

VIEW FROM THE HAGUE

CRIMES CHARACTERIZED BY RUTHLESSNESS AND SAVAGERY

On Tuesday 29 June, the International Criminal Tribunal sentenced Milan Babić, the one-time President of the so-called "Republic of Serbia Krajina" to 13 years imprisonment. In its Judgement, the Trial Chamber carefully balanced, on the one hand, the severity of the crimes which Babić pleaded guilty to, and on the other the vast amount of vital witness testimony he provided and his expressions of remorse.

Babić initiated contact with the Tribunal in October 2001, when he learnt that he was named as a co-perpetrator in the Croatia Indictment issued in the case of Slobodan Milošević. Over a period of two years Babić gave a number of interviews to investigators, in the presence of an ICTY Registry appointed legal counsel, providing statements that were both revealing and personally incriminating.

In late November 2002 Milan Babić testified for 12 days in the Milošević case. According to the analysts, Babić was able to provide far-reaching insight in the decision making, the operation and the plans of the joint criminal enterprise around Slobodan Milošević, whose purpose was to ethnically cleanse the Krajina area of Croatia of non-Serbs. Regarding the importance of his testimony the Prosecution declared, "*The facts provided by Mr. Babić in open court undercut the ability of future revisionists to distort historically what happened in the territories claimed as Serb territories in the wars in the 1990's*".

Specifically, Babić pointed to a parallel structure emerging in Krajina through which Milošević manufactured incidents, which provoked reaction and fear among the Serbs, including Babić himself. As he stated in an interview conducted with the Prosecution in 2002, "*I think that Milošević, in full awareness and intentionally manipulated public opinion, which also influenced my conduct.*"

A year after Babić testified, on 17 November 2003, the Tribunal issued an indictment against him for crimes committed against non-Serbian civilians in the Krajina from August 1991 to February 1992. The indictment charged Babić with, "*persecution, murder, cruel treatment, wanton destruction of villages or devastation not justified by military necessity, and destruction or willful damage to institutions dedicated to education or religion*". The campaign of persecutions which Babić participated in, involved the murder of more than 230 Croats or other non-Serbs.

On 26 November 2003, only days after the indictment was published, Babić surrendered voluntarily. He pleaded guilty on 27 January 2004 to the crime of persecutions on political, racial or religious grounds as a co-perpetrator with Milošević, Krajisnik and others in a joint criminal enterprise the aim of which was ethnic cleansing.

In particular Babić admitted that, together with Milošević and others, he participated in various ways in developing and implementing policies to forcibly and permanently remove the majority of Croat and other non-Serb populations from approximately one third of Croatia. The Trial Chamber, in rendering its Judgement, recognized the severity of the crime of persecution that Babić committed and stated that "*The crime was characterized by ruthlessness and savagery and had a severe impact on victims and their relatives. Their suffering is still significant*".

The Trial Chamber did not accept as a mitigating factor the alleged limited role of Babić in the crimes, which it believed was more significant than either the Prosecution or Defenses suggested that it was. In making this decision they recalled that during the campaign of persecutions Babić

chose to remain in power, gave inflammatory speeches and participated in the provision of financial, material, logistical and political support necessary for the military take-over of territories.

Over the last year, the Tribunal has seen many guilty pleas entered by accused and arguably Babić's case was atypical, not only did he approach the court knowing that he could be incriminating himself but once his indictment was made public he voluntarily surrendered and very soon after entered a guilty plea. In the Sentencing Judgement, the Trial Chamber accepted that Babić's admission of guilt, which, in particular, assists in the discovery of truth was a mitigating circumstance.

During the plea hearing, Babić also made a personal statement, *"I can only hope that by expressing the truth, by admitting to my guilt, and expressing the remorse can serve as an example to this who mistakenly believe that such inhumane acts can ever be justified... Only an admission of guilt on my part makes it possible for me to take responsibility for all the wrongs that I have done."* The Trial Chamber was satisfied with this expression of remorse and accepted it is a mitigating factor.

When coming to their final decision on sentencing the Trial Chamber did not follow the joint recommendation from the Prosecution and Defense for a sentence of no more than 11 years. While accepting the guilty plea, expression of remorse and substantial cooperation with the Prosecutor as mitigating circumstances, they considered that 11 years would not do justice to the extreme gravity of the crimes, "participants in crimes of this gravity should expect sentences of commensurate severity" and thusly, sentenced Babić to 13 years of imprisonment.

Outreach Programme

outreach@icty.org