



23 June 2000

ICTY WEEKLY UPDATE – 130

PROCEDURAL DEVELOPMENTS:

I. OVERVIEW OF COURT PROCEEDINGS

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

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

Having reconvened on Monday 5 June, the Trial Chamber entered its sixth week of hearings. The first Prosecution witness to be called this week, Sifeta Susić, continued her testimony from Friday, 9 June. Ms. Susić was a Bosnian Muslim from Prijedor, where she worked as a clerk in the Secretariat for Internal Affairs in Prijedor (SUP), the local police and criminal investigations department.

The witness testified that, on 24 June 1992, she was taken to the Omarska camp, where she was detained and interrogated. Ms. Susić was assigned to work in the camp's cafeteria, from where she could hear the screams and sounds of beatings of the detainees every morning. She also told the court that she could often observe the prisoners and saw that many of them were beaten and covered in blood. She recognised one of the beaten detainees as Reuf Travančić.

The witness also testified that she often saw piles of bodies lying in front or behind a camp building known as the “white house.”

Ms. Susić described the transfer of Ago Sadiković, Mirso Alisić, Dr. Osman Mahmuljin, and Dr. Pašić to a camp building known as the “red house.” The witness testified that she never saw those people again.

On 14 June, the Trial Chamber heard the testimony of Ms. Zuhra Hrnčić, a seamstress who had been detained in the Omarska camp on 20 June 1992. Ms. Hrnčić told the court that she was searched upon arrival in the camp and that, two weeks later, she was interrogated and threatened.

Ms. Hrnčić, who washed dishes in the camp's cafeteria, testified about the conditions in the Omarska camp and about the treatment of prisoners. The witness told the court that the prisoners had to eat their food in three minutes to avoid being beaten by the guards. The detainees were dirty, emaciated and bruised from beatings. The witness testified that she saw the prisoners being lined up and washed with a hose.

She identified some of the prisoners who were taken to the “red house” and not seen again as Ibro Crnkić, professor of mathematics, Dr. Begić, and Judge Serić. She testified that another person she knew, Reuf Travančić, was badly beaten and injured, and that her neighbour, Nizvet Suljić, died in the camp.

Ms. Hrnčić also testified about a pile of bodies, ranging from five to 13 every day, that she saw lying near the “white house.” On Petrov Day (St. Peter's Day), the witness saw a whole truckload of bodies being taken away.

The witness told the court that, based on her inferences from the behaviour of Meakić, Kvočka, and Pračač, those men occupied command positions in the camp.

On 14 June 2000, Trial Chamber I also held a Status Conference in open session.

KUNARAC, KOVAČ & VUKOVIĆ CASE (“FOČA”)

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

The Trial Chamber commenced its ninth week of hearings on 13 June 2000, continuing to hear testimony for the Prosecution's case-in-chief. Witness FWS-105 testified about the attack by Serbian soldiers on Foča town and the surrounding villages and about the beatings, killings and abuse of Muslim men. Her husband was killed during or shortly after the attack.

Witness 105 testified that she was taken, along with others, to Buk Bijela, where she was interrogated and subjected to intrusive body-searches before being transferred to Foča High School.

Witness 105 also told the court that she was kept at Foča High School for about two weeks during which time she and witnesses 87, DB, 75, 50, 88, 48, 95, ZG, 74 were raped numerous times by, among others, Kunarac.

Witness 105 was then taken to Partizan Sports Hall where she and others were repeatedly raped, especially towards the end of the detention, when they were raped every night and when some women were taken away for days at a time. During the detention at the Partizan Sports Hall, some women, such as FWS-51 and FWS-48, complained about the rapes to officers in the MUP building, but conditions did not change, and instead FWS-48 was taken out to be raped as a result of her complaints.

The witness testified that FWS-95, FWS-48, FWS-50, FWS-75, DB, FWS-87, FWS-90, and FWS-101 had been repeatedly taken to the Aladža house and subjected to sexual abuse and rape; ZG, FWS-95 and FWS-48 and FWS-105 were also allegedly subjected to gang rape. The witness told the court that Kunarac was one of the soldiers participating in the rapes and that, based on the behaviour of other soldiers towards him, she believed he occupied a command position.

Witness 105 had also been raped at the Brena house and at a house in Trnovaca. She was subjected to rape and, together with FWS-189, FWS-90, and FWS-48, to gang rape at a house in Dolno Polje. Witness 105, ZG, FWS-189, and FWS-51 were also raped in a house by the bus station, and FWS-105 and others were raped in Hotel Zelengora.

The witness was then cross-examined. The testimony of FWS-105 marked the end of the Prosecution's case-in-chief. On 13 June 2000, Trial Chamber II held a Pre-Defence Conference in open session. The Court has now adjourned until 3 July 2000.

So far, the Prosecution has called 33 witnesses and presented 126 exhibits; the Defence has presented 74 of its exhibits.

KRSTIĆ CASE ("SREBRENICA")

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

Having adjourned on 2 June 2000, Trial Chamber I reconvened on June 19 for the eighth week of hearings in the trial of Radislav Krstić.

The proceedings began with the testimony of protected Prosecution witness U, a Bosnian Muslim who was a commander of a Bosnian Army platoon stationed in Okresanica between 1993 and 1995. Witness U was in charge of monitoring and intercepting enemy communications and identified for the court the code names of different Bosnian Serb Army brigades and messages intercepted by his platoon in the period around the fall of Srebrenica.

The Trial Chamber then heard the testimony of Witness V, a Bosnian Muslim who joined the Electronic Reconnaissance and Anti-Electronic Warfare Unit of the Bosnian Army in March 1993. The witness, who served as a radio surveyor in Okresanica, identified for the court various intercepted messages.

On June 20, the Trial Chamber heard the testimony of protected witness W, a Bosnian Muslim who was the head of an electronic surveillance department gathering information for the State Security Service. From 1994 until the end of 1995, the department was based in Okresanica, in the same building as the army Anti-Electronic Warfare Unit. The witness told the court that his department was working independently from the Bosnian military, but that it shared some of its information with the army, especially during and after the fall of Srebrenica. Witness W identified for the court recordings of intercepted communications, some of which were allegedly made by General Krstić.

On June 21, the Trial Chamber continued with the testimonies of witnesses X and Y, both Bosnian Muslims who served in the Anti-Electronic Warfare Unit of the Bosnian Army during the fall of Srebrenica. Witness X, who was a shift commander at the Unit in Okresanica, told the court about the methods and procedures of recording enemy communications and identified transcripts of intercepted communications.

Witness Y testified about his work at the Anti-Electronic Warfare Unit at Okresanica and at Konjuh. The witness told the court that the procedures for intercepting and recording enemy communications were the same in Konjuh as in Okresanica. The Konjuh Unit focused on the Drina Corps and the General Staff of the army of the Republika Srpska.

On June 22, the court continued with the testimony of Witness Y and then heard testimony from Witness Z, who became a member of the Electronic Reconnaissance and Anti-Electronic forces of the Bosnian Army in 1992. Witness Z testified about the procedures for recording enemy communications in Konjuh, where he was transferred in the spring of 1995. The witness also identified intercept records for the court.

The Trial Chamber concluded Thursday's hearings with a protected Prosecution witness in closed session.

KORDIĆ & ČERKEZ CASE ("LAŠVA VALLEY")

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

The Trial Chamber continued to hear Kordić's defence case-in-chief.

On 20 June, the court heard the testimony of Zoran Buntić, a Bosnian Croat lawyer, who had been a head of the justice department in the civilian government of the "Croat Community of Herceg-Bosna" ("HZ HB"). The witness described the creation and the functioning of the provisional government and the judicial system of the "Croat Community of Herceg-Bosna."

Mr. Buntić also testified that it was not until 1996 that he became aware of the 12 September 1992 decision by the Supreme Court of the Republic of Bosnia and Herzegovina declaring the "HZ HB" unconstitutional.

Mr. Buntić told the court that he was not aware of any plans made during the time he headed the "HZ HB" justice department that the "Croat Community of Herceg-Bosna" should become independent from the Republic of Bosnia and Herzegovina. Mr. Buntić also knew of no official plan of resettlements, persecution or exclusion from the government of any non-Croats.

The witness also testified that Kordić, as Vice-President of the Presidency of the "HZ HB," exercised solely duties of a parliamentary nature and had no power to intervene in military or judicial matters.

On 21 June, the court heard the testimony of Zulfo Robović, a Bosnian Muslim from Mostar, who was Minister of Reconstruction Development of the "Croat Republic of Herceg-Bosna" between 1993 and 1996. The witness discussed relations between Croats and Muslims in Mostar, both before and after the split of the Herzegovinian Muslim Council from the "HVO government."

The witness testified that, to the best of his knowledge, the conflict between Mostar Croats and Muslims around 9 May 1993 was provoked by an attack by the Muslim-manned Fourth Corps.

The witness also testified about his contacts with Dario Kordić, during which he had not seen the accused express any animosity against Muslims. The witness also told the court that it was his belief that there was no Croatian policy of persecution against Muslims.

On 22 June, the court heard the testimony of expert witness Dr. Slobodan Janković, who testified about various artillery weapons used in the armed forces of the former Yugoslavia. In particular, Dr. Janković told the court that, based on the evidence of the weapons used in the Zenica shelling in April 1993, he had concluded that this shelling could have been caused only by Serb and not by Croatian forces.

The Trial Chamber then heard the witness Jure Cavara, who testified as to matters contained in his affidavit regarding Kordić's lack of military powers in the "HVO government." Mr. Cavara also told the court that he had not heard of any convoy being abducted or detained in Busovača in April 1993.

The Trial Chamber concluded the day with hearings on procedural matters.

II. OVERVIEW OF COURT DOCUMENTS

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

DECISION ON JUDICIAL NOTICE

On 8 June 2000, Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald) issued a decision taking judicial notice of certain facts contained in a motion filed by the Prosecution on 11 January 1999.

Trial Chamber III had previously issued a decision in this case on 19 March 1999, in which it took judicial notice of some of the facts included in the Prosecution's motion, i.e., it accepted those facts as proven without the need to hear evidence.

Trial Chamber I issued the current decision in light of the Tadić appeal judgement of 15 July 1999. The Trial Chamber considered the parties' agreement that it was in the interests of justice, and in particular of expediting the trial, that judicial notice should be taken of facts included in 444 out of 583 paragraphs listed by the Prosecutor.

The Trial Chamber also noted that the amended indictment, dated 31 May 1999, charged the accused with violations of international humanitarian law in the Omarska, Keraterm and Trnopolje camps between 26 May and 30 August 1992, and that Tadić, whose conviction had become final, was convicted of crimes committed in the same places between 23 May and 31 December 1992.

Considering that the decision does not in itself indicate that the accused are responsible for the commission of the alleged crimes and the Prosecution still has to prove the individual responsibility of the accused for the crimes of the indictment, the Trial Chamber took notice of the following facts:

(1) that there existed an armed conflict at the times and places alleged in the indictment; (2) that the conflict included a widespread and systematic attack against the Muslim and Croat population; and (3) that there was a nexus between this armed conflict and the widespread and systematic attack on the civilian population and the mistreatment of prisoners in the Omarska, Keraterm and Trnopolje camps.

NALETILIĆ & MARTINOVIĆ CASE (“ŠTELA” & “TUTA”)

DECISION ON PROSECUTION MOTION FOR APPROVAL OF RULE 94 TER PROCEDURE

On 22 June 2000, Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald) denied the Prosecution's motion for modification of the procedure for obtaining and accepting Rule 94 *ter* evidence.

With the aim of protecting the safety of its witnesses, the Prosecution asked the Chamber to allow Prosecution investigators to take formal statements by witnesses under Rule 94 *ter*, without regard to Bosnian law, provided that those investigators observe certain formalities.

The Trial Chamber noted that the Prosecution's proposed procedure is not “in accordance with the law and procedure of the State in which such affidavits or statements are signed” and therefore does not satisfy the express terms of Rule 94 *ter*.

Considering that the parties have not exhausted all potential means of obtaining statements in accordance with the terms of Rule 94 *ter*, such as making special arrangements with the Bosnian authorities, the Trial Chamber denied the Prosecution's motion, without prejudice to further solutions proposed by the parties.

Corrigendum

In the ICRC Decision rendered by Trial Chamber III in *The Prosecutor v. Simić et al.* case on 7 June 2000 and summarised in the last issue of the Weekly Update, Judge David Hunt agreed with the majority that the Motion should be denied but set out his own reasoning in a Separate Opinion.

COURTROOM SCHEDULE: 26 JUNE – 30 JUNE *

MONDAY 26 JUNE

Courtroom I 09:30, **Krstic**, Trial
Courtroom III 09:30, **Kordic/Cerkez**, Trial
14:30, **Kordic/Cerkez**, Trial

TUESDAY 27 JUNE

Courtroom I 09:30, **Krstic**, Trial
Courtroom III 09:30, **Kordic/Cerkez**, Trial
14:30, **Kordic/Cerkez**, Trial

WEDNESDAY 28 JUNE

Courtroom I 09:30, **Krstic**, Trial
15:00 **Simić et al.**, Status Conference
Courtroom III 09:30, **Kordic/Cerkez**, Trial

THURSDAY 29 JUNE

Courtroom I 09:30, **Krstic**, Trial
16:30, **Furundzija**, Status Conference
Courtroom III 09:30, **Kordic/Cerkez**, Trial
14:30, **Kordic/Cerkez**, Trial

FRIDAY 30 JUNE

Courtroom I 09:30, **Krstic**, Trial
Courtroom III 09:30, **Kordic/Cerkez**, 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 5 JUNE:

DATE	No.	I. TITLE	E	F	B/C/S
06/06/00	507	VISIT BY MRS. HERTA DAUBLER-GMELIN, MINISTER OF JUSTICE OF THE FEDERAL REPUBLIC OF GERMANY, TO THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA	E		B/C/S
07/06/00	508	SIMIC DEPARTS THE HAGUE ON PROVISIONAL RELEASE	E		B/C/S
07/06/00	509	CROATIAN JUSTICE MINISTER VISITS THE INTERNATIONAL TRIBUNAL	E		B/C/S
13/06/00	510	PROSECUTOR'S REPORT ON THE NATO BOMBING CAMPAIGN	E		B/C/S
19/06/00	511	SPEECH BY HIS EXCELLENCY, MR. CLAUDE JORDA, PRESIDENT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, TO THE PREPARATORY COMMISSION OF THE INTERNATIONAL CRIMINAL COURT	E	F	B/C/S
20/06/00	512	SPEECH BY HIS EXCELLENCY, MR. CLAUDE JORDA, PRESIDENT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, TO THE UN SECURITY COUNCIL	E	F	B/C/S

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