



8 June 2001

## ICTY WEEKLY UPDATE – 176

### PROCEDURAL DEVELOPMENTS:

#### I. OVERVIEW OF COURT PROCEEDINGS:

##### **KRNOJELAC CASE (“Foča – KP Dom Camp”)**

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

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

On Tuesday 5 June, the Trial Chamber first heard the conclusion of the testimony of Mr. Žarko Vuković, a former colleague and friend of Milorad Krnojelac, which commenced on 31 May 2001. The defence then called Mr. Milan Pavlović to testify.

Mr. Pavlović told the court that he was mobilised in April 1992 and assigned to work in the boiler room of the KP Dom in order to provide steam for the kitchen to cook food and provide hot water for baths for the detainees. According to Mr. Pavlović, the boiler did not work due to a failure in the electricity supply for some time and was later severely damaged.

The testimony of Mr. Arsenije Krnojelac, Milorad Krnojelac’s brother, followed. Mr. Arsenije Krnojelac told the court that, in May 1992, he was assigned to the KP Dom to drive a delivery truck taking goods to be bartered for food. Mr. Arsenije Krnojelac also testified that he and Milorad Krnojelac stayed in Belgrade from 24 June 1992 for 15 days with their sons who had been hospitalised there. Mr. Arsenije Krnojelac’s testimony, which continued on Wednesday 6 June, concluded on Thursday 7 June after the testimony of witnesses given by video-link.

On Thursday 7 June, the Trial Chamber heard the testimony of Mrs. Desanka Bogdanović, a former colleague of Milorad Krnojelac at the Veselin Masleša primary school in Foča. Mrs. Bogdanovic told the court that, at her request, Milorad Krnojelac helped three Muslim women to leave Foča in early July 1992.

The testimony of Mr. Svetozar Bogdanović, Mrs. Desanka Bogdanović’s husband, followed. The Trial Chamber then adjourned until 11 June 2001.

##### **KRSTIĆ CASE (“Srebrenica”)**

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

The Trial Chamber reconvened this week, having adjourned on 6 April 2001, in order to hear the parties’ oral arguments on the prosecution’s motion to re-open its case for the purpose of introducing fresh evidence, dated 24 April 2001 (see Weekly Update 172). In the motion, the prosecution alleged that an “Information Note” was recently provided to one of its investigators that would assist the Trial Chamber in determining when General Krstić became Commander of the Drina Corps.

During the hearing, the Trial Chamber heard the testimony of prosecution witness JJ, who is currently employed in the Office of the Prosecutor and received the “Information Note” from General Milenko Živanović on 23 April 2001. The defence then recalled military expert, General Radovan Radinović to testify as to the issuance of the “Information Note” and the weight that the Trial Chamber should afford it. General Radinović originally testified before the Trial Chamber from 4 to 12 December 2000 (see Weekly Updates 151 and 152).

After the presentation of the parties’ respective oral arguments the Trial Chamber issued its oral decision admitting the “Information Note” from General Živanović and General Krstić’s first order as commander, dated 13 July, into evidence.

The Trial Chamber has now adjourned until 26 June 2001 when it is scheduled to hear the parties’ closing arguments.

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

### **KUPREŠKIĆ & OTHERS CASE (“Lašva Valley”)**

#### **PUBLIC VERSIONS OF DECISIONS ON APPELLANTS’ MOTIONS TO ADMIT ADDITIONAL EVIDENCE**

On 30 May 2001, the Appeals Chamber (Judges Wald (Presiding), Vohrah, Nieto-Navia, Pocar and Liu) made public redacted versions of its decisions previously rendered confidentially on 26 February and 11 April 2001 concerning nine motions for the admission of additional evidence filed by the Appellants between 31 August and 18 December 2000.

In its decision dated 26 February 2001, the Appeals Chamber admitted into evidence without the need for further argument:

1) An additional statement made by witness CA relating to a telephone conversation with witness DD about two weeks after 16 April 1993 in which the latter indicated to witness CA that she did not know whether Nazif Ahmić and his son were alive. The Appeals Chamber found that this evidence, which relates to the reliability of witness DD’s identification of Drago Josipović as having participated in events at the home of Nazif Ahmić, was “*relevant to a material issue, credible and, if true, would probably show that the conviction or sentence is unsafe.*” Thus, finding that “*the interests of justice require the presentation of the evidence*”, the Appeals Chamber admitted the statement as additional evidence without prejudice to a determination of the weight to be afforded to it.

2) Five documents attached to Mirjan Kupreškić’s Appellant’s brief relating to his family, on the basis of their prior admittance into evidence by the Trial Chamber.

3) A video recording of the oath taking ceremony at Vitez stadium purporting to show Zoran Kupreškić as a member of the audience. Provisionally admitting this evidence subject to Counsel for the Appellants providing further information within 14 days of the decision to identify which portions of the recording purport to show Zoran Kupreškić, the Appeals Chamber considered that, if the video depicts the oath-taking ceremony referred to by witness JJ, who testified during the trial that Zoran Kupreškić was a member of the HVO prior to 16 April 1993 and an HVO commander, and indeed Zoran Kupreškić is a spectator rather than a participant, “*then this evidence could have had an affect upon the Trial Chamber’s findings at trial.*”

In addition, the Appeals Chamber held that oral argument was necessary for certain categories of proposed evidence in order to determine whether the requirements of Rule 115 were satisfied. An evidentiary hearing was subsequently held on 30 March 2001 (see Weekly Update 166) and the Appeals Chamber rendered its decision confidentially on 11 April 2001.

In its decision dated 11 April 2001, the Appeals Chamber admitted into evidence:

1) Eight documents from Croatian Archives relating to Zoran Kupreškić’s command role. The Appeals Chamber noted the Trial Chamber’s finding that Zoran Kupreškić was a “*local HVO Commander and that his activities were not limited to assigning village guard duties as he alleged*” and thus held that, in the interests of justice, the eight documents should be admitted as they are “*important and could show that the Trial Chamber’s findings as to Zoran Kupreškić’s station are incorrect.*” Further, noting that it “*is not clear from the findings whether the Trial Chamber was saying that Zoran Kupreškić was part of a formal HVO hierarchy or operated as part of an entirely different local HVO structure*”, the Appeals Chamber held that, had the evidence been before the Trial Chamber, it may have “*led to a different result as to Zoran Kupreškić’s command role and sentence.*”

2) The evidence of witnesses ADA, ADB, ADC and Miro Lazarević, as well as exhibits AD4/3, AD5/3, AD6/3, AD8/3, AD9/3 and AD11/3. Considering that, “*in the exceptional circumstances of this case*”, a miscarriage of justice could result if the evidence of witness ADA was not heard (the witness claims to have been in a position whereby he could see Vlatko Kupreškić’s store and house and that he neither saw Vlatko Kupreškić nor witness L, who testified in this trial on 17 September 1998, at any stage nor witnessed any troops at the home); and noting that the circumstances in which the evidence came to light that led the Trial Chamber to find Vlatko Kupreškić was an active operations police officer raises questions regarding the fairness of the trial, the Appeals Chamber held that Vlatko Kupreškić may call evidence to deal with these issues.

The Appeals Chamber admitted this evidence into the appeal proceedings without prejudice to the determination of the weight to be afforded to it and noted that “*the prosecution has maintained a right to call evidence in rebuttal and cross-examine any witness from whom statements have been proffered.*” The

Appeals Chamber ordered that an evidentiary hearing be scheduled “*in the near future*” to consider these matters.

**KRAJIŠNIK and PLAVŠIĆ CASE (“Bosnia and Herzegovina”)**

**DECISION ON MOTION TO ALLOW DEFENCE TO BE PRESENT AT VERIFICATION OF STATEMENTS AND TO VIDEO TAPE PROCEEDINGS**

On 1 June 2001, Trial Chamber III (Judges May (Presiding), Robinson and Fassi Fihri) denied Krajišnik’s “Notice of motion to allow the defence to be present at the verification of statements and to video tape proceedings in the nature of examinations before trial”, filed on 23 May 2001.

In the notice, the accused sought to compel the prosecution to notify the defence and allow the defence to be present at the execution and verification of statements before a Presiding Officer which are to be used by the Prosecutor as evidence pursuant to the provisions of Rules 92bis, that is, the proof of facts other than by oral testimony, and to allow the defence to “*pose questions to be recorded by videotape pursuant to Rule 71, in the nature of depositions*”.

In denying the motion, the Trial Chamber considered that, “*the purpose of Rule 92bis(B) is to provide a procedure for certifying written statements and not for the examination of testimony; and that the Presiding Officer or authorised person (and not one of the parties) is responsible for ensuring that the procedure is properly carried out*”. Further, “*the Defence will have the opportunity of making submissions before the Trial Chamber determines whether to admit any written statement certified according to Rule 92bis(B) and whether it is appropriate for the relevant witness to attend for cross-examination.*”

***A comprehensive summary of the status of all cases currently before the Tribunal can be found on the Tribunal’s web site: <http://www.un.org/icty/glance/casestatus.htm>***

**COURTROOM SCHEDULE: 11 – 15 JUNE\***

**MONDAY 11 JUNE**

Courtroom I 09:30 - 13:00, **Krnojelac**, Trial  
14:30 - 16:00, **Krnojelac**, Trial

**TUESDAY 12 JUNE**

Courtroom I 09:30 - 13:00, **Krnojelac**, Trial  
14:30 - 16:00, **Krnojelac**, Trial

**WEDNESDAY 13 JUNE**

Courtroom I 09:30 - 13:00, **Krnojelac**, Trial  
14:30 - 16:00, **Krnojelac**, Trial  
Courtroom III 10:00, **Stakić**, status conference  
15:00, **Galić**, status conference

**THURSDAY 14 JUNE**

Courtroom I 09:30 - 13:00, **Krnojelac**, Trial  
14:30 - 16:00, **Krnojelac**, 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.

Public proceedings are also broadcast with a 30 minute delay on the ICTY’s web site:

<http://www.un.org/icty/schedule/week-e.htm> (in English);

<http://www.un.org/icty/bhs/week-b.htm> (na bosanskom/hrvatskom/srpskom).

For the latest list of all court filings, please visit the [ICTY Court Records](#)

For a selection of the latest public documents, please visit the [ICTY Website](#)