



4 February 2000

## ICTY WEEKLY UPDATE – 111

### PROCEDURAL DEVELOPMENTS:

#### **I. OVERVIEW OF COURT PROCEEDINGS**

##### **TADIĆ CASE**

*Appeals Chamber – Judges Shahabuddeen (Presiding), Cassese, Nieto-Navia, Mumba and Hunt*

On Monday 31 January, the Appeals Chamber found Mr. Milan Vujin, former counsel for Tadić, in contempt of the Tribunal and imposed a fine of 15,000 Dutch Guilders (see Press Release No. 467).

##### **KORDIĆ & ČERKEZ CASE**

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

The Trial Chamber reconvened this week continuing to hear the Prosecution case-in-chief.

On Monday 31 January, the Trial Chamber heard the testimony of Colonel Peter Gage Williams who served in the former Yugoslavia between November 1993 and May 1994. As commanding officer of a British army infantry battalion, his mission was to provide support for the delivery of humanitarian assistance both into and through central Bosnia.

On Tuesday 1 February, General Sir Martin Garrod, former head of the ECMM centre in Zenica, testified before the Tribunal. Sir Martin gave evidence, amongst other things, regarding the responsibilities undertaken by the HVO and the position of Kordić in relation to military matters throughout the conflict.

On Wednesday 2 February, Colonel Edin Husić gave evidence. Working in the intelligence section of the 3rd Corps of the ABiH his duties included obtaining and analysing information on the HVO, VRS, JNA and HV. Colonel Husić testified about the monitoring of HVO military communication lines by the intelligence unit in the Lašva Valley from January to March 1993. This monitoring provided information on the situation of the HVO in the area, those who were directly in command and made decisions and how they organised their system of command.

The testimony of Mr. Mirsad Ahmić followed. Mr. Ahmić was with the Territorial Defence from June 1992 until 30 August 1994 and gave evidence regarding the 16 April 1993 attacks on Ahmići, where the witness owned a house, and on Stari Vitez, where he was living. Mr. Ahmić testified that on 19 April 1993 the HVO rounded up him with other men, and detained him at Kratine.

Mr. Ahmić's testimony concluded on Thursday 3 February, after which the Trial Chamber heard evidence given by Mr. Jeremy Fleming who arrived in Zagreb as an ECMM monitor in February 1992. He was subsequently sent to Split in May 1992 to gather information about military brigade headquarters, front lines, their discipline and morale.

The witness testified about the professionalism or otherwise of Croatian troops, their discipline and their arms in the summer of 1992 and detailed his reasons for recommending to the ECMM head of mission in Zagreb that an ECMM presence be established in central Bosnia.

The witness was subsequently sent to establish a co-ordination centre for the ECMM in Zenica, during this time Mr. Fleming was also the chairman of the Joint Commission.

The week's proceedings concluded on Friday with a motion hearing in open session.

##### **MARTINOVIĆ CASE**

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

On Thursday 2 February, the Trial Chamber held a status conference in closed session.

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

### **KRSTIĆ CASE**

#### MOTION ON THE FORM OF THE INDICTMENT DISMISSED

On 28 January 2000, Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald) dismissed Krstić's motion on the form of the indictment with regard to counts 7 and 8, filed on 24 December 1999.

In the motion Krstić had submitted that the supporting material to counts 7 & 8, which were added in an amended indictment dated 22 November 1999 (see Update No. 103), do not support the conclusion that Krstić was responsible as a commander for the deportation or forced transfer of Bosnian Muslims from Srebrenica between 11 July and 13 July 1995, and further that the Prosecution is obliged to submit evidence of the deportation and has failed to do so.

Krstić's second objection was that the acts underlying counts 7 & 8 (deportation/forcible transfer) are identical with those underlying count 6 (persecution), and that he should be charged with one or the other (persecution or deportation/forcible transfer) but not both.

Dismissing Krstić's first objection on the basis that a motion on the form of the indictment is not an appropriate way to challenge evidence and proof of the facts alleged in the indictment is a matter for trial. The Trial Chamber stated that although the Prosecution must plead the material facts in sufficient detail to inform the defendant of the nature and causes of the charges against him, it need not include in the indictment all the evidence it intends to use to support those charges.

With regard to the second objection, the Trial Chamber was of the opinion that the Statute of the Tribunal contains broad groups of offences sharing certain general ingredients and the charges objected to are not so clear-cut as to require the counts to be pleaded in the alternative at this time. Therefore this objection was also dismissed.

### **KUPREŠKIĆ & OTHERS CASE**

#### NOTICES OF APPEAL FILED BY MIRJAN KUPRESKIC AND THE PROSECUTION

On 28 January 2000, Mirjan Kupreškić filed a notice of appeal against the Judgement handed down by Trial Chamber II (Judges Cassese (Presiding), May and Mumba) on 14 January 2000 (see Press Release No. 462) (Zoran Kupreškić, Vlatko Kupreškić, Drago Josipović and Vladimir Šantić have also filed notices of appeal against the Judgement, see Update No. 110). The Prosecution filed its notice of appeal against the Trial Chamber's findings regarding Josipović and Šantić on 31 January 2000.

### **BRDANIN & TALIC CASE**

#### DECISION ISSUED ON MOTIONS FILED BY TALIC

On 1 February 2000, Judge Hunt, the pre-trial Judge, issued a decision on three motions filed by Talić, namely, (1) motion to dismiss the indictment, dated 14 October 1999, (2) motion for release, dated 18 January 2000, and (3) motion dated 25 January 2000 seeking leave to reply to the Prosecution's response to the second motion filed on 21 January 2000.

Dismissing the first motion on the basis that there is no argument available to Talić in support of the motion in light of the decisions given upon various applications by Brdanin challenging the lawfulness of his detention (see Update Nos. 105, 102 & 97).

With regard to the second motion, Talić submitted that, prior to the amended indictment of 17 December 1999, he was detained pursuant to an order issued by the Trial Chamber on 31 August 1999 following his initial appearance, that order being based upon the indictment confirmed on 14 March 1999. Following the filing of the amended indictment, the order made on 31 August 1999 has been deprived of any judicial value along with the original redacted indictment.

Dismissing the second motion, Judge Hunt stated that the replacement of the original redacted indictment has no effect upon the operation of the order for detention. Detention remains lawful, with or without a formal order, by virtue of the Rules until an order for the release of the accused is made by a Trial Chamber.

Judge Hunt granted Talić leave to reply to the Prosecutor's response sought in the third motion.

### **KVOČKA & OTHERS CASE**

#### PROVISIONAL RELEASE OF KVOČKA DENIED

On 2 February 2000, Trial Chamber III (Judges May (Presiding), Bennouna and Robinson) denied the request for provisional release filed on behalf of Kvočka on 12 January 2000.

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In reaching its decision the Trial Chamber considered that the accused is charged with the gravest offences under international humanitarian law and the legitimate concerns expressed by the Prosecution regarding the likelihood that the accused may pose a danger to victims, witnesses or other persons. In addition the Trial Chamber was not satisfied that the accused, if released, will appear for trial.

CASE TRANSFERRED TO TRIAL CHAMBER I

On 3 February 2000, Judge Mumba, the Vice-President, ordered that the *Kvočka and others* case be transferred from Trial Chamber III to Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald) with immediate effect.

**SIMIĆ & OTHERS CASE**

MOTION REGARDING SEPARATE TRIAL FOR ZARIĆ DENIED

On 3 February 2000, Trial Chamber III (Judges Robinson (Presiding), Hunt and Bennouna) issued its written decision on Zarić's motion for separate trial, filed on 8 July 1999 (the decision was denied orally on 23 November 1999).

Considering that all four accused in this case are charged with crimes arising out of the same transaction and therefore that the accused have been properly joined, the Trial Chamber was not satisfied that any conflict of interest arises that might cause prejudice to the accused, but rather considered that a joint trial avoids duplication of evidence, minimises hardship to witnesses and is generally in the interests of judicial economy. Also considering that the separation of the accused's trial is unlikely to yield an earlier date for the commencement of trial, the Trial Chamber determined that the interests of justice are best served by a joint trial in this case.

**COURTROOM SCHEDULE: 7 FEBRUARY – 11 FEBRUARY \***

**WEDNESDAY 9 FEBRUARY**

Courtroom I 09:30, **Aleksovski**, Oral Arguments

**THURSDAY 10 FEBRUARY**

Courtroom I 09:30, **Aleksovski**, Oral Arguments (*to be confirmed*)

\*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.

**PRESS RELEASES ISSUED SINCE 27 JANUARY**

DATE	NUMBER	TITLE	E	F
31/01/00	467	MILAN VUJIN, FORMER COUNSEL FOR DUSKO TADIC, FOUND IN CONTEMPT OF THE TRIBUNAL, AND FINED 15,000 DUTCH GUILDERS	E	

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