



1 December 2000

ICTY WEEKLY UPDATE – 150

PROCEDURAL DEVELOPMENTS:

I. OVERVIEW OF COURT PROCEEDINGS:

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

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

On Tuesday 28 November, Trial Chamber I held a hearing on the motions for judgement of acquittal filed by Kos, Radić, Žigić and Prcać, dated 6 November 2000, (all except Radić filed their motions confidentially). A decision on the motions will be rendered in due course.

The motion hearing was followed by a status conference. Noting that the prosecution case-in-chief against the five accused lasted for 53 days, the Trial Chamber scheduled the defence case-in-chief to commence on 22 January 2001 and conclude on 1 June 2001 with closing arguments from 2 to 10 July 2001. Counsel for Žigić announced that Žigić will testify before the Trial Chamber. The cross-examination by the prosecution of Kvočka and Radić, who testified from 29 February to 6 March 2000, will take place after the close of their respective defence cases.

GALIĆ CASE (“SARAJEVO”)

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

On Monday 27 November, Trial Chamber I held the scheduled status conference in open session.

KRNOJELAC CASE (“KP DOM CAMP”)

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

Having adjourned on Thursday 24 November, the trial of Milorad Krnojelac reconvened this week entering its fourth week of hearings with the fourth week of the prosecution case-in-chief.

On Monday 27 November, the Trial Chamber heard the testimony of protected witness, “FWS 111”, a former doctor in Foča.

“FWS 111” testified about anti-Muslim propaganda disseminated by the SDS before and during the war which broke out in Foča on 6 April 1992. “FWS 111” testified about being arrested on 11 April 1992 and detained in Livade before being transferred to KP Dom on 17 April 1992, where the witness stayed until 5 July 1993.

“FWS 111” testified about conditions at the camp and described the prison-camp hierarchy, including the role of the accused. The witness testified about events from 13 to 30 June 1992 when the detainees were physically abused tortured, interrogated and killed. “FWS 111” told the court that, when the International Committee of the Red Cross visited the camp to register the detainees on 23 June 1992, the witness and 11 other detainees were hidden away. On 5 July 1993, “FWS 111” was taken to the Kula camp, near Sarajevo, and detained there before being exchanged on 15 June 1994.

After the conclusion of “FWS 111”’s testimony on Tuesday 28 November, the Trial Chamber heard the testimony of protected witness “FWS 162”.

“FWS 162” testified about the situation in Foča before and during the war and subsequently fleeing to Montenegro. “FWS 162” testified about being arrested on 27 May 1992 and taken to KP Dom.

The Trial Chamber has now adjourned until 15 January 2001.

KORDIĆ & ČERKEZ CASE (“LAŠVA VALLEY”)

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

On Monday 27 November, the Trial Chamber issued its oral decision on the prosecution’s application to produce documentary evidence collected since April 2000 in and around Zagreb, Croatia (“Zagreb

Evidence”). Admitting certain exhibits into evidence, the Trial Chamber held that written reasons would follow. The Trial Chamber also dismissed Čerkez’s application to stay the proceedings until the final determination of its application for leave to appeal to give further time for him to prepare final submissions.

The Trial Chamber held the remainder of the hearing, and the hearing on Tuesday 28 November, in closed session. The Trial Chamber has now adjourned until 4 December 2000.

OVERVIEW OF COURT DOCUMENTS:

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

DECISION ON NALETILIĆ’S REQUEST FOR POLYGRAPH TEST

On 27 November 2000, Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald) denied Naletilić’s request to be given an opportunity to be interrogated under application of a polygraph, filed on 12 October 2000.

In reaching its decision, the Trial Chamber considered that *“the consensus in the scientific community, and in the domestic jurisdictions surveyed, is that polygraph examinations are an unreliable indication of credibility; and that accordingly, it is not an expense that is necessarily and reasonably incurred.”* Furthermore, the Trial Chamber noted that the introduction of such evidence is unlikely to expedite the proceedings and that ultimately, it is for the Trial Chamber to determine the credibility of the witnesses and the accused: *“the appropriate course for an accused who wishes to address the Trial Chamber about the case against him or her is either to appear as a witness in his or her own case, or to make a statement pursuant to Rule 84bis”.*

DECISION ON PROSECUTION MOTION TO ADMIT TRANSCRIPTS AND EXHIBITS

On 27 November 2000, Trial Chamber I granted a motion filed by the prosecution, dated 11 October 2000, to admit transcripts and exhibits tendered during the testimony of five witnesses who testified in the *Kordić and Čerkez* case and two witnesses who testified in the *Blaškić* case.

Admitting the evidence pursuant to Rule 89(C) of the Tribunal’s Rules of Procedure and Evidence, the Trial Chamber considered that the materials were both reliable and probative. The Trial Chamber decided that the transcripts are *“relevant to facts in dispute in the present case, namely the existence of an international armed conflict, the applicability of the Geneva Conventions of 1949, and whether there was a widespread or systematic attack against the civilian population.”* Further, *“the present case and the Blaškić and Kordić cases all relate to the armed conflict in BiH in the proclaimed region of Herceg-Bosna. All the cases concern alleged military offensives by the forces of the Croatian Defence Council of the Croatian Community of Herceg-Bosna/Croatian Republic of Herceg-Bosna against the Bosnian Muslim population as part of a widespread campaign. Further, the relevant time period in the present case overlaps with the relevant time period in the Blaškić and Kordić cases.”*

PROSECUTION MOTION TO AMEND COUNT 5 OF THE INDICTMENT GRANTED

On 28 November 2000, Trial Chamber I granted the Prosecutor’s motion to amend Count 5 of the indictment to add a reference to Article 52 of the Third Geneva Convention, which prohibits dangerous and humiliating labour.

Finding that the amendment will not result in any prejudice to the accused as *“the indictment has always contained the factual allegations to support a charge under Article 52 of the Third Geneva Convention”*, the Trial Chamber ordered the accused to enter a plea to the charge at the pre-trial conference scheduled to take place on 7 December 2000.

BRĐANIN & TALIĆ CASE (“KRAJINA”)

DECISION ON PROSECUTION MOTION FOR VARIATION PROTECTIVE MEASURES

On 29 November 2000, Trial Chamber II (Judges Hunt (Presiding), Mumba and Liu) issued its decision on the prosecution’s request for a variation of the order given in the decision on the third motion by the prosecution for protective measures, dated 8 November 2000 (see Weekly Update 147).

In the present decision, the Trial Chamber ordered that the prosecution may redact from the supporting material which accompanied the indictment when confirmation was sought, and from the statements, affidavits and formal statements of the witnesses whom it intends to call to testify as trial:

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(a) any information which discloses the current whereabouts of the maker of any such document and/or his or her family; (b) any information contained within such documents which discloses the current whereabouts of other individuals named within them who have made witness statements which the prosecution has already disclosed or which it intends to disclose; (c) any information contained within such documents which discloses the current whereabouts of other individuals who are named in such documents, other than those individuals who are described in any documents which are or which may be relevant to the issues in the trial; and the personal identification number given to citizens of the former Yugoslavia which appears on statements taken by Bosnian authorities.

PROSECUTION MOTION FOR ORDER TO DEFENCE COUNSEL REFUSED

On 30 November 2000, Trial Chamber II issued its decision on a prosecution motion for an order directed to defence counsel for Talić to respond to the question of “whether Defence have shown (witness) statements to officials of the Republika Srpska for the purpose of identifying the maker of the statement” in unambiguous terms, dated 28 November 2000.

Refusing the application, the Trial Chamber referred to its fourth protective measures decision in which it observed that “if any member of the defence team is to be prosecuted for contempt, he or she would be entitled to the same presumption of innocence and right to silence which any other accused person has”, dated 3 July 2000 (see Weekly Update 132). The Trial Chamber noted that “an order that counsel answer the question posed ... to Maitre de Roux may well amount to compelling them to provide evidence against themselves.”

However, the Trial Chamber re-iterated that “showing witness statements to Republika Srpska officials may well lead to interference with the witnesses to prevent them giving evidence against the accused” and “it would be a risky course of action for the defence team of Talić to take”.

COURTROOM SCHEDULE: 4 – 8 DECEMBER *

MONDAY 4 DECEMBER

Courtroom I 09:20 - 12:50, **Krstic**, Trial
13:50 - 15:00, **Krstic**, Trial
Courtroom III 09:30 - 13:00, **Kordic/Cerkez**, Trial
14:30 - 16:00, **Kordic/Cerkez**, Trial

TUESDAY 5 DECEMBER

Courtroom I 09:20 - 12:50, **Krstic**, Trial
13:50 - 15:00, **Krstic**, Trial
Courtroom III 09:30 - 13:00, **Kordic/Cerkez**, Trial
14:30 - 16:00, **Kordic/Cerkez**, Trial

WEDNESDAY 6 DECEMBER

Courtroom I 09:20 - 12:50, **Krstic**, Trial
13:50 - 15:00, **Krstic**, Trial
Courtroom III 09:30 - 13:00, **Kordic/Cerkez**, Trial
14:30 - 16:00, **Kordic/Cerkez**, Trial

THURSDAY 7 DECEMBER

Courtroom I 09:20 - 12:50, **Krstic**, Trial
13:50 - 15:00, **Krstic**, Trial
16:00, **Naletilic/Martinovic**, Pre-trial Conference
Courtroom III 09:30 - 13:00, **Kordic/Cerkez**, Trial
14:30 - 16:00, **Kordic/Cerkez**, Trial

FRIDAY 8 DECEMBER

Courtroom I 09:20 - 12:50, **Krstic**, Trial
13:50 - 15:00, **Krstic**, Trial
Courtroom III 09:30 - 13:00, **Kordic/Cerkez**, 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 24 NOVEMBER:

DATE	NO.	TITLE	E	F	B/C/S
03/07/2000	543	THE FIRST DIPLOMATIC INFORMATION SEMINAR HELD AT THE ICTY HAS BEEN WELL RECEIVED	E	F	B/C/S

E – English; F – French; B/C/S – Bosnian/ Croatian/Serbian

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