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Report on Sexual Assault Investigation

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TO: Vladimir S. Kotliar
Secretary of the Commission

TELEFAX: 41.22.917.00.97

Zagreb, 12 February 1994

FROM: J. A. Baez
Legal Officer/Assistant Secretary
War Crimes Commission
c/o UNPROFOR Hqs., Zagreb

SUBJECT: Report on Sexual Assault Investigation

I. General

1. I spoke with Mr. Akashi and Mr. Mcleod(ICFY) at separate meetings on 10 February 1994 concerning the question of NATO retaliation against the Bosnian Serb positions around Sarajevo as well as the possibility of sanctions against Croatia and the effect of both actions on the Commission's investigation. Basically, they both stated, as regards sanctions, that no one could predict at this stage if sanctions would indeed be imposed on Croatia. I took due note of the fact that the Security Council is to meet soon on this matter. As for the action by NATO, it was agreed that it may affect the envisaged visit by the Chairman to Bosnia as well as the conduct of interviews there. However, since it is easier to cancel such trips at the last moment than to prepare for them on short notice, it would probably be useful to proceed with the required preparations.

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2. Lastly, I met with Mr Suc, Head of the Multilateral Negotiations Department, Slovenian Ministry for Foreign Affairs, and two of his collaborators on 9 February. Mr. Suc said that the Slovenian Government would prefer that the investigation in Slovenia be conducted during Phase II as will be the case with Austria, etc. Their reasoning is that although they were a part of the territory of the former Yugoslavia they are not a party to the conflicts and therefore they should be in the list of third countries. I was told that instructions had been given to their representative to UNOG to inform the Commission accordingly. I stated that this would present no major difficulties since both Phases of the investigation would be conducted in all likelihood simultaneously. In addition, I stated that the Commission would probably have no difficulty in circulating a press release prior to the commencement of the investigation which would include Slovenia among the Phase II States or, alternatively, mentioning this fact in its Final Report to the Secretary-General. The Slovenian Government promised its fullest co-operation with the investigation.

II. Investigation

3. It is impossible to determine at this time with certainty the number of potential interviewees and the number of lawyers required for the interviews. Ms. Kenny is preparing a note on the status of the investigation, including an assessment of the type of information that may be available for prosecution purposes. Dr. Negovetic and Ms. Richter-Lyonette, who were required to give me a report on their contacts in Zagreb before they departed yesterday for Geneva, did not do so. However, Dr. Nakic, the Croatian Government liaison person, stated to me that from her contacts she believes that there would be approximately 200 to 250 potential victims/witness to interview. We have not received as yet her data to assess this estimate for ourselves (she has promised to give us the data on tuesday, 15 February). Dr. Cavanaugh has prepared a report, which is attached herewith. I have several comments on that report, especially as regards paragraph 13, which I will communicate at a later stage.
4. It is not clear to us what function the technical team would perform during the investigation in view of its delicate nature and the need to shelter the victim/witness from undue harm or trauma. Ms. Kenny is of the opinion that it is likely that very few witnesses will agree to be videod. This is a highly sensitive issue with NGOs due to previous leaks of video material on international and local television which led directly to reprisals against relatives of those interviewed. One case that is referred to by NGOs in this context is of the murder of one woman's parents-in-law who lived in Serbia after her interview was aired on Belgrade television. Therefore, it is recommended

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that the technical team should not be retained as it is not required and could seriously jeopardize the investigation.

III. Preparations

5. - Ms. Drazenovic is to return to Zagreb to work on 13 February: interviewing interpreters and secretaries as well as interpreting for Ms. Kenny in her meetings (we have recruited thus far one full-time local secretary for the office, Ms. Masa Mlakar);
 - Mr. Osorio is to remain in Zagreb to liaise with the UNPROFOR administration to settle matters related to transportation, the Commission's equipment and to assist with the preparation of the briefings as well as the schedule for the field investigations; and
 - Ms. Kenny is to remain in Zagreb to receive and assess the data on potential interviewees and coordinate all activities related to the investigation.
6. Ms. Kenny has prepared a notice, which I approved. Ms. Drazenovic translated the notice into Croatian. It has been given to almost all our contacts and it is to be placed in collective centres. In addition, and with the assistance of Mr. Osorio, we have obtained a special telephone line at UNPROFOR (180-126), which was mentioned in the notice, so that potential interviewees could contact the Commission's UNPROFOR office directly to arrange for interviews.
7. Lastly, in the light of the local situation it would most likely be necessary and advisable to adjust the plan of action accordingly. Details will be provided soon.