

IT-02-65-PT  
D 5442-D 5437  
06 JULY 2009

5442  
A'

THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA

Case No. IT-02-65-PT

IN THE REFERRAL BENCH

Before: Judge Alphons Orie, Presiding  
Judge O-Gon Kwon  
Judge Kevin Parker

Registrar: Mr. John Hocking

Date Filed: 6 July 2009

THE PROSECUTOR

v.

ŽELJKO MEJAKIĆ  
MOMČILO GRUBAN  
DUŠAN FUŠTAR  
DUŠKO KNEŽEVIĆ

*PUBLIC*

---

PROSECUTOR'S THIRTEENTH PROGRESS REPORT

---

The Office of the Prosecutor:  
Mr. Serge Brammertz

THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA

Case No. IT-02-65-PT

THE PROSECUTOR

v.

ŽELJKO MEJAKIĆ  
MOMČILO GRUBAN  
DUŠAN FUŠTAR  
DUŠKO KNEŽEVIĆ

*PUBLIC*

PROSECUTOR’S THIRTEENTH PROGRESS REPORT

1. Pursuant to the Decision on Prosecutor’s Motion for Referral of Case Pursuant to Rule 11*bis* of 20<sup>th</sup> July 2005<sup>1</sup> (“Referral Decision”) the Office of the Prosecutor (“OTP”) hereby files its thirteenth progress report in this case.
2. The Decision on Referral requires that following the initial report, six weeks after the transfer of material, the Prosecutor must file a report every three months on the course of the proceedings before the State Court of Bosnia and Herzegovina (“BiH State Court”).<sup>2</sup>
3. The OTP filed its twelfth progress report on 6 April 2009.<sup>3</sup>
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 Prosecutor, the OTP received OSCE’s twelfth report on 29 June 2009.<sup>4</sup>

---

<sup>1</sup> *Prosecutor v. Željko Mejačić et al.*, Case No. IT-02-65-PT, Decision on Prosecutor’s Motion for Referral of Case Pursuant to Rule 11 *bis*, 20 July 2005.



<sup>2</sup> Referral Decision, p. 44.

<sup>3</sup> *Prosecutor v. Željko Mejačić et al.*, Case No. IT-02-65-PT, Prosecutor’s Twelfth Progress Report, 6 April 2009 (“Twelfth Report”).

<sup>4</sup> OSCE’s Twelfth Report in the *Željko Mejačić et al.* Case Transferred to the State Court pursuant to Rule 11 *bis*, June 2009 (“Report”).

5. OSCE reports that the appeals filed by Željko Mejakić, Momčilo Gruban and Duško Knežević are still pending before the Appellate Panel of the BiH State Court.<sup>5</sup> No session of the Appellate Panel took place since 16<sup>th</sup> February 2009.<sup>6</sup> At the time when OSCE prepared the report, no second-instance decision had been issued.
6. During these second-instance proceedings, all three defendants remain in custody on the basis of the risk of flight and threat to public security by Decision of the Trial Panel of 30<sup>th</sup> of May 2008. Pursuant to the amended Article 138 paragraph 3 of the Criminal Procedure Code of Bosnia and Herzegovina, enacted by the Decision of the High Representative on 20 February 2009, the defendants can be held in custody pending the second-instance verdict until 1 September 2009.<sup>7</sup>
7. Attached to this report as Annex A is a copy of the OSCE Report.

Word count: 411

  
  
 /s/ Serge Brammertz  
 Prosecutor

Dated this sixth day of July 2009  
 At The Hague  
 The Netherlands

<sup>5</sup> Report, p. 1. As reported earlier, on 17 April 2008 the case against Dušan Fuštar was separated from the original case following the Defendant's plea agreement. On 30<sup>th</sup> May, 2009, Željko Mejakić was sentenced to 21 years imprisonment, Momčilo Gruban to 11 years imprisonment and Duško Knežević to 31 years imprisonment (*see* Prosecutor's Twelfth Report as well as earlier progress reports).

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA

Case No. IT-02-65-PT

THE PROSECUTOR

v.

ŽELJKO MEJAKIĆ  
MOMČILO GRUBAN  
DUŠAN FUŠTAR  
DUŠKO KNEŽEVIĆ

*PUBLIC*

ANNEX A  
TO  
PROSECUTOR'S THIRTEENTH PROGRESS REPORT

IT-02-65-PT

5438



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

**Twelfth Report in the**

***Željko Mejačić et al. Case***

**Transferred to the State Court pursuant to Rule 11bis**

**June 2009**

IT-02-65-PT

5437

## SUMMARY OF DEVELOPMENTS

The Case of *Željko Mejakić, Momčilo Gruban, Dušan Fuštar* and *Duško Knežević* is the third case transferred from the ICTY to the State Court of BiH, pursuant to the Rule 11bis of the ICTY Rules of Procedure and Evidence. On 17 April 2008, the Court separated the Case of *Dušan Fuštar*<sup>1</sup> from the original Case, following the Defendant's plea agreement. This constitutes the twelfth report submitted by the OSCE Mission to Bosnia and Herzegovina to the ICTY Prosecutor's Office on this case, covering the period of 1 March 2009 to 1 June 2009.

During the last reporting period, on 16 February 2009, the Appellate Panel held a session on the appeals of *Željko Mejakić, Momčilo Gruban, and Duško Knežević* against the first-instance verdict, which respectively sentenced the Defendants to 21 years' long-term, 11 years', and 31 years' long-term imprisonment. The three defendants each appealed on violations of the BiH Criminal Code, BiH Criminal Procedure Code, and the establishment of facts. *Momčilo Gruban* and *Željko Mejakić* additionally appealed on issues related to the sanction.

At the time of writing this report, there has been no second-instance verdict as yet. The Defendants remain in custody by the Decision of the Trial Panel on 30 May 2008 on the basis of the risk of flight and threat to public security. Pursuant to the amendment of the Article 138 paragraph 3, enacted by the Office of the High Representative on 20 February 2009, the Defendants can be held in custody pending the second-instance verdict until 1 September 2009.

---

<sup>1</sup> Case against *Dušan Fuštar* (X-KR-06/200-1).