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APPEALS CHAMBER

CHAMBRE D'APPEL

The Hague, 12 June 2002

CVO/ P.I.S./ 679-E

APPEALS CHAMBER JUDGEMENT IN THE KUNARAC, KOVAČ AND VUKOVIĆ (FOČA) CASE:

- All grounds of appeal have been rejected
- Sentences imposed by the Trial Chamber are affirmed:
28 years' imprisonment for Dragoljub Kunarac, 20 years' imprisonment for Radomir Kovač
and 12 years' imprisonment for Zoran Vuković

SUMMARY OF THE APPEALS CHAMBER JUDGEMENT RENDERED ON 12 JUNE 2002

The Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia is today holding a public hearing to pronounce its Judgement on the appeal in the case "*The Prosecutor v. Kunarac, Kovač and Vuković*". The Judgement elucidates the definition of several crimes under our jurisdiction. In particular, the Appeals Chamber clarifies the status of rape as a crime under customary international law.

The summary, which follows has of course no legal force. Only the Appeals Judgement, signed by the five Judges of the bench, has such force. Pursuant to Rule 15 *bis* of the Rules of Procedure and Evidence, today's hearing will take place without Judge Mehmet Güney who cannot be here.

Brief summary of the facts

From April 1992 to February 1993 at least, the area of Foča was the scene of an armed conflict. The crimes of which Dragoljub Kunarac, Radomir Kovač and Zoran Vuković were found guilty by the Trial Chamber were closely related to this armed conflict. Non-Serb civilians were killed, raped or otherwise mistreated as a direct consequence of that armed conflict. Kunarac, Kovač and Vuković also participated in this campaign which sought, *inter alia*, to rid the area of Foča of its non-Serb inhabitants. One of the targets of the campaign were the Muslim civilians, women in particular. They were detained in various centres where the conditions of hygiene were intolerable and where they were subjected to many acts of physical violence, including multiple rapes. The criminal conduct of the three appellants was part of this systematic attack on the non-Serb civilians. All three knew that the area of Foča was the scene of an armed conflict. They also knew that an attack on the non-Serb civilian population had been launched and that their criminal acts occurred within or were part of this attack.

On 22 February 2001, the Trial Chamber found Dragoljub Kunarac guilty of crimes against humanity on the counts of enslavement, rape and torture as well as violations of the laws and customs of war on the counts of rape and torture. In the same decision, Radomir Kovač was found guilty of crimes against humanity on the counts of enslavement and rape as well as violations of the laws and customs of war on the count of outrages upon personal dignity. Zoran Vuković was found guilty of crimes against humanity on the counts of rape

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and torture as well as violations of the laws and customs of war on the counts of rape and torture. The three accused were given single sentences of 28, 20 and 12 years' imprisonment respectively.

On 6 March 2001, Radomir Kovač and Zoran Vuković filed a notice of appeal against the Trial Chamber Judgement and sentence. On 7 March 2001, Dragoljub Kunarac did so as well.

The Appellants presented several grounds of appeal. The Appeals Chamber noted that five of them were common to at least two of the three Appellants and dealt with them in Chapters III to VII of this Appeals Judgement. Each of the grounds raised by one of the Appellants alone is addressed in a separate chapter.

I. Common grounds of appeal relating to Article 3 of the Statute:

A. Existence of an armed conflict and the nexus of the criminal conduct therewith:

According to the Appellants, the Trial Chamber erred in concluding that there was an armed conflict in two municipalities bordering the municipality of Foča, namely the municipalities of Gačko and Kalinovik. Given that these municipalities are contiguous and neighbouring municipalities of Foča and given also that the Appellants conceded that there was an armed conflict in the area of Foča, the Appeals Chamber considers that the Prosecutor did not have to prove that there was an armed conflict in each and every square inch of the area in question recalling that the state of armed conflict is not limited to the areas of actual military combat but exists across the entire territory under the control of the warring parties. Ample evidence was adduced before the Trial Chamber to justifiably conclude that an armed conflict was taking place in the territory of the three municipalities in question.

These grounds then led to the question of whether the Trial Chamber committed an error in formulating the criterion applicable for determining whether the required nexus between the armed conflict and the criminal behaviour did indeed exist. All three Appellants held that the criterion used by the Appeals Chamber was insufficient. In their opinion, the existence of a nexus should have been established for each crime and it would have been appropriate to ask whether the acts in question may be perpetrated even if there is no armed conflict. The Appeals Chamber states that the required nexus is not however one of cause and effect between the armed conflict and the commission of the crime. It is sufficient that the existence of the armed conflict must have played a substantial part in the perpetrator's ability to commit the crime, his decision to commit it, the manner in which he committed it or the purpose for which he committed it. Consequently, the Trial Chamber was justified in taking into account, *inter alia*, the following factors: the fact that the perpetrators are combatants; the fact that the victims are non-combatants; the fact that the victims are members of the opposing party and the fact that the acts may be said to serve the ultimate goal of a military campaign. However, in this case, it was established that the perpetrators acted in furtherance of or under the guise of the armed conflict. This is sufficient to conclude that their acts were closely related to that conflict as required under Article 3 of the Statute. The Appeals Chamber can consider only that the Trial Chamber's finding on that point is unimpeachable.

B. Concerning the material scope of Article 3 of the Statute and common Article 3 of the 1949 Geneva Conventions:

In accordance with the jurisprudence of the Tribunal, the Appeals Chamber does not accept the Appellants' unsupported assertions that Article 3 of the Statute is restricted in such a way as to be limited to the protection of property and the proper use of permitted weapons, and that it does not cover serious violations of Common article 3 of the 1949 Geneva

Conventions and that it is concerned only with the rights of warring parties as opposed to the protection of private individuals. This ground is therefore rejected.

II. Common grounds of appeal relating to Article 5 of the Statute:

The Appellants raise a number of complaints in respect of the *chapeau* elements of Article 5 of the Statute relating to crimes against humanity as established by the Trial Chamber.

A. Nexus with the armed conflict under Article 5 of the Statute:

This requirement set out in Article 5 is only a prerequisite to the exercise of the Tribunal's jurisdiction. It is satisfied merely by the proof that there was an armed conflict and, contrary to the Appellants' arguments, does not require a material nexus between the acts of the accused and the armed conflict. In adopting the Trial Chamber's conclusion that there was an armed conflict in the area and on the dates set out in the Indictments, the Appeals Chamber rejects these grounds of appeal.

B. Existence of an "attack":

The Appellants argue that the Trial Chamber erred in stating that there was an attack on the non-Serb civilian population of Foča. The Appeals Chamber is satisfied however that the Trial Chamber correctly defined and interpreted the concept of "attack" which it regarded as a type of conduct resulting in acts of violence. In the definition of a crime against humanity, the word "attack" is not limited to the use of armed force but encompasses, *inter alia*, situations in which persons not taking any active part in the hostilities are mistreated or situations in which a non-combatant entity is targeted – that is, any civilian population. The Trial Chamber's conclusions in relation to the attack are unimpeachable and the Appeals Chamber therefore rejects these grounds of appeal.

C. Condition according to which the attack must be directed against any civilian population:

The Appellants state that what happened to the non-Serb citizens of the Foča municipality was not the regrettable consequence of an attack directed against the civilian population as such, but rather the unfortunate result of a legitimate military operation. In other words, there was "collateral damage". Certain elements, however, were sufficient to reasonably convince the Trial Chamber Judges that the attack was effectively directed against a civilian "population", rather than against a limited number of individuals chosen at random, *inter alia*, the means and method used in the course of the attack, the status of the victims, their number, the discriminatory nature of the attack, the nature of the crimes committed in its course... The Appeals Chamber is satisfied that the Trial Chamber did not err in concluding that such an attack occurred. Moreover, in identifying the attacked "population", that is the non-Serb population of Foča, it was thus able to discern an attempt to disguise criminal acts as a military enterprise. These grounds of appeal are therefore rejected.

D. "Widespread or systematic" nature of the attack:

According to the Appellants, even if accepted, the evidence of the crimes committed against the non-Serb civilians would not suffice to conclude that the attack was widespread or systematic, due to its restricted character both in terms of significance and quantity. The Appellants add that in legal terms the attack must be widespread **and** systematic. However, the Appeals Chamber considers that the Trial Chamber correctly defined the adjective "widespread" as referring *inter alia* to the number of victims of the attack and to its being

carried out on a wide scale and the adjective “systematic” as referring to the organised or repetitive character of the acts of violence. In order to determine what constitutes a “widespread” or “systematic” attack, a Trial Chamber relies in particular on the means, methods and resources of the attackers, the consequences of the attack upon the targeted population, the number of victims, the discriminatory nature of the acts, the possible participation of officials or authorities or any other identifiable patterns of the crimes... Moreover, the Appeals Chamber correctly, and in accordance with law, recalled that the attack had to either be “widespread” or “systematic”, specifying that the requirement is disjunctive rather than cumulative. In relation to the circumstances of this case, the Trial Chamber did not err in concluding that the attack against the non-Serb civilian population of Foča was systematic. The Appeals Chamber therefore rejects these grounds of appeal.

E. Nexus with the attack and the required *mens rea* for crimes against humanity:

The Appellants argue that the Trial Chamber erred in concluding that there was a nexus between their acts and the attack because they were not even aware of that attack, because their acts had a purely military character and because they in no way wished to participate in a possible attack against the civilian population. As properly noted by the Trial Chamber, the nexus between the acts of the accused and the attack consists of two elements: the commission of an act which is objectively part of the attack coupled with knowledge on the part of the accused that there is an attack on the civilian population and that his act is part thereof. The Appeals Chamber is satisfied that the Trial Chamber defined and applied the appropriate criterion regarding the nexus between the acts of the accused and the attack. These grounds of appeal are therefore rejected.

III. Grounds of appeal relating to the Trial Chamber’s definition of the offences:

A. Definition of the crime of enslavement:

The Appellants propose to substitute the following elements for those considered by the Trial Chamber for the crime of enslavement: the accused must have considered the victim “as its own ownership”, there must have been the constant and clear lack of consent of the victim, the victim must have been detained for an indefinite or at least for a prolonged period of time and the accused must have had the intent to detain the victim under constant control for a prolonged period in order to use the victim for sexual acts. However, the Appeals Chamber does not accept the premise that lack of consent is a constituent element of the crime. It abides by the Trial Chamber’s decision attributing a relative importance to the duration of the detention and not considering it an element of the crime. It concurs with the Trial Chamber that the required *mens rea* for this crime consists of the intentional exercise of a power attached to the right of ownership over the victims without it being necessary to prove that the accused intended to detain the victims under constant control for a prolonged period in order to use them for sexual acts. Consequently, the Appeals Chamber is of the opinion that the Trial Chamber’s definition of the crime of enslavement is not too broad and does indeed reflect customary international law at the time when the alleged crimes were committed. The grounds of appeal relating to the definition of the crime of enslavement are therefore rejected.

B. Definition of the crime of rape:

According to the Appellants, the crime of rape requires, in addition to penetration, the showing of two additional elements: force or threat of force and the victim’s “continuous” or “genuine” resistance. The Appeals Chamber concurs with the Trial Chamber’s definition of rape following its extensive review of the continental and common law legal systems, since the central element in this definition arises from the victim’s lack of consent. Moreover, the

Appeals Chamber states that it is appropriate to reject the Appellants' "resistance" requirement, justified neither in law or fact, and that the use of force in itself is not an element constituting rape. The coercive circumstances present in this case made the victims' consent to the instant sexual acts impossible. The grounds of appeal relating to the definition of the crime of rape are therefore rejected.

C. Definition of the crime of torture:

The Appellants concerned did not challenge the definition of torture but asserted that the constitutive elements of the crime of torture have not been proven beyond reasonable doubt in this case. The Appeals Chamber wishes to specify that some acts establish *per se* the suffering of those upon whom they are inflicted. Rape is obviously such an act. Moreover, the sexual motivation to which the accused admitted certainly does not exclude the intent to commit an act which has as a consequence severe pain and suffering or the purpose of discrimination. The grounds of appeal relating to the crime of torture are rejected.

D. Definition of the crime of outrages upon personal dignity (Kovač):

According to the Appellant Kovač, the Trial Chamber did not define which acts are likely to constitute outrages upon personal dignity or establish a specific intent on his part to humiliate or degrade the victim. However, the Appeals Chamber considers that the Trial Chamber correctly defined the objective threshold for an act to constitute an outrage upon personal dignity, that is "any act or omission which would be *generally* considered to cause serious humiliation, degradation or otherwise be a serious attack on human dignity". Moreover, the Trial Chamber rightly considered that it sufficed that the Appellant knew, as any reasonable person would have, that his acts *could* cause serious humiliation, degradation or otherwise be a serious attack on human dignity. The grounds of appeal relating to the definition of the crime of outrages upon personal dignity are rejected.

IV. Cumulative charges and convictions:

The Appeals Chamber rejects the argument that the crimes were inappropriately charged and considers it even unnecessary to rehearse in this Appeals Judgement a settled jurisprudence on this point.

With regard to the cumulative convictions, the Appeals Chamber applied the method set out in the *Delalić* ("Čelebići") Appeals Judgement. It, like the Trial Chamber, considers that convictions for the same conduct under Article 5 of the Statute (crimes against humanity) and Article 3 of the Statute (violations of the laws or customs of war) are permissible and dismisses the appeal on this point.

As regards the Appellants' arguments in respect of cumulative convictions under Article 5, given the circumstances of the case, the Appeals Chamber concludes that all the constitutive elements of rape and torture exist. It is also possible to cumulate, under Article 3 of the Statute, a conviction for rape and a conviction for torture for the same conduct. The crimes of rape and torture each contain one materially distinct element. In this case, for cumulative convictions under both Article 5 and Article 3, rape and sexual violence constitute acts of torture. The Appeals Chamber therefore rejects the appeal on this point.

The Appellant Kovač's separate ground of appeal: the Appellant Kovač argues that he was wrongly convicted of both rape and outrages upon personal dignity under Article 3 of the Statute. The Appeals Chamber rejects the argument, considering that the Trial Chamber did not base its convictions on the same conduct. All the other grounds of appeal relating to cumulative convictions are rejected.

V. Individual grounds of appeal:

Errors of fact alleged by Kunarac:

The Appeals Chamber rejects all of the grounds of appeal raised by Kunarac against the Trial Chamber's factual findings regarding his alibi and counts 1 to 4, 9 and 10, 11 and 12, and 18 to 20. The Appellant has not shown that the Trial Chamber committed an error of fact occasioning a miscarriage of justice.

Errors of fact alleged by Kovač:

The Appeals Chamber rejects all of Kovač's grounds of appeal against the Trial Chamber's factual findings regarding his identification, the conditions in his apartment, the offences committed against FWS-75, A.B., FWS-87, and A.S., the outrages upon personal dignity, the sale of FWS-87 and A.S. and the rape convictions. The Appellant has not shown that the Trial Chamber committed an error of fact occasioning a miscarriage of justice.

Errors of fact alleged by Vuković:

The Appeals Chamber rejects the appeal brought by the Appellant Vuković against the Trial Chamber's findings regarding the alleged omissions noted in the Indictment, the rape of FWS-50, his identification and the evaluation of the exculpatory evidence. The Appellant has not shown that the Trial Chamber committed an error of fact occasioning a miscarriage of justice.

VI. Grounds of appeal relating to sentencing:

A. Single sentence:

The accused presented grounds asserting, in substance, that the Rules do not authorise the imposition of a single sentence and that for each crime of which an accused has been convicted an individual sentence should be handed down. The Appeals Chamber holds that neither Rule 87(C) nor Rule 101(C) of the 18th edition of the Rules prohibited a Trial Chamber from imposing a single sentence and recalls that single sentences are not unknown in the Tribunal's practice. These grounds are dismissed.

B. Recourse to the sentencing practice in the courts of the former Yugoslavia:

The Appellants argue that the Trial Chamber should have conformed to the general sentencing practice in the former Yugoslavia, in particular, in the sense that the sentence under appeal should not exceed the maximum applied by the courts of the former Yugoslavia. The Appeals Chamber holds that although a Trial Chamber must take into consideration the general sentencing practice in the former Yugoslavia it is not bound by such practice. The Appeals Chamber confirms the findings of the Trial Judgement which stated that it is established case-law at the Tribunal that the practice of the courts in the former Yugoslavia does not bind the Trial Chambers in the determination of a sentence. The Trial Chamber did indeed review the sentencing practice applied by the courts of the former Yugoslavia by way of hearing a Defence expert witness on the matter and thereby complied with the provisions of Article 24(1) of the Statute and Rule 101(B)(iii) of the Rules. It did not venture outside its discretion in setting the sentence, nor did it err on this point. These grounds of appeal are rejected.

C. Aggravating factors:

The Appellants submitted that their crimes should not have incurred the sentences pronounced because certain related aggravating factors were not properly evaluated:

1. Vulnerability of certain victims:

Article 24(2) of the Statute states that in imposing the sentences, the Trial Chamber must take into account the gravity of the offence. Whether or not the vulnerability of the victim is an element of the crime of rape does not affect its being evidence of the gravity of the crime and that, within the meaning of the Statute, such gravity may be duly evaluated during the determination of the sentence. The Trial Chamber committed no error in this respect, and this ground of appeal is therefore rejected.

2. Alleged contradictions in the Trial Judgement (Kunarac):

The Appellant Kunarac contends that the Trial Chamber reached contradictory findings in paragraphs 858 and 863 with regard to his role in the armed conflict in the former Yugoslavia. The two paragraphs at issue clearly state that, as far as these crimes are concerned, he was not considered as being in a position of command. This ground of appeal is therefore without merit and the Chamber dismisses it.

3. Issue of the age of the victims, all but one younger than 19:

The Trial Chamber rightly took into consideration the evidence of the Defence expert witness on the sentences incurred for the crime of rape in the former Yugoslavia who confirmed that, in that country, aggravated factors were attached to the rape of young girls under the age of 18. In the view of the Appeals Chamber, the expert's evidence did not contradict the prevailing practice in the former Yugoslav Republic of Bosnia and Herzegovina. By virtue of its inherent discretionary power, the Trial Chamber was entitled to consider that the age of 19 is sufficiently close to the protected age of special vulnerability for it to view that age as an aggravating factor. As for the Appellant Vuković's allegation that an error was committed in evaluating the age of victim FWS-50, the Appeals Chamber responds that the fact that two slightly different ages were given to the victim in the Trial Judgement (approximately 16 and 15½) takes nothing away from the fact that she was young, and that this could constitute an aggravating factor. The Appeals Chamber therefore finds that the Trial Chamber did not make an error in taking into consideration the young age of the victims specified in the Trial Judgement. Accordingly, these grounds of appeal are dismissed.

4. Aggravating factor of enslavement over a long period (Kunarac) or the prolonged character of mistreatment inflicted upon some of the victims (Kovač):

The Appeals Chamber agrees with the Trial Chamber that duration may be a factor to take into account "when considering whether someone was enslaved" but that it is not one of the elements of the offence. The longer the period of enslavement, the more serious the offence. The Appeals Chamber subscribes to the opinion of the Trial Chamber that the duration of the crimes of enslavement, rape and outrages upon personal dignity, between one month and four months approximately, was sufficiently long to incur an aggravation of the sentence. As such, these grounds of appeal are dismissed.

5. Issue of the discriminatory grounds, an element of the offences punishable under Article 5 of the Statute or an aggravating factor:

The Appellant Kunarac claimed that the Trial Chamber erred in regarding the discriminatory intent as an aggravating factor as it allegedly constitutes an element of the crimes specified under Article 5 of the Statute. In this regard, the Appeals Chamber recalls the Tadić Appeal Judgement which states that discriminatory intent “is an indispensable legal ingredient of the offence only with regard to those crimes for which this is expressly required, that is, for Article 5(h) of the Statute, concerning various types of persecution”. It is not required for the other offences listed under Article 5 of the Statute. Consequently, this ground of appeal is rejected.

6. Issue of retribution as a sentencing purpose (Kovač):

In the case-law of both this Tribunal and the ICTR, retribution has always been taken into consideration as a purpose of the sentencing, it being “interpreted [...] as punishment of an offender for his specific criminal conduct”. The Appellant failed to substantiate his claim of an alleged trend in international law which speaks differently from the one followed by this Tribunal and the ICTR. This ground of appeal is therefore dismissed.

D. Mitigating factors:

Kunarac

The Appellant claims that the fact that none of the victims has suffered any severe consequences at his hands should be considered as a mitigating factor, as should the fact that he is the father of three young children. The inherent gravity of these offences, as the starting point for the sentencing procedure, demands severe punishment, which will not be diminished because the offences are claimed to have produced no serious effects for the victims. This ground of appeal is therefore rejected. The Appeals Chamber holds that the family aspect should have been taken into consideration as a mitigating factor. This ground of appeal is thus partly successful. However, in view of the number and severity of the offences committed, the Appeals Chamber finds that the sentence imposed by the Trial Chamber is the appropriate one and thus upholds the decision in this regard.

Kovač

The Appellant argues that the Trial Chamber should have taken into account the fact that he had no intention to harm Muslims, nor the knowledge that his actions formed part of a widespread and systematic attack. Before the sentencing proceedings, the Trial Chamber had already accepted these factors as being proved beyond all reasonable doubt, resulting in a conviction. The Appellant thus cannot re-litigate this issue in the course of the sentencing appeal. This ground of appeal is therefore dismissed.

As regards the second mitigating factor raised by the Appellant, the Appeals Chamber merely notes that the four women he kept in his apartment against their will and mistreated were Muslims. It rejects this unreasoned ground of appeal.

Lastly, the Appellant pleads his relationship with FWS-87 and the protection he extended to her and to A.S.. The Appeals Chamber agrees with the Trial Chamber’s view that the relationship between the Appellant and FWS-87 was not one of love, “but rather one of cruel opportunism on Kovač’s part, of constant abuses and domination over a girl who, at the relevant time, was only about 15 years old” and with the finding that the Appellant “substantially assisted Jago Kostić in raping A.S.”. This ground of appeal is rejected.

Vuković

The Appellant argues that he helped “numerous [...] Muslim families”, that no serious consequences arose from his acts and that no force or compulsion was used. Lastly, the Appellant submits that the fact that he is married and has two children should also be taken into consideration. The Appeals Chamber holds that the Appellant’s help to other Muslims in the conflict does not change the fact that he committed serious crimes against FWS-50, that his acts did have serious consequences and that, as the Trial Judgement rightly points out, force or compulsion was used prior to rape. These grounds of appeal are thus rejected. As for the Appellant’s family situation, it should admittedly have been considered as a mitigating factor but, although it allows this ground of appeal, the Appeals Chamber concurs with the length of the imprisonment decided by the Trial Chamber.

E. Credit for time served:

The Trial Chamber did make an Oral Statement, on 22 February 2001, stating that the time spent in custody would be credited to the sentences of the three convicted persons. If the Appellants had had the slightest doubt, they could have, through their Counsel, raised the matter immediately before the Trial Chamber for clarification. That would have been the proper forum. These grounds of appeal are dismissed, provided that the last paragraph of the Trial Judgement is read together with the Oral Statement of the Trial Chamber of 22 February 2001. The Appellants will therefore receive credit for time served in detention as calculated from the moment they surrendered to the Tribunal or were placed in its custody.

Will the Accused please rise.

DISPOSITION:

For the foregoing reasons,

A. The Appeals of Dragoljub Kunarac against convictions and sentence

1. Convictions

The Appeals Chamber:

DISMISSES the appeal brought by Dragoljub Kunarac against his convictions.

Accordingly, the Appeals Chamber AFFIRMS the convictions entered by the Trial Chamber for Dragoljub Kunarac on Counts 1-4, 9-12 and 18-20 of Indictment IT-96-23.

2. Sentence

The Appeals Chamber:

DISMISSES the appeal brought by Dragoljub Kunarac against his sentence;

CORRECTS the formal disposition of the Trial Judgement to reflect the Oral Statement made by the Trial Chamber that credit should be given for time served and, accordingly, Dragoljub Kunarac is entitled to credit for the time he has spent in custody since his surrender on 4 March 1998;

AND

CONSIDERING the number and severity of the offences committed, FINDS that the sentence imposed by the Trial Chamber is appropriate.

Accordingly, the Appeals Chamber AFFIRMS the sentence of 28 years' imprisonment as imposed by the Trial Chamber.

B. The Appeals of Radomir Kovač against convictions and sentence

1. Convictions

The Appeals Chamber:

DISMISSES the appeal brought by Radomir Kovač against his convictions.

Accordingly, the Appeals Chamber AFFIRMS the convictions entered by the Trial Chamber for Radomir Kovač on Counts 22-25 of Indictment IT-96-23.

2. Sentence

The Appeals Chamber:

DISMISSES the appeal brought by Radomir Kovač against his sentence;

CORRECTS the formal disposition of the Trial Judgement to reflect the Oral Statement made by the Trial Chamber that credit should be given for time served and, accordingly, Radomir Kovač is entitled to credit for the time he has spent in custody since his arrest on 2 August 1999;

AND

CONSIDERING the number and severity of the offences committed, FINDS that the sentence imposed by the Trial Chamber is appropriate.

Accordingly, the Appeals Chamber AFFIRMS the sentence of 20 years' imprisonment as imposed by the Trial Chamber.

C. The Appeals of Zoran Vuković against convictions and sentence

1. Convictions

The Appeals Chamber:

DISMISSES the appeal brought by Zoran Vuković against his convictions.

Accordingly, the Appeals Chamber AFFIRMS the convictions entered by the Trial Chamber for Zoran Vuković on Counts 33-36 of Indictment IT-96-23/1.

2. Sentence

The Appeals Chamber:

DISMISSES the appeal brought by Zoran Vuković against his sentence;

CORRECTS the formal disposition of the Trial Judgement to reflect the Oral Statement made by the Trial Chamber that credit should be given for time served and, accordingly, Zoran Vuković is entitled to credit for the time he has spent in custody since his arrest on 23 December 1999;

AND

CONSIDERING the number and severity of the offences committed, FINDS that the sentence imposed by the Trial Chamber is appropriate.

Accordingly, the Appeals Chamber AFFIRMS the sentence of 12 years' imprisonment as imposed by the Trial Chamber.

D. Enforcement of Sentences

In accordance with Rules 103(C) and 107 of the Rules, the Appeals Chamber orders that Dragoljub Kunarac, Radomir Kovač and Zoran Vuković are to remain in the custody of the International Tribunal pending the finalisation of arrangements for their transfers to the State or States where their respective sentences will be served.

The full text of the Appeals Chamber's Judgement is available both in English and French on the ICTY Internet site.