

---

Documents

United Nations 780 Commission

---

3-14-1994

## Baez's Report

M. Cherif Bassiouni 1937-2017

Julio A. Baez

Follow this and additional works at: [https://scholarlycommons.law.case.edu/documents\\_780](https://scholarlycommons.law.case.edu/documents_780)

---

### Recommended Citation

Bassiouni 1937-2017, M. Cherif and Baez, Julio A., "Baez's Report" (1994). *Documents*. 35.  
[https://scholarlycommons.law.case.edu/documents\\_780/35](https://scholarlycommons.law.case.edu/documents_780/35)

This Document is brought to you for free and open access by the United Nations 780 Commission at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Documents by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

P119

FO 028

OFFICE DES NATIONS UNIES A GENEVE



UNITED NATIONS OFFICE AT GENEVA

328

Commission of Experts established pursuant to  
Security Council Resolution 780 (1992)  
TEL No.: (41.22) 917 21 88/58  
FAX No.: (41.22) 917 00 97

Zagreb Office  
Tel.: 385 41 180 011, ext. 2656  
Fax.: 385 41 170 199

000083

RECEIVED

15 MARS 1994

TELEFAX TRANSMISSION

MOST IMMEDIATE

TO: Mr. M. Cherif Bassiouni  
Chairman of the Commission

FAX: 41-22-917-0097

14 March 1994

FROM: Julio A. Baez  
Legal Officer/Assistant Secretary  
of the Commission  
c/o UNPROFOR Hqs., Zagreb

Page 1 of: 9

SUBJECT: VARIOUS DOCUMENTS

Herewith please find the modified report on your visit to Zagreb  
as well as the report on my visit to Belgrade.

Best regards.

## SEXUAL ASSAULT INVESTIGATION

REPORT ON THE THE CHAIRMAN'S VISIT TO ZAGREB  
(26 February to 2 March/ 8 to 10 March)

000083

0219

The Chairman briefed the mental health specialists (8), the lawyers (12) and the interpreters (15) on the sexual assault investigation. He stressed the importance of the investigation for the victims, the need for confidentiality as well as the security of the interviewee.

During his stay in Zagreb, the Chairman met with the Croatian Information Centre, the Jesuit Refugee Centre, Mr. Akashi (Special Representative of the Secretary-General, UNPROFOR), Ms. Auger (Deputy Head Civil Affairs, UNPROFOR), Mr. Separovic (Croatian Society of Victimology and Documenta Croatica), Dr. Kostovic (Vice President of the Government of Croatia) and Judge Vukovic (Chief Justice of the Supreme Court of Croatia and President of the Commission for War Crimes committed on the territory of the Republic of Croatia).

## Summary of meetings

Croatian Information Centre

The Chairman met with the representatives of the Croatian Information Centre on 1 March 1994 to discuss the scheduling of interviews with the victims/witnesses that they were to provide for the rape investigation.

Jesuit Refugee Centre

The Chairman met with Father Kusan of the Jesuit Refugee Service on 2 March to obtain the names of potential male victims of rape for interviewing purposes.

Mr. Akashi

The Chairman met with Mr. Akashi on 2 March 1994. He outlined the sexual assault investigation that was to be conducted by the Commission in the territory of the former Yugoslavia and in third countries. The Chairman mentioned that there were 3,000 allegations of rape in the database. 800 of those allegations named a victim and 300 named a perpetrator. The Commission sought to analyze a pattern with a view to determine the existence of a policy of commission or omission and, in general, to document such violations. He further stated that there could be no peace without justice for the victims, i.e. victimization must be recognized.

Further, the Chairman touched upon the Commission's efforts in Ovcara (near Vukovar, UNPA Sector East) mass grave exhumation in October 1993 and the Pakracka Poljana (UNPA Sector West) project in the same period during which 19 bodies were

discovered. A nearby mass grave site at Marino Selo had yet to be investigated. Lastly, he mentioned that, in view of the termination of the Commission's mandate on 30 April 1994, the Ovcara exhumation and the continuation of the Pakracka Poljana/Marino Selo investigation would most likely be conducted by the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia (The Hague).

Mr. Akashi expressed support for the work of the Commission and hoped that its mandate would continue beyond 30 April so that it could complete its work. He also stated that he was pleased that peace had returned to Sarajevo. However, it was a precarious situation unless 10,000 additional troops were made available immediately to UNPROFOR to keep the peace. He concluded by saying that since expectations and hope for peace were now high there was evidence that the international community was eager to bring the parties to the conflict together and capitalize on this window of opportunity.

Boris Vlasic

Mr. Vlasic recounted the story of the man whose testicles had been bitten-off in a camp by another detainee (Dusko Tadic) on the orders of their captors.

Dr. Kostovic

The Chairman met with Dr. Kostovic on 28 February. Present at the meeting were Dr. Nakic and Dr. Henigsberg as well as Lt-Col. Kempenaars and Mr. Baez.

The Chairman mentioned the fact that the Commission's mandate would terminate on 30 April 1994. As regards the Ovcara (near Vukovar) mass grave exhumation, the Chairman stated that there were two alternatives, viz. either (i) the Commission's mandate would be extended for the purpose of conducting the Ovcara exhumation or (ii) the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia would undertake the exhumation with the assistance of the Commission's Rapporteur for On-site Investigations, Mr. Fenrick, and the Commission's Assistant, Lt-Col. Kempenaars, a Dutch military lawyer. However, regardless of which option was selected, he stressed that there were several preconditions: a military engineering unit for logistical support; forensic experts, such as "Physicians for Human Rights"; lawyers and administrators to oversee the project; written authorization from the "RSK" administration (Sector East and Sector South); and, lastly, agreement from the "RSK" and the Croatian Government as to the venue for the post-mortem examination (Wiesbaden, Germany, Vukovar Hospital, etc.).

Dr. Kostovic stated that the Croatian Government would lodge a protest with the UN concerning the Commission's work ending early and not completing the Ovcara exhumation to ensure that the Ovcara exhumation would not be forgotten. He confirmed his

Government's cooperation in the future.

Mr. Bassiouni added that the Commission had exhumed 19 bodies in UNPA Sector West at Pakracka Poljana; the bodies had been reburied by the Commission's team for security reasons. The post-mortem examination remained to be conducted on those bodies. In this connexion, Dr. Kostovic mentioned that the post-mortem examination for the bodies at Sector West could be conducted in the hospital at Bjelovar. He added that Croatia and the Federal Republic of Yugoslavia had concluded an agreement concerning the tracing of missing persons and the establishment of a Joint Commission. This agreement was a new legal basis for cooperation between the two countries. Dr. Kostovic informed Mr. Bassiouni that all correspondence between Croatia and the International Criminal Tribunal is to be done through Judge Vukovic who would act as the Croatian Government's focal point.

Lastly, Mr. Bassiouni thanked Dr. Kostovic for his assistance with the preparations for the sexual assault investigation and he commended the efforts of Dr. Nakic, the Government liaison to the Commission.

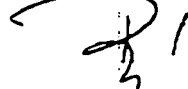
#### Judge Vukovic

The Chairman met with Judge Vukovic on 2 March. The meeting started with a statement by Judge Vukovic to the effect that he had met with Judge Greve and Mr. Bergsmo in early February and that he had given to them various materials on Prijedor, including documents outlining the structure of the JNA from the Ministry of Defence.

Judge Vukovic also stated that data from court files had been gathered relating to prosecutions for war crimes committed in Croatia since the Swedish Government is interested in the information to seize people hiding in Sweden. He elaborated on the work of the courts as regards war crimes.

The meeting ended by the Chairman stating that the Commission will end its work in April and would like to collect as much material for its final report to the Secretary-General and make a modest contribution to the truth.

Submitted by:



Julio A. Baez  
Legal Officer/Assistant Secretary  
of the Commission

Attachment: Zagreb Schedule (28 February to 2 March)

12 March 1994

000083

REPORT ON THE VISIT BY THE ASSISTANT SECRETARY, REPRESENTATIVE OF THE COMMISSION, TO BELGRADE (10-11 MARCH 1994)

Meeting at the Serbian Council Information Centre (10 March, from 14:00 to 16:00)

- Present: -Professor Dabic, Director Serbian Council Information Centre (SCIC)
-Professor Pavle Ivic, President Serbian Council
-Mr. Jarcevic, President, "RSK"
-Ms. Ema Miljkovic, Researcher & Interpreter, SCIC
-Mr. Julio A. Baez, Legal Officer/Assistant Secretary of the Commission

Professor Ivic welcomed Mr. Baez, the representative of the Commission, and underscored the need for the Commission to be impartial.

Professor Dabic expressed his regret for the misunderstanding by the FRY Government authorities which had caused the delay in approving the visit to Belgrade by the Commission's representatives.

He stated that he had information on other mass graves, apart from Pakracka Poljana, in the Marino Selo area, where Serb victims were to be found. However, the location of the mass graves in question was not known with certainty. According to him, the Commission must exhume the Marino Selo mass graves at the same time as the Ovcaras mass grave exhumation, as he had stated to the Chairman during his visit to the Commission Secretariat at Geneva in December 1993. In this connexion, he mentioned that he would be willing to provide witnesses to the executions related to the mass graves provided that the Croatian side did not see the information. He strongly recommended that the Commission should make an effort to have photographs taken of the Marino Selo area in the spring in order to facilitate the identification of the exact location of the mass graves by witnesses. He promised to send the information concerning Marino Selo to the Commission Secretariat at UNOG, including maps and the testimonies of 17 witnesses.

In addition, he stated that there were approximately 87 graves in Croatia and in the UNPAs where Serb victims were to be found. Moreover, he said that the 87 graves concerned should be exhumed at the same time as the Ovcaras mass grave.

As for the Pakracka Poljana/Marino Selo ante-mortem data, Professor Dabic said that he possessed some of it and would provide it to the Commission.

He gave to the representative of the Commission copy of a decision (Croatian /English) dated 21 October 1993 from the Municipal Court of Pakrac, Croatia, in which Mr. Jovo Zestic is declared as deceased. (It should be noted that Mr. Zestic's name is contained in the document, which Professor Dabic gave to the Chairman in December 1993, on Marino Selo as one of the alleged victims that may have been buried in the area following his execution.)

As regards the Commission's rape investigation, he stated that he was prepared and ready to assist the Commission by providing Serbian rape victims, statements from witnesses and medical documentation from psychiatrists and gynecologists.

Mr. Jarcevic, with reference to the UNEP Sector West mass grave exhumation of October 1993, stated that the "RSK" had requested that the Commission have present at Pakracka Poljana "RSK" medical experts for identification purposes. He regretted that the Commission did not comply with the request.

Further, as for the Commission's rape investigation, he suggested that the Commission should contact Pale and Knin and not just Belgrade.

Mr. Baez in reply to the above stated the following:

-As regards the mass graves question, Mr. Baez said that the Commission's mandate was to terminate on 30 April next. Therefore, it was improbable that the Commission would be in a position to conduct any exhumations of mass graves prior to 30 April. However, he stated that, discussions were in progress between the Deputy Prosecutor of the International Criminal Tribunal for the former Yugoslavia, Mr. Blewitt, and Mr. Bassiouni, the Commission's Chairman, to ensure a smooth transition, which entailed the carrying out of the Ovcara exhumation as well as the completion of the Pakracka Poljana/Marino Selo exhumation by the Office of the Prosecutor with the assistance of Mr. Fenrick, the Commission's Rapporteur for On-site Investigations, and a Dutch Military Lawyer, Lt-Col. Kempenaars, Assistant to the Commission.

-As for the rape investigation, Mr. Baez explained that the Commission had already commenced the investigation and had since January 1994 approached the Federal Republic of Yugoslavia (FRY) authorities several times both through the Permanent

P7/9

-3-

000083

Mission to UNOG and UNPROFOR, (Belgrade) for permission to conduct the investigation in the FRY and have a team of lawyers and mental health specialists come to Belgrade for this purpose. But no permission as yet has been given by the FRY authorities for the investigation.

-As for the "RSK", Mr. Baez mentioned that it had been agreed between the Commission and the "RSK" administration that there had been an unfortunate misunderstanding in the past which resulted in the cancellation of the Ovcara mass grave exhumation. The misunderstanding, however, had been settled to the satisfaction of all parties concerned during the Erdut meeting in November 1993 between the "President of the RSK", the Commission's Secretary and the Commission's Rapporteur for On-site Investigations.

The atmosphere surrounding the meeting was very friendly and relaxed. That evening I was the dinner guest of Professors Dabic and Ivic at a typical Serbian restaurant at the Skadarlij section of the city. Following dinner, I reciprocated by inviting them for a drink in another part of the city.

Meeting at the Committee for War Crimes

(11 March, from 10:00 to 12:30)

- Present: -Judge Ilija Simic, Deputy Chairman of the Committee
- Mr. Predrag Aleksic, Senior Adviser to the Committee
- Mr. Radovanovic, Lawyer, Ministry of Justice
- Mrs. Malic, Legal Adviser, International Legal Department, Ministry for Foreign Affairs
- Mr. Julio A. Baez, Legal Officer/Assistant Secretary of the Commission
- Interpreter from the State Committee

Judge Simic welcomed the representative of the Commission and stated that the Minister of Justice, Mr. Stojanovic, was disappointed that Professor Bassiouni could not go to Belgrade to meet with him but found time to go to Zagreb and Bosnia. He expressed the Minister's wish to meet with Professor Bassiouni either in Belgrade or in Geneva in the very near future.

He stated also that the gathering of evidence by the Commission in the FRY should be done following the court procedures now in force in the FRY. He added that the Committee was desirous to co-operate with the Commission and



ps/9

that it was preparing a report that it would forward to the Commission.

As for the Commission's rape investigation, he stated that he had some reservations as to the impartiality of the interpreters that had been hired by the Commission.

Mr. Radovanovic, with reference to the rape investigation, said that the Ministry of Justice was keenly interested in the investigation. He added that a judge or lawyer that has the confidence of the victim/witness could be provided by the Government to be present during the interview to pose questions to the victim/witness. In this connexion, he cited two examples of co-operation that could serve as a model for the co-operation between the Commission and the FRY for the investigation:

(i) the co-operation between Canada and the former Yugoslavia for the prosecution of World War II crimes committed by individuals having settled in Canada; and (ii) the recent agreement between the FRY and the ICRC to obtain access to prisons and talk to political prisoners. Further, he said that the assistance of the Government and the Ministry of Justice would be required for the investigation so that victims/witnesses could be identified for interview purposes.

He said that the precise parameters of the investigation would have to be agreed to between the Commission and the Government. Minister of Justice Stojanovic would speak to Professor Bassiouni in this respect. He then enquired as to how the interviews were to be conducted and how the lawyers and mental health specialists were to be selected. He wanted to see the list of participants.

Mr. Baez replied to the above as follows:

-As regards the rape interviews, he explained how the interviews were being conducted and that the Commission was trying to prepare good quality actionable cases to be presented to the International Criminal Tribunal for prosecutions.

-As for the need to enter into a formal agreement between the Commission and the FRY for the conduct of the rape investigation, he stated that the mandate of the Commission covers the cooperation that States are to extend to the Commission to enable it to fulfil its mandate. Thus it did not appear necessary for the Commission to conclude an agreement with the FRY or any other State for the conduct of its investigations.

-With respect to Minister Stojanovic's disappointment for not being able to meet with Professor Bassiouni in Belgrade, I stated that there had been repeated attempts since January 1994 by the Commission to go to Belgrade. However, the authorities had not approved such visits until now. Professor Bassiouni regrettably had to urgently

p9/9

000083

-5-

leave the mission area to return to Geneva and was unable to go to Belgrade, as he had initially planned.

-As regards the impartiality of the rape investigation, Mr. Baez stated that the Commission wanted to proceed in an unbiased manner so as to ensure the success of the investigation. Therefore, the Commission could not follow a States's municipal court procedures for the conduct of the investigation since it was an independent body established by the Security Council of the United Nations. For this same reason, only the Commission's lawyers, interpreters and mental health specialists would be present during the interview with the victim/witness.

-Lastly, Mr. Baez stated that the FRY Government had still to give the Commission the approval for the conduct of the investigation and allow its teams free access to meet with NGOs and other potential sources of information on rape victims/witnesses. He suggested that a liaison person should be appointed by the Government for the investigation to settle whatever issues that needed to be resolved.

The meeting was very cordial.