

United Nations
Nations UniesInternational Criminal Tribunal
for the former Yugoslavia
Tribunal Pénal International
pour l'ex-Yougoslavie

“FOČA” (IT-96-23/2)
**JANKOVIĆ
& STANKOVIĆ**

The Prosecutor v. Gojko Janković & Radovan Stanković**GOJKO JANKOVIĆ***Indicted for torture and rape*

Sub-commander of the military police and one of the main paramilitary leaders in Foča, located south-east of Sarajevo, Bosnia and Herzegovina, near the border with Serbia and Montenegro

- Transferred to the State Court of Bosnia and Herzegovina on 8 December 2005
- Sentenced by the BiH Court to 34 years' imprisonment on 19 November 2007

*Crimes indicted for (examples):***Torture and rape** (crimes against humanity and violations of the laws or customs of war)

- Gojko Janković raped, participated in the gang-rape of and tortured a number of Muslim women and girls held in classrooms at Foča High School, which was used as a short term detention facility. Women who resisted sexual assaults were threatened with death or were beaten.
- He tortured and raped Muslim women and girls held at the Partizan Sports Hall, a detention facility in Foča. The detention was characterised by inhumane treatment, unhygienic facilities, overcrowding, starvation, physical and psychological torture, including sexual assaults.
- On or about 30 October 1992, he raped four female detainees from the premises known as Karaman's house, a home located just outside Foča where detainees were held living in constant fear for their lives.
- Gojko Janković knew or had reason to know that soldiers subordinate to him sexually assaulted women and girls and he failed to take the necessary steps to prevent it or to punish the subordinates thereof.

RADOVAN STANKOVIĆ*Indicted for enslavement, rape and outrages upon personal dignity*

Member of the Miljevina battalion, a Bosnian Serb paramilitary unit in Foča

- Transferred to the State Court of Bosnia and Herzegovina on 29 September 2005
- Sentenced by the BiH Court to 20 years' imprisonment on 28 March 2007

*Crimes convicted of (examples):***Enslavement, rape and outrages upon personal dignity** (crimes against humanity and violations of the laws or customs of war)

- Radovan Stanković was in charge of Karaman's house, where women and girls, some as young as 12 and 14 years of age, were detained so that Serb soldiers and other Serb men could sexually assault them. He

kept tight control on their movements and participated in the assignment of girls and women to Serb soldiers so that those soldiers could rape and otherwise sexually assault them. The girls and women not specifically assigned to certain Serb soldiers could be raped by any soldier allowed into Karaman's House. At Karaman's house, the detainees constantly feared for their lives. If any of the women or girls refused to obey orders, they would be beaten. Soldiers often told the women that they would be killed after the soldiers were finished with them because they knew too much;

- Radovan Stanković and others degradedly treated the women and girls as their personal property. During the entire period of their detention the girls and women were subjected to repeated rapes and sexual assaults. Radovan Stanković was usually present in Karaman's House during these incidents. In addition to the rapes and other sexual assaults, he regularly ordered all the female detainees to work for him and the other Serb soldiers, by washing uniforms and by cooking and cleaning the house;
- Radovan Stanković repeatedly raped, assaulted and threatened two victims. He also threatened to rape others.

GOJKO JANKOVIĆ	
Born	Born on 31 October 1954 in Trbušće, municipality of Foča, Bosnia and Herzegovina
Indictment	Initial: 26 June 1996; amended: 7 October 1999; second amended: 20 April 2001
Surrendered	13 March 2005
Transferred to ICTY	14 March 2005
Initial and further appearances	18 March 2005, did not enter a plea; 15 April 2005, pleaded not guilty to all charges
Transferred to Bosnia and Herzegovina	8 December 2005

RADOVAN STANKOVIĆ	
Born	10 March 1969 in Trebiča, municipality of Foča,, Bosnia-Herzegovina
Indictment	26 June 1996; amended: 7 October 1999; second amended: 28 February 2003; third amended: 24 February 2004
Arrested	9 July 2002, by multinational Stabilisation Force (SFOR)
Transferred to ICTY	10 July 2002
Initial and further appearances	12 July 2002, did not enter a plea, a non-guilty plea entered by a judge; 6 March 2003, did not enter a plea; 4 April 2003, did not enter a plea, a non-guilty plea entered by a judge
Transferred to Bosnia and Herzegovina	29 September 2005

STATISTICS

REFERRAL PROCEEDINGS FOR GOJKO JANKOVIĆ	
Motion by the Prosecutor	29 November 2004
Decision by the Referral Bench	22 July 2005, affirmed by the Appeals Chamber on 15 November 2005
Referral Bench	Judge Alphonse Orié (presiding), Judge O-Gon Kwon, Judge Kevin Parker
Counsel for the Prosecution	Mark J. McKeon, Susan L. Somers
Counsel for the Defence	Aleksandar Lazarević, Tomislav Višnjić

REFERRAL PROCEEDINGS FOR RADOVAN STANKOVIĆ	
Motion by the Prosecutor	21 September 2004
Decision by the Referral Bench	17 May 2005, affirmed by the Appeals Chamber on 1 September 2005
Referral Bench	Judge Alphonse Orié (presiding), Judge O-Gon Kwon, Judge Kevin Parker
Counsel for the Prosecution	Mark McKeon
Counsel for the Defence	Victor Koppe

RELATED CASES <i>by geographical area</i>	
KARADŽIĆ & MLADIĆ (IT-95-5/18) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"	
KRAJISNIK (IT-00-39 AND 40) "BOSNIA AND HERZEGOVINA"	
KRNOJELAC (IT-97-25) "FOČA"	
KUNARAC <i>et al.</i> (IT-96-23 & 23/1) "FOČA"	
MILOŠEVIĆ (IT-02-54) "KOSOVO, CROATIA & BOSNIA"	
PLAVŠIĆ (IT-00-39 AND 40/1) "BOSNIA AND HERZEGOVINA"	
TODOVIĆ & RAŠEVIĆ (IT-97-25/1) "FOČA"	

INDICTMENT AND CHARGES

The initial indictment, confirmed on 26 June 1996, included five other accused - Dragoljub Kunarac, Radomir Kovač, Zoran Vuković, Dragan Gagović and Janko Janjić.

Following the death of Dragan Gagović on 30 July 1999, the indictment was withdrawn against him. Dragoljub Kunarac was severed from the original indictment in an amended indictment, confirmed on 19 August 1998. On 3 September 1999, a second amended indictment was confirmed joining Dragoljub Kunarac and Radomir Kovač (case number IT-96-23).

An amended indictment was confirmed against Gojko Janković, Dragan Zelenović, Janko Janjić, Zoran Vuković and Radovan Stanković on 7 October 1999. Gojko Janković was transferred to the ICTY on 14 March 2005. Janko Janjić is deceased. Radovan Stanković was arrested on 9 July 2002 and transferred to the Tribunal the next day.

Following his detention, a redacted indictment was filed against Zoran Vuković on 21 February 2000 (case number IT-96-23/1) containing only the facts and charges against him.

Dragoljub Kunarac, Radomir Kovač and Zoran Vuković, were tried in a joint trial which commenced on 20 March 2000. On 22 February 2001, the Trial Chamber rendered its judgement, convicting Dragoljub Kunarac to 28 years' imprisonment, Radomir Kovač to 20 years' imprisonment and Zoran Vuković to 12 years' imprisonment. The Appeals Chamber affirmed these sentences on 12 June 2002.

An amended indictment against Gojko Janković, Dragan Zelenović and Radovan Stanković was filed on 20 April 2001. Radovan Stanković was arrested on 9 July 2002 and transferred to the Tribunal the next day. On 3 March 2003, the Prosecution filed a separate indictment against him (second amended indictment, which was confirmed on 28 February 2003). The Prosecution later filed a third amended indictment against Radovan Stanković, which was confirmed on 24 February 2004. On 21 September 2004, the Prosecutor requested that the case against Radovan Stanković be referred to Bosnia and Herzegovina pursuant to Rule 11*bis*. A hearing was held on 4 March 2005 and the Referral Bench rendered its decision on 17 May 2005 for the case to be referred. Both the Prosecution and the Defence appealed the decision. On 1 September 2005, the Appeals Chamber confirmed the decision to refer the case to Bosnia and Herzegovina. Radovan Stanković was transferred to Bosnia and Herzegovina on 29 September 2005.

On 29 November 2004, the Prosecution filed a motion to have the case against Gojko Janković and Dragan Zelenović transferred to the authorities of Bosnia and Herzegovina for trial by a court of the state, under Rule 11*bis* of the Rules of Procedure and Evidence of the ICTY. Both accused were still at large.

On 14 March 2005, Gojko Janković was transferred to the ICTY. A motion hearing was held on 12 May 2005. On 22 July 2005, the Referral Bench rendered its decision to refer the case to the authorities of Bosnia and Herzegovina. Initially, both the Prosecution and the Defence appealed the decision. The Prosecution subsequently withdrew its appeal. On 15 November 2005, the Appeals Chamber confirmed the decision to refer the case to Bosnia and Herzegovina. Gojko Janković was transferred to Bosnia and Herzegovina on 8 December 2005.

On 10 June 2006, Dragan Zelenović was transferred to the ICTY. The operative indictment against him was confirmed on 7 October 1999 and re-filed on 20 April 2001. It still contained the names of Gojko Janković and Radovan Stanković, although these accused and their cases had been referred to Bosnia and Herzegovina.

On 14 December 2006, the parties jointly filed a plea agreement and the Trial Chamber requested that a redacted indictment against Dragan Zelenović be filed. The Prosecution filed the redacted indictment on 16 January 2007.

The indictment against Gojko Janković alleges that, following the take-over of Foča in April 1992 by Serb forces, military police accompanied by local and non-local soldiers started arresting Muslim and Croat inhabitants. During the arrests many civilians were killed, beaten or subjected to sexual assault. Muslim women, children and the elderly, were detained in houses, apartments and motels in the town of Foča and in surrounding villages, or at short and long-term detention centres such as Buk Bijela, Foča High School and Partizan Sports Hall.

According to the indictment, Gojko Janković was a sub-commander of the military police and a paramilitary leader in Foča.

He was involved in the interrogation, torture and rape of women at Buk Bijela, a detention centre in the region of Foča, young women and girls at Foča High School and at the Partizan Sports Hall.

Gojko Janković was also involved in the military attack on Foča town and various surrounding villages and in the arrest of civilians in leading positions. He was responsible for the acts of soldiers subordinate to him and knew or had reasons to know that they sexually assaulted Muslim women during or immediately following their interrogations.

According to the indictment against Radovan Stanković, he was a member of a Bosnian Serb paramilitary unit in Foča, namely the Miljevina battalion, at the relevant time. This unit was commanded by Pero Elez, a Serb paramilitary leader in a position of regional authority. The Miljevina battalion (headquartered in the Miljevina Motel, close to Foča) was subordinated to the Foča Tactical Brigade. Among other soldiers under Elez's command, Radovan Stanković used the abandoned house of a Muslim, Nusret Karaman, as a residence. He was in charge of this house, where at least nine Muslim women were detained from 3 August 1992 until on or about 10 October 1992. He participated in the constant sexual assault of these detainees.

For their alleged crimes, the accused were charged as follows:

Gojko Janković is charged on the basis of individual criminal responsibility (Article 7(1) of the Statute) and superior criminal responsibility (Article 7(3)) with:

- Torture and rape (violations of the laws or customs of war, Article 3 and crimes against humanity, Article 5)

Radovan Stanković is charged on the basis of individual criminal responsibility with:

- Enslavement and rape (crimes against humanity, Article 5), and
- Rape and outrages upon personal dignity (violations of the laws or customs of war, Article 3).

REFERRAL IN ACCORDANCE WITH RULE 11*bis*

For a case to be referred pursuant to Rule 11*bis* of the Tribunal's Rules of Procedure and Evidence, the Referral Bench, comprised of three judges, has to order a referral of its own accord or following a request from the Prosecutor. A decision to refer a case is rendered only if the Bench is fully satisfied that the accused would be tried in accordance with international standards and that neither the level of responsibility of the accused nor the gravity of the crimes alleged in the indictment were factors that would make a referral to the national authorities inappropriate.

On 21 September 2004, the Prosecutor requested that the case against Radovan Stanković be referred to Bosnia and Herzegovina pursuant to Rule 11*bis*. A hearing was held on 4 March 2005 and the Referral Bench rendered its decision on 17 May 2005 for the case to be referred. Both the Prosecution and the Defence appealed the decision. On 1 September 2005, the Appeals Chamber confirmed the decision to refer the case to Bosnia and Herzegovina. Radovan Stanković was transferred on 29 September 2005.

The Prosecution filed a motion for referral of the case against Gojko Janković on 29 November 2004, while the accused was still at large (he was transferred into the Tribunal's custody on 14 March 2005). A motion hearing was held on 12 May 2005. On 22 July 2005, the Referral Bench rendered its decision to refer the case to the authorities of Bosnia and Herzegovina. Initially, both the Prosecution and the Defence appealed the decision. The Prosecution subsequently withdrew its appeal. On 15 November 2005, the Appeals Chamber confirmed the decision to refer the case to Bosnia and Herzegovina. Gojko Janković was transferred on 8 December 2005.

On 14 November 2006, the Court of Bosnia and Herzegovina sentenced Radovan Stanković to 16 years' imprisonment.

On 16 February 2007, the Court of Bosnia and Herzegovina sentenced Gojko Janković to 34 years' imprisonment.

On 28 March 2007, the Appellate Panel of the Court of Bosnia and Herzegovina modified the sentence by the Trial Panel and sentenced Radovan Stanković to 20 years' imprisonment.

On 19 November 2007, the Appellate Panel of the Court of Bosnia and Herzegovina upheld the sentence of 34 years’ imprisonment for Gojko Janković.