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**TRIAL CHAMBER**  
**CHAMBRE DE 1ÈRE**  
**INSTANCE**

The Hague, 31 July 2001  
JL/P.I.S./608e

**SENTENCING JUDGEMENT OF TRIAL CHAMBER III**  
**IN THE TODORVIĆ CASE**

*Please find below the summary of the Sentencing Judgement of Trial Chamber III, read out by presiding Judge Patrick Lipton Robinson at today's Judgement hearing*

This hearing has been convened so that the Trial Chamber may deliver its Sentencing Judgement in the case of *Prosecutor v. Stevan Todorović*.

I will, at the outset, present a brief chronology of this case before turning to the matters addressed in the Judgement itself.

The accused Stevan Todorović was initially charged in a joint indictment with five other accused for crimes alleged to have been committed in the municipality of Bosanski Šamac in Bosnia and Herzegovina between April 1992 and December 1993. Stevan Todorović was charged, in his capacity as Chief of Police in Bosanski Šamac, with 10 counts of crimes against humanity, including persecution, deportation, murder and inhumane acts, nine counts of grave breaches of the Geneva Conventions, and eight counts of violations of the laws or customs of war.

In November 2000, approximately two years after the initial appearance of the accused, a joint motion was filed, notifying the Trial Chamber of an agreement between the accused and the Prosecution, pursuant to which Stevan Todorović would plead guilty to Count 1 of the Second Amended Indictment, and the Prosecution would withdraw all other counts against him.

On 13 December 2001, before Judge Robinson, Stevan Todorović entered a plea of guilt on Count 1 of the indictment. His plea was subsequently confirmed before the full Trial Chamber. Having satisfied itself that the requirements set forth in Rule 62 *bis* in relation to guilty pleas had been met, the Trial Chamber entered a finding of guilt against Stevan Todorović. The proceedings against Todorović were formally separated from those against the other accused at this time.

At the sentencing hearing held on 4 May 2001, the Trial Chamber admitted certain witness statements submitted by the Defence, as well as two expert reports on the medical and psychological condition of Stevan Todorović. The Defence was given leave to call two witnesses, in addition to one of the medical experts, Dr. Lečić-Tosevski. Prior to the Defence presenting its closing arguments, Stevan Todorović himself made a statement to the Chamber.

Following the practice of the Tribunal, for the purposes of this hearing, I will briefly summarise the findings of the Trial Chamber in this case. I emphasise that this is a summary only and that it forms no part of the Judgement. The only authoritative account of the Trial

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**Public Information Services/Press Unit**

Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands  
Tel.: +31-70-512-5356; 512-5343 Fax: +31-70-512-5355

Chamber's findings and of its reasons for those findings, is to be found in the written Judgement, copies of which will be made available to the parties at the conclusion of this hearing.

This Sentencing Judgement is based upon the Trial Chamber's acceptance of Stevan Todorović's guilty plea and the consequent conviction of the accused on Count 1 of the indictment for persecution as a crime against humanity under Article 5 of the Statute of the Tribunal.

At the outset, the Judgement addresses the gravity of the crime of which Stevan Todorović stands convicted. As the Appeals Chamber stated in the *Čelebići* case, "*the gravity of the offence is the primary consideration in imposing sentence.*" This involves an assessment of both the criminal conduct forming the basis for the conviction and any aggravating circumstances. The Judgement sets forth, in summary form, details of the criminal conduct underlying Stevan Todorović's conviction for the crime of persecutions, including his participation in the beating and murder of Anto Brandić, the beatings of several other individuals, among them Father Jozo Puškarić, Silvestar Antunović, Hasan Bičić, Kemal Bobić, Hasan Čeribašić, Abdulah Drljačić, Zlatko Dubrić, Roko Jelavić and Hasan Subašić, and the sexual assault of six men at the police station in Bosanski Šamac. Stevan Todorović has also admitted to participating in the unlawful detention, the cruel and inhumane treatment, and the deportation and forcible transfer of Bosnian Muslims, Bosnian Croats and other non-Serb civilians in the municipality of Bosanski Šamac.

As a component of the overall gravity of the offence, the Chamber has taken into account as aggravating factors the accused's position of superior authority as Chief of Police in Bosanski Šamac, and the cruel manner in which he perpetrated several of the criminal acts underlying his conviction. In light of the above, the Trial Chamber concludes that Stevan Todorović's crime was particularly grave.

The Chamber then examined any mitigating factors and found that there are four factors in this case which may be considered in mitigation of sentence, namely the accused's guilty plea, his substantial cooperation with the Prosecution, his expressed remorse for his crimes and the question of his allegedly diminished mental capacity.

The Chamber observes that Todorović is only the third accused before this Tribunal to have been convicted on the basis of a guilty plea. It recognises the benefits to the Tribunal in terms of time and resources when an accused enters a plea of guilt, and in particular when such a plea is entered early on in the proceedings, or in any event before the trial itself has begun. The Chamber considers that a guilty plea should, in principle, give rise to a reduction in the sentence that the accused would otherwise have received. The Chamber observes that Stevan Todorović's trial had not yet commenced when he decided to plead guilty. It recognises the considerable contribution of Todorović's guilty plea to the efficiency of the work of the International Tribunal and to its search for the truth, and takes it into account in mitigation of sentence.

The Trial Chamber next takes note of the Plea Agreement, pursuant to which Stevan Todorović has agreed to cooperate with the Prosecution by providing "*truthful and complete information*" and by testifying in the case against his former co-accused, and, as requested by the Prosecution, in any other proceedings. The Chamber has had regard to the Prosecution's submissions as to the quantity and quality of the information provided by Stevan Todorović thus far. It concludes that Stevan Todorović's cooperation with the Prosecution to date has been substantial and that such cooperation ought to be considered as a mitigating circumstance in this case.

It is found that, to accept remorse as a mitigating factor in sentencing, the Trial Chamber must be satisfied as to the sincerity of the expressed remorse. In this regard, the

Chamber recalls the statement made by Stevan Todorović during the Sentencing Hearing, in which he expressed repentance and remorse for his crimes and a willingness and desire to contribute to the process of reconciliation in Bosnia and Herzegovina. The Chamber treats his remorse as a mitigating factor in determining sentence.

In relation to the question whether the accused's alleged diminished responsibility may act in mitigation of sentence, the Chamber found that neither of the two expert reports that were filed on Stevan Todorović's medical and psychological status suggest that his condition at the time the crimes were committed was one which would give rise to mitigation of sentence.

The Chamber, as it is obliged by the Statute and Rules to do, then turns to consider the general practice regarding prison sentences in the courts of the former Yugoslavia. It is found that, for the crime of which Todorović stands convicted, the punishment prescribed under the Criminal Code of the SFRY ranges from 5 to 20 years' imprisonment. The Chamber holds that, while it must consider the practice of the courts in the former Yugoslavia, in imposing sentence it is not bound by such practice.

In the final section of the Judgement, the Chamber considers the relative weight to be accorded to each of the above-mentioned factors in determining sentence. At the outset, it is noted that the Defence had urged a comparison between this case and that of *Erdemović*, in which the accused was sentenced to five years' imprisonment for his conviction on a count of murder as a violation of the laws or customs of war. However, the Chamber finds that case readily distinguishable, in that the Trial Chamber in *Erdemović* considered duress as a mitigating factor, an element that is absent in this case. For that reason the Chamber considers that the *Erdemović* case is not helpful in providing a "benchmark" for Todorović's sentence. The Chamber reiterates the very grave nature of Stevan Todorović's crime. In particular, it is recalled that the crime of persecution is the only crime against humanity which requires that the perpetrator act with a discriminatory intent. It is found that the gravity of Stevan Todorović's criminal conduct was aggravated by his superior position and by the manner in which the crimes were committed. Indeed, the Chamber holds that, while mitigating factors have been given considerable weight in the determination of the sentence in this case, this in no way detracts from the gravity of Stevan Todorović's crime. It is found that Stevan Todorović's plea of guilt, and his substantial cooperation with the Prosecution are of primary importance as mitigating factors in this case. The Chamber states that had it not been for these factors, he would have received a much longer sentence.

I shall now read out the operative paragraph of the Sentencing Judgement of this Chamber. It is as follows:

For the foregoing reasons, having considered the arguments of the parties, the evidence presented at the Sentencing Hearing, and the Statute and the Rules, the **TRIAL CHAMBER SENTENCES** Stevan Todorović to 10 years' imprisonment and **STATES** that he is entitled to credit for two years, 10 months and three days in relation to the sentence imposed by the Trial Chamber, as of the date of this Sentencing Judgement, together with such additional time as he may serve pending the determination of any appeal. Pursuant to Rule 103(C), Stevan Todorović shall remain in the custody of the International Tribunal pending the finalisation of arrangements for his transfer to the State where his sentence will be served.

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