



Monday 12 March 2007

Highlights of 26/02/2007 through 09/03/2007 - Nr. 09

[26 February](#)

**International Court of Justice says that Serbia must arrest and transfer Mladić to the ICTY**

The International Court of Justice renders its judgement in the case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro).

The judgement reads in part that "Serbia shall immediately take effective steps to ensure full compliance with its obligation under the Convention on the Prevention and Punishment of the Crime of Genocide to punish acts of genocide as defined by Article II of the Convention, or any of the other acts proscribed by Article III of the Convention, and to transfer individuals accused of genocide or any of those other acts for trial by the International Criminal Tribunal for the former Yugoslavia, and to co-operate fully with that Tribunal."

Further, the ICJ found "that Serbia has violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide by having failed to transfer Ratko Mladić for trial by the International Criminal Tribunal for the former Yugoslavia, and thus having failed fully to co-operate with that Tribunal."

A summary of the Judgement and the full text of it can be found on the ICJ website, at: <http://www.icj-cij.org>

[2 March](#)

**Carla Del Ponte wants EU to keep the pressure on Serbia**

The Prosecutor urges the European Union not to re-start negotiations on a Stabilization and Association Agreement with Serbia before Belgrade has "arrested and transferred Ratko Mladić to the ICTY."

*In the wake of the judgement rendered on Monday by the ICJ, saying that Serbia should take effective steps to transfer to the Tribunal individuals charged with genocide, the ICTY Prosecutor has sent a letter to Angela Merkel, the Chancellor of Germany, which currently holds the EU presidency, asking her to circulate the letter to "all Heads of State or Government of the European Union."*

[5 March](#)

**Milutinović *et al.* case: Prosecution to close its case by 23 March**

In the Milutinović *et al.* case, the Trial Chamber issues an Order stating that "the Prosecution shall close its case-in-chief on or before 23 March 2007." The Order also states that the parties will hold hearings on acquittal (in accordance with Rule 98bis) during the week of 26 March.

*The Milutinović *et al.* trial commenced on 10 July 2006.*

[5 March](#)

**Haradinaj *et al.* trial begins this afternoon**

The trial in the case against Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj commences today at 2:15 p.m.

*The indictment against Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj alleges that all three participated in a joint criminal enterprise, the purpose of which was the consolidation of total control of the Kosovo Liberation Army (KLA) over the KLA operational zone of Dukagjin, by the unlawful removal and mistreatment of Serb civilians and by the mistreatment of Kosovar Albanians, Kosovar Roma and other civilians, who were, or were perceived to have been, collaborating with Serbian Forces or not supporting the KLA.*

[5 March](#)

**Šešelj back in court**

Vojislav Šešelj will return to court on Tuesday 13 March, for a Status Conference which will be held between 4 pm and 7 pm.

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[6 March](#)

**Markač's lead counsel to be replaced due to conflict of interest**

Trial Chamber I issues a Decision affirming its earlier finding that Miroslav Šeparović is not eligible to represent the accused Mladen Markač due to conflict of interest. The Chamber considered among other factors that Šeparović "has not denied the finding in the Decision on Conflict of Interest that (...) as a member of the government of Croatia during the charged timeframe, he was in a prominent governmental position in which it would be reasonably likely to interact with persons who may have known of or participated in the alleged joint criminal enterprise of which the Accused Markač and his co-accused are charged with being members." As a result, "his continued representation of the Accused Markač places him in a situation of having his professional judgement adversely affected by divided loyalties."

*The Chamber further orders "the Accused Markač to immediately engage new counsel to represent him in Šeparović's stead."*

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**THE COMPLETION STRATEGY IS NOT A PASSPORT TO IMPUNITY**

The ICTY President, Judge Fausto Pocar, the Registrar, Hans Holthuis, and the Deputy Prosecutor, David Tolbert, attended an Expert Group Meeting convened in New York on Monday 26 and Tuesday 27 February to discuss the "Planning for residual issues and mechanisms for international and hybrid criminal tribunals." The purpose of the meeting was, in short, to discuss: which "Tribunal", which entity, will take over the Tribunal's remaining responsibilities after it closes?

Organized by the International Centre for Transitional Justice (ICTJ) and the law faculty of the University of Western Ontario, the meeting focused on the form of residual judicial mechanisms to remain in place following the closing of the Tribunal, in order to discharge a number of functions such as "the possible trials of fugitives, commutations of sentences of convicted persons, review of cases, witness protection and monitoring of referred cases," explained Refik Hodžić, the Tribunal's spokesman at his weekly press briefing on Wednesday 7 March.

Following this announcement, Refik Hodžić was asked to elaborate on the trial of fugitives. He stated the following: "The Tribunal remains of the position that remaining fugitives would be tried at the ICTY. In view of this, the Expert Group meeting discussed different mechanisms, including the gradual downsizing of the Tribunal to an organization which could deal with the trials of the remaining fugitives, even once all scheduled trials have been completed in line with the completion strategy."

Refik Hodžić made it clear that "the Tribunal still expects all fugitives to be tried within the current mandate. However, capacity has to remain in place for fugitives to be tried should they not be apprehended within the time frame of the Tribunal as laid out in the completion strategy." In short: the completion strategy cannot be construed as an invitation to the fugitives and their protectors to just hang on for a few more years: it is not a passport to impunity.

Thus, there will be a Tribunal ready to try them... even after the Tribunal.

**ICTY PROCEEDINGS COMPLETED WITH REGARD TO 100 ACCUSED**

**Since the very first hearing (referral request in the Tadić case) on 8 November 1994, the Tribunal has indicted a total of 161 individuals, and has already completed proceedings with regard to 100 of them: five have been acquitted, 48 sentenced (seven are awaiting transfer, 24 have been transferred, 16 have served their term, and one died while serving his sentence), 11 have had their cases transferred to local courts. Another 36 cases have been terminated (either because indictments were withdrawn or because the accused died, before or after transfer to the Tribunal).**

**Proceedings are on-going with regard to 61 accused: 13 are at the appeals stage, two are awaiting judgement by a Trial Chamber, 26 are currently on trial, 14 are at pre-trial and six are still at large.**

*The figure of the accused at the appeals stage includes Sefer Halilović, Fatmir Limaj and Isak Musliu (who have been acquitted and released but against whom an appeal by the Office of the Prosecutor is running), as well as Amir Kubura and Naser Orić. These two accused have been sentenced and granted early release (Kubura) and release (Orić), but the OTP has appealed against the Trial Chamber's Judgements.*

**A further 19 individuals have also been the subject of contempt proceedings.**

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