



10 December 1999

## ICTY WEEKLY UPDATE – 105

### LAST MINUTE NEWS:

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#### JELISIĆ CASE

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##### NOTICE OF A JUDGEMENT ISSUED

The judgement in the Jelisić case will be handed down by Trial Chamber I (Judges Jorda (Presiding), Riad and Rodrigues) on **Tuesday 14 December 1999 at 11 am** in courtroom III.

### PROCEDURAL DEVELOPMENTS:

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#### I. OVERVIEW OF COURT PROCEEDINGS

##### KORDIĆ & ČERKEZ CASE

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*Trial Chamber III – Judges May (Presiding), Bennouna and Robinson*

The Trial Chamber continued to hear the testimony of witnesses called by the Prosecution this week.

The week's hearings began on Monday with the testimony of Witness Z, a member of the British army, who occupied a role in one of the ECMM teams in mid-December 1993 with an area of responsibility, including Travnik, Vitez and Busovača and Zenica.

When witness Z took up her position she was introduced to the principal personalities in the Vitez pocket, namely: Colonel Blaškić who was introduced to her as the HVO commanding officer for the Vitez pocket and for middle Bosnia; Nikica Petrović to whom she was introduced several occasions, he was first introduced as the HVO liaison officer to Commander Blaškić; Darko Gelić was the liaison officer based in the Hotel Vitez, and was working alongside Nikica Petrović to Commander Blaškić in his absence; Mr. Šantić who was the mayor of Vitez; Memhet Alagić the second in command of 3rd Corps Brigade based in Zenica who subsequently took over as the commander of 7th Brigade in Travnik in April 1994; Enver Hadzihasanović the leader of 3rd Brigade; Samir Safic who was the exchange officer based in Travnik, responsible for live and dead body swaps on the Turbe-Travnik border and any negotiations with Nikica Petrović; Beba Salko who was in charge of removing Serbs from the Vitez pocket and also from Zenica, through the Vitez pocket, and was in close liaison with British battalions based in Vitez, involved in the movement of live bodies as opposed to dead bodies; and Dario Kordić.

Witness Z also testified, amongst other things, about helicopter movements breaking the UN no-fly zone, the fighting in Santići in January 1994 and her visit to a mass grave in Dubravica on 6 January 1994.

The cross-examination of witness Z concluded in closed session. On Tuesday, Ms. Nasiha Neslanović resumed her testimony which began in closed session on Monday afternoon.

The hearings on Wednesday and most of Thursday were held in closed session, the hearing on Thursday concluded with procedural matters in open session.

The Trial Chamber has now adjourned until 10 January 2000. The trial commenced on 12 April 1999. So far, the Trial Chamber has sat for 102 days and heard the testimony of 70 witnesses.

## KRSTIĆ CASE

*Trial Chamber I – Judges Rodrigues (Presiding), Riad and Wald*

The Trial Chamber held status conferences in closed session on Monday and Wednesday.

## KUNARAC & KOVAČ CASE

*Trial Chamber II – Judges Mumba (Presiding), Cassese and Hunt*

A preliminary conference to discuss the deposition procedure was held in closed session on Friday.

## **II. OVERVIEW OF COURT DOCUMENTS**

### TADIĆ CASE

#### SCHEDULING ORDER ISSUED

On 3 December 1999, the Appeals Chamber (Judges Shahabuddeen (Presiding), Mumba, Cassese, Wang and Nieto-Navia) issued an order joining the outstanding appeal against the sentencing judgement of 14 July 1999 (see Press Release No. 226) and the second appeal against sentence sentencing judgement of 11 November 1999 (see Press Release No. 447).

The Appeals Chamber further ordered that in respect of the additional matters raised by the second appeal against sentence only:

- the Appellant's brief shall be filed by Wednesday 15 December, 1999;
- the Respondent's Brief shall be filed by Wednesday 22 December, 1999;
- the Appellant's Brief in Reply shall be filed by Thursday 6 January, 2000;

these Briefs may be supplemented by oral argument before the Appeals Chamber which shall take place on **Friday 14 January 2000** commencing at **11.00 am**.

### BRDANIN & TALIC CASE

#### BRDANIN'S PETITION FOR A WRIT OF HABEAS CORPUS DISMISSED

On 8 December 1999, Trial Chamber III (Judges Cassese (Presiding), Mumba and Hunt) issued its decision on the petition for a writ of *habeas corpus* filed by Brdanin on 30 November 1999.

Considering that the Tribunal is not a court of civil jurisdiction which can hear proceedings commenced by such a writ, the Trial Chamber treated the petition as a wrongly entitled motion seeking to challenge the lawfulness of detention which, according to the Trial Chamber, is within the power and the procedure of the Tribunal.

The Trial Chamber decided that there could be no basis for any allegation that the accused has been denied his right to be informed promptly of the charge against him. And further, the order of the Trial Chamber dated 12 July 1999 detaining the accused on remand was lawfully based upon the arrest of the accused pursuant to the arrest warrant issued by Judge Rodrigues, which in turn was lawfully based upon the confirmation by that Judge of the indictment against the accused. Thus the Trial Chamber considered the accused to be lawfully detained at the Detention Unit.

#### TALIC'S MOTION FOR RELEASE DENIED

On 10 December 1999, Judge Hunt (the pre-trial Judge for Trial Chamber II) refused the motion for release filed by Talić on 1 December 1999.

Judge Hunt considered that there is no basis for the accused's assertion that he still does not know what the charge against him is as he was provided with a copy of the indictment upon his arrest. Nor is there any basis for the accused's assertion that the Prosecution, by seeking leave to amend, has recognised the validity of his argument that the indictment does not demonstrate a *prima facie* case. Judge Hunt also rejected the accused's assertion that, by the failure of the prosecution to file a motion for leave to amend the indictment within the 28 days promised, it had reaffirmed that it did not have the "elements" on which to base a *prima facie* case against him.

It was therefore determined that the detention of the accused is lawful and he has no right to have the decision of the confirming Judge reviewed.

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### **ALEKSOVSKI CASE**

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#### SCHEDULING ORDER ISSUED ANTO NOBILO'S CONTEMPT APPEAL

On 7 December 1999, the Appeals Chamber (Judges Hunt (Presiding), May, Wang, Bennouna and Robinson) issued a scheduling order in the matter of Mr. Anto Nobile's appeal against the decision of Trial Chamber I (Judges Rodrigues, (Presiding), Vohrah and Nieto-Navia) dated 11 December 1998, in which Mr. Nobile was found to be in contempt of the Tribunal and fined 10,000 guilders (see Press Release No. 375, 15 December 1998).

The Appeals Chamber ordered *inter alia* that both parties shall, by 14 January 2000, file statements indicating whether they request that the Appeals Chamber hear oral arguments on the appeal and, in the event that they do not so request, whether they wish to file additional written submissions prior to the Appeals Chamber's determination of the appeal.

### **DELALIĆ & OTHERS CASE**

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#### LANDZO'S MOTION FOR PERMISSION TO OBTAIN AND ADDUCE FURTHER EVIDENCE ON APPEAL DISMISSED

On 7 December 1999, the Appeals Chamber (Judges Hunt (Presiding), Riad, Wang, Nieto-Navia and Bennouna) issued an order unanimously dismissing the motion filed by Landžo on 27 September 1999 for permission to obtain and adduce further evidence through testimony and written records from Judge Cassese, the Registrar and a Senior Legal Officer as to whether the appellant waived his right to assert his fourth ground of appeal by reason of a failure to raise the issue at trial.

Landžo's fourth ground of appeal states that his right to a fair and expeditious trial was "*violated when verdict and sentence were rendered by a Trial Chamber whose presiding Judge was permitted to sleep through much of the proceedings*".

### **KUNARAC & KOVAČ CASE**

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#### PROSECUTOR'S PRE-TRIAL BRIEF FILED

Further to the confirmation of a third amended indictment on 1 December 1999 (see Update No. 104), on 9 December 1999 the Prosecutor submitted an updated pre-trial brief setting forth details of the Prosecution's case against Kunarac and Kovač.

### **COURTROOM SCHEDULE: 13 DECEMBER – 17 DECEMBER \***

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#### **TUESDAY 14 DECEMBER**

Courtroom III 11:00, **Jelisić**, Judgement

\*The courtroom schedule is provisional and you are invited to check for last minute changes with the Public Information Services. Unless otherwise indicated, all sessions are open.

For the latest list of all court filings, please visit the [ICTY Court Records](#)

For a selection of the latest public documents, please visit the [ICTY Website](#)