



12 April 2002

ICTY WEEKLY UPDATE – 215

PROCEDURAL DEVELOPMENTS:

I. OVERVIEW OF COURT PROCEEDINGS:

Slobodan MILOŠEVIĆ Case (“Kosovo”, “Croatia” and “Bosnia and Herzegovina”)

Trial Chamber III - Judges May (Presiding), Robinson and Kwon

On 8 April, the Trial Chamber reconvened to hear the fifth week of the Prosecution case. The hearing took place in closed session for most of the day. The Chamber gave an oral ruling on the scope of the cross-examination. The Prosecution had submitted that cross-examination on the activities of the Kosovo Liberation Army (“KLA”) and the NATO bombing should be permitted only to the extent that they are potential sources of legal defence. The *amici curiae* submitted that the accused should be entitled to continue with his defence on KLA activity and NATO bombing in order to justify the conduct of the Serb forces. They further submitted that the cross-examination does not fall foul of the principle of prohibiting *tu quoque* defences since the accused is asserting that he was acting in defence of his territory and people. The Trial Chamber ruled *inter alia* that it agreed with the *amici curiae*. It was satisfied that the accused is entitled to raise issues on the activities of the KLA and the NATO bombing since both are relevant to his case as a potential defence.

On 9 April, in the morning the hearing took place in closed session. In the afternoon, the Prosecution examined expert witness Andras Riedlmayer who wrote a report called “The Destruction of Cultural Heritage in Kosovo, 1998-1999: A Post-war Survey”. The accused subsequently cross-examined the witness.

On 10 April, the accused resumed his cross-examination. Then one of the three *amici curiae* cross-examined the witness. In the latter part of the day procedural matters were discussed. The Trial Chamber gave the Prosecution one year from this day to complete its case. The facilities available to the accused to prepare his defence were then discussed.

On 11 April, the Prosecution examined witness General Karol Drewienkiewicz who was seconded by the United Kingdom Foreign Office to assist in the Kosovo Verification Mission in 1998.

On 12 April, the Prosecution resumed the examination of General Karol Drewienkiewicz. The accused then started his cross-examination.

Stanislav GALIĆ Case (“Sarajevo”)

Trial Chamber I Section B – Judges Orić (Presiding), El Mahdi and Nieto-Navia

On 8 April 2002, the Trial Chamber reconvened to hear the sixteenth week of the Prosecution case. The Prosecution examined witness Edin Suljić who testified about the Markale market shelling in Sarajevo in February 1994. The witness took part in the on site investigation after the shelling. The Defence then cross-examined the witness.

On 9 April, the Defence resumed the cross-examination. The Prosecution then re-examined the witness.

On 10 April, the Prosecution examined witness Rasema Menzilović, a resident of Sarajevo who witnessed sniping incidents that occurred on her way to a well to get water in 1993. She also testified about the shelling of her house between 1992 and 1994.

On 11 April, the Prosecution examined witness Habib Trto, a tram driver in Sarajevo until May 1992, whose wife was killed by a sniper in 1993. The Defence then cross-examined the witness. The

Prosecution called protected witness AJ, a resident of Sarajevo wounded by a sniper in November 1992. After the conclusion of the examination, the Defence cross-examined the witness.

Mladen NALETILIĆ and Vinko MARTINOVIĆ Case (“Tuta” and “Štela”)

Trial Chamber I Section A – Judges Liu (Presiding), Harding Clark and Diarra

On 8 April 2002, the Trial Chamber convened for the third week of the Defence case. The Prosecution resumed its cross-examination of witness Slobodan Praljak. The Defence then re-examined the witness.

On 9 April, the Defence called witness Božo Rajić, the former head of the Croatian Democratic Union (“HDZ”) in Bosnia and Herzegovina.

On 10 April, the Defence resumed the examination of witness Božo Rajić. The Prosecution then cross-examined the witness.

On 11 April, the Prosecution resumed the cross-examination.

On 12 April, the Defence called witness Jozo Marić, President of the Grude Municipal Assembly from 1990 until 1992. He was also “Minister of Education” of the self-proclaimed “Herzeg-Bosna Government” until the implementation of the Dayton Accords.

Radoslav BRĐANIN and Momir TALJIĆ Case (“Krajina”)

Trial Chamber II Section A - Judges Agius (Presiding), Janů and Taya

On 8 April 2002, the Trial Chamber convened to hear the tenth week of the Prosecution case. The Prosecution examined a protected witness in closed session.

On 9 and 10 April, the hearing was largely held in closed session as well.

On 11 April, the first part of the session took place in closed session. In the latter part of the day, the Prosecution called protected witness BT12 who was examined in open session.

Nenad BANOVIĆ Case (“Keraterm Camp”)

Trial Chamber III - Judges May (Presiding), Robinson and Kwon

On 10 April 2002, the Trial Chamber convened to hear the parties on the Prosecution Motion to withdraw the Indictment against Nenad Banović pursuant to Rule 51 of the Rules of Procedure and Evidence. The Trial Chamber granted the Motion and ordered the immediate release of Nenad Banović. The written decision was rendered that same day (see *Press Release* No. 667).

Milomir STAKIĆ Case (“Prijeđor”)

Pre-Trial Judge Schomburg

On 10 April 2002, the parties appeared before the pre-trial Judge for the Pre-Trial Conference pursuant to Rule 73 *bis* of the Rules of Procedure and Evidence. Pre-trial preparations were discussed.

Sefer HALILOVIĆ Case (“Grabovica-Uzdol”)

Pre-Trial Judge Kwon

On 12 April 2002, the parties appeared before the pre-trial Judge for a Status Conference pursuant to Rule 65 *bis* of the Rules of Procedure and Evidence. Pre-trial preparations were discussed.

II. OVERVIEW OF COURT DOCUMENTS:

Momir NIKOLIĆ Case

Trial Chamber II - Judges Schomburg (Presiding), Mumba and Agius

ORDER FOR FILING MOTIONS

On 5 April 2002, the Trial Chamber issued an Order, pursuant to Rule 54 of the Rules of Procedure and Evidence, setting out the conditions for the filing of Motions. Subject to this Order, no written Motion may be filed on a confidential basis unless the pre-trial Judge or another Judge of the Trial Chamber grants

leave for it to be so filed. The following filings are excluded from the requirements that leave be sought before they may be filed on a confidential basis:

- (1) all *ex parte* applications, whatever their nature;
- (2) all applications that relate to ongoing investigations, pending Indictments and sealed Indictments;
- (3) all *inter partes* applications for witness protection concerning specific persons; and
- (4) all responses to confidential motions and all applications that relate to decisions of the Trial Chamber concerning motions or hearings.

(See also the Order For Filing Motions rendered by Trial Chamber II on 26 February 2002 in the case of *the Prosecutor v. Vidoje BLAGOJEVIĆ, Dragan OBRENOVIĆ and Dragan JOKIĆ* in *Weekly Update* No. 209 and *Judicial Supplement* No. 31).

Milomir STAKIĆ (“Prijeđor”)

President of the Tribunal – Judge Jorda

ORDONNANCE DU PRÉSIDENT PORTANT AFFECTATION DE DEUX JUGES AD LITEM À UN PROCÈS

On 5 April 2002, the President of the Tribunal confirmed that the Trial Chamber for the case *The Prosecutor v. Milomir Stakić* will consist of:

Judge Wolfgang Schomburg (Presiding)

Judge Mohamed Fassi Fihri (*ad litem*)

Judge Volodymyr Vassylenko (*ad litem*)

(See *Press Release* No. 666)

Mladen NALETILIĆ and Vinko MARTINOVIĆ Case (“Tuta” and “Štela”)

Trial Chamber I Section A – Judges Liu (Presiding), Harding Clark and Diarra

ORDER FOR ADDITIONAL INFORMATION

On 27 March 2002, the Trial Chamber issued an Order to the Prosecution to Provide Definite Information on Their Alleged Possession of the Mostar Court Files (see *Weekly Update* No. 213). The Prosecution responded on 4 April that it had no such files and that there was nothing but the most generic allegations by counsel that the material, in any event, presented any *bona fide* issue. On 5 April 2002, the Trial Chamber ordered that the accused provide additional information to the Trial Chamber on the file from the High Court of Mostar.

Radoslav BRĐANIN and Momir TALIĆ Case (“Krajina”)

Trial Chamber II Section A - Judges Agius (Presiding), Janić and Taya

DECISION ON “MOTION FOR PRODUCTION OF DOCUMENTS – DZONLIĆ TESTIMONY” OF 11 MARCH 2002

On 11 March 2002, the Defence for Radoslav Brđanin filed a Motion for the production of documents that Prosecution witness Amir Dzonlić had referred to during his examination (see *Weekly Update* No. 209). The witness was a practising lawyer in the former Yugoslavia who had documents in his possession from his clients showing that they had been dismissed from their employment. The documents were never taken according to the Prosecution because they came from client files and were subject to legal professional privilege.

On 9 April 2002, the Trial Chamber granted the Motion and ordered that the Prosecution communicate the terms of the Decision to the witness. The Prosecution was further ordered to ensure that the Documents were provided to the respective Defence teams for Radoslav Brđanin and Momir Talić, as well as to the Trial Chamber within 14 days of the date of this Decision.

DECISION ON “MOTION FOR EXTENSION OF TIME TO FILE AND REQUEST FOR CERTIFICATION PURSUANT TO RULE 73 WITH REGARD TO THE TRIAL CHAMBER’S 22 MARCH 2002 DECISION REGARDING RULE 90(H)”

On 10 April 2002, the Trial Chamber extended the time within which Radoslav Brđanin must file a Request for certification pursuant to Rule 73(C) to 5 April 2002. It granted certification for interlocutory appeal. The Trial Chamber considered that Rule 127(A) of the Rules of Procedure and Evidence allows it to grant a Motion to extend a time limit upon a showing of good cause and that the medical condition of Brđanin’s counsel constituted good cause. It further considered that the proposed interlocutory appeal on

a decision involving evidence and procedure was appropriate for the continuation of the trial as set out in Rule 73(C).

Paško LJUBIČIĆ Case

Pre-Trial Judge El Mahdi

DECISION PORTANT ORDRE DE NON-DIVULGATION

On 9 April 2002, the pre-trial Judge ordered *inter alia* that the Defence abstain from communicating confidential information received from the Prosecution to the public. The Defence was to keep a log of persons to whom protected information was communicated.

Radislav KRSTIĆ Case (“Srebrenica – Drina Corps”)

Pre-Appeal Judge Hunt

ORDER

On 10 April 2002, the Pre-Appeal Judge ordered that the Defence file a public version of the Defence Appeal Brief and that the Prosecution file a public version of their Response to the Defence Appeal Brief. The documents must be filed within 28 days of the Order.

Blagoje SIMIĆ, Milan SIMIĆ, Miroslav TADIĆ and Simo ZARIĆ Case (“Bosanski Šamac”)

The President of the Tribunal – Judge Jorda

ORDONNANCE DU PRÉSIDENT PORTANT AFFECTATION D’UN JUGE AD LITEM À UN PROCÈS

On 11 April 2002, the President of the Tribunal confirmed that Trial Chamber II Section B in the case *The Prosecutor v. Blagoje SIMIĆ, Milan SIMIĆ, Miroslav TADIĆ and Simo ZARIĆ* will consist of:

Judge Florence Mumba (Presiding)

Judge Sharon Williams

Judge Per-Johan Viktor Lindholm (*ad litem*)

(See *Press Release* No. 666)

COURTROOM SCHEDULE: 15 APRIL – 19 APRIL *

MONDAY 15 APRIL

Courtroom I 09:00 - 13:45, **Milošević**, Trial
14:15 - 19:00, **Brđanin/Talić**, Trial
Courtroom II 14:15 - 19:00, **Galić**, Trial
Courtroom III 09:00 - 13:45, **Martinović/Naletilić**, Trial
14:15 - 19:00, **Simić et al.**, Trial

TUESDAY 16 APRIL

Courtroom I 09:00 - 13:45, **Milošević**, Trial
14:15 - 19:00, **Brđanin /Talić**, Trial
Courtroom II 09:00 - 13:45, **Martinović/Naletilić**, Trial
14:15 - 19:00, **Galić**, Trial
Courtroom III 09:00 - 13:45, **Stakić**, Start of Trial
14:15 - 19:00, **Simić et al.**, Trial

WEDNESDAY 17 APRIL

Courtroom I 09:00 - 13:45, **Milošević**, Trial
14:15 - 19:00, **Brđanin /Talić**, Trial
Courtroom II 09:00 - 13:45, **Martinović/Naletilić**, Trial
14:15 - 19:00, **Galić**, Trial
Courtroom III 09:00 - 13:45, **Stakić**, Opening Statements
14:15 - 19:00, **Simić et al.**, Trial

THURSDAY 18 APRIL

Courtroom I 09:00 - 13:45, **Milošević**, Trial
14:15 - 19:00, **Brđanin /Talić**, Trial
Courtroom II 09:00 - 13:45, **Stakić**, Trial
14:15 - 19:00, **Galić**, Trial
Courtroom III 09:00 - 13:45, **Martinović/Naletilić**, Trial
14:15 - 19:00, **Simić et al.**, Trial

FRIDAY 19 APRIL

Courtroom I 09:00 - 12:45, **Milošević**, Trial
14:15 - 19:00, **Brđanin /Talić**, Trial
Courtroom II 09:00 - 13:00, **Stakić**, Trial

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14:15 - 19:00, Galić, 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.

Public proceedings are also broadcast with a 30 minute delay on the ICTY's web site:

<http://www.un.org/icty/latest/> (in English) (Please click on Hearing Schedule);

<http://www.un.org/icty/bhs/week-b.htm> (na bosanskom/hrvatskom/srpskom).

PRESS RELEASES ISSUED SINCE 15 MARCH

DATE	NUMBER	TITLE	E	F	B/C/S
9 April 2002	665	DRAGO JOSIPOVIĆ TRANSFERRED TO SPAIN TO SERVE PRISON SENTENCE	E	F	B/C/S
10 April 2002	666	THREE <i>AD LITEM</i> JUDGES MAKE THEIR SOLEMN DECLARATIONS	E	F	B/C/S
11 April 2002	667	NENAD BANOVIĆ RELEASED FROM ICTY CUSTODY FOLLOWING AN ORDER BY TRIAL CHAMBER III WITHDRAWING HIS INDICTMENT	E	F	B/C/S
11 April 2002	668	INTERNATIONAL CRIMINAL COURT: STATEMENT BY ICTY PRESIDENT, JUDGE CLAUDE JORDA	E	F	B/C/S
12 April 2002	669	VLADIMIR ŠANTIĆ TRANSFERRED TO SPAIN TO SERVE THE REMAINDER OF HIS PRISON SENTENCE	E		B/C/S

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