

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, Mlado Radić & Zoran Žigić*



### MIROSLAV KVOČKA *Convicted of persecutions on political, racial or religious grounds, murder and torture*



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)**

- Miroslav 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 Omarska camp.

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

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

### DRAGOLJUB PRCAĆ *Convicted of persecutions on political, racial or religious grounds, murder and torture*



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),**

- Dragoljub Prcać was aware of the crimes of extreme physical and mental violence routinely inflicted upon the non-Serbs detained in the Omarska 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 in Omarska camp, Dragoljub Prcać had the intent to discriminate against the non-Serbs detained in the camp.

**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**

*Convicted of persecutions on political, racial or religious grounds, murder and torture*



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),

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

**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.

**MLADO RADIĆ**

*Convicted of persecutions on political, racial or religious grounds, murder and torture*



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)**

- Mlađo 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.
- He did not prevent outsiders, including Duško Tadić and Zoran Žigić, from coming into the camp and participating in the beating of detainees.
- Several detainees died from the beatings administered by the guards on his shift.
- 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***Convicted of persecutions on political, racial or religious grounds, torture and cruel treatment*

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),**

- Zoran Žigić participated in the beating of three detainees held in the Omarska camp and aided and abetted the beating of another prisoner.
- He murdered two detainees.
- He was a co-perpetrator in the murder of another detainee in Keraterm camp.

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

- Zoran Žigić used weapons such as a rod with a metal ball attached to one end to harm detainees.
- He forced three detainees to take up positions like dogs, sitting on their hands and feet, then beating them. After the beating had been going on a long time, they were made to crawl outside like dogs and wash their dirty faces in a puddle of rainwater, the beating then continued.

**MIROSLAV KVOČKA**

Born	1 January 1957 in Marička, 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	31 March 2005, granted early release; credit was given for time served since 8 April 1998

**DRAGOLJUB PRCAČ**

Born	18 July 1937 in Omarska, 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	Released on 4 March 2005

**MILOJICA KOS**

Born	1 April 1963 in Lamovita, 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	31 July 2002, granted early release

**MLADO RADIĆ**

Born	15 May 1952 in Lamovita, 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
Serving sentence	15 November 2005, transferred to France to serve the remainder of his sentence; credit was given for time served since 8 April 1998

**ZORAN ŽIGIĆ**

Born	20 September 1958 in Balte, 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
Serving sentence	8 June 2006, transferred to Austria to serve the remainder of his sentence; Credit was given for time served since 16 April 1998

## 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 & MLADIĆ (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"	
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: Miroslav Kvočka, Mlađo Radić, Milojica Kos and Zoran Žigić, who had all been charged in the Omarska camp indictment (IT-95-4), confirmed on 13 February 1995; Zoran Žigić had also been charged in the Keraterm camp indictment, confirmed on 21 July 1995 (IT-95-8).

Following the detention of Dragoljub 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 Dragoljub Prcać, Miroslav Kvočka, Mlađo Radić, Milojica Kos and Zoran Žigić.

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

Miroslav 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).

Dragoljub 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).

Milojica 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).

Mlađo 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).

Zoran 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 Dragoljub Prcać on 5 March 2000. The trial resumed on 2 May 2000, after the joinder of Dragoljub 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. The trial took place before Trial Chamber I (Judge Rodrigues, (presiding), Judge Riad and Judge Wald).

## 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, Mlado Radić, Milojica Kos, Zoran Žigić and Dragoljub 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 concern the Keraterm and Trnopolje camps, 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 the Omarska camp;
- 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 concerns 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

On 30 April 1992, Serb forces took control of Prijedor. The take-over 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 the radio broadcast anti-Muslim and anti-Croat propaganda.

The Croats and Muslims did not accept the situation and considered reacting. Whenever they put up any significant resistance, the Serbs launched attacks, like those against the villages of Hambarine and Kozarac. On 30 May, the Muslim attempt to regain control of Prijedor failed. 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 an 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 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.

Like Trnopolje and Keraterm, the Omarska camp was officially established on 30 May 1992 by Simo Drljača. It was located in a former mining complex in the village of Omarska, approximately 20-25 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. Approximately thirty women must be added to this list, several of whom occupied high positions locally. All those detained were interrogated. Almost all were beaten. Many did not leave the camp alive.

The mistreatment in the camp 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.

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 the 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 Trial 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 Miroslav Kvočka, Dragoljub Prcać, Milojica Kos, Mlado Radić and Zoran Žigić were involved in the conception of the camps or in the decision to open them. However, the Trial Chambers 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:

Miroslav 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.

Dragoljub 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.

Milojica 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.

Mlađo 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.

Zoran 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

Miroslav Kvočka filed a notice of appeal against the Trial Chamber judgement on 13 November 2001, Dragoljub Prcać and Mlađo Radić on 15 November 2001, and Zoran Žigić and Milojica Kos filed a notice of appeal on 16 November 2001. On 21 May 2002, Milojica Kos withdrew his appeal. He was granted early release on 31 July 2002 (see Press Release No 692).

On 17 December 2003, Miroslav Kvočka was granted provisional release pending hearing of his appeal. He was released on 19 December 2003. From 19 until 29 March 2004, Miroslav Kvočka remained in the custody of the Tribunal for his hearing on appeal which took place from 23 until 26 March 2004.

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

## CONCLUSION OF PROCEEDINGS

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

Miroslav Kvočka was granted early release on the 30 March 2005.

Credit was given for time served to Mlađo Radić since 8 April 1998 and Zoran Žigić since 16 April 1998.

On 15 November 2005, Mlađo Radić was transferred to serve his sentence in France.

Zoran Žigić was transferred to serve his sentence in Austria.

## 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 Mlađo Radić submitted a request for review. On 31 October 2006, the Appeals Chamber consisting of Judge Fausto Pocar (presiding), Judge Mohamed Shahabuddeen, Judge Mehmet Güney, Judge Liu Daqun and Judge Wolfgang Schomburg dismissed the request for review in its entirety.

On 7 December 2005, Zoran 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 the Keraterm camp in June 1992, and the conviction for cruel treatment against Witness AK, committed in the Omarska camp in June 1992, for which Zoran Žigić admitted criminal responsibility. On 26 June 2006, the Motion was denied.