

United Nations
Nations UniesInternational Criminal Tribunal
for the former Yugoslavia
Tribunal Pénal International
pour l'ex-Yougoslavie

“VLAŠIĆ MOUNTAIN” (IT-02-59)

DARKO MRĐA

**DARKO MRĐA***Convicted of murder and inhumane acts*

During 1992, member of the “intervention squad”, a special Bosnian Serb police unit in the town of Prijedor, in north-western Bosnia and Herzegovina

- Sentenced to 17 years' imprisonment

Crimes convicted of (examples):

Murder, inhumane acts (violations of the laws or customs of war, crimes against humanity)

- Together with the other members of the intervention squad, Darko Mrđa personally and directly participated in the unloading, guarding, escorting, shooting and killing of more than 200 unarmed men at Korićanske Stijene. Except for 12 who survived the massacre, all of the men were murdered.

Born	28 June 1967 in Zagreb, Croatia
Indictment	Initial: 26 April 2002; amended: 4 August 2003
Arrested	13 June 2002, by multinational Stabilisation Force (SFOR)
Transferred to ICTY	14 June 2002
Initial appearance	17 June 2002, pleaded not guilty to all charges
Guilty plea	24 July 2003, pleaded guilty to murder and inhumane acts
Trial Chamber sentencing judgement	31 March 2004, sentenced to 17 years' imprisonment
Serving sentence	23 November 2004, transferred to Spain to serve the remainder of his sentence; credit was given for time served since 14 June 2002

STATISTICS

As the plea agreement was reached before the beginning of trial, no trial was necessary.

TRIAL CHAMBER SENTENCING JUDGEMENT	
<i>31 March 2004</i>	
Trial Chamber I	Judge Alphonse Orié (presiding), Judge Amin El Mahdi, Judge Joaquín Canivell
Counsel for the Prosecution	Alan Tieger, Timothy Resch
Counsel for the Defence	Vojislav Dimitrijević, Otmar Wachenheim

RELATED CASES	
<i>by geographical area</i>	
BANOVIĆ (IT-02-65/1) "OMARSKA CAMP & KERATERM CAMP"	
BOROVNICA (IT-95-3) "PRIJEDOR"	
BRĐANIN (IT-99-36) "KRAJINA"	
KARADŽIĆ & MLADIĆ (IT-95-5/18) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"	
KOVAČEVIĆ & DRLJACA (IT-97-24) "PRIJEDOR"	
KRAJISNIK (IT-00-39 AND 40) "BOSNIA AND HERZEGOVINA"	
KVOČKA <i>et al.</i> (IT-98-30/1) "OMARSKA, KERATERM & TRNOPOLJE CAMPS"	
MEJAKIĆ <i>et al.</i> (IT-02-65) "OMARSKA CAMP & KERATERM CAMP"	
MILOŠEVIĆ (IT- 02-54) "KOSOVO, CROATIA & BOSNIA"	
PLAVŠIĆ (IT-00-39 & 40/1) "BOSNIA AND HERZEGOVINA"	
SIKIRICA <i>et al.</i> (IT-95-8) "KERATERM CAMP"	
STAKIĆ (IT-97-24) "PRIJEDOR"	
STANIŠIĆ MIĆO (IT-04-79)	
TADIĆ (IT-94-21) "PRIJEDOR"	
ŽUPLJANIN (IT-99-36) "KRAJINA"	

INDICTMENT AND CHARGES

On 16 April 2003, the Prosecution filed an indictment against Darko Mrđa, which was confirmed on 26 April 2002. He was charged with two counts of crimes against humanity and one count of violations of the laws or customs of war. He was arrested in Prijedor and transferred to the ICTY on 13 June 2002. At his initial appearance on 17 June 2002, he pleaded not guilty to all charges set forth in the indictment.

After Darko Mrđa pleaded guilty to counts 2 and 3 of the indictment, the Judges confirmed an amended indictment which was filed on 4 August 2003.

Darko Mrđa was charged on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with:

- Murder (violations of the laws or customs of war, Article 3),
- Inhumane acts (crimes against humanity, Article 5).

PLEA AGREEMENT/GUILTY PLEA

The Tribunal's Rules of Procedure and Evidence provide for a plea agreement procedure (Rule 62 *ter*). The Prosecutor and the Defence may agree that, upon the accused entering a plea of guilty to the indictment or to one or more counts of the indictment, the Prosecutor can apply to the Trial Chamber to amend the indictment accordingly and ask for a sentence within a specific range or agree to the sentencing range suggested by the Defence. The Trial Chamber is not bound by any such agreement.

On 24 July 2003, Darko Mrđa entered into a plea agreement with the Prosecution. The agreement stated that "Darko Mrđa agrees that he is pleading guilty to counts 2 and 3 of the indictment because he is in fact guilty and acknowledges full responsibility for his actions." The Trial Chamber entered a finding of guilt for those two counts after being satisfied that the plea was voluntary, informed and unequivocal, that there was a sufficient factual basis for the crimes and that Darko Mrđa had participated in them.

On 28 August 2003, the Defence sought leave of the Chamber to appoint a medical expert to examine Darko Mrđa and thereafter prepare a report for the purpose of presenting mitigating evidence relevant to sentencing. On 15 September 2003, the Chamber ordered the appointment of an expert to prepare a psychological opinion on Darko Mrđa. The appointed expert filed his report on 13 October 2003.

A sentencing hearing was held on 22 October 2003.

STATEMENT OF DARKO MRĐA

"Your Honours, thank you for giving me an opportunity at the end of this trial against me to address you with several words. In Yugoslavia, in a state where I was born, some 13 years ago a tragic conflict broke out. I was 23 years old at the time. Just like all people of my age, I desired peace and I had a number of plans for my future. The last thing on my mind was war and bloodshed. I knew about the war only what my parents told me, and they told me very little about the war. I didn't pay a lot of attention to that. At the time I believed war to be something from a distant past, something that happened way before I was born.

Frankly speaking, until the very last moment I believed that I would be a member of a generation that would live its lifetime in peace. I grew up in a socialist system. At school I learned about brotherhood and unity between various peoples living in my country. However, I knew that a number of my ancestors perished in the previous war. I knew about the Jasenovac camp. However, at the time I was convinced that that was part of a distant past, something that did not concern me. I had peaceful relationships with my neighbours, Muslims and Croats. We lived together and socialised together, and I even had girlfriends that were non-Serbs. My parents never reproached me for that.

In the beginning of the 1990s, things changed abruptly. Radio, television, press, everything was full of threats against Serbs and against Muslims, depending on whose media it was. Suddenly we started splitting along the lines of our thoughts and ideas at the time. It is difficult to comprehend it right now. Believing that we were faced with the same threat as Jasenovac was in the past, I responded to the mobilisation. I

was young and strong, and exactly these kinds of people are needed in every army. I wanted to defend my people, and the last thing on my mind was attacking somebody else.

In late spring 1992, I ended up in the intervention platoon of Prijedor Police. Terrible things were happening in Prijedor, and I would like to forget that. My neighbours and friends, Muslims, had to leave. As a policeman, before the 21st of August, I escorted and was - provided security to several convoys leaving Prijedor. I cannot say that Muslims fared well there, but I know that most of them reached their destination safely.

In the morning of the 21st of August, I was told that I had to escort another similar convoy. I didn't think that -- I apologise. I did not think that anything particular was going to happen. However, that's not how it was. At the order of the commander of the Intervention Platoon, who later was killed at the Bihac front - and I don't wish to mention his name now - we separated two bus loads of military-aged men. They were killed at Koricanske Stijene between Skender Vakuf and Travnik.

I participated in separating and killing these innocent people. I have sincere remorse with respect to that, and I wish to offer my sincere apology to all the victims and their families.

Your Honours, I hope that you will believe me. I did not commit this because I wanted to commit this or I enjoyed doing this. I did not hate these people. I did it because I was ordered to do so. My commander, who enjoyed great respect and had a lot of authority, was present personally and issued these orders. In those moments, I could not muster up enough courage to disobey the order. I can tell you now what would have happened had I refused to carry out the order; I assure you that they would have killed me right then. I hope that you believe me, Your Honours. All of my friends from the Intervention Platoon who could testify to this are afraid for their own future and they don't wish to testify. I cannot reproach them for this.

Your Honours, in the past war, I was an ordinary rank and file soldier. I did not have a rank. I fought at many battlefronts and I behaved in a dignified manner. I faced many enemies and was wounded three times. I have never been a coward in this war and it is very difficult for me to face what happened at Koricanske Stijene. I asked to be transferred to another unit because I did not wish to kill innocent civilians. I spent the rest of my war service as a soldier who never committed anything similar to what had happened at Koricanske Stijene. This is the most difficult time of my past, and I would like to raise everything that had happened. However, I know it's not possible. I have in the meantime married and I have two children. I have lived after this in a dignified manner and have not committed any offences. I know that all of those families who lost their loved ones on the 21st of August, 1992 can see me only as a murderer and perhaps will think that my apologies are insincere. I can understand them for believing so, and I am prepared to serve time in order to pay for this.

I hope that my confession will aid in ensuring that such things are never repeated in our territory. I know that by doing so I can help in some way remove some of the burden that I've been carrying for 11 years; however, I know that this will stay with me until the day I die. Once again, I offer my sincere apology to all of the families, and I thank you, Your Honours, for allowing me to address you. Thank you." (Darko Mrđa, sentencing hearing, 22 October 2003)

TRIAL CHAMBER SENTENCING JUDGEMENT

The plea agreement contained the factual basis for the crimes committed by Darko Mrđa. In August 1992, an armed conflict was taking place in Bosnia and Herzegovina. This armed conflict involved a widespread or systematic attack upon the non-Serb civilian population of the municipality of Prijedor. Darko Mrđa acknowledged that the crimes to which he pleaded guilty were part of this widespread and systematic attack.

On 21 August 1992, Darko Mrđa was a member of the Prijedor police "intervention squad". On this day, Darko Mrđa, in his official capacity as a police officer, participated in escorting an organised convoy of Muslim or non-Serb civilians from Tukovi and the Trnopolje camp in Prijedor towards the municipality of Travnik. The convoy consisted of buses and trucks loaded with civilians. At a location on the road along the Ilomska River, between Skender Vakuf and Mt. Vlašić, the convoy stopped. At this location, Darko Mrđa and other members of the intervention squad actively implemented orders to separate military-aged men from the rest of the convoy, including the personal selection of men by Darko Mrđa, with the awareness and expectation that these men would be murdered. A large number of men, estimated in excess of 200, were loaded into two buses. Darko Mrđa and the other members of the intervention squad

took the separated men in the two buses to Korićanske Stijene. The men from one bus were ordered off the bus, escorted to the side of the road above a deep ravine, ordered to kneel, and then shot and killed. The men from the other bus were taken off in smaller groups of two or three and then shot and killed. Together with the other members of the intervention squad, Darko Mrđa personally and directly participated in the unloading, guarding, escorting, shooting and killing of the unarmed men at Korićanske Stijene. Except for twelve men who survived the massacre, all of the men from the two buses were murdered.

When deciding upon the sentence, the Trial Chamber assessed the seriousness of the crime and aggravating and mitigating circumstances.

In determining the seriousness of the crimes, the Trial Chamber gave consideration to the scope and general nature of the offences committed, the role played by Darko Mrđa, and the impact of the crime upon the victims and their families. In relation to the scope of the crime, it was not possible to determine the precise number of civilians killed by Darko Mrđa himself. However, his participation in a large-scale massacre, in which about 200 civilians were killed, was uncontested. The Trial Chamber was of the opinion that Darko Mrđa was not the "architect" of the massacre but, together with other members of the intervention squad, acted in furtherance of superior orders. Nevertheless, it was concluded that due to Darko Mrđa personally participating in the selection of the civilians who were going to be killed, and in their subsequent murder and the attempted murder of 12 of them, and knowing that a widespread and systematic attack against civilians was underway, his crimes were especially serious. Lastly, the Chamber evaluated the seriousness of Darko Mrđa's crimes in the light of their impact upon the victims and the effects upon the victims' families and considered it an aggravating factor. The Trial Chamber concluded that the sentence should reflect all of the cruelty and inhumanity embodied in Darko Mrđa's direct participation in the shooting of more than 200 civilians, of which all but 12 were killed.

In addition, the Trial Chamber determined that the fact that a considerable number of victims had previously been detained in camps, and were therefore particularly vulnerable, aggravated the sentence.

As to the mitigating circumstances, the Chamber took into consideration Darko Mrđa's cooperation with the Prosecution. The Chamber also held that Darko Mrđa's guilty plea helped to establish the truth surrounding the crimes committed at Korićanske Stijene and could contribute to promoting reconciliation between the peoples of Bosnia and Herzegovina. It was noted incidentally that his plea made it possible to obviate the expense of a lengthy trial and the need for a large number of victims and witnesses to come and testify at the Tribunal. Therefore, his guilty plea was considered to be a mitigating factor. In addition, the Chamber found Darko Mrđa's expression of remorse to be sincere and took this into account in mitigation. The Chamber found that Darko Mrđa's personal circumstances should be considered in mitigation, but that little weight should be attached to them in this regard.

On 31 March 2004, the Trial Chamber rendered its judgement, convicting Darko Mrđa on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) of:

- Murder (violations of the laws or customs of war, Article 3),
- Inhumane acts (crimes against humanity, Article 5).

Sentence: 17 years' imprisonment.

On 23 November 2004, Darko Mrđa was transferred to Spain to serve his sentence. Credit was given for time served since his transfer on 14 June 2002.