

IT-05-88/1-PT  
D1409 - D1402  
26 October 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 October 2010

THE PROSECUTOR

v.

MILORAD TRBIĆ

PUBLIC

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PROSECUTION'S FOURTEENTH PROGRESS REPORT

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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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MILORAD TRBIĆ

**PUBLIC**

**PROSECUTION'S FOURTEENTH 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 fourteenth 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.<sup>1</sup>
3. The thirteenth progress report in the *Trbić* case was filed on 15 July 2010.<sup>2</sup>
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 thirteenth report on 15 October 2010.<sup>3</sup>

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

<sup>2</sup> *Trbić* case, Prosecution's Thirteenth Progress Report, 15 July 2010 ("Prosecution's Thirteenth Progress Report").

<sup>3</sup> OSCE's Thirteenth Report in the *Milorad Trbić* Case Transferred to the State Court pursuant to Rule 11 *bis*, October 2010 ("Report").

5. The Report provides a summary of the current appellate procedure in the *Trbić* case. The written judgement was published on 29 April 2010, while it had been orally rendered on 16 October 2009.
6. OSCE reports that due to the length of the first instance verdict (482 pages) and the large number of injured parties in this case (2032), The BiH State Court was not able to provide a copy of the written verdict to all of the injured parties who have filed property claims. Instead, those who had legal representatives during the proceedings got a CD-Rom with an electronic copy of the verdict. Those who did not have legal representation during the trial were notified that a copy of the verdict has been placed on the Court's bulletin board and also that it is available on the Court's web page or that an electronic copy could be obtained at the Court.<sup>4</sup>
7. OSCE also reports that Milorad Trbić remains in custody due to the risk of flight and threat to public security. According to the BiH Criminal Procedure Code, the defendant may remain in custody for a maximum of 15 months in the period between the announcement of the oral verdict and the finalization of the appellate verdict. Accordingly, if the appellate verdict is not pronounced before 16 January 2011, the defendant will have to be released on that day.<sup>5</sup>
8. OSCE finally reports that the first appellate hearing would take place on 21 October 2010. Although the OSCE is confident that the Appellate Panel will endeavour to finalize the appellate proceedings before 16 January 2011, the possibility that Milorad Trbić could be released before the final judgement is pronounced cannot be excluded due to the complexity of the case.<sup>6</sup>

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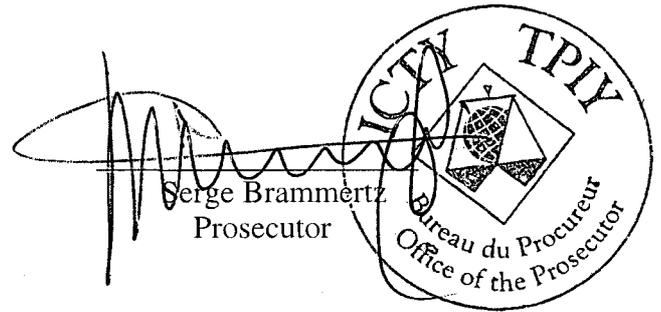
<sup>4</sup> Report p. 2.

<sup>5</sup> Report pp. 2-3.

<sup>6</sup> Report p. 3.

9. Attached to this report is a copy of the OSCE Report.

Word Count: 539



Dated this twenty-sixth day of October 2010  
At The Hague  
The Netherlands

INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA

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

THE PROSECUTOR

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ANNEX A  
TO  
PROSECUTION'S FOURTEENTH PROGRESS REPORT

IT-05-88/1-PT

1404



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

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**Thirteenth Report in the**  
***Milorad Trbić Case***  
**Transferred to the Court of BiH pursuant to Rule 11bis**

**October 2010**

## SUMMARY OF DEVELOPMENTS

The case of Milorad Trbić (hereinafter also *Defendant* or *Accused*) is the sixth case transferred from the International Criminal Tribunal for the former Yugoslavia (ICTY) to the Court of BiH pursuant to Rule 11*bis* of the ICTY Rules of Procedure and Evidence (RoPE). This constitutes the thirteenth Report of the OSCE Mission to Bosnia and Herzegovina ("OSCE BIH" or "Mission"), covering the period between 19 July and 19 October 2010.

On 16 October 2009, the Trial Panel rendered the oral verdict, finding Milorad Trbić guilty of Genocide, and sentencing him to 30 years' long-term imprisonment. All compensation claims filed in this case were referred to civil proceedings and the Defendant was relieved of the obligation to pay the costs of the proceedings. The written verdict was published on 29 April 2010. Both the Prosecution and the Defence have appealed the first instance verdict.

The Mission has officially learned that, due to the length of the first instance verdict (482 pages) and the large number of injured parties in this case (2032), the Court was unable to provide all of the injured parties who have filed property claims with a copy of the written verdict.<sup>1</sup> Instead, a CD with an electronic copy of the verdict was delivered to all of the legal representatives of injured parties. Those injured parties who do not have a legal representative<sup>2</sup> were notified by the Court that a copy of the verdict has been placed on the Court's bulletin board,<sup>3</sup> as well as that it is available on the Court's website or that an electronic copy could be obtained at the Court. Moreover, the injured parties were instructed of their right to file an appeal against the verdict,<sup>4</sup> in accordance with Articles 293(4)<sup>5</sup> and 292(1)<sup>6</sup> of the CPC BiH. A handful of appeals have been filed by injured parties.

The Defendant remains in custody due to the risk of flight and the threat to public security. As was noted in the Mission's previous report, pursuant to an amendment to 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 a maximum of fifteen months.<sup>7</sup>

<sup>1</sup> Article 289 of the CPC BiH provides in the relevant part:

*(3) A certified copy of the verdict shall be delivered to the Prosecutor and to the injured party, and it shall be delivered to the accused and the defense attorney pursuant to Article 171 of this Code...*

<sup>2</sup> This group includes a number of persons whose addresses are not known to the Court, and who are considered to have been notified by placing the verdict on the Court's bulletin board.

<sup>3</sup> The Court appears to have relied on Article 176 of the CPC BiH which provides, "In cases that have not been specifically covered by this Code, the delivery shall be made according to the provisions that apply to a civil action before the Court."

<sup>4</sup> Article 289(4) provides: "(4) The instructions on right to appeal shall be also delivered to the accused and the injured party."

<sup>5</sup> "The injured party may contest the verdict only with respect to the decision of the Court on costs of the criminal proceedings and with respect to the decision on the claim under property law."

<sup>6</sup> "An appeal may be filed against the verdict rendered in the first instance within 15 days from the date when the copy of the verdict was delivered."

<sup>7</sup> 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."

Accordingly, the Defendant in the present case will have to be released on 16 January 2011 if the second instance verdict has not been reached by then. The first appellate hearing is scheduled for 21 October 2010. While the Mission is confident that the Appellate Panel will endeavour to finalize the appellate proceedings before 16 January 2011, the possibility that Milorad Trbić will be released before the final judgment is pronounced cannot be excluded, due to the complexity of the case and the large amount of documentary evidence in this case.