

United Nations
Nations UniesInternational Criminal Tribunal
for the former Yugoslavia
Tribunal Pénal International
pour l'ex-Yougoslavie

(IT-98-32/1-R77.2)

JELENA RAŠIĆ**JELENA RAŠIĆ***Convicted of contempt of the Tribunal in the Lukić & Lukić case*

A member of the Milan Lukić Defence team

*- Sentenced to 12 months' imprisonment**Crimes convicted of:***Contempt of the Tribunal (Rule 77(A), (B) and (G) of the Rules of Procedure and Evidence of the Tribunal)**

- On or about 18 October 2008, Rašić knowingly and wilfully interfered with the Tribunal's administration of justice in as much as she procured a false witness statement from Zuhdija Tabaković from Višegrad in exchange for 1,000 euros cash;
- She allegedly encouraged and/or persuaded Tabaković to procure false witness statements from two other persons in exchange for payment of €1,000.

Indictment	9 July 2010 (made public on 22 September 2010)
Transferred	20 September 2010
Initial appearance	22 September 2010, pleaded not guilty
Trial Chamber sentencing judgement	7 February 2012, sentenced to 12 months' imprisonment
Appeals Chamber judgement	16 November 2012, sentence affirmed

STATISTICS

As a plea agreement was reached before the beginning of trial, no trial was necessary.

TRIAL CHAMBER SENTENCING JUDGEMENT	
Trial Chamber III	Judge Howard Morrison (presiding), Judge Michèle Picard and Judge Matimba Nyambe
Counsel for the Prosecution	Paul Rogers
Counsel for the Defence	Mira Tapušković

APPEAL	
Appeals Chamber	Judge Khalida Rachid Khan (presiding), Judge Mehmet Güney, Judge Fausto Pocar, Judge Arlette Ramarosan and Judge Andréia Vaz
Counsel for the Prosecution	Paul Rogers
Counsel for the Defence	Mira Tapušković
Judgement	16 November 2012

INDICTMENT AND CHARGES

In accordance with Rule 77 of its Rules of Procedure and Evidence, the Tribunal can conduct proceedings for contempt of court. The ICTY's jurisdiction in respect of contempt is not expressly outlined in the Statute. However, it is firmly established that the Tribunal possesses an inherent jurisdiction, deriving from its judicial function, to ensure that its exercise of the jurisdiction expressly given to it by the Statute is not frustrated and that its basic judicial functions are safeguarded. As an international criminal court, the Tribunal possesses the inherent power to deal with conduct interfering with its administration of justice. Such interference may be by way of conduct which obstructs, prejudices or abuses the Tribunal's administration of justice. Those who knowingly and wilfully interfere with the Tribunal's administration of justice in such a way may, therefore, be held in contempt of the Tribunal.

The indictment against Rašić was filed confidentially on 9 July and confirmed on 26 August 2010. It was made public on 22 September 2010. According to the indictment, on or about 18 October 2008, Rašić met with Zuhdija Tabaković in Sarajevo, Bosnia and Herzegovina, and showed him a pre-prepared witness statement to be used in the *Lukić & Lukić* case and told him she would give him €1,000 if he would confirm, sign and verify it. Rašić told Tabaković he would be given more money if he came to The Hague to testify on behalf of Milan Lukić in accordance with the statement. On 20 October 2008, Rašić met Tabaković at the Novi Grad (Sarajevo) Municipality building. He signed multiple copies of the statement and these signatures were certified by a municipality official on the same day. The accused kept the original statement and gave a copy of it to Tabaković. The statement was false as Tabaković had no knowledge of any of the events described in therein. After his signature was certified, Rašić gave him an envelope containing €1,000.

Furthermore, during their meeting on or about 18 October, Rašić gave Tabaković the substance of two other pre-prepared statements to be used in the *Lukić & Lukić* case with the details of the makers left blank. She offered Tabaković a reward to find other men born in Višegrad to sign the false statements. Tabaković found two men ("Mr X" and "Mr Y"), and, on a date between 17 and 24 October 2008, met with them, showed them the statements, and asked each whether he would be willing to sign one of the statements in exchange for payment of €1,000. Both men stated that they would be willing to do so. On 23 October 2008, Tabaković met with Mr X and Mr Y and introduced them to Rašić, who accompanied them in turn into the municipality building where she completed the statements. Mr X and Mr Y then signed their statements dated 23 October 2008 and had their signatures certified by a municipality official. As a result of their putting their names on the statements and signing them, Mr X and Mr Y each received €1,000.

Rašić was charged with:

- Five counts of Contempt of the Tribunal (Rule 77 (A),(B) and (G) of the Rules of Procedure and Evidence)

PLEA AGREEMENT /GUILTY PLEA

The Tribunal's Rules of Procedure and Evidence provide for a plea agreement procedure (Rule 62 *ter*). The Prosecutor and the Defence may agree that, upon the accused entering a plea of guilty to the indictment or to one or more counts of the indictment, the Prosecutor can apply to the Trial Chamber to amend the indictment accordingly and ask for a sentence within a specific range or agree to the sentencing range suggested by the Defence. The Trial Chamber is not bound by any such agreement.

On 24 January 2012, a motion to consider a plea agreement was jointly filed by the parties, under which the accused agreed to plead guilty to all five counts of the indictment. On 31 January 2012, the Chamber accepted the plea agreement.

TRIAL CHAMBER SENTENCING JUDGEMENT

On 7 February 2012, Trial Chamber rendered its judgement, convicting Rašić of:

- Contempt of the Tribunal (Rule 77 (A),(B) and (G) of the Rules of Procedure and Evidence)

Sentence: 12 months' imprisonment. Credit was given for time spent in detention, and the remainder of the sentence was suspended for a period of two years.

APPEALS CHAMBER JUDGEMENT

On 12 March 2012, the Prosecution filed its notice of appeal against the judgement. On 16 March 2012, the Prosecution filed its appeal brief.

On 19 March 2012, the Defence filed its notice of appeal. On 26 March 2012, the Defence filed its appeal brief.

On 16 November 2012, the Appeals Chamber affirmed the sentence of 12 months' imprisonment. The Chamber also affirmed the Trial Chamber's decision to suspend the last eight months of the sentence and that Rašić would only have to serve this time if she were to be convicted for another crime punishable with imprisonment, including contempt of court, during a period of two years as of 7 February 2012.