

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

“FOČA” (IT-97-25/1)
**RAŠEVIĆ &
TODOVIĆ**

**MITAR RAŠEVIĆ**

Indicted for persecutions on political, racial and religious grounds, torture, inhumane acts, murder, imprisonment, enslavement, cruel treatment and slavery



Before and during the war, until at least October 1994, Commander of the guards at “Kazeno-Popravni Dom” (KP Dom), a detention camp in Foča, located south-east of Sarajevo, Bosnia and Herzegovina, near the border with Montenegro

- Transferred to the State Court of Bosnia and Herzegovina on 3 October 2006

Crimes indicted for (examples):

Persecutions on political, racial and religious grounds, torture, inhumane acts, murder, imprisonment, enslavement (crimes against humanity)
Torture, cruel treatment, murder, slavery (violations of the laws or customs of war)

- Mitar Rašević participated in a joint criminal enterprise, the purpose of which was to imprison Muslim and other non-Serb civilians from Foča and the surrounding areas in inhumane conditions and subject them to beatings, torture, enslavement, deportations and forcible transfers.
- He was instrumental in establishing and maintaining the living conditions in the detention facility which were brutal: cells were overcrowded and unheated, detainees were fed starvation rations and received no proper medical care. Solitary confinement cells were used as a source of terror and threats, and as a result detainees lived in constant fear that they would be the next victims.
- He participated in establishing and giving legitimacy to a pattern of widespread mistreatment - during their confinement detainees were subject to sudden arbitrary beatings which occurred on most evenings. A substantial number of selected detainees never returned from the beatings and are still missing.
- He participated in the forcible transfer and deportation of detainees from the prison in so called “prisoner exchanges” after which these detainees were never seen alive again.

SAVO TODOVIĆ

Indicted for persecutions on political, racial and religious grounds, torture, inhumane acts, murder, imprisonment, enslavement, cruel treatment and slavery



Worked as deputy commander of the KP Dom prison staff from April 1992 until at least August 1993, was the second in command in the prison hierarchy and had similar powers and duties as the camp commander

- Transferred to the State Court of Bosnia and Herzegovina on 3 October 2006

Crimes indicted for (examples):

Persecutions on political, racial and religious grounds, torture, inhumane acts, murder, imprisonment, enslavement (crimes against humanity)
Torture, cruel treatment, murder, slavery (violations of the laws or customs of war)

- Savo Todović participated in a joint criminal enterprise, the purpose of which was to imprison Muslim and other non-Serb civilians from Foča and the surrounding areas in inhumane conditions and subject them to beatings, torture, enslavement, deportations and forcible transfers.
- He was in charge of detainees, selecting them for killings, beatings, interrogations and punishment and on two occasions he personally beat and kicked the detainees.
- He participated in the establishment of a system of forced labour and personally assigned detainees to perform particular work, even if they were ill or injured. The work was challenging and physically exhausting. On one occasion, Savo Todović handed two detainees over to military authorities outside the prison to be used as drivers for the detection of land mines. The detainees worked under severe pressure with the danger that every day at work would be their last.

MITAR RAŠEVIĆ	
Born	15 November 1949, Čaguš, Bosnia and Herzegovina
Indictment	Initial: 17 June 1997; made public on 29 November 2001; amended: 12 May 2004; second joint amended: 7 April 2006
Transferred to the ICTY	15 August 2003
Initial and further appearances	18 August 2003, did not enter a plea; 16 September 2003, did not enter a plea, a plea of not guilty entered on his behalf
Transferred to Bosnia and Herzegovina	3 October 2006

SAVO TODOVIĆ	
Born	11 December 1952, Rijeka, Croatia
Indictment	Initial: 17 June 1997; made public on 29 November 2001; second joint amended: 7 April 2006
Transferred to the ICTY	15 January 2005
Initial and further appearances	19 January 2005, did not enter a plea; 17 February 2005, did not enter a plea, a plea of not guilty entered on his behalf
Transferred to Bosnia and Herzegovina	3 October 2006

PRE-TRIAL	
Trial Chamber II	Judge Carmel Agius (presiding), Judge Kevin Parker, Judge Jean-Claude Antonetti
Counsel for the Prosecution	Hildegard Uertz-Retzlaff
Counsel for the Defence	For Mitar Rašević: Vladimir Domazet For Savo Todović: Aleksandar Lazarević

REFERRAL PROCEEDINGS FOR MITAR RAŠEVIĆ	
Motion by the Prosecutor	4 November 2004
Decision by the Referral Bench	8 July 2005
Referral Bench	Judge Alphonse Orié (presiding), Judge O-Gon Kwon, Judge Kevin Parker
Counsel for the Prosecution	Susan L. Somers, Mark J. McKeon
Counsel for the Defence	Vladimir Domazet
Appeals Chamber	Judge Fausto Pocar (presiding), Judge Mehmet Güney, Judge Liu Daqun, Judge Andréia Vaz, Judge Wolfgang Schomburg
Appeals Chamber Decision	4 September 2006

REFERRAL PROCEEDINGS FOR SAVO TODOVIĆ	
Motion by the Prosecutor	1 November 2004
Decision by the Referral Bench	8 July 2005 and 31 May 2006
Referral Bench	Judge Alphonse Orié (presiding), Judge O-Gon Kwon, Judge Kevin Parker
Counsel for the Prosecution	Susan L. Somers, Mark J. McKeon
Counsel for the Defence	Aleksandar Lazarević
Appeals Chamber	Judge Fausto Pocar (presiding), Judge Mehmet Güney, Judge

	Liu Daqun, Judge Andréia Vaz, Judge Wolfgang Schomburg
Appeals Chamber Decision	23 February 2006 and 4 September 2006

RELATED CASES <i>by geographical area</i>	
JANKOVIĆ <i>et al.</i> (IT-96-23/2) "FOČA"	
KARADŽIĆ & MLADIĆ (IT-95-5/18) "BOSNIA AND HERZEGOVINA" AND "SREBRENICA"	
KRAJISNIK (IT-00-39 AND 40) "BOSNIA AND HERZEGOVINA"	
KRNOJELAC (IT-97-25) "FOČA"	
KUNARAC <i>et al.</i> "FOČA" (IT-96-23 AND 23/1)	
MILOŠEVIĆ (IT-02-54) "KOSOVO, CROATIA AND BOSNIA AND HERZEGOVINA"	
PLAVŠIĆ (IT-00-39 AND 40/1) "BOSNIA AND HERZEGOVINA"	

INDICTMENT AND CHARGES

On 29 November 2001, following a request by the Prosecutor, Judge Liu Daqun unsealed an indictment against Savo Todović and Mitar Rašević. Originally, Savo Todović and Mitar Rašević were jointly charged with Milorad Knojelac in an indictment confirmed on 17 June 1997. On 15 June 1998, the multinational Stabilisation Force (SFOR) apprehended Milorad Knojelac and transferred him to the Tribunal. On 17 September 2003, the Appeals Chamber sentenced him to 15 years' imprisonment.

On 12 May 2004, the Prosecution filed, pursuant to a Decision of the Trial Chamber dated 28 April 2004, an amended indictment related to Mitar Rašević only. On 23 March 2005, the Trial Chamber ordered that the Prosecution reconcile the initial indictment against Savo Todović with the amended indictment against Mitar Rašević and on 25 May 2005 the Prosecution filed a proposed joint amended indictment. On 21 March 2006, the Trial Chamber issued a decision ordering the prosecution to make changes to this indictment. The second joint amended indictment was confirmed on 7 April 2006 and declared it the operative indictment in the case.

According to the indictment, on 7 April 1992, Serb military forces, which included Bosnian Serbs and citizens of Serbian descent from other parts of the former Yugoslavia, began the occupation of Foča town, which was completed on 16 or 17 April 1992.

As soon as the Serb forces controlled parts of Foča town, military police, accompanied by local and non-local soldiers, started arresting Muslim and other non-Serb inhabitants. According to the indictment both the accused, Mitar Rašević and Savo Todović, participated in a joint criminal enterprise that came into existence no later than 18 April 1992 and continued until 31 October 1994. The purpose of the joint criminal enterprise was to imprison Muslim and non-Serb civilians from Foča and the surrounding areas in inhumane conditions and subject them to beatings, torture, enslavement, deportations and forcible transfers. Each participant within the joint criminal enterprise played his role or roles that significantly contributed to the overall objective of the enterprise.

The Foča KP Dom, one of the largest prisons in the former Yugoslavia, became the primary detention facility for men and an instrument of this joint criminal enterprise. The indictment alleges that on or around 14 April 1992, Serb civilians and military authorities began to use KP Dom prison as the main detention facility for Muslims and other non-Serbs. Most, if not all, detainees were civilians who had not been charged with any crime, mostly Muslim men from 16 to 80 years' of age, including mentally handicapped, physically disabled and seriously ill persons. During the first few months of operation the population peaked at more than 760 detainees, by the end of 1992 the population averaged about 600 detainees. The majority of the detainees were exchanged, released or disappeared during 1992 and 1993. KP Dom functioned as a detention facility until 5 October 1994.

Before and during the war, until at least October 1994, Mitar Rašević was the commander of the KP Dom guards. His primary duty was to supervise at least 37 guards. He was allegedly in charge of the solitary confinement cells and had the power to release detainees from isolation. He communicated with external military and political authorities, especially with regard to prisoner exchanges.

Savo Todović worked in the KP Dom prison from 4 January 1974 until at least October 1994. As deputy commander of the KP Dom prison staff from April 1992 until at least August 1993, he was second in command in the prison hierarchy and had similar powers and duties as the camp commander. According to the indictment, Savo Todović was in charge of selecting detainees for killings, beatings, interrogations, forced labour, solitary confinement and exchanges. He was also responsible for the punishment of the detainees.

The indictment charges Mitar Rašević on the basis of his individual criminal responsibility (Article 7(1) of the Statute) and, alternatively, superior criminal responsibility (Article 7(3) of the Statute) with:

- Persecutions on political, racial and religious grounds, torture, inhumane acts, murder, imprisonment, enslavement (crimes against humanity, Article 5),
- Torture, cruel treatment, murder, slavery (violations of the laws or customs of war, Article 3).

The indictment charges Savo Todović on the basis of his individual criminal responsibility (Article 7(1) of the Statute) and, alternatively, superior criminal responsibility (Article 7(3) of the Statute) with:

- Persecutions on political, racial and religious grounds, torture, inhumane acts, murder, imprisonment, enslavement (crimes against humanity, Article 5),

- Torture, cruel treatment, murder, slavery (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 1 November 2004, the Prosecutor requested that the case against Savo Todović be referred to Bosnia and Herzegovina pursuant to Rule 11*bis*. On 4 November 2004, the Prosecutor submitted the same request in respect of Mitar Rašević.

On 8 July 2005, the Referral Bench ordered the case of Prosecutor v. Mitar Rašević and Savo Todović to be referred to the authorities of the State of Bosnia and Herzegovina, so that those authorities can refer the case to the appropriate court for trial. The defence appealed this decision.

On 23 February 2006, the Appeals Chamber quashed the Referral Bench decision with respect to Savo Todović and returned the matter to the Referral Bench for further consideration and suspended the execution of the Referral Bench's decision with respect to Mitar Rašević until a decision on the form of the indictment and a decision confirming the operative indictment was issued.

On 31 May 2006, the Trial Chamber reordered the referral to Bosnia and Herzegovina. Savo Todović appealed the decision.

On 4 September 2006, the Appeals Chamber affirmed the decision of the Referral Bench to refer the case to Bosnia and Herzegovina.

On 3 October 2006, Mitar Rašević and Savo Todović were transferred to Sarajevo, Bosnia and Herzegovina.