

## **COURTSIDE: Foca Rape Case Appeal**

Bosnian Serbs appeal against rape and sex enslavement convictions

A three-day hearing was held last week to examine an appeal by three Bosnian Serb soldiers from Foca found guilty of rape and enslavement of Bosniak girls in 1992. They claim the trial chamber erred in law and fact and want their convictions overturned.

Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic were sentenced to 28, 20 and 12 years jail respectively in February 2001, in the first verdict in which an international court qualified rape as a crime against humanity and legally defined the crime of sexual enslavement.

The trial chamber ruled that the accused raped, sexually abused and humiliated detained women and girls as a part of a general campaign of persecution of Bosniaks in the Foca area of south-east Bosnia in 1992 and 1993. Most of the witnesses who testified against them were rape victims.

The defence disputed the conclusion that rapes formed part of a systematic campaign against Foca's Bosniak population. They claim the victims of rape were a "very narrow group" of women, drawn mainly from the villages of Mjesaj and Trosanj, and that it make no sense to talk of "planned rape as an instrument of war", as the trial chamber ruled.

The defence tried to narrow the definition of rape and enslavement, to show that the acts Kunarac Kovac and Vukovic were accused of did not fit the legal definition of rape and insisted there was no proof the three men answered the witnesses' descriptions of their attackers.

"It cannot be established without doubt on the basis of general descriptions of people provided by witnesses that the perpetrators of rape were the three accused," counsel Goran Jovanovic said.

The three men's lawyers criticised the practice of "cumulative convictions" under which the accused can be found guilty for the same act on two legal qualifications, in this case, for crimes against humanity and violation of the laws and customs of war.

The tribunal's general sentencing policy was also attacked - with counsel Momir Kolesar criticising the fact that the tribunal statute did not "stipulate the sentence that each punishable act has, which is why a sentence for rape can be much graver than the sentence for murder and torture".

The prosecution responded that the sentences the court imposed reflect the gravity of the crimes, that rape and sexual enslavement, as defined by international law, occurred in Foca and that the trial chamber had accepted their claim that the witnesses convincingly recognised the accused and described events that had happened. The appeals chamber will announce its decision later.

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**Location:** [Bosnia and Herzegovina](#)

**Focus:** [International Criminal Tribunal for the former Yugoslavia](#)

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