

D 6508 - D 6499
30. SEPTEMBER 2002

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

Case No. IT-00-39&40-PT

IN THE TRIAL CHAMBER

Before: Judge Richard May, Presiding
Judge Patrick Lipton Robinson
Judge O-Gon Kwon

Registrar: Mr. Hans Holthuis

Date: 30 September 2002

Ex Parte
Confidential
and
Filed Under Seal

THE PROSECUTOR
v.
MOMCILO KRAJINIK
BILJANA PLAVSIC

PLEA AGREEMENT

The Office of the Prosecutor:

Mr. Mark B. Harmon
Mr. Alan Tieger

Counsel for the Accused:

Mr. Robert J. Pavich and Mr. Eugene O'Sullivan for Biljana Plavsic



THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

PROSECUTOR

v.

BILJANA PLAVŠIĆ
IT-00-40 PT

PLEA AGREEMENT

Introduction

1. This document constitutes the plea agreement (hereinafter "Agreement") between the accused, Biljana Plavšić, through her counsel, Messrs. Robert Pavich and Eugene O'Sullivan, 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 Ms. Plavšić'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 crime and the accused's participation in it.
2. The terms of the Agreement are as follows:

Plea

3. Biljana Plavšić agrees to plead guilty to a violation of Article 5(h) of the Statute of the Tribunal (hereinafter "Statute"), persecutions based on political, racial and religious grounds (hereinafter "Persecutions"), as described in Count 3 of the Amended Consolidated Indictment (hereinafter "Indictment"), in exchange for which the Office of the Prosecutor agrees to move to dismiss with prejudice at the time of sentencing the remaining counts in the Indictment.
4. Biljana Plavšić agrees that she is pleading guilty to Count 3 of the Indictment because she is in fact guilty and acknowledges full responsibility for her actions that are described therein.

Nature of the Offense

5. Biljana Plavšić understands that the Prosecution has to prove each of the following elements beyond a reasonable doubt for her to be found guilty of Count 3, Persecutions:
 - (a) the existence of an armed conflict;

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- (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 her 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 deliberate intent to discriminate.

Penalty

6. Biljana Plavšić understands that the maximum sentence that could be imposed by the Trial Chamber for a guilty plea to Count 3 of the 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). 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).
7. In respect of the length of sentence to be imposed, the Prosecutor has made no promises to Biljana Plavšić in order to induce her to change her plea to Count 3 from not guilty to guilty.

Factual Basis

8. A written factual basis establishing the crime described in Count 3 of the Indictment and Biljana Plavšić's participation in it has been prepared and filed with the Trial Chamber. Biljana Plavšić has reviewed with her attorneys the factual basis and agrees with the assertions set forth therein.

Consideration by the Prosecutor

9. In exchange for Biljana Plavšić's plea of guilty to Count 3 of the Indictment, the Prosecutor agrees to the following:
 - (a) Following Biljana Plavšić's plea of guilty to Count 3 of the Indictment, and at the time of sentencing, the Prosecutor will move to dismiss with prejudice the remaining counts of the Indictment.
 - (b) Following Biljana Plavšić's plea of guilty, a public sentencing hearing will occur at which hearing the Prosecutor and the Defence may submit any relevant evidence that may assist the Trial Chamber in determining an appropriate sentence.

- (c) No other promises or representations have been made by the Prosecutor to induce Biljana Plavšić to enter this Agreement.

Waiver of Rights

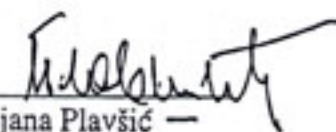
10. By pleading guilty, Biljana Plavšić understands that she will be giving up the following rights:
- (a) The right to plead not guilty and require the Prosecution to prove the charges in the Indictment beyond a reasonable doubt at a fair and impartial public trial;
 - (b) the right to prepare and put 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 her presence, and to defend herself in person at trial or through legal assistance of her own choosing at trial;
 - (e) the right to examine at her trial, or have examined, the witnesses against her and to obtain the attendance and examination of witnesses on her behalf at a trial under the same conditions as witnesses against her; and
 - (f) the right not to be compelled to testify against herself or to confess guilt.

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

Declaration of Biljana Plavšić

11. I, Biljana Plavšić, 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 attorneys, Messrs. Robert Pavich and Eugene O'Sullivan. My attorneys have advised me of my rights, of the elements of the offence, 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 the 14th day of Sept 2002


Biljana Plavšić

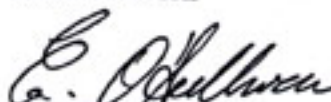
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GIP

Declaration of Counsel

12. We, Robert Pavich and Eugene O'Sullivan, are counsel for Biljana Plavšić. We have carefully reviewed every part of this Agreement with our client. Further, we have fully advised our client of her rights, of the elements of the offence, of possible defences, of the maximum sentence and the consequences of entering into this Agreement. To our knowledge, our client is of sound mind and her decision is an informed and voluntary one.

Dated this 14 day of SEP 2002.

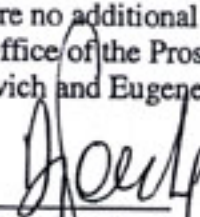

Robert Pavich


Eugene O'Sullivan

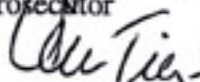
Other Agreements

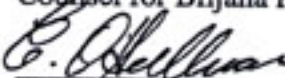
13. Except as expressly set forth in this Agreement, there are no additional promises, understanding or agreements between the Office of the Prosecutor and Biljana Plavšić or her counsel, Messrs. Robert Pavich and Eugene O'Sullivan.

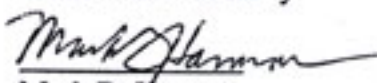

Biljana Plavšić


Carla Del Ponte
Prosecutor


Robert Pavich
Counsel for Biljana Plavšić


Alan Tieger
Senior Trial Attorney


Eugene O'Sullivan
Counsel for Biljana Plavšić


Mark B. Harmon
Senior Trial Attorney

Dated: 14.09.2002

Dated: 12.09.2002

