

IT-96-23/2-PT
D 6959- D 6954
14 NOVEMBER 2007

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THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

Case No. IT-96-23/2-PT

IN THE REFERRAL BENCH

Before Judge Alphons Orie, Presiding
Judge O-Gon Kwon
Judge Kevin Parker

Registrar: Mr Hans Holthuis

Date Filed: 14 November 2007

THE PROSECUTOR

v.

GOJKO JANKOVIĆ

PUBLIC FILING

PROSECUTOR'S EIGHTH PROGRESS REPORT

The Office of the Prosecutor

Ms. Carla Del Ponte

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

Case No. IT-96-23/2-PT

THE PROSECUTOR

v.

GOJKO JANKOVIĆ

PROSECUTOR'S EIGHTH PROGRESS REPORT

1. Pursuant to the Decision on Prosecutor's Motion for Referral of Case Under Rule 11bis of 22 July 2005¹ ("Referral Decision") the Prosecutor hereby files her eighth progress report in this case.
2. The Organization for Security and Co-operation in Europe's ("OSCE") Seventh Report in this case has not identified any issues of concern.²
3. The OSCE summarizes the proceedings in the *Janković* case to date as follows:
 - On 23 October 2007, in examining the Appeal of the Defence, the Appellate Panel held a public session, having rejected the Defence Counsel's request for its postponement. This decision was based on the findings of the Medical Commission formed by the Court to evaluate the Defendant's health.³
 - Subsequently, the Defence counsel submitted a request for a retrial and stated that, if a retrial is held, the Defendant is prepared to disclose the names of the real perpetrators. A retrial would also make it possible for

¹ *Prosecutor v. Gojko Janković*, Case No. IT-96-23/2-PT, Decision on Prosecutor's Motion for Referral of Case Under Rule 11 bis, 22 July 2005.

² Seventh OSCE Report in the *Gojko Janković* Case Transferred to the State Court Pursuant to Rule 11bis, November 2007 (hereinafter "Report").


³ Report, page 2.

the Defence to supplement the evidentiary proceedings with evidence in favour of the Defendant.⁴

- The Prosecution stood by its response to the Appeal and requested that the court uphold the first instance verdict. The decision is still pending.⁵

4. Attached to this report and marked as Annex A is a copy of the Report.

Word count: 262


Carla Del Ponte
Prosecutor



Dated this fourteenth day of November 2007
At The Hague
The Netherlands

⁴ Report, page 2.

⁵ Report, page 2.

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ANNEX A
TO
PROSECUTOR'S EIGHTH PROGRESS REPORT



**Organization for Security and Co-operation in Europe
Mission to Bosnia and Herzegovina**

**Seventh Report in the
Gojko Janković Case
Transferred to the State Court pursuant to Rule 11bis**

November 2007

SEVENTH REPORT IN THE GOJKO JANKOVIĆ CASE

The case of Gojko Janković is the second case transferred from the ICTY to the BiH State Court, pursuant to Rule 11*bis* of the ICTY Rules of Procedure and Evidence. This constitutes the seventh OSCE Report delivered to the ICTY Prosecutor, covering the period between the beginning of August 2007 and the end of October 2007.

From its monitoring activities during the reporting period, the OSCE Mission to Bosnia and Herzegovina has not identified any issues of concern that could be assessed, at this stage, as infringing upon the Defendant's right to a fair trial. Therefore, this Report is limited to highlighting the main developments in these proceedings.

- It may be reiterated that on 16 February 2007, the Trial Panel orally pronounced the verdict, while the written verdict was issued on 20 March 2007. The Defendant was found guilty on seven counts of crimes against humanity, including murder, torture and rape, and sentenced to 34 years of imprisonment. The Accused was acquitted on two counts concerning murder and torture, as well as rape. On 14 April 2007, the Defence appealed the said verdict, while the Prosecution responded to this Appeal on 27 April 2007. On 7 May 2007, the case file was sent to the Appellate Panel for review.
- In examining the Appeal of the Defence, the Appellate Panel held a public session on 23 October 2007 in the presence of both parties and Defence Counsel, in order to hear their arguments.

Defence Counsel explained that the Defendant requested the postponement of the appellate session, because he was not in good health and should have surgery. Upon this request, the Court formed a medical commission whose expert evaluation confirmed that the surgery is necessary, but not urgent. Accordingly, the Appellate Panel decided to hold the session.

Defence Counsel asked for a retrial. He announced that, if a retrial is held, his client is prepared to offer the names of persons who committed the crimes, of which he was accused. According to Defence Counsel, a decision for retrial would make it possible for the Defence to supplement the evidentiary proceedings with evidence in favour of the Accused. The Defendant also stated that he "only wanted the truth to be revealed" and promised to disclose the names of the real perpetrators. Upon the question of the Presiding Judge of the Appellate Panel on this issue, the Defendant explained that during the first instance proceedings he had been unwell and had not been allowed by the Prosecutor "to do anything." The Presiding Judge clarified that the proceedings are managed by the Court, and not by the Prosecution.

The Prosecution stood by its response to the Appeal and requested that the Court uphold the first instance verdict.

At the time of writing of this Report, the Appellate Panel's decision is still pending.