



11 January 2002

## ICTY WEEKLY UPDATE – 202

### PROCEDURAL DEVELOPMENTS:

#### I. OVERVIEW OF COURT PROCEEDINGS:

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

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

On 7 January 2002, the Prosecution called witness Lt. Col. Anton van der Grinten, a Dutch military officer who served as an ECMM monitor in Mostar and Široki Brijeg from May until August 1993. Later that day, the Prosecution called witness Halil Ajanić who told the court about the rounding up of Muslims by the HVO in Mostar. He also described the conditions of detention at the Heliodrom detention centre.

On 8 January, the Defence cross-examined witness Lt. Col. Anton van der Grinten who was re-examined by the Prosecution. The Trial Chamber asked the witness some questions before he was briefly re-examined by Defence counsel.

On 9 January, the Prosecution resumed the examination of witness Halil Ajanić. After Ajanić's cross-examination by the Defence, the Prosecution called witness Dr. Hamza Zujo, a specialist in forensic medicine, who has been working for the Institute for Forensic Medicine in Sarajevo since 1977.

Dr. Zujo's testimony continued the following day.

On 11 January, Dr. Zujo was cross-examined by the Defence.

##### **Sefer HALILOVIĆ Case (“Grabovica and Uzdol”)**

*Trial Chamber III – Judge May (Presiding), Robinson and Kwon*

On 8 January, the parties appeared before Judge Kwon for a status conference pursuant to Rule 65 *bis* of the Rules of Procedure and Evidence. The accused, provisionally released on 13 December 2001, was not present.

The deadline for the filing of the Prosecution's pre-trial brief was set for **29 April 2002** and the date for Defence brief for **31 July 2002**. The next status conference was scheduled for **16 April 2002**.

##### **Mitar VASILJEVIĆ Case (“Višegrad”)**

*Trial Chamber II Section A – Judges Hunt (Presiding), Janů and Taya*

On 9 January, the Defence called witness Dr. Čedomir Vučetić, a specialist in orthopaedic surgery and trauma in Belgrade. The Defence counsel examined the witness who was also cross-examined by the Prosecution. Then the Defence called witness Dr. Zorka Lopičić who teaches psychoanalytical psychotherapy and post-graduate courses at the faculty of medicine at the University of Belgrade.

Dr. Lopičić was cross-examined by the Prosecution on the following day. The Defence's case-in-chief ended following the completion of the witness' testimony.

On 11 January the Prosecution started its rebuttal case. The Tribunal heard the testimony of expert witness Dr. Nigel Raby who works as a radiologist in Glasgow, Scotland.

**Slobodan MILOŠEVIĆ Case (“Kosovo”)**

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

On 9 January 2002, the parties appeared before the Trial Chamber for a pre-trial conference pursuant to Rule 73 *bis* of the Rules of Procedure and Evidence.

The Prosecution anticipated calling 110 live witnesses and another 123 by way of Rule 92 *bis* statements. However, the Trial Chamber considered 90 witnesses as sufficient given the size and the complexity of the case. The President requested the Prosecution to consider a more limited number of Rule 92 *bis* witnesses.

No witness is to be called until 30 days have lapsed from the disclosure of the statement. For witnesses with undisclosed identities, the Trial Chamber decided that disclosure to the accused of the protected witness’ identity would take place 10 days before the appearance. The *amici curiae* will fall under the usual 30 day provision.

The format of the upcoming trial and the procedure to be followed were discussed. The proceedings at the trial were set out as follows:

1. Opening Statements (Rules 84 and 84 *bis*)

- (i) Prosecution opening statement;
- (ii) The accused may, if he so wishes, make a statement \*

\*Any such statement is not under solemn declaration and is not subject to questioning.

2. Presentation of Prosecution Case (Rules 85 and 90).

The Prosecution calls witnesses and presents evidence. The examination of witnesses follows this order:

- (i) Examination in chief by the prosecution;
- (ii) Cross-examination by the accused;
- (iii) Cross-examination by one of the *amici curiae*;
- (iv) Re-examination by the Prosecution.

Cross-examination is subject to the control of the Trial Chamber. It is limited to the subject matter of the evidence in chief, matters affecting the witness’s credibility or relevance to the case of the cross-examining party; and, only with the leave of the Trial Chamber may it deal with other matters.

3. Motion for Judgement of Acquittal (Rule 98 *bis*).

The accused may file such a motion within seven days of the close of the Prosecution case. The Trial Chamber must acquit the accused on a charge if there is insufficient evidence to sustain a conviction.

4. Presentation of Defence Case (Rules 84, 85 and 90)

- (i) The accused may make an opening statement, call witnesses and present evidence;
- (ii) The accused may appear as a witness in his own defence;
- (iii) All witnesses, including the accused, will be subject to cross-examination by the Prosecution and may be cross-examined by one of the *amici curiae*;
- (iv) If the witnesses are cross-examined, the accused may re-examine them.

5. Rebuttal and Rejoinder Evidence (Rules 85 and 98)

- (i) The Prosecution may call evidence in rebuttal of the defence;
- (ii) The accused may call evidence in rejoinder;
- (iii) The Trial Chamber may call witnesses.

6. Closing Arguments (Rule 86)

- (i) The parties and *amici curiae* file final written briefs;
- (ii) The Trial Chamber hears closing arguments by the Prosecution, *amici curiae* and the accused.

7. Judgement (Rules 87 and 98 *ter*)

- (i) After the completion of the case, the Trial Chamber retires for deliberations;
- (ii) The Judgement will be announced in public on a date to be notified.

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**Dragan NIKOLIĆ Case (“Sušica Camp”)**

*Trial Chamber II - Judge Agius*

On 9 January 2002, the Trial Chamber convened for a status conference during which the progress of the pre-trial preparation was discussed. The Trial Chamber will decide on the Prosecution’s Motion for leave to amend the first amended indictment and the Defence Motion on the alleged illegality of the arrest in due course.

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**Stanislav GALIĆ Case (“Sarajevo”)**

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

On 9 January 2002, the third week of the Prosecution case resumed with the cross-examination of witness Bakir Nakaš. The cross-examination of this Prosecution witness had started before the adjournment of the trial on 10 December 2001. The Prosecution then called witness John Ashton, a humanitarian aid worker who worked, amongst others, for the UNHCR in Sarajevo in 1992, 1993 and 1994.

His testimony continued the following day and also on Friday.

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**Nenad BANOVIĆ and Predrag BANOVIĆ Case (“Keraterm Camp”)**

*Trial Chamber III – Judge May (Presiding), Robinson and Kwon*

On 11 January 2002, the Trial Chamber convened for a status conference during which the progress of the pre-trial preparation was discussed.

**II. OVERVIEW OF COURT DOCUMENTS:**

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**Dragan OBRENOVIĆ, Vidoje BLAGOJEVIĆ and Dragan JOKIĆ Cases**

*Trial Chamber II - Judge Schomburg (Presiding), Agius and Kwon*

**SCHEDULING ORDER**

On 19 December 2001, the Trial Chamber scheduled a joint hearing on the Prosecution’s Motion for Joinder to be followed by a joint status conference for **15 January 2002 at 9:30 a.m.**

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**Milomir STAKIĆ Case**

*Trial Chamber II - Judge Schomburg (Pre-trial judge)*

**SCHEDULING ORDER**

On 19 December 2001, a Status Conference was scheduled for **18 January at 14:00.**  
On 8 January a Rule 65 *ter* meeting took place.

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**Enver HADŽIHASANOVIĆ, Mehmed ALAGIĆ and Amir KUBURA Case (“Central Bosnia”)**

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

**DECISIONS GRANTING PROVISIONAL RELEASE**

On 19 December 2001, the Trial Chamber rendered three written decisions granting the provisional release of Enver Hadžihanović, Mehmed Alagić and Amir Kubura. It considered that Rule 65 of the Rules must be read in the light of the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Trial Chamber emphasised that “*de jure* pre-trial detention should be the exception and not the rule as regards prosecution before an international court.” Moreover, it added that “ when interpreting Rule 65, the general principle of proportionality must be taken into account.” The Trial Chamber must also take into account that the three co-accused had “surrendered voluntarily” to the Tribunal. Lastly, it found that the fact that Enver Hadžihanović had used his right to remain silent as an accused could not “be held against him” (see *Press release 649 and Weekly Update 201*).

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**Rahim ADEMI Case**

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*Trial Chamber I - Judge Orić (Duty Judge)*

**DECISION ON THE DEFENCE MOTION FOR PROVISIONAL RELEASE**

On 21 December 2001, the Duty Judge ordered the Motion and all related filings or relevant documents to be remitted to the Trial Chamber seized of the case for it to decide on the merits of the Motion in due course.

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**Miodrag JOKIĆ Case**

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*Trial Chamber I - Judge Orić (Duty Judge)*

**ORDER ON THE DEFENCE MOTION FOR PROVISIONAL RELEASE**

On 21 December 2001, the Duty Judge ordered the Motion and all related filings or relevant documents to be remitted to the Trial Chamber seized of the case for it to decide on the merits of the Motion in due course.

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**Slobodan MILOŠEVIĆ Cases (“Kosovo”, “Croatia” and “Bosnia”)**

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*Bench of the Appeals Chamber – Judges Jorda (Presiding), Hunt and Pocar*

**DECISION ON PROSECUTION APPLICATION FOR LEAVE TO FILE AN INTERLOCUTORY APPEAL**

On 9 January 2002, a Bench of the Appeals Chamber granted leave to file an interlocutory appeal against the Decision on joinder (see *Press Release* 652 and *Weekly Update* 201). The Bench emphasised that this Decision should not be interpreted as preventing the Trial Chamber, if it so decides, from commencing the trial of the accused in the Kosovo case on 12 February 2002.

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**Goran JELISIĆ Case**

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*President of the Tribunal - Judge Jorda*

**ORDONNANCE DU PRESIDENT PORTANT AFFECTATION DE JUGES A LA CHAMBRE D’APPEL**

On 7 January 2002, Defence counsel for Goran Jelisić confidentially filed a request for review of the Judgement of the Trial Chamber and the Appeals Chamber. On 8 January, the President of the Tribunal ordered that the Appeals Chamber decide on the request for review and that it be composed of Judges Shahabuddeen, Pocar, Güney, Gunawardana and Meron.

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**COURTROOM SCHEDULE: 14 JANUARY – 18 JANUARY\***

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**MONDAY 14 JANUARY**

Courtroom I 09:30 - 13:00, **Martinovic/Naletilic**, Trial  
14:30 - 16:00, **Martinovic/Naletilic**, Trial  
Courtroom II 09:30 - 13:00, **Vasiljevic**, Trial  
14:30 - 17:30, **Vasiljevic**, Trial  
Courtroom III 09:00 - 13:45, **Galic**, Trial  
14:15 - 18:00, **Simic et al.**, Trial

**TUESDAY 15 JANUARY**

Courtroom I 09:30 - 13:00, **Blagojevic/Obrenovic/Jokic**, Hearing on motion for joinder  
14:30 - 16:00, **Blagojevic/Obrenovic/Jokic**, Hearing on motion for joinder  
Courtroom II 09:30 - 13:00, **Vasiljevic**, Trial  
14:30 - 17:30, **Vasiljevic**, Trial  
Courtroom III 09:00 - 13:45, **Martinovic/Naletilic**, Trial  
14:15 - 18:00, **Simic et al.**, Trial

**WEDNESDAY 16 JANUARY**

Courtroom I 09:00 - 13:45, **Martinovic/Naletilic**, Trial  
14:15 - 19:00, **Brdanin/Talic**, Pre-trial Conference  
Courtroom II 09:30 - 13:00, **Vasiljevic**, Trial  
14:30 - 17:30, **Vasiljevic**, Trial  
Courtroom III 09:00 - 13:45, **Galic**, Trial  
14:15 - 18:00, **Simic et al.**, Trial

**THURSDAY 17 JANUARY**

Courtroom I 09:30 - 13:00, **Martinovic/Naletilic**, Trial  
14:30 - 16:00, **Martinovic/Naletilic**, Trial  
Courtroom II 09:30 - 13:00, **Vasiljevic**, Trial  
14:30 - 17:30, **Vasiljevic**, Trial  
Courtroom III 09:00 - 13:45, **Galic**, Trial

14:15 - 18:00, **Simic et al.**, Trial

**FRIDAY 18 JANUARY**

Courtroom I 09:30 - 13:00, **Martinovic/Naletilic**, Trial  
14:00, **Stakic**, Status Conference  
Courtroom II 09:30 - 13:00, **Vasiljevic**, Trial  
14:30 - 17:30, **Vasiljevic**, Trial  
Courtroom III 09:00 - 13:45, **Galic**, Trial  
14:15 - 18:00, **Simic et al.**, 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/schedule/week-e.htm> (in English);

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

**PRESS RELEASES ISSUED SINCE 14 DECEMBER:**

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DATE	NUMBER	TITLE	E	F	B/C/S
11/01/2002	653	BENCH OF APPEALS CHAMBER GRANTS PROSECUTION LEAVE TO APPEAL JOINDER DECISION IN MILO[EVIC] CASE	E	F	B/C/S

For the latest list of all court filings, please visit the [ICTY Court Records](#)

For a selection of the latest public documents, please visit the [ICTY Website](#)