

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

“OMARSKA CAMP & KERATERM CAMP” (IT-02-65)

MEJAKIĆ *et al.*

The Prosecutor v. Željko Mejakić, Momčilo Gruban, Dušan Fuštar & Duško Knežević



ŽELJKO MEJAKIĆ

Indicted for persecutions on political, racial or religious grounds, murder, inhumane acts and cruel treatment



Commander of the Omarska detention camp, which was established by Serbian forces in a former mining complex in the village of Omarska, approximately 20 to 25 kilometres from the town of Prijedor, in north-western Bosnia and Herzegovina

- Case referred to Bosnia and Herzegovina
- Sentenced by the BiH Court to 21 years' imprisonment

MOMČILO GRUBAN

Indicted for persecutions on political, racial or religious grounds, murder, inhumane acts and cruel treatment



Guard shift commander at the Omarska camp who supervised one of the three shifts of guards that operated within the camp

- Case referred to Bosnia and Herzegovina
- Sentenced by the BiH Court to seven years' imprisonment

DUŠAN FUŠTAR

Indicted for persecutions on political, racial or religious grounds, murder, inhumane acts and cruel treatment



Guard shift commander at the Keraterm detention camp, established by Bosnian Serb forces in mid 1992, located on the site of a ceramics factory on the eastern outskirts of Prijedor in north-western Bosnia and Herzegovina; supervised one of the three shifts of guards that operated within the camp

- Case referred to Bosnia and Herzegovina
- Sentenced by the BiH Court to nine years' imprisonment (sentencing judgement)

DUŠKO KNEŽEVIĆ

Indicted for persecutions on political, racial or religious grounds, murder, inhumane acts and cruel treatment



Did not appear to hold an official position in either the Keraterm or the Omarska camp, but had sufficient authority to be able to enter and leave the camps at will

- Case referred to Bosnia and Herzegovina
- Sentenced by the BiH Court to 31 years' imprisonment

Crimes indicted for:

Persecutions on political, racial or religious grounds; murder; inhumane acts (crimes against humanity)
Murder; cruel treatment (violations of the laws or customs of war)

Between 24 May 1992 and 30 August 1992, Željko Mejačić, Momčilo Gruban, Dušan Fuštar and Duško Knežević, acting individually and in concert with each other and other participants within a joint criminal enterprise, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of persecutions of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Omarska and Keraterm camps, on political, racial or religious grounds. The persecutions included:

- Murder, beatings and sexual assault of Bosnian Muslims, Bosnian Croats and other non-Serbs detained in the Omarska and Keraterm camps;
- Confinement in inhumane conditions, harassment, humiliation and psychological abuse of Bosnian Muslims, Bosnian Croats and other non-Serbs in the Omarska and Keraterm camps.

ŽELJKO MEJAKIĆ	
Born	2 August 1964 in Petrov Gaj, Bosnia and Herzegovina
Indictment	Initial: 13 February 1995; joinder: 17 September 2002; consolidated: 5 July 2002
Surrendered	1 July 2003
Transferred to ICTY	4 July 2003
Initial appearance	7 July 2003, pleaded not guilty to all charges
Transferred to Bosnia and Herzegovina	9 May 2006

MOMČILO GRUBAN	
Born	19 June 1961 in Marička, Bosnia and Herzegovina
Indictment	Initial: 13 February 1995; joinder: 17 September 2002; consolidated: 5 July 2002
Surrendered	2 May 2002
Transferred to ICTY	2 May 2002
Initial and further appearances	10 May 2002, pleaded not guilty to all charges; 10 December 2002, pleaded not guilty to additional charges of the consolidated indictment
Provisionally released	17 July 2002
Transferred to Bosnia and Herzegovina	9 May 2006

DUŠAN FUŠTAR	
Born	29 June 1954 in Prijedor, Bosnia and Herzegovina
Indictment	Initial: 21 July 1995; joinder: 17 September 2002; consolidated: 5 July 2002
Surrendered	31 January 2002
Transferred to ICTY	31 January 2002
Initial appearance	6 February 2002, pleaded not guilty to all charges
Transferred to Bosnia and Herzegovina	9 May 2006

DUŠKO KNEŽEVIĆ

Born	17 June 1967 in the Orlovci area, municipality of Prijedor, Bosnia and Herzegovina
Indictment	Initial: 13 February 1995; joinder: 17 September 2002; consolidated: 5 July 2002
Surrendered	18 May 2002
Transferred to ICTY	18 May 2002
Initial appearance	24 May 2002, pleaded not guilty to all charges; 10 December 2002, pleaded not guilty to additional charges of the consolidated indictment
Transferred to Bosnia and Herzegovina	9 May 2006

REFERRAL PROCEEDINGS

Motion by the Prosecutor	2 September 2004
Decision by the Referral Bench	20 July 2005
Referral Bench	Judge Alphonse Orié (presiding), Judge O-Gon Kwon, Judge Kevin Parker
Counsel for the Prosecution	Mark J. McKeon, Susan L. Somers, Ann Sutherland
Counsel for the Defence	For Željko Mejakić: Jovan Simić and Zoran Živanović For Momčilo Gruban: Branko Lukić For Dušan Fuštar: Theodore Scudder and Dragan Ivetić For Duško Knežević: Slobodanka Nedić
Appeals Chamber Decision	7 April 2006
Appeals Chamber	Judge Fausto Pocar (presiding), Judge Mehmet Güney, Judge Liu Daqun, Judge Andréia Vaz, Judge Wolfgang Schomburg

RELATED CASES

by geographical area

BANOVIĆ (IT-02-65/1) "OMARSKA CAMP & KERATERM CAMP"
BOROVNICA (IT-95-3) "PRIJEDOR"
BRĐANIN (IT-99-36) "KRAJINA"
KARADŽIĆ & MLADIĆ (IT-95-5/18) "BOSNIA AND HERZEGOVINA" & "SREBRENICA"
KRAJISNIK (IT-00-39 AND 40) "BOSNIA AND HERZEGOVINA"
KVOČKA <i>et al.</i> (IT-98-30/1) "OMARSKA, KERATERM & TRNOPOLJE CAMPS"
MILOŠEVIĆ (IT- 02-54) "KOSOVO, CROATIA & BOSNIA"
MRĐA (IT-02-59) "VLAŠIĆ MOUNTAIN"
PLAVŠIĆ (IT-00-39 AND 40/1) "BOSNIA AND HERZEGOVINA"
SIKIRICA <i>et al.</i> (IT-95-8) "KERATERM CAMP"
STAKIĆ (IT-97-24) "PRIJEDOR"
STANIŠIĆ, MIĆO (IT-04-79)
TADIĆ (IT-94-21) "PRIJEDOR"
ŽUPLJANIN (IT-99-36) "KRAJINA"
KOVAČEVIĆ & DRLJACA (IT-97-24) "PRIJEDOR"

INDICTMENT AND CHARGES

The initial indictment against Željko Mejakić, Momčilo Gruban, and Duško Knežević was confirmed on 13 February 1995 and included 11 other co-accused. On 8 May 1998, the Prosecutor was granted leave to withdraw the charges against Zdravko Govedarica, (first name unknown) Gruban, Predrag Kostić a.k.a. "Kole", Neđeljko Paspalj, Milan Pavlič, Milutin Popović, Draženko Predojević, Željko Savić, Mirko Babić, Nikica Janjić and Dragomir Šaponja.

On 9 November 1998, the Prosecutor was granted leave to withdraw Miroslav Kvočka, Mladen Radić, Milojica Kos and Zoran Žigić from the indictment, to amend the Keraterm indictment (case number IT-95-8) to withdraw Zoran Žigić, and thereafter to consolidate the charges against the four co-accused into one single indictment called *Kvočka et al.* (case number IT-98-30).

Following the detention of Dragoljub Prcać, the Trial Chamber, on 14 April 2000, joined the case against him to that of *Kvočka et al.* under the case number IT-98-30/1.

The initial indictment against Dušan Fuštar was confirmed on 21 July 1995 and included 11 other co-accused. The indictment against Nikica Janjić was withdrawn after he passed away. The indictment against Dragan Kondić, Goran Lajić, Dragomir Šaponja and Neđeljko Timarac was withdrawn on 5 May 1998 after it was determined that in view of the Tribunal's overall prosecutorial policy, the accused should be tried in a national court. Amended indictments against the remaining accused were issued on 30 August 1999. The second amended indictment against Duško Sikirica, Damir Došen, Dušan Fuštar, Dragan Kolundžija Nenad Banović, Predrag Banović and Duško Knežević was confirmed on 3 January 2001. The cases against Dušan Fuštar, Nenad Banović, Predrag Banović and Duško Knežević were subsequently severed. On 27 March 2002, the Prosecution filed a Motion to withdraw the indictment against Nenad Banović. On 10 April 2002, a hearing was held on the Prosecution Motion. The Trial Chamber granted the Prosecution Motion and ordered the immediate release of Nenad Banović.

On 17 September 2002, the indictments against Željko Mejakić, Momčilo Gruban, Duško Knežević and Dušan Fuštar were joined. On 21 November 2002, the Trial Chamber granted the Prosecution's application to amend and consolidate the original indictments, and ordered that the consolidated indictment filed on 5 July 2002, and the attached schedules submitted by the Prosecution, be the operative indictment against the accused. Subsequently, the Prosecution was granted leave to amend the schedules attached to the indictment, and the last amended schedules were submitted on 13 January 2005.

The indictment alleged that, following the forcible take-over of Prijedor by Bosnian Serb police and army forces on 30 April 1992, the Prijedor Crisis Staff imposed severe restrictions on all aspects of life for non-Serbs, principally Bosnian Muslims and Bosnian Croats, including movement and employment. According to the indictment, Bosnian Serb authorities in the Prijedor municipality unlawfully segregated, detained and confined more than 7,000 Bosnian Muslims, Bosnian Croats and other non-Serbs from the Prijedor area in the Omarska, Trnopolje and Keraterm camps between May and August 1992. The indictment charged the accused with crimes which took place in the Omarska and Keraterm camps during this period. Severe beatings, killings, as well as other forms of physical and psychological abuse, including sexual assault, are alleged to have been commonplace at these camps, which operated in a manner designed to discriminate and subjugate the non-Serbs by inhumane acts and cruel treatment.

In the operative indictment, the accused were charged as follows:

Željko Mejakić, Momčilo Gruban, and Dušan Fuštar were charged with individual criminal responsibility (Article 7(1) of the Statute) and with superior criminal responsibility (Article 7(3)) and Duško Knežević was charged on the basis of individual criminal responsibility (Article 7(1)) with:

- Persecutions on political, racial or religious grounds; murder; inhumane acts (crimes against humanity, Article 5)
- Murder; cruel treatment (violations of the laws or customs of war, Article 3)

Željko Mejakić and Momčilo Gruban were transferred from Serbia and Montenegro to The Hague on 4 July 2003 and 2 May 2002, respectively. Dušan Fuštar and Duško Knežević were transferred from Bosnia and

Herzegovina to The Hague on 31 January 2002 and 18 May 2002, respectively. Momčilo Gruban had been granted provisional release on 17 July 2002, and was ordered to return to the United Nations Detention Unit to be present for the delivery of the Referral Decision.

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 2 September 2004, the Prosecution filed a motion for the referral of the case against the four accused to the authorities of Bosnia and Herzegovina. On 3 and 4 March 2005, a hearing was held. On 20 July 2005, the Referral Bench decided 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. The Appeals Chamber confirmed the decision to refer the case to Bosnian authorities on 7 April 2006. All the accused were transferred to Bosnia and Herzegovina on 9 May 2006.

Their trial at the State Court of Bosnia and Herzegovina commenced on 20 December 2006.

On 22 April 2008, Dušan Fuštar was sentenced to nine years' imprisonment (following his plea agreement with the Prosecution).

On 30 May 2008, the State Court of BiH sentenced Željko Mejačić to 21 years', Momčilo Gruban to 11 years' and Duško Knežević to 31 years' imprisonment.

On 16 July 2009, the Appellate division of the State Court of BiH confirmed the sentences against Mejačić and Knežević, and reduced Momčilo Gruban's sentence to seven years' imprisonment.