

IT-05-88/A - PT
D1386 - D1387
26 April 2010

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THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

Case No. IT-05-88/1-PT

IN THE REFERRAL BENCH

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

Registrar: Mr. John Hocking

Date Filed: 26 April 2010

THE PROSECUTOR

v.

MILORAD TRBIĆ

PUBLIC

PROSECUTION'S TWELFTH PROGRESS REPORT

The Office of the Prosecutor
Mr. Serge Brammertz

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

Case No. IT-05-88/1-PT

THE PROSECUTOR

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PROSECUTION'S TWELFTH PROGRESS REPORT

1. Pursuant to the Referral Bench's Decision on Referral of Case Under Rule 11 *bis* with Confidential Annex ("Referral Decision") of 27 April 2007, the Prosecution hereby files its twelfth progress report in this case.
2. The Decision on referral ordered:

...the Prosecutor to file an initial report to the Referral Bench on the progress made by the Prosecutor's Office of Bosnia and Herzegovina in this case six weeks after transfer of the evidentiary material. Thereafter, the Prosecution shall file a report every three months. These reports shall include information on the course of the proceedings before the competent national court after commencement of trial, and shall include any reports or other information received from any international organizations also monitoring the proceedings.¹
3. The eleventh progress report in the *Trbić* case was filed on 25 January 2010.²
4. Following the agreement between the Chairman in Office of the Organization for Security and Co-operation in Europe's Mission to Bosnia and Herzegovina (the "OSCE") and the Office of the Prosecutor ("OTP"), the Prosecution received OSCE's eleventh report on 19 April 2010.³

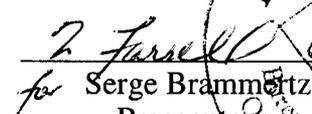
¹ *Prosecutor v. Milorad Trbić* ("Trbić case"), Case No. IT-05-88/1-PT, Referral Decision, p. 26.

² *Trbić case*, Prosecution's Eleventh Progress Report, 25 January 2010 ("Prosecution's Eleventh Progress Report").

³ OSCE's Eleventh Report in the *Milorad Trbić* Case Transferred to the State Court pursuant to Rule 11 *bis*, April 2010 ("Report").

5. OSCE is concerned that the BiH State Court has not yet rendered the written verdict in this case. As reported earlier, the oral verdict was rendered on 16 October 2009 pronouncing Milorad Trbić guilty of Genocide and sentencing him to 30 years long-term imprisonment.⁴ In accordance with the provisions of the BiH Criminal Procedure Code, the presiding judge has sent several letters to the President of the BiH State Court explaining the reasons for the delay in producing the written judgement which include, *inter alia*, the complexity of the case and the large amount of evidence. OSCE reported that in the most recent letter dated 9 April 2010, the presiding judge indicated that the written verdict will be issued by the end of April.⁵
6. OSCE reports that Milorad Trbić remains in custody because of risk of flight and threat to public security.⁶ As soon as the verdict becomes available, the Prosecution will file it with the Referral Bench.
7. Attached to this report is a copy of the Report.

Word Count: 406


for Serge Brammertz
Prosecutor

Bureau du Procureur
Office of the Prosecutor

Dated this twenty sixth day of April 2010
At The Hague
The Netherlands

⁴ Prosecution's Tenth Progress Report, para. 6.

⁵ Report, p.1.

⁶ *Ibid.*

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ANNEX A
TO
PROSECUTION'S TWELFTH PROGRESS REPORT



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

Eleventh Report in the

Milorad Trbić Case

Transferred to the State Court pursuant to Rule 11bis

April 2010

SUMMARY OF DEVELOPMENTS

The case of Milorad Trbić (hereinafter also Defendant) is the sixth case transferred from the ICTY to the BiH State Court for trial pursuant to Rule 11*bis* of the ICTY Rules of Procedure and Evidence (RoPE). This is the eleventh report in this case that the OSCE Mission to Bosnia and Herzegovina (Mission) submits to the ICTY Prosecutor, covering the period from 18 January 2010 to 19 April 2010.

On 16 October 2009, the Trial Panel rendered its oral verdict finding Milorad Trbić guilty of Genocide and sentencing him to 30 years' long-term imprisonment. The Panel found that, between July and November 1995, the Defendant participated together with Colonel Ljubiša Beara, Lieutenant Colonel Vujadin Popović, Lieutenant Drago Nikolić and others in a joint criminal enterprise in the zone of responsibility of the Zvornik Brigade with the common purpose and plan to capture, detain, summarily execute, and bury all able bodied Bosniak males from the Srebrenica enclave and then conceal the evidence of those crimes through the reburial of victims in unmarked graves.¹ This included crimes committed at the detention sites in Orahovac, Ročevići, and Petkovci, as well as the execution sites near Lažete, Kozluk, and Petkovci Dam.

In addition to the findings on guilt, the Trial Panel referred all compensation claims filed during the criminal proceedings to civil proceedings. The Panel also relieved the Defendant of the obligation to pay the costs of the proceedings.

The Mission is concerned that, although the oral verdict was pronounced six months ago, the Court has yet to render the written verdict in this case. In line with Article 289(1) of the Criminal Procedure Code of Bosnia and Herzegovina², the Presiding Judge sent several letters to the President of the Court in the past six months, explaining the reasons for the delay in the preparation of the written verdict. They include, *inter alia*, the complexity of the case and the large amount of evidence. The last letter, dated 9 April 2010, indicates that the written verdict will be issued by the end of April. The Mission will analyse the verdict in greater detail when issued.

The Defendant remains in custody because of risk of flight and threat to public security. Due to an amendment in the provision on the length of time in custody between the announcement of the oral verdict and the finalization of the appellate verdict, the defendant may remain in custody for up to fifteen months in exceptional cases.³

¹ Article 171(a) and (b) of the Criminal Code of Bosnia and Herzegovina in conjunction with Article 181.

² Article 289(1) prescribes that: "An announced verdict must be prepared in writing within 15 days from its announcement, and in complicated matters and as an exception, within 30 days. If the verdict has not been prepared by these deadlines, the judge or the presiding judge is obligated to inform the President of the Court as to why this has not been done".

³ Article 138(3) of the Criminal Procedure Code of Bosnia and Herzegovina provides: "After pronouncing the first instance verdict, the custody may last no longer than additional nine months. Exceptionally, in complex cases and for important reasons the Appellate Panel may extend custody for additional six months. If during that period no second instance verdict to alter or sustain the first instance verdict is pronounced, the custody shall be terminated and the accused shall be released. If within the prescribed deadlines the second instance verdict is pronounced reversing the first instance verdict, the custody shall last for no longer than another year after pronouncement of the second instance verdict."