

United Nations  
Nations UniesInternational Criminal Tribunal  
for the former Yugoslavia  
Tribunal Pénal International  
pour l'ex-Yougoslavie

(IT-95-9-R77)

# MILAN SIMIĆ and BRANISLAV AVRAMOVIĆ

## MILAN SIMIĆ

*Found not guilty of contempt of the Tribunal in the case of The Prosecutor v. Simić et al. (IT-95-9)*



Accused in the case of *The Prosecutor v. Simić et al.*

- Acquitted

## BRANISLAV AVRAMOVIĆ

*Found not guilty of contempt of the Tribunal in the case of The Prosecutor v. Simić et al. (IT-95-9)*



Defence counsel for Simić in the case of *The Prosecutor v. Simić et al.*

- Acquitted

<b>Indictment</b>	7 July 1999
<b>Initial appearance</b>	29 September 1999
<b>Trial Chamber Judgement</b>	Oral: 29 March 2000, written: 30 June 2000

## STATISTICS

Trial days	11
Witnesses called by Prosecution	3
Witnesses called by Defence	4

TRIAL	
Commenced	29 September 1999 (concluded on 2 December 1999)
Trial Chamber III	Judge Patrick Robinson (presiding), Judge David Hunt, Judge Mohamed Bennouna
Counsel for the Prosecution	Dirk Ryneveld, Nancy Patterson, Suzanne Hayden, Dan Saxon
Counsel for the Defence	Peter Haynes
Judgement	Oral: 29 March 2000, written: 30 June 2000

RELATED CASES <i>by geographical area</i>	
Simić <i>et al.</i> (IT-95-9) "Bosanski Samac"	

## INDICTMENT AND CHARGES

In accordance with Rule 77 of its Rules of Procedure and Evidence, the Tribunal can conduct proceedings for contempt of court. The ICTY's jurisdiction in respect of contempt is not expressly outlined in the Statute. However, it is firmly established that the Tribunal possesses an inherent jurisdiction, deriving from its judicial function, to ensure that its exercise of the jurisdiction expressly given to it by the Statute is not frustrated and that its basic judicial functions are safeguarded. As an international criminal court, the Tribunal possesses this inherent power to deal with conduct interfering with its administration of justice. Such interference may be by way of conduct which obstructs, prejudices or abuses the Tribunal's administration of justice. Those who knowingly and wilfully interfere with the Tribunal's administration of justice in such a way may, therefore, be held in contempt of the Tribunal.

The allegations against Milan Simić and Branislav Avramović arose in connection with alleged harassment and bribery of a potential defence witness known as "witness Agnes." It was alleged that, from July 1998 to May 1999, Milan Simić and Branislav Avramović conducted a programme of harassment and intimidation, supported by bribery, in an effort to persuade witness Agnes to testify on behalf of Milan Simić.

Milan Simić was alleged to have threatened the witness over the telephone, and once by firing a gun into the air from his vehicle in the middle of the night near the witness' home. Between January and May 1999, he also allegedly incited the witness to give false testimony on his behalf, promising in exchange money, an apartment, and a job.

Branislav Avramović was alleged to have asked the witness to state, falsely, that Milan Simić had not been at the school which, according to the Prosecution, was used as a prison camp where prisoners were beaten. He allegedly coached the witness to give a false statement, making her repeat it into a recorder, and threatened her over the telephone, and also shot a gun into the air from his vehicle near her home. He also allegedly incited the witness to give false testimony, offering her things in exchange for her testimony and pressuring her.

In May 1999, witness Agnes contacted the Office of the Prosecutor.

On 25 May 1999, the Prosecution sought an *ex parte* hearing on allegations of bribery by the Defence, including not only Milan Simić and Branislav Avramović but also Igor Pantelić, counsel for another accused, for the intimidation of the witness and suborning perjury of that witness.

Given the seriousness of the allegations, the Trial Chamber scheduled a closed session *ex parte* hearing for 8 June 1999 on the motion to hear the Prosecution as to the procedure to be followed for permitting the Defence to be notified of and respond to the allegations. Milan Simić, Branislav Avramović and Igor Pantelić were notified of the allegations after the hearing that same day. An *inter partes* hearing was scheduled for the next day, 9 June 1999.

Following the hearing on 9 June 1999, the Trial Chamber issued an order cancelling the scheduled date for commencement of trial, postponing the entire trial on the merits until further notice and revoking the provisional release of Milan Simić, who had returned voluntarily to the United Nations Detention Unit in The Hague for the commencement of the trial.

Submissions in response to the allegations of contempt were received from Milan Simić, Branislav Avramović and Igor Pantelić, following which the Trial Chamber issued an order on 7 July 1999, finding that it did not have good reason to believe that Igor Pantelić may be in contempt of the Tribunal, but finding that it did have good reason to suspect Milan Simić and Branislav Avramović.

## TRIAL

The proceedings commenced on 29 September 1999. Milan Simić and Branislav Avramović declared they did not accept any of the allegations made against them.

The evidence of witness Agnes was heard in closed session on 29 and 30 September 1999, and was due to continue on 5 October 1999, but witness Agnes failed to appear on that day. Two other witnesses for the case against Milan Simić and Branislav Avramović were heard in open session on that day. On 6 October

1999, a representative of the Victims and Witnesses Section of the Tribunal informed the Trial Chamber of the practical difficulties that had led to witness Agnes' non-appearance on the previous day and that representative accepted sole blame for the non-appearance. Witness Agnes returned to continue his testimony that day, after which the proceedings were adjourned to 1 November 1999.

On 8 October 1999, the Prosecution sought and, with no objection from Milan Simić and Branislav Avramović, was granted leave on grounds of the health and well-being of witness Agnes to have limited contact with the witness during the intervening period, on the basis that such contact was to be limited to social and non-case related matters, and that his testimony would not be discussed in any fashion.

The contempt proceedings resumed on 1 November 1999. Witness Agnes resumed his testimony on 2 and on 4 November 1999, and the first witness for Milan Simić and Branislav Avramović's case was heard on 4 November before the proceedings were again adjourned to 29 November 1999. The proceedings continued for a further four days, until 2 December 1999, during which time a further three witnesses were heard for Milan Simić and Branislav Avramović. Both Milan Simić and Branislav Avramović also gave evidence themselves.

During closing submissions, all of the witness statements produced to the Trial Chamber were formally admitted into evidence, along with other documents. The Trial Chamber then adjourned to deliberate on the matter.

## TRIAL CHAMBER JUDGEMENT

The Trial Chamber stated that the issue to be determined was whether the truth of the allegations made by witness Agnes had been established beyond reasonable doubt and whether these allegations should be believed.

Holding that "Witness Agnes was prepared to expand his story considerably once he realised that he himself would be re-located necessarily gives rise to substantial doubts as to the truth of the allegations which he initially made," the Trial Chamber found that witness Agnes was "not an impressive witness in his demeanour".

The Trial Chamber concluded that, "although the uncorroborated evidence of Witness Agnes raised grave suspicions in relation to the conduct of Mr. Avramovic, it did no more. Not even the gravest of suspicions can establish proof beyond reasonable doubt, and far more substantial evidence would be required before Mr. Avramovic could be found guilty and, as a result of Witness Agnes' destruction of his own credit, the case against Milan Simić was completely unsubstantiated."

On 29 March 2000, Trial Chamber III delivered its oral Judgement that neither the allegations of contempt against Milan Simić nor those against Branislav Avramović had been proven beyond a reasonable doubt. Therefore, both Milan Simić and Branislav Avramović were found to be not guilty of contempt of the Tribunal.