Few words about myself

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- The Netherlands - Tilburg University
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- Motivation to participate course
- Reason for picking topic
Overview

- ‘Is ICTY Sentencing Predictable?’
- Statute of the ICTY
- Sentencing by the ICTY
- Conclusion
Is ICTY Sentencing Predictable?
An Empirical Analysis of ICTY Sentencing Practice.

- **Authors:** Barbora Holá, Alette Smeulers, Catrien Bijleveld.
- **Source:** Leiden journal of international law vol. 22 (2009) nr. 1 p.79-98.
- **Title:** ‘Is ICTY Sentencing Predictable? An Empirical Analysis of ICTY Sentencing Practice.’

- Pioneers in the field of international justice
- Controversy
- Not only individual sentencing has been criticized
- Overall sentencing practice has been designated as inappropriate, flawed and inconsistent
Only fair proceedings and sentencing could lead to the attaining of the Tribunal’s fourfold objectives:

- to hold accountable those responsible for the crimes and,
- by doing this, to bring justice to victims,
- to deter further crimes,
- and bring peace to the Yugoslavian region.

In order to be fair, sentences need to be consistent.
Concept of consistency of punishment.

- the same underlying principles
- based exclusively on legally relevant factors
- similar factors should be given similar weight in all sentencing decisions, unless some special circumstances require otherwise

The Statute only provides general guidelines that should be taken into account in sentencing.
Statute of the ICTY (III)
adopted by the Security Council by its resolution 827 (1993)

* Article 24 Penalties
  * Paragraph 1: ‘limited to imprisonment’
  * Paragraph 2: ‘take into account such factors as the gravity of the offence and the individual circumstances of the convicted person’

* Judges are vested with rather extensive discretionary powers when deciding on the appropriate sentence.
Legally relevant patterns in the ICTY sentencing jurisprudence have emerged

Counter-arguments to all the criticism raised against the ICTY sentencing regime as to its disparateness and inconsistency

On the basis of this study we can conclude that there are indeed some consistent and predictable patterns in ICTY sentencing practice
Conclusion

* International sentencing guidelines
* Decision-making should be more structured