
**UNITED
NATIONS**



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

Case No. IT-03-72-S
Date 29 June 2004
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IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Amin El Mahdi
Judge Joaquín Martín Canivell

Registrar: Mr Hans Holthuis

Judgement of: 29 June 2004

PROSECUTOR

v.

MILAN BABIĆ

SENTENCING JUDGEMENT

Office of the Prosecutor

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Case no. IT-03-72-S

29 June 2004

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I. INTRODUCTION

1. Milan Babić was born on 26 February 1956 in Kukar, in the municipality of Sinj, Croatia, in the former Yugoslavia. He is married and has two children. He is a dentist by profession.

2. According to Babić, he initiated contact with the International Tribunal in October 2001 after learning that he had been named as a co-perpetrator in the Croatia Indictment issued against Slobodan Milošević in September 2001.¹ He agreed to be interviewed by the Prosecution as a suspect. The interviews took place on 27 to 30 November 2001, 9 to 16 January 2002, 18 to 27 February 2002, and 29 April 2002.

3. Following the interviews, Babić agreed to testify in the *Milošević* case. Due to security concerns, he and his family were first relocated. In November 2002 Babić testified for twelve days in *Milošević*, initially as a protected witness and then publicly during the last two days of his testimony.²

4. On 6 November 2003 the Prosecution filed an indictment against Babić which was confirmed on 17 November 2003.³ The Indictment alleged that Babić, acting individually or in concert with other members of a joint criminal enterprise (“JCE”) committed or otherwise aided and abetted in the planning, preparation, or execution of persecutions of the Croats and other non-Serb civilian populations in Krajina from August 1991 to February 1992. For his acts and omissions the Indictment charged Babić with persecution (count 1, a crime against humanity), murder (count 2, violations of the laws or customs of war), cruel treatment (count 3, violations of the laws or customs of war), wanton destruction of villages or devastation not justified by military necessity (count 4, violations of the laws or customs of war), and destruction or wilful damage to institutions dedicated to education or religion (count 5, violations of the laws or customs of war).

¹ See transcript page number (“T.”) 5100 of Babić’s testimony in the case *Prosecutor v. Slobodan Milošević*, Case No. IT-02-53-T (“*Milošević* case” or “*Milošević* proceedings”) attached to the Prosecution Sentencing Brief as Annex V and admitted into evidence in this case on 2 April 2004. See also paragraphs 7 and 18 of the Croatia Indictment which mention Babić as a participant in a joint criminal enterprise in Croatia.

² The list of documents admitted through Babić in the *Milošević* case and the list of documents used during Babić’s interviews as a suspect were admitted into evidence on 2 April 2004 (exhibit numbers PS-6a and PS-7 respectively).

³ The indictment against Babić (hereinafter, “Indictment”) was confirmed by Judge Antonetti; see Order for Review of Indictment, 17 November 2003, and Order for Service of Indictment, 17 November 2003.

5. On 26 November 2003 Babić surrendered to the Tribunal.⁴ On the same day he appeared before Judge El Mahdi, pre-trial judge in this case, who ordered his detention on remand.⁵ Babić requested that his plea to the Indictment be delayed by 30 days.

6. On 12 January 2004 Babić and the Prosecution jointly filed a plea agreement and a statement of facts in which Babić agreed to plead guilty to count 1 of the Indictment as an aider and abettor of a JCE. The Prosecution recommended that in exchange for his cooperation and guilty plea, Babić be given a sentence of no more than 11 years of imprisonment.

7. Having examined the plea agreement and the statement of facts filed by the parties, the Trial Chamber expressed doubts about the accuracy of the legal characterization of Babić's acts in the plea agreement as an aider and abettor of a JCE.⁶

8. On 22 January 2004 Babić entered into a second plea agreement with the Prosecution, which was then jointly submitted to a recomposed Trial Chamber.⁷ In the second plea agreement ("Plea Agreement"), Babić agreed to plead guilty to count 1 of the Indictment as a co-perpetrator of a JCE. That count charged him with persecutions, punishable under Article 5(h) of the Tribunal's Statute.⁸ The statement of facts filed with the Plea Agreement ("Factual Statement") described Babić's participation as a co-perpetrator in a JCE, the goal of which was the forcible permanent removal of the majority of Croat and other non-Serb populations from approximately one-third of Croatia in order to transform that territory into a Serb-dominated state through the commission of crimes within the jurisdiction of the Tribunal.⁹

9. The Plea Agreement further stipulated that in exchange for Babić's plea of guilty and his continued extensive cooperation with the Office of the Prosecutor, as set forth in

⁴ The Indictment was served on Babić upon his surrender to the Tribunal on 26 November 2003. The same day, Judge Meron, president of the Tribunal, assigned the case to Trial Chamber I, composed of Judges Liu, El Mahdi, and Orić; see Order Assigning a Case to a Trial Chamber, 26 November 2003.

⁵ On 26 November 2003, Judge Liu, presiding judge of Trial Chamber I, appointed Judge El Mahdi as pre-trial judge in accordance with Rule 65 of the Rules of Procedure and Evidence; see Order Designating a Pre-trial Judge, 26 November 2003.

⁶ See T. 29-30.

⁷ The Plea Agreement is set out in Annex A of the "Amendment to the Joint Motion for Consideration of Plea Agreement between Milan Babić and the Office of the Prosecutor Pursuant to Rule 62ter", filed on 22 January 2004. Also on that day President Meron assigned Judge Canivell to replace Judge Liu Daqun in the present case. The UN Secretary-General had appointed Judge Canivell as an *ad litem* judge in this case on 20 January 2004; see Order Replacing a Judge in a Case before a Trial Chamber, 22 January 2004.

⁸ Plea Agreement, paras 2, 3.

⁹ Tab 1 of "Amendment to the Joint Motion for Consideration of Plea Agreement between Milan Babić and the Office of the Prosecutor Pursuant to Rule 62Ter" of 22 January 2004, para. 29; Indictment, para. 5.

paragraph 4(b) of the Plea Agreement, the Prosecution would recommend that the Trial Chamber impose a sentence of no more than 11 years of imprisonment. The agreement also expressed the understanding of the Prosecution and the Defence that it is for the Trial Chamber to decide the sentence.¹⁰

10. On 27 January 2004 Babić pleaded guilty to persecutions on political, racial, and religious grounds, a crime against humanity punishable under Article 5(h) and 7(1) of the Statute of the Tribunal, for participating as a co-perpetrator in a JCE.¹¹ The Trial Chamber adjourned the proceedings to consider the plea entered by Babić.

11. On 28 January 2004, satisfied that the requirements set out in Rule 62 *bis* had been met, the Trial Chamber entered a finding of guilt on count 1 of the Indictment.¹² The Trial Chamber based its findings on information supplied in the Plea Agreement and the Statement of Facts, as well as on information obtained during the plea hearing and on the material which was admitted into evidence.¹³

12. Following the acceptance of the guilty plea by the Trial Chamber, the Prosecution made an oral application for leave to withdraw without prejudice counts 2 to 5 of the Indictment, as well as the alternative forms of criminal liability charged in the Indictment. The Trial Chamber granted this application.¹⁴

13. The parties filed their sentencing briefs on 22 March 2004. They elaborated the arguments contained in those briefs during the sentencing hearing held on 1 and 2 April 2004. During the hearing the parties adduced additional evidence in support of the factual basis of the guilty plea and called two witnesses to testify on matters relating to sentencing.¹⁵

¹⁰ Plea Agreement, para. 4.

¹¹ T. 54-55.

¹² Under Rule 62*bis* a Trial Chamber may accept a plea of guilty entered by an accused if it is satisfied that the plea has been made voluntarily, is informed, unequivocal, and substantiated by a sufficient factual basis for the crimes charged and the accused person's participation therein. See also *Erdemović* Appeal Judgement, separate opinion of Judges McDonald and Vohrah, para. 8.

¹³ See the supplementary material filed jointly by the parties pertaining to Babić's public speeches at the time relevant to the Indictment and the expert report on propaganda and the consequences of the use of the media for ultra-nationalist ends; "Joint Prosecution and Defence Motion on Additional Documentation on Propaganda and Speeches by the accused Babić", 28 January 2004.

¹⁴ T. 61; the Prosecution filed a "Motion to Dismiss Counts 2 to 5" of the Indictment on 29 January 2004 to the same effect.

¹⁵ The Trial Chamber heard Dr Mladen Lončar, an expert witness called by both parties to give his opinion about the impact of crimes upon victims (see the expert report of Dr Lončar including his c.v. admitted under exhibit number PS-8), and Drago Kovačević, a witness who testified about Babić's personality and positions at the time of the commission of the crimes. In addition, upon the request of the Defence, the Trial Chamber admitted witness statements into evidence; see "Decision on Defence Motion for Admission of Witness Statements and to Call Witnesses", 29 March 2004. In total, eight Prosecution exhibits were admitted into evidence.

II. FACTUAL BASIS OF BABIĆ'S GUILTY PLEA

A. Forcible removal of non-Serb civilians from SAO Krajina

14. In the period of the Indictment, from about 1 August 1991 to 15 February 1992, Serb forces comprised of JNA units, local Serb TO units, TO units from Serbia and Montenegro, local MUP police units, MUP police units from Serbia, and paramilitary units attacked and took control of towns, villages, and settlements in the SAO Krajina.¹⁶

15. After the take-over, in cooperation with the local Serb authorities, the Serb forces established a regime of persecutions designed to drive the Croat and other non-Serb civilian populations from these territories.¹⁷ The regime, which was based on political, racial, or religious grounds, included the extermination or murder of hundreds of Croat and other non-Serb civilians in Dubića, Cerovljanji, Baćin, Saborsko, Poljanak, Lipovača, and the neighbouring hamlets of Škabrnja, Nadin, and Bruška in Croatia; the prolonged and routine imprisonment and confinement of several hundred Croat and other non-Serb civilians in inhumane living conditions in the old hospital and the JNA barracks in Knin, which were used as detention facilities; the deportation or forcible transfer of thousands of Croat and other non-Serb civilians from the SAO Krajina; and the deliberate destruction of homes and other public and private property, cultural institutions, historic monuments, and sacred sites of the Croat and other non-Serb populations in Dubića, Cerovljani, Baćin, Saborsko, Poljanak, Lipovača, and the neighbouring hamlets of Vaganac, Škabrnja, Nadin, and Bruška.¹⁸

16. These acts were intended to permanently and forcibly remove the majority of the Croat and other non-Serb populations from approximately one-third of Croatia in order to transform that territory into a Serb-dominated state. The acts started on or about 1 August 1991 and continued until June 1992, at least, that is until after the indictment period, which runs only until 15 February 1992.

17. On 19 December 1991, the SAO Krajina proclaimed itself the Republic of Serbian Krajina ("RSK").¹⁹

¹⁶ Indictment, paras 13-14.

¹⁷ Indictment, para. 14.

¹⁸ Indictment, para. 15.

¹⁹ See Factual Statement, para. 5.

B. Babić's role

1. Posts held by Babić

18. Babić studied dentistry in Belgrade. Sometime after receiving his diploma he was appointed Director of the Health Centre in Knin, an industrial town in the region of Krajina, Croatia.²⁰ In February 1990 Babić became a prominent political figure in the Serbian Democratic Party (“SDS”) in Croatia. He held a senior position in the SDS municipal committee in Knin.²¹

19. On 31 July 1990 Babić became the President of the Serbian National Council (“SNC”). In December 1990, he was appointed President of the Temporary Executive Council of the SAO Krajina.²²

20. Following Croatia's declaration of its intention to secede from the SFRY on 20 February 1991, Babić, concerned that the Serbs in Krajina would become a minority suffering discrimination in a new Croatian state, advocated the creation of an independent Serbian state in Krajina.²³

21. On 30 April 1991 Babić was elected President of the Executive Council of the SAO Krajina. On 29 May 1991 he became President of the administration of the SAO Krajina.²⁴

22. On 1 August 1991 Babić signed a decision applying the Law on Defence of the Republic of Serbia to the territory of the SAO Krajina and making him *de jure* commander-in-chief of the SAO Krajina's armed forces, which included special units of the Krajina Ministry of Interior and the SAO Krajina's TO forces.²⁵

23. When the SAO Krajina proclaimed itself the RSK on 19 December 1991, Babić became the President of that entity.²⁶ The RSK was not recognized by the European Community (as it then was). Babić turned to Slobodan Milošević and the JNA to assist and protect the Serbs in Krajina.²⁷

²⁰ Factual Statement, para. 3.

²¹ Factual Statement, para. 4.

²² Factual Statement, para. 5.

²³ Factual Statement, para. 21; Defence Sentencing Brief, para. 8.

²⁴ Factual Statement, para. 5.

²⁵ Factual Statement, para. 5.

²⁶ Babić held this position until 15 February 1992.

²⁷ Factual Statement, para. 21; Defence Sentencing Brief, para. 8.

2. Babić's participation in the campaign of persecutions

24. Babić admitted that from about 1 August 1991 to 15 February 1992 he contributed to the campaign of persecutions described above in the following ways:

a) in his capacity as the President of the SNC²⁸ and subsequently President of the SAO Krajina and the RSK,²⁹ Babić formulated, promoted, participated in, and encouraged the development and implementation of policies of the SDS in the SAO Krajina/RSK which advanced the objective of permanently and forcibly removing the majority of Croat and other non-Serb populations from approximately one-third of the territory of the Republic of Croatia. Throughout 1991 Babić attended meetings with the Serbian, SFRY, and Bosnian-Serb leadership at which these policies were defined. Upon being instructed to do so, he presented these policies in international negotiations.³⁰

b) Babić was instrumental in the establishment, support, and maintenance of the government bodies that ruled the SAO Krajina, which, in cooperation with the JNA and a parallel power structure, implemented the objective of the permanent and forcible removal of the majority of Croat and other non-Serb populations from approximately one-third of the territory of the Republic of Croatia, and he participated in the commission of crimes listed in the indictment.³¹

c) Babić assisted in the re-organisation and recruitment of the TO forces of the SAO Krajina and subsequently the RSK, which participated in the crimes listed in the indictment. From on or about 1 June 1991 to at least 15 February 1992 Babić was the *de jure* commander-in-chief of the armed forces of the SAO Krajina (which comprised the TO and special units of the Ministry of Interior)³² and participated in the campaign of persecutions by signing orders to create TO formations within the SAO Krajina and appointing commanders to these formations from early in July 1991. On 11 July 1991

²⁸ After the death of Jovan Rasković in 1992, Babić assumed the position of President of the SDS party in Krajina; Factual Statement, para. 4.

²⁹ Factual Statement, para. 5.

³⁰ Factual Statement, para. 33a.

³¹ Factual Statement, para. 33b.

³² Article 116 of the 1982 Yugoslav All People's Defence Law reads: "Units and institutions of the Yugoslav People's Army and units and institutions of the Territorial Defence engaging in a joint combat operation shall be subordinate to the officer in charge of carrying out the operation." Further, the 1983 Secretary for National Defence manual on "Strategy of Armed Conflict" provided additional information on command and control arrangements between the JNA and the TO during operations in chapter 4, specifying that, in general, the commander of a Yugoslav People's Army unit commands at the front, whereas the commander of staff or unit

Babić issued an order mobilising all staffs and units of the TO in the SAO Krajina. He assisted the re-organisation of TO forces by requesting that a TO staff be formed and specific commanders appointed.³³

d) Babić cooperated with the commander of the so-called “Martić Police” who according to him was involved in the commission of crimes. Babić maintained that his own power was limited and undermined by the creation of a so-called “parallel structure” in the SAO Krajina, which he said included people who were ultimately controlled by Slobodan Milošević.³⁴

e) Babić participated in the provision of financial, material, logistical, and political support for the military take-over of territories in the SAO Krajina, which resulted in the forcible removal of Croat and other non-Serb populations by the TO forces, who acted in cooperation with the JNA and “Martić’s Police”.³⁵

f) Babić requested the assistance or facilitated the participation of JNA forces in establishing and maintaining the SAO Krajina, thereby furthering the objective of permanently and forcibly removing the majority of Croat and other non-Serb populations from approximately one-third of Croatia.³⁶

g) Babić made ethnically based inflammatory speeches during public events and in the media that added to the atmosphere of fear and hatred amongst Serbs living in Croatia and convinced them that they could only be safe in a state of their own. Babić stated that during the events, and in particular at the beginning of his political career, he was strongly influenced and misled by Serbian propaganda,³⁷ which repeatedly referred to an imminent threat of genocide by the Croatian regime against the Serbs in Croatia, thus creating an atmosphere of hatred and fear of the Croats.³⁸ Ultimately this kind of

commands in a temporarily occupied (or possessed) territory, unless otherwise provided for by the plan of a special order. Copies of the specific provisions are attached to the Prosecution Sentencing Brief as Annex VI.

³³ Factual Statement, para. 33c.

³⁴ Factual Statement, paras 33d, 14-16.

³⁵ Factual Statement, para. 33e.

³⁶ Factual Statement, para. 33g.

³⁷ The methods employed by those controlling the media and its use for ultra-nationalist goals can be seen from the expert report of Dr Renaud De la Brosse, filed as a joint Prosecution and Defence Motion on 28 January 2004; see also T. 5114-13 (Annex V of the Prosecution Sentencing Brief).

³⁸ Factual Statement, para. 6. Peter Galbraith, the former US Ambassador to Croatia who testified in the *Milošević* case, stated that when he first met Babić in the beginning of 1995 in connection with the Z-4 peace-plan negotiations, he considered Babić a nationalist who participated in the creation of the RSK and the “expulsion of the Croatian population” but who within the RSK leadership had the interests of the Krajina Serb

propaganda led to the unleashing of violence against the Croat population and other non-Serbs.³⁹

h) Babić encouraged and assisted in the acquisition of arms and their distribution to Serbs to further the campaign of persecutions.⁴⁰ Babić admitted that he significantly assisted that campaign by remaining in his office and exercising functions associated with it. He participated in the arming of the Serbs in Croatia, in the creation and staffing of political and military structures for a Serb entity in Croatia, and in obtaining funds for them.⁴¹

3. Babić's intent

25. Babić admitted that he knowingly and intentionally participated in the campaign of persecutions described above, in particular by cooperating with and supporting other persons involved in that campaign.⁴²

26. Babić explained that as of August 1991 he shared the intent of others with whom he participated in planning the campaign of persecutions to forcibly resettle the Croat and non-Serb populations from the targeted areas. He was aware that crimes such as mistreatment in prisons, deportations, forcible transfer, and the destruction of property, as described in the Indictment, were being committed in the SAO Krajina/RSK.⁴³

27. With respect to the murders charged in the Indictment, Babić realised from his own observations that such killings were the likely outcome of the campaign of persecutions. During the plea hearing, the parties reiterated that Babić had no knowledge of the specific murders charged in paragraph 15(a) of the Indictment, but that he was aware that civilians were killed in the course of the forcible removal of non-Serb civilians from the Krajina area.⁴⁴

population the most at heart; T. 5062-61 of the transcript of Galbraith's testimony attached to the Prosecution Sentencing Brief as Annex VII.

³⁹ Factual Statement, paras 3, 9, 11, 33f.

⁴⁰ Factual Statement, para. 33h.

⁴¹ According to Galbraith, Babić was more open to co-habitation between Serbs and Croats, was easily intimidated by both Martić and Milošević, and had no control of the army; see T. 5062-61, transcript of Galbraith's testimony in Annex VII of the Prosecution Sentencing Brief. See also Prosecution Sentencing Brief, para. 28.

⁴² Factual Statement, para. 30.

⁴³ Factual Statement, para. 34.

⁴⁴ Indictment, para. 15; Plea Agreement, para. 2; Factual Statement, para. 34; T. 47-50; reiterated during the sentencing hearing at T. 175: "what Mr. Babić did not deny is that he knew that ethnic cleansing was going on and people were killed. What Mr. Babić denied was that he knew about the murders charged." See confirmation by the Defence on T. 176, and also T. 178-179, 180.

28. Babić claims that he attempted, at least initially, to resist or undermine the campaign of persecutions against non-Serb civilians in the SAO Krajina. However, when his efforts proved unsuccessful, he chose to cooperate with those engaged in planning the campaign. Babić stated in the proceedings in the *Milošević* case, and in his statements, that his actions were based on “ethno-egoist motives” and that he wanted to preserve his political position despite his knowledge that his actions or omissions would lead to ethnic strife and war, and the associated crimes.⁴⁵

⁴⁵ Factual Statement, para. 34; Babić, T. 13017-19; interview of Babić on 23 February 2002, video-tape 9 of 13, pp. 4-6 (L009-2098-L009-2100). All quotes (trial and interview), which originate from Babić are attached to the Prosecution Sentencing Brief as Annex V.

III. LEGAL FINDINGS

A. The crime of persecution within a joint criminal enterprise

29. Babić pleaded guilty to count 1 of the Indictment alleging persecution on political, racial, and religious grounds, a crime against humanity punishable under Article 5(h) of the Tribunal's Statute.⁴⁶ There is no disagreement between the parties as to the legal elements of the crime of persecution.

30. Babić admitted that persecution was committed against non-Serb civilians through acts of extermination or murder, imprisonment and confinement, deportation or forcible transfer, and deliberate destruction of homes, other public and private property, cultural institutions, historic monuments, and sacred sites during armed conflict.⁴⁷

31. The Trial Chamber is satisfied that the crime of persecution as charged in count 1 of the Indictment was committed.

32. Babić further admitted that the crime of persecution was committed within a joint criminal enterprise, punishable under Article 7(1) of the Tribunal's Statute and charged in count 1 of the Indictment. The Trial Chamber understands JCE responsibility for persecution to consist of the following elements:

- a) a plurality of persons were involved in the commission of the crime of persecution;
- b) there was a common plan, design, or purpose which amounted to or involved the commission of the crime of persecution;
- c) the accused intentionally participated as a co-perpetrator in the common design involving the perpetration of the crime of persecution;

33. There is no disagreement between the parties as to this form of liability, which is established in customary international law and reflected in the jurisprudence of the Tribunal.⁴⁸

⁴⁶ Article 5(h) of the Statute states, in relevant part: "The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population: ... (h) persecutions on political, racial and religious grounds."

⁴⁷ Factual Statement, para. 34; see also the Indictment.

⁴⁸ See *Tadić* Appeal Judgement, paras 194, 220.

34. Babić admitted that the JCE came into existence no later than 1 August 1991 and continued until at least June 1992. The objective of the JCE was the permanent and forcible removal of the majority of Croat and other non-Serb populations from approximately one-third of Croatia through a campaign of persecutions in order to make that territory a Serb-dominated state.⁴⁹ The territory consisted of what Serb authorities called the SAO Krajina, the SAO Western Slavonia, the SAO Slavonia, Baranja, and Western Srem,⁵⁰ and the Dubrovnik Republic.⁵¹

35. On the basis of the Factual Statement and other evidence presented to it, the Trial Chamber is satisfied that an armed conflict existed during the times referred to in the Indictment and that the execution of the JCE entailed a widespread or systematic attack directed against a civilian population.⁵² Furthermore, the Trial Chamber is satisfied that the execution of the JCE was carried out with discriminatory intent, on political, racial, or religious grounds.⁵³

B. Degree of Babić's participation in the JCE

36. Babić admitted to having substantially participated in the JCE as a co-perpetrator. He admitted to having knowledge at the time of the wider context in which the JCE occurred, and that as a member of the JCE he committed acts or omissions pursuant to the objective of the JCE, namely persecutions against non-Serb populations.⁵⁴

37. As already stated, Babić claimed that although he was aware that crimes such as imprisonment (paragraph 15b of the Indictment), deportation or forcible transfer (paragraph 15c), and the destruction of property (paragraph 15d) were being committed in the targeted territories, he did not know the details and the scale of the events that were occurring there at the time.⁵⁵ In relation to the murders charged in paragraph 15(a) of the indictment, the parties state that Babić was not aware of the specific murders listed in the Indictment but was aware that civilians were killed in the course of the forcible removal of non-Serb civilians from the

⁴⁹ Factual Statement, para. 28.

⁵⁰ On 19 December 1991 the SAO Krajina proclaimed itself the RSK. On 26 February 1992 the SAO Western Slavonia and the SAO Slavonia, Baranja, and Western Srem joined the RSK.

⁵¹ Factual Statement, para. 29.

⁵² Factual Statement, paras 28, 34.

⁵³ Factual Statement, paras 29, 34.

⁵⁴ Factual Statement, para. 34.

⁵⁵ Factual Statement, para. 34.

area. Babić considered these killings the likely outcome of the pursuit of the objective of the JCE.⁵⁶

38. The parties seem to consider that Babić's guilt is lessened by the fact that he did not intend the commission of the murders as such but was merely aware that murders were being committed as part of the JCE.

39. The applicable elements of JCE liability (about which there is no dispute between the parties) are the existence of a plan (i.e. the permanent and forcible removal of non-Serb civilians from the SAO Krajina) involving a plurality of persons with a variety of functions of greater or lesser degree of importance and the participation of the accused in the common design involving the perpetration of a crime covered by the Statute.⁵⁷ Liability for crimes committed outside the plan of the JCE is possible if secondary crimes were the foreseeable consequence of the crimes agreed upon.

40. Babić voluntarily and intentionally participated in the JCE in pursuit of its criminal objective. Although he claimed not to know about the scale of the crimes of imprisonment, forcible transfer or deportation, and destruction of property, and although he denied wishing the murders listed in the Indictment, there is no doubt that Babić participated in the JCE as a co-perpetrator. Babić did not react appropriately or distance himself from the JCE when he learned about the killings which as he admits were the foreseeable result of the JCE. Babić's continued participation in the crime of persecution, to the extent described above, displayed an intention to participate in the persecutory acts and awareness that he would incur responsibility for crimes which he came to know about and which were the foreseeable consequence of the implementation of the JCE.

41. In conclusion, the Trial Chamber accepted the guilty plea entered by Babić on the grounds that it was satisfied beyond reasonable doubt that the crime of persecution prohibited by Article 5(h) of the Statute and as charged in count 1 of the indictment was committed in the context of a JCE, in which Babić participated as a co-perpetrator with the intent to discriminate on political, racial, or religious grounds.

⁵⁶ T. 176; Factual Statement, para. 34.

⁵⁷ *Tadić* Appeal Judgement, para. 220.

IV. DETERMINATION OF SENTENCE

42. The Prosecution recommended that the appropriate sentence should be a term of no more than 11 years of imprisonment.⁵⁸ In its Sentencing Brief the Defence submitted that the Trial Chamber must determine the sentence in accordance with the sentencing principles of the Tribunal and with the overriding obligation to individualize the sentence to fit Babić's circumstances.⁵⁹

A. Sentencing principles

43. Babić's sentence will be determined with reference to the provisions of Articles 23⁶⁰ and 24⁶¹ of the Statute, Rules 87 (C)⁶² and 101⁶³ of the Rules of Procedure and Evidence,⁶⁴ and the jurisprudence of the Tribunal, which has specified three primary objectives of sentencing, namely retribution, deterrence, and rehabilitation.

44. As a form of retribution, punishment expresses society's condemnation of the criminal act and of the person who committed it. It should be proportional to the seriousness of the

⁵⁸ Prosecution Sentencing Brief, para. 62.

⁵⁹ Defence Sentencing Brief, paras 23 et seq.

⁶⁰ Article 23 of the Statute states in pertinent part that: "1. The Trial Chambers shall pronounce judgements and impose sentences and penalties on persons convicted of serious violations of international humanitarian law."

⁶¹ Article 24 of the Statute states: "1. The penalty imposed by the Trial Chamber shall be limited to imprisonment. In determining the terms of imprisonment, the Trial Chambers shall have recourse to the general practice regarding prison sentences in the courts of the former Yugoslavia. 2. In imposing the sentences, the Trial Chambers should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person. 3. In addition to imprisonment, the Trial Chambers may order the return of any property and proceeds acquired by criminal conduct, including by means of duress, to their rightful owners".

⁶² Rule 87 (C) of the Rules of Procedure and Evidence states: "If the Trial Chamber finds the accused guilty on one or more of the charges contained in the indictment, it shall impose a sentence in respect of each finding of guilt and indicate whether such sentences shall be served consecutively or concurrently, unless it decides to exercise its power to impose a single sentence reflecting the totality of the criminal conduct of the accused."

⁶³ Which reads:

"(A) A convicted person may be sentenced to imprisonment for a term up to and including the remainder of the convicted person's life.

(B) In determining the sentence, the Trial Chamber shall take into account the factors mentioned in Article 24, paragraph 2, of the Statute, as well as such factors as:

- (i) any aggravating circumstances;
- (ii) any mitigating circumstances, including substantial cooperation with the Prosecutor by the convicted person before or after conviction;
- (iii) the general practice regarding prison sentences in the courts of the former Yugoslavia;
- (iv) the extent to which any penalty imposed by a court of any State on the convicted person for the same act has already been served, as referred to in Article 10, paragraph 3, of the Statute.

(C) Credit shall be given to the convicted person for the period, if any, during which the convicted person was detained in custody pending surrender to the Tribunal or pending trial or appeal."

⁶⁴ These provisions specify the nature of the penalty a Trial Chamber may impose (imprisonment), the factors to be taken into consideration in determining the sentence, and the manner in which a sentence should be imposed (whether a single sentence or multiple sentences).

crime. The Tribunal's punishment thus conveys the indignation of humanity for the serious violations of international humanitarian law of which a person is found guilty.⁶⁵ Punishment may in this way reduce the anger and sense of injustice caused by the commission of the crimes among victims and in their wider community.⁶⁶ In considering retribution as an objective of punishment, the Trial Chamber focuses on the seriousness of the crimes to which Babić has pleaded guilty.

45. The deterrent effect of punishment consists in discouraging the commission of similar crimes.⁶⁷ The main effect sought is to turn the perpetrator away from future wrongdoing (special deterrence), but it is assumed that punishment will also have the effect of discouraging others from committing the same kind of crime under the Statute (general deterrence).⁶⁸ In the present case, the Trial Chamber considers the likelihood that Babić will commit the same kind of crime in the future to be very small, which considerably reduces the relevance of special deterrence. With regard to general deterrence, imposing a punishment serves to strengthen the legal order in which the type of conduct involved is defined as criminal, and to reassure society of the effectiveness of its penal provisions. Nonetheless, it would be unfair, and it would ultimately weaken respect for the legal order as a whole, to increase the punishment imposed on a person merely for the purpose of deterring others. Therefore, in determining the appropriate sentence, the Trial Chamber does not accord undue prominence to deterrence.⁶⁹

46. Punishment is also understood as having a rehabilitative purpose. The loss of freedom, which is the form of punishment imposed by the Tribunal, provides the context for the convicted person's reflection on the wrongfulness of his acts and may give rise to an awareness of the harm and suffering these acts have caused to others. This process contributes to the reintegration of the convicted person into society. The Trial Chamber is of the opinion that when an accused pleads guilty, he takes an important step in this process.⁷⁰ This

⁶⁵ *Aleksovski* Appeal Judgement, para. 185.

⁶⁶ *Češić* Sentencing Judgement, para. 23; *Jokić* Sentencing Judgement, para. 31; *Mrda* Sentencing Judgement, para. 14.

⁶⁷ *Todorović* Sentencing Judgement, para. 30.

⁶⁸ *Aleksovski* Appeal Judgment, para. 185; *Čelebići* Appeal Judgement, para. 806; *Tadić* Sentencing Appeal Judgement, para. 48.

⁶⁹ *Tadić* Sentencing Appeal Judgement, para. 48; *Češić* Sentencing Judgement, paras 25-26; *Jokić* Sentencing Judgement, paras 31, 34; *Mrda* Sentencing Judgement, paras 16-17.

⁷⁰ *Nikolić* Sentencing Judgement, para. 93.

acknowledgement is an indication of the determination of an accused to accept his responsibilities towards the aggrieved persons and society at large.⁷¹

47. To achieve the objectives of sentencing in determining the length of the sentence, the Trial Chamber will give primary consideration to the gravity of the crime,⁷² which is to be assessed by taking into account, in particular, the number of victims and the suffering inflicted upon them.⁷³ The Trial Chamber will then take into consideration the individual circumstances of Babić, including any mitigating or aggravating circumstances.

48. Neither the Statute nor the Rules stipulate which factors are to be considered as aggravating or mitigating, except that Rule 101(B)(ii) requires the Trial Chamber to take into account any “significant cooperation” with the Prosecution as a mitigating factor. Mitigating factors identified in the case-law of the Tribunal include voluntary surrender⁷⁴ and demonstrations of remorse,⁷⁵ which are to be determined on the balance of probabilities. Potentially aggravating factors, such as the mode of criminal participation or the presence of premeditation, have also been identified.⁷⁶ Only those circumstances which are established beyond reasonable doubt will be taken into account as aggravating.⁷⁷

49. In determining the sentence, the Trial Chamber will also take into account the general practice regarding prison sentences in the courts of the former Yugoslavia. At the time of the commission of the crimes, sentencing by the courts of the former Yugoslavia was based on the provisions of the SFRY criminal code, in particular Article 41(1)⁷⁸ of Chapter XVI

⁷¹ *Češić* Sentencing Judgement, paras 27-28; *Jokić* Sentencing Judgement, paras 35-36; *Mrda* Sentencing Judgement, paras 18-19.

⁷² *Kvočka* Trial Judgement, para. 701, citing the Trial Chamber in the *Čelebići* case which stated that the gravity of the offence was “By far the most important consideration, which may be regarded as the litmus test for the appropriate sentence”, *Čelebići* Trial Judgement, para. 1225.

⁷³ *Kvočka* Trial Judgement, para. 701, citing the *Čelebići* Trial Judgement, para. 1226; *Erdemović* Appeals Sentencing Judgement, para. 15; *Kambanda* Sentencing Judgement, para. 42; *Kayishema* Trial Judgement, para. 26; *Kordić* Trial Judgement, para. 852.

⁷⁴ *Plavšić* Sentencing Judgment, para. 84.

⁷⁵ *Kunarac* Trial Judgement, para. 868;

⁷⁶ As will be recalled below, the Trial Chamber bears in mind that: “The same elements should not be reviewed a first time as a constitutive element of the crime and a second time as an aggravating circumstance”, *Krstić* Trial Judgement, para. 707.

⁷⁷ *Čelebići* Appeal Judgement, para. 763.

⁷⁸ Article 41(1) of the Criminal Code of the SFRY (adopted on 28 September 1976, entered into force on 1 July 1977) states (in translation): “The court shall determine the sentence for the perpetrator of a given crime within the limits prescribed by the law for this crime, bearing in mind the purpose of the punishment and taking into account all the circumstances that could lead to this sentence being more or less severe, in particular: the degree of criminal responsibility, the motives of the crime, the degree of the threat or damage to protected property, the circumstances under which the crime was committed, the background of the perpetrator, his personal circumstances and behaviour after the commission of the crime as well as other circumstances which relate to the character of the perpetrator.”

("Criminal Acts Against Humanity and International Law").⁷⁹ Article 38(2) of the SFRY criminal code permitted courts to impose a sentence of 20 years in prison in lieu of the death penalty.⁸⁰ The Defence accepts, with reference to the case-law of the Tribunal, that the Trial Chamber's discretion in imposing a sentence is not curtailed by such practice.⁸¹

B. Gravity of the crimes

50. The Trial Chamber has found that Babić participated in a JCE whose objective - the forcible and permanent removal of non-Serb populations from the SAO Krajina - was carried out through persecutory acts of murders, deportations or forcible transfers, imprisonment, and destruction of property. For his participation in these crimes, which was significant, Babić has pleaded guilty as a co-perpetrator of the crime of persecution under Article 5 of the Statute. The commission of this crime would have attracted the harshest sentence in the former Yugoslavia.

51. Babić does not deny the seriousness of the crimes committed, which he acknowledges were part of "ugly events".⁸² The campaign of persecutions which Babić participated in stretched throughout the self-declared SAO Krajina and involved the murder of more than 230 Croats or other non-Serbs between August and December 1991.⁸³ Croats and other non-Serbs were subjected to a variety of discriminatory measures, such as attacks on the communities in which they lived and confinement in detention facilities under inhumane conditions. Villagers' property was destroyed and churches and chapels were damaged or destroyed. Virtually the whole Croat or non-Serb population was expelled, by forcible removal or by being caused to flee through fear of imminent attack.⁸⁴

⁷⁹ See Chapter XVI of the Criminal Code of the former Yugoslavia ("Crimes Against Humanity and International Law"). Articles 141 and 142(1) dealt with the crimes of genocide and other war crimes committed against civilians. See also Articles 142-156 and Articles 38 ("Imprisonment"), 41 ("Sentences"), and 48 ("Coincidence of several offences"). Crimes against peace and international law, including the crime of genocide and war crimes against a civilian population, were punishable by a sentence of 5 to 15 years of imprisonment, by the death penalty, or by 20 years of imprisonment if a prison sentence was substituted for the death penalty.

⁸⁰ *Kordić* Trial Judgement, para. 849; see also Defence Sentencing Brief, para. 30.

⁸¹ *Tadić* Appeals Sentencing Judgement, para. 21; Defence Sentencing Brief, para. 26.

⁸² Babić's interview on 23 February 2002, video-tape 9 at pp. 4-6 (L009-2098-L009-2100).

⁸³ See lists of victims in annexes to the Indictment. See also the SAO Krajina map produced by Babić as Exhibit 326. Tab 11 in the *Milošević* proceedings shows that the SAO Krajina comprised of territories in Northern Dalmatia and Lika, including the municipalities of Knin, Benkovac, Gračac, Donji Lapac, Obrovac, Korenica, and Vojnić, and of localities which declared themselves as belonging to any of the above municipalities on account of their Serb-majority status.

⁸⁴ See witness statements admitted on 29 March 2004, and 92 *bis* statements admitted during the *Milošević* proceedings and also admitted into evidence in this case.

52. To illustrate the extent of the campaign of persecutions, the Prosecution attached as Annex I to its Sentencing Brief a representative sample of so-called “crime base” witness statements from different areas of the SAO Krajina describing the persecutory campaign led by Bosnian-Serb forces.⁸⁵ The Prosecution witnesses called pursuant to Rules 92bis(B) and 94bis in the *Milošević* proceedings described in detail the extent of the attacks against non-Serb civilians by Serb forces.⁸⁶ As to the impact of the crimes on victims and their relatives, the Prosecution attached as Annex IV to its Sentencing Brief the expert report of a psychiatrist, Dr Mladen Lončar. Dr Lončar, who was called by both parties, testified about his dealings with a large number of war victims. He had examined the physical and psychological consequences (short-term and long-term) of the traumatic experiences of victims of the armed conflict in the former Yugoslavia, including of victims of crimes charged in the Indictment.⁸⁷

53. In sum, the Trial Chamber is persuaded of the extreme gravity of the crime to which Babić pleaded guilty. The crime of persecution extended over a relatively limited period of time and a large geographical area, and involved the murder of more than 200 civilians, including women and elderly persons, the confinement and imprisonment of several hundred civilians in inhumane conditions, the forcible transfer or deportation of thousands of civilians, and the destruction of homes and public or private property. The crime, which was characterized by ruthlessness and savagery and was committed with the intent to discriminate against non-Serb civilians, strongly impacted on victims and their relatives. Their suffering is still significant. Participants in crimes of this gravity should expect sentences of commensurate severity.

C. Individual circumstances

1. Aggravating circumstances

54. The Prosecution submits that “leadership positions which are similar to the accused’s position have been found to be an aggravating circumstance”.⁸⁸ The Prosecution contends, however, that Babić “had no *de facto* control over the forces (neither military nor police) that committed the crimes. Within the joint criminal enterprise he had a rather limited role.”⁸⁹

⁸⁵ The Prosecution provided as Annex II to its Sentencing Brief a map depicting the locations mentioned in these statements.

⁸⁶ A brief summary of each statement is included in Annex I of the Prosecution Sentencing Brief.

⁸⁷ T. 88-123.

⁸⁸ Prosecution Sentencing Brief, para. 30.

⁸⁹ Prosecution Sentencing Brief, para. 33.

55. Similarly, the Defence argues that “Babić should not be construed as a leader of the joint criminal enterprise. He was not an architect of the plan. He shared the intent of the leaders for a limited period of time and had very limited, if any, influence on the actual leaders of the criminal enterprise.”⁹⁰ The Defence further argues that “it would be inappropriate to use the same conduct of Milan Babić as a civil political leader to both establish liability and establish an aggravating circumstance”.⁹¹

56. As mentioned earlier, Babić admitted that during the period covered by the Indictment he was a high-ranking regional political leader. He held prominent and central functions in the SDS in Croatia, and at all times covered by the Indictment he was President of the SDS Municipal Assembly in Knin. From 29 May 1991 he also served as President of the administration of the self-declared SAO Krajina, and he was subsequently elected President of the RSK when that entity was proclaimed on 19 December 1991.

57. In the geographical areas where the crime of persecution as charged in the Indictment was committed, Babić held political functions at the highest level. Babić admitted that he shared the intent of the other participants of the JCE to remove non-Serb populations from the SAO Krajina and that he used his central political authority in the top political leadership of the Krajina region to further that purpose. The Trial Chamber finds that his participation in the JCE, as described above, was substantial: Babić instigated and planned SDS policies to advance the campaign of persecutions against non-Serb populations in the SAO Krajina; he was instrumental in establishing, supporting, and maintaining the government bodies which ruled the SAO Krajina and participated in the commission of crimes listed in the Indictment; he assisted in the re-organisation and recruitment of TO forces which participated in the crimes listed in the Indictment; he provided the financial, material, logistical, and political support for the armed forces involved in the crimes listed in the Indictment; and he made ethnically inflammatory speeches to add to the atmosphere of fear and hatred of non-Serb populations in the SAO Krajina. On the basis of the foregoing, the Trial Chamber does not agree that Babić’s role in the JCE was as limited as the parties claim it was.

58. The Defence submits that it would be inappropriate to use Babić’s conduct as a political leader to establish both criminal liability and an aggravating circumstance.⁹² The Trial Chamber has already examined the criminal responsibility of Babić in order to decide

⁹⁰ Defence Sentencing Brief, para. 46.

⁹¹ Defence Sentencing Brief, para. 48.

whether to accept his plea of guilt. It agrees that the same element should not be assessed once as a constitutive element of the crime and a second time as an aggravating circumstance.⁹³

59. The jurisprudence of the Tribunal accepts that a high-ranking position of leadership held by a person criminally responsible under Article 7(1) of the Statute may be taken into account as an aggravating factor, although to what degree depends on the actual level of authority and the form of direct participation.⁹⁴ In the *Krstić* case, the Trial Chamber justified this proposition by stating that “the consequences of a person’s acts are necessarily more serious if he is at the apex of a military or political hierarchy and uses his position to commit crimes”.⁹⁵ In the *Kordić* case, the fact that Dario Kordić was a regional political leader who was not found to be an architect of the campaign of persecutions against non-Croat populations in the Lašva Valley of Bosnia and Herzegovina, aggravated the offences.⁹⁶ Similarly, in the *Mrda* case, Darko Mrda pleaded guilty to the crime of murder and the Trial Chamber found that the fact that he was a policeman aggravated, to a limited extent, his sentence because “the commission of this type of crime undoubtedly violated the public authority invested in police officers”.⁹⁷

60. The criminal liability of Babić does not stem from his position as a superior in the hierarchy. Babić is not charged with a failure to take the necessary and reasonable measures to prevent acts committed by his subordinates or to punish them for those acts, as provided for in Article 7(3) of the Statute. Babić is charged with having committed the crime of persecution by his participation in a JCE. The JCE, as charged, consisted not only of high political or military leaders but also of known and unknown members of a variety of armed forces, police forces, and state security forces.⁹⁸ The position of political leader is not required for participation in a JCE, nor is it a precondition for the crime of persecution. Thus it is not an element establishing criminal liability, and the Trial Chamber has not considered it as such in determining Babić’s criminal responsibility. The latter stems from his conduct of contributing to the furtherance of the objective of the JCE through the crime of persecution.

⁹² Defence Sentencing Brief, para. 48.

⁹³ *Krstić* Trial Judgement, para. 707.

⁹⁴ *Krstić* Trial Judgement, para. 708; *Galić* Trial Judgement, para 765.

⁹⁵ *Krstić* Trial Judgement, para. 709.

⁹⁶ *Kordić* Trial Judgement, para. 853.

⁹⁷ *Mrda* Sentencing Judgement, para. 52.

⁹⁸ Factual statement para. 31.

Thus the submission of the Defence does not prevent the Trial Chamber from taking into consideration Babić's leadership positions as an aggravating circumstance.

61. The reasons for holding that Babić's leadership positions should indeed be considered as an aggravating circumstance are twofold. First, as a regional political leader he enlisted the resources of the SAO Krajina to further the joint criminal enterprise⁹⁹ and by his speeches and media exposure¹⁰⁰ prepared the ground for the Serb population to accept that their goals could be achieved through acts of persecution. Second, Babić's involvement through the positions he held gained momentum over time: by allowing the campaign of persecutions to continue he amplified its consequences. The Chamber finds that the reasons for which Babić remained in his positions, that is, vanity and "ethno-egoism", are taken into account in support of his leadership position being an aggravating circumstance and do not count in mitigation.

62. In sum, the Trial Chamber finds that the fact that Babić held and remained in high political positions counts as an aggravating circumstance.

2. Mitigating circumstances

63. Both parties submit that the following mitigating circumstances apply in this case: Babić's substantial and continued cooperation with the Office of the Prosecutor; his voluntary appearance before the Tribunal to stand trial; his guilty plea and acceptance of responsibility; and his remorse.¹⁰¹

64. The Defence also submits that Babić's conduct subsequent to the crime and his personal and family circumstances are mitigating circumstances.¹⁰² The Prosecution proposes as additional mitigating circumstances Babić's limited participation in the acts of violence, his continued contribution to reconciliation, and his prior character.¹⁰³

⁹⁹ See above, para. 24(h).

¹⁰⁰ See above, para. 24(g).

¹⁰¹ Prosecution Sentencing Brief, para. 35; Defence Sentencing Brief, paras 50 et seq.

¹⁰² Defence Sentencing Brief, paras 65-72.

¹⁰³ Prosecution Sentencing Brief, para. 35. The Prosecution does not elaborate on Babić's "continuous contribution to reconciliation" in a separate section but treats it as the effect of his cooperation and admission of guilt.

(a) Admission of guilt

65. The Defence submits that Babić voluntarily came forward to provide statements to the Prosecution.¹⁰⁴ Although repeatedly warned about the risk of implicating himself, Babić agreed to testify before the Tribunal in the *Milošević* case and expressed his guilt as follows:

I would like to state in this trial the whole truth about the events that came to pass and what I know about and those that I took part in. [sic] Also I consider that I do bear certain responsibility for everything that took place during that period of time in the territory of the former Yugoslavia, and I expect that my role will be assessed correctly both by the Prosecution and by the other institutions, if it come to that, at this Tribunal.¹⁰⁵

66. The Defence further submits that Babić's admission of guilt will "contribute to rendering justice to the victims, to deterring others, to providing a basis for reconciliation, and to preclude revisionism. The timeliness of his guilty plea has rendered a contribution to the public advantage and the work of the Tribunal."¹⁰⁶

67. The Prosecution concurs and emphasizes that Babić entered a guilty plea shortly after the indictment against him was publicly confirmed. According to the Prosecution, Babić's guilty plea differs from other guilty pleas accepted by this Tribunal because "almost all other accused have pleaded guilty after having spent considerable time in custody, and usually on a date close to the start of trial, even during trials, when the scope of the evidence against them was known to them".¹⁰⁷

68. The Prosecution summarised the two main reasons why a guilty plea is considered in mitigation.¹⁰⁸ Firstly, where a guilty plea is entered prior to trial or before the evidence is completed, it may obviate the need for victims and witnesses to give evidence¹⁰⁹ and may also

¹⁰⁴ Defence Sentencing Brief, para. 51.

¹⁰⁵ Defence Sentencing Brief, para. 51, quoting Babić's testimony during the *Milošević* trial (18 November 2002, p. 6). This part of the testimony was given in private session. In reproducing the passage publicly here, the Trial Chamber takes account of the fact that the quotation was included by Babić's Defence counsel in a public document and that its content does not raise any protection issues.

¹⁰⁶ Defence Sentencing Brief, para. 53.

¹⁰⁷ Prosecution Sentencing Brief, para. 47. The Prosecution gives the example of Dragan Nikolić, the warden at Sušica camp, who only pleaded guilty after three years of detention and just prior of hearing the testimonies of six deposition witnesses (*Dragan Nikolić* Sentencing Judgement, para. 234.). Although the judgement states that the "lateness" of his guilty plea ought not to be considered as being to his detriment, the Prosecution contends that in fact this illustrates the major difference between the average accused before this Tribunal and Babić; Prosecution Sentencing Brief, footnote 47.

¹⁰⁸ *Erdemović* Sentencing Judgement II, p. 16; *Jelišić* Appeal Judgement, 5 July 2001; *Kambanda* Appeal Judgement, para. 120.

¹⁰⁹ *Todorović* Sentencing Judgement, paras 80-81; *Plavšić* Sentencing Judgement, para. 66.

save considerable time, effort, and resources.¹¹⁰ Secondly, and in this case more significantly, a guilty plea “is always important for the purpose of establishing the truth in relation to that crime.”¹¹¹ The discovery of the truth “is a fundamental step on the way to reconciliation”,¹¹² and prevents “all forms of revisionism”.¹¹³ The Trial Chamber accepts the parties’ arguments that the case-law of the Tribunal has consistently considered a guilty plea as a mitigating factor. The Trial Chamber further accepts that the discovery of the truth is an important objective to the Tribunal. This institution was established pursuant to Security Council Resolution 827 of 1993 in order to contribute to the re-establishment of peace and security in the former Yugoslavia.¹¹⁴ The Prosecution recalled that after adopting the resolution that established the Tribunal, the Security Council observed that “it is only the truth that can cleanse the ethnic and religious hatreds and begin the healing process”.¹¹⁵ The United Nations General Assembly stressed in a resolution in 1996 “the importance and urgency of the work of the International Tribunal as an element of the process of reconciliation in Bosnia and Herzegovina and in the region”.¹¹⁶

69. During his testimony in the *Milošević* case Babić himself said that establishing the truth and assisting the process of reconciliation were his main reasons for testifying.¹¹⁷ The expert called by both parties, Dr Mladen Lončar, addressed in his report the positive effect of Babić’s guilty plea on the victims in particular, and in general on the entire population in the former Yugoslavia, including the Serbs.¹¹⁸ The Trial Chamber considers that by his guilty plea and his account of the events, Babić has contributed significantly to the reconciliation process in the territory of the former Yugoslavia, in particular in Croatia and Bosnia-Herzegovina.

70. Moreover, Babić’s acceptance of guilt is exceptional because his admission of facts and of guilt made it likely that an indictment would be issued against him. As mentioned earlier, despite being warned that he might incriminate himself, Babić gave extensive suspect

¹¹⁰ *Todorović* Sentencing Judgement, para. 81.

¹¹¹ *Todorović* Sentencing Judgement, para. 81.

¹¹² *Erdemović* Sentencing Judgement II, para. 21.

¹¹³ S/PV. 4161, para. 3, quoted in Prosecution Sentencing Brief, para. 50.

¹¹⁴ See *Tadić* Jurisdiction Decision, p. 72.

¹¹⁵ S/PV. 3217, para. 12, quoted in Prosecution Sentencing Brief, para. 51.

¹¹⁶ U.N. General Assembly resolution A/RES/51/203 88th plenary meeting 17 December 1996.

¹¹⁷ See quotes attached to the Prosecution Sentencing Brief, Annex V (T. 12861, 13418-9).

¹¹⁸ See pp. 16-18 in the English version of his report in Annex IV to the Prosecution Sentencing Brief. On p. 17 he stated in reference to the guilty plea that “This is a step towards healing, towards forgetting the past and turning to the future. Admission of guilt and remorse alone cannot restore unity and friendship, but it helps victims overcome the greyness of their past.” He went on to say that Babić’s confession “expresses the truth which so many victims have ‘silently’ been saying for all these years”.

interviews to investigators of the Prosecution during which he admitted bearing a certain responsibility. For example:

[The] lasting media campaign from Belgrade and the production of these events by Slobodan Milošević, events which occurred in Croatia, then also shaped such a public opinion, but now looking back on these events, I'm fully aware that also I, because I succumbed to this vanity of mine, influenced in some way that such a public opinion be created. Maybe I could describe it as ethno-selfishness and that's probably what I also became – an ethno egoist, ethnic egoist, a person who exclusively wanted to see to the interests of people to which I belonged and that my emotions and feelings decreased and I became less sensitive and I neglected the interests and the suffering of other peoples, at the time the Croatian people.¹¹⁹

71. The Trial Chamber is satisfied that Babić's admission of guilt in the circumstances described above is a mitigating factor.

(b) Cooperation

72. The parties submit that Babić's substantial cooperation with the Office of the Prosecutor is a mitigating factor.¹²⁰ The Defence, which relies on the Prosecution to detail the level of cooperation by Babić, argues that his cooperation was spontaneous, extensive and of exceptional value.¹²¹

73. The Prosecution detailed Babić's cooperation as follows:

- Babić spontaneously came forward for interviews with the Office of the Prosecution.¹²² During these interviews, Babić produced various important documents and authenticated and commented on others that were tendered into evidence in the Milošević case.¹²³ Many of these documents were or will be part of the supporting materials accompanying Indictments against other members of the JCE and will be presented in other related trials. Many of these documents had not formed part of the Prosecution's collection of evidence before. Thus it saved the Prosecution the immense resources that would have been required to gather and authenticate these documents;¹²⁴

- Babić testified voluntarily in the Milošević proceedings despite the fact that he was incriminating himself.¹²⁵ This testimony provided far-reaching insight in the decision-making, the operation, and the plans of the JCE around Slobodan Milošević, which no other insider witness had been able to provide so far. Babić's testimony enabled the

¹¹⁹ Babić's interview on 23 February 2002, video-tape 9, pp. 4-6 (L009-2098-L009-2100).

¹²⁰ Prosecution Sentencing Brief, paras 37- 46; Defence Sentencing Brief, paras 60-64.

¹²¹ Defence Sentencing Brief, paras 62-64.

¹²² As mentioned above, these interviews took place in November 2001, January 2002, February 2002, and April 2002; Defence Sentencing Brief, para. 62.

¹²³ The Prosecution attached as Annex VII to its Sentencing Brief two schedules which show the amount of documentation provided and authenticated by Babić.

¹²⁴ Prosecution Sentencing Brief, para. 42.

¹²⁵ Prosecution Sentencing Brief, para. 43.

Prosecution to drop a number of witnesses to the events charged in the Milošević Croatia Indictment from the witness list, which underlines the crucial importance of the evidence given. Babić's evidence further assisted in illuminating the early history of the conflict in Croatia in 1991, evidence which had not been heard in any other case before in this Tribunal. Babić was best placed, by virtue of the political position he held, to explain to the Trial Chamber in the *Milošević* case the different stages of political development that ultimately led to the outbreak of the conflict in Croatia. Qualitatively as well as quantitatively, thus, the evidence provided by Babić was of major significance to the Prosecution's case and substantially reduced its need for further in-depth investigations and presentation of evidence;¹²⁶

- Babić agreed to testify in other cases before this Tribunal;¹²⁷

- Babić was the first indictée in the Tribunal's history for whom the issuance of an arrest warrant proved unnecessary.¹²⁸

74. The Trial Chamber takes note of the extensive cooperation given spontaneously by Babić, and, as the Prosecution puts it, "at great danger to his family and his own personal safety".¹²⁹ Babić provided self-incriminatory statements and documentation to assist in bringing himself and others to justice. The extent of Babić's cooperation with the Tribunal is established by the evidence adduced in this case, which consists among other things of portions of the transcripts of the interviews conducted between Prosecution investigators and Babić, and the transcript and related exhibits of Babić's testimony in the *Milošević* proceedings.

75. The Trial Chamber will attach substantial mitigating weight to Babić's cooperation with the Tribunal.

(c) Limited participation in the crimes charged

76. Babić admitted to having contributed to bringing about the acts of violence which are described in part II of this sentencing judgement and which form the factual basis of the guilty plea.

77. The Prosecution contends that Babić's participation in the crimes described in part II of this judgement was limited because he had no de facto control over the military forces

¹²⁶ Prosecution Sentencing Brief, para. 44.

¹²⁷ Prosecution Sentencing Brief, para. 45.

¹²⁸ Prosecution Sentencing Brief, para. 46. The Prosecution added that Babić "appeared for his initial appearance voluntarily pursuant to a court order, thereby demonstrating his unconditional acceptance of, and respect for, this Tribunal and its decisions" (ibid.).

¹²⁹ Prosecution Sentencing Brief, para. 39.

involved in the commission of the crimes.¹³⁰ To the Prosecution, Babić's role in the totality of the crimes as they happened in Croatia was of a secondary nature, in comparison with the leading members of the JCE.¹³¹ This position was supported by the Defence during the sentencing hearing.¹³² The Prosecution further submitted that Babić became a politician out of a desire to save the Serbs in Croatia, that as long as he served the other participants of the JCE loyally and obediently he was promoted and kept in his position, and that as soon as he opposed the politics of Slobodan Milošević and his supporters, he immediately lost his office and was replaced, because he was not crucial for the functioning of the JCE but rather a disposable tool of the leaders of the JCE.¹³³

78. At the same time and in another part of its Sentencing Brief, the Prosecution submits that Babić agreed that his conduct and involvement "contributed significantly to the perpetration of the crimes" mentioned in part II of this judgement.¹³⁴

79. As already mentioned, the Trial Chamber does not accept that Babić's role in the JCE was as limited as the parties suggest it was. It is true that Babić was not the prime mover in the campaign of persecutions. However, the Trial Chamber recalls that Babić chose to stay in power and provided significant support for the persecutions against non-Serb civilians by among other things participating in the provision of financial, material, logistical, and political support necessary for the military take-over of territories in the SAO Krajina, by making ethnically based inflammatory speeches, by encouraging and assisting in the acquisition of arms and their distribution to Croatian Serbs. The argument that Babić, acting out of conviction to save Serbs in Croatia, was not crucial to the functioning of the JCE and had a limited role is unfounded. Babić's role in the JCE allowed the JCE to function; his participation furthered the objective of the JCE. The fact that others could have played the same role and that others eventually did take over is not relevant to the establishing of criminal liability or the mitigation of criminal responsibility.

80. Having rejected the argument that Babić's participation in the crime was limited to the extent suggested by the parties, the Trial Chamber does not consider Babić's allegedly limited role as a mitigating circumstance.

¹³⁰ Prosecution Sentencing Brief, para. 33.

¹³¹ Prosecution Sentencing Brief, para. 36.

¹³² See T. 225, 239, 243.

¹³³ Prosecution Sentencing Brief, para. 36.

¹³⁴ Prosecution Sentencing Brief, para. 55.

(d) Showing of remorse

81. The Defence submits that Babić expressed true remorse both through his words and, more importantly, through his deeds subsequent to his criminal behaviour.¹³⁵ The Prosecution concurs and submits that “in his dealings with the Office of the Prosecutor, Babić showed remorse for his conduct and involvement, which he agreed contributed significantly to the perpetration of these crimes”.¹³⁶

82. The Trial Chamber notes that during one of the interviews given to investigators of the Office of the Prosecutor on 23 February 2002, Babić stated:

Today with this awareness, consciousness I have and the knowledge I have, I certainly wouldn't act in that way, I wouldn't conduct myself in that way, but at that time my role could have been much better, or not at all, to have no role at all. And in some way I feel shame and ... I feel shame for what happened and I also regret it, regret for having participated in a certain way in these events, which were ugly.¹³⁷

83. After his guilty plea was entered before the Trial Chamber, Babić again expressed his remorse:

I come before this Tribunal with a deep sense of shame and remorse. I have allowed myself to take part in the worst kind of persecution of people simply because they were Croats and not Serbs. Innocent people were persecuted; innocent people were evicted forcibly from their houses; and innocent people were killed. Even when I learned what had happened, I kept silent. Even worse, I continued in my office, and I became personally responsible for the inhumane treatment of innocent people.¹³⁸

He continued:

These crimes and my participation therein can never be justified. I'm speechless when I have to express the depth of my remorse for what I have done and for the effect that my sins have had on the others. I can only hope that by expressing the truth, by admitting to my guilt, and expressing the remorse can serve as an example to those who still mistakenly believe that such inhuman acts can ever be justified. Only truth can give the opportunity for the Serbian people to relieve itself of its collective burden of guilt. Only an admission of guilt on my part makes it possible for me to take responsibility for all the wrongs that I have done.¹³⁹

84. The Trial Chamber is satisfied that the remorse expressed by Babić is sincere and consequently constitutes a mitigating factor.

¹³⁵ Defence Sentencing Brief, para. 57.

¹³⁶ Prosecution Sentencing Brief, para. 55.

¹³⁷ Babić's interview on 23 February 2002, video-tape 9, pp 4-6 (L009-2098-L009-2100).

¹³⁸ See, T. 57.

¹³⁹ See, T. 57-58.

(e) Voluntary surrender

85. The Defence submits that Babić's voluntary surrender to the Tribunal, in the absence of a warrant of arrest, is a mitigating circumstance.¹⁴⁰ The Prosecution also mentions this circumstance as a mitigating circumstance without elaborating on it.¹⁴¹

86. The Trial Chamber accepts the parties' submissions. Babić's voluntarily appearance before this Tribunal soon after the confirmation of an indictment against him is an indication of his respect for the international administration of justice. The Trial Chamber considers it in mitigation in conjunction with the related indicators mentioned above.

(f) Personal and family circumstances

87. The Defence submits that "the most significant of the personal and family circumstances of Milan Babić is that, in addition to being a convicted perpetrator, he is also a protected witness".¹⁴² The Defence further notes that because of his cooperation with the Tribunal, Babić and his family live in fear of violent retribution from those who view them as traitors and they will never be able to return to their homeland. According to the Defence, Babić will also have to serve any period of imprisonment under high security conditions that will render his incarceration more isolated than that of other convicted persons.¹⁴³

88. The Trial Chamber is conscious of Babić's situation. By agreeing to substantially cooperate with the Prosecution in the context described above, Babić incurred substantial security risks for himself and his loved ones.

89. The Trial Chamber considers that Babić's family and personal situation is a mitigating circumstance.

(g) Character prior to the armed conflict in Croatia

90. The Prosecution submits that prior to the armed conflict in Croatia, Babić was a dentist, a good father and husband, and a respected member of the Knin community with no prior criminal record.¹⁴⁴ The Prosecution asserts that Babić "only became radicalised through moves of the political leaderships both in Belgrade and Zagreb and a large-scale and

¹⁴⁰ Defence Sentencing Brief, paras 58-59.

¹⁴¹ Prosecution Sentencing Brief, para. 35.

¹⁴² Defence Sentencing Brief, para. 69.

¹⁴³ Defence Sentencing Brief, paras 70-72.

sophisticated Serbian media campaign to revive peoples' old fears and insecurities, leading to separation of communities along ethnic lines and resulting in violence of the dominant ethnic group against the others".¹⁴⁵

91. The Tribunal has jurisdiction over crimes committed during the armed conflict in the former Yugoslavia, where ordinary citizens were involved in horrendous events. The Trial Chamber is of the view that the prior good character of a convicted person (understood against a common standard of behaviour) does not as such count in mitigation, although in exceptional circumstances, for which there is no evidence in this case, it may.¹⁴⁶

92. The Trial Chamber does not accept that this proposed ground of mitigation should be given any effect in this case.

(h) Subsequent conduct

93. The Defence raises Babić's conduct subsequent to the crime as a separate mitigating circumstance and supports this claim by incorporating arguments raised in relation to other mitigating factors such as the cooperation of Babić with the Prosecution, Babić's family situation, and Babić's voluntary surrender.¹⁴⁷

94. Conduct subsequent to the crime is a factor which has been accepted in other cases before the Tribunal where the convicted person acted immediately after the commission of the crime to alleviate the suffering of victims. For instance, in the *Plavšić* case, the Trial Chamber accepted Biljana Plavšić's post-conflict conduct as a mitigating factor because after the cessation of hostilities she had demonstrated considerable support for the 1995 General Framework Agreement for Peace in Bosnia-Herzegovina (Dayton Agreement) and had attempted to remove obstructive officials from office in order to promote peace.¹⁴⁸ By contrast, in the *Jokić* case, the Trial Chamber did not accept as a separate mitigating circumstance Miodrag Jokić's conduct immediately after the crimes. Instead, the Trial Chamber used that information as well as his subsequent conduct as evidence of the sincerity of his remorse.¹⁴⁹

¹⁴⁴ Prosecution Sentencing Brief, para. 57.

¹⁴⁵ Prosecution Sentencing Brief, para. 57.

¹⁴⁶ Cf. *Češić* Sentencing Judgment, paras 77-85, and *Jokić* Sentencing Judgment, paras 101-102.

¹⁴⁷ Defence Sentencing Brief, para. 65.

¹⁴⁸ *Plavšić* Sentencing Judgment, para. 85.

¹⁴⁹ *Jokić* Sentencing Judgment, paras 89-92.

95. In the present case, the Trial Chamber is not satisfied that conclusive evidence was provided that Babić alleviated the suffering of victims whether immediately after the commission of the crime of persecution in SAO Krajina or after the end of the armed conflict in Croatia in 1995. His subsequent behaviour concerned matters such as cooperation and acceptance of responsibility, which have already been considered.

96. The Trial Chamber rejects the Defence's claim that Babić's post-conflict conduct constitutes a mitigating circumstance.

(i) Conclusion

97. In conclusion, the Trial Chamber accepts that the following factors establish that a reduced sentence is appropriate: Babić's admission of guilt and the promptness thereof; his voluntary contact with the Prosecution prior to confirmation of the indictment against him and his substantial cooperation with the Prosecution not only in his own case but also in other trials before this Tribunal; his voluntary appearance after confirmation of the indictment against him; his showing of remorse; and his family and personal situation.

D. Conclusion

98. Babić was a regional political leader who sought to promote what he considered the interests of his people to the detriment of Croats and other non-Serbs by serious violations of international humanitarian law. His lack of moral strength prevented him from standing against injustice committed against non-Serb civilians and led him to become involved in a joint criminal enterprise. By admitting his guilt in relation to the armed conflict in Krajina in 1991-1992, Babić demonstrated some courage. Yet the Trial Chamber is not convinced that he has, at all times, recognised the full significance of the role he played in Croatia in that period.

99. The Prosecution explained that its recommendation of a sentence of no more than 11 years of imprisonment was partly influenced by the earlier sentencing in this Tribunal of Mrs Biljana Plavšić, who was also a senior regional political leader who pleaded guilty to the crime of persecution (for which she was sentenced to 11 years of imprisonment).

100. The Trial Chamber considers that each sentence must be viewed in the light of the circumstances of the particular case and that the sentences imposed on other convicted persons by this Tribunal are based on premises that may differ from the circumstances of the present case.

101. The Trial Chamber has carefully balanced the gravity of the crime admitted to with the aggravating and mitigating factors applicable in this case. It has also looked to guidance from the general sentencing practice of courts in the former Yugoslavia. The Trial Chamber finds that the recommendation made by the Prosecution of a sentence of imprisonment of no more than 11 years would not do justice in view of the applicable sentencing principles and the gravity of Babić's crime taking account of the aggravating and mitigating circumstances.

V. DISPOSITION

102. For the foregoing reasons, having considered the arguments and the evidence presented by the parties, the Trial Chamber hereby sentences Milan Babić to 13 (thirteen) years of imprisonment.

103. Babić is entitled to credit for 211 days served in detention until the day of this sentencing judgement (not including this day).

104. Babić shall remain in the custody of the Tribunal until such time as the arrangements for his transfer to the State in which he will serve his sentence have been finalized.

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

Alphons Orié
Presiding

Amin El Mahdi

Joaquín Martín Canivell

Dated this 29th day of June 2004
At The Hague
The Netherlands

Seal of the Tribunal

VI. ABBREVIATIONS

<i>Aleksovski</i> Appeal Judgement	<i>Prosecutor v. Zlatko Aleksovski</i> , Case No. IT-95-14/1-A, Judgement, 24 March 2000
<i>Blaškić</i> Trial Judgement	<i>Prosecutor v. Tihomir Blaškić</i> , Case No. IT-95-14-T, 3 March 2000
<i>Čelebići</i> Appeal Judgement	<i>Prosecutor v. Zejnil Delalić et al</i> , Case No. IT-96-21-A, Judgement, 20 February 2001
<i>Čelebići</i> Trial Judgement	<i>Prosecutor v. Zejnil Delalić et al</i> , Case No. IT-96-21-T, Judgement, 16 November 1998
<i>Češić</i> Sentencing Judgement	<i>Prosecutor v. Ranko Češić</i> , Case No. IT-95-10-S, 11 Mars 2004
Defence Sentencing Brief	<i>Prosecutor v. Milan Babić</i> , Case No. IT-03-72-S, Milan Babić's Sentencing Brief, 22 March 2004
<i>Dragan Nikolić</i> Sentencing Judgement	<i>Prosecutor v. Dragan Nikolić</i> , Case No. IT-94-2-S, Sentencing Judgement, 18 December 2003
<i>Erdemović</i> Appeal Sentencing Judgement	<i>Prosecutor v. Dražen Erdemović</i> , Case No. IT-96-22-Tbis, Sentencing Judgement, 5 March 1998
Factual Statement	<i>Prosecutor v. Milan Babić</i> , Case No. IT-03-72-PT, Amendment to the Joint Motion for Reconsideration of Plea Agreement between Milan Babić and the Office of the Prosecutor pursuant to Rule 62 ter, Tab 1, 22 January 2004
<i>Galić</i> Trial Judgement	<i>Prosecutor v. Stanislav Galić</i> , Case No. IT-98-29-T, Judgement and Opinion, 5 December 2003
<i>Jelisić</i> Appeal Judgement	<i>Prosecutor v. Goran Jelisić</i> , Case No. IT-95-10-A, Judgement, 5 July 2001
<i>Jelisić</i> Trial Judgement	<i>Prosecutor v. Goran Jelisić</i> , Case No. IT-95-10-T, Judgement, 14 December 1999
<i>Jokić</i> Sentencing Judgement	<i>Prosecutor v. Miodrag Jokić</i> , Case No. IT-01-42/1-S, Sentencing Judgement, 18 Mars 2004
JNA	Yugoslav People's Army
<i>Kambanda</i> Sentencing Judgement	<i>Prosecutor v. Jean Kambanda</i> , Case No. ICTR 97-23-S, Sentencing Judgement, 4 September 1998
<i>Kayishema</i> Trial Judgement	<i>Prosecutor v. Clément Kayishema and Obed Ruzindana</i> , Judgement and Sentence, Case No. ICTR-95-1-T, 21 May 1999
<i>Kordić</i> Trial Judgement	<i>Prosecutor v. Dario Kordić & Mario Čerkez</i> , Case No. IT-95-14/2-T, Judgement, 26 February 2001
<i>Krstić</i> Trial Judgement	<i>Prosecutor v. Radoslav Krstić</i> , Case No. IT-98-33-T, 2 August 2001
<i>Kunarac</i> Trial Judgement	<i>Prosecutor v. Dragoljub Kunarać, Radomir Kovač and Zoran Vuković</i> , Case No. IT-96-23-T, Judgement, 22 February 2001

<i>Kupreškić</i> Appeal Judgement	<i>Prosecutor v. Zoran Kupreškić et al.</i> , Case No. IT-95-16-A, Appeal Judgement, 23 October 2001
<i>Kupreškić</i> Trial Judgement	<i>Prosecutor v. Zoran Kupreškić et al.</i> , Case No. IT-95-16-T, Judgement, 14 January 2000
<i>Kvočka</i> Trial Judgement	<i>Prosecutor v. Miroslav Kvočka et al.</i> , Case No. IT-98-30/1-T, Judgement, 2 November 2001
<i>Mrda</i> Sentencing Judgement	<i>Prosecutor v. Darko Mrda</i> , Case No. IT-02-59-S, 31 March 2004
<i>Momir Nikolić</i> Sentencing Judgement	<i>Prosecutor v. Momir Nikolić</i> , Case No. IT-02-60/1-S, Sentencing Judgement, 2 December 2003
<i>Naletilić</i> Trial Judgement	<i>Prosecutor v. Mladen Naletilić and Vinko Martinović</i> , Case No. IT-98-34-T, Judgement, 31 March 2003
<i>Plavšić</i> Sentencing Judgement	<i>Prosecutor v. Biljana Plavšić</i> , Case No. IT-00-39&40/1-S, Sentencing Judgement, 27 February 2003
Plea Agreement	<i>Prosecutor v. Milan Babić</i> , Case No. IT-03-72-PT, Amendment to the Joint Motion for Reconsideration of Plea Agreement between Milan Babić and the Office of the Prosecutor pursuant to Rule 62 ter, Annex A, 22 January 2004
Plea Hearing	<i>Prosecutor v. Milan Babić</i> , Case No. IT-03-72-PT, Plea Hearing, 27 and 28 January 2004
Prosecution Sentencing Brief	<i>The Prosecutor v. Milan Babić</i> , Case No. IT-03-72-S, Prosecution's Sentencing Brief, 22 March 2004
Rules	Rules of Procedure and Evidence of the International Tribunal, IT/32/Rev.28, 17 December 2003
Sentencing Hearing	<i>Prosecutor v. Babić</i> , Case No. IT-03-72-S, sentencing hearing, 1 and 2 April 2004
SFRY	Socialist Federal Republic of Yugoslavia
SFRY Criminal Code	Criminal Code of the Socialist Federal Republic of Yugoslavia, published in the Official Gazette SFRJ No. 44 of October 8, 1976 and effective since July 1, 1977
<i>Tadić</i> Sentencing Appeal Judgement	<i>Prosecutor v. Dusko Tadić</i> , Case No. IT-94-1-A and IT-94-1-Abis, Judgement in Sentencing Appeals, 26 January 2000
<i>Todorović</i> Sentencing Judgement	<i>Prosecutor v. Stevan Todorović</i> , Case No. IT-95-9/1-S, Sentencing Judgement, 31 July 2001
UNDU	United Nations Detention Unit
<i>Vasiljević</i> Appeal Judgement	<i>Prosecutor v. Mitar Vasiljević</i> , Case No. IT-98-32-A, Judgement, 25 February 2004