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Criminal Tribunal
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Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie



Press Release . Communiqué de presse
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TRIAL CHAMBER

**CHAMBRE DE 1^{ÈRE}
INSTANCE**

The Hague, 13 May 2005
CT/MOW/970e

KOSTA BULATOVIĆ GUILTY OF CONTEMPT OF THE TRIBUNAL

- **Kosta Bulatović sentenced to four months imprisonment**
- **Sentence suspended for two years unless an offence is committed punishable with imprisonment, including contempt of court**

Today, 13 May 2005, Trial Chamber III, consisting of Judges Robinson (Presiding), Kwon and Bonomy, issued its Decision in the contempt case against Kosta Bulatović. Judge Bonomy appended a Separate Opinion.

Background

On Friday, 14 April 2005, Kosta Bulatović appeared before the Tribunal to give evidence in the Milošević defence case. He completed his examination in chief and was partially cross examined. When the trial resumed on Monday, 19 April 2005, Slobodan Milošević was absent due to illness. Pursuant to the Appeal's Chamber Decision on the assignment of defence counsel which was issued on 1 November 2004, the Trial Chamber decided to continue the proceedings in Slobodan Milošević's absence and hear the remainder the evidence presented by Kosta Bulatović.

When the Prosecutor began his questions, Kosta Bulatović repeatedly refused to answer and *"was advised further of the possibility that he might be held in contempt were he to maintain that position, which could result in the imposition of a period of imprisonment or a fine."* Kosta Bulatović maintained his refusal to answer any questions and the proceedings were then adjourned overnight *"to enable him to reflect on the position he was in and to take legal advice."*

According to the Trial Chamber's Decision, on 20 May 2005, Kosta Bulatović, in the presence of his assigned counsel, *"was again advised of his obligation to answer questions and of the prospect that he could be found in contempt and punished therefore. He again refused to answer any questions. He stated that 'I stand by the decision I presented to you yesterday.'"* The Trial Chamber then formulated and issued a written Order, also read in court, charging Kosta Bulatović with contempt of the Tribunal.

On 25 April 2005, Kosta Bulatović returned to the Tribunal and concluded his evidence in the Milošević defence . On 6 May 2005, his trial took place on a charge of contempt of the Tribunal, pursuant to Rule 77(A)(i) of the Tribunal's Rules of Procedure and Evidence.

In its Decision, the Trial Chamber states the following:

"It is the opinion of the Trial Chamber that in the circumstances of this case, the test of "knowingly and wilfully" interfering with the Tribunal's administration of justice by "contumaciously" refusing to answer questions was satisfied when the Respondent deliberately refused to comply with an order of the Trial Chamber to answer questions and persisted in that refusal when fully advised of the position and given a further opportunity to respond. Since the Chamber had made an order which it considered to be within its powers and appropriate in the circumstances, the Respondent was bound to answer the questions put by the Prosecutor, whatever his views of that order and the propriety of proceeding in the absence of the Accused. It is no excuse for refusing to answer questions in court for

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a witness to claim that he disagrees with a procedural decision made which has led to his being examined.”

The Decision further states that:

“What the Respondent’s conduct amounted to was a determination and declaration that he would give evidence only on his own conditions. In other words, he would control the circumstances in which he would give evidence. He thus defied the authority of the court and created the risk that the authority of the Trial Chamber would be undermined and the administration of justice would be brought into disrepute.”

According to the Decision:

“ Such conduct constitutes serious contempt of the Tribunal and would normally merit the immediate imposition of a custodial sentence in order to mark the gravity of the offence and to deter the Respondent, and others who might be tempted to follow the same course, from defying the authority of the Trial Chamber. But for one feature of the present case, that is the course that the Trial Chamber would have followed. The circumstance that is considered significant is that the Respondent currently suffers from serious health problems which would make the service of a sentence of imprisonment more burdensome in his case than in that of the average person.

The Trial Chamber shall accordingly impose a sentence of four months imprisonment, but shall suspend the operation of that sentence for a period of two years, so that the sentence shall not take effect unless during that period the Respondent commits another offence anywhere that is punishable with imprisonment, including contempt of court.

A Separate Opinion by Judge Bonomy is appended to this Decision.”

The full text of the Decision and Judge Bonomy’s Separate Opinion are available upon request at the Media Office and on the Tribunal’s Internet site: www.un.org/icty. Proceedings can also be followed on the Tribunal’s website.