

1730
D1730-1727/M

17 November 1995
D222-D219 222

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-95-14-I

BEFORE A JUDGE OF THE TRIAL CHAMBER

Before: JUDGE GABRIELLE KIRK McDONALD

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of: 10 NOVEMBER 1995

**THE PROSECUTOR
OF THE TRIBUNAL**

v.

MARIO ČERKEZ

**WARRANT OF ARREST
ORDER FOR SURRENDER**

To: The Republic of Croatia

I, G.K. McDONALD, Judge of the International Criminal Tribunal for the former Yugoslavia,

CONSIDERING United Nations Security Council Resolution 827 of 25 May 1993, and Articles 19(2) and 29 of the Statute, and Rules 54 to 61 of the Rules of Procedure and Evidence of the International Criminal Tribunal for the former Yugoslavia,

CONSIDERING the Indictment submitted by the Prosecutor against, Mario ČERKEZ and confirmed by a Judge of the International Criminal Tribunal for the former Yugoslavia on the 10th day of NOVEMBER 1995, a copy of which is annexed to this warrant of arrest,

HEREBY DIRECT the authorities of the Republic of Croatia to search for, arrest and surrender to the International Criminal Tribunal for the former Yugoslavia:

Mario ČERKEZ was born on 27 March 1959 in the village of Rijeka, municipality of Vitez, in the Republic of Bosnia and Herzegovina whose

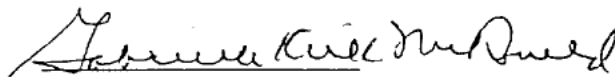
official personal identification number is 2703959193612, is currently the Brigade Commander of the Viteška Brigade and is residing at Žrtava Fašizma Street 30, Vitez.

Mario ČERKEZ is alleged to have committed between 1 January 1993 and 31 May 1993 in the Lašva Valley area of Central Bosnia and Herzegovina: Grave Breaches of the Geneva Conventions of 1949 as recognised by Articles 2 (a), (b), (c) and (d) of the Statute of the Tribunal; and Violations of the Laws or Customs of War as recognised by Article 3 of the Statute of the Tribunal and Article 3 (1) (a) of the Geneva Conventions of 1949. All of which are within the competence of the International Criminal Tribunal for the former Yugoslavia.

And to advise the said Mario ČERKEZ at the time of his arrest, and in a language he understands, of his rights as set forth in Article 21 of the Statute and, *mutatis mutandis*, in Rules 42 and 43 of the Rules of Procedure and Evidence which are set out below, and of his right to remain silent, and to caution him that any statement he makes shall be recorded and may be used in evidence. The indictment and review of the indictment (and all other documents annexed to the present warrant) must also be brought to the attention of the accused,

REQUEST THAT the Republic of Croatia, upon the arrest of Mario ČERKEZ, promptly notify the Registrar of the International Criminal Tribunal for the former Yugoslavia, for the purposes of his transfer pursuant to Rule 57 of the Rules of Procedure and Evidence,

REQUEST THAT the Republic of Croatia report forthwith to the Registrar of the International Criminal Tribunal for the former Yugoslavia if it is unable to execute the present warrant of arrest, indicating the reasons for its inability pursuant to Rule 59(A) of the Rules of Procedure and Evidence.



Judge, Trial Chamber

International Criminal Tribunal for the former Yugoslavia

Dated this 10th day of NOVEMBER 1995,
At The Hague,
The Netherlands

Case No. IT-95-14-I

(Seal of the Tribunal)

IT-95-14-I
1728
207

1728
220

Article 21

Rights of the accused

1. All persons shall be equal before the International Tribunal.
2. In the determination of charges against him, the accused shall be entitled to a fair and public hearing, subject to article 22 of the Statute.
3. The accused shall be presumed innocent until proved guilty according to the provisions of the present Statute.
4. In the determination of any charge against the accused pursuant to the present Statute, the accused shall be entitled to the following minimum guarantees, in full equality:
 - a) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - b) to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - c) to be tried without undue delay;
 - d) to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - e) to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - f) to have the free assistance of an interpreter if he cannot understand or speak the language used in the International Tribunal;
 - g) not to be compelled to testify against himself or to confess guilt.

II-95-141-I
1727
WJ

1727
\$ 214

Rule 42

Rights of Suspects during Investigation

- A) A suspect who is to be questioned by the Prosecutor shall have the following rights, of which he shall be informed by the Prosecutor prior to questioning, in a language he speaks and understands:
- (i) the right to be assisted by counsel of his choice or to have legal assistance assigned to him without payment if he does not have sufficient means to pay for it; and
 - (ii) the right to have the free assistance of an interpreter if he cannot understand or speak the language to be used for questioning.
- B) Questioning of a suspect shall not proceed without the presence of counsel unless the suspect has voluntarily waived his right to counsel. In case of waiver, if the suspect subsequently expresses a desire to have counsel, questioning shall thereupon cease, and shall only resume when the suspect has obtained or has been assigned counsel.

Rule 43

Recording Questioning of Suspects

Whenever the Prosecutor questions a suspect, the questioning shall be tape-recorded or video-recorded, in accordance with the following procedure:

- (i) the suspect shall be informed in a language he speaks and understands that the questioning is being tape-recorded or video-recorded;
- (ii) in the event of a break in the course of the questioning, the fact and the time of the break shall be recorded before tape-recording or video-recording ends and the time of resumption of the questioning shall also be recorded;
- (iii) at the conclusion of the questioning the suspect shall be offered the opportunity to clarify anything he has said, and to add anything he may wish, and the time of conclusion shall be recorded;
- (iv) the tape shall then be transcribed and a copy of the transcript supplied to the suspect, together with a copy of the recorded tape or, if multiple recording apparatus was used, one of the original recorded tapes; and
- (v) after a copy has been made, if necessary, of the recorded tape for purposes of transcription, the original recorded tape or one of the original tapes shall be sealed in the presence of the suspect under the signature of the Prosecutor and the suspect.