

## **Babic Sentenced to 13 Years**

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Trial chamber rejects prosecution's plea for a lower sentence as not being in the interests of justice.

Milan Babic, the former Croatian Serb leader of the self-declared Republic of the Serbian Krajina, RSK, was sentenced this week to 13 years in prison, amid prosecution calls for a shorter term.

Babic pled guilty in January to charges that he participated in a joint criminal enterprise, the goal of which was to remove all Croats and non-Serbs from a third of Croatia, and to use that territory to establish a Serb-dominated state.

At his sentencing hearing in April, the prosecution had asked for a maximum prison term of 11 years. But on June 29 the trial chamber, led by presiding judge Alphons Orié, concluded that such a sentence "does not achieve the purposes of punishment, nor does it do justice".

Orié, reading from a summary of the judgment, insisted, "A participant in a crime of this gravity should expect a sentence of commensurate severity."

Babic stood motionless as the decision was read out, and appeared to ignore his lawyer, Peter Michael Muller, who approached him when the court adjourned.

Babic's case has been unusual from its inception. In October 2001, after learning that he had been named as a co-perpetrator in the case against Slobodan Milosevic, the defendant contacted the tribunal on his own accord.

He then agreed to be interviewed by the prosecution "without any promises of reward or benefit", according to prosecutor Hildegard Uertz-Retzlaff's remarks at Babic's sentencing hearing.

Later, Babic agreed to testify against Milosevic.

Though the men were once close allies, their relationship soured when Babic turned to the former Yugoslav president for help protecting the Krajina's Serbs. And, after promising assistance, Milosevic accepted an internationally-brokered peace plan requiring the withdrawal of Yugoslav army forces from the area. Tensions between the two leaders escalated and, in February 2002, Milosevic removed Babic from his post as RSK president.

Babic's willingness to testify against his old ally was remarkable, as the former Croatian Serb leader was almost certain to incriminate himself in the process.

Babic spoke over a 12-day period beginning in November 2002, initially as a protected witness. His identity was later revealed, but he agreed to continue giving evidence. In his testimony, he told the judges that the events in Krajina had been orchestrated directly from Milosevic's Belgrade office.

The former Croatian Serb leader provided "far-reaching insight in the decision-making, the operations, and the plans of the joint criminal enterprise around Milosevic, which no other insider witness had been able to provide" to date, according to the prosecution's sentencing brief.

One year after his appearance, Babic was himself indicted by the Hague tribunal. He promptly turned himself in - becoming "the first indictee in the tribunal's history for whom the issuance of an arrest warrant proved unnecessary", the prosecution explained in its sentencing brief.

And he agreed to plead guilty to one of the counts against him soon thereafter - unlike most other accused who, the prosecution explained, only admit their guilt "when the scope of the evidence against them was known to them".

After a short period of legal wrangling, in which the tribunal expressed doubt that Babic's crimes had been characterised accurately, the prosecutor submitted a revised plea agreement.

In it, Babic admitted being a co-perpetrator of the joint criminal enterprise and agreed to continue cooperating with the prosecutor's office. In return, the prosecution promised to drop the remaining counts of the indictment and to ask for a sentence of no more than 11 years.

Both parties stuck to their parts of the bargain, and by the time the sentencing hearing was held in early April, the prosecution and defence seemed almost wholly aligned with one another.

But the judges saw things somewhat differently.

In settling on their 13-year sentence, they considered the gravity of the crime - which they said "was characterised by ruthlessness and savagery" - as well as aggravating and mitigating circumstances.

The crime "involved the murder of more than 230 Croats and other non-Serbs between August and December 1991". Victims were subjected to "attacks on the communities in which they lived and confinement in detention facilities under inhumane conditions". Property, churches, and chapels were damaged or destroyed, and "virtually the whole Croat or non-Serb population was expelled, by forcible removal or by being caused to flee through imminent attack".

Babic played a significant role in all of this, the judges insisted. Specifically, they found that he "formulated, promoted, participated in, and encouraged the development and implementation of policies... 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".

He also "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".

The judges saw the fact that "Babic held and remained in high political positions" as an aggravating consideration.

The reasons he gave for not stepping down from his post when he knew crimes were being committed - namely, his self-professed desire to stay in power, his vanity, and his "ethnic-egosim" - further contributed to their conclusion.

In mitigation, the judges took account of Babic's admission of guilt, his cooperation with the prosecution, his expressions of remorse, his voluntary surrender to the tribunal, and his personal and family circumstances.

They even quoted Babic directly, when he said, "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."

But they rejected arguments that Babic only participated in the crimes to a limited extent, writing "the trial chamber does not agree that Babic's role in the joint criminal enterprise was as limited as the parties claim it was".

They also refused to consider his character before the conflict, or his conduct after it, as mitigating factors.

The tribunal concluded its sentencing judgment by suggesting that while Babic had "demonstrated some courage" by admitting his guilt, "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".

Babic will be transferred to a third country to serve his sentence, and is entitled to credit for the 211 days he has already spent in detention.

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**Focus:** International Criminal Tribunal for the former Yugoslavia

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