



16 February 2001

ICTY WEEKLY UPDATE – 160

PROCEDURAL DEVELOPMENTS:

I. **OVERVIEW OF COURT PROCEEDINGS:**

KVOČKA, KOS, RADIĆ, ŽIGIĆ & PRCAČ CASE (“Omarska & Keraterm Camps”)

Trial Chamber I – Judges Rodrigues (Presiding), Riad and Wald

The Trial Chamber reconvened this week to hear the third week of Kvočka's defence case-in-chief.

On Monday 12 February, the Trial Chamber heard the testimony of Mrs. Jasminka Kvočka, Miroslav Kvočka's wife.

Mrs. Kvočka, a Bosnian Muslim, testified about events surrounding the Serb take-over of the Prijedor municipality in 1992, the attack on Kozarac in April 1992 and the attack on Prijedor on 30 May 1992. Mrs. Kvočka told the court that she and her husband took parcels to detainees at Omarska and testified that during 1993 and 1994 Mr. Mevludin Zelenkic and his son stayed in her house and later Dušan and Marija Stojavljević lived with them for a year and a half.

On Tuesday 13 February, the Trial Chamber heard the cross-examination of Miroslav Kvočka (the accused testified in this case from 29 February to 6 March 2000) by counsel for Milojica Kos, followed by cross-examination by the prosecution. Kvočka's cross-examination concluded on Thursday 15 February and was followed by re-examination by the defence which continued on Friday 16 February and concluded with questioning by the Judges.

KRNOJELAC CASE (“KP Dom Camp”)

Trial Chamber II – Judges Hunt (Presiding), Mumba and Liu

Having adjourned on Thursday 1 February, the trial of Milorad Krnojelac reconvened this week entering its seventh week of hearings with the seventh week of the prosecution case-in-chief.

On Monday 12 February, The Trial Chamber heard the testimony of FWS 71, a Muslim who worked in the Foča branch of the Bosnia and Herzegovina employment office.

FWS 71 told the court that he fled Foča on 12 April 1992 but was subsequently arrested by the police in the town of Bar in Montenegro on 21 May 1992 and taken to the Bar police station where he was detained with 20 other Muslims. FWS 71 told the court that he was taken to the police station in Herceg Novi on 24 May 1992 and transferred to the KP Dom the following day. FWS 71 testified that he was held at the KP Dom for 29 months and 16 days.

FWS 71 testified that the detainees were beaten upon their arrival at the KP Dom and described the brutal living conditions at the camp. FWS 71 gave details of the atrocities committed at the KP Dom, particularly the killing of 36 detainees at the end of June 1992, and being held in an isolation cell for 12 days. Further, FWS 71 testified that he, and other detainees, were hidden from the ICRC and described the role of Krnojelac at the KP Dom. FWS 71's testimony concluded on Tuesday 13 February.

On Wednesday 14 February, the Trial Chamber heard the testimony of Mr. Juso Taranin.

Mr. Taranin told the court that he was forced to leave Foča in April 1992 and went to his weekend house in Pilipovići. Mr. Taranin testified about political and administrative changes in Foča and the take-over of the radio station, Foča Radio, the post office and the police by the SDS.

Mr. Taranin told the court that he later sought protection from an officer of the former Yugoslav National Army (JNA), FWS 120, (see FWS 120's testimony below) in the JNA fuel depot. According to Mr. Taranin, the fuel depot was later taken over by the “White Eagles” paramilitary formation and the Serb guard.

Mr. Taranin told the court that after the take-over, he and the other people who had sought refuge in the fuel depot were beaten and mistreated before being taken to the KP Dom. Mr. Taranin testified that he was held at the KP Dom for about 17 days and gave details of interrogations and injuries sustained by detainees as well as the conditions in the KP Dom.

Mr. Taranin also testified about the situation in Foča after he was released from the KP Dom up until he left for Macedonia on 4 July 1992.

The next witness, FWS 146 testified that he was receiving treatment in Foča hospital when the war started in 1992. FWS-146 told the court that he stayed in the hospital until 2 October 1992 when he and two other Muslim patients were discovered by a local Serb Commander and taken to the KP Dom.

FWS 146 told the court that he was transferred to the prison in Rudo in July 1993 and after six months he was taken to the Sarajevo Kula prison. According to the witness, he was released from Kula three months later.

The next witness, FWS 120, was a former officer of the JNA in command of a JNA fuel depot in Pilipovići in April 1992.

FWS-120 told the court that from 8 April 1992 civilians sought and were given protection at the fuel depot despite FWS 120 being ordered not to accept Muslim civilians. FWS 120 testified that on 26 April 1992 the compound was taken over by the "White Eagles" paramilitary formation and the refugees were put on buses whilst he was taken to the Velečevo women's prison and handed over to the military police before being transferred to the KP Dom.

FWS-120 told the court that he saw Krnojelac and the refugees from the fuel depot when he arrived at the KP Dom and testified that during his confinement at KP Dom he was kept separate from the other detainees and regularly taken to Velečevo to be interrogated.

FWS-120 testified that he was taken to the command centre of the JNA in Ustikolina on 5 May 1992 and held there until 15 May 1992. FWS 120 told the court that he was then transferred to the Velečevo prison and later taken to Belgrade.

The Trial Chamber then adjourned until Monday 19 February.

II. OVERVIEW OF COURT DOCUMENTS:

JELISIĆ CASE ("Luka Camp")

DATE SCHEDULED FOR APPEAL HEARING

On 14 February 2001, the Appeals Chamber (Judges Shahabuddeen (Presiding), Vohrah, Nieto-Navia, Wald and Pocar) ordered that an oral hearing of the appeal will take place on **22 February 2001 at 9.30 a.m.** (not 10.00 a.m. as previously scheduled) and continue on Friday 23 February, if necessary.

The Appeals Chamber further ordered that the appeal by the Prosecutor will be heard first, followed by the appeal by the cross-appellant. Each of the parties has been granted a maximum of two hours for the presentation of the arguments, two hours for the response and 30 minutes for the reply.

NALETILIĆ & MARTINOVIĆ CASE ("Tuta & Štela")

DECISION ON DEFENCE OBJECTION TO THE AMENDED INDICTMENT

On 14 February 2001, Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald) issued a decision rejecting objections to the amended indictment of 4 December 2000 filed by Martinović and Naletilić on 27 December 2000 and 3 January 2001 respectively.

In answer to the first defence argument that an indictment cannot be amended in the absence of new factual allegations or new evidence, unless it is advantageous for the accused, the Trial Chamber held that *"in the present case the amendment made was not substantial in scope, there is no suggestion that the Prosecution has sought an improper tactical advantage, and that the amendment has certainly not delayed the trial of the accused, which is not yet scheduled to begin. Given that the facts upon which the new count is based were in the Original Indictment, there has been no need for the accused to conduct any new inquiries, approach any new witnesses, or expend any additional resources. Accordingly, the accused have failed to establish that they have been prejudiced in the preparation of their defence following the amendment of Count 5."*

With regard to the second defence argument that the charges are cumulative, in that multiple charges are levied on the basis of the same conduct, the Trial Chamber held that as *"the Tribunal's case law develops, and elements of each offence are clarified, it will become easier to identify overlap in*

particular charges prior to the trial, but at present, and certainly in this case, it is enough that permitting cumulative charging results in no substantial prejudice to an accused.”

Finally, further to the defence objection that it is not clear which acts in Count 5 of the indictment are alleged to be violations of Articles 49, 50 and 52 of the Third Geneva Convention, the Trial Chamber held that, “the use of the same facts to support more than one offence charged is permissible under the circumstances, and, in this case, does not prejudice the accused in the preparation of his defence.”

Nenad BANOVIĆ & Predrag BANOVIĆ (“Keraterm Camp”)

WARRANTS OF ARREST ISSUED TO FEDERAL REPUBLIC OF YUGOSLAVIA

On 14 February 2001, Judge Richard May issued warrants of arrest directing the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to search for, arrest and surrender to the International Tribunal Nenad and Predrag Banović. Judge May further requested the authorities of the Federal Republic of Yugoslavia to report forthwith to the Registrar of the International Tribunal if they are unable to execute the warrants of arrest, indicating the reasons for this inability pursuant to Rule 59(A) of the Tribunal’s Rules of Procedure and Evidence.

The indictment against the two accused was originally confirmed by Judge Vohrah on 21 July 1995 and was amended on 3 January 2001.

COURTROOM SCHEDULE: 19 FEBRUARY – 23 FEBRUARY*

MONDAY 19 FEBRUARY

Courtroom I 09:30 - 13:00, **Krnojelac**, Trial
14:30 - 16:00, **Krnojelac**, Trial
Courtroom III 09:20 - 12:50, **Kvocka et al.**, Trial
13:50 - 15:00, **Kvocka et al.**, Trial

TUESDAY 20 FEBRUARY

Courtroom I 09:30 - 13:00, **Krnojelac**, Trial
15:30, **Celebici, Judgement on Appeal**
Courtroom III 09:20 - 12:50, **Kvocka et al.**, Trial
13:50 - 15:00, **Kvocka et al.**, Trial

WEDNESDAY 21 FEBRUARY

Courtroom I 09:30 - 13:00, **Krnojelac**, Trial
14:30 - 16:00, **Krnojelac**, Trial
Courtroom II 10:00, **Blaskic**, Status Conference
Courtroom III 09:20 - 12:50, **Kvocka et al.**, Trial
13:50 - 15:00, **Kvocka et al.**, Trial

THURSDAY 22 FEBRUARY

Courtroom I 9:30, **Jelusic**, Hearing of the Appeal
14:00, **Kunarac/Kovac/Vukovic, Judgement**
Time to be confirmed, **Jelusic**, Hearing of the Appeal
Courtroom II 09:30 - 13:00, **Krnojelac**, Trial
15:00 - 16:30, **Krnojelac**, Trial
Courtroom III 09:20 - 12:50, **Kvocka et al.**, Trial
13:50 - 15:00, **Kvocka et al.**, Trial

FRIDAY 23 FEBRUARY

Courtroom I 10:00, **Jelusic**, Hearing of the Appeal
Time to be confirmed, **Jelusic**, Hearing of the Appeal
Courtroom III 09:20 - 12:50, **Kvocka et al.**, Trial
13:50 - 15:00, **Kvocka et al.**, Trial

Public proceedings are also broadcast with a 30 minute delay on the ICTY’s web site:

<http://www.un.org/icty/schedule/week-e.htm> (in English);

<http://www.un.org/icty/bhs/week-b.htm> (na bosanskom/hrvatskom/srpskom).

PRESS RELEASES ISSUED SINCE 9 FEBRUARY:

| DATE | NO | TITLE | E | F | B/C/S |
|------------|-----|----------------------------------------------------------------------------------|---|---|-------|
| 16/02/2001 | 561 | APPEALS CHAMBER TO RENDER ITS JUDGEMENT IN THE ČELEBIĆI CASE ON 20 FEBRUARY 2001 | E | | B/C/S |
| 16/02/2001 | 562 | SUPPORT FROM FINLAND TO THE ICTY OUTREACH PROGRAMME | E | | B/C/S |

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