



19 April 2002

ICTY WEEKLY UPDATE – 216

PROCEDURAL DEVELOPMENTS:

I. OVERVIEW OF COURT PROCEEDINGS:

Slobodan MILOŠEVIĆ Case (“Kosovo”, “Croatia” and “Bosnia and Herzegovina”)

Trial Chamber III - Judges May (Presiding), Robinson and Kwon

On 15 April, the Trial Chamber reconvened to hear the sixth week of the Prosecution case. In the early part of the morning, the Trial Chamber’s oral ruling of 10 April 2002 was discussed. In its ruling, the Trial Chamber decided that the Prosecution “should have one year from today to conclude its case” (see *Weekly Update* No. 215 and Overview of Court Documents). The Prosecution expressed its concern with the meaning of the word “should”. The Presiding Judge then clarified that the Trial Chamber’s oral ruling was mandatory. He added that it was of course subject to the unexpected. The accused resumed the cross-examination of General Karol Drewienkiewicz. The witness will come back at a later stage to conclude his testimony.

On 16 April, the Prosecution examined witness Lieutenant-Colonel Richard Ciaglinski, a member of the Kosovo Verification Mission on the staff of General Drewienkiewicz in 1998 and the beginning of 1999.

On 17 April, the accused and one of the three *amici curiae* cross-examined the witness. The Judges also briefly examined the witness. The Trial Chamber gave an oral ruling on the presentation of Rule 92 *bis* witnesses. The Prosecution will have five minutes for introductory questions, after which the accused will have one hour to conduct his cross-examination. The *amici curiae* will then have time to cross-examine and there will be time for the re-examination.

On 18 April, the Prosecution examined witness Veton Surroi, the editor of the Kosovo newspaper *Koha Ditore*. The witness was at the Rambouillet negotiations in February 1999. The accused subsequently cross-examined the witness.

On 19 April, the accused resumed the cross-examination. One of the *amici curiae* then cross-examined the witness and the Judges briefly questioned him. The Trial Chamber gave an oral ruling on the examination by the Prosecution of Rule 92 *bis* witnesses. The Prosecution can ask in its five minute examination questions regarding the witness’ age, occupation, residence and family circumstances. It can further give a brief summary of the contents of the witness’ statement in skeletal form. The Trial Chamber further gave a ruling on the admissibility of the Prosecution evidence contained in the binder on the Bela Crkva killing site which relates to counts three and four of the Indictment. The Prosecution then called Rule 92 *bis* witness Xhafir Beqirai, a teacher from Kosovo who testified about refugees that came to Prizren in 1998. The accused then cross-examined the witness.

Stanislav GALIĆ Case (“Sarajevo”)

Trial Chamber I Section B – Judges Orić (Presiding), El Mahdi and Nieto-Navia

On 15 April 2002, the Trial Chamber reconvened to hear the sixteenth week of the Prosecution case. The Prosecution examined witness Enver Taslaman who testified about a shelling incident in Dobrinja in 1993. The Defence subsequently cross-examined the witness. The Prosecution then called witness Husein Grebić who was injured by a shelling attack in Sarajevo in July 1993.

On 16 April, the Prosecution resumed the examination of witness Husein Grebić. The Prosecution then examined Rasim Mehonić. The Defence cross-examined the witness. The Prosecution then called protected witness Q, a forensic expert from Sarajevo who investigated shelling incidents.

On 17 April, the Prosecution resumed its examination of the protected witness. The Defence then cross-examined the witness.

On 18 April, the Judges examined the witness. The Prosecutor then examined expert witness Dr. Robert Donia who wrote a report called: "The Siege of Sarajevo, a Background Report". The Defence then cross-examined the expert witness.

Mladen NALETILIĆ and Vinko MARTINOVIĆ Case ("Tuta" and "Štela")

Trial Chamber I Section A – Judges Liu (Presiding), Harding Clark and Diarra

On 15 April 2002, the Trial Chamber convened for the fourth week of the Defence case. The Prosecution cross-examined Jozo Marić who had begun his testimony on Friday 12 April 2002 (see *Weekly Update* No. 215). The Defence subsequently cross-examined the witness. The Defence then examined protected witness NB.

On 16 April, the Defence resumed the examination of the protected witness.

On 17 April, the Prosecution cross-examined the protected witness. The hearing was adjourned to **24 April 2002**.

Radoslav BRĐANIN and Momir TALIĆ Case ("Krajina")

Trial Chamber II Section A - Judges Agius (Presiding), Janů and Taya

On 15 April 2002, the Trial Chamber convened to hear the eleventh week of the Prosecution case. The Prosecution examined witness Ibrahim Fazlagić who began his testimony on Friday 12 April 2002. The witness was director of a travel agency in Banja Luka in 1992. He testified about the conflict in the Banja Luka region in 1992.

On 16 April, the Defence cross-examined the witness. Then the Prosecution examined protected witness BT22.

On 17 April, the Defence cross-examined the witness partly in private session. The hearing took place in closed session during part of the afternoon.

On 18 April, the session took place in closed session during a large part of the afternoon.

Milan SIMIĆ, Blagoje SIMIĆ, Miroslav TADIĆ and Simo ZARIĆ Case ("Bosanski Šamac")

Trial Chamber II Section B – Judges Mumba (Presiding), Williams and Lindholm

On 15 April 2002, the Prosecution called witness Nusret Hadžijusufović who testified about forced labour that he had to perform in the Bosanski Šamac area in 1992.

On 16 April, the Prosecution resumed the examination of witness Nusret Hadžijusufović. The Defence then cross-examined the witness.

On 17 April, the Defence resumed the cross-examination of the witness. The Trial Chamber stated that there would be no sitting on **3 May 2002** since it granted one day on the occasion of Orthodox Easter.

On 18 April, the Prosecution resumed with the re-examination of the witness. It subsequently examined witness Safet Dagović who testified about his forced labour in the Bosanski Šamac area in 1992.

Milomir STAKIĆ Case ("Prijeđor")

Trial Chamber II - Judges Schomburg (Presiding), Fassi Fihri and Vassylenko

On 16 April 2002, the trial started with preliminary remarks of the Presiding Judge and the reading of the fourth amended Indictment. The Prosecution then delivered its opening statement.

On 17 April, the Prosecution examined expert witness Dr. Robert Donia who wrote a report on the history of the Prijedor region.

On 18 April, the Prosecution resumed the examination of the expert witness. Dr. Robert Donia will continue his testimony next Wednesday 24 April 2002. The remainder of the sitting on this day took place in closed session.

On 19 April, the Trial Chamber heard a witness in closed session.

II. OVERVIEW OF COURT DOCUMENTS:

Stanislav GALIĆ Case (“Sarajevo”)

Trial Chamber I Section B – Judges Orić (Presiding), El Mahdi and Nieto-Navia

DECISION ON THE PROSECUTOR’S MOTION FOR THE ADMISSION INTO EVIDENCE OF WRITTEN STATEMENT BY A DECEASED WITNESS, AND RELATED REPORT PURSUANT TO RULE 92 BIS(C)

On 1 March 2002, the Prosecution filed a Motion for the Admission into Evidence of Written Statement by a Deceased Witness and Related Report pursuant to Rule 92 *bis*(C). On 12 April 2002, the Trial Chamber granted the Motion and ordered that the Statement and the Report be admitted into evidence. It considered that the evidence in the statement of the deceased witness corroborated evidence presented through *viva voce* witnesses and that the Defence had the opportunity to cross-examine these witnesses. Under Rule 92 *bis*(A), a statement may not be admitted if it goes to proof relating to “the acts and conduct of the accused as charged in the indictment”. The Trial Chamber expressed the view that this requirement equally applies to Rule 92 *bis*(C). It considered that this requirement only covers the deeds and behaviour of the accused and does not encompass the acts and conduct of his co-perpetrators and/or subordinates.

(See also in this case the Trial Chamber’s **Decision on the Prosecutor’s Second Motion for the Admission into Evidence of Written Statement by Deceased Witness Bajram Šopi, pursuant to Rule 92 *bis* (C)** of 18 April 2002.)

DECISION RELATIVE À LA REQUÊTE DE LA DEFENSE SUR LA BASE DE L’ARTICLE 94 BIS A) DU RÈGLEMENT

On 12 April 2002, the Trial Chamber ordered *inter alia* that the Prosecution file the expert reports that it intends to present as soon as possible but not later than **25 May 2002**.

Radoslav BRĐANIN and Momir TALJIĆ Case (“Krajina”)

Trial Chamber II Section A - Judges Agius (Presiding), Janů and Taya

ORDER REQUESTING INVESTIGATION OF CONDUCT OF CO-COUNSEL FOR DEFENDANT BRĐANIN

On 15 April 2002, the Trial Chamber directed the Registrar to appoint an *amicus curiae* to investigate the matters outlined in the Order and to report back to the Chamber as soon as possible.

The Trial Chamber considered that the following issues required further investigation:

- (1) the reason why the co-counsel of Radoslav Brđanin’s co-counsel visited the Prosecution witness;
- (2) whether, at the commencement of her visit to the witness, co-counsel Ms. Maglov had immediately identified herself and her role in the current proceedings;
- (3) whether Ms. Maglov or anyone else who had accompanied her to speak with the witness committed any act which could constitute contempt within the meaning of Rule 77 of the Rules of Procedure and Evidence;
- (4) whether any other aspect of Ms. Maglov’s contact with the Prosecution witness is relevant to her continued appointment as co-counsel for Radoslav Brđanin.

On 15 and 16 April respectively, the Registrar suspended the assignment of Ms. Maglov as co-counsel and appointed Ms. Radosavljević pending the outcome of investigations.

Mladen NALETILIĆ and Vinko MARTINOVIĆ Case (“Tuta” and “Štela”)

Trial Chamber I Section A – Judges Liu (Presiding), Harding Clark and Diarra

DECISION ON THE PROSECUTION MOTION TO PRECLUDE DEFENCE WITNESSES DAMIR ZORIĆ AND MILAN KOVAČ FROM TESTIFYING

On 15 April 2002, the Trial Chamber ordered that the Defence supplement the summaries of the two testimonies no later than Wednesday 24 April 2002 indicating on which legal or factual circumstances the witnesses will testify and how their testimonies relate to the accused in the present case. It further ordered that the testimonies of the two witnesses be postponed until no less than one week after the filing of properly supplemented summaries. The Prosecution had requested that the Trial Chamber preclude the witnesses from testifying on the grounds that the Defence counsel for Mladen Naletilić failed to comply

with Rule 65 *ter* (G) of the Rules of Procedure and Evidence as well as with the previous rulings of the Trial Chamber.

ORDER FOR THE FILING OF EXPERT REPORTS

On 15 April 2002, the Trial Chamber confirmed the oral ruling made on 12 April 2002 that the expert reports should be filed no later than **26 April 2002**. The full statement of any expert witness to be called by a party shall be disclosed within the time limit prescribed by the Trial Chamber or by the pre-trial Judge pursuant to Rule 94 *bis* (A) of the Rules of Procedure and Evidence

Milomir STAKIĆ Case (“Prijeedor”)

Trial Chamber II - Judges Schomburg (Presiding), Fassi Fihri and Vassylenko

ORDER ON THE STANDARDS GOVERNING THE ADMISSION OF EVIDENCE

On 16 April 2002, the Trial Chamber adopted the guidelines for the admissibility of evidence. They were set forth in an annex to the Order (see *Weekly Update* No. 209 and 210 and *Judicial Supplement* No. 31).

Slobodan MILOŠEVIĆ Case (“Kosovo”, “Croatia” and “Bosnia and Herzegovina”)

Trial Chamber III - Judges May (Presiding), Robinson and Kwon

ORDER

On 16 April 2002, the Trial Chamber varied its Order of 15 November 2001. Rule 44 of the Rules of Procedure and Evidence shall apply to Zdenko Tomanović and Dragoslav Ognjanović as lawyers with whom the accused may communicate for the purpose of preparing his defence. They shall be subject to the Code of Professional Conduct for Defence Counsel Appearing Before the International Tribunal. The accused shall be entitled to communicate fully and without restraint with Zdenko Tomanović and Dragoslav Ognjanović in accordance with the provisions Rule 67 of the Rules of Detention. Zdenko Tomanović and Dragoslav Ognjanović are bound by all existing Orders of the Trial Chamber including, in particular, all Orders for protective measures.

DECISION ON PROSECUTION REQUEST FOR AGREEMENT OF TRIAL CHAMBER TO AMENDED SCHEDULE OF FILINGS

On 18 April 2002, the Trial Chamber ordered that the Prosecution file its pre-trial material by **1 June 2002** and that thereafter any pre-trial material may be admitted only on good cause being shown.

The rest of the Prosecution Request for Agreement of Trial Chamber to Amended Schedule of Filings was rejected.

REASONS FOR DECISION ON PROSECUTION INTERLOCUTORY APPEAL FROM REFUSAL TO ORDER JOINDER

On 18 April 2002, the Trial Chamber rendered its written reasons for the Decision that it had given orally during a hearing on 30 January 2002 (see *Weekly Update* No. 205).

President of the Tribunal – Judge Jorda

ORDONNANCE DU PRÉSIDENT PORTANT NOMINATION DE JUGES À UN COLLÈGE DE LA CHAMBRE D’APPEL

On 16 April 2002, the Prosecution had filed an Application for Leave to File an Interlocutory Appeal pursuant to Rule 73(D) of the Rules of Procedure and Evidence. The Prosecution brought this application challenging the Trial Chamber’s oral ruling of 10 April 2002 whereby the Chamber ordered that the Prosecution case be completed within a period of one year from the date of the ruling (see also the Overview of Court Proceedings and *Weekly Update* No. 215).

On 17 April 2002, the President assigned the following Judges to a Bench of the Appeals Chamber to rule on the Prosecution’s Application for Leave to File an Interlocutory Appeal:

Judge Claude Jorda (Presiding)

Judge David Hunt

Judge Fausto Pocar

Paško LJUBIČIĆ Case

Trial Chamber I - Pre-Trial Judge El Mahdi

ORDONNANCE PORTANT CALENDRIER SUITE AU DEPOT D’UN NOUVEL ACTE D’ACCUSATION

On 17 April 2002, the pre-trial Judge ordered that the Defence file its comments on the new Indictment no later than **2 May 2002**.

Vidoje BLAGOJEVIĆ, Dragan OBRENOVIĆ and Dragan JOKIĆ Case (“Srebrenica”)

Bench of the Appeals Chamber – Judges Hunt (Presiding), Güney and Gunawardana

DECISION ON APPLICATION BY DRAGAN JOKIĆ FOR LEAVE TO APPEAL

On 18 April 2002, the Bench of the Appeals Chamber granted Dragan Jokić leave to appeal the Decision of the Trial Chamber refusing his provisional release. On 28 March 2002, the Trial Chamber had refused Dragan Jokić’s Request for Provisional Release (see *Weekly Update* No. 213).

COURTROOM SCHEDULE: 22 APRIL – 26 APRIL *

MONDAY 22 APRIL

Courtroom I 09:00 - 15:00, **Milošević**, Trial
Courtroom II 09:00 - 13:45, **Galić**, Trial
14:15 - 19:00, **Stakić**, Trial
Courtroom III 14:15 - 19:00, **Brdanin/Talić**, Trial

TUESDAY 23 APRIL

Courtroom I 13:30, **Brdanin/Talić**, Trial
PLENARY SESSION
Courtroom II **PLENARY SESSION**
Courtroom III **PLENARY SESSION**

WEDNESDAY 24 APRIL

Courtroom I 09:30 - 13:00, **Milošević**, Trial
14:30 - 16:00, **Milošević**, Trial
Courtroom II 09:00 - 13:45, **Galić**, Trial
14:15 - 19:00, **Stakić**, Trial
Courtroom III 09:00 - 13:45, **Martinović/Naletilić**, Trial
14:15 - 19:00, **Brdanin/Talić**, Trial

THURSDAY 25 APRIL

Courtroom I 09:30 - 13:00, **Milošević**, Trial
14:30 - 16:00, **Milošević**, Trial
Courtroom II 09:00 - 13:45, **Galić**, Trial
14:15 - 19:00, **Stakić**, Trial
Courtroom III 09:00 - 13:45, **Martinović/Naletilić**, Trial
14:15 - 19:00, **Brdanin/Talić**, Trial

FRIDAY 26 APRIL

Courtroom I 09:30 - 13:00, **Milošević**, Trial
14:30 - 16:00, **Milošević**, Trial
Courtroom II 09:00 - 13:45, **Galić**, Trial
14:15 - 17:00, **Stakić**, Trial
Courtroom III 09:00 - 13:45, **Martinović/Naletilić**, Trial
14:15 - 19:00, **Brdanin/Talić**, Trial

*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.

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<http://www.un.org/icty/latest/> (in English) (Please click on Hearing Schedule);

<http://www.un.org/icty/bhs/week-b.htm> (na bosanskom/hrvatskom/srpskom).

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