

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

“FOČA” (IT-96-23 and 23/1)

# KUNARAC, KOVAČ & VUKOVIĆ



## DRAGOLJUB KUNARAC

*Convicted of torture, rape and enslavement*

During the relevant period, leader of a reconnaissance unit of the Bosnian Serb Army (VRS) which formed part of the local Foča Tactical Group

- Sentenced to **28 years' imprisonment**

*Crimes convicted of (examples):*

**Torture and rape** (crimes against humanity and violations of the laws or customs of war)

- Dragoljub Kunarac raped three victims at his headquarters at Osmana Đikića Street no. 16 in Foča.
- He aided and abetted the gang-rape of four victims by several of his soldiers.
- He forced a victim to have sexual intercourse with him despite knowing that she did not consent.
- He threatened to kill a witness and her son while trying to obtain information or a confession, along with two other soldiers in mid-July 1992.

**Enslavement** (crimes against humanity)

- Dragoljub Kunarac personally committed the act of enslavement by depriving two women of any control over their lives and treating them as property.

## RADOMIR KOVAČ

*Convicted of enslavement, rape and outrages upon personal dignity*

One of the sub-commanders of the military police of the Bosnian Serb Army (VRS) and a paramilitary leader in the town of Foča

- Sentenced to **20 years' imprisonment**

*Crimes convicted of (examples):*

**Enslavement** (crimes against humanity)

- Radomir Kovač detained two victims in his apartment for a period of about four months.
- Imprisoning the girls and exercising his de facto power of ownership, Kovač intended to treat the four victims as his property.


**Rape** (crimes against humanity and violations of the laws or customs of war)

- He raped two victims along with other soldiers.
- He raped two victims along with other soldiers during the period that they were kept in his apartment.
- He had sexual intercourse with three victims despite knowing that they did not consent.

- He assisted other soldiers to rape three victims.

#### Outrages upon personal dignity (violation of the laws or customs of war)

- Radomir Kovač constantly humiliated and degraded four victims.
- He forced three victims to dance naked on a table while he watched them.
- He sold a victim to a man called "Dragec" for 200 German Marks and handed over another victim to his soldiers.
- He sold two victims for 500 German Marks, each, to some Montenegrin soldiers.

<b>ZORAN VUKOVIĆ</b>		<i>Convicted of torture, rape and enslavement</i>
	<p>One of the sub-commanders of the military police of the Bosnian Serb Army (VRS) and a member of the paramilitary in the town of Foča</p> <p>- Sentenced to <b>12 years' imprisonment</b></p>	

#### *Crimes convicted of (examples):*

#### Torture and rape (crimes against humanity and violations of the laws or customs of war)

- Zoran Vuković took, along with another soldier, a victim from the Partizan Sports Hall, Foča, to an apartment nearby and raped her despite knowing that she was only 15 years old and had not consented to having sexual intercourse with him.

<b>DRAGOLJUB KUNARAC</b>	
<b>Born</b>	15 May 1960 in Foča, Bosnia and Herzegovina
<b>Indictment</b>	26 June 1996; first amended: 19 August 1998; second amended: 3 September 1999; third amended: 1 December 1999
<b>Surrendered</b>	4 March 1998
<b>Transferred to ICTY</b>	5 March 1998
<b>Initial and further appearances</b>	9, 10 and 13 March 1998: on 9 March 1998 pleaded guilty to count 41 and not guilty to all other counts, on 13 March 1998 withdrew his guilty plea; 28 August 1998, pleaded not guilty to all charges
<b>Judgement</b>	22 February 2001, sentenced to 28 years' imprisonment
<b>Appeals Chamber judgement</b>	12 June 2002, sentence of 28 years' imprisonment affirmed
<b>Serving sentence</b>	12 December 2002, transferred to Germany to serve the remainder of his sentence; credit was given for time served since 4 March 1998

<b>RADOMIR KOVAČ</b>	
<b>Born</b>	31 March 1961 in Foča, Bosnia and Herzegovina
<b>Indictment</b>	26 June 1996; second amended: 3 September 1999; third amended: 1 December 1999
<b>Arrested</b>	2 August 1999, by the multinational Stabilisation Force (SFOR)
<b>Transferred to ICTY</b>	2 August 1999
<b>Initial and further appearances</b>	4 August 1999, 24 September 1999, pleaded not guilty to all charges
<b>Judgement</b>	22 February 2001, sentenced to 20 years' imprisonment
<b>Appeals Chamber judgement</b>	12 June 2002, sentence of 20 years' imprisonment affirmed
<b>Serving sentence</b>	28 November 2002, transferred to Norway to serve the remainder of his sentence; credit was given for time served since 2 August 1999

<b>ZORAN VUKOVIĆ</b>	
<b>Born</b>	6 September 1955 in Brusna, Foča, Bosnia and Herzegovina
<b>Indictment</b>	26 June 1996; redacted: 16 February 2000
<b>Arrested</b>	23 December 1999, by SFOR
<b>Transferred to ICTY</b>	24 December 1999
<b>Initial appearance</b>	29 December 1999, pleaded not guilty on all counts
<b>Judgement</b>	22 February 2001, sentenced to 12 years' imprisonment
<b>Appeals Chamber judgement</b>	12 June 2002, sentence of 12 years' imprisonment affirmed
<b>Serving sentence</b>	28 November 2002, transferred to Norway to serve the remainder of his sentence; credit was given for time served since 23 December 1999

## STATISTICS

Trial days	58
Witnesses called by Prosecution	33
Witnesses called by Defence	29
Prosecution exhibits	132
Defence exhibits	130

TRIAL	
Commenced	20 March 2000
Closing arguments	20 - 22 November 2000
Trial Chamber II	Judge Florence Mumba (presiding), Judge David Hunt, Judge Fausto Pocar
Counsel for the Prosecution	Dirk Ryneveld, Hildegard Uertz-Retzlaff, Peggy Kuo, Daryl Mundis
Counsel for the Defence	For Dragoljub Kunarac: Slaviša Prodanović and Mara Pilipović For Radomir Kovač: Momir Kolesar and Vladimir Rajić For Zoran Vuković: Goran Jovanović and Jelena Lopičić

APPEALS	
Appeals Chamber	Judge Claude Jorda (presiding), Judge Mohamed Shahabuddeen, Judge Wolfgang Schomburg, Judge Mehmet Güney, Judge Theodor Meron
Counsel for the Prosecution	Anthony Carmona, Norul Rashid, Susan Lamb, Helen Brady
Counsel for the Defence	For Dragoljub Kunarac: Slaviša Prodanović and Dejan Savatić For Radomir Kovač: Momir Kolesar and Vladimir Rajić For Zoran Vuković: Goran Jovanović and Jelena Lopičić
Judgement	12 June 2002

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" & "SREBRENICA"	
KRAJISNIK (IT-00-39 & 40) "BOSNIA AND HERZEGOVINA"	
KRNOJELAC (IT-97-25) "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

Dragoljub Kunarac, Radomir Kovač and Zoran Vuković were originally named in an indictment confirmed on 26 June 1996 with five other co-accused (Dragan Gagović, Dragan Zelenović, Gojko Janković, Janko Janjić and Radovan Stanković).

Following the death of Dragan Gagović on 30 July 1999, the indictment was withdrawn against him. 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 and Janko Janjić is deceased. 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 Radovan Stanković. Dragan Zelenović was transferred to the ICTY on 10 June 2006.

Following the detention of Zoran Vuković on 23 December 1999, a redacted indictment was confirmed on 16 February 2000 (IT-96-23/1). Kunarac, Kovač and Vuković stood trial jointly under the combined case number IT-96-23 and IT-96-23/1.

Dragoljub Kunarac was charged on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) and superior criminal responsibility (Article 7(3)), with:

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

Radomir Kovač was charged on the basis of individual criminal responsibility with:

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

Zoran Vuković was charged on the basis of individual criminal responsibility with:

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

## THE TRIAL

The trial of Kunarac, Kovač and Vuković commenced on 20 March 2000 before Trial Chamber II (Judge Mumba (presiding), Judge Hunt and Judge Pocar). The closing arguments took place on 20 November 2000 for the Prosecution, and on 21 and 22 November 2000 for the Defence.

## RULE 98 *bis* PROCEEDINGS

After the Prosecution concludes the presentation of its evidence, the Defence can ask for the dismissal of the case, if it believes that the presented evidence was insufficient to prove the charges. If the Trial Chamber believes that the Prosecution has not presented sufficient evidence, it can dismiss the case or certain charges and enter a judgement of acquittal before the beginning of the presentation of defence evidence.

In accordance with Rule 98 *bis*, on 20 June 2000, Kunarac, Kovač and Vuković filed a joint motion for a judgement of acquittal on certain counts charged in the indictments against them. On 3 July 2000, the Trial Chamber entered a decision of acquittal in favour of Kunarac on count 13 of the third amended indictment, confirmed on 1 December 1999, and held that Vuković had no case to answer in relation to the allegations made by Witness FWS-48 in support of counts 33, 34, 35 and 36 of the redacted indictment, filed on 21 February 2000. (Vuković still faced charges with regard to the two other victims under these counts). All remaining counts stood.

## TRIAL CHAMBER JUDGEMENT

The three accused participated in a campaign by Bosnian Serb forces in the wider area of the municipality of Foča, south eastern Bosnia, from early 1992 up to about mid 1993. The campaign was part of an armed conflict between the Serb and Muslim forces in the wider region of Foča, which existed at all times material to the indictments against the accused.

One purpose of the campaign was, among others, to cleanse the Foča area of Muslims; to that end the campaign was successful. Even the town's name was cleansed.

One target of that campaign, apart from the Muslim armed forces, were Muslim civilians, and in this case, particularly Muslim women.

The method employed was mostly expulsion through terror. On a general level, the terror expressed itself in the violent destruction of the religious symbols of the Muslims. All mosques in Foča were blown up and the ruins razed to the ground.

Civilian Muslim men and women were rounded up in the villages surrounding Foča and even as far as the neighbouring municipalities of Kalinovik and Gacko. The men were separated from the women and children.

The men often had to suffer long periods of detention in the Foča KP Dom prison. Detention was without justification. Some were severely mistreated when they were captured. Some were killed on the spot, often in the presence or within earshot of their families.

The women and children from the Foča region were taken to collection points, such as Buk Bijela, a settlement south of Foča. From there, they were transferred by bus to Foča High School, where they were detained. Some of them were later taken to other places in and around Foča, such as Partizan Sports Hall and to private houses in Miljevina and Trnovača. There they met women and girls from the other two municipalities.

What the evidence showed was that the rapes were used by members of the Bosnian Serb armed forces as an instrument of terror. An instrument they were given free rein to apply whenever and against whomsoever they wished.

What the evidence showed was that it was possible for the Serb forces to set up and maintain a detention centre for scores of Muslim women such as Partizan Sports Hall, next to the municipal police building in Foča, from which women and young girls were taken away on a regular basis to other locations to be raped.

What the evidence demonstrated was that the authorities who were meant to protect the victims, such as the local police which had been taken over by the Serbs, turned a blind eye to their suffering. Instead, they helped guard the women, and even joined in their maltreatment when approached by them for help against their oppressors. What the evidence showed was Muslim women and girls, mothers and daughters together, robbed of the last vestiges of human dignity; women and girls treated like chattels, pieces of property at the arbitrary disposal of the Serb occupation forces, and more specifically, at the beck and call of the three accused.

On 22 February 2001, the Trial Chamber rendered its judgement, convicting the accused as follows:

Dragoljub Kunarac, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) with:

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

Sentence: 28 years' imprisonment.

Radomir Kovač, on the basis of individual criminal responsibility with:

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

Sentence: 20 years' imprisonment.

Zoran Vuković, on the basis of individual criminal responsibility with:

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

Sentence: 12 years' imprisonment.

## APPEALS CHAMBER JUDGEMENT

On 6 March 2001, Radomir Kovač and Zoran Vuković filed a notice of appeal against the Trial Chamber judgement and sentence. On 7 March 2001, Dragoljub Kunarac did so as well.

The Appellants presented several grounds of appeal and alleged errors by the Trial Chamber with respect to various legal issues. The Appeals Chamber rendered its judgement on 12 June 2002 affirming the sentences handed down by Trial Chamber II on 22 February 2001.

On 28 November 2002, Radomir Kovač and Zoran Vuković were transferred to Norway to serve their sentences. On 12 December 2002, Dragoljub Kunarac was transferred to Germany to serve his sentence.