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TRIAL CHAMBER

**CHAMBRE DE 1^{ÈRE}
INSTANCE**

The Hague, 11 March 2004
CT/P.I.S./831e

JUDGEMENT IN THE CASE
THE PROSECUTOR V. RANKO ČEŠIĆ

RANKO ČEŠIĆ SENTENCED TO 18 YEARS' IMPRISONMENT

Please find below the summary of the Sentencing Judgement delivered by Trial Chamber I, composed of Judges Alphons Orie (Presiding), Liu Daqun and Amin El Mahdi, as read out by the Presiding Judge.

SUMMARY OF JUDGEMENT

1. We are sitting today to deliver the Sentencing Judgement of Ranko Češić. What follows is only a summary of the written Judgement and forms no part of it. The written Judgement will be made available to the parties and the public at the end of this hearing.

2. We will briefly set out the context and facts of the case as well as the factors the Trial Chamber considered in imposing the sentence.

Context and Facts of the Case

3. Ranko Češić was born on 5 September 1964 in Bosnia-Herzegovina. He lived in the Brčko municipality before and during the war and moved to Belgrade towards the end of 1996.

4. Ranko Češić was first indicted together with Goran Jelisić in a joint indictment confirmed by Judge Vohrah on 21 July 1995. Goran Jelisić was tried and convicted on 14 December 1999. An amended indictment, pertaining only to Ranko Češić, was filed on 26 November 2002.

5. The indictment is comprised of 12 counts. Six counts charge Ranko Češić with crimes against humanity. Five of these charge murder and one charges rape. Six other counts, referring to the same events, charge Češić with violations of the laws or customs of war. Five of these charge murder and one charges humiliating and degrading treatment.

6. Ranko Češić was arrested in Belgrade by the authorities of the Federal Republic of Yugoslavia on 25 May 2002 and was transferred to the United Nations Detention Unit at The Hague on 17 June 2002.

7. At his initial appearance three days later, Ranko Češić pleaded not guilty to all counts of the indictment. However, on 7 October 2003, before the beginning of trial, Češić and the Prosecutor entered into a plea agreement. Ranko Češić admitted his guilt on all 12 counts and agreed to testify in other proceedings before the Tribunal. A written Factual Basis describing the crimes and Češić's participation in them was annexed to the plea agreement. Češić subsequently pleaded guilty to the 12 counts of the indictment before the Trial Chamber on 8 October 2003. The Trial Chamber accepted the guilty plea after having ensured that it was made voluntarily, was informed and unequivocal, and after verifying that there was a sufficient factual basis for the crimes and for the accused's participation in them. A sentencing hearing was held on 27 November 2003.

Internet address: <http://www.un.org/icty>

Public Information Services/Press Unit

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

The Offences

8. The acts for which Ranko Češić is sentenced today took place in the Brčko municipality, located in the north-east of Bosnia and Herzegovina, in May 1992. At this time, Češić was a member of the Bosnian-Serb Territorial Defence in Brčko. On 15 May 1992, he became a member of the Intervention Platoon of the Bosnian Serb Police Reserve Corps at the Brčko police station. His exact role and rank within this Corps is not known.

9. According to the agreed Factual Basis, Ranko Češić committed five criminal acts between 5 May and 14 May, and one criminal act sometime between 14 May and 6 June 1992. These acts took place while the Serb forces in Bosnia, from 30 April onwards, engaged in the take-over of the municipality of Brčko. During this operation, the Serb forces forcibly expelled and transferred the Muslim and Croat residents of Brčko to collection centres. These collection centres included the Luka detention facility and the Brčko Partizan Sports Hall. Ranko Češić's criminal acts were committed against persons detained at these two collection centres.

10. Češić has been convicted of the murder of Sakib Becirević and of four other men at the Brčko Partizan Sports Hall on or about 5 May 1992. These murders constituted a violation of the laws or customs of war and a crime against humanity.

11. Češić has also been convicted of the murder of a detainee at Luka camp named "Sejdo", on approximately 11 May 1992. This murder constituted a violation of the laws or customs of war and a crime against humanity.

12. Thirdly, Češić has been convicted of the murder of a Muslim policeman named Mirsad detained at Luka camp, on approximately 11 May 1992. The victim, who was detained in a hangar together with the other detainees, was first ordered by Ranko Češić to say goodbye and shake hands with the other detainees. He was then taken out by Ranko Češić and other Serb policemen, who beat him and killed him. This murder constituted a violation of the laws or customs of war and a crime against humanity.

13. Ranko Češić has also been convicted of humiliating and degrading treatment as a violation of the laws or customs of war and of rape as a crime against humanity for having forced, at gunpoint, two Muslim brothers detained at Luka camp to perform fellatio on each other. This act was committed around 11 May 1992.

14. The fifth criminal act Češić has been convicted of is the murder of a Muslim detainee at Luka Camp named Nihad Jašarević. This man was beaten to death with clubs by Češić and another Serb policeman. The murder constituted a violation of the laws or customs of war and a crime against humanity.

15. Finally, Ranko Češić has been convicted of the murder of at least two detainees at Luka Camp. Ranko Češić admitted that, sometime between 14 May and 6 June 1992, he took four detainees out of the Luka Camp's office building, led them to the paved road in front of the main hangar building and, with the assistance of two guards, shot and killed at least two of them. These murders constitute a violation of the laws or customs of war and a crime against humanity.

16. In total, Ranko Češić has admitted to killing 10 individuals, two of whom died as a result of beatings, and to having forced two brothers to perform a sexual act on each other. He committed all these crimes within a period of 10 to 32 days.

Sentencing Factors

17. The Trial Chamber has considered the purposes of punishment in light of the mandate of the Tribunal. In accordance with the jurisprudence, retribution, deterrence and rehabilitation have been considered as relevant purposes of punishment for international crimes.

18. Turning to the sentencing factors, the Trial Chamber first considered the gravity of the crimes, with reference to the particular circumstances of the case, as well as to the form and degree of participation of Ranko Češić in the crimes.

19. Češić is convicted for having personally committed 10 murders, constituting five crimes against humanity and five violations of the laws or customs of war, and for one sexual assault, constituting a crime against humanity (rape) and a violation of the laws or customs of war (humiliating and degrading treatment). These crimes are particularly serious in terms of the protected interests violated: the life as well as the physical and moral integrity of the victims. The crime of murder is inherently serious and a conviction for multiple murders of course further adds to the seriousness of the crime. In relation to the sexual assault, the fact that the victims were brothers, that they were forced to act at gunpoint and that they were watched by others, means that this offence was particularly serious.

20. The Prosecution submitted that, in assessing the gravity of the crimes, the Trial Chamber should take into consideration the impact the crimes had on the victims' relatives and friends. The Appeals Chamber has said that such impact may be taken into account when determining the appropriate sentence. The Trial Chamber considers that the impact of the crimes on the victims' relatives and friends is among the factors that have been already taken into account when evaluating the inherent gravity of the crimes. For example, it is among the factors taken into account in concluding that murder is a particularly serious offence.

Aggravating Circumstances

21. The Prosecutor invoked as aggravating circumstances the vulnerability of the victims and their civilian status, the purposefully cruel conduct of Ranko Češić, the humiliating character and unusual depravity of the sexual assault, the fact that Češić abused his position of authority and the recurrence of his criminal conduct over a period of at least 10 days. The Defence claimed that these were not aggravating factors in this case.

22. The Trial Chamber takes into account that the victims were all detainees placed under the oversight of Bosnian Serb soldiers and policemen, and were thus particularly vulnerable. Češić's depravity and cruelty, as shown by his beating of some of his victims and his forcing a detainee to farewell other detainees before being taken out and executed, were also considered aggravating factors.

23. As for the incontestable recurrence of Ranko Češić's criminal behaviour, the number of crimes committed by him within this short period of time has already been taken into account in evaluating the gravity of the crimes, and hence should not also be considered an aggravating factor. The contention that Češić abused his position of authority and that this should count in aggravation, is also rejected by the Trial Chamber. Ranko Češić's exact position in the military or police hierarchy is unclear but he was undoubtedly of low rank.

Mitigating Circumstances

24. Ranko Češić's admission of guilt, his substantial co-operation with the Prosecution and his expression of remorse are the factors which the Trial Chamber has taken into consideration in mitigation. The Defence raised a number of personal circumstances in mitigation, namely the fact that he was brought up by a single parent, that he is currently married, that his low income would prove that he did not personally gain from the conflict, or that he was only 27 years old when he committed the crimes. The Trial Chamber has not found that these circumstances merit mitigation of punishment. The Trial Chamber has also rejected the submission that Češić's guilt is lessened by the fact that he merely executed orders when committing the crimes. The submission of good character was also not established.

25. A guilty plea helps establish the truth and may aid the process of reconciliation in the Brčko municipality. More particularly, it may provide a sense of relief to the surviving victims and the victims' relatives and friends. It also saves the witnesses from the possible trauma of reliving the

events when testifying in court. The guilty plea was entered some 16 months after Češić's initial appearance but nevertheless still before the commencement of trial, thereby saving time, effort and resources. For all these reasons, the Trial Chamber finds that Češić's guilty plea is an important mitigating factor.

26. As for Češić's co-operation with the Prosecutor, the Trial Chamber, in the absence of any information to the contrary, relies on the Prosecutor's declaration that Češić provided a full and complete interview to the Prosecutor concerning his knowledge of war crimes and other violations of international humanitarian law in and around Brčko during the armed conflict in Bosnia and Herzegovina. The Trial Chamber also takes into account Češić's commitment to testify in other cases if called by the Prosecutor and concludes that his co-operation with the Prosecutor is substantial.

27. Ranko Češić expressed remorse for his criminal acts at the sentencing hearing of 26 November 2003. The Trial Chamber believes that his expression of remorse was sincere.

28. The Trial Chamber has carefully reviewed the statements and documents adduced in evidence by both parties in respect of the Defence's submissions regarding Ranko Češić's good character. The Trial Chamber finds that the evidence submitted by the Prosecution does not successfully rebut the evidence adduced by the Defence in support of its claim of good character. On the other hand, while the evidence presented by the Defence, along with that concerning Ranko Češić's behaviour at the United Nations Detention Unit, shows that Ranko Češić is capable of benevolent and good behaviour, the Trial Chamber finds that the evidence presented demonstrated at the same time the unpredictability of his behaviour. On the balance of probabilities, the Trial Chamber cannot conclude that Ranko Češić is of a genuine good character, so as to allow this good character to be taken into consideration as a mitigating factor.

29. Finally, the Defence referred to a statement given by Ranko Češić to the Prosecution in September 2003 in which he states that he merely pulled the trigger but that others took aim. According to the Defence, this statement establishes that Ranko Češić acted pursuant to orders and that he would have been killed if he had failed to execute them. On the balance of probabilities, the Trial Chamber finds that the statement does not establish that Ranko Češić acted under duress or pursuant to orders.

30. The Prosecution has recommended a sentence in the range of 13 to 18 years and has agreed not to appeal any sentence imposed within this recommended range. The Defence requested a sentence of 13 years and agreed not to appeal the sentence unless it is above the range recommended by the Prosecution. The Trial Chamber is not bound by any agreement between the parties on the sentence.

31. Mr. Češić, would you please rise.

32. The Trial Chamber has carefully reviewed the Factual Basis and the evidence presented by the parties. The sentence you receive should be proportional to the gravity of the crimes you committed. In addition to the gravity of the crimes you committed, your victims were all detainees placed under the oversight of you and other Bosnian Serb soldiers or policemen: you knew that your victims were particularly vulnerable. These considerations constitute, in the Chamber's view, aggravating circumstances. The Trial Chamber finds that your guilty plea prior to the commencement of trial, your substantial cooperation with the Prosecutor and your sincere expression of remorse are mitigating circumstances. Finally, in determining the sentence the Trial Chamber has referred to the general sentencing practice of the courts of the former Yugoslavia.

33. The Trial Chamber hereby sentences you to a period of 18 years' imprisonment. You are entitled to 657 days credit for the time you served up to and including the date of this Judgement.

The full text of the Judgement is available upon request at the Public Information Services of the ICTY and is also available on the ICTY Internet site at: www.un.org/icty