



19 May 2000

ICTY WEEKLY UPDATE – 126

PROCEDURAL DEVELOPMENTS:

I. OVERVIEW OF COURT PROCEEDINGS

KORDIĆ & ČERKEZ CASE (“LAŠVA VALLEY”)

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

The Trial Chamber reconvened this week continuing to hear the defence case-in-chief.

On Monday 15 May, the defence called Mr. Ivica Kambić who joined the Croat Defence Council (HVO) in November 1992 as a company commander within the 1st Battalion of the Stjepan Tomasević Brigade (later renamed the 90th Home Guard Brigade), becoming operations Chief-of-Staff in April 1994.

Mr. Kambić told the court that, after the war ended, he served in the army of the Federation of Bosnia-Herzegovina and held the rank of Captain First Class before his retirement in 1996.

The next witness, Mr. Josip Buha, told the court that, in November 1991, he became a member of the HOS, a military arm of the Croatian Party of Rights, under the command of Darko Kraljević. Mr. Buha testified that, in September 1992, his unit was incorporated into the HVO and renamed the Special Purpose Unit of Vitezovi.

Mr. Buha told the court that he exclusively followed the orders of Darko Kraljević and no orders were received by the Vitezovi from Kordić.

The court then heard the testimony of Mr. Slavko Pavlović, the director of TV Vitez. Mr. Pavlović testified about press conferences which, according to the Prosecution, Kordić took part.

On Tuesday 16 May the Trial Chamber heard the testimony of Mr. Pavo Sljivić, a member of the Bosnia-Herzegovina War Presidency representing the Croatian Democratic Union (HDZ BiH) in Kakanj.

The next defence witness testified in closed session.

The Trial Chamber then heard the testimony of Major Franjo Ljubas, an officer in the Army of the Federation of Bosnia-Herzegovina.

Major Ljubas told the court that he participated in the formation of the Sveti Duh Company in Nova Bila and gave details of the significance of that company for later military organisations in the Travnik area. Major Ljubas further testified that he was appointed the commander of the 4th Company in Nova Bila when the HVO was formed on 8 April 1992 and, in July 1992 he became deputy commander of the 2nd Battalion of the Municipal Headquarters, Travnik. In September 1992 he became the commander of the 3rd Battalion of the Travnik Brigade.

Major Ljubas told the court that at this time the commander of the Travnička Brigade was Jozo Leuter, and he received orders through his superior officer, then Colonel Tihomir Blaškić, who in turn received orders from the head of the Main Staff in Mostar.

Major Ljubas's testimony concluded on Wednesday 17 May.

Sitting in the absence of Judge Robinson, who was unable to attend on medical grounds, the court heard the testimony of Mr. Zlatan Čivčić on Wednesday afternoon.

Mr. Čivčić told the court that he was the Chief of the public security in Novi Travnik until 28 September 1993 when he joined the Stjepan Tomasević Brigade of the HVO in Novi Travnik as a platoon commander and was at the front lines until sometime in the spring 1994.

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

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

The Trial Chamber entered its fourth week of hearings on Monday 15 May with the conclusion of the testimony of Mr. Azedin Oklopcić, which began on Tuesday 9 May.

On Tuesday 16 May, the Trial Chamber heard the testimony of a witness in closed session.

After the conclusion of the witness' testimony in closed session on Wednesday 17 May, "Witness AI", a former detainee in the Omarska and Trnopolje camps, was called.

KUNARAC, KOVAČ & VUKOVIĆ CASE ("FOČA")

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

Having adjourned on Thursday 4 May, the trial resumed on Monday 15 May, entering its seventh week of hearings with the conclusion of the testimony of a protected Prosecution witness "192".

Witness 192, the mother of "Witness 191" who was 17 years old at the time of the outbreak of the war, testified that she was taken to the school in Ulog where she was kept for two or three days before being taken to the school in Kalinovik. She also told the court that, on 2 August 1992, her daughter and other girls, including witnesses "190" and "186", were taken from the Kalinovik school by Kunarac and other men.

The Trial Chamber then heard the testimony of a protected Prosecution witness in closed session, and a further protected Prosecution witness, also in closed session, on Tuesday 16 May.

After the conclusion of the testimony in closed session on Wednesday 17 May, "Witness 205" began to give evidence.

"Witness 205", who was about 22 years old in 1992, told the court that on 1 August 1992 she was taken to the Kalinovik elementary school. The following day three armed men came and took her, JB and "Witness 101" (who was pregnant at the time) away. Her testimony continued on Thursday.

NALETILIĆ & MARTINOVIĆ CASE ("ŠTELA & TUTA")

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

On Tuesday 16 May, the Trial Chamber held a status conference in open session.

KUPREŠKIĆ & OTHERS CASE ("LAŠVA VALLEY")

Pre-Appeal Judge - Judge Bennouna

On Wednesday 17 May, Judge Bennouna held a status conference in open session.

Due to technical difficulties it has not been possible to summarise all of this week's proceedings.

II. OVERVIEW OF COURT DOCUMENTS

KVOČKA, KOS, RADIĆ, ŽIGIĆ & PRCAC' CASE ("OMARSKA & KERATERM CAMPS")

DECISION ON KVOČKA'S MOTION TO ASSIGN EXPERTS

On 12 May 2000, Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald) ordered a psychiatric examination of Kvočka with the purpose, among other things, of:

- (1) giving indications regarding the past and present physical and mental ability of the accused;
- (2) making any necessary observations on the mental state of the accused during the commission of the alleged crimes and interpreting the results obtained;
- (3) giving information on the present psychological state of the accused and on his potential ability to be reintegrated into society, and formulating any needed recommendations in this regard.

The order follows a "motion for a medical expert and police law expert hearing", filed by counsel for Kvočka on 21 April 2000.

In reaching its decision, the Trial Chamber considered that a psychiatric examination of the accused might reveal relevant indications regarding his mental state before, during and after the commission of acts attributed to him and this might disclose circumstances necessary to be taken into consideration for the sentencing.

The Trial Chamber also requested the Registry to assign this task to two experts. A joint written report of the evaluations and recommendations formulated is to be transmitted to the Registry by 19 June 2000.

Cont

KUNARAC, KOVAČ & VUKOVIĆ CASE (“FOČA”)

FURTHER ORDER ON DEFENCE EXPERTS

On 15 May 2000, Trial Chamber II (Judges Mumba (Presiding), Hunt and Pocar) ordered that the defence may disclose the witness statements of a further six protected Prosecution witnesses to Prof. Dr. Dusan Dunjić, a forensic expert; Dr. Aleksander Jovanović, a neuropsychiatrist; Dr. Milan Kostić, a psychologist; and Dr. Sci. Sanda Rasković-Ivić, a psychiatrist; and the five witness statements which it granted the defence leave to disclose to Prof. Dr. Dusan Dunjić, a forensic expert; Dr. Aleksander Jovanović, a neuropsychiatrist; Dr. Milan Kostić, a psychologist on 29 March 2000 (see Update No. 119), be disclosed to Dr. Sci. Sanda Rasković-Ivić, a psychiatrist.

“All protective measure orders in force for all the Prosecution witnesses (...) will bind the medical experts and anyone assisting them”.

BRĐANIN & TALIC CASE (“KRAJINA”)

DECISION ON REQUEST TO APPEAL DECISION REJECTING TALIC’S MOTION SEEKING SEPARATION OF TRIALS

On 16 May 2000, a Bench of the Appeals Chamber (Judges Shahabuddeen (Presiding), Vohrah and Nieto-Navia) rejected a “request to appeal against the decision of 9 March 2000”, filed by Talić on 17 March 2000, in which the Trial Chamber rejected the preliminary motion seeking the separation of Talić’s trial from that of Brđanin.

In its decision the Bench considered that none of the three grounds highlighted by Talić show good cause for granting leave to appeal the Trial Chamber’s decision.

DECISION ON APPLICATION BY TALIC FOR DISQUALIFICATION AND WITHDRAWAL OF A JUDGE

On 18 May 2000, Judge Hunt, the Presiding Judge of Trial Chamber II, refused Talić’s request for the disqualification and withdrawal of Judge Mumba from hearing the trial.

The request, dated 4 May 2000, asserted that Judge Mumba be dismissed on the basis that *“she has already set out an opinion on the fact that the armed conflict in the Krajina region in 1992 was international and on the organisation, structure, role and actions of the army of the Republika Srpska and more specifically of this army’s 1st Corps commanded by General Talić”* when she sat as a member of the Appeals Chamber in the Tadić case.

In reaching his decision Judge Hunt stated that he was not satisfied that *“the reaction of a fair-minded observer would be that Judge Mumba might not bring an impartial and unprejudiced mind to any of the issues in this case”* and that he and Judge Mumba agreed that *“her participation in the Tadić Conviction Appeal Judgement provides no basis for her disqualification in the present case”*.

SIMIĆ & OTHERS CASE (“BOSANSKI ŠAMAC”)

ORDER ON MILAN SIMIĆ’S REQUEST FOR PROVISIONAL RELEASE

On 16 May 2000, Trial Chamber III (Judges Robinson (Presiding), Hunt and Bennouna) issued its decision on the request for provisional release filed by Milan Simić on 16 December 1999 (see Prosecution’s further observations in connection with this motion in Update No. 123).

The Trial Chamber considered that it was not yet satisfied that sufficient guarantees existed for the granting of the requests and thus ordered Simić to provide, within 14 days, certain undertakings and guarantees in writing, as specified in the order, from the appropriate authorities and the accused himself.

COURTROOM SCHEDULE: 22 MAY – 26 MAY *

MONDAY 22 MAY

Courtroom I	09:30, Kunarac/Kovac/Vukovic , Trial 14:30, Kunarac/Kovac/Vukovic , Trial
Courtroom II	09:30, Kordic/Cerkez , Trial 14:30, Kordic/Cerkez , Trial
Courtroom III	09:30, Krstic , Trial

TUESDAY 23 MAY

Courtroom I 09:30, **Kunarac/Kovac/Vukovic**, Trial
14:30, **Kunarac/Kovac/Vukovic**, Trial
Courtroom II 09:30, **Kordic/Cerkez**, Trial
14:30, **Kordic/Cerkez**, Trial
Courtroom III 09:30, **Krstic**, Trial

WEDNESDAY 24 MAY

Courtroom I 09:30, **Kunarac/Kovac/Vukovic**, Trial
14:30, **Kunarac/Kovac/Vukovic**, Trial
Courtroom II 09:30, **Kordic/Cerkez**, Trial
Courtroom III 09:30, **Krstic**, Trial

THURSDAY 25 MAY

Courtroom I 09:30, **Kunarac/Kovac/Vukovic**, Trial
14:30, **Kunarac/Kovac/Vukovic**, Trial
Courtroom II 09:30, **Kordic/Cerkez**, Trial
14:30, **Kordic/Cerkez**, Trial
Courtroom III 09:30, **Krstic**, Trial

FRIDAY 26 MAY

Courtroom II 10:00, **Vasiljevic**, Status conference
Courtroom III 09:30, **Krstic**, Trial

Coverage of the proceedings in Courtroom II will be broadcast in the viewing area in the lobby.

*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 12 MAY

DATE	NUMBER	TITLE	E	F	B/C/S
15/5/2000	499	FRANCE TO PROVIDE EXPERTS TO ASSIST THE INVESTIGATIONS OF THE OFFICE OF THE PROSECUTOR IN KOSOVO	E	F	B/C/S
15/5/2000	500	JUDGE JULES DESCHENES	E	F	B/C/S
17/5/2000	501	LETTER FROM PRESIDENT JORDA TO PRESIDENT MESIC	E	F	B/C/S

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