

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

“LAŠVA VALLEY” (IT-95-14/2)

KORDIĆ & ČERKEZ



DARIO KORDIĆ

Convicted of unlawful attack on civilians; unlawful attack on civilian objects; wanton destruction not justified by military necessity; plunder of public or private property; destruction or wilful damage to institutions dedicated to religion or education; wilful killing; inhuman treatment; unlawful confinement of civilians; persecutions; murder; inhumane acts; imprisonment



One of the leading political figures in the Bosnian Croat community: from 1991 until 1995, President of the Croatian Democratic Union of Bosnia and Herzegovina (HDZ-BiH); from 1992 until 1995, Vice-President and a member of the Presidency of the Croatian Community of Herceg-Bosna (HZ H-B) and later the Croatian Republic of Herceg-Bosna (HR H-B)

- Sentenced to **25 years' imprisonment**

Crimes convicted of (examples):

Unlawful attack on civilians; unlawful attack on civilian objects; wanton destruction not justified by military necessity; plunder of public or private property; destruction or wilful damage to institutions dedicated to religion or education (violations of the laws or customs of war)

Wilful killing; inhuman treatment; unlawful confinement of civilians (grave breaches of the Geneva conventions)

Persecutions on political, racial, or religious grounds; murder; inhumane acts; imprisonment (crimes against humanity)

- As President of HDZ-BiH, Dario Kordić enthusiastically participated in a common design of persecution. He planned, instigated and ordered crimes in the municipalities of Travnik, Vitez, Busovača, and Kiseljak in the vicinity of the Lašva Valley in central Bosnia and Herzegovina.
- He was present at the meetings during which the 16 April 1993 attack on the village of Ahmići in the municipality of Vitez was authorised. This attack resulted in more than 100 Bosnian Muslim civilians being massacred, including 32 women and 11 children, homes being destroyed and the village being ethnically cleansed of its Muslim population. Dario Kordić participated as the senior regional politician in the planning of the military operation and the attack aimed at ‘cleansing’ the area of Muslims.
- He planned attacks in other areas of the Lašva Valley including the hamlets of Šantići, Pirići, and Nadioci. These attacks, together with attacks on Vitez and Večeriska, among others, followed a common plan aimed at ethnically cleansing the area of its Bosnian Muslims population.
- As a political leader with substantial military influence, he instigated, planned and ordered the attack on Busovača, which was directed against the Muslim civilian population and civilian objects. Many Muslim civilians were killed or expelled, and their property destroyed during the attack.
- Dario Kordić ordered the detention of Bosnian Muslims and the establishment of the detention facilities in the Lašva Valley and more specifically in Kaonik, the Vitez Cinema, the Veterinary Station, the SDK building (a block of offices in Vitez), the Chess Club, and the Dubravica School.

MARIO ČERKEZ*Convicted of persecutions, imprisonment, unlawful confinement of civilians*

Commander of the Vitez Brigade of the Croatian Defence Council (HVO) from its formation in 1992 until at least the end of May 1993, and during the HDZ-BiH/HVO takeover of the municipal functions within the municipality of Vitez

- Sentenced to 6 years' imprisonment

Crimes convicted of (examples):

Persecutions on political, racial, or religious grounds; imprisonment; unlawful confinement of civilians (crimes against humanity)

- Mario Čerkez was individually criminally responsible for the imprisonment and unlawful confinement of Bosnian Muslim civilians in the Vitez Cinema Complex and the Vitez SDK building prior to the end of April 1993.
- The cinema complex was used to detain some 200-300 Muslim men of all ages, who had been rounded up. Many men were subjected to cruel treatment, forced to dig trenches and used as hostages and human shields. Of those that were forced to dig trenches some did not return.
- Detainees from the SDK building were taken to dig trenches. Some were taken to dig for five days close to the frontline where it was very dangerous. The detainees were threatened with an axe and had to work day and night. As a Brigade Commander, Mario Čerkez was responsible for the prisoners' wellbeing; however he failed to fulfil this responsibility adequately.

DARIO KORDIĆ

Born	14 December 1960 in Sarajevo, Bosnia and Herzegovina
Indictment	Initial: 10 November 1995; amended: 30 September 1998
Surrendered	6 October 1997
Transferred to ICTY	6 October 1997
Initial appearance	8 October 1997, pleaded not guilty to all charges
Trial Chamber judgement	26 February 2001, sentenced to 25 years' imprisonment
Appeals Chamber judgement	17 December 2004, sentence affirmed
Serving sentence	8 June 2006, transferred to serve sentence in Austria; credit was given for time served since 6 October 1997

MARIO ČERKEZ

Born	27 March 1959 in Rijeka, municipality of Vitez, Bosnia and Herzegovina
Indictment	Initial: 10 November 1995; amended: 30 September 1998
Surrendered	6 October 1997
Transferred to ICTY	6 October 1997
Initial appearance	8 October 1997, pleaded not guilty to all charges
Trial Chamber judgement	26 February 2001, sentenced to 15 years' imprisonment
Appeals Chamber judgement	17 December 2004, sentence reduced to 6 years' imprisonment
Sentence served	Credit given for time served since 6 October 1997; 2 December 2004, released having served his sentence

STATISTICS

Trial days	240
Witnesses called by Prosecution	122
Witnesses called by Defence	Kordić: 62 Čerkez: 55
Witnesses called by Chambers	2
Prosecution exhibits	2721
Defence exhibits	1643
Chambers exhibits	1

TRIAL	
Commenced	12 April 1999
Closing arguments	14 and 15 December 2000
Trial Chamber III	Judge Richard May (presiding), Judge Mohamed Bennouna, Judge Patrick Robinson
Counsel for the Prosecution	Geoffrey Nice, Patrick Lopez-Terres, Kenneth Scott, Susan Somers, Fabricio Guariglia
Counsel for the Defence	For Dario Kordić: Mitko Naumovski, Turner Smith, Jr., Stephen Sayers, Robert Stein, Christopher Browning For Mario Čerkez: Božidar Kovačić, Goran Mikuličić
Judgement	26 February 2001

APPEALS	
Appeals Chamber	Judge Wolfgang Schomburg (presiding), Judge Fausto Pocar, Judge Florence Mumba, Judge Mehmet Güney, Judge Inés Mónica Weinberg De Roca
Counsel for the Prosecution	Norman Farrell, Helen Brady, Marie-Ursula Kind, Michelle Jarvis
Counsel for the Defence	For Dario Kordić: Mitko Naumovski, Turner Smith, Jr., Stephen Sayers For Mario Čerkez: Božidar Kovačić, Goran Mikuličić
Judgement	17 December 2004

RELATED CASES <i>by geographical area</i>	
ALEKSOVSKI (IT-95-14/1) "LAŠVA VALLEY"	
BLAŠKIĆ (IT-95-14) "LAŠVA VALLEY"	
BRALO (IT-95-17) "LAŠVA VALLEY"	
DELIĆ RASIM (IT-04-83)	
FURUNDŽIJA (IT-95-17/1) "LAŠVA VALLEY"	
KUPREŠKIĆ <i>et al.</i> (IT-95-16) "LAŠVA VALLEY"	
LJUBIČIĆ (IT-00-41) "LAŠVA VALLEY"	
MARINIĆ (IT-95-15) "LAŠVA VALLEY"	

INDICTMENT AND CHARGES

On 10 November 1995, the initial indictment against Dario Kordić, Mario Čerkez, Tihomir Blaškić, Zlatko Aleksovski, Ivan Šantić and Pero Skopljak was issued. The indictments against Ivan Šantić and Pero Skopljak were later withdrawn, and the trials of Tihomir Blaškić and of Zlatko Aleksovski were separated.

Dario Kordić and Mario Čerkez surrendered on 6 October 1997 in Bosnia and Herzegovina and were transferred on the same day to the Tribunal to stand trial. Their initial appearance was held on 8 October 1997 before Trial Chamber III, during which both Kordić and Čerkez pleaded not guilty to all counts of the initial indictment.

On 30 September 1998, an amended indictment against Dario Kordić and Mario Čerkez only was confirmed and became the operative indictment in the case. On 8 October 1998 both pleaded not guilty to all the counts in the indictment.

In the operative indictment, Dario Kordić and Mario Čerkez were 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:

- Wilful killing; wilfully causing great suffering or serious injury to body or health; inhuman treatment; unlawful confinement of civilians; taking civilians as hostages; extensive destruction of property (grave breaches of the 1949 Geneva conventions, Article 2),
- Unlawful attacks on civilians; unlawful attacks on civilian objects; murder; violence to life and person; cruel treatment; taking of hostages; wanton destruction not justified by military necessity; plunder of public or private property; destruction or wilful damage to institutions dedicated to religion or education (violations of the laws or customs of war, Article 3),
- Persecutions on political, racial, or religious grounds; murder; inhumane acts; imprisonment (crimes against humanity, Article 5).

THE TRIAL

The trial of Dario Kordić and Mario Čerkez commenced on 12 April 1999 before Trial Chamber III (Judge Richard May (presiding), Judge Mohamed Bennouna and Judge Patrick Robinson). The closing arguments took place on 14 and 15 December 2000.

TRIAL CHAMBER JUDGEMENT

The trial was primarily concerned with events taking place in the Lašva Valley area, which stretches mainly over the municipalities of Travnik, Vitez and Busovača in the region of central Bosnia, during a period from late 1992 through to the latter half of 1993.

The HZ H-B proclaimed its existence on 18 November 1991, claiming to be a separate or distinct "political, cultural, economic and territorial whole" in the territory of Bosnia and Herzegovina. Among its purposes was the establishment of closer ties to, or a union with, Croatia.

During 1992, this plan was put into action with the takeovers of the municipalities of Busovača, Vitez and Kiseljak by the HVO. Although generally peaceful, with armed resistance only in Novi Travnik and the village of Ahmići, the HVO takeovers ignited the conflict between Muslims and Croats in the region.

Dario Kordić was a local political leader who rose rapidly in the HDZ-BiH political party, becoming its President in his home-town, Busovača, President of his Regional Community, and Vice-President of the HZ H-B. He lent himself enthusiastically to the common design of persecutions by planning, preparing and ordering those parts of the campaign which fell within his sphere of authority. Although he had no formal position in the chain of command, he was associated with the military leadership. He therefore participated in the HVO take-over of the municipalities and the attacks throughout the Lašva Valley from January 1993 till June 1993.

The Trial Chamber found that Dario Kordić was present at a meeting of politicians on the 15 April, when the attacks on Ahmići and the other villages were authorised, and also that he was associated with an order given by Colonel Tihomir Blaškić to kill all the military-aged men, expel the civilians, and set fire to the houses in village. Additionally, the Trial Chamber stated that Mario Čerkez was also present at a subsequent military meeting when plans to attack the village of Ahmići were drawn up.

Moreover, the Trial Chamber found overwhelming evidence that there was a campaign of persecutions aimed at the Bosnian Muslims. The campaign was orchestrated from Zagreb, led by the HDZ-BiH, and conducted through the instruments of the HZ H-B and the HVO. It took the form of the most extreme expression of persecutions, such as attacking towns and villages with the concomitant destruction and plunder, killing, injuring and detaining Bosnian Muslims.

In January 1993, using artillery and infantry on civilian targets, and setting a pattern for subsequent attacks on towns and villages, the HVO forces attacked the municipality of Busovača. The evidence showed that Dario Kordić was implicated in this attack.

The town of Vitez and the Muslim dominated villages of the Lašva Valley came under attack in April 1993. The Trial Chamber stated that the evidence pointed to a well-organised and planned HVO attack upon these locations, executed by the Bosnian Croat leadership to ethnically cleanse the valley of Muslims, in particular the village of Ahmići, where the attack early in the morning of 16 April 1993 resulted in a massacre in which more than 100 people were murdered, including 32 women and 11 children, and the village was destroyed.

The Trial Chamber concluded that in the cases where Dario Kordić participated in the HVO attacks, he intended to commit the crimes associated with them. Furthermore, in these incidents, Dario Kordić demonstrated both his political and military authority and the Trial Chamber found that by the end of 1992, on the eve of the conflict, Dario Kordić combined both forms of authority and was thus liable under Article 7(1) of the Statute of the Tribunal (Individual criminal responsibility). However, as he was neither a commander nor a superior in respect of the HVO, and since he possessed neither the authority to prevent the crimes that were committed, nor to punish the perpetrators of those crimes, he was not punishable for superior criminal responsibility (Article 7(3) of the Statute of the Tribunal).

Mario Čerkez, for his part, was one of the founders of the HVO in Vitez and Commander of its local brigade, known as the Viteška Brigade. The Trial Chamber found that, during 16 April 1993, Viteška Brigade was involved in the fighting and that he was in command. Furthermore, as a Commander, he participated in the attacks on Vitez, Stari Vitez and Večeriska. Therefore, the Chamber was satisfied that he knew of the impending military operations on those towns and yet he failed to take the necessary measures to prevent or to punish those who were responsible for the attacks.

However, in spite of his presence at the military meeting on 15 April 1993, the Trial Chamber was not satisfied beyond reasonable doubt that Mario Čerkez carried any responsibility for the attack on Ahmići. This attack was the responsibility of another battalion which was not under his command.

In June 1993, further fighting broke out in central Bosnia and particularly in the villages in the Kiseljak municipality, including the village of Tulica, where 12 people were killed and the village destroyed. The Trial Chamber confirmed that these offensives were another manifestation of the HVO design to subjugate the Muslims of central Bosnia. As with the attacks against the villages in April, the Trial Chamber confirmed that the attacks would not have been launched without the approval of the local political leadership in the person of Dario Kordić.

The Trial Chamber found that, throughout the Lašva Valley, there was a clear pattern of destruction and plunder in all places attacked the HVO, and further that the HVO deliberately targeted mosques and other religious and educational institutions. All these acts were a part of a common plan and both the accused were implicated and found to be responsible for the attacks.

The Trial Chamber also concluded that, as Commander of the Viteška Brigade, Mario Čerkez was responsible for the unlawful imprisonment and inhuman treatment of the detainees in the Vitez detention facilities, and that Dario Kordić was responsible for the unlawful imprisonment of detainees in the areas for which he had authority. However, as the camps were run by the military and the evidence was not such as to allow an inference to be safely drawn that Dario Kordić was connected with the way in which

the detainees were treated or that the treatment was part of the common plan or design, he was cleared of his role as a superior.

Consistent with its other findings, the Trial Chamber found that Dario Kordić was associated with the orders for the detention of Bosnian Muslims and the ordering and coming into existence of the detention facilities in the Lašva Valley, and more specifically in Kaonik, the Vitez Cinema, Veterinary Station, SDK offices, Chess Club, Dubravica school and in Kiseljak.

The Trial Chamber found that there was little doubt that Bosnian Muslims were systematically subjected to arbitrary imprisonment for which there was no justification. While detained, the Muslims were subjected to inhumane conditions, used as hostages, human shields and forced to dig trenches and, as a result of the latter, a number were killed or wounded.

In relation to the confinement of prisoners, the Trial Chamber found that Mario Čerkez was responsible for the unlawful detention and inhuman treatment of the detainees in the Vitez detention facilities. However, it accepted that Kaonik camp and Dubravica school were not part of his responsibility and that therefore he was not accountable for the events in those detention facilities.

On 26 February 2001, the Trial Chamber rendered its judgement, convicting the accused as follows:

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

- Wilful killing; inhuman treatment; unlawful confinement of civilians (grave breach of the Geneva conventions, Article 2),
- Unlawful attack on civilians; unlawful attack on civilian objects; wanton destruction not justified by military necessity; plunder of public or private property; destruction or wilful damage to institutions dedicated to religion or education (violations of the laws or customs of war, Article 3),
- Persecutions on political, racial or religious grounds; murder; inhumane acts; imprisonment (crimes against humanity, Article 5).

Sentence: 25 years' imprisonment.

Mario Čerkez, on the basis of individual criminal responsibility (Article 7(1) of the Statute of the Tribunal) and superior criminal responsibility (Article 7(3)) with:

- Persecutions on political, racial or religious grounds (crimes against humanity, Article 5),
- Wilful killing; inhuman treatment; unlawful confinement of civilians; taking civilians as hostages (grave breach of the Geneva conventions, Article 2),
- Unlawful attack on civilians; unlawful attack on civilian objects; wanton destruction not justified by military necessity; plunder of public or private property; destruction or wilful damage to institutions dedicated to religion or education (violations of the laws or customs of war, Article 3),
- Murder; inhumane acts; imprisonment (crimes against humanity, Article 5).

Sentence: 15 years' imprisonment.

APPEALS CHAMBER JUDGEMENT

Both Dario Kordić and Mario Čerkez filed their notices of appeal on 12 March 2001. The Prosecution filed its notice of appeal on 13 March 2001. On 17 December 2004, the Appeals Chamber rendered its judgement affirming the sentence handed down by the Trial Chamber to Dario Kordić of 25 years' imprisonment and re-sentencing Mario Čerkez to 6 years' imprisonment.

In reaching its judgement, the Appeals Chamber accepted some grounds of appeal of both parties and rejected others.

Among other things, the Appeals Chamber confirmed the Trial Chamber's finding that Croatia exercised overall control over the HVO at the relevant time and provided leadership in the planning, coordination and organisation of the HVO and that there was an international armed conflict between Croatia and

Bosnia and Herzegovina. It also confirmed the Trial Chamber's finding that the attacks on Ahmići and other Lašva Valley villages were aimed at ethnically cleansing the area for strategic reasons and that Dario Kordić planned and instigated the crimes which occurred in Ahmići and its associated hamlets Šantići, Pirići, and Nadioci.

However, the Appeals Chamber found Dario Kordić not guilty of wanton destruction not justified by military necessity and plunder in Novi Travnik in October 1992.

As regards the criminal responsibility of Mario Čerkez, the Appeals Chamber found that there were neither findings, nor sufficient evidence, to establish that Mario Čerkez had responsibility for the persecutory campaign committed in Ahmići. Therefore, the submission of the Prosecution that he should have been held criminally responsible for these crimes, based on his participation in the campaign, failed.

The Appeals Chamber further dismissed the Prosecution's claim that Mario Čerkez and the Viteška Brigade were responsible for the road block outside Ahmići, which prevented UNPROFOR from entering the area. It noted that the Trial Chamber never clearly established whether the purpose of the road block was militarily justified or a preparatory or sheltering act for the crimes to be committed in the village. In addition, insufficient evidence was adduced to show conclusively that Mario Čerkez knew about the allegedly criminal purpose of the road block. His submission that the sole task of the Brigade was to block the direction of a possible Bosnian Army (ABiH) attack from the area of Kruščica and Vraniska is an equally possible one. Therefore the Appeals Chamber found that the evidence does not prove that soldiers of the Viteška Brigade, under the command of the accused, participated in the commission of crimes in Ahmići on 16 April 1993.

In addition, the Appeals Chamber found that although Mario Čerkez's participation in the second meeting in the Hotel Vitez on 15 April 1993, where the decision to attack Ahmići was made, was not in doubt, the Trial Chamber made no findings as to what was discussed during this second meeting. Thus, the Appeals Chamber concluded that his presence at the meeting did not establish any intent in relation to any crime.

On the issue of Mario Čerkez's responsibility for detention-related crimes, the Appeals Chamber found that, with respect to the Vitez Veterinary Station and the Chess Club, the accused did not incur criminal responsibility for the imprisonment and unlawful confinement of Bosnian Muslim civilians. However, the Appeals Chamber concluded that it was reasonable to find that the accused carried criminal responsibility for the imprisonment and unlawful confinement of Bosnian Muslim civilians in the Vitez Cinema and the Vitez SDK building, before he ordered their release at the end of April 1993.

In view of all of these findings, the Appeals Chamber affirmed Dario Kordić's sentence of 25 years' imprisonment and passed a new sentence of 6 years' imprisonment on Mario Čerkez. As the time Mario Čerkez had already spent in the United Nations Detention Unit was longer than 6 years, the Appeals Chamber ordered his immediate release.

Credit was given to Dario Kordić for time served since 6 October 1997. He is currently serving his sentence in Austria.