



29 September 2000

## ICTY WEEKLY UPDATE – 141

### LAST MINUTE NEWS:

#### **KRNOJELAC CASE (“KP DOM CAMP”)**

**On 28 September 2000, Trial Chamber II (Judges Hunt (Presiding), Mumba and Liu) ordered that the trial of Milorad Krnojelac will commence on Monday, 30 October 2000 at 9.30 a.m.**

The pre-trial conference will be held on 25 October 2000 at 10.00 a.m. The prosecution and defence have been ordered to file their pre-trial briefs by 16 and 23 October 2000 respectively.

### PROCEDURAL DEVELOPMENTS:

#### **I. OVERVIEW OF COURT PROCEEDINGS**

#### **KVOČKA, KOS, RADIĆ, ŽIGIĆ & PRCAC’ CASE (“OMARSKA & KERATERM CAMPS”)**

*Trial Chamber I – Judges Rodrigues (Presiding), Riad and Wald*

Having adjourned on 15 September 2000, the Trial Chamber reconvened on Monday 22 September, entering its twelfth week of hearings in the prosecution case-in-chief.

The first witness to be called this week, Mr. Ervin Ramić, was detained at both the Keraterm and Trnopolje camps.

When testifying about his arrest on 31 May 1992, Mr. Ramić told the court that he was first taken to the Prijedor military barracks and then driven by bus to the Omarska camp. He was then taken to the police building in Prijedor for a short time, subsequently arriving at the Keraterm camp later that day.

Mr. Ramić testified that, upon his arrival at Keraterm he and about 300 and 350 other people, were held in “Room 2” for about 20 days until it was his turn to be interrogated. After his interrogation Mr. Ramić was taken to “Room 1” where he was held for about 15 or 20 days before being transferred to “Room 4” where he was held until he left the camp on 5 August 1992.

Mr. Ramić gave evidence about, amongst other things, the conditions at Keraterm, seeing Žigić abuse detainees at the camp, particularly the beating of “Car” by Dušan Knežević and Žigić and the beating of “Bahonjić”, two brothers named Jakupović and Samir Šistek by Žigić.

Upon leaving Keraterm, Mr. Ramić was transferred to the Trnopolje camp where he was held until 8 August 1992. Mr. Ramić told the court that he was only able to leave Prijedor if his parents signed a statement leaving their property to the Republika Srpska.

The next witness, “AQ”, was detained at the Omarska camp between 28 May and 6 August 1992.

Witness “AQ” told the court that he was detained by Serb forces on 26 May 1992 and testified about, amongst other things, the detention and interrogation of Miroslav Šolaja at the Omarska camp and the conduct of Kvočka and Kos.

After the conclusion of witness “AQ”’s testimony on Tuesday 26 September, the Trial Chamber heard the testimony of Mr. Husein Ganić, a former detainee at the Keraterm and Omarska camps.

Mr. Ganić told the court that he and his son, Edin Ganić, were arrested by their Serb neighbours on 23 June 1992 and taken to the Keraterm camp. During his detention at Keraterm, he and his son were beaten so badly by Žigić that they were transferred to the Prijedor hospital after a few days. Mr Ganić testified that, at the hospital he was questioned by military officers about his injuries and returned to Keraterm about ten days later.

Mr Ganić told the court that, on 13 July 1992, he was taken to Omarska. Spending his first night of detention in the "white house", the next day he was taken for interrogation. The witness told the court that he was released from Omarska on 14 August 1992 and sent to Manjača.

On Wednesday 27 September Mr. Emsud Garibović, a former detainee at Trnopolje testified.

Mr. Garibović, whose brother, Irfan Garibović, was detained at Omarska and has not been seen since, testified about his release from Trnopolje on 21 August 1992. Mr. Garibović told the court that he was taken by bus to the vicinity of the village of Skender Vakuf and forced to jump over a precipice while being shot at by soldiers. The witness escaped along with Bahrija Jakupović. However, two days later they had to surrender and were returned to a command centre in Skender Vakuf where they found Midhet Mujkanović, Mehmed Sivac and Sulejman Kahrimanović who had also escaped. Mr. Garibović told the court that they were then transferred to a hospital in Banja Luka where they were beaten by Serb soldiers. The Trial Chamber then heard the testimony of witness "AV", a former detainee at the Omarska camp.

Witness "AV" testified that he was detained by Serb forces on 3 June 1992 and taken to the Omarska camp that evening where he was placed in the part of the camp known as the "garage". The witness, who was later transferred to the "white house", testified about the beating and killing of Azur Jakupović and Edvin Dautović and the conduct of Kos.

The next witness, Mr. Edin Ganić, son of Husein Ganić, told the court that he and his relatives were arrested by their neighbours in June 1992 and taken to the "SUP" in Prijedor from where they were taken to the Keraterm camp.

Mr. Ganić testified that, upon his arrival at the camp, he was searched and then beaten by Predrag Banović before being taken to "Room 1" of the "white house". The witness also testified about the beating and killing of "Jovo" and a teacher from Kozarac by Žigić and Predrag Banović, and he and his father being beaten by Žigić which resulted in them both being taken to the hospital in Prijedor.

Mr. Ganić told the court that he remained in the hospital for over a month during which time Žigić threatened and beat him. From the hospital Mr. Ganić was taken to the Trnopolje camp where he again saw Žigić. Ganić was released from the camp on 7 August 1992. Mr. Ganić testified that Žigić later went to the witness' home in search of jewellery and money but was later arrested by the authorities from Prijedor.

After the completion of Mr. Ganić's testimony on Thursday 28 September the Trial Chamber adjourned until Monday 2 October.

### **KORDIĆ & ČERKEZ CASE ("LAŠVA VALLEY")**

*Trial Chamber III – Judges May (Presiding), Bennouna and Robinson*

The Trial Chamber continues to hear Čerkez's defence case-in-chief.

On Monday 25 September, the Trial Chamber heard the testimony of Mr. Franjo Križanac whose affidavit was filed on 5 July 2000.

Mr. Križanac, a former Franciscan priest and current guardian of the Guča Gora Monastery, was called by the defence to corroborate the testimony of Stjepan Neimarević who testified on 4 July 2000 (see Update No. 132). Mr. Križanac's affidavit relates to ABiH attacks on the Travnik municipality and the village of Brajkovići.

The next witness, Mr. Branko Marković, a resident of Vitez, testified about events surrounding 16 April 1993, the maternity ward his mother-in-law ran in her home and the help given to his family by Čerkez.

The next witness, Mr. Josip Šilić a former minister in the government of central Bosnia, head of office with the President of the Travnik canton and counsellor to the President of the Parliament of Bosnia and Herzegovina, is currently working as an advisor to the head of the municipality of Vitez.

Mr. Šilić testified about political activity after the JNA attacks started against Slovenia and then Croatia in 1992, the reaction of the Vitez municipal assembly and the executive council, the establishment and functioning of Crisis Staffs and the conflict in Vitez starting on 16 April 1993 between the ABiH and the HVO. The testimony of Brigadier Jozo Pokrajčić followed.

Brigadier Pokrajčić, a former member of the special purpose unit of the Croatian Ministry of Interior, testified about fighting the JNA and his subsequent promotion in the hierarchy of the Croatian army.

Brigadier Pokrajčić told the court that he became commander of a volunteer unit brought together in Zagreb that served on the Jajce front line. When asked, Brigadier Pokrajčić testified about his military assessment as to the reason for the fall of Jajce and his experiences in the army.

After the conclusion of Brigadier Pokrajčić's testimony on Tuesday 26 September, the court heard the testimony of Mr. Anto Pojavnik

Mr. Pojavnik testified about the conflict that broke out in Vitez on 16 April 1993 and the subsequent call for mobilisation to which the witness responded. Mr. Pojavnik told the court that a few days after being called up he was taken to dig trenches along the front line at Pirići.

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The next witness, Mr. Ivica Mišković, a resident of Vitez testified about being taken by the military police to the front line at the church in Dubravica with the task of defending the line facing Sivrino Selo. Mr. Mišković told the court that, after about 20 days, his platoon was transferred to the Krčevine sector of the line under the command of Blaž Totić where they stayed until January 1994 before being transferred to the area of Buhine Kuće.

On Wednesday 27 September, the court heard the testimony of Mr. Bono Drmić who testified about, amongst other things, the formation and organisation of the Donja Večeriska village guards and events surrounding the 16 April 1993 hostilities.

The testimony of Mr. Drmić was followed by that of Mr. Vlado Ramljak, a resident of Počulica and former member of the village guard.

Mr. Ramljak testified about the organisation of the village guard in Počulica in 1993 under the command of Dragan Grebenar and events concerning the attacks on the area on 16 April 1993 including his arrest on that day by Muslims.

Mr. Ramljak told the court that he was first taken to the village hall at Prnjavor where he was detained by the ABiH for seven days before being transferred to Sivrino Selo and then Vrhovine before being taken to Preočica to be exchanged. The week's hearings concluded on Friday with the testimony of Mr. Stipo Babić followed by Mr. Ivica Semren.

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### **KRSTIĆ CASE ("SREBRENICA")**

*Trial Chamber I – Judges Rodrigues (Presiding), Riad and Wald*

On Wednesday 27 September, the Trial Chamber held a status conference in closed session.

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### **KRAJIŠNIK CASE ("BOSNIA AND HERZEGOVINA")**

*Pre-trial Judge - Judge May*

On Wednesday 27 September, Judge May held a status conference partly in open session.

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### **KRNOJELAC CASE ("KP DOM CAMP")**

*Trial Chamber II – Judges Hunt (Presiding), Mumba and Liu*

On Wednesday 27 September, the Trial Chamber held a status conference in open session.

## **II. OVERVIEW OF COURT DOCUMENTS**

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### **KRAJIŠNIK CASE ("BOSNIA AND HERZEGOVINA")**

WRITTEN REASONS FOR DECISION ON MOTION CHALLENGING JURISDICTION

On 22 September 2000, Trial Chamber III (Judges May (Presiding), Bennouna and Robinson) issued its written reasons for the decision, dated 4 August 2000, dismissing Krajišnik's motion challenging the jurisdiction of the Tribunal (see Update No. 136).

Judge Bennouna attached a separate opinion concurring with the decision for partly differing reasons.

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### **KORDIĆ & ČERKEZ CASE ("LAŠVA VALLEY")**

DECISION ON APPLICATION FOR LEAVE TO APPEAL

On 22 September 2000, a Bench of the Appeals Chamber (Judges Vohrah (Presiding), Nieto-Navia and Pocar) issued its decision rejecting Kordić's application for leave to pursue an interlocutory appeal of Trial Chamber III's oral ruling on 2 June 2000 "to Admit into Evidence Multiple Hearsay Statements Contained within an Anonymous Document of Unknown Origin for which no Foundation has been laid".

In its oral ruling, the Trial Chamber had granted a request by the Office of the Prosecutor to admit into evidence a report allegedly produced by the "HIS" (Croatian Information Service) and submitted to the President of the Republic of Croatia in February 1994.

In reaching its decision the Bench of the Appeals Chamber found that the application for leave to appeal had:

- (1) failed to establish that any alleged prejudice arising from the impugned decision could not be cured by the final disposal of the trial, including post-judgement appeal, and
- (2) failed to establish that the issues in the proposed appeal are of general importance to the proceedings before the International Tribunal or international law generally.

## SIKIRICA & OTHERS CASE (“KERATERM CAMP”)

### SCHEDULING ORDER AND ORDER ON THE FORM OF THE INDICTMENT AGAINST SIKIRICA

On 22 September 2000, Trial Chamber III (Judges May (Presiding), Bennouna and Robinson) issued its written order on Sikirica’s preliminary motion challenging the form of the indictment, filed on 15 August 2000. The order followed the Trial Chamber’s oral ruling of 14 September 2000 (see Update No. 139).

The Trial Chamber ordered the Prosecution to file an amended “Attachment A” to the indictment by 29 September 2000. No changes in respect to Kolundžija or Došen are permitted other than to conform the numbering of the counts.

The Trial Chamber also ordered that the Prosecution and defence pre-trial briefs are to be filed by 13 October and 3 November 2000 respectively. A pre-trial conference is scheduled for 22 November 2000.

### DECISION ON PROSECUTION MOTION FOR JUDICIAL NOTICE OF ADJUDICATED FACTS

On 27 September 2000, the Trial Chamber allowed in part the motions for judicial notice of adjudicated facts filed by the prosecution on 4 April and 7 August 2000.

In the motions the prosecution had proposed that the Trial Chamber take judicial notice of 561 facts from the *Tadić* and *Čelebići* judgements, ie. to accept those facts as proven without the need to hear evidence.

In reaching its decision, the Trial Chamber considered that it can only take judicial notice of facts which are not the subject of reasonable dispute but not of those facts involving interpretation or legal characterisations of facts.

## BLAŠKIĆ CASE (“LAŠVA VALLEY”)

### DECISION ON APPELLANT’S MOTIONS FOR PRODUCTION OF MATERIAL, SUSPENSION OR EXTENSION OF THE BRIEFING SCHEDULE AND ADDITIONAL FILINGS

On 26 September 2000, the Appeals Chamber (Judges Vohrah (Presiding), Nieto-Navia, Wald, Pocar and Liu) issued its decision on the motions filed by Blaškić on 4 April 2000: (1) for the production of improperly withheld discovery material by the Office of the Prosecutor and production of trial transcripts and exhibits from the Lašva Valley cases by the Registrar, and (2) to suspend the briefing schedule, or alternatively, for extension of time to file his appellate brief.

In the production motion the appellant made three requests directing the prosecution to produce:

- (1) all statements of witnesses who testified at his trial, and subsequently gave evidence in another case before the Tribunal, in the form of trial transcripts from that other case and the accompanying exhibits pursuant to the Prosecution’s disclosure obligations.

Denying the first request the Appeals Chamber held that “*the witnesses that the Appellant refers to had concluded providing testimony before the Blaškić Trial Chamber before they gave evidence before the Trial Chamber in the Kordić and Čerkez case. Following the giving of their testimony in the Blaškić case, the witnesses ceased to be ‘witnesses whom the Prosecutor intends to call to testify at trial’ in that case within the meaning of sub-Rule 66(A)(ii), and there was no obligation on the part of the Prosecution to disclose to the Appellant transcripts of their subsequent testimony provided in a different case.*”

- (2) all exculpatory material and/or evidence that affects the credibility of Prosecution witnesses, including trial transcripts, witness statements, notes and the substance of all other verbal information which, the appellant submitted, the prosecution has a continuing obligation to disclose.

The Appeals Chamber granted the second request to the extent that the Prosecution is under a continuing obligation to disclose exculpatory evidence at the post-trial stage, including appeals. However, the Appeals Chamber held that the failure of the prosecution to discharge its legal duty to continually disclose exculpatory evidence in appeals does not require the Appeals Chamber to grant relief to the appellant if the appellant himself has no difficulty to access such evidence.

- (3) a signed certificate that the prosecution has complied with the first and second requests and is aware of its continuing obligations of disclosure.

Considering that the appellant did not satisfy the Appeals Chamber that during the appeal the prosecution failed to discharge its disclosure obligations, the scope of the application of which has only been clarified in this decision, the Appeals Chamber denied the third request.

The appellant also sought:

- (4) an order directing the Registrar to produce to the appellant any and all public and non-public transcripts and exhibits from the other Lašva Valley cases.

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Holding that, as to the public documents, the appellant should provide information about measures taken to obtain the documents from the Registry and the problems arising from non-compliance and, as to non-public documents, the requesting party has the onus to identify exactly what material it seeks and the purpose the material would be used for, the Appeals Chamber denied the fourth request.

Finally, considering that the appellant has received new documents from the Croatian authorities which, if admitted may affect his appeal, the Appeals Chamber continued the suspension of the briefing schedule in the appeal until the translation of the documents is completed. The appellant was ordered, within seven days of his receipt of the translated documents, to indicate whether he intends to seek admission of some or all of the documents as additional evidence.

## COURTROOM SCHEDULE: 2 OCTOBER – 6 OCTOBER \*

### MONDAY 2 OCTOBER

Courtroom III 09:00 - 14:00, **Kvočka et al.**, Trial

### TUESDAY 3 OCTOBER

Courtroom III 09:30 - 14:30, **Kvočka et al.**, Trial  
15:30 - 17:00, **Kvočka et al.**, Trial

### WEDNESDAY 4 OCTOBER

Courtroom II 09:30 - 13:00, **Kordic/Cerkez**, Pre-rebuttal Conference  
14:30 - 16:00, **Kordic/Cerkez**, Pre-rebuttal Conference  
Courtroom III 09:30 - 14:30, **Kvočka et al.**, Trial  
15:30 - 17:00, **Kvočka et al.**, Trial

### THURSDAY 5 OCTOBER

Courtroom II 09:30 - 13:00, **Kordic/Cerkez**, Trial  
14:30 - 16:00, **Kordic/Cerkez**, Trial

Courtroom III 09:30 - 14:30, **Kvočka et al.**, Trial  
15:30 - 17:50, **Krstić**, pre-defence conference

### FRIDAY 6 OCTOBER

Courtroom I 10:30 - 11:30, **Celebici**, Status conference

Courtroom II 09:30 - 13:00, **Kordic/Cerkez**, Trial  
16:00, **Galic**, Status conference

Courtroom III 09:00 - 14:00, **Kvočka et al.**, Trial

\*The courtroom schedule is provisional and you are invited to check for last minute changes with the Public Information Services. Unless otherwise indicated, all sessions are open.

## PRESS RELEASES ISSUED SINCE 22 SEPTEMBER

DATE	NUMBER	TITLE	E	F	B/C/S
25/09/2000	530	ZLATKO ALEKSOVSKI AND ANTO FURUNDŽIJA TRANSFERRED TO FINLAND TO SERVE PRISON SENTENCES	E		B/C/S

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