

Press Release . Communiqué de presse

(Exclusively for the use of the media. Not an official document)
(Exclusivement à l'usage des médias. Document non officiel)

TRIAL CHAMBERS
CHAMBRES DE 1ère INSTANCE

CC/PIO/226-E
The Hague, 14 July 1997

DUSKO TADIC SENTENCED TO 20 YEARS' IMPRISONMENT

Today, Monday 14 July 1997, Trial Chamber II consisting of Judge Gabrielle Kirk McDonald (Presiding), Judge Ninian Stephen and Judge Lal Chand Vohrah, handed down its Sentencing Judgment of Dusko TADIC.

Background

On 7 May 1997, Dusko TADIC was found guilty of Crimes against humanity (on 6 counts) and of Violations of the laws or customs of war (on 5 counts). The Sentencing Judgment recalls that *"the crimes consisted of killings, beatings, and forced transfer by Dusko TADIC as principal or as an accessory, as well as his participation in the attack on the town of Kozarac in opstina Prijedor, in north-western Bosnia"*.

The sentences

Trial Chamber II imposed the following sentences to be served concurrently:

Counts of crimes against humanity:

- 20 years for various acts of persecution, including the killing of Osman Besic and Edin Besic,
- 10 years for the beatings and other violences inflicted on Emir Beganovic, Senad Muslimovic, Emir Karabasic, Jasmin Hrnica, Enver Alic and Fikret Harambasic
- 7 years for the beating of Sefik Sivac
- 7 years for the beatings inflicted on Hakija Elezovic, Salih Elezovic and Sejad Sivac
- 7 years for the beatings of Hase Icic and other prisoners
- 10 years for the beatings inflicted on a number of men during their deportation from the villages of Jaskici and Sivci.

(more)

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

Press and Information Office/ Bureau de presse et d'information:
Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands
Churchillplein 1, 2517 JW La Haye. B.P. 13888, 2501 La Haye. Pays-Bas
Tel.: +31 (70) 416-5343 ; 416-5356 **Fax:** +31 (70) 416-5355

Counts of violations of the laws and customs of war:

- 9 years for the beatings and other violences inflicted on Emir Beganovic, Senad Muslimovic, Emir Karabasic, Jasmin Hrnica, Enver Alic and Fikret Harambasic
- 6 years for the beating of Sefik Sivac
- 6 years for the beatings inflicted on Hakija Elezovic, Salih Elezovic and Sejad Sivac
- 6 years for the beatings of Hase Ilic and other prisoners
- 9 years for the beatings inflicted on a number of men during their deportation from the villages of Jaskici and Sivci.

Minimum term recommendation and credit for time served

Except in extreme circumstances, the sentence of Dusko Tadic *“should not be commuted or otherwise reduced to a term of imprisonment less than 10 years”* from the date of determination of any appeal.

Dusko Tadic is entitled to credit for 2 years, 8 months and 6 days of time already served at the date of his sentencing. The time he may serve pending the determination of any appeal will also be credited.

The enforcement.

Trial Chamber II directed the Registrar to submit a list of States who have indicated their willingness to accept convicted persons.

It will then consult with the Parties as to the State in which Dusko Tadic should serve his sentence, and will select a State.

It will eventually order the Registrar to make appropriate arrangements for the transfer of the prisoner to the selected State.

This order will be suspended “until such a time as the Appeals Chamber has considered and determined the appeals of the parties”.

Reminder

Both the Defence and the Prosecution have appealed against the 7 May verdict on 23 May and 6 June respectively (see Press Releases 206, 208 and 210).

Under Rule 108 of the Rules of Procedure and Evidence, a Sentencing Judgment can also be appealed within thirty days from the date it was pronounced.

The Appeals Chamber in the TADIC case has been composed as follows: Judge Antonio Cassese (Presiding), Judge Haopei Li, Judge Elizabeth Odio Benito, Judge Fouad Riad and Judge Mohamed Shahabuddeen.

**Attached are excerpts of the Sentencing Judgment.
The full text is available upon request at the Press and Information Office.**

EXCERPTS FROM THE SENTENCING JUDGMENT OF DUSKO TADIC

I. INTRODUCTION

After a short summary of its *Judgment and Opinion* of 7 May 1997 and of the Pre-sentencing hearing held between Monday 30 June and Friday 4 July, the Trial Chamber notes that *"The Prosecution recommended a sentence of life imprisonment while the Defence submitted that the sentence should not be in excess of 15 years' imprisonment. We have considered each of these submissions"*.

II. SENTENCING GUIDELINES

In view of the reference in the Statute and the Rules of Procedure and Evidence to "the general practice regarding prison sentences in the courts of the former Yugoslavia" the Trial Chamber notes the following:

- at all material times *"capital punishment existed under the SFRY Penal Code although it has been abolished by constitutional amendment in certain former Yugoslav Republics other than Bosnia and Herzegovina. Imprisonment was limited to a term of 15 years or, in cases for which the death penalty was prescribed as an alternative to imprisonment, to a term of 20 years"*.
- the law of the former Yugoslavia has been treated *"as prescribing in the case of each of the offences of which Dusko Tadic has been convicted sentences ranging from five years' imprisonment to the death penalty"*.
- articles 41 (1), 42 and 43 of the SFRY Penal Code setting forth the various factors to be taken into account in determining sentences, such as the degree of criminal responsibility, the motives for the commission of the offences or the perpetrator's past life and the instances of mitigation, have been considered.

Under Article 24(2) of the Statute, the Trial Chamber has taken into account *"such factors as the gravity of the offence and the individual circumstances of the accused"*.

Together with *"other matters of mitigation and aggravation used in courts around the world as have appeared appropriate"*, the Trial Chamber has *"considered penalties imposed for crimes against humanity by international and national military tribunals and under national laws"*.

III. CIRCUMSTANCES RELEVANT TO (...) EACH OF THE CRIMES

Turning to each of the counts of the Indictment of which Dusko Tadic has been found guilty, the Trial Chamber has examined the circumstances of the offences and the role of Dusko Tadic with regard to each of the victims:

(more)

COUNTS OF CRUEL TREATMENT AND INHUMANE ACTS:

Beating of Emir Beganovic in the hangar of Omarska camp: *“Dusko Tadic was an active and willing participant in the crime”*

Beating of Senad Muslimovic in the hangar of Omarska Camp: *“Of particular concern is the use by Dusko Tadic of a deadly weapon to inflict great harm and suffering...”*

Beating of Emir Karabasic, Jasmin Hrnica and Enver Alic in the hangar of Omarska camp: *“Of concern here are the number of victims, each of them was severely beaten by the group of men, and again the use by Dusko Tadic of a deadly weapon to inflict grievous harm and great suffering on one of the detainees”.*

Beating of Fikret Harambasic in the hangar of Omarska Camp: *“The Trial Chamber found beyond reasonable doubt that Dusko Tadic was present on the hangar floor at the time of the assault upon and sexual mutilation of Fikret Harambasic, and that, through his presence, Dusko Tadic aided and encouraged the group of men actively taking part in the assault. Of particular concern here is the cruelty and humiliation inflicted on the victim and the other detainees involved”.*

Beating of Sefik Sivac in the “white house” of Omarska camp: *“of particular concern here is the severity of the beating inflicted...”*

Beating of Hakija Elezovic, Salih Elezovic and other prisoners in the “white house” of Omarska camp: *“while Dusko Tadic was not found guilty of having killed any of the prisoners, his participation in the beating of the prisoners encouraged the beating of other prisoners by camp guards and visitors in such circumstances that death could and in fact did result, which aggravates the nature of his crime”.*

Beating of Hase Icic and other prisoners in the “white house” of Omarska camp: *“of particular concern here is the use of whips, iron bars and other instruments to inflict great suffering on the victim, as well as his terrorising and near suffocation through the use of a noose. Once again, the cruelty of the attack weighs heavily in any consideration of the appropriate sentence”.*

Beating of a certain number of men during their deportation from the villages of Jaskici and Sivci: Dusko Tadic has been found guilty *“of having beaten (...) Beido Balic, Sefik Balic, Ismet Jaskic and Salko Jaskic. None of the witnesses have seen the men removed from the village since that day”.*

(more)

COUNT OF PERSECUTION:

Attack on Kozarac and surrounding areas:

- *“Dusko Tadic played an active part in all phases of the attack on Kozarac...
- ...assisted in the forced transfer of the male villagers...
-...committed the killing of two Muslim policemen: it is clear that the killings were intentional. They represent a major demonstration of a pattern of conduct consisting of extreme violence against non-Serbs and a flagrant disregard for human life and the suffering of others. Dusko Tadic bears full responsibility for the deaths and the extremely violent and cruel in which they were caused”.*

Participation in beating of prisoners at Omarska camp:

“The beating was severe and contained the common factors of humiliation, ethnic persecution and physical violence”.

General concerns relevant to sentencing for Persecution

The Trial Chamber has taken into account the willing participation of Dusko Tadic in the persecution of non-Serbs in opstina Prijedor generally, including his membership of the SDS, his espousal of ethnic and religious discrimination and nationalist sentiments and his participation in the crimes (...).

IV. ADDITIONAL FACTORS

GENERAL AGGRAVATING FACTORS:

- Each of the offences was committed in *“circumstances that could not but aggravate the crimes and the suffering of the victims: the victims of Dusko Tadic’s acts in Kozarac had already suffered the horrors of a two-day artillery bombardment and a military assault (...).”*. Dusko Tadic *“was well aware of the horrific conditions at the camps established by Bosnian Serbs authorities in opstina Prijedor and the inhuman treatment of the detainees (...).*

- Consideration was also given to the *“willingness of Dusko Tadic to perpetrate the crimes and to contribute to the attack on the non-Serb civilian population (...) which formed the basis of the crimes against humanity which Dusko Tadic committed: (...) we have taken into consideration Dusko Tadic’s awareness of, and enthusiastic support for, the attack on the non-serb civilian population (...). This awareness and support, manifested in his actions, gave rise to Dusko Tadic’s liability for crimes against humanity rather than just war crimes, and is a significant factor in the imposition of sentence (...).*

- The Trial Chamber notes that Dusko Tadic *“in no relevant way cooperated with the Prosecutor or the International Tribunal”.*

(more)

GENERAL MITIGATING FACTORS

- Dusko Tadic was portrayed by the Defence as *“an intelligent, responsible and mature adult raised by his parents in a spirit of ethnic and religious tolerance and capable of compassion towards and sensitivity for his fellows. However this, if anything, aggravates more than it mitigates: for such a man to have committed these crimes requires an even greater evil will on his part than that of a lesser man”*.

- Dusko Tadic *“cannot be considered to have played an important leadership or organisational role in the events in opstina Prijedor in the middle of 1992. (...) His relative unimportance is made clear by the steps taken by the local Bosnian serb authorities to call him up as an ordinary soldier and his eventual flight from”* the area.

PERSONAL CIRCUMSTANCES

Accepting that *“the modern philosophy of penology [is] that the punishment should fit the offender and not merely the crime”*, the Trial Chamber has taken into account:

- *“Dusko Tadic’s indigence and the effect of the length of sentence on his family”* as well as his *“age both now and at the conclusion of any sentence to be served”*,

- Dusko Tadic’s *“personality, character and family and social background as well as his age at the time of the commission of the criminal offences (...), his work record and the fact that he had no prior criminal record”*,

- and *“the context in which his acts were committed”*: Dusko Tadic *“committed the crimes for which he has been found guilty during an armed conflict of horrific consequences that was ongoing in Bosnia and Herzegovina and, in particular, in opstina Prijedor. (...) This is not to say that his criminal responsibility is to be measured by a comparison with the alleged acts of other persons known and unknown to the Trial Chamber (...) No strict hierarchy of relative criminal culpability can be, or should be, established by the Trial Chamber. However, the Trial Chamber cannot ignore these events, how they may bear on the offences of Dusko Tadic and how they illuminate his role and thus, his personal circumstances. The specific harm caused to victims and their families by Dusko Tadic is of paramount importance. That harm cannot be explained away by pointing to others whom the defence counsel and Dusko Tadic himself referred to during the Pre-sentencing hearing. (...). The International Tribunal was established to judge individual guilt or innocence, and it discharges that responsibility without recognising as justifications the exigencies some say were inherent in the nature of armed conflict”*.

(more)

CRIMES AGAINST HUMANITY

Before determining the actual sentence, the Trial Chamber specifies the following:
“ A prohibited act committed as a crime against humanity, that is with an awareness that the act formed part of a widespread and systematic attack on a civilian population, is, all else being equal, a more serious offence than an ordinary war crime.(...) here, Dusko Tadic was aware that his acts were part of, and contributed to, the crime against humanity committed by Bosnian Serb forces against the non-Serb population of opstina Prijedor”.
