



18 February 2000

## ICTY WEEKLY UPDATE – 113

(AMENDED VERSION)

### PROCEDURAL DEVELOPMENTS:

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#### I. OVERVIEW OF COURT PROCEEDINGS

##### **KORDIĆ & ČERKEZ CASE**

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

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

On Monday 14 February, Witness AE, a member of a reconnaissance sabotage squadron of the 333rd Mountain Brigade of the ABiH from January 1993 to April 1995, testified regarding the period he manned the checkpoint established at Kacuni on the road between Busovača and Kiseljak.

The Trial Chamber then heard the testimony of protected Prosecution Witness AF. Witness AF's testimony focused on the shelling of the predominantly Muslim civilian village of Tulica during 1992 and 1993.

The testimony of Mr. Christopher Beese followed. Mr. Beese, who reported to Ambassador Jean-Pierre Thebault, was ECMM Head of Mostar co-ordination centre in Mostar for around two months upto April 1993 and then deputy-head of the Zenica regional centre.

Mr. Beese's testimony covered a meeting held on 28 April 1993 between Generals Sefer Halilović and Milivoj Petković, chaired by Ambassador Thebault. The meeting included discussion of matter concerning cease-fire agreements signed by the Bosnian Croats and the Bosnian Muslims, freedom of movement issues and the establishment of a joint military headquarters staffed by officers of the two respective parties.

On Tuesday 15 February, the Trial Chamber heard the testimony of a protected witness in closed session followed by the testimony of Mr. Ciril Ribičić in open session. Mr. Ribičić, a Slovenian parliamentarian and Professor of Constitutional Law at the Faculty of Law in Ljubljana, gave evidence as an expert witness regarding the establishment of the Croatian community of Herceg-Bosna. His testimony concluded on Wednesday 16 February.

The following witness, Mr. Ismet Halilović, a resident of Novi Travnik, testified regarding the circumstances surrounding the departure of Muslims from the area between December 1992 and January 1993.

After the hearing on Wednesday, the Trial Chamber held a pre-defence conference: the defence is due to begin presenting its case-in-chief on 10 April 2000.

On Thursday 17 February, Witness AH, a member of the Territorial Defence who lived in the Zenički Put area of Žepče gave evidence. Witness AH's testimony covered the 24 June 1993 attack on the area, the surrender by the Muslims of Zenički Put on 30 June 1993 and the subsequent capture and detention of a number of Muslims at a series of places including the silos, the hangars of the Nova Trgovina and the primary school. Witness AH also testified that detainees were subjected to forced labour, particularly trench digging on the front lines for both the HVO and for the Serbs and the looting and demolition of houses in the mostly Muslim town of Novi Šeher. The Trial Chamber concluded the hearing in closed session.

On Friday 18 February, the Trial Chamber held an evidentiary hearing.

##### **KVOČKA & OTHERS CASE**

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

On Tuesday 15 February, the Trial Chamber held status conferences in closed session.

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

### **“FOČA” CASE**

#### **VUKOVIĆ’S MOTION FOR JOINDER OF TRIALS GRANTED**

On 15 February 2000, Trial Chamber II (Judges Hunt (Presiding), Mumba and Pocar) granted Vuković’s motion for joinder of his trial to that of Kunarac and Kovač, filed on 10 February 2000 (see update No. 112).

In the motion Vuković indicated that he will be ready for trial on 20 March 2000 and waived his right to preliminary motions on the indictment. All three accused will attend the pre-trial conference scheduled for **2 March 2000 at 4.30 p.m.**

In light of this order, on 16 February 2000, the Trial Chamber ordered that the case against Vuković be severed from the indictment against the accused Janković, Janjić, Zelenović and Stanković (the latter being assigned as case number IT-96-23/2) and that the Prosecutor file a redacted indictment containing only the facts and charges against Vuković. This redacted indictment will be entitled IT-96-23/1, all documents filed in the proceedings against Kunarac, Kovač and Vuković will carry the combined case number IT-96-23 & IT-96-23/1.

#### **KOVAC’S REQUEST FOR ASSIGNMENT OF MILAN VUJIN AS DEFENCE COUNSEL DENIED**

On 14 February 2000, the Registrar denied Kovač’s renewed request for assignment of Mr. Milan Vujin as his defence counsel, filed on 7 February 2000.

Considering that the accused is currently represented by Mr. Momir Kolesar and Mr. Vladimir Domazet, the Registrar found that the interests of justice do not permit the assignment of counsel who has been convicted of contempt of the Tribunal notwithstanding an application for leave to appeal against the convicting Judgement filed confidentially by Mr. Vujin on 5 February 2000.

### **KRNOJELAC CASE**

#### **PRELIMINARY MOTION ON THE FORM OF THE INDICTMENT GRANTED IN PART**

On 11 February 2000, Trial Chamber II (Judges Hunt (Presiding), Mumba and Pocar) granted in part the preliminary motion on the form of the indictment, filed by Krnojelac on 14 October 1999.

The Trial Chamber ordered the Prosecution within 30 days to further amend the indictment, dated 21 July 1999, so as to: (1) Plead the specific acts on the part of the accused by which he is alleged to bear individual responsibility, (a) by way of his personal participation in the acts which constitute the crimes charged, and (b) by way of aiding and abetting responsibility for the acts of others; (2) Identify the victims under the heading “Beatings upon arrival in the prison yard” so far as it is possible to do so; (3) Identify the detainees and the prison guards referred to in the paragraphs under the heading “Beatings associated with the Canteen” so far as it is possible to do so; (4) Clarify what is being alleged by the statement, “in accordance with a pattern established by Milorad Krnojelac in concert with other high-level prison staff” in paragraph 5.22 of the indictment; and, (5) With regard to paragraph 5.24 of the indictment, clarify whether the individual responsibility on the part of the accused is restricted to aiding and abetting responsibility.

### **MARTINOVIĆ CASE**

#### **MOTION ON THE FORM OF THE INDICTMENT DISMISSED**

On 15 February 2000, Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald) rejected the motion on the form of the indictment, filed by Martinović on 4 October 1999.

Martinović objected to the indictment dated 21 December 1998 on the basis that: certain factual allegations in the indictment are “incorrect” or that no evidence has been offered to support them; he should not have been charged with more than one offence based on the same underlying facts; those portions of the indictment charging him with responsibility under both Article 7(1) and (3) of the Statute of the Tribunal are defective because, in his view, Article 7(3) does not provide a separate ground for command responsibility, and liability can be based only on Article 7(1); and, portions of the indictment are unclear, more specific details are needed to enable him to prepare his defence.

Rejecting these objections as a basis for dismissing or amending the indictment, the Trial Chamber noted that the defence has extensive witness statements as well as supporting materials in its possession, and may seek further particulars from the Prosecution. In addition the Trial Chamber noted that the parties will be asked to address the issue of cumulative charging in their final pre-trial briefs.

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**DELALIĆ & OTHERS CASE**

**LANDZO'S MOTION TO ADMIT ADDITIONAL EVIDENCE GRANTED**

On 14 February 2000, the Appeals Chamber (Judges Hunt (Presiding), Riad, Wang, Nieto-Navia and Bennouna) granted the motion to admit as additional evidence the expert opinion of Sr. Francisco Villalobos Brenes, an expert on the Law of Costa Rica, filed by Landžo on 24 January 2000.

Landžo sought to have admitted as additional evidence an "expert opinion" on the interpretation of certain Articles of the Constitution of Costa Rica, prepared by Sr. Brenes, a member of the Bar of Costa Rica and an Adjunct Professor at the Faculty of Law of the University of Costa Rica. This material relates to Landžo's second ground of appeal against the Judgement handed down by Trial Chamber II *quater* (Judges Karibi-Whyte (Presiding), Odio Benito and Jan) on 16 November 1998, which concerned with the ineligibility of one of the members of the Trial Chamber to serve as a Judge.

**COURTROOM SCHEDULE: 21 FEBRUARY – 25 FEBRUARY \***

**MONDAY 21 FEBRUARY**

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

**TUESDAY 22 FEBRUARY**

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

**WEDNESDAY 23 FEBRUARY**

Courtroom I 10:00, **Celebici**, Status Conference  
Courtroom III 09:30, **Kordic/Cerkez**, Trial

**THURSDAY 24 FEBRUARY**

Courtroom II 09:30, **Kordic/Cerkez**, Trial  
14:30, **Kordic/Cerkez**, Trial  
Courtroom III 10:00, **Kvocka & others**, Pre-trial Conference  
14:30, **Kvocka & others**, Pre-trial Conference

**FRIDAY 25 FEBRUARY**

Courtroom III 09:30, **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 14 FEBRUARY:**

DATE	NUMBER	TITLE	E	F
18/02/00	470	THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA TO GIVE MONTHLY PRESS BRIEFINGS IN BRUSSELS AT THE UNITED NATIONS INFORMATION CENTRE	E	F

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