

## **Omarska Camp Trial**

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Yugoslav expert witness astonishes Hague judges

Lawyers defending Mladjo Radic, accused of sexual crimes in the Omarska detention camp, last week summoned Kragujevac law professor Stanko Beatovic to give expert evidence on the definition of rape under Yugoslav law.

The defence aimed to persuade the court that according to Yugoslav law and court practice the crimes with which Radic is charged do not constitute rape.

Beatovic said a victim must offer "genuine and lasting resistance... from beginning to end". If resistance stops at some point, the sexual act does not constitute rape. If a victim offers no physical resistance but says only "I won't" then, according to Beatovic, this is tantamount to saying "I will".

The threat of violence is also irrelevant unless the victim offers "adequate resistance", Beatovic said. Even the threat of death is not deemed sufficient duress, the expert witness explained.

Beatovic continued, "It often happens that a man threatens to kill a woman, throw her from a fifth or sixth floor window, unless she sleeps with him...she doesn't consent and nothing comes of the threat."

The explanations stunned the judges. Rolling her eyes, Judge Patricia Wald inquired incredulously, "Is that really Yugoslav law?" Under the tribunal statute and rules of procedure while pronouncing sentence, judges should "consider" the practice of punishment in the courts of the

former Yugoslavia, but this is not binding.

Beatovic appeared as an expert on the same question during the Foca rape trials, but the court didn't give any weight to his evidence. On the contrary, the three accused received sentences ranging from 12 to 28 years imprisonment. The verdict resonated widely and was taken as a milestone in the prosecution of sex crimes under international law.

**Location:** [Balkans](#)

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

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