

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

“OMARSKA, KERATERM & TRNOPOLJE CAMPS” (IT-98-30/1)

KVOČKA *et al.*

The Prosecutor v. Miroslav Kvočka, Dragoljub Prcać, Milojica Kos, Mlađo Radić & Zoran Žigić



MIROSLAV KVOČKA



Professional police officer attached to the Omarska police station; participated in the operation of the Omarska camp in north-western Bosnia and Herzegovina as the functional equivalent of the deputy commander of the guard service

- Sentenced to **7 years' imprisonment**

Crimes convicted of (examples):

Persecutions on political, racial or religious grounds (crimes against humanity)

- Kvočka held a high-ranking position in the Omarska camp and had a degree of authority over the guards.
- He had sufficient influence to prevent or halt some of the abuses but rarely made use of that influence.
- He was present while crimes were committed and was undoubtedly aware that crimes of extreme physical and mental violence were routinely inflicted upon the non-Serbs imprisoned in the camp.

Murder and torture (violation of the laws or customs of war)

- He was a co-perpetrator as part of a joint criminal enterprise (JCE) in the murder of two detainees held at the camp. As part of the JCE, he instigated, committed or otherwise aided and abetted the torture and beating of Bosnian Muslim and Bosnian Croat prisoners by his approval and encouragement or acquiescence to the acts.

DRAGOLJUB PRCAĆ



Retired policeman and crime technician mobilised to serve in the Omarska police station on 29 April 1992; administrative aide to the commander of the Omarska camp

- Sentenced to **5 years' imprisonment**

Crimes convicted of (examples):

Persecutions on political, racial or religious grounds (crimes against humanity),

- Prcać was aware of the crimes of extreme physical and mental violence routinely inflicted upon the non-Serbs detained in the camp. He performed his duties diligently and almost never intervened, thereby actively contributing to the system of persecution which had been set up.

- He was aware of the persecutory nature of the crimes committed against non-Serbs detained in the camp and, based upon his knowledge of and substantial participation in the system of persecution pervading the camp, Prcać had the intent to discriminate against the non-Serbs detained there.

Murder and torture (violations of the laws or customs of war)

- He remained impassive when crimes were committed in his presence. His silence can be regarded as having given moral support or approval to the perpetrators.

MILOJICA KOS



Guard shift leader in the Omarska camp from approximately 31 May to 6 August 1992; also known as "Krle"

- Sentenced to **6 years' imprisonment**

Crimes convicted of (examples):

Persecutions on political, racial or religious grounds, murder, inhumane acts (crimes against humanity),

- Kos had direct knowledge of the abusive treatment and conditions in the Omarska camp. He held a position of authority and influence over guards on his shift and participated in acts of violence against detainees.

Murder and torture (violations of the laws or customs of war)

- He actively participated in or silently approved of the crimes committed in his presence or by guards on his shift.
- He was directly and personally involved in beatings of detainees in mid-July 1992.

MLAĐO RADIĆ



A professional policeman attached to the Omarska police station and a shift leader of guards in the Omarska camp from approximately 28 May until the end of August 1992; also known as "Krkan"

- Sentenced to **20 years' imprisonment**

Crimes convicted of (examples):

Persecutions on political, racial or religious grounds, murder, inhumane acts (crimes against humanity)

- Radić was aware that crimes of extreme physical and mental violence were routinely committed in the Omarska camp for discriminatory purposes.
- He had substantial authority over guards on his shift in the camp and used his power to prevent crimes selectively, while ignoring the vast majority of crimes committed during his shift.
- He raped one detainee and attempted to rape another.
- He participated in sexual intimidation, harassment, and assaults against three other detainees.

Murder and torture (violations of the laws or customs of war)

- He accompanied detainees to the offices where they were to be interrogated and took them out after they had been not only interrogated but also beaten. Several detainees died from the beatings administered by the guards on his shift.
- He did not prevent outsiders, including Duško Tadić and Zoran Žigić, from coming into the camp and participating in the beating of detainees.
- He committed acts of sexual violence which the judges characterised as torture after taking into account the vulnerability of the victims, the pain deliberately inflicted on them and the state of anxiety in which the women detainees were kept in Omarska.

ZORAN ŽIGIĆ

A civilian taxi-driver mobilised to serve as a reserve police officer; worked for a short period of time as a guard at Keraterm camp and specifically entered Omarska and Trnopolje camps for the purpose of abusing, beating, torturing and/or killing prisoners; also known as "Žiga"

- Sentenced to **25 years' imprisonment**

*Crimes convicted of (examples):***Persecutions on political, racial or religious grounds** (crimes against humanity),

- Žigić participated in the beating of three detainees held in Omarska.
- He murdered two detainees.
- He was a co-perpetrator in the murder of another detainee in Keraterm.

Torture and cruel treatment (violations of the laws or customs of war)

- Žigić used weapons such as a rod with a metal ball attached to one end to harm detainees.

MIROSLAV KVOČKA

Born	1 January 1957 in Marička, Prijedor municipality, Bosnia and Herzegovina
Indictment	Initial: 9 November 1998; amended: 26 October 2000
Arrested	8 April 1998, by the multinational Stabilisation Force (SFOR)
Transferred to ICTY	9 April 1998
Initial appearance	14 April 1998, pleaded not guilty to all charges
Trial Chamber judgement	2 November 2001, sentenced to 7 years' imprisonment
Appeals Chamber judgement	28 February 2005, sentence to 7 years' imprisonment affirmed
Sentence served	30 March 2005, granted early release (from the Detention Unit in The Hague); credit was given for time served since 8 April 1998

DRAGOLJUB PRCAČ

Born	18 July 1937 in Omarska, Prijedor municipality, Bosnia and Herzegovina
Indictment	Initial: 9 November 1998; amended: 26 October 2000
Arrested	5 March 2000, by SFOR
Transferred to ICTY	5 March 2000
Initial appearance	10 March 2000, pleaded not guilty to all charges
Trial Chamber judgement	2 November 2001, sentenced to 5 years' imprisonment
Appeals Chamber judgement	28 February 2005, sentence of 5 years' imprisonment affirmed
Sentence served	3 March 2005, granted early release (from the Detention Unit in

	The Hague); credit was given for time served since 5 March 2000
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MILOJICA KOS	
Born	1 April 1963 in Lamovita, Prijedor municipality, Bosnia and Herzegovina
Indictment	Initial: 9 November 1998; amended: 26 October 2000
Arrested	28 May 1998, by SFOR
Transferred to ICTY	29 May 1998
Initial appearance	2 June 1998, pleaded not guilty to all charges
Trial Chamber judgement	2 November 2001, sentenced to 6 years' imprisonment
Sentence served	30 July 2002, granted early release (from the Detention Unit in The Hague); credit was given for time served since 29 May 1998

MLAĐO RADIĆ	
Born	15 May 1952 in Lamovita, Prijedor municipality, Bosnia and Herzegovina
Indictment	Initial: 9 November 1998; amended: 26 October 2000
Arrested	8 April 1998, by SFOR
Transferred to ICTY	9 April 1998
Initial appearance	14 April 1998, pleaded not guilty to all charges
Trial Chamber judgement	2 November 2001, sentenced to 20 years' imprisonment
Appeals Chamber judgement	28 February 2005, sentence of 20 years' imprisonment affirmed
Sentence served	15 November 2005, transferred to France to serve the remainder of his sentence; credit was given for time served since 8 April 1998; early release granted on 13 February 2012 (effective on 31 December 2012)

ZORAN ŽIGIĆ	
Born	20 September 1958 in Balte, Prijedor municipality, Bosnia and Herzegovina
Indictment	Initial: 9 November 1998; amended: 26 October 2000
Surrendered	16 April 1998
Transferred to ICTY	16 April 1998
Initial appearance	20 April 1998, pleaded not guilty to all charges
Trial Chamber judgement	2 November 2001, sentenced to 25 years' imprisonment
Appeals Chamber judgement	28 February 2005, sentence of 25 years' imprisonment affirmed
Sentence served	8 June 2006, transferred to Austria to serve the remainder of his sentence; Credit was given for time served since 16 April 1998; early release granted on 10 November 2014 (effective 16 December 2014)

STATISTICS

Trial days	113
Witnesses called by Prosecution	50
Witnesses called by Defence	Total: 89 Kvočka: 22 Kos: 4 Radić: 22 Žigić: 25 Prcać: 16
Witnesses called by Chambers	0
Prosecution exhibits	305
Defence exhibits	Total: 184 Kvočka 58 Kos: 13

	Radić: 35 Žigić: 32 Prcać: 46
Chambers exhibits	0

TRIAL	
Commenced	28 February 2000
Closing arguments	16 - 19 July 2001
Trial Chamber I	Judge Almiro Rodrigues (presiding), Judge Fouad Riad, Judge Patricia Wald
Counsel for the Prosecution	Susan Somers, Kapila Waidyaratne, Daniel Saxon
Counsel for the Defence	For Miroslav Kvočka: Krstan Simić For Milojica Kos: Žarko Nikolić For Mlado Radić: Toma Fila For Zoran Žigić: Slobodan Stojanović For Dragoljub Prcać: Jovan Simić
Judgement	2 November 2001

APPEALS	
Appeals Chamber	Judge Mohamed Shahabuddeen (presiding), Judge Fausto Pocar, Judge Florence Mumba, Judge Mehmet Güney, Judge Inés Mónica Weinberg de Roca
Counsel for the Prosecution	Anthony Carmona, Helen Brady, Norul Rashid, David Re, Kelly Howick
Counsel for the Defence	For Miroslav Kvočka: Krstan Simić For Mlado Radić: Toma Fila For Zoran Žigić: Slobodan Stojanović For Dragoljub Prcać: Jovan Simić
Judgement	28 February 2005

RELATED CASES <i>by geographical area</i>	
BANOVIĆ (IT-02-65/1) "OMARSKA CAMP & KERATERM CAMP"	
BOROVNICA (IT-95-3) "PRIJEDOR"	
BRĐANIN (IT-99-36) "KRAJINA"	
KARADŽIĆ (IT-95-5/18) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"	
KRAJISNIK (IT-00-39 AND 40) "BOSNIA AND HERZEGOVINA"	
MEJAKIĆ <i>et al.</i> (IT-02-65) "OMARSKA CAMP & KERATERM CAMP"	
MILOŠEVIĆ (IT-02-54) "KOSOVO, CROATIA & BOSNIA"	
MLADIĆ (IT-09-92) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"	
MRĐA (IT-02-59) "VLAŠIĆ MOUNTAIN"	
PLAVŠIĆ (IT-00-39 AND 40/1) "BOSNIA AND HERZEGOVINA"	
SIKIRICA <i>et al.</i> (IT-95-8) "KERATERM CAMP"	
STAKIĆ (IT-97-24) "PRIJEDOR"	
STANIŠIĆ, MIĆO (IT-04-79)	
TADIĆ (IT-94-21) "PRIJEDOR"	
ŽUPLJANIN (IT-99-36) "KRAJINA"	
KOVAČEVIĆ & DRLJACA (IT-97-24) "PRIJEDOR"	

INDICTMENT AND CHARGES

The initial indictment against Kvočka *et al.* (IT-98-30) confirmed on 9 November 1998, consolidated the charges against four accused: Kvočka, Radić, Kos and Žigić, who had all been charged in the Omarska camp indictment (IT-95-4), confirmed on 13 February 1995; Žigić had also been charged in the Keraterm camp indictment, confirmed on 21 July 1995 (IT-95-8).

Following the detention of Prcać, the Trial Chamber joined the trial of Prcać (IT-95-4) to that of Kvočka *et al.* on 14 April 2000, under the new case number IT-98-30/1.

Further to an order of the Trial Chamber dated 13 October 2000, the Prosecution filed an amended indictment on 26 October 2000 which consolidated the indictments for the accused Prcać, Kvočka, Radić, Kos and Žigić.

In the operative indictment, the accused were charged as follows:

Kvočka, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) and on the basis of superior criminal responsibility (Article 7(3)) with:

- Outrages upon personal dignity, murder, torture, cruel treatment (violations of the laws or customs of war, Article 3),
- Persecutions on political, racial or religious grounds, inhumane acts, murder, torture (crimes against humanity, Article 5).

Prcać, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) and on the basis of superior criminal responsibility (Article 7 (3)), with:

- Torture, cruel treatment, murder, outrages upon personal dignity (violations of the laws or customs of war, Article 3),
- Persecutions on political, racial, or religious grounds, inhumane acts, murder, torture (crimes against humanity, Article 5).

Kos, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) and on the basis of superior criminal responsibility (Article 7(3)) with:

- Outrages upon personal dignity, murder, torture, cruel treatment (violations of the laws or customs of war, Article 3),
- Persecutions on political, racial or religious grounds, inhumane acts, murder, torture (crimes against humanity, Article 5).

Radić, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) and on the basis of superior criminal responsibility (Article 7(3)) with:

- Torture, outrages upon personal dignity, murder, cruel treatment (violations of the laws or customs of war, Article 3),
- Persecutions on political, racial or religious grounds, inhumane acts, murder, rape, torture (crimes against humanity, Article 5).

Žigić, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with:

- Outrages upon personal dignity, murder, torture, cruel treatment (violations of the laws or customs of war, Article 3),
- Persecutions on political, racial or religious grounds, inhumane acts, murder, torture (crimes against humanity, Article 5).

THE TRIAL

The Kvočka *et al.* trial commenced on 28 February 2000 but adjourned on 6 March 2000, following the arrest by SFOR of Prcać on 5 March 2000. The trial resumed on 2 May 2000, after the joinder of Prcać to the Kvočka *et al.* case. The closing arguments took place on 16 July 2001 for the Prosecution and on 17, 18 and 19 July for the Defence.

RULE 98 *bis* PROCEEDINGS

After the Prosecution concludes the presentation of its evidence, the Defence can ask for the dismissal of the case, if it believes that the presented evidence was insufficient to prove the charges. If the Trial

Chamber believes that the Prosecution has not presented sufficient evidence, it can dismiss the case or certain charges and enter a judgement of acquittal before the beginning of the presentation of defence evidence.

On 6 November 2000, Radić, Kos, Žigić and Prcać (the latter three confidentially) filed motions for judgement of acquittal, in accordance with Rule 98*bis*. A hearing on the matter was held on 28 November 2000.

On 15 December 2000, the Trial Chamber entered a judgement of acquittal as follows:

- Kvočka, Kos, Radić and Prcać were acquitted of charges that concerned Keraterm and Trnopolje, noting that no evidence had been presented as to any role of the accused in these camps and that the list of victims of Kvočka, Kos, Radić and Prcać concerned only prisoners confined in Omarska;
- Kvočka, Kos, Radić, Žigić and Prcać were acquitted of charges that concerned nine individuals named in a confidential annex to the decision;
- Žigić was acquitted of charges that concerned 10 individuals named in a confidential annex to the decision relating to counts 1-3 and 11-14 of the amended indictment, and regarding the allegation of forced fellatio as far as it concerned the other victims mentioned in counts 6-7 and 11-14 of the amended indictment.

The Trial Chamber otherwise dismissed the motions for acquittal.

TRIAL CHAMBER JUDGEMENT

The five were found guilty in relation to events that occurred in the municipality of Prijedor in north-western Bosnia and Herzegovina and, in particular, to events that occurred at the Omarska camp.

On 30 April 1992, Serb forces took control of Prijedor. The takeover of Prijedor was followed shortly afterwards by the removal of the non-Serbs, Muslims and Bosnian Croats from positions of responsibility. Many lost their employment, their children were prevented from going to school, and radios broadcast anti-Muslim and anti-Croat propaganda.

On 23 May 1992, Serb forces attacked and gained control of the largely Muslim village of Hambarine, eventually resulting in the displacement of approximately 20,000 non-Serbs. The following day, a successful attack was launched on the town of Kozarac, which was again situated in a predominantly Muslim area (approximately 27,000 non-Serbs lived in the wider Kozarac area and of the 4,000 inhabitants of the town itself, 90% were Muslim). A large number of Muslim citizens of these areas who did not succeed in fleeing in the face of the assaults were rounded up, taken into custody and detained in one of the three camps which were the subject of this case.

To avert any desire for resistance by the Croats, and especially the Muslims, the Serbs interrogated any non-Serb who might present a threat, and arrested in particular any persons exerting authority, moral or otherwise, or representing some kind of power, in particular economic. At the same time, the men were separated from the women, children and elderly. Men in particular were interrogated. The Serbs assembled the non-Serbs who had not left the region in detention centres. This is how the camps of Omarska, Keraterm and Trnopolje were established.

The three camps were officially established on 30 May 1992 by Simo Drljača. Omarska was located in a former mining complex in a village of the same name, approximately 25 kilometres from the town of Prijedor. Planned initially to function for a fortnight, it in fact remained in operation until about 20 August 1992. During this period, more than 3,334 detainees passed through the camp, including approximately thirty-six women, many of whom were prominent in local affairs. All those detained were interrogated. Almost all were beaten. Many did not leave the camp alive.

The mistreatment in Omarska was constant and widespread and began with the arrival of the detainees. As soon as they arrived, the prisoners were usually beaten, or in any case mistreated, as if to demonstrate to them straight away that they were not to be considered human beings. They were beaten as they were led out of the bus which brought them to the camp; they were lined up against the wall and often had

identity documents or money stolen from them; they were made to sing Serb songs; they were made to sit on the ground or even lie face down on the burning asphalt for hours without being allowed to move or find something to drink.

They were interrogated. They were punched, kicked with boots, beaten with rifle butts and other objects. There were no cells in the hangars, only large rooms, where detainees were held in unbearably crowded conditions, sometimes with scarcely room to move, and were forced to sleep, in so far as they could, on the ground or on palettes. The prisoners were fed little, the food was usually rotten, and they had little water. There were no real toilets and they had to use buckets or the corner of a room to relieve themselves, or else soil themselves. The sick or wounded detainees received little or no treatment. In general the men were wasted, weakened, and exhausted from living in a climate of violence and fear. Some women were molested and/or raped. There was no area of the camp where a detainee could feel safe or, quite simply, hope to avoid beatings or subjection to some form of violence.

Detainees taken to the 'White House' were almost always beaten, usually ferociously. The men were tortured in front of each other. Sometimes they were made to beat one another. A father was beaten to death in front of his son. The men shrieked with pain. There was blood on the walls and on the ground. The men who came out of there alive had open wounds, could not stand or were unconscious. The corpses removed from there had open wounds to the skull, severed joints, slit throats. Some of the victims were ultimately executed with a bullet.

During the trial the Defence did not generally challenge the legal characterisation of the facts presented by the Prosecution. What they principally contested was the role of the accused in the commission of the crimes. In its judgement, the Chamber essentially relied upon the Tribunal's case-law to define the crimes. By taking judicial notice of many facts, the Chamber decided that there existed a widespread and systematic attack against the Muslim and Croat civilian population in the municipality of Prijedor. Upon analysis of the facts, the Chamber concluded that the crimes of persecutions, murder, torture and cruel treatment were committed.

The evidence demonstrated that Omarska, Keraterm and Trnopolje camps were not an accident; that they were not set up by chance but that they were a result of an intentional policy to impose a system of discrimination against the non-Serb population of Prijedor. The Chamber did not find that Kvočka, Prcać, Kos, Radić and Žigić were involved in the conception of the camps or in the decision to open them. However, the Chamber did find that they were perfectly aware of the system of persecution set in place in the camps; that they participated in it and were fully aware of what they were doing.

On 2 November 2001, the Trial Chamber rendered its judgement, convicting the accused as follows:

Kvočka, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with:

- Murder and torture (violations of the laws or customs of war, Article 3),
- Persecutions on political, racial or religious grounds (crimes against humanity, Article 5).

Sentence: 7 years' imprisonment.

Prcać, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with:

- Murder and torture (violations of the laws or customs of war, Article 3),
- Persecutions on political, racial or religious grounds (crimes against humanity, Article 5).

Sentence: 5 years' imprisonment.

Kos, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with:

- Murder and torture (violations of the laws or customs of war, Article 3),
- Persecutions on political, racial or religious grounds (crimes against humanity, Article 5).

Sentence: 6 years' imprisonment.

Radić, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with:

- Murder and torture (violations of the laws or customs of war, Article 3),
- Persecutions on political, racial or religious grounds (crimes against humanity, Article 5).

Sentence: 20 years' imprisonment.

Žigić, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with:

- Murder and cruel treatment (violations of the laws or customs of war, Article 3),
- Persecutions on political, racial or religious grounds (crimes against humanity, Article 5).

Sentence: 25 years' imprisonment.

APPEALS CHAMBER JUDGEMENT

Kvočka filed a notice of appeal against the Trial Chamber judgement on 13 November 2001, Prcać and Radić on 15 November 2001, and Žigić and Kos filed a notice of appeal on 16 November 2001. On 21 May 2002, Kos withdrew his appeal. He was granted early release on 31 July 2002.

The Appeals Chamber rendered its judgement on 28 February 2005 and affirmed all sentences handed down by the Trial Chamber.

On 31 July 2002, Milojica Kos was released from the ICTY's Detention Unit.

Prcać was released on 4 March 2005, having served his sentence in full.

Kvočka was granted early release on the 30 March 2005.

On 15 November 2005, Radić was transferred to serve his sentence in France. On 13 February 2012, he was granted early release (effective 31 December 2012).

On 8 June 2006, Žigić was transferred to serve his sentence in Austria. On 10 November 2014, he was granted early release (effective 16 December 2014).

REQUEST FOR REVIEW

According to Rule 119 of the Rules of Procedure and Evidence of the Tribunal, where a new fact has been discovered which was not known to the moving party at the time of the proceedings before either the Trial Chamber or Appeals Chamber, the Prosecution or the Defence may submit a motion asking the Chamber for review of the judgement.

On 27 February 2006, the Defence of Radić submitted a request for review. On 31 October 2006, the Appeals Chamber dismissed the request for review in its entirety.

On 7 December 2005, Žigić filed a Motion for Reconsideration requesting the Appeals Chamber to reconsider its appeal judgement and either order a retrial or acquit him of all convictions except for the conviction for persecution against Sead Jusufagić, committed in Keraterm in June 1992, and the conviction for cruel treatment against Witness AK, committed in Omarska in June 1992, for which Žigić admitted criminal responsibility. On 26 June 2006, the motion was denied.