

# Annotated Leading Cases of International Criminal Tribunals

The International Criminal Tribunal for the former Yugoslavia 2003-2004

André Klip and Göran Sluiter (eds.)



# TABLE OF CONTENTS

Table of Contents
<b>Preface</b>
Part 1/ Preliminary Matters
1. Jurisdiction
Decision on Motion by Vojislav Seselj Challenging Jurisdiction and Form of Indictment, <i>Prosecutor</i> 13 v. <i>Seselj</i> , Case No. IT-03-67/PT, T. Ch. II, 26 May 2004
Reasons for Decision Dismissing Interlocutory Appeal Concerning Jurisdiction over the Territory of Kosovo, <i>Prosecutor v. Milutinovic, Sainovic and Ojdanic,</i> Case No. IT-99-37-AR72.2, A. Ch., 8 June
2004.29Declaration of Judge Shahabuddeen.33
Commentary André de Hoogh
2. Provisional Release
Decision on Marion Cerkez's Request for Provisional Release, <i>Prosecutor</i> v. <i>Kordic and Cerkez</i> , Case No. 1T-95-14/2-A, A. Ch., 12 December 2003
Decision on the Request for Provisional Release of Miroslav Kvo£ka, <i>Prosecutor v. Kvocka, Radie</i> , <i>Zigic and Prcai</i> \ Case No. IT-98-30/1-A, A. Ch., 17 December 2003
Decision on Provisional Release, <i>Prosecutor v. Kovacevic</i> , Case No. IT-01-42/2, T. Ch. I, 2 June 2004.
Commentary Micaela Frulli
3. Indictment
Decision on Form of Consolidated Amended Indictment and on Prosecution Application to Amend, <i>Prosecutor v. Mrksic, Radie and Sljivancanin</i> , Case No. IT-95-13/1-PT, T. Ch. II, 23 January 2004.
Decision on Prosecution's Motion to Amend the Amended Indictment, <i>Prosecutor</i> v. <i>Limaj, Baluand Muslin</i> , Case No. IT-03-66-PT, T. Ch. I, 12 February 2004
Decision Regarding Defence Preliminary Motion on the Form of the Indictment, <i>Prosecutor</i> v. <i>Rasevic</i> , Case No. IT-97-25/1-PT, T. Ch. II, 28 April 2004
Commentary Desislava Stoitchkova

## Part 2/ Procedural Matters

### **4. Presentation** of and Access to Evidence

Decision on the Interlocutory Appeal by the <i>Amici Curiae</i> Against the Trial Chamber Order Concerning the Presentation and Preparation of the Defence Case, <i>Prosecutor v. Milosevic</i> , Case No. IT-02-54-AR73.6, A. Ch., 20 January 2004
Decision on Defence Motion for Clarification of the Oral Decision of 17 December 2003 Regarding the Scope of Cross-Examination Pursuant to Rule 90(H) of the Rules, <i>Prosecutor</i> v. <i>Hadzihasanovic andKubura</i> , Case No. IT-01-47-T, T. Ch. 11, 28 January 2004
Decision on the Defence's Motion to Preclude Miroslav Deronjic From Giving Testimony Prior to Being Sentenced, <i>Prosecutor v. Krajisnik</i> , Case No. IT-00-39-T, T. Ch. 1, 16 february 2004
Decision on Prosecution's Motion for Clarification of the Appeals Chamber's Decision Dated 4 December 2002 on Pasko Ljubí¿ic's Motion for Access to Confidential Material, Transcripts and Exhibits in the Blaskic Case, <i>Prosecutor v. Blaskic</i> , Case No. 1T-95-47-A, A. Ch., 8 March 2004 125
Commentary Menno Dolman
5. Admissibility of Evidence
Decision on the Admission Into Evidence of Intercept-Related Materials, <i>Prosecutor</i> v. <i>Blagojevic and Jokic</i> , Case No. IT-02-60-T, T. Ch. I, Section A, 18 December 2003
Commentary Goran Sluiter
6. Judicial Notice
Final Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, <i>Prosecutor</i> v. <i>Milosevic</i> , Case No. 1T-02-54-T, T. Ch. III, 16 December 2003
Decision on Prosecution's Motion for Judicial Notice of Adjudicated Facts and Documentary Evidence, <i>Prosecutor v. Blagojevic and Jokic</i> , Case No. IT-02-60-T, T. Ch. I, Section A, 19 December 2003.
Decision on Prosecution Motion for Judicial Notice Pursuant to Rule 94(B), <i>Prosecutor v. Mejakic</i> , <i>Gruban, Fustar and Knezevic</i> , Case No. IT-02-65-PT, T. Ch. III, 1 April 2004
Final Decision on Judicial Notice of Adjudicated Facts, <i>Prosecutor</i> v. <i>Hadzihasanovic and Kubura</i> , Case No. IT-01-47-T, T. Ch. II, 20 April 2004
Commentary Ruth Kok and Els Dinjens
7. Fitness to Stand Trial
Decision <i>re</i> the Defence Motion to Terminate Proceedings, <i>Prosecutor v. Strugar</i> , Case No. IT-01-42-T, T. Ch. II. 26 May 2004.
Commentary Goran Sluiter

### 8. Counsel

Public and Redacted Reasons for Decision on Appeal by Vidoje Blagojevic to Replace his Defence Team, <i>Prosecutor</i> v. <i>Blagojevic</i> , Case No. IT-02-60-AR73.4, A. Ch., 7 November 2003
Decision on the Defence's Motion for an Order Setting Aside the Registrar's Decision Declaring Momcilo Krajisnik Partially Indigent for Legal Aid Purposes, <i>Prosecutor</i> v. <i>Krajisnik</i> , Case No. IT-00-39-PT, T. Ch. I, 20 January 2004
Decision on the Defence's Request for an Order Setting Aside, in Part, the Deputy Registrar's Decision of 3 February 2004, <i>Prosecutor</i> v. <i>Krajisnik</i> , Case No. IT-00-39-T, T. Ch. I, 14 May 2004
Decision of the Registry on Assignment of Counsel and the Extent to Which the Accused is Able to Remunerate Counsel, <i>Prosecutor</i> v. <i>Simatovic</i> , Case No. IT-03-69-PT, Registrar, 17 May 2004 241
Decision on Prosecution's Second Motion to Resolve Conflict of Interest Regarding Attorney Jovan Simic, <i>Prosecutor v. Mejakic, Gruban, Fustar and Knezevic</i> , Case No. IT-02-65-T, T. Ch. III, 17 June 2004.
Decision of the Registry on Assignment of Counsel and the Extent to Which the Accused is Able to Remunerate Counsel, <i>Prosecutor v, Oric,</i> Case No. IT-03-68-PT, Registrar, 18 June 2004. 249
Commentary Rebecca Mori
9. Impartiality
Decision on Application for Disqualification, <i>Prosecutor</i> v. <i>Brdanin</i> , CaseNo. IT-99-36-R77, Bureau, 11 June 2004
Commentary Mohamed El Zeidy
10. Contempt
Decision on Motion by <i>Amicus</i> Cwr/ae Prosecutor to Amend Allegations of Contempt of the Tribunal, <i>Prosecutor</i> v. <i>Brdanin</i> , Case No. IT-99-36-R77, 6 February 2004
Decision on Motion for Acquittal Pursuant to Rule 98tó, <i>Prosecutor</i> v. <i>Brdanin</i> , Case No. IT-99-36-R77. T. Ch II, 19March2004
Commentary Megan Fairlie
Part 3/ Judgements and Sentencing
11. Judgement on Motions for Acquittal
Decision on Interlocutory Appeal, <i>Prosecutor</i> v. <i>Brdanin</i> , Case No. IT-99-36-A, A. Ch., 19 March 2004
Judgement on Motions for Acquittal Pursuant to Rule 98¿¿y, Prosecutor v. Blagojevic and Jokic, Case No. IT-02-60-T, T. Ch. I, Section A, 5 April 2004

<b>III,</b> 16 June 200 Separate				Indae			Robinson	
							Koomson	
Commentary Ka	arel de Me	ester						449
12. Judgements	<b>.</b>							
		Vasilievic	Case No	TT-98-32- <i>i</i>	A A Ch	25 Februa	ry 2004	465
•	and	•		Opinion				
Commentary O	laoluwa O	lusanya						529
Partial Dissentin	ng Opinior	of Judge S	Shahabud	ldeen				598
13. Sentencing	Judgemei	nts						
Sentencing Jud	gement, P	Prosecutor	v. Obrei	novic, Case	No. IT-	02-60/2-S,	T. Ch. I, Section A,	
10 December 20	003							639
Commentary C	hristine By	ron						683
Sentencing Judg	gement, Pr	osecutor v.	Nikolic,	Case No. I7	Σ-94-2-S,	T. Ch. II, 1	8 December 2003	691
Commentary Commentary Commentary	hristine By	ron						750
Sentencing Judg	gement, Pr	osecutor v.	tesic, C	ase No. IT-9	95-10/1-S	, T. Ch. I, 1	1 March 2004.	755
Sentencing Judg	gement, Pr	osecutor v.	. Jokic, C	ase No. IT-	01-42/1-S	s, T. Ch. I, 1	8 March 2004.	779
Commentary C	hristopher	Gevers and	d Max du	Plessis				803
							I, 30 March 2004	821 879
Separate	Op	inion		of	Judg	ge	Mumba	885
Commentary D	enis Abels.							893
Sentencing Judg	gement, Pi	osecutor v	. Mrda, (	Case No. IT	-02-59-S,	T. Ch. I, 31	March 2004	899
Commentary C Part 4/ Post C								923
14. <b>Detention</b>								
Decision, Prose	ecutor v. S	<i>eselj</i> , Case	No. IT-0	03-67-PT, R	egistrar,	11 Decembe	er 2003	931
Decision, Prose	ecutor v. S	eselj, Case	No. IT-0	)3-67-PT, R	egistrar, 8	3 January 20	004	935
Commentary G	erard de J	onge						937

Decision on the Defence's Request for an Order Setting Aside, in Part, the Deputy Registrar's
Decision of 3 February 2004, Prosecutor v. Krajisnik, Case No. IT-O0-39-T, T. Ch. I, 14 May 2004 941
Commentary Gerard de Jonge
15. Early Release
Decision of the President on the Application for Pardon or Commutation of Sentence of Miroslav Tadic, <i>Prosecutor v. Simic, Tadic and Zaric,</i> Case No. IT-95-9, Pres., 24 June 2004
Commentary Roman Graf
Index
Contributors and Editors 061