

MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

CASE No. MICT-13-55

THE APPEALS CHAMBER

Before: A Bench of the Appeals Chamber

Registrar: Mr. John Hocking

Date: 18 April 2016

THE PROSECUTOR

v.

RADOVAN KARADZIC

Public

MOTION FOR SUBSTITUTION OF
TRANSLATION OF EXHIBIT P2891

The Office of the Prosecutor:

Mr. Serge Brammertz
Mr. Mathias Marcussen
Ms. Laurel Baig
Ms. Barbara Goy
Ms. Katrina Gustafson

Counsel for Radovan Karadzic:

Mr. Peter Robinson

1. Dr. Radovan Karadzic respectfully moves for an order substituting the official English translation of Exhibit P2891 for the prosecution's translation that is now in the official trial record.

2. The prosecution's translation provided in pertinent parts:

"Special Duties...

--organising the security for the detainees during the forced labour"¹

and

"Detainees performing forced labour are secured by soldiers who are not members of the guard."²

3. The Trial Chamber relied upon the translation in its judgement to find that the rules of Batkovici camp were not complied with,³ and that the practice of forced labour was engaged in at Batkovici Camp.⁴ The Trial Chamber convicted Dr. Karadzic of forced labour at Batkovici as an act of persecution.⁵

4. When Dr. Karadzic was reviewing the judgement, he found the erroneous translation. The original document was sent to the Language Section and an official translation obtained on 15 April 2016. That translation provides in pertinent part:

"Special Duties...

--organises security for the prisoners while they work"⁶

and

"Soldiers who are not part of the guard detail are selected for securing the inmates at work."⁷

5. There is no mention of forced labour whatsoever in the official translation.

6. Therefore, Dr. Karadzic respectfully requests that the official translation be substituted for the prosecution's translation as part of Exhibit P2891.

¹ This translation is attached as Annex "A". See p. 2, sixth bullet point

² See p. 6, third paragraph from the end.

³ *Trial Judgement* at para. 643, noting that "that P2891 (Instructions of the Eastern Bosnia Corps, 2 July 1992), p. 2, which was signed by Despot as commander of the camp, implicitly acknowledged that detainees were subject to forced labour." (fn. 2072)

⁴ *Trial Judgement* at para. 655, noting that "an order of the commander of the Batković camp implicitly acknowledged the practice of forced labour by outlining the procedure for guarding detainees who were "performing forced labour."

⁵ *Trial Judgement* at para. 2531

⁶ This translation is attached as Annex "B". See p. 2, sixth bullet point.

⁷ See p. 6, third paragraph from the end

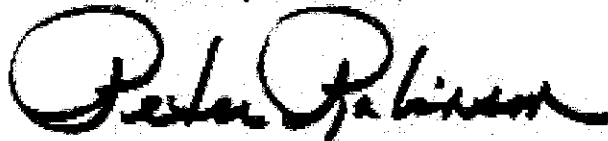
7. Dr. Karadzic notes that this is not the first time that an erroneous translation has led to a misinterpretation in favour of his guilt.⁸ Unfortunately, the Tribunal has not provided him sufficient resources to check the translations during the trial and refused to order the Tribunal's Language Section to systematically review the translations of the trial transcripts.⁹ Such errors are likely not the only ones in the trial record.

8. The effect of the Trial Chamber's reliance on the prosecution's erroneous translation of Exhibit P2891 will be addressed in the merits of the appeal.

9. Therefore, the Appeals Chamber is respectfully requested to order the substitution of the Official Translation of Exhibit P2981 for the prosecution's translation in the court records.

Word count: 556

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter Robinson', written in a cursive style.

PETER ROBINSON

Counsel for Radovan Karadzic

⁸ See *Notice of Correction to Official Transcript* (19 October 2015)

⁹ *Decision on Accused's Motion for Revision of Trial Transcripts* (3 July 2013)

ANNEX "A"

English Translation

ET 0529-9075-0529-9081

Eastern Bosnia Corps Command

Confidential No. 2/835-13

2nd July 1992

Work instructions for
the detention camp security
organs - the guard

To the Command of To the Guards Commander

Pursuant to the IBK /Eastern Bosnia Corps/ Commander's Order Confidential No. 11/2-879 dated 2nd July 1992 and Order Confidential No. 2/835-8 dated 2nd July 1992, I hereby prescribe the following security elements' duties at the *Ekonomija* LRZ /POW Camp/ in the village of Batković.

1. The duties of the security elements - of the guard

COMMANDER OF THE SECURITY - OF THE GUARD

General duties:

- Taking care that the guards appear on duty, have the shift rotation and are relieved of duty on time
- Controlling the condition of weapons and ammunition, ordering the cleaning and inspection of weapons, and, each morning, making a tour of inspection of the guards
- Checking whether the members of the guards are familiar with their duties
- Controlling the way the guards personnel, especially the guards at the guard posts, carry out their duties. For that reason, visiting all the guard posts at least once during the day and once during the night, and sending a guard shift leader to inspect the guards at the guard posts at least once during the day and two times during the night.
- Taking care of the order and hygiene at the guard house
- In case of an attack on the guard, raising an alarm and acting according to instructions
- Controlling the implementation of the fire prevention measures in the buildings and, in case of a fire, alarming the guards and taking steps to suppress the fire

English Translation

ET 0529-9075-0529-9081

- Informing the guard shift leaders of the signs of recognition, checking whether the guards know the password and response and taking care that they be kept secret
- Taking care of the guards' rest and meals

Special duties:

- Preparing the guards in professional military, materiel and other ways for performing their duty
- Organising the take-in and the release of detainees
- Overseeing the searches of the detainees, the taking over of their personal items and the handover of those items to the administrative officer for safekeeping
- Organising the detainees' accommodation
- Controlling the implementation of the daily work schedule
- Organising the security for the detainees during the forced labour
- Upon a request by the security organs, organising that the detainees be escorted for questioning
- Escorting authorised personnel during their visits to the detainees and the detention camp
- In case of riots or an escape attempt by the detainees, organising the guards and other personnel at his disposal with the aim of preventing the escape
- Sending, as needed, a patrol made up from the members of the guard to control the immediate vicinity of the detention camp
- At 0630 hours, reporting to the detention camp commander about the guard-duty situation and the situation in the camp

GUARD SHIFT LEADER:

General duties

- The same as those of the Commander of the guard

Special duties:

- Escorting guards to their guard posts, ordering a guard shift to line up in front of the guard house, controlling whether each guard has with him one b/k /combat set/ of ammunition and escorting the guard shift in the following sequence: the guard post

English Translation

ET 0529-9075-0529-9081

number 1, 2, 3 and 4, along the route: the guard house - the sailing route - *Vaga* /the weighing station/ - in front of the last row of the sheds - the poplars - the

Headquarters

- Reporting to the Commander of the guard about the guard duty situation and about the observations made while visiting the guards
- Acting in accordance with the orders issued by the Commander of the guard
- Informing the Commander of the guard of any orders he may receive from the Detention camp Commander or his Deputy
- When replacing the Commander of the guard, performing all the special duties of the Commander of the guard

GUARD POST No. 1 - VAGA /The Weighing station/

General duties:

- Keeping guard and faithfully carrying out the task entrusted onto him
- Not letting go of his weapon and being always ready to use it
- Protecting an attacked building, guard shift, neighbouring guard or oneself
- Staying at the guard post until relieved by another guard or relieved of duty at the guard post
- Not allowing anyone other than the Commander of the guard, guard shift leader, commander, deputy commander or persons who know the signs of recognition to approach the guard post
- Maintaining communication with the Commander of the guard
- Only the Commander of the guard or the guard shift leader can order a guard at a guard post to be relieved by another guard or to be relieved of duty at the guard post
- Using his weapon in case he or the building he guards comes under attack
- Carrying out his duties with a full ammunition clip on his rifle, but without a bullet in the rifle barrel
- During the night, stopping all persons and asking for the response word. In case the person does not stop after the command "Stop", the guard commands "Stop or I will shoot". If the person does not stop after this command either, the guard commands again "Stop or I will shoot". If the person is still moving, he loads his weapon and shoots

English Translation

ET 0529-9075-0529-9081

Special duties:

- Monitoring and controlling the road leading from the village of Batković in the direction of the Sava River
- Not allowing access to uninvited persons into the *Ekonomija* /Farm/ perimeter
- Performing the duty of the persons at the gate-house in their absence
- Announcing all visits to the Commander of the guard
- Taking away weapons from the persons allowed access to *Ekonomija* and safekeeping them until their return to the gate
- Sounding an alarm using a siren in case of an attack on the building
- Closing the ramp at the end of the business hours and allowing official vehicles in across the weighing station
- Persons who come to visit are to leave their motor vehicles at the parking in front of the weighing station
- Returning fire independently in case of an attack

GUARD POST No. 2 - ŠATOR /The Tent/

General duties:

- The same as at the guard post number 1

Special duties:

- Performing the duty near the soldiers' resting tent during the night, from 2000 hours to 0800 hours.
- Monitoring the road leading from the petrol station towards the weighing station and going along the sheds, and moving 100 meters left and right from the tent
- Not allowing uninvited persons access to the soldiers' resting tent
- During the day, could be assigned to secure detainees taken outside to perform forced labour or /?to perform their duty/ near the Detention camp Headquarters
- Maintaining communication with the guards at the guard post 1 and 3 using his voice, and with the Commander of the guard using a telephone

English Translation

ET 0529-9075-0529-9081

GUARD POST No. 3 - KAMEN /The Rock/

General duties:

- The same as at the guard post number 1

Special duties:

- The main task is providing security for the warehouse and the wire on the west side
- Not allowing detainees to approach the wire and warning them orally
- In case detainees try to escape the detention camp, thwarting the escape attempt by issuing a warning or using his weapon
- At the entrance door, controlling the exit and entrance of detainees taken away to do forced labour
- Spending most of the time at the observation tower. Is allowed to walk to the canal on one side for the purpose of controlling the area around the wire, and to the poplars on the other for the purpose of maintaining a voice contact with the guard at the guard post number 2

GUARD POST No. 4 - THE HEADQUARTERS

General duties:

- The same as at the guard post number 1

Special duties:

- Not allowing access to uninvited persons or their stay in front of the Detention camp Headquarters
- Monitoring and controlling the building and the wire on the east side
- Not allowing the detainees to approach the wire and warning them orally, and in case of a forced crossing, preventing them, ultimately using weapons
- During the night, spending most of the time at the observation tower, and during the day, controlling entrance and exit of detainees

English Translation

ET 0529-9075-0529-9081

PROCEDURES TO BE FOLLOWED BY GUARDS IN DIFFERENT SITUATIONS

a) In case of an attack on the detention camp

In case of an armed attack on the detention camp, the Commander of the guard alarms the guards. After the guards have left the guard house, the first shift leader doubles the number of guards at the guard posts by sending there the guards from the second shift. The second shift leader and the rest of the guards (4), remain in reserve to be deployed along the most endangered route. The soldiers who are not on duty take up the positions so that the *Ekonomija* building is defended circularly. The administrative officer is responsible for ammunition supply.

The building is to be divided into two sectors. The Commander of the guard commands the first sector and the guard shift leader the second one, while the other soldiers who are not members of the guard fall under their command.

The Commander of the detention camp commands the defence of the building and reports the superior command on the character of the attack.

b) Procedure in case of a detainee's escape

In case of a detainee escape attempt from within the wire enclosure or while performing forced labour outside in the open, the guard's duty is to orally warn the detainee to stop. In case the guard is not in a position to physically stop him, he opens fire and prevents the detainee from escaping.

Detainees performing forced labour are secured by soldiers who are not members of the guard. Before sending them out to provide security, the Commander of the guard assigns a group commander, hands him out a necessary number of hand grenades and issues him a concrete task.

Upon their return from performing the task, the soldiers are obliged to return the hand grenades to the Commander of the guard.

The Commander of the guard estimates the security needs during the forced labour and the number of people he sends out is not greater than the number that can be effectively secured.

COMMANDER
LIEUTENANT COLONEL
Momčilo DESPOT
/a signature/

ANNEX “B”

COMMAND
 EASTERN BOSNIA CORPS
 Confidential no: 2/835-13
 2 July 1992

Instructions for work
 of camp security
 organ/guard

To Command of /handwritten: Guard Commander/

Pursuant to the IBK /Eastern Bosnia Corps/ Commander's Order confidential no. 11/2-879 of 2 July 1992 and Order confidential no. 2/835-8 of 2 July 1992, I hereby prescribe the duties of the security elements at the *Ekonomija* LRZ /POW camp/ in Batkovi} village.

1. Duties of the security elements/guards

Security/Guard commander

GENERAL DUTIES:

- Ensures that the guards are posted, relieved and withdrawn from duty on time;
- Controls the working order of weapons and ammunition, orders cleaning and inspection of weapons, and conducts a review of the guards every morning;
- Checks whether the guards know their duties;
- Inspects how guard personnel, particularly the guards at guard posts, are performing their duties, for which purpose all guard posts are visited at least once during the day and once at night. Sends the guard shift leader to check on the guards at guard posts at least once during the day and twice at night;
- Ensures order and cleanliness in the guardhouse;
- In the event of an attack on the guard, raises the alarm and proceeds as instructed;
- Checks the implementation of fire prevention measures in the facilities and in the event of a fire, raises the alarm and takes measures to put out the fire;
- Gives passwords and responses to the guard shift leaders, checks whether the guards know the response and password and ensures that they are kept secret.
- Ensures that the men are rested and fed.

SPECIAL DUTIES:

- Conducts specialised military, materiel and other preparations of the men for carrying out duties;
- Organises the intake and release of prisoners;
- Supervises the search and confiscation of personal items from prisoners, and the depositing of these for safekeeping with the administrative clerk;
- Organises prisoner accommodation;
- Checks the implementation of the daily work schedule;
- Organises security for the prisoners while they work;
- Following a request from security organs, organises escort of prisoners to questioning;
- Accompanies authorised officials coming for an inspection of the prisoners or the camp;

- In the event of mutiny or an escape attempt by prisoners, organises the guard and other available personnel in order to foil the escape;
- Dispatches a patrol composed of guards when needed to inspect the immediate vicinity of the camp;
- Submits a situation report about the guard and the camp to the camp commander at 0630 hours.

GUARD SHIFT LEADER:

- General duties are the same as for the guard commander.

SPECIAL DUTIES:

- Leads guardsmen to guard posts, lines up the shift in front of the guardhouse, checks that each guard has brought along 1 b/k /combat set/ of ammunition and leads the shift in the following order: guard posts 1, 2, 3, and 4, following the route: guardhouse - navigable channel - *Vaga /Scale/* - in front of the last row of shacks - petrol station - poplar trees – command;
- Reports to the guard commander about the situation concerning the guard and his observations during the review of the guards;
- Carries out the orders of the guard commander;
- In the event that he is given orders by the camp commander or his deputy, he informs the guard commander;
- When standing in for the guard commander, conducts all the special duties of the guard commander.

GUARD POST No. 1 *VAGA*

General duties:

- Guards and consistently carries out the assigned task;
- Never drops weapon from hands and is always prepared to use it;
- Defends the attacked feature, the guard, adjacent guard and self;
- Remains at guard post until relieved or withdrawn;
- Does not allow anyone to approach the guard post except the guard commander, guard shift commander, commander and his deputy, and those who know the password and response;
- Maintains contact with the guard commander;
- A guard at the guard post may receive orders from and be relieved or recalled from duty by the guard commander and the guard shift commander;
- Uses weapons if he or the feature he is guarding comes under attack;
- Carries out his duty with full clip and no bullet in the chamber;
- At night, stops all persons and requests response to challenge. In the event that a person fails to stop following the order "Stop!", he will order "Stop or I'll fire!"; in the event the persons fails to stop following this order, the guard will order "Stop or I'll fire!" and if the person continues to approach, he loads his weapon and shoots;

Special duties:

- Observes and controls the road leading from Batkovi } village towards the Sava river;
- Does not allow uninvited persons access to the *Ekonomija* grounds;
- In the absence of the person(s) from the gate house, carries out their duties;
- Announces all visits to the guard commander;
- Takes and stores for safekeeping weapons from persons permitted entry to the *Ekonomija* until they leave;
- In the event of an attack on the feature, gives the alarm by sounding the siren;
- After working hours, closes the ramp and lets official vehicles pass across the scale;
- Anyone coming to visit with a m/v /motor vehicle/ shall leave it in the parking lot in front of the scale;
- In the event he is attacked, he shall return fire on his own.

GUARD POST No. 2 /ATOR/TENT/General duties:

Same as those of the guard at guard post number 1.

Special duties:

- Carries out /?night and day/ duty from 2000 to 0800 hours at the tent that serves for soldiers' rest;
- Observes the road from the petrol station towards the scale in front of the shacks, and walks 100 m to the left and right of the tent;
- Does not allow uninvited persons access to the tent that serves for soldiers' rest;
- During the day, may be engaged to provide security for the detainees doing work or around the camp command;
- Maintains voice contact with the guards at guard posts 1 and 3, and by telephone with the guard commander.

GUARD POST No. 3 KAMEN/ROCK/General duties:

The same as those at guard post number 1.

Special duties:

- Focuses on securing the depot and wire on the western side;
- Does not allow inmates to approach the wire, issues oral warnings;
- In the event that inmates attempt to escape from the camp, prevents the attempt by issuing a warning using weapon(s);
- At the exit, controls the exit and entry of inmates going to work;
- Spends most of the time on the observation post for the purpose of controlling the area around the wire, may walk to the canal and to the poplar trees in order to maintain voice contact with the guard at guard post number 2.

GUARD POST No. 4 /TAB/STAFF/General duties:

Same as those of the guard at guard post number 1.

Special duties:

- Does not allow uninvited persons to access and loiter in front of the camp command;
- Observes and controls the feature and wire on the east side;
- Does not allow inmates to approach the wire, issues oral warnings and, if they force their way over it, ultimately prevents them by using weapon(s);
- During the night, spends most of the time on the observation post and during the day controls the exit and entry of camp inmates.

PROCEDURES BY THE GUARDS
IN VARIOUS CIRCUMSTANCES

a) In the event of an attack on the camp

In the event of an armed attack on the camp, the guard commander shall alert the other guards by raising the alarm. After the guards leave the guardhouse, the first guard shift commander shall double up the guards with those from the next shift. The second shift commander and the remainder of the guards (4) shall remain in reserve, to be engaged on the most threatened axis. Soldiers who are not on duty shall take up positions so that the *Ekonomija* feature is defended circularly. The general administration clerk shall be responsible for the ammunition supply.

Divide the feature into two sectors; the first shall be under the command of the guard commander, the second under the command of the guard shift commander, and all the other soldiers who are not in the guard shall come under the command of the latter.

The camp commander shall be in charge of the defence of the feature and shall report the nature of the attack to his superior command.

b) Procedure in the event of an escape by inmate(s)

In the event inmates attempt an escape from the /area enclosed by/ wire or while they are carrying out work in the open, it is the duty of the guard to orally warn the inmate to stop. If he is not able to physically prevent him, he shall open fire and prevent him from fleeing. Soldiers who are not part of the guard detail are selected for securing the inmates at work. Before sending them on security tasks, the guard commander shall select the group commander, issue to him the required number of hand grenades and give him a specific assignment.

After returning from the assignment, it is the duty of the soldiers to return the hand grenades to the guard commander.

The guard commander shall make an assessment with regard to providing security for the works being carried out and engage as many men for the work as can be safely guarded.

COMMANDER
LIEUTENANT COLONEL
Mom~ilo DESPOT
/signed/