



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-96-23-PT
Date: 15 February 2000
Original: English

IN THE TRIAL CHAMBER

Before: Judge Florence Ndepele Mwachande Mumba, Presiding
Judge David Anthony Hunt
Judge Fausto Pocar

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of: 15 February 2000

PROSECUTOR

v.

**DRAGOLJUB KUNARAC
RADOMIR KOVAČ**

and

ZORAN VUKOVIĆ

DECISION ON JOINDER OF TRIALS

Office of the Prosecutor:

Mr. Dirk Ryneveld
Ms. Peggy Kuo
Ms. Hildegard Uertz-Retzlaff

Counsel for the Applicant:

Mr. Goran Jovanović for the accused Zoran Vuković

Counsel for the Accused:

Mr. Slaviša Prodanović for the accused Dragoljub Kunarac
Mr. Momir Kolesar for the accused Radomir Kovač

1. INTRODUCTION

1. In the “Decision on Joinder of Trials” (“previous Decision”), issued on 9 February 2000, this Trial Chamber denied Zoran Vuković’s (“Applicant”) request for joinder of trials and the postponement of the trial.¹ However, it was further decided that

should the Applicant determine that he will have prepared his defence and that he will be ready for trial on 20 March 2000, the same date scheduled for the trial of Dragoljub Kunarac and Radomir Kovać, he may approach the Trial Chamber again for relief.

2. The Trial Chamber is now seised of a motion² (“Motion”), filed on 10 February 2000, in which the Applicant essentially applies for a joinder of his trial to that of Dragoljub Kunarac and Radomir Kovać (“two co-accused”), indicating that he will be ready for trial on 20 March 2000. The Applicant further indicates that he waives his right to preliminary motions on the indictment.

2. DISCUSSION

3. The application for a joint trial is pursuant to Rule 48 (“Joinder of Accused”) of the Rules of Procedure and Evidence, which reads that “Persons accused of the same or different crimes committed in the course of the same transaction may be jointly charged and tried”. Under Rule 2 (“Definitions”), “Transaction” is defined as:

A number of acts or omissions whether occurring as one event or a number of events, at the same or different locations and being part of a common scheme, strategy or plan.

4. The Applicant, the two co-accused and five others were charged with various crimes in an original indictment that was confirmed on 26 June 1996. For reasons unrelated to the issue of whether the various alleged crimes were committed in the course of the same transaction, there are currently two indictments in relation to the Applicant and the two co-accused. They are the indictment upon which the two co-accused are charged and the indictment upon which the Applicant is charged with four of the five original co-accused (“separate indictment”),³ which was confirmed on 7 October 1999 and served as basis upon which the Applicant pleaded on 29 December 1999.

¹ Following the “Defence Request for Joint of [sic] Trial”, filed on 1 February 2000.

² “Defence of the Accused Mr. Zoran Vuković Approves for a Joint Trial to Start on 20 March 2000”, 10 Feb. 2000.

5. Having regard to the separate indictment, the Trial Chamber considers that the Applicant is charged with crimes committed in the course of the same transaction as that relating to the two co-accused. The allegations against the Applicant generally concern torture and rape that were committed during an armed conflict in mid-1992 in the Foča municipality against various women at various locations. The allegations levelled against the two co-accused significantly overlap with those against the Applicant, in some instances involving the same victims, the same time frames and the same locations.

6. A joint trial, starting on 20 March 2000, will be in the interests of the Applicant and will, at least at present, serve the interests of judicial economy.

3. DISPOSITION

7. The Trial Chamber, for the foregoing reasons, pursuant to Rules 48, 65*ter*, 66, 67, 69 and 73 *bis*, decides and orders as follows:

- (a) The Motion is granted.
- (b) The Prosecutor shall, in relation to the Applicant, comply with Rule 65*ter*(E) forthwith.
- (c) The Prosecutor shall forthwith serve unredacted statements and documents to the Applicant.
- (d) The Applicant shall strictly comply with Rule 65*ter*(F) on or before Monday, 28 February 2000.
- (e) The Applicant shall comply with Rule 67(A)(ii) on or before Monday, 28 February 2000.
- (f) The Applicant shall attend the Pre-trial Conference scheduled for Thursday, 2 March 2000 at 16:30.

³ The Applicant's four co-accused on the separate indictment are Gojko Janković, Janko Janjić, Dragan Zelenović and Radovan Stanković. The indictment against the remaining original co-accused, Dragan Gagović, was withdrawn on 30 July 1999 following his death.

(g) All the protective measures orders, including the “Order on Protective Measures” of 4 October 1999, the “Decision on Prosecution Motion to Protect Victims and Witnesses” of 19 April 1998, the “Order on Prosecutor’s Motion Requesting Protective Measures for Witnesses at Trial” of 5 October 1998, the “Decision Granting Protective Measures for Witness FWS-191” of 20 November 1998 and the confidential “Decision on Prosecutor’s Motion Related to Witnesses FWS-191 and FWS - 192” of 26 March 1999, shall strictly apply to the Applicant.

Done in both English and French, the English version being authoritative.



Judge Mumba
Presiding

Dated this fourteenth day of February 2000,
At The Hague,
The Netherlands

[Seal of the Tribunal]