



United Nations



International Criminal Tribunal for the former Yugoslavia

The ICTY Digest

Monday 28 April 2008

Highlights of 14/04/2008 through 25/04/2008 - Nr. 35

[14, 16 and 24 April](#)

The trial of Jovica Stanišić and Franko Simatović to start on 28 April

On 14 April, the Trial Chamber adjourns the pre-trial conference until Monday 28 April, considering that it would be "more convenient" to wait until the two-way video-link allowing Jovica Stanišić to participate in the proceedings if he cannot attend court is fully established between the courtrooms and the Detention Unit. The defendant, explained Presiding Judge Robinson, will then be "in as good a position as we are able to provide him" to follow and participate "fully" in the proceedings.

On 16 April, Stanišić's defence is granted leave to appeal against the Trial Chamber's decision of 9 April "on future course of proceedings." The Trial Chamber considers *inter alia* that "the issue as to the consistency of the video-link with the right of the accused to be present in court is one that affects the fair and expeditious conduct of the proceedings or the outcome of the trial." However, the Trial Chamber dismissed the Defence's request for a stay of the proceedings until the Appeals Chamber has disposed of its appeal.

On 24 April, the Defence for Jovica Stanišić filed its Appeals brief, asking *inter alia* the Appeals Chamber to "remand the Trial Chamber to adjourn the proceedings for a minimum of three months to allow the Accused time to recover from his psychiatric disorder (...)"

On 16 April, the Tribunal spokeswoman, Nerma Jelačić took the opportunity of her weekly press briefing "to address again deliberate untruths published in Serbian media about this case: Stanišić is afforded the best medical attention and is being treated by specialists of highest standards. Those that claim otherwise are simply not reporting the actual situation."

[14 April](#)

Appeals Chamber orders provisional release of Berislav Pušić

Dismissing the appeal filed by the Prosecution, the Appeals Chamber upholds (Judge Schomburg dissenting) Trial Chamber III's Decision of 19 March to grant Berislav Pušić provisional release. The Appeals Chamber orders that Berislav Pušić be released "from the first practicable date, and, in any event by 17 April 2008, until 2 May 2008 (...)."

Berislav Pušić is one of six accused on trial since 26 April 2006, together with Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, and Valentin Čorić. The Defence case is scheduled to commence on 5 May.

[15 April](#)

High-level Austrian visit to President Pocar

ICTY President, Judge Fausto Pocar, welcomes Hans Winkler, the State Secretary for Foreign Affairs. The latter is accompanied by the Austrian Ambassador to the Netherlands, Wolfgang Paul.

[15 and 23 April](#)

Pavle Strugar granted provisional release; appeals hearing held in his presence

Based on compassionate grounds, the Appeals Chamber's Decision reads that Pavle Strugar will be released for no more than five days and will return to the Detention Unit "no later than 21 April." Pavel Strugar is thus present at the appeals hearing in his case, held on 23 April.

A former Commander of the Second Operational Group which was formed by the then Yugoslav People's Army (JNA) to conduct the military campaign against the Dubrovnik region of Croatia, Pavle Strugar on 31 January 2005 was convicted of attacks on civilians, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science; he was sentenced to 8 years' imprisonment. Both the Prosecution and the Defence appealed against this Judgement.

However, in September 2006, both withdrew their appeals, based on exceptional humanitarian circumstances and on the expectation that the accused could be transferred to Montenegro to serve his sentence. But following confusion as to the serving of the sentence in Montenegro, the Appeals Chamber on 7 June 2007 granted a Defence request to re-open the appeals proceedings.

16 April

V. Lazarević on provisional release

Trial Chamber III bases its Decision on humanitarian grounds. The accused will be in Serbia between 25 April and 1 May under strict conditions, including 24-hour surveillance.

A former high ranking official in the Yugoslav Army, Vladimir Lazarević has been on trial since 19 July 2006 together with Milan Milutinović, Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković and Sreten Lukić, for their alleged role in the campaign of terror and violence directed against Kosovo Albanians and other non-Serbs living in Kosovo in 1999.

16 April

ICTY spokeswoman dots the I's on a couple of issues related to Kosovo

Giving her weekly press briefing, Nerma Jelačić makes important statements concerning Kosovo-related issues:

Concerning the HARADINAJ JUDGEMENT, she points out that “the Tribunal, as a body that has done so much to ensure that victims are respected and that their voices are heard, appreciates how they, in some instances, may be disappointed by specific decisions made by the Tribunal. Their disappointment or frustration should not, however, be inflamed or abused by politicians or others in the region of the former Yugoslavia. Rather than expending energies and resources on issuing negative assessments or false information about the Tribunal and its distinguished record, such parties should focus their efforts on investigating the many serious outstanding allegations against war crimes suspects and on detaining the remaining fugitives (...). The Trial Chamber’s findings in this case were based on the Trial Chamber’s assessment of the evidence before it. It did not find conclusive evidence which showed beyond reasonable doubt that the accused bore criminal responsibility for the crimes alleged. As such, the Trial Chamber acquitted the accused. This is a basic rule that guides all democratic judicial systems. There are 30 days in which the Prosecution can appeal this decision if it believes it is warranted. Furthermore, if new evidence should come to light, the Prosecution can file an application for review of the Trial judgement.”

With regards to “the particular issue of WITNESS PROTECTION,” Nerma Jelačić states that contrary to the misinformation placed in the public realm by Serbian officials, allegations that witnesses who testified in this case were killed are simply untrue. The Trial Chamber clearly stated that the proceedings were held in an atmosphere where witnesses felt unsafe. To extrapolate from that assessment that numerous witnesses were killed is bogus and inaccurate. With respect to witnesses who were reluctant to testify, most responded to the subpoenas issued by the court. Those that did not are subject to contempt proceedings.”

Addressing the “VERY SERIOUS ALLEGATIONS OF HUMAN ORGAN TRAFFICKING raised by the former Prosecutor, Carla Del Ponte, in a book recently published in Italian under her name,” Nerma Jelačić points out that “no evidence in support of such allegations was ever brought before the Tribunal’s judges. It is up to the Prosecution to determine what information they may provide on this matter.”

In this regard, the spokeswoman for the Office of the Prosecutor, Olga Kavran, stated the following: “In 2002-2003, UNMIK informed the Office of the Prosecutor of allegations that people had been abducted from Kosovo and taken to Albania where their organs were removed. It is our understanding that the Serbian authorities were also aware of these allegations at the time. The Office of the Prosecutor, together with UNMIK and the Albanian authorities conducted a preliminary investigation into the matter and visited a site in north Albania in connection with the allegations. Despite these efforts, the OTP could not substantiate the allegations and had no further basis on which to proceed in relation to our jurisdiction. The matter was left to the competent authorities – UNMIK and the Albanian authorities.”

17 / 18 April

Prosecutor’s first visit to Serbia

Serge Brammertz holds meetings with Serbian officials in charge of cooperation with the ICTY: Minister Rasim Ljajić, also Head of Serbia's National Council for Cooperation with the Tribunal, Vladimir Vukčević, War Crimes Prosecutor, and other members of the Action Team. He also meets with President Tadic, Prime Minister Kostunica and other government officials.

The Prosecutor concludes his visit by visiting the Belgrade War Crimes Court.

[21 and 22 April](#)

Delić trial completed in June

On 21 April, the Defence for Rasim Delić rests its case, after the testimony given by a thirteenth witness. The Prosecution, who called 64 witnesses, says that they will not call rebuttal witnesses.

On 22 April, the Trial Chamber schedules the presentation of the closing arguments on Monday 9 June (Prosecution) and Tuesday 10 June (Defence). Wednesday 11 June will be reserved for the presentation of arguments in rebuttal and rejoinder, if any, and for questions by the Judges.

The trial of Rasim Delić, the former chief-of-staff of the Army of Bosnia and Herzegovina, commenced on 9 July 2007. The accused is charged with four counts of violations of the laws or customs of war (murder, cruel treatment, rape) for not having taken measures to prevent or punish the crimes committed by the El Mujahed Detachment under his command between June 1993 and September 1995.

[22 April](#)

APPEALS CHAMBER PARTIALLY UPHOLDS THE GUILT OF HADŽIHASANOVIĆ AND KUBURA

Delivering its Judgement in the case of Enver Hadžihanović and Amir Kubura, both former senior officials in the Army of Bosnia and Herzegovina (ABiH), the Appeals Chamber upholds in part the Trial Chamber's findings with respect to the appellant's criminal liability as superiors for crimes committed by their subordinates in central Bosnia in 1993.

The Appeals Chamber also granted the two defendants' appeals in part, dismissed in full the Prosecution's appeals, and reduced the sentence of Enver Hadžihanović from 5 years to 3,5 years, and the sentence of Amir Kubura from 2,5 years to 2 years.

A press release and the official summary of the Judgement can be found at: <http://www.un.org/icty/pressreal/2008/pr1240.htm>

[22 and 25 April](#)

Milivoj Petković and Jadranko Prlić on short provisional release

Both decisions of Trial Chamber III, with the dates and conditions of the two accused's provisional release set forth in confidential annexes, are based on compassionate grounds.

The accused were initially granted provisional release on 31 March and 7 April, respectively. However, at the Prosecution's request, the decisions were stayed until the Appeals Chamber could decide on the merits of the Prosecution's appeal. The Appeals Chamber on Monday 21 April confirmed the Trial Chamber's Decisions, inviting the latter to evaluate anew whether the private circumstances of Milivoj Petković were exceptional and compelling to warrant his provisional release at this stage of the trial, and to evaluate again the length of the provisional release of Jadranko Prlić.

Former high-level leader of the Bosnian Croat wartime entity Herceg-Bosna, Milivoj Petković and Jadranko Prlić are on trial since 26 April 2006, together with Bruno Stojić, Slobodan Praljak, Berislav Pušić, and Valentin Čorić. They are accused of war crimes allegedly committed in 1992 and 1993 against Bosnian Muslims and other non-Croats from areas in south western and central Bosnia and Herzegovina.

[24 April](#)

Mladen Naletilić transferred to Italy to serve his sentence of 20 years

Mladen Naletilić, also known as Tuta, on 31 March 2003 was convicted for crimes committed against Bosnian Muslims in the Mostar area of Bosnia and Herzegovina from April 1993 to January 1994. He was sentenced to 20 years' imprisonment. This sentence was confirmed on 3 May 2006 by the Appeals Chamber.

The founder and commander of the Convicts' Battalion, a military unit within the Croatian Defence Council (HVO), Mladen Naletilić is the 30th person convicted by the Tribunal currently serving sentence in one of the 15 States having signed an Enforcement Agreement.

His co-accused in this case, Vinko Martinović, was sentenced to 18 years' and is awaiting transfer. A press release can be found at: <http://www.un.org/icty/pressreal/2008/pr1243.htm>

[25 April](#)

TWO ALLIES OF RAMUSH HARADINAJ INDICTED FOR

Trial Chamber I lifts the confidentiality of an indictment against Astrit Haraqija and Bajrush Morina, two members of the Defence committee for Ramush Haradinaj. According to the indictment, in July 2007 Astrit Haraqija and Bajrush Morina tried to persuade a protected witness, witness PW, not to testify against Ramush Haradinaj. The witness refused to succumb to the pressure and eventually testified at

At the time Haraqija was the Kosovo Minister for Culture, Youth and Sport and one of the three co-founders of the “Defence committee for Ramush Haradinaj”. Bajrush Morina was his employee working as the political advisor to the Deputy Minister at the Kosovo Ministry for Culture, Youth and Sport and a part-time editor at the Kosovo newspaper “Bota Sot”.

In its Haradinaj et al. judgement of 3 April, the Trial Chamber noted “the significant difficulties encountered by the Chamber in securing testimony of a large number of witnesses” during the trial. The indictment against Astrit Haraqija and Bajrush Morina is attached (in Albanian).

A press release can be found at:

<http://www.un.org/icty/pressreal/2008/pr1243.htm>

TRIBUNAL AND UNICRI BEGIN PROJECT TO SAFEGUARD THE TRIBUNAL’S LEGACY

Judge Fausto Pocar, President of the ICTY, and Sandro Calvani, Director of UNICRI (United Nations Interregional Crime and Justice Research Institute) earlier this month exchanged letters initiating a best practices project aimed at contributing ...

...to the Tribunal’s legacy.

Following the exchange of letters, the ICTY with the assistance of UNICRI will draft a compilation of the Tribunal’s best practices which can be transferred to other international and domestic courts dealing with war crimes, crimes against humanity and genocide. The best practices project will compile the Tribunal’s expertise on all aspects of proceedings from investigations to the enforcement of sentences, with the manual due for completion by autumn 2008. The production of a digest of ICTY jurisprudence is also under consideration.

Under the chairmanship of President Pocar, the Office of the President, Chambers, Prosecution and Registry are all contributing their expertise to the project. UNICRI will ensure its publication and broad distribution with, where appropriate, the assistance of Tribunal staff at key conferences and workshops.

This project is an important element in President Pocar’s vision of the Tribunal’s legacy playing a significant role in the future prosecution of war crimes, crimes against humanity and genocide by domestic judiciaries, particularly those in the region of the former Yugoslavia.

THE COURTROOM SCHEDULE FOR THE PERIOD 28 APRIL – 9 MAY...

...reads as follows:

MONDAY 28 APRIL

Courtroom I	09:00 – 13:45, Gotovina et al. , Trial
Courtroom III	13:15 – 19:00, Stanišić & Simatović , Trial

TUESDAY 29 APRIL

Courtroom I	09:00 – 13:45, Gotovina et al. , Trial
Courtroom II	10:00 – 11:30, Dragomir Milošević , Trial
Courtroom III	13:15 – 19:00, Stanišić & Simatović , Trial

WEDNESDAY 30 APRIL

Queens Day

THURSDAY 1 MAY

Courtroom I 09:00 – 13:45, **Gotovina et al.**, Trial

FRIDAY 2 MAY

Courtroom I 09:00 – 13:45, **Gotovina et al.**, Trial
Courtroom II **Court Maintenance**

MONDAY 5 MAY

Courtroom III 14:15 – 19:00, **Prlić**, Trial

TUESDAY 6 MAY

Courtroom I 08:30 – 13:15, **Šešelj**, Trial
14:15 – 19:00, **Boskoski & Tarculovski**, Trial
Courtroom II 10:00 – 13:45, **Mičo Stanišić**, Motion hearing / Status Conference
14:15 – 19:00, **Momcilo Perišić**, Status Conference
Courtroom III 09:00 – 13:45, **Stanišić & Simatović**, Trial
14:15 – 19:00, **Prlić**, Trial

WEDNESDAY 7 MAY

Courtroom I 08:30 – 13:15, **Šešelj**, Trial
14:15 – 19:00, **Stanišić & Simatović**, Trial
Courtroom III 09:00 – 13:45, **Boškoski & Tarčulovski**, Trial
14:15 – 19:00, **Prlić**, Trial

THURSDAY 8 MAY

Courtroom I 08:30 – 13:15, **Šešelj**, Trial
14:15 – 19:00, **Stanišić & Simatović**, Trial
Courtroom III 09:00 – 13:45, **Boškoski & Tarčulovski**, Trial
14:15 – 19:00, **Prlić**, Trial

FRIDAY 9 MAY

Courtroom I 14:15 – 19:00, **Stanišić & Simatović**, Trial

PROCEEDINGS COMPLETED WITH REGARD TO 113 ACCUSED

Since the very first hearing (referral request in the Tadić case) on 8 November 1994, the Tribunal has indicted a total of 161 individuals, and has already completed proceedings with regard to 113 of them: nine have been acquitted, 55 sentenced (four are awaiting transfer, 30 have been transferred, 19 have served their term, and two died while serving their sentence), 13 have had their cases transferred to local courts. Another 36 cases have been terminated (either because indictments were withdrawn or because the accused died, before or after transfer to the Tribunal).

Proceedings are on-going with regard to 48 accused: seven are at the appeals stage, three others have recently been judged by a Trial Chamber, 26 are currently on trial, eight are at the pre-trial stage, and four are still at large.

A further 24 individuals have been or are the subject of contempt proceedings.

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