



3 November 2000

ICTY WEEKLY UPDATE – 146

PROCEDURAL DEVELOPMENTS:

I. OVERVIEW OF COURT PROCEEDINGS

KRSTIĆ CASE (“SREBRENICA”)

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

The Trial Chamber reconvened this week entering its fourteenth week of hearings, with the third week of the defence case-in-chief.

On Monday 30 October, the prosecution’s cross-examination of General Krstić continued from Friday 27 October. Krstić’s testimony was adjourned on Thursday 2 November in order to hear other defence witnesses. Krstić’s testimony is scheduled to continue on Tuesday 7 November.

The first defence witness, “DA” was a member of the army of Republika Srpska (VRS) from May 1992. Witness “DA” told the court that he was the Assistant Commander for Morale, Religious and Legal Affairs in the 2nd Romanija Motorised Brigade until mid-1994 and, as of June 1994, was transferred to the press centre of the Drina Corps Command. Witness “DA” concluded his testimony on Friday 3 November.

KRNOJELAC CASE (“KP DOM CAMP”)

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

The trial of Milorad Krnojelac commenced on Monday 30 October. The Trial Chamber first issued an oral decision granting the prosecution motion, dated 27 October 2000, to withdraw all counts charging Krnojelac on the basis of Article 2, grave breaches of the 1949 Geneva Convention, (Counts 3, 6, 9, 12, 14, and 17) in the second amended indictment, dated 3 March 2000.

After making an opening statement, the Prosecution called its first witness, Ms. Tejshree Thapa, a Research Officer with the Office of the Prosecutor who has been involved, since 1995, in investigations into alleged crimes in the Foča region.

The next witness, FWS-12, who worked in the KP Dom penal and correctional facility for five years prior to the war, made a detailed sketch of the prison compound and explained the command structure and prison procedures. After the conclusion of FWS-12’s testimony on Tuesday 31 October, the Trial Chamber heard the testimony of FWS-139.

Witness FWS-139 told the court that he worked in the KP Dom as a policeman until the convicts were evacuated on 12 April 1992. The witness testified that he was arrested on 20 May 1992 by Serbs from Foča who introduced themselves as the military police. One of them was Zoran Vuković.

The witness testified about the lay out of the prison and the conditions, particularly the deaths of Ibrahim Sandal and Dzevad Kubat due to lack of medical assistance, the witness’ interrogation and forced labour. FWS-139 also testified that he had to work at the Miljevina coal mine from September 1993 until his release as part of an exchange on 6 October 1994.

The witness further testified about the command structure in KP Dom and identified Krnojelac as the warden when he was detained. After the conclusion of FWS-139’s testimony on Wednesday 1 November, the Trial Chamber heard the testimony of Mr. Safet Avdić.

Mr. Avdić, a former detainee at the KP Dom from 19 May 1992 for 897 days, previously testified in the *Kunarac, Kovač and Vuković* case on 22 and 23 March 2000 (See Weekly Update 118).

Mr. Avdić, testified about, among other things, the position held by Krnojelac at KP Dom and the way the command of the prison functioned. Mr. Avdić concluded his testimony on Thursday 2 November.

The next witness, Mr. Dzevad Lojo, told the court that he and his brother were arrested by Serbs, including Zoran Vuković, on 19 April 1992 and taken to KP Dom. Mr. Lojo testified that he was released from the KP Dom 6 October 1994 as part of an exchange.

The Trial Chamber will continue to hear the testimony of Mr. Lojo on Monday 6 November.

II. OVERVIEW OF COURT DOCUMENTS

KVOČKA, KOS, RADIĆ, ŽIGIĆ & PRCAĆ CASE (“OMARSKA & KERATERM CAMPS”)

CONSOLIDATED INDICTMENT FILED

Further to the order of Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald), dated 13 October 2000 (see Weekly Update 144), on 26 October 2000 the prosecution filed an amended indictment consolidating the indictments for the accused Prcać (IT-95-4) and the accused Kvočka, Radić, Kos and Žigić (IT-98-30) in order to take into account the joinder of the cases against the five accused in a single case (IT-98-30/1).

BRĐANIN & TALIĆ CASE (“KRAJINA”)

DECISION ON MOTION BY PROSECUTION FOR PROTECTIVE MEASURES

On 27 October 2000, Trial Chamber II (Judges Hunt (Presiding), Mumba and Pocar) issued its decision on the second motion of the prosecution for protective measures, filed on 31 July 2000 pursuant to the Trial Chamber’s decision on the prosecution’s motion for protective measures, dated 3 July 2000 (see Weekly Update 132).

In the present motion, the prosecution sought protective measures in relation to the disclosure to the two accused and their defence teams of the identity of witnesses whose statements had formed part of the supporting material which accompanied the indictment when confirmation was sought by the Prosecutor.

(a) Considering that the defence did not object to the part of the motion in which the prosecution sought to retain redactions of the current whereabouts of two witnesses, the Chamber granted the request;

(b) Addressing the prosecution’s request to delay, until a time closer to trial, the disclosure to the accused and the defence teams the identity of certain witnesses whose statements had been part of the supporting material which accompanied the indictment when confirmation was sought, the Trial Chamber ordered the prosecution to file, on a confidential basis only and without revealing the identity of the witnesses, its justification for non-disclosure to the accused in such a way that the accused are given sufficient information to enable them to determine whether to oppose the relief sought.

The prosecution also sought the non-disclosure of witness 7.10’s identity to the defence on the basis that the witness “may be in danger or at risk” and that exceptional circumstances warrant the non-disclosure until a time closer to the trial. Refusing the application for protective measures for witness 7.10, the Trial Chamber considered that the nothing had been demonstrated to suggest that the “*disclosure at this stage of her identity to the accused and their defence teams, may put her in danger or at risk, or which is of such an exceptional nature as to warrant the interference with the rights of the accused which the non-disclosure produces*”. However, “*a fresh application may be made if desired in relation to the disclosure of her identity to the public.*”

(c) The prosecution also sought leave to withhold completely from the accused and their defence teams the identity of five persons whose statements were part of the supporting material which accompanied the indictment when confirmation was sought, on the basis that it does not intend to call those witnesses at trial. The Trial Chamber considered that, the fact that the prosecution does not intend to call these people as witnesses does not by itself justify the non-disclosure of their identity as required by Rule 66(A)(i). Further, the Trial Chamber was not satisfied that the relief sought was justified and thus refused the application but held that the identity of the five persons are to be revealed on a confidential basis so that the obligations imposed upon the defence not to disclose that material to the public or to the media in any circumstances, pursuant to the previous protective measures decision handed down by the Trial Chamber on 3 July 2000 (mentioned above).

KUNARAC, KOVAČ & VUKOVIĆ CASE (“FOČA”)

SECOND REVISED SCHEDULING ORDER FOR CLOSING BRIEFS AND ARGUMENTS

On 31 October 2000, Trial Chamber II (Judges Mumba (Presiding), Hunt and Pocar) issued a revised schedule ordering that the prosecution and defence should file their closing briefs by 8 and 15 November 2000 respectively. Closing arguments will be heard on 20 November 2000 (prosecution), 21 and 22 November 2000 (defence).

DECISION ON DEFENCE MOTION FOR REJOINDER

On 31 October 2000, the Trial Chamber rejected Kovač's request for leave to call three witness in rejoinder, filed on 25 October 2000.

VASILJEVIĆ CASE ("VIŠEGRAD")

INDICTMENT NON-DISCLOSURE ORDER VACATED

On 30 October, Judge Richard May ordered that the non-disclosure order for the indictment, confirmed on 26 October 1998, be lifted to allow the public disclosure of the indictment against Milan Lukić and his cousin, Sredoje Lukić.

On 30 October 2000, the prosecutor filed a motion to vacate in full the order for non-disclosure submitting that, to date, all efforts to secure the arrest of the two individuals had been unsuccessful.

In issuing the order, Judge May considered that it was appropriate to unseal the indictments against Milan Lukić and Sredoje Lukić "so that all possibilities to secure their arrest may be employed".

COURTROOM SCHEDULE: 6 NOVEMBER – 10 NOVEMBER *

MONDAY 6 NOVEMBER

Courtroom I 09:30 - 13:00, **Krnojelac**, Trial
14:30 - 16:00, **Krnojelac**, Trial
Courtroom II 09:20 - 12:50, **Krstic**, Trial
13:50 - 15:00, **Krstic**, Trial

TUESDAY 7 NOVEMBER

Courtroom I 09:30 - 13:00, **Krnojelac**, Trial
14:30 - 16:00, **Krnojelac**, Trial
Courtroom II 09:20 - 12:50, **Krstic**, Trial
13:50 - 15:00, **Krstic**, Trial

WEDNESDAY 8 NOVEMBER

Courtroom I 09:30 - 13:00, **Krnojelac**, Trial
14:30 - 16:00, **Krnojelac**, Trial
Courtroom II 09:20 - 12:50, **Krstic**, Trial
13:50 - 15:00, **Krstic**, Trial

THURSDAY 9 NOVEMBER

Courtroom I 09:30 - 13:00, **Krnojelac**, Trial
14:30 - 16:00, **Krnojelac**, Trial
Courtroom II 09:20 - 12:50, **Krstic**, Trial
13:50 - 15:00, **Krstic**, Trial

FRIDAY 10 NOVEMBER

Courtroom II 09:20 - 12:50, **Krstic**, Trial
13:50 - 15:00, **Krstic**, 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 27 OCTOBER:

DATE	NUMBER	TITLE	E	F	B/C/S
31/10/2000	538	DUŠKO TADIĆ TRANSFERRED TO GERMANY TO SERVE PRISON SENTENCE	E		B/C/S

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