



“OMARSKA CAMP & KERATERM CAMP” (IT-02-65)

MEJAKIĆ *et al.*

The Prosecutor v. Željko Mejakić, Momčilo Gruban, Dušan Fuštar & Dušan Knežević



ŽELJKO MEJAKIĆ



Commander of the Omarska detention camp, which was established by Serbian forces in a former mining complex in the village of Omarska, approximately 20 kilometres from the town of Prijedor, in north-western Bosnia and Herzegovina

- Case referred to Bosnia and Herzegovina
- Sentenced by the BiH Court to **21 years' imprisonment**

MOMČILO GRUBAN



Guard shift commander at the Omarska camp; supervised one of the three shifts of guards that operated there.

- Case referred to Bosnia and Herzegovina
- Sentenced by the BiH Court to **seven years' imprisonment**

DUŠAN FUŠTAR



Guard shift commander at the Keraterm detention camp, established by Bosnian Serb forces in mid 1992, located on the site of a ceramics factory on the eastern outskirts of Prijedor in north-western Bosnia and Herzegovina; supervised one of the three shifts of guards that operated within the camp

- Case referred to Bosnia and Herzegovina
- Sentenced by the BiH Court to **nine years' imprisonment**

DUŠAN KNEŽEVIĆ



Did not appear to hold an official position in either the Keraterm or Omarska camps, but had sufficient authority to be able to enter and leave the camps at will

- Case referred to Bosnia and Herzegovina
- Sentenced by the BiH Court to **31 years' imprisonment**

Indicted for:

Persecutions on political, racial or religious grounds; murder; inhumane acts (crimes against humanity)
Murder; cruel treatment (violations of the laws or customs of war)

Between 24 May 1992 and 30 August 1992, Mejakić, Gruban, Fuštar and Knežević, acting individually and in concert with each other and other participants within a joint criminal enterprise, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of persecutions of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Omarska and Keraterm camps, on political, racial or religious grounds. The persecutions included:

- Murder, beatings and sexual assault of Bosnian Muslims, Bosnian Croats and other non-Serbs detained in the camps;
- Confinement in inhumane conditions, harassment, humiliation and psychological abuse of Bosnian Muslims, Bosnian Croats and other non-Serbs in the camps.

ŽELJKO MEJAKIĆ	
Born	2 August 1964 in Petrov Gaj, Bosnia and Herzegovina
Indictment	Initial: 13 February 1995; joinder: 17 September 2002; consolidated: 5 July 2002
Surrendered	1 July 2003
Transferred to ICTY	4 July 2003
Initial appearance	7 July 2003, pleaded not guilty to all charges
Transferred to Bosnia and Herzegovina	9 May 2006

MOMČILO GRUBAN	
Born	19 June 1961 in Marička, Bosnia and Herzegovina
Indictment	Initial: 13 February 1995; joinder: 17 September 2002; consolidated: 5 July 2002
Surrendered	2 May 2002
Transferred to ICTY	2 May 2002
Initial and further appearances	10 May 2002, pleaded not guilty to all charges; 10 December 2002, pleaded not guilty to additional charges of the consolidated indictment
Provisionally released	17 July 2002
Transferred to Bosnia and Herzegovina	9 May 2006

DUŠAN FUŠTAR	
Born	29 June 1954 in Prijedor, Bosnia and Herzegovina
Indictment	Initial: 21 July 1995; joinder: 17 September 2002; consolidated: 5 July 2002
Surrendered	31 January 2002
Transferred to ICTY	31 January 2002
Initial appearance	6 February 2002, pleaded not guilty to all charges
Transferred to Bosnia and Herzegovina	9 May 2006

DUŠAN KNEŽEVIĆ	
Born	17 June 1967 in the Orlovci area, municipality of Prijedor, Bosnia and Herzegovina
Indictment	Initial: 13 February 1995; joinder: 17 September 2002; consolidated: 5 July 2002
Surrendered	18 May 2002
Transferred to ICTY	18 May 2002
Initial appearance	24 May 2002, pleaded not guilty to all charges; 10 December 2002, pleaded not guilty to additional charges of the consolidated indictment
Transferred to Bosnia and Herzegovina	9 May 2006

REFERRAL PROCEEDINGS	
Motion by the Prosecutor	2 September 2004
Decision by the Referral Bench	20 July 2005
Referral Bench	Judge Alphonse Orié (presiding), Judge O-Gon Kwon, Judge Kevin Parker
Counsel for the Prosecution	Mark J. McKeon, Susan L. Somers, Ann Sutherland
Counsel for the Defence	For Željko Mejakić: Jovan Šimić and Zoran Živanović For Momčilo Gruban: Branko Lukić For Dušan Fuštar: Theodore Scudder and Dragan Ivetić For Dušan Knežević: Slobodanka Nedić
Appeals Chamber Decision	7 April 2006
Appeals Chamber	Judge Fausto Pocar (presiding), Judge Mehmet Güney, Judge Liu Daqun, Judge Andréia Vaz, Judge Wolfgang Schomburg

RELATED CASES
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"
KVOČKA <i>et al.</i> (IT-98-30/1) "OMARSKA, KERATERM & TRNOPOLJE CAMPS"
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 in the Omarska camp case was confirmed on 13 February 1995 and included 19 accused (case number IT-95-4): Željko Mejakić, Miroslav Kvočka, Dragoljub Prcać, Mladen Radić, Milojica Kos, Momčilo Gruban, Zdravko Govedarica, Gruban (first name unknown), Predrag Kostić, Nedeljko Paspalj, Milan Pavlić, Milutin Popović, Draženko Predojević, Željko Savić, Mirko Babić, Nikica Janjić, Dušan Knežević, Dragomir Šaponja and Zoran Žigić. On 8 May 1998, the Prosecutor withdrew the charges against Govedarica, Gruban (first name unknown), Kostić, Paspalj, Pavlić, Popović, Predojević, Savić, Babić, Janjić and Šaponja. Subsequently, the accused Mejakić, Momčilo Gruban and Knežević remained on case IT-95-4 and Žigić was later incorporated into another case (see below). An amended indictment in this case against Mejakić, Gruban and Knežević was filed on 18 July 2001.

The original indictment in the Keraterm camp case (case number IT-95-8) was confirmed on 21 July 1995 and included Duško Sikirica, Damir Došen, Dušan Fuštar, Dragan Kolundžija, Nenad Banović, Predrag Banović, Nikica Janjić, Dušan Knežević (also included in the Omarska indictment), Dragan Kondić, Goran Lajić, Dragomir Šaponja, Nedjeljko Timarac and Zoran Žigić (also included in the Omarska indictment).

On 9 November 1998, the Prosecutor was granted leave to withdraw Kvočka, Radić, Kos and Žigić from the Omarska indictment, and to remove the name of Žigić from the Keraterm indictment, and thereafter to consolidate the charges against those four accused into one single indictment called *Kvočka et al.* (case number IT-98-30). This indictment (the second amended) had been filed on 3 September 1998. Following motions by Kos and Žigić alleging defects in the form of the second amended indictment, the Prosecution filed the third amended indictment on 31 May 1999. Following the arrest of Prcać (who was at that point included in the Omarska camp indictment - case number IT-95-4) and the Prosecution's subsequent motion

for joinder, the Trial Chamber, on 14 April 2000, joined the case against Prcać to that of *Kvočka et al.* under case number IT-98-30/1.

In the Keraterm case (IT-95-8), the charges against Janjić, Kondić, Lajić, Šaponja and Timarac were withdrawn on 5 May 1998. An amended indictment against the remaining accused (Sikirica, Došen, Fuštar, Kolundžija, Banović, Banović and Knežević) was filed on 24 August 1999 (Žigić by this point was included in the *Kvočka et al. case, as above*). The second amended indictment was filed on 3 January 2001. However, at this time, only Sikirica, Dosen and Kolundžija were in Tribunal custody, so a trial against those three accused commenced in March 2001 under case number IT-95-8. It was completed in November 2001.

Following the transfer into the Tribunal's custody of Nenad and Predrag Banović in November 2001, a separate case (known for some time as Banović *et al.*) was formed and given the case number IT-95-8/1. Following the transfer into Tribunal custody of Fuštar in January 2002, the charges against him were joined to those against Banović and Banović. On 27 March 2002, the Prosecution filed a motion to withdraw the indictment against Nenad Banović. On 10 April 2002, a hearing was held to discuss that motion. The Trial Chamber granted the Prosecution's motion and ordered the immediate release of Banović. IT-95-8/1 therefore concerned only Predrag Banović and Fuštar at that moment in time. Following the transfer into the Tribunal's custody of Knežević in May 2002, he also became a part of this case. However, this meant that Knežević was then part of two cases (IT-95-4 and IT-95-8/1), so during his initial appearance he entered two pleas in relation to the charges from the two indictments.

On 5 July 2002, the Prosecution filed a motion for joinder of the cases of Mejakić, Momčilo Gruban and Knežević from the Omarska indictment (case number IT-95-4) and Banović, Fuštar and Knežević (the same accused as in the Omarska case) from the Keraterm indictment (case number IT-95-8/1). The motion was granted in September 2002 and this new joined case received the number IT-02-65.

On 21 November 2002, the Trial Chamber granted the Prosecution's application to amend and consolidate the original indictments, and ordered that the consolidated indictment filed on 5 July 2002 be the operative indictment against the accused.

In June 2003, a joint motion for the consideration of a plea agreement between Predrag Banović and the OTP was filed, following which Banović's case was removed from IT-02-65 and given a new number: IT-02-56/1. In October 2003, an ICTY Trial Chamber sentenced Banović to eight years in prison.

Mejakić was transferred into the Tribunal's custody in July 2003, so from then on the case involved Mejakić, Momčilo Gruban, Fuštar and Knežević.

The indictment alleged that, following the forcible take-over of Prijedor by Bosnian Serb police and army forces on 30 April 1992, the Prijedor Crisis Staff imposed severe restrictions on all aspects of life for non-Serbs, principally Bosnian Muslims and Bosnian Croats, including movement and employment. According to the indictment, Bosnian Serb authorities in the Prijedor municipality unlawfully segregated, detained and confined more than 7,000 Bosnian Muslims, Bosnian Croats and other non-Serbs from the Prijedor area in the Omarska, Trnopolje and Keraterm camps between May and August 1992. The indictment charged the accused with crimes which took place in the Omarska and Keraterm camps during this period. Severe beatings, killings, as well as other forms of physical and psychological abuse, including sexual assault, are alleged to have been commonplace at these camps, which operated in a manner designed to discriminate and subjugate the non-Serbs by inhumane acts and cruel treatment.

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

Mejakić, Gruban, and Fuštar were charged with individual criminal responsibility (Article 7(1) of the Statute) and with superior criminal responsibility (Article 7(3)) and Knežević was charged on the basis of individual criminal responsibility (Article 7(1)) with:

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

Mejakić and Gruban were transferred from the country then known as Serbia and Montenegro to The Hague on 4 July 2003 and 2 May 2002, respectively. Fuštar and Knežević were transferred from Bosnia and Herzegovina to The Hague on 31 January 2002 and 18 May 2002, respectively.

REFERRAL IN ACCORDANCE WITH RULE 11*bis*

For a case to be referred pursuant to Rule 11*bis* of the Tribunal's Rules of Procedure and Evidence, the Referral Bench, comprising three judges, has to order a referral of its own accord or do so following a request from the Prosecutor. A decision to refer a case is rendered only if the Bench is fully satisfied that the accused will be tried in accordance with international standards and that neither the level of responsibility of the accused nor the gravity of the crimes alleged in the indictment are factors that would make a referral to the national authorities inappropriate.

On 2 September 2004, the Prosecution filed a motion for the referral of the case against the four accused to the authorities of Bosnia and Herzegovina. On 3 and 4 March 2005, a hearing was held. On 20 July 2005, the Referral Bench decided in favour of referring the case to the authorities of Bosnia and Herzegovina.

Initially, both the Prosecution and the Defence appealed the decision. The Prosecution subsequently withdrew its appeal. The Appeals Chamber confirmed the decision to refer the case to Bosnian authorities on 7 April 2006. All of the accused were transferred to Bosnia and Herzegovina on 9 May 2006.

Their trial at the State Court of Bosnia and Herzegovina commenced on 20 December 2006.

On 22 April 2008, Fuštar was sentenced to 9 years' imprisonment (following a plea agreement with the Prosecution).

On 30 May 2008, the State Court of BiH sentenced Mejakić to 21 years, Gruban to 11 years and Knežević to 31 years.

On 16 July 2009, the appellate division of the State Court of BiH confirmed the sentences against Mejakić and Knežević, and reduced Gruban's sentence to seven years' imprisonment.