



Number: X-KR/09/668
Sarajevo, 5 November 2009

IN THE NAME OF BOSNIA AND HERZEGOVINA

The Court of Bosnia and Herzegovina, the Panel composed of Judge Željka Marenčić as the President of the Panel, judges Minka Kreho and Marjan Pogačnik as the Panel Members, with the participation of the Legal Officer Lana Ferović as the Minutes Taker, in the criminal case against the convicted person Dragan Đokić, deciding on the Motion of the convicted person to transfer the execution of imprisonment sentence into Bosnia and Herzegovina, having been sentenced by the final Verdict of the District Court in Sisak, the Republic of Croatia, No. K-22/07 of 26 September 2007, for the criminal offence of War Crimes against Civilians punishable under Article 120(1) of the Criminal Code of the Republic of Croatia, or Article 173(1)(a) of the Criminal Code of Bosnia and Herzegovina, at the session of the Panel held in the presence of the Prosecutor of the Prosecutor's Office of BiH Jadranka Lokmić Misirača and the Defense Counsel for the convicted person Dragan Đokić - Attorney Nenad Balaban, on 5 November 2009 delivered the following

VERDICT

I – CONVICTED PERSON: Dragan Đokić a.k.a. *Popizdeo*, son of Arsenije and Marica, nee Ilić, born 16 January 1953 in Sombor, Serb, a citizen of BiH, residing in Bosanski Novi, at 41 Kožinac, BiH, a butcher by occupation, unemployed, married, father of two adult children, completed elementary school, served the army in Titograd in 1971, registered in the Military Records in Bosanski Novi, owns no property, no previous convictions, currently serving sentence in the Republic of Croatia, who was by the final Verdict of the District Court in Sisak, the Republic of Croatia, No. K-22/07 of 26 September 2007,

found guilty

of the following:

On 9 August 1991 in Ravno Rašće, as a member of illegal armed formations of the so-called Republika Srpska Krajina, using the circumstances of armed rebellion in violation of Article 3(2) of IV Geneva Convention relative to the Protection of Civilians in Time of War of 12 August 1949, having reached the house owned by Đuro Vučićević together with Zoran Arbutina, Željko Sladović and another unidentified person, first opened fire at the house of Đuro Vučićević, and then by means of threats they forced the people in the house to open the door, and then the convicted person Dragan Đokić entered the house, where he first shot above the heads of people there whom he had lined up, and then he took Đuro Vučićević out of the house and together with Željko Sladović and the unidentified person drove him in a private car – the so-called *Fićo* to the area of Bare near the Točak Well in the vicinity of Drenovac Banski, where they shot Đuro Vučićević in the head from firearms.



Specifically, in violation of the rules of international law in time of armed conflict he attacked a civilian person which resulted in his death.

And by doing so he committed a criminal offence against humanity and international law –War Crimes against Civilian Population – defined and punishable under Article 120(1) of the Basic Criminal Code of the Republic of Croatia,

II – under the criminal laws in BiH the mentioned criminal and legal actions are qualified as the criminal offence of War Crimes against Civilians under Article 173(1)(a) of the Criminal Code of BiH.

Therefore the convicted person Dragan Đokić, pursuant to the same Article and having applied Article 39, 42 and 48 of the Criminal Code of BiH

**IS SENTENCED
TO TWELVE (12) YEARS' IMPRISONMENT**

Pursuant to Article 57 of the CC of BiH the time which the convicted person spent in custody from 17 September 2005 to 5 November 2007 shall be credited towards the imposed imprisonment sentence, which is when he started serving the sentence pursuant to the Decision of the Ministry of Justice kl: 730-04/07-01/1514 in the Lepoglava Penal Facility, and the time he spent serving sentence imposed by the final Verdict of the District Court in Sisak, the Republic of Croatia No. K-22/07 of 26 September 2007.

Pursuant to Article 188(4) of the Criminal Procedure Code of Bosnia and Herzegovina, the convicted person was relieved of the duty to reimburse the costs of proceedings, which shall be covered from the Court Budget.

R e a s o n i n g

The Prosecutor's Office of Bosnia and Herzegovina submitted to this Court the document No. KTZ-197/08 of 22 January 2009 together with the Official Letter of the Ministry of Justice of the Republic of Croatia No. 514-07-01-01-08-6 of 11 November 2008 with the accompanying documents and the Motion of Dragan Đokić, a citizen of BiH, for his transfer to Bosnia and Herzegovina for serving further imprisonment sentence imposed on him by the Verdict of the District Court in Sisak, the Republic of Croatia, No. K-22/07 of 26 September 2007 which was confirmed by the Verdict of the Supreme Court of the Republic of Croatia No. Kž-1066/07 of 30 January 2008.

Acting pursuant to Article 68 (1) and (2) of the Law on International Legal Aid in Criminal Matters (*Official Gazette of BiH, No. 53/09*) and pursuant to provisions 1, 2 and 14 of the Agreement between the Government of Bosnia and Herzegovina, the Government of the Federation of BiH and the Government of the Republic of Croatia on Mutual Execution of Court Decisions in Criminal Matters (*Official Gazette of R BiH-special edition 1/96 hereinafter: the Agreement*), the Panel of the Court held a session in the presence of the Prosecutor of the Prosecutor's Office of BiH and the Defense Counsel for the convicted person, Attorney Nenad Balaban, and in the absence of the duly notified convicted person Dragan Đokić



At the open session the Defense Counsel for the convicted person moved the Court to deliver a verdict enabling the convicted person to serve the rest of the sentence in Bosnia and Herzegovina, which was also proposed by the Prosecutor of the Prosecutor's Office of BiH, stating that she deemed that the requirements had been satisfied for such verdict, which was evident from the documents submitted with the Motion. The Prosecutor also submitted that the offence was defined by the criminal laws in BiH, that is, the criminal offence of the War Crime against Civilians under Article 173(1)(a) of the CC of BiH, and that the imposed sanction entirely corresponds to the degree of criminal liability of the perpetrator.

In conclusion, the Defense Counsel moved the Court, while deciding on the criminal sanction, to take into account the mitigation circumstances on the part of his client, that he is a family man, father of two children, no convictions, and that eighteen years had past since the criminal offence was committed.

The Court considered the Motion of the convicted person given on the record in the Prison System Administration, the Ministry of Justice of the Republic of Croatia – the Lepoglava Penal Facility on 13 March 2008 and the Information of the Ministry of Justice of the Republic of Croatia No. 514-07-01-01-08-6 of 11 November 2008, and established that all requirements were satisfied for the national court to conduct a formal decision making proceedings.

More specifically, based on the final Verdict of the District Court in Sisak No. K-22/07 of 26 September 2007, Dragan Đokić was convicted of the Criminal Offence of War Crimes against Civilians under Article 120(1) of the Basic Criminal Code of the Republic of Croatia, and pursuant to the criminal laws of BiH the mentioned criminal acts are qualified as a criminal offence of War Crimes against Civilians under Article 173 (1) (a) of the Criminal Code of BiH because, in violation of the rules of international law in time of war, he attacked a civilian which resulted in his death.

Pursuant to the Certificate on Citizenship of Bosnia and Herzegovina No. 03/5-204-1368/07 of 31 May 2007 of the convicted person Dragan Đokić issued by the General Administration Department of the Municipality of Novi Grad, it was established that the convicted person Dragan Đokić, son of Arsenije, born on 16 January 1953 in Sombor, the Republic of Serbia, PIN 1601953740017, a citizen of Bosnia and Herzegovina, according to the information about the period of sentence served by the convicted person delivered by the Prison System Administration of the Ministry of Justice of the Republic of Croatia No. 571-04-01-08-1 of 31 March 2008 it was established that he serves the imprisonment sentence in the Lepoglava Penal Facility and that his sentence expires on 17 September 2017.

Having in mind the aforementioned facts, the Court finds that the requirements set under Article 2 of the Agreement and Article 63 of the Law on International Legal Aid in Criminal Matters have been met, thus pursuant to Article 68 of the same Law and Article 39, 42 and 49 of the Criminal Code of BiH it reached the Verdict imposing on the convicted person Dragan Đokić a criminal sanction pursuant to the criminal laws of Bosnia and Herzegovina.

Deciding on the type and duration of the sanction, the Court acted pursuant to Article 48 of the CC of BiH and meted out the imprisonment sentence to the convicted person within the sentencing range for the criminal offence committed by the convicted person. Moreover, the Court took into account Article 68(5) of the Law on International Legal Aid in Criminal Matters, stipulating that the court may not impose a more severe sanction than the one imposed by a foreign court. More specifically, in the case at hand the criminal sanction must not be more severe than twelve years of imprisonment. The same rule is stipulated in the national laws,



that is, by the rule on prohibition *reformatio in peius*, which implies that the sanction imposed must not be less favorable for the perpetrator, that is, for the convicted person.

Deciding on the duration of sentence, it should be noted that the Panel primarily considered the gravity of the offence of which Dragan Đokić had been convicted and the degree of his criminal liability, and then, taking into account the purpose of sanction and all mitigating and aggravating circumstances, it imposed the imprisonment sentence of twelve years. The Panel took into consideration that the convicted person is a family man, father of two children, and that he had not been convicted before, which all constituted the mitigating factors which, taken as whole, justify the sanction imposed on him, all the more so because the Court did not find any aggravating circumstances.

For all the aforementioned the Court is satisfied that the imposed sanction is adequate both to the gravity of the criminal offence and the personality of the convicted person and the circumstances surrounding the offence, and that this sanction will serve the purpose of punishment, that is, it will have a correctional effect on the convicted person so that he will not commit criminal offences in the future, and that the same sanction will have a preventive effect on other potential perpetrators of criminal offences. This sanction surely increases the awareness of citizens of the danger of criminal offences and of the fairness of punishing perpetrators, and in a simple manner expresses the community's condemnation of a perpetrated criminal offence, and thereby the purpose of punishment is satisfied as set forth under Article 39 of the Criminal Code of BiH.

The Court rendered the Decision that the time the convicted person spent in custody from 17 September 2005 and the time spent serving the sentence imposed by the District Court in Sisak, should be credited towards the imposed imprisonment sentence pursuant to Article 57 of the CC of BiH and this time period runs from the day when he was deprived of liberty.

Pursuant to Article 188(4) of the Criminal Procedure Code of Bosnia and Herzegovina, the convicted person is relieved of the duty to reimburse the costs of the proceedings given that he has no property, and the fact that he is unemployed or receives no regular monthly income.

MINUTES TAKER

Lana Ferović
/signature/

PRESIDING JUDGE

Željka Marenić
/signature/

LEGAL REMEDY: An appeal from this Verdict may be filed with the Appellate Panel of the Court within 30 (thirty) days of the day of its service.

*I hereby confirm that this document is a true translation of the original written in Bosnian/Serbian/Croatian.
Sarajevo, 30 November 2009
Dinka Bevrnja
Certified Court Interpreter for English*