



25 August 2000

## ICTY WEEKLY UPDATE – 136

***Please note that court proceedings resume on Monday 28 August***

### PROCEDURAL DEVELOPMENTS:

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#### I. OVERVIEW OF COURT DOCUMENTS

##### **BRĐANIN & TALIC' CASE ("KRAJINA")**

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###### DECISION ON MOTION FOR ACCESS TO CONFIDENTIAL INFORMATION

On 31 July 2000, Judge Hunt, the pre-trial Judge, issued a decision on Talić's motion for access to confidential information, dated 12 July 2000.

In the motion Talić had requested the Registrar to provide access to transcripts and exhibits relating to the *Tadić* case, *Kovačević* case, *Kvočka and others* case and *Sikirica and others* case. These being cases arising out of events which were, or are, alleged to have occurred in the same region and during the same period of time as the offences with which Talić is charged.

Considering that this Trial Chamber had no jurisdiction to grant access to the material sought, as it is a matter for the Trial Chamber/s who ordered the original protective measures to vary the orders made, Judge Hunt invited the Registrar to transfer the motion to the appropriate Trial Chambers (see *Sikirica* case below). With regard to the *Tadić* case and *Kovačević* case, Judge Hunt noted that the Trial Chamber cannot be reconstituted as some Judges are no longer at the Tribunal and thus invited the Registrar to transfer the motion to the President of the Tribunal.

On 1 August 2000, Brđanin filed a motion to join the Talić motion for access to the confidential documents. On 22 August 2000, Judge Hunt issued a decision holding that, although the Brđanin's motion was made too late, the motion should be treated as one seeking the same relief as that sought in the Talić motion. Judge Hunt thus invited the Registrar to transfer the Brđanin motion to the President with regard to the *Tadić* case and *Kovačević* case, and Trial Chamber I for the *Kvočka and others* case. (A decision had already been rendered in the *Sikirica and others* case (see below)).

###### APPLICATION FOR LEAVE TO APPEAL DECISION ON PROVISIONAL RELEASE FILED

On 1 August 2000, Brđanin filed an application for leave to appeal the decision of Trial Chamber II (Judges Hunt (Presiding), Mumba and Liu) dated 25 July 2000 refusing his motion for provisional release (see Update No. 135).

##### **SIKIRICA, DOŠEN & KOLUNDŽIJA CASE ("KERATERM CAMP")**

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###### DEFENCE MOTION FOR SEVERANCE OF COUNTS / BIFURCATION OF TRIAL DISMISSED

On 2 August 2000, Trial Chamber III (Judges May (Presiding), Bennouna and Robinson) dismissed Kolundžija's motion for severance of counts and/or bifurcation of trial, filed on 22 May 2000.

In the motion, Kolundžija had requested that the Trial Chamber first hear and determine the charges dealing with crimes allegedly committed by the accused inside Keraterm, followed by either a separate trial ("severance"), or a separate phase of trial ("bifurcation"), addressing the issues surrounding the crimes allegedly committed outside Keraterm camp.

Considering that there was no good reason to conduct the trial in two separate phases and that the defence proposal was impractical, the Trial Chamber dismissed the motion.

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## ORDER ON REQUEST FOR RELEASE OF CONFIDENTIAL MATERIALS

On 4 August 2000, Trial Chamber III denied Talić's motion for access to confidential information which had been forwarded to it by the Registrar pursuant to the decision issued by Judge Hunt, the pre-trial Judge in the *Brđanin and Talić* case, on 31 July 2000 (see above).

Noting that the only confidential material in this case relates to matters personal to the accused, such as the conditions of detention, the Trial Chamber considered that such material would not be "of significant value" to the accused Talić in the preparation of his case.

### **KRAJIŠNIK CASE ("BOSNIA AND HERZEGOVINA")**

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#### PRELIMINARY MOTION ON FORM OF INDICTMENT DISMISSED

On 2 August 2000, Trial Chamber III (Judges May (Presiding), Bennouna and Robinson) dismissed the defence preliminary motion on the form of the indictment, filed on 8 June 2000. Oral submissions on this matter were heard on 19 July 2000 (see Update No. 134).

In reaching its decision, the Trial Chamber found that:

- (1) there was no lack of precision in the pleading of the material facts in the indictment;
- (2) having regard to the higher level of responsibility alleged against the accused, the prosecution had satisfied, for the purpose of the indictment, the requirements for specificity in setting out the means by which the alleged crimes were committed, the persons who committed the alleged crimes, the locations, the victims and the approximate dates of the alleged crimes;
- (3) the prosecution is not required to provide an annex to the indictment setting out the exact manner in which the accused allegedly committed the crimes as the case is broadly based, involving 41 municipalities and a wide range of offences, and thus the degree of specificity required in the indictment is necessarily less than that required in some other cases. However, the Trial Chamber noted that "*the prosecution will be required to provide in its pre-trial brief details of the offences allegedly committed and the precise role the accused is said to have played*"; and
- (4) with regard to the defence submission that the supporting materials do not reflect the charges and that the interview with the accused provided by the prosecution be removed from the supporting materials, these matters concerning the admissibility of evidence are appropriately dealt with at trial.

#### DECISION ON MOTION CHALLENGING JURISDICTION

On 4 August 2000, Trial Chamber III dismissed Krajišnik's motion challenging the jurisdiction of the Tribunal, dated 8 June 2000. Oral submissions on this matter were also heard on 19 July 2000 (see Update No. 134). The written reasons for the decision are to be issued in due course.

On 8 August 2000, Krajišnik filed a notice of intent to appeal the Trial Chamber's decision.

### **KORDIĆ & ČERKEZ CASE ("LAŠVA VALLEY")**

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#### ORDER FOR THE PRODUCTION OF DOCUMENTS BY THE ECMM

On 4 August 2000, Trial Chamber III (Judges May (Presiding), Bennouna and Robinson) issued an order for the production of documents by the European Community Monitoring Mission ("ECMM") and its Member States.

The decision is further to a confidential and *ex parte* "Decision on *ex parte* Application for the Issuance of an order to the European Community Monitoring Mission" issued by the Trial Chamber on 3 May 2000 in which the Presidency of the European Union Council and the Commission of the European Community/European Union ("EC/EU") were requested to disclose to the defence documents and material listed in a confidential annex to the decision.

Noting the assertions made by counsel for Kordić at a hearing held on 3 August 2000 that no documents had been produced in compliance with the above-mentioned decision, the Trial Chamber ordered the Member States of the European Community at the time of the "Memorandum of understanding on Monitoring Activities in Bosnia and Herzegovina", the Presidency of the European Union Council and the Commission of the EC/EU, to disclose to the defence the documents and material listed in the annex to the 3 May 2000 decision no later than 30 September 2000. The Trial Chamber also ordered that the confidential status of the 3 May 2000 decision be lifted, although the annex to the decision is to remain confidential.

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## COURTROOM SCHEDULE: 28 AUGUST – 1 SEPTEMBER \*

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### MONDAY 28 AUGUST

Courtroom III 09:30 – 14:30, **Kvočka et al. Prcać**, Trial

### TUESDAY 29 AUGUST

Courtroom III 09:30 – 14:30, **Kvočka et al. Prcać**, Trial

### WEDNESDAY 30 AUGUST

Courtroom III 09:30 – 14:30, **Kvočka et al. Prcać**, Trial

### THURSDAY 31 AUGUST

Courtroom III 09:30 – 14:30, **Kvočka et al. Prcać**, Trial

### FRIDAY 1 SEPTEMBER

Courtroom III 09:30 – 14:30, **Kvočka et al. Prcać**, Trial

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

## PRESS RELEASES ISSUED SINCE 28 JULY

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DATE	NO.	TITLE	E	F	B/C/S
31/07/2000	521	AMENDMENTS TO THE TRIBUNAL'S RULES OF PROCEDURE AND EVIDENCE ADOPTED AT THE 22 <sup>ND</sup> PLENARY SESSION	E	F	B/C/S
04/08/2000	522	DENMARK TO PROVIDE EXPERTS TO ASSIST THE INVESTIGATIONS OF THE OFFICE OF THE PROSECUTOR IN KOSOVO.	E		B/C/S

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