’s request for early release (“Decision”);

**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”)<sup>1</sup> 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 Decision is to remain confidential;

**HEREBY ISSUE** a Public Redacted Version of the Decision.

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

Done this 15<sup>th</sup> day of July 2008,  
At The Hague,  
The Netherlands.



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Judge Fausto Pocar  
President

**[Seal of the International Tribunal]**

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<sup>1</sup> IT/146/Rev. 1, 15 August 2006.

**UNITED  
NATIONS**



International Tribunal for the  
Prosecution of Persons  
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Case No.: IT-96-21-ES  
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**THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL**

**Before:** Judge Fausto Pocar, President  
**Registrar:** Mr. Hans Holthuis  
**Decision of:** 24 June 2008

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**v.**

**Hazim DELIĆ**

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**DECISION ON HAZIM DELIĆ'S MOTION FOR COMMUTATION OF SENTENCE**

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**Office of the Prosecutor:**

Mr. Serge Brammertz

**Counsel for the Accused:**

Mr. Tom Moran  
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1. On 25 February 2008, the Registrar advised me of a notification received from the Finnish authorities of Hazim Delić's eligibility for early release under Finnish law on completion of two-thirds of his sentence 1 May 2008, pursuant to Article 28 of the Statute of the International Tribunal ("Statute"), Rules 123, 124 and 125 of the Rules of Procedure and Evidence ("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"). On 2 April 2008, Mr. Delić filed a motion for commutation of sentence or release on parole.<sup>1</sup>
  
2. The indictment against Mr. Delić was issued on 21 March 1996. It alleged that in 1992 forces consisting of Bosnian Muslims and Bosnian Croats took control of villages containing predominantly Bosnian Serbs within and around the Konjic municipality in central Bosnia. Individuals detained during these operations were held in a former JNA facility in the village of Čelebići, the Čelebići prison camp, where detainees were killed, tortured, sexually assaulted, beaten and otherwise subjected to cruel and inhuman treatment. Mr. Delić was the deputy commander of the Čelebići camp between May and November 1992.
  
3. On 16 November 1998, the Trial Chamber issued its judgement. It found that the Prosecution failed to establish that Mr. Delić lay within the chain of command of the Čelebići camp, with power to issue orders to subordinates or to prevent or punish criminal acts of subordinates and thus could not be convicted for crimes pursuant to Article 7(3) of the Statute. It however found him guilty pursuant to Article 7(1) of the Statute for murder, torture, rape and inhumane treatment. In convicting Mr. Delić, the Trial Chamber found that, while he did not have command responsibility for the offences of others in the camp, he abused his position of authority and trust as a deputy commander and by his actions he encouraged others among the camp guards to mistreat the detainees and was instrumental in creating an atmosphere of terror. He was sentenced to 20 years imprisonment.
  
4. On appeal, in a Judgment issued on 20 February 2001, the Appeals Chamber allowed Mr. Delić's challenges to his convictions on two counts of murder for errors of fact. The case was remitted to the Trial Chamber for re-sentencing and, on 9 October 2001, Mr. Delić was sentenced to 18 years imprisonment. On 8 April 2003, the Appeals Chamber confirmed the sentence. With credit given pursuant to Rule 101(C) of the Rules, the sentence was calculated from the date of

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<sup>1</sup> Memorandum of 25 February 2008 from the Deputy Registrar; Confidential, Hazim Delić's Motion for Commutation of Sentence or Release on Parole, 2 April 2008 ("Request").

detention, *i.e.* 2 May 1996. Mr. Delić was transferred to Finland for the enforcement of his sentence on 9 July 2003 and two-thirds of his sentence —12 out of the 18 years imposed—were served on 1 May 2008.

5. Following the notification by the Finnish authorities of Mr. Delić's eligibility for early release, the Registry undertook the steps prescribed in Article 2 of the Practice Direction and requested reports from the local prison authorities as well as from the Prosecutor of the International Tribunal. On 29 April 2008, the Registrar forwarded to me information received from the Finnish authorities in accordance with Article 2(b) of the Practice Direction and a confidential memorandum from the Prosecutor dated 12 March 2008. Additionally, on 9 May 2008 the Registrar forwarded to me the response of Mr. Delić to the reports received.<sup>2</sup>

6. Rule 125 of the Rules 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.

7. The report of the Kylmakoski Turku Prison of 20 March 2008, for the period 10 July 2003 to 1 August 2007, states that the conduct of Hazim Delić was without the fault for almost the entire period. He did not commit any violation of the prison rules although, while housed in an open unit of the prison, he did have disagreements with some prisoners which resulted in a request by him to be moved to a closed unit. In that closed unit he worked as a cleaner. The report concludes that his conduct and success was good the entire time he was in the prison. He was moved to Satakunta Prison on 1 August 2007.<sup>3</sup>

8. The report of the Director of the closed unit to which Mr. Delić was moved, and where he worked as a cleaner, reports that he "has acted pertinently and been cooperative" [Redacted] The Director further notes that Mr. Delić does not consider he can return to his home country and seeks to be located in one of the Nordic countries.<sup>4</sup>

9. The report of the Prosecution is that Hazim Delić has not supplied substantial co-operation to the Office of the Prosecutor following conviction, but it also concedes that no such cooperation

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<sup>2</sup> Re: Early Release of Hazim Delić, Sentenced to 18 years Imprisonment in the Čelebići Case, 5 May 2008 ("Response").

<sup>3</sup> Report of Kylmakoski Prison, 20 March 2008, from Director Rauno Lund.

<sup>4</sup> Report of Hameenlinna Prison, 25 March 2008 from Director Tuomo Karjenmaki.

has been sought.<sup>5</sup> The Prosecution also seeks to place before me other matters, such as the system of parole in Finland and the fact that the Prosecutor in that country has an opportunity to oppose early release under Finnish national law. Additionally, the Prosecution seeks to express its opposition to a grant of early release in light of the seriousness of the offences for which Mr. Delić was convicted.<sup>6</sup>

10. The Practice Direction indicates that the Prosecution is to file a report of any co-operation and the significance of that cooperation. It does not allow the Prosecution to make submissions on the national law of Finland or any other matter unless I specifically request it to do so as “any other information that the President considers relevant” under Article 2(d) of the Practice Direction. It has not been my practice to consider that the Prosecution can provide other relevant information to me than that provided by the enforcement State and that derived from the International Tribunal’s rulings. While I appreciate the information provided, I do not consider it appropriate at this stage of the International Tribunal’s history to change its long standing practice by allowing the Prosecution to make submissions on a convicted accused’s application for early release. Accordingly, I do not consider that the material placed before me by the Prosecution, which goes beyond that identified in the Practice Direction, should be considered in rendering a determination on the Request of Mr. Delić.

11. On 29 April 2008, the Registrar forwarded the reports of the Finnish authorities and the Prosecution to Mr. Delić. Pursuant to Article 4 of the Practice Direction, Mr. Delić was afforded ten days to comment on the above reports. On 5 May 2008, he made submissions on the information forwarded to him by the Registrar.<sup>7</sup>

12. [Redacted]

13. [Redacted]

14. Mr. Delić further submits that the reports by the Finnish prison authorities establish that his conduct has been exemplary. He claims that his degree of rehabilitation is shown by the report of the Director of the Kylmakoski prisons, according to which when he got into dispute with other prisoners he requested that he be moved to a closed and more restricted environment. He made this

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<sup>5</sup> Report of Prosecution, 15 April 2008.

<sup>6</sup> *Ibid.*

<sup>7</sup> Confidential, Re: Early Release of Hazim Delic, sentenced to 18 years imprisonment in the Celebici Case, 5 May 2008 (“Response”).

decision to avoid any violence and or threats of violence. Given his physical size and strength, he argues, this evidences a willingness of his part to avoid resolution of disputes with others by violence and is clearly evidence of rehabilitation.<sup>8</sup>

15. Mr. Delić repeats his desire to remain in a Nordic country upon his release and expresses fear for his safety if he were to return to Bosnia. He does not oppose reasonable conditions on his release aimed at assisting his reintegration into society as a law-abiding citizen.<sup>9</sup>

16. Mr. Delić submits that his family has stood by him during his period of incarceration and that they not only suffered as a result of his incarceration, but also due to the retribution taken against them due to his crimes.<sup>10</sup>

17. In his Request for early release, Mr. Delić notes that it has been the practice of the International Tribunal to consider early release applications when two-thirds of the sentence were served. He refers to the case of his co-accused Mucić, who was released from the United Nations Detention Unit prior to transfer as he had served two-thirds of his sentence during the trial and appeal process. He claims that, during the enforcement of his sentence in Finland, his family has left Bosnia-Herzegovina as refugees in response to actions taken against them because of his status as a person convicted by the International Tribunal.<sup>11</sup>

18. [Redacted]

19. Rule 124 of the Rules 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 Chambers and to the members of the Bureau. In accordance with those provisions, I identified and consulted these judges. I expressed my awareness of the seriousness of the crimes for which Mr. Delić was convicted having served as one of the Judges on his Appeal and the fact that his crimes were committed with particular brutality. I acknowledged that, at the sentencing stage sentencing, the Trial Chamber noted that Mr. Delić had a tendency to threaten his victims before, during and after the crimes and derived pleasure from the use of an electric shock device on his victims. However, while I considered that Mr. Delić's crimes were particularly brutal leading to the imposition of a sentence of 18 years, I also considered that, at reaching two-thirds of

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<sup>8</sup> *Ibid.*, pg. 5.

<sup>9</sup> *Ibid*

<sup>10</sup> *Ibid.*, pg. 6.

<sup>11</sup> Request, paras. 8-9.

his sentence, a substantial period of time had passed since he committed those crimes. On the basis of the material before me, there is in my view sufficient evidence of rehabilitation to warrant granting the Request. A majority of the Judges consulted agreed with my assessment that early release should be granted.

20. In determining to exercise my discretion in favour of early release, I note the good behaviour of Mr. Delić throughout his imprisonment and in particular the active steps he took to avoid trouble in the prison environment. [Redacted]

21. Further, I consider that the acts of retribution taken against the family members of Mr. Delić, which though not detailed, were of sufficient seriousness to cause his family to leave Bosnia as refugees, and to prevent Mr. Delić from wanting to return to Bosnia, constitute a factor relevant to the exercise of my discretion, as is the decision of the family to stand by Mr. Delić, despite the seriousness of the crimes for which he was convicted.

22. In light of the above, and having considered those factors identified in Rule 125 of the Rules, particularly the evidence of Mr. Delić's [Redacted] active steps to avoid trouble in the prison environment, I am satisfied that the Request should be granted effective immediately. The Registrar is requested to transmit this decision to the authorities of the Government of Finland as soon as practicable.

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

Done this 24th day of June 2008,  
At The Hague,  
The Netherlands.

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Judge Fausto Pocar  
President

**[Seal of the International Tribunal]**