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International
Criminal Tribunal
for the former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

ICTY WEEKLY UPDATE-72

9 April 1999

LAST MINUTE NEWS

KVOCKA & OTHERS CASE ("Omarska/Keraterm"):

DEFENCE PRELIMINARY MOTIONS CHALLENGING JURISDICTION DISMISSED

On 1 April 1999, Trial Chamber III (consisting of Judge May, presiding, Judge Bennouna and Judge Robinson) dismissed two Motions filed by Mlado Radic and Miroslav Kvočka respectively (see Update Nos. 62 and 63).

Both Motions challenged the jurisdiction of the Tribunal to try the accused for the crimes they are charged with under Articles 1 and 3 of the Statute. The Judges considered that "*the alleged crimes fall within the ambit of Article 1 of the Statute*" (...) and that "*the Trial Chamber has jurisdiction to try the accused for alleged violations [of the laws or customs of war] under Article 3 of the Statute*".

"CELEBICI" CASE:

DECISION ON MOTION TO SEVER APPEALS RESERVED

On 26 March 1999, the Appeals Chamber issued an order stating that its Decision on the Motion to sever the appeal of Zejnil Delalic from that of his co-defendants (see Update No. 65) is reserved "*until the Appeals Chamber has received the appellate briefs submitted by the parties defining the grounds of appeal or cross-appeal*".

"BOSANSKI SAMAC" CASE:

PROSECUTION MOTION ON THE INTERNATIONAL CHARACTER OF THE CONFLICT DISMISSED

On 25 March 1999, Trial Chamber III (consisting of Judge May, presiding, Judge Bennouna and Judge Robinson) dismissed a Prosecution Motion requesting that judicial notice be taken of the international character of the conflict in Bosnia and Herzegovina.

The Prosecution Motion was based *inter alia* on the "*unanimous jurisprudence*" of the Tribunal. It was opposed by the Defence. A hearing was held on 23 February 1999.

The Judges dismissed the Prosecution Motion. They considered that "*along the lines of the Tribunal's jurisprudence on the binding character of other Trial Chambers' finding as to the international character of the conflict, these findings have no binding force except between the parties in respect of a particular case (...), that the circumstances of each case are different and that as regards the controversial issue of the nature of the conflict, which involve an interpretation of facts, both parties should be able to present arguments and evidence on them*". The Chamber further considered that it "*can only take judicial notice of factual findings but not of a legal characterisation as such*".

The Trial Chamber decided, however, to take judicial notice of the following facts: (1) Bosnia and Herzegovina proclaimed its independence on 6 March 1992, (2) the independence of Bosnia and Herzegovina as a State was recognised by the European Community on 6 April 1992 and by the United States on 7 April 1992.

ACCUSED TODOROVIC FILES AN APPEAL AGAINST TRIAL CHAMBER'S DECISION NOT TO HOLD AN EVIDENTIARY HEARING "AS TO THE ALLEGED KIDNAPPING OF THE ACCUSED".

Filed on 30 March 1999, this appeal against a Trial Chamber Decision of 25 March 1999 seeks from the Appeals Chamber "*reversal with direction to the Trial Chamber to hold an evidentiary hearing and thereafter to entertain a motion to immediately release and repatriate the Accused to the place of abduction and kidnapping, the Federal Republic of Yugoslavia*".

On 7 April 1999, the Prosecutor responded to this Notice of Appeal, submitting that it "*should be rejected*".

COURTROOM SCHEDULE: MONDAY 12 APRIL TO FRIDAY 16 APRIL 1999*

	Monday	Tuesday	Wednesday	Thursday	Friday
Courtroom I	10.00 TC I Blaskic Trial	10.00 TC I Blaskic Trial	10.00 TC I Blaskic Trial	10.00 TC I Blaskic Trial	9.00-13.30 TC I Blaskic Trial
	14.00-18.00, TC I Blaskic Trial	14.30, TC I Blaskic Trial	14.30-17.30, TC I Blaskic Trial	14.30, TC I Blaskic Trial	No proceedings
	Monday	Tuesday	Wednesday	Thursday	Friday
Courtroom III	9.45, TC III Kordic/ Cerkez Start Trial	9.45, TC III Kordic/ Cerkez Trial	9.45, TC III Kordic/ Cerkez Trial	9.45, TC III Kordic/ Cerkez Trial	9.45, TC III Kordic/ Cerkez Trial
	14.30-16.15, TC III Kordic/ Cerkez Trial	14.30-16.15, TC III Kordic/ Cerkez Trial	14.30-16.15, TC III Kordic/ Cerkez Trial	14.30-16.15, TC III Kordic/ Cerkez Trial	No proceedings

*The courtroom schedule is provisional and you are invited to check for last minute changes with the Public Information Unit.
Unless otherwise indicated, the session is open.

Internet address: <http://www.un.org/icty>

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