



22 September 2000

## ICTY WEEKLY UPDATE – 140

### PROCEDURAL DEVELOPMENTS:

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

##### **KUNARAC, KOVAČ & VUKOVIĆ CASE (“FOČA”)**

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

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

On Monday 18 September, the court heard the testimony of Witness “DH”, a cousin of Kovač, who was present at a gathering in November 1992 along with “DM”, “DI” and “DK” when Kovač introduced “FWS-87” as his girlfriend (“FWS-87” testified on 4 and 5 April 2000, see Update No. 120).

Witness “DH” told the court that Kovač asked her for food for his “girlfriend” and she often took food to “FWS-87” at Kovač’s apartment in the “Lepa Brena” building. Witness “DH” also saw “FWS-87” in Kovač’s apartment when she went to visit Kovač after he was injured in December 1992.

The testimony of the next witness, “DI”, who was also present at the gathering on 21 November 1992, was followed by that of witness “DV”, who met Kovač while she was working as a nurse at a military clinic. Witness “DV” told the court that, on a few occasions in November, Kovač asked her for antibiotics and sanitary materials for his “girlfriend” and that she, a man from her unit and his girlfriend, witness “191”, met Kovač with two girls, including “FWS-87”, at the “Leonardo” bar. In December the witness took medicine to Kovač at his apartment in the “Lepa Brena” building where she saw “FWS-87” and another young girl.

After the conclusion of “DV”’s testimony on Tuesday 19 September, the court heard the testimony of witness “DN”, the owner of “Cafe Linea” in Foča.

Witness “DN” told the court that Kovač first visited his café in November 1992 with Jagos Kostić and two girls, one of which, “FWS-87”, he introduced as his “girlfriend”. The witness testified that, after their first visit, these two girls regularly went to his café sometimes on their own, sometimes with other company and celebrated the Orthodox New Year there, on 13 January, with Kovač.

The next witness “DO” was a member of the Territorial Defence with Kovač after the outbreak of the war. Testifying about, amongst other things, his friendship with Kovač and Kovač being wounded in December 1992, witness “DO” told the court that he met Kovač’s “girlfriend” for the first time at the “Leonardo” coffee bar in December 1992.

On Wednesday 20 September, the Trial Chamber heard the testimony of witness “DP”, the owner of “Cafe Galija” in Foča, and “DQ”, both long-term friends of Vuković, followed by the testimony of witness “DR” who testified about how Vuković helped Muslim families during the war.

The week’s hearing concluded with a status conference in open session on Thursday 21 September. The Trial Chamber has now adjourned until 16 October 2000 (to be confirmed).

##### **VASILJEVIĆ CASE (“VIŠEGRAD”)**

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

The Trial Chamber held a status conference in open session on Friday 22 September.

##### **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.

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On Monday 18 September, the Trial Chamber heard the testimony of Mr. Drago Nakić, the deputy director of the Vitezit explosives factory, formerly the Slobodan Princip Seljo (SPS), in 1992.

Mr. Nakić testified about opening a branch office in Split in June 1992 to perform commercial and financial jobs for the Vitezit and the Vitez municipality. The office was subsequently used as a form of “consular office” providing welfare to the citizens from central Bosnia.

After the outbreak of fighting, the civilian authorities in Vitez gave Mr. Nakić the task of organising humanitarian medical flights. Mr. Nakić testified about the main participants in the flights and how they were organised until their cessation at the end of July 1993. Mr. Nakić testified that he subsequently organised trips to Bratislava financed by the municipalities of Central Bosnia and, in December 1993, together with the Muslims, he organised a joint road convoy, the “White Road”, for the delivery of humanitarian aid to the Lašva River Valley.

The next witness, Mr. Josip Mišković, director of the Vitezit development department, testified about the conflict in Vitez on 16 April 1993. In particular, the establishment of front lines against Muslim forces in Kremenjace, his election as commander of the group of men, and their later encompassment into the Vitez Brigade.

Mr. Mišković’s testimony was followed by that of Captain Vlado Taraba, an officer of the army of the Federation of Bosnia and Herzegovina and former teacher of protection and national defence. Captain Taraba, who was also a deputy commander for education and training and operational affairs in the 2nd Battalion of the Stjepan Tomasević Brigade from December 1992, testified about the formation of the Viteska Brigade and the re-organisation of his Battalion which was then renamed the 1st Battalion of the Vitez Brigade.

Captain Taraba told the court that, on the initiative of his fellow villagers, he had an advisory role with respect to the organisation of village patrols in Marosove Kuće and Stara Bila and testified about the functioning of these village patrols in 1992. Captain Taraba also testified about events surrounding the attack by the ABiH on 16 April 1993, the subsequent formation of other battalions and his return to Marosove Kuće to oversee the mobilisation of men.

After the conclusion of Captain Taraba’s testimony on Tuesday 19 September, the defence called Mr. Fabijan Zuljević, a sergeant in the army of the Federation of Bosnia and Herzegovina. Mr. Zuljević testified about the organisation of the village guards in Krizančevo Selo, Dubravica, his last shift at Slatka Vode before the conflict in Ahmići and events around 16 April.

The next witness, Mr. Dragan Tomić joined the reserve police force at the beginning of the conflict in Bosnia and Herzegovina, and later, in September 1992, became a member of the military police during the course of which he participated in the fighting to defend Jajce and manned road checkpoints. Mr. Tomić also testified about events surrounding the break out of the armed conflict around Vitez on 16 April.

After the conclusion of Mr. Tomić’s testimony on Wednesday 20 September, the court heard the testimony of Mr. Marijan Strukar, a commander of the volunteer fire prevention unit and later a member of the Vitez village guard. Mr. Strukar testified about events surrounding 16 April 1993 and the organisation of the village guard, which became officially registered as the Vitez Brigade in May 1993.

The next witness, Mr. Dušan Luković was the mayor of the municipality of Vitez from 1983 to 1995 and long-term friend of Čerkez. Mr. Luković testified about the conflict in Vitez on 16 April 1993 and his call up, in June 1993, to the work platoon to dig trenches at Zabrđe and later in Zaselje, Bobaši, Brdani, Tolovići, Lazine and Barin Gaj. In November he was deployed to guard duty in Vitez.

Mr. Luković’s testimony, which concluded on Thursday 21 September, was followed by that of Mr. Ljubo Calić. Mr. Calić told the court that he was a member of the Kruščica Hunting Club which, in August 1992, organised guards to conduct reconnaissance and potentially defend Zabdje and the surrounding area, a task initiated by the members themselves and under the command Anto Krizanac, Slavko Mlakić, and Mirko Pavelić. Mr. Calić also testified about events around 16 April 1993 and the Nadioći village guards of which he was the commander from 25 May 1993.

The next witness, Mr. Nikola Mlakić, a member of the Kamenjace village guards testified about events surrounding the beginning of the conflict with the Muslims on 16 April, the organisation of the village guards and its reorganisation and establishment as the 4th Company of the 4th Vitez Brigade with Mr. Mlakić as its commander. Mr. Mlakić later became a member of the 92<sup>nd</sup> Home Guard Regiment but was demobilised on 15 May 1994. The week’s hearings concluded on Friday 22 September.

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

### **BRDANIN & TALIĆ CASE**

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#### ORDER ON MOTIONS FOR ACCESS TO CONFIDENTIAL INFORMATION

On 11 September 2000, Judge Jorda, President of the Tribunal, ordered the Registrar, in full co-operation with the Office of the Prosecutor, to disclose the confidential transcripts and exhibits relating to the *Tadić* case and *Kovačević* case to the parties in the *Brđanin and Talić* case.

The order follows decisions issued by Judge Hunt, the pre-trial Judge in the *Brđanin and Talić* case, on 31 July and 22 August 2000, inviting the Registrar to forward motions, filed by Talić and Brđanin on 12 July and 1 August 2000 respectively, to the President for him to rule on the requested modifications to the protective measures ordered in the *Tadić* case and *Kovačević* case (see Update No. 136).

In reaching his decision, the President held that the defence is not in the same position as the Prosecution when gathering information, many general issues are common to all these cases and that it did not appear that the disclosure of information relating to the *Tadić* case and *Kovačević* case affects the security and confidentiality of those cases.

### **KORDIĆ & ČERKEZ CASE (“LAŠVA VALLEY”)**

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#### DECISION ON APPEAL REGARDING THE ADMISSION INTO EVIDENCE OF SEVEN AFFIDAVITS AND ONE FORMAL STATEMENT

On 18 September 2000, the Appeals Chamber (Judges Nieto-Navia (Presiding), Vohrah, Wald, Pocar and Liu) issued its decision allowing Kordić and Čerkez’s appeal against an oral ruling made by Trial Chamber III (Judges May (Presiding), Bennouna and Robinson) on 10 March 2000 admitting into evidence seven affidavits and one formal statement by Colonel Morsink. Finding that:

- (1) The appellant was deprived of the opportunity to challenge and cross-examine live witnesses on the facts alleged in the seven affidavits and that the terms of Rule 94ter should not be extended so that it becomes a general mechanism by which a party may file unchallenged affidavit evidence to support oral testimony which has already concluded. The Appeals Chamber held that the Trial Chamber “erred in its interpretation of the timing requirement in Rule 94ter as being merely a ‘technical procedural requirement’ and that on the contrary this requirement is an integral part of the Rule protecting the rights of the accused.” The Appeals Chamber concluded that this departure “caused the Appellant material prejudice and on this basis this appeal should be granted and the seven affidavits excluded from evidence.”
- (2) as to the formal statement of Colonel Morsink, this statement constituted a different case from the other seven affidavits as it was obtained through agreement of the parties, pursuant to a suggestion by the Trial Chamber, to supplement live testimony with the right to apply to cross-examine being preserved until after the affidavit had been submitted. The Appeals Chamber held that, given the circumstances under which the statement was brought before the Trial Chamber, it was not properly filed under Rule 94ter and thus directed the Trial Chamber to re-evaluate its admissibility under Rule 89(C) considering, if necessary, any further submissions by the parties.

### **KUNARAC, KOVAČ & VUKOVIĆ CASE (“FOČA”)**

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#### DEFENCE MOTION FOR MEDICAL EXAMINATION OF VUKOVIĆ GRANTED

On 21 September 2000, Trial Chamber II (Judges Mumba (Presiding), Hunt and Pocar) granted the defence motion for a medical examination of Vuković, filed the same day.

In the motion the defence had requested that Vuković be medically examined in order to establish that he suffered an injury to his testicles on 15 June 1992, namely a “contusion with big hematomas”.

Granting the motion, the Trial Chamber held that the defence expert, Dr. Dušan Dunjić, may participate in the examination, the Prosecutor is to nominate an expert of her own by 25 September 2000 and the Registrar should make all necessary arrangements for the medical examination and appoint an additional expert. The written reports are to be filed by 11 October 2000.

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## COURTROOM SCHEDULE: 25 SEPTEMBER – 29 SEPTEMBER \*

### MONDAY 25 SEPTEMBER

Courtroom II 09:30 - 13:00, **Kordic/Cerkez**, Trial  
14:30 - 16:00, **Kordic/Cerkez**, Trial  
Courtroom III 09:30 - 14:30, **Kvocka et al. Prcac**, Trial

### TUESDAY 26 SEPTEMBER

Courtroom II 09:30 - 13:00, **Kordic/Cerkez**, Trial  
14:30 - 16:00, **Kordic/Cerkez**, Trial  
Courtroom III 09:30 - 14:30, **Kvocka et al. Prcac**, Trial  
15:30 - 17:00, **Kvocka et al. Prcac**, Trial

### WEDNESDAY 27 SEPTEMBER

Courtroom II 09:30 - 13:00, **Kordic/Cerkez**, Trial  
16:00, **Krajisnik**, Status Conference  
Courtroom III 09:30 - 14:30, **Kvocka et al. Prcac**, Trial

### THURSDAY 28 SEPTEMBER

Courtroom I 10:00, **Krnjelac**, Status Conference  
Courtroom II 09:30 - 13:00, **Kordic/Cerkez**, Trial  
14:30 - 16:00, **Kordic/Cerkez**, Trial  
Courtroom III 09:30 - 14:30, **Kvocka et al. Prcac**, Trial  
15:30 - 17:00, **Kvocka et al. Prcac**, 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 14 SEPTEMBER:

DATE	NUMBER	TITLE	E	F	B/C/S
22/9/00	529	THE ICTY JUDGES' VISIT TO ZAGREB HAS ELICITED A SIGNIFICANT DIALOGUE	E	F	B/C/S

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