

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

“LAŠVA VALLEY” (IT-95-14/1)

ZLATKO ALEKSOVSKI


ZLATKO ALEKSOVSKI
Convicted of outrages upon personal dignity


From January 1993, commander of the prison facility at Kaonik, near Busovača, central Bosnia and Herzegovina

- Sentenced to 7 years' imprisonment

Crimes convicted of (examples):
Outrages upon personal dignity (violations of the laws or customs of war)

- Whilst commander of the Kaonik prison, Aleksovski subjected approximately 500 non-Croat prisoners to physical and psychological maltreatment. He ordered and/or aided and abetted violent acts from late January 1993 until May 1993.
- He participated in the selection of detainees to be used as human shields and trench diggers, knowing that he was putting at risk the lives of those entrusted to his custody. Furthermore, with his direct participation as a commander, he provided additional encouragement to his subordinates to commit similar acts.
- As a superior in the camp, Aleksovski was aware of the offences being committed, yet he failed to take any steps either to prevent them from occurring or to punish the perpetrators thereof.

Born	8 January 1960 in Pakrac, Republic of Croatia
Indictment	10 November 1995
Arrested	8 June 1996, by Croatian authorities
Transferred to ICTY	28 April 1997
Initial appearance	29 April 1997, pleaded not guilty to all charges
Trial Chamber judgement	7 May 1999 (oral) and 25 June 1999 (written), sentenced to two and a half years' imprisonment; credit was given for time served for a period of two years, 10 months and 29 days and he was therefore immediately released
Appeals Chamber judgement	24 March 2000, sentence increased to 7 years' imprisonment
Sentence served	22 September 2000, transferred to Finland to serve the remainder of his sentence; credit was given for time served since 8 June 1996; granted early release on 14 November 2001

STATISTICS

Trial days	43
Witnesses called by Prosecution	40
Witnesses called by Defence	26
Witnesses called by Chambers	0
Prosecution exhibits	139
Defence exhibits	37
Chambers exhibits	0

TRIAL	
Commenced	6 January 1998
Closing arguments	22 and 23 March 1999
Trial Chamber I	Judge Almiro Rodrigues (presiding), Judge Lal Vohrah, Judge Rafael Nieto-Navia
Counsel for the Prosecution	Grant Niemann, Anura Meddegoda
Counsel for the Defence	Srđan Joka
Judgement	7 May 1999 (oral) and 25 June 1999 (written)

APPEALS	
Appeals Chamber	Judge Richard May (presiding), Judge Florence Mumba, Judge David Hunt, Judge Wang Tieya, Judge Patrick Robinson
Counsel for the Prosecution	Upswana Yapa, Anura Meddegoda
Counsel for the Defence	Srđan Joka
Judgement	24 March 2000

RELATED CASES <i>by geographical area</i>	
BLAŠKIĆ (IT-95-14) "LAŠVA VALLEY"	
BRALO (IT-95-17) "LAŠVA VALLEY"	
DELIĆ, RASIM (IT-04-83)	
FURUNDŽIJA (IT-95-17/1) "LAŠVA VALLEY"	
KORDIĆ & ČERKEZ (IT-95-14/2) "LAŠVA VALLEY"	
KUPREŠKIĆ <i>et al.</i> (IT-95-16) "LAŠVA VALLEY"	
LJUBIČIĆ (IT-00-41) "LAŠVA VALLEY"	
MARINIĆ (IT-95-15) "LAŠVA VALLEY"	

INDICTMENT AND CHARGES

On 10 November 1995, an initial indictment against Aleksovski, Dario Kordić, Mario Čerkez, Tihomir Blaškić, Ivan Šantić and Pero Skopljak was issued. The indictments against Šantić and Skopljak were later withdrawn, and the trials of Blaškić, Kordić and Čerkez were separated.

Aleksovski was arrested on 8 June 1996 on the territory of Republic of Croatia by the Croatian police, acting pursuant to an arrest warrant issued by the Tribunal. After having spent 10 months and 20 days in detention in the Republic of Croatia, Aleksovski was transferred to the Tribunal on 28 April 1997. His initial appearance was held on 29 April 1997 before Trial Chamber I.

Aleksovski was charged with three counts in the joint indictment dated 10 November 1995. He entered a plea of not guilty to all counts charged. He was remanded into custody pending trial.

The operative indictment charged Aleksovski on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) and superior criminal responsibility (Article 7(3)) with:

- Inhuman treatment; wilfully causing great suffering or serious injury to body or health (grave breaches of the 1949 Geneva conventions, Article 2),
- Outrages upon personal dignity (violations of the laws or customs of war, Article 3).

THE TRIAL

The trial commenced on 6 January 1998 and took place before Trial Chamber I (Judge Rodrigues (presiding), Judge Vohrah, Judge Nieto-Navia). The closing arguments were heard on 22 and 23 March 1999.

TRIAL CHAMBER JUDGEMENT

The trial was primarily concerned with events taking place over a period of five months during the first half of 1993 in the Kaonik prison in the Lašva Valley area, which stretches mainly over the municipalities of Travnik, Vitez and Busovača in central Bosnia and Herzegovina. The Kaonik prison was located beside the Lašva River approximately three kilometres north of the town of Busovača. Prior to the war, it was used by the Yugoslav National Army (JNA), mainly for storing ammunition.

During the armed hostilities which erupted on the territory of the newly independent Bosnia and Herzegovina in 1992, the Bosnian Serbs were generally opposed by the Bosnian Croats and the Bosnian Muslims, with the military units of the Bosnian Croats (the HVO) being formally under the direction of the army of Bosnia and Herzegovina (ABiH) and the central government in Sarajevo.

However, during the autumn of 1992, co-operation between the HVO and the ABiH began gradually breaking down and clashes between the two forces were reported. Towards the end of January 1993, there was an outbreak of open hostilities between the HVO and ABiH in the Lašva Valley area. As a consequence, the HVO rounded up Bosnian Muslim men in the town of Busovača, as well as in the surrounding villages. Approximately four hundred of these men were taken to be detained at the nearby detention facility at Kaonik. In mid-April 1993, another rounding up of Bosnian Muslim men by the Bosnian Croat forces took place, which resulted in the detention of at least one hundred additional men at the Kaonik prison.

As a commander of the prison facility at Kaonik from January 1993 till May 1993, Aleksovski was responsible for the safety and the well-being of the detainees during that time. Furthermore, as a commander of the prison, he was also in a superior position to the prison guards and was therefore responsible for their behaviour and conduct.

On the basis of individual criminal responsibility, the Trial Chamber found the accused guilty of ordering and/or aiding and abetting the physical and psychological maltreatment of Muslim prisoners. The Chamber judged that the maltreatment qualified as outrages upon personal dignity (count 10 of the indictment) which falls under Article 3 of the Tribunal's Statute.

The Trial Chamber further found that the accused knew of the offences being committed and that he failed to take any measure to prevent them or to punish the perpetrators thereof. Consequently, the Trial Chamber also found the accused guilty of superior criminal responsibility, Article 7(3) of the Tribunal's Statute.

As to events outside the prison, the Trial Chamber found Aleksovski guilty, pursuant to Article 7(1) of the Statute, of aiding and abetting in the use of the prisoners as human shields and for trench digging. These offences also qualified as outrages upon personal dignity.

In relation to the charges of inhuman treatment and wilfully causing great suffering or serious injury to body or health (grave breaches of the 1949 Geneva conventions), the Trial Chamber was unable to agree on the applicability of the Article in this case. The majority concluded that the Muslims held at the Kaonik prison between January 1993 and the end of May 1993 were not protected persons within the meaning of

Article 4 of the fourth Geneva convention. The Trial Chamber therefore decided that there was no value in examining whether the criminal allegations made by the Prosecutor represented the serious offences set out in the fourth Geneva convention. The legal consequence of this was that the accused was found not guilty on the two counts (counts 8 and 9) on which he was charged under Article 2 of the Tribunal's Statute.

On 7 May 1999, the Trial Chamber rendered its oral judgement, convicting Aleksovski, on the basis of individual criminal responsibility (Article 7(1)) and superior criminal responsibility (Article 7(3) of the Statute of the Tribunal), of outrages upon personal dignity (violations of the laws or customs of war, Article 3).

Sentence: Two and a half years' imprisonment.

The Trial Chamber rendered its full written judgement on 25 June 1999.

The accused was given credit for time spent in detention in Croatia and at the Tribunal (from 8 June 1996), and, as said period of time was longer than that of the sentence imposed, the Trial Chamber ordered his immediate release, notwithstanding any appeal.

APPEALS CHAMBER JUDGEMENT

On 17 and 19 May 1999 respectively, the Defence and Prosecution filed notices of appeal against both the judgement and the sentence handed down by the Trial Chamber. Appeal briefs were filed on 24 September 1999. The appellant filed four grounds of appeal and the Prosecution filed three.

The Appeals Chamber rejected all four grounds of appeal filed by the appellant. With regard to the Prosecution's grounds of appeal, the Appeals Chamber partly accepted the first two and fully accepted the third.

Among other things, the Appeals Chamber accepted the Prosecution's appeal against the sentence of two and a half years' imprisonment. It found that the Trial Chamber erred by not having sufficient regard for the gravity of the conduct of the accused. The Appeals Chamber determined that Aleksovski's offences were not trivial and that, instead of preventing it, the appellant as a superior involved himself in violence against those whom he should have been protecting, and allowed them to be subjected to psychological terror. He also failed to punish those responsible. Most seriously, by participating in the selection of detainees to be used as human shields and for trench digging, Aleksovski put at risk the lives of those entrusted to his custody. With his direct participation as a commander, he provided additional encouragement to his subordinates to commit similar acts. In the opinion of the Appeals Chamber, the combination of these factors should have resulted in a longer sentence and should certainly not have provided grounds for mitigation.

Therefore, the Appeals Chamber decided to revise the sentence which it considered manifestly inadequate. However, in imposing a revised sentence, the Appeals Chamber also considered the fact that Aleksovski was released after the judgement of the Trial Chamber, that he then had to reappear to be sentenced a second time for the same conduct, which caused him anxiety and distress, and also that he had been detained a second time after a period of release of nine months. The Appeals Chamber stated that, had it not been for these factors, the sentence would have been considerably longer.

On 9 February 2000 (oral) and 24 March 2000 (written), the Appeals Chamber rendered its judgement sentencing Aleksovski to 7 years' imprisonment.

Aleksovski was entitled to credit for time served, which amounted to 3 years and 12 days.

On 22 September 2000, Aleksovski was transferred to Finland to serve the remainder of his sentence. He was granted early release on 14 November 2001.