

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. Hans Holthuis

Date Filed: 23 July 2008

THE PROSECUTOR

v.

MILORAD TRBIĆ

PUBLIC

PROSECUTOR'S FIFTH 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

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PROSECUTOR'S FIFTH 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 Prosecutor hereby files his fifth 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 organisations also monitoring the proceedings.¹

3. The fourth progress report in the *Trbić* case was filed on 23 April 2008.²

4. Following the agreement between the Chairman in Office of the Organisation for Security and Co-operation in Europe's Mission to Bosnia and Herzegovina (the "OSCE") and the Office of the Prosecutor ("OTP"), the Prosecutor received OSCE's fourth report on 15 July 2008.³ The Report outlines the main findings of trial

¹ Referral Decision, p. 26.

² *Prosecutor v. Milorad Trbić* ("Trbić case"), Case No. IT-05-88/1, Prosecutor's Fourth Progress Report, 23 April 2008.

³ OSCE's Fourth Report in the *Milorad Trbić* Case Transferred to the State Court pursuant to Rule 11 *bis*, July 2008 ("Report").

monitoring activities to date in the *Trbić* case, from the perspective of international human rights standards.

5. The OSCE has not noted any issues of concern that could be assessed at this stage as infringing upon the human rights of the Defendant.⁴

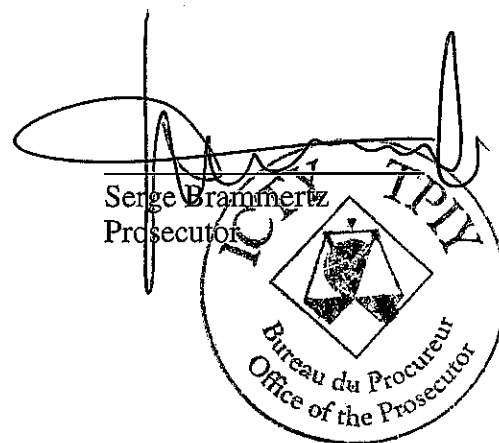
6. The OSCE summarises the proceedings in the *Trbić* case to date as follows:⁵

- The Court held seven sessions, during which it heard testimonies of six witnesses - five witnesses for the Defence and one for the Prosecution.⁶ Hearings and Status conferences were held mainly in public.
- Of the six witnesses who testified, only two witnesses testifying on 21 April 2008 were the subject of protective measures. The Court ordered that the witnesses' personal details and appearance should remain confidential.
- The Accused remains in custody on the basis of the risk of flight and threat to public security pursuant to the decision issued on 19 May 2008.⁷
- The next court session is scheduled for 18 August 2008.

7. Attached to this report is a copy of the OSCE's Report.

Word count: 476

Dated this twenty-third day of July 2008
At The Hague
The Netherlands



⁴ Report, Summary, p. 1.

⁵ *Ibid.*

⁶ Witnesses were heard on 21 April, 12 May, 19 May and 16 June 2008. Status conferences were held on 14 April, 23 June and 7 July 2008.

⁷ OSCE reiterates its concerns and recommendations made in numerous previous reports addressing the use of "threat to public security" as a ground for custody.

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ANNEX

TO

PROSECUTOR'S FIFTH PROGRESS REPORT



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

**Fourth Report in the
*Milorad Trbić Case***

Transferred to the State Court pursuant to Rule 11bis

July 2008

SUMMARY

The case of Milorad Trbić (hereinafter also “Defendant” or “Accused”) is the sixth case transferred from the ICTY to the BiH State Court pursuant to Rule 11*bis* of the ICTY Rules of Procedure and Evidence (RoPE). This constitutes the fourth report in this case that the OSCE Mission to Bosnia and Herzegovina (“OSCE BIH” or “Mission”) delivers to the ICTY Prosecutor, covering the period between 10 April 2008 and 9 July 2008.

In the reporting period, the Mission did not note any issues of concern that could be assessed at this stage as infringing upon the human rights of the Defendant. Therefore, this Report limits itself to summarising the developments in this trial. Please find below the list of relevant hearings, submissions, and decisions.

The proceedings in the *Trbić* case in this reporting period may be summarised as follows:

- The Court held seven sessions, during which it heard testimonies of six witnesses – five for the Defence and one for the Prosecution.¹ Hearings and status conferences were held mainly in public.
- Of the six witnesses who testified, only the two testifying on 21 April 2008 were the subject of protective measures. The Court ordered that the witnesses’ personal details and appearance should remain confidential. The other four, testifying on 12 and 19 May and 16 June 2008, did so without any protective measures.
- The Defendant remains in custody on the basis of the risk of flight and threat to public security pursuant to the decision issued on 19 May 2008. The Mission reiterates its concerns and recommendations made in numerous previous reports addressing the use of this latter ground for custody.
- The next court session is scheduled for 18 August 2008.

¹ Witnesses were heard on 21 April, 12 May, 19 May, and 16 June 2008. The status conference were held on 14 April, 23 June, and 7 July 2008.

PART II

LIST OF RELEVANT HEARINGS - SUBMISSIONS - DECISIONS

- (i) Status conference, held on 14 April 2008
- (ii) Main trial hearing, held on 21 April 2008
- (iii) Main trial hearing, held on 12 May 2008
- (iv) Main trial hearing, held on 19 May 2008.
- (v) Decision of the Trial Panel on review of custody, dated 19 May 2008
- (vi) Main trial hearing, held on 16 June 2008.
- (vii) Status conference, held on 23 June 2008.
- (viii) Status conference, held on 7 July 2008.