



VOLUME 34

Annotated Leading Cases of International Criminal Tribunals

The International
Criminal Tribunal
for the former
Yugoslavia 2007

André Klip and Göran Sluiter (eds.)



intersentia

TABLE OF CONTENTS

Table of Contents	5
Preface	9
Part 1/ Preliminary Matters	
1. Jurisdiction	
Decision on Ante Gotovina's Interlocutory Appeal Against Decision on Several Motions Challenging Jurisdiction, <i>Prosecutor v. Gotovina et al.</i> , Case No. IT-06-90-AR72.1, A. Ch., 6 June 2007	11
Decision of Vlastimir Đorđević's Preliminary Motion on Jurisdiction, <i>Prosecutor v. Đorđević</i> , Case No. IT-05-87/1-PT, T. Ch. III, 6 December 2007	19
Commentary <i>David Bryden</i>	24
2. Indictment	
Decision on Preliminary Motions on the Indictment Pursuant to Rule 72 of the Rules, <i>Prosecutor v. Tolimir</i> , Case No. IT-05-88/2-PT, T. Ch. II, 14 December 2007	29
Commentary <i>Jocelyn Courtney</i>	48
Part 2/ Procedural Matters	
3. Counsel, self-representation and related issues	
Decision on Conflict of Interest of Attorneys Čedo Prodanović and Jadranka Sloković, <i>Prosecutor v. Gotovina et al.</i> , Case No. IT-06-90-PT, T. Ch. I, 5 April 2007	53
Judge Orie's Dissenting Opinion on Decision on Conflict of Interest of Attorneys Čedo Prodanović and Jadranka Sloković of 5 April 2007	60
Decision on Review of Registrar's Decision Re Co-Counsel for Mićo Stanišić, <i>Prosecutor v. Stanišić</i> , Case No. IT-04-79-PT, T. Ch. II, 24 April 2007	65
Decision on Miroslav Šeparović's Interlocutory Appeal Against Trial Chamber's Decisions on Conflict of Interest and Finding of Misconduct, <i>Prosecutor v. Gotovina et al.</i> , Case No. IT-06-90-AR73.1, A. Ch., 4 May 2007	73
Decision on Momčilo Krajnišnik's Request to Self-represent, on Counsel's Motions in Relation to Appointment of <i>Amicus Curiae</i> , and on the Prosecution Motion of 16 February 2007, <i>Prosecutor v. Krajnišnik</i> , Case No. IT-00-39-A, A. Ch., 11 May 2007	85
Dissenting Opinion of Judge Pocar	92
Separate Opinion of Judge Shahabuddeen	93
Fundamentally Dissenting Opinion of Judge Schomburg on the Right to Self-Representation	102

Decision on Ivan Čermak's Interlocutory Appeal Against Trial Chamber's Decision on Conflict of Interest of Attorneys Čedo Prodanović and Jadranka Sloković, <i>Prosecutor v. Gotovina et al.</i> , Case No. IT-06-90-AR73.2, A. Ch., 29 June 2007	125
Dissenting Opinion of Judge Shahabuddeen	142
Decision Adopting Guidelines on the Admission and Presentation of Evidence and Conduct of Counsel in Court, <i>Prosecutor v. Delić</i> , Case No. IT-04-83-T, T. Ch. I, 24 July 2007	145
Decision on Motion of <i>Amicus Curiae</i> Regarding Appellate Ground of Ineffective Assistance of Counsel, <i>Prosecutor v. Krajnišnik</i> , Case No. IT-00-39-A, A. Ch., 20 July 2007	155
Decision on Financing the Defence of the Accused, <i>Prosecutor v. Šešelj</i> , Case No. IT-03-67-PT, P-T. Judge, 30 July 2007	161
Decision on Krajnišnik Request and on Prosecution Motion, <i>Prosecutor v. Krajnišnik</i> , Case No. IT-00-39-A, A. Ch., 11 September 2007	175
Commentary <i>Alexander Zahar</i>	190
4. Equality of arms, effective defence investigations and undue delay	
Decision on Motion to Appoint <i>Amicus Curiae</i> to Investigate Equality of Arms, <i>Prosecutor v. Perišić</i> , Case No. IT-04-81-PT, T. Ch. III, 18 June 2007	193
Decision on Ojdanić Third Motion for Stay of Proceedings, <i>Prosecutor v. Milutinović et al.</i> , Case No. IT-05-87-T, T. Ch. III, 27 August 2007	199
Decision on Motion for Sanctions for Failure to Bring the Accused to Trial Without Undue Delay, <i>Prosecutor v. Perišić</i> , Case No. IT-04-81-PT, T. Ch. III, 23 November 2007	211
Commentary <i>Masha Fedorova</i>	217
5. Witnesses and admission of evidence	
Decision on Defence Request for Audio-Recording of Prosecution Witness Proofing Sessions, <i>Prosecutor v. Haradinaj et al.</i> , Case No. IT-04-84-T, T. Ch. I, 23 May 2007	229
Decision on Notification of Cross-Examination Material, <i>Prosecutor v. Haradinaj et al.</i> , Case No. IT-04-84-T, T. Ch. I, 31 May 2007	239
Decision on Praljak's Appeal of the Trial Chamber's 10 May 2007 Decision on the Mode of Interrogating Witnesses, <i>Prosecutor v. Prlić et al.</i> , Case No. IT-04-74-AR73.5, A. Ch., 24 August 2007	245
Decision on Motion by Witness 28 to Set Aside Subpoena or for Alternative Relief, <i>Prosecutor v. Haradinaj et al.</i> , Case No. IT-04-84-T, T. Ch. I, 5 September 2007	251
Decision on Appeal Against Decision Admitting Material Related to Borovčanin's Questioning, <i>Prosecutor v. Popović et al.</i> , Case No. IT-05-88-AR73.1, A. Ch., 14 December 2007	255
Decision on the Admissibility of the Borovčanin Interview and the Amendment of the Rule 65ter Exhibit List, <i>Prosecutor v. Popović et al.</i> , Case No. IT-05-88-T, T. Ch. II, 25 October 2007	269

Partial Dissenting Opinion of Judge Prost	291
Commentary <i>Kelly Pitcher</i>	298
6. Judicial notice	
Decision on Prosecution's Motion for Judicial Notice of Adjudicated Facts and Prosecution's Catalogue of Agreed Facts with Dissenting Opinion of Judge Harhoff, <i>Prosecutor v. Dragomir Milošević</i> , Case No. IT-98-29/1-T, T. Ch. III, 10 April 2007	311
Dissenting Opinion of Judge Harhoff	320
Decision on Interlocutory Appeals Against Trial Chamber's Decision on Prosecution's Motion for Judicial Notice of Adjudicated Facts and Prosecution's Catalogue of Agreed Facts, <i>Prosecutor v. Dragomir Milošević</i> , Case No. IT-98-29/1-AR73.1, A. Ch., 26 June 2007	323
Decision on Prosecution's Motion for Judicial Notice of Adjudicated Facts and Joint Motion Concerning Agreed Facts, <i>Prosecutor v. Delić</i> , Case No. IT-04-83-PT, T. Ch. I, 9 July 2007	333
Decision on Appeals Chamber Remand of Judicial Notice of Adjudicated Facts with Separate Opinion of Judge Robinson, <i>Prosecutor v. Dragomir Milošević</i> , Case No. IT-98-29/1-T, T. Ch. III, 18 July 2007	339
Separate Opinion of Judge Robinson	343
Commentary <i>Koen Vriend</i>	344
7. Referral	
Decision on Trial Chamber's Competence to Entertain Motion Filed After Entry into Force of Decision under Rule 11bis, <i>Prosecutor v. Trbić</i> , Case No. IT-05-88/1-PT, T. Ch. II, 1 June 2007	351
Decision on Milan Lukić's Appeal Regarding Referral, <i>Prosecutor v. Lukić and Lukić</i> , Case No. IT-98-32/1-AR11bis.1, A. Ch., 11 July 2007	355
Commentary <i>Yvonne McDermott</i>	364
8. Contempt of court	
Decision on Vojislav Šešelj's Appeal Against the Trial Chamber's Decision of 19 July 2007, <i>Prosecutor v. Šešelj</i> , Case No. IT-03-67-AR77.1, A. Ch., 14 December 2007	369
Declaration of Judge Shahabuddeen	372
Commentary <i>Birgitte Hagem</i>	375
Part 3/ Judgements	
9. Judgements	
Judgement, <i>Prosecutor v. Blagojević and Jokić</i> , Case No. IT-02-60-A, A. Ch., 9 May 2007	377
Partly Dissenting Opinion of Judge Shahabuddeen	464

Commentary <i>David Turns</i>	478
Judgement, <i>Prosecutor v. Martić</i> , Case No. IT-95-11-T, T. Ch. I, 12 June 2007	481
Commentary <i>Chantal Meloni</i>	622
Judgement, <i>Prosecutor v. Halilović</i> , Case No. IT-01-48-A, A. Ch., 16 October 2007	633
Separate Opinion of Judge Meron	694
Separate Opinion of Judge Schomburg	696
Declaration of Judge Shahabuddeen	699
Commentary <i>Maria Nybondas</i>	710
10. Sentencing judgements	
Judgement on Sentencing Appeal, <i>Prosecutor v. Zelenović</i> , Case No. IT-96-23/2-A, A. Ch., 31 October 2007	715
Sentencing Judgement, <i>Prosecutor v. Zelenović</i> , Case No. IT-96-23/2-S, T. Ch. I, 4 April 2007	731
Commentary <i>Denis Abels</i>	752
Part 4/ Post-conviction or post-acquittal issues	
11. Reconsideration	
Decision on Strugar's Request to Reopen Appeal Proceedings, <i>Prosecutor v. Strugar</i> , Case No. IT-01-42-Misc.1, A. Ch., 7 June 2007	757
Separate Opinion of Judge Shahabuddeen	766
Dissenting Opinion of Judge Schomburg	770
Commentary <i>Anja Havedal-Ipp</i>	781
Index	785
Contributors and Editors	789