

II. INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

(a) List of Current Proceedings: Update*

*Compiled by Sarah Pigott***

1. CASES AT THE PRE-TRIAL STAGE

1.1. The Prosecutor v. Dragoljub Prcač, Case No. IT-95-4

Following the detention of Dragoljub Prcač by SFOR on 5 March 2000,¹ the accused pleaded “not guilty” to all counts charged against him in the amended indictment, dated 8 March 2000, at his initial appearance hearing on 10 March 2000.

The amended indictment charges Dragoljub Prcač on the basis of individual criminal responsibility² and superior criminal responsibility³ with crimes against humanity⁴ (persecutions on political, racial or religious grounds; inhumane acts; murder; torture) and violations of the laws or customs of war (outrages upon personal dignity; murder; torture; cruel treatment) for his alleged role as deputy-commander of Omarska detention camp in north-western Bosnia and Herzegovina during June 1992.

The Trial Chamber held a hearing in closed session on 22 March 2000 to hear submissions as to the joining of the *Prcač* case to that of *Kvočka & others* (IT-98-30).

On 24 March 2000, the Prosecution filed its pre-trial brief in the Dragoljub Prcač case. A pre-trial conference was scheduled to take place on 12 April 2000.

* This *List of Current Proceedings: Update* covers cases pending between 1 January 2000 and 30 March 2000 that merit attention because of a new procedural event. See, generally, the website of the Tribunal: <http://www.un.org/icty>.

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1. ICTY Press Release JL/P.I.S./475-E, 6 March 2000.
2. Art. 7(1) of the Statute of the Tribunal.
3. Art. 7(3) of the Statute of the Tribunal.
4. Art. 5 of the Statute of the Tribunal.

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**1.2. The Prosecutor v. Dragan Kolundžija and Damir Došen,
Case No. IT-95-8**

On 9 November 1999 and 15 December 1999 respectively, Kolundžija and Došen filed motions objecting to the Amended Indictment, dated 30 August 1999, on the basis of vagueness and lack of particulars; clarification of superior responsibility; insufficient evidence in the supporting materials to support the charges; and irrelevance of sections dealing with general background/other camps.

On 10 February 2000, Trial Chamber III (Judges May (Presiding), Bennouna and Robinson) issued its decisions on the motions.

With regard to vagueness and lack of particulars, the Trial Chamber noted that the conduct of the accused with respect to certain counts is not clearly laid out. The Prosecution was therefore ordered to file an amended version of confidential Attachment A of the indictment, specifying the capacity in which each accused is alleged to have participated and the nature of his responsibility for each incident where the victim(s), place and date is named.

Finding that the issues of whether or not the accused were responsible as superiors for events at Keraterm camp and any challenge to the evidence are matters for trial, the Trial Chamber dismissed these defence objections.

The Trial Chamber also dismissed the objections of irrelevance, considering that the charge of persecution may require a broad scope of evidence and that the background and general allegations sections of the Amended Indictment may assist in placing the charges against the accused in their context, but they do not make specific charges against the accused.

**1.3. The Prosecutor v. Milan Simić, Miroslav Tadić, Simo Zarić and
Stevan Todorović, Case No. IT-95-9**

On 3 February 2000, Trial Chamber III (Judges Robinson (Presiding), Hunt and Bennouna) issued its written decision on Zarić's motion for separate trial, filed on 8 July 1999 (the decision was denied orally on 23 November 1999).

Considering that all four accused in the case are charged with crimes arising out of the same transaction and therefore that the accused have been properly joined, the Trial Chamber was not satisfied that any conflict of interest arose that might cause prejudice to the accused. The Trial Chamber considered that a joint trial avoids duplication of evidence, minimises hardship to witnesses and is generally in the interests of judicial economy. Also considering that the separation of the accused's trial is unlikely to yield an earlier date for the commencement of trial, the Trial Chamber determined that the interests of justice are best served by a joint trial in this case.

On 28 February 2000, the Trial Chamber issued its decision on (1) an application to re-open the decision on the Prosecution motion for a ruling concerning

the testimony of a former employee of the ICRC of 27 July 1999, filed by Todorović on 5 October 1999, (2) an application filed by the ICRC on 3 December 1999 to re-open the scheduling order of 18 November 1999 by which Todorović was granted access to the ICRC decision findings, and (3) conditions for access to material.

The Trial Chamber refused motions (1) and (2), and varied the scheduling order of 18 November 1999, directing that Todorović be provided with a copy of materials filed by the Prosecution in support of its motion for a ruling concerning the testimony of a witness, redacted to protect the identity of the proposed witness, and imposing restrictions on the access granted by the scheduling order concerning materials filed by the ICRC in opposition to the Prosecution motion.

On 29 February 2000, the Trial Chamber issued its decision on requests for provisional release, filed by Zarić and Tadić on 19 January 1999.

Having heard submissions of the parties in open session on 23 November 1999, the Trial Chamber considered that it was not yet satisfied that sufficient guarantees existed for the granting of the requests and thus ordered Zarić and Tadić to provide certain undertakings and guarantees in writing, as specified in the orders.

On 7 March 2000, the Trial Chamber III issued its decision on an *ex parte* notice of a motion for judicial assistance in connection with SFOR or other military and security forces operating on the territory of Bosnia and Herzegovina, and a motion compelling the Prosecutor to allow discovery and inspection, filed by Counsel for Todorović on 24 November 1999 and 6 December 1999 respectively.

Considering that Todorović had made a *prima facie* case showing that the requested evidence was in the custody or control of the Prosecution, had identified expressly and precisely the “legitimate forensic purpose” for which access is sought, and had demonstrated to the satisfaction of the Trial Chamber that production of the material sought is likely to assist materially in the presentation of the case in the motions for release, the Trial Chamber ordered:

1. The Prosecution to disclose certain specified documents to Todorović by 4 April 2000, or indicate to the Trial Chamber and Todorović if such material is not within its custody or control.
2. Todorović to inform the Trial Chamber, by 18 April 2000, of the steps that it has taken to obtain information from SFOR, or other military and security forces operating on the territory of Bosnia and Herzegovina.

On Wednesday 29 March, the Trial Chamber delivered its oral Judgement in the contempt proceedings against Simić and his counsel, Mr. Branislav Avramović.

The Trial Chamber unanimously found that neither the contempt allegations against Simić nor those against his counsel, Mr. Branislav Avramović, had been

“*established beyond reasonable doubt*” and therefore neither Respondent was found to be in contempt of the Tribunal.⁵

1.4. The Prosecutor v. Milorad Krnojelac, Case No. IT-97-25

On 11 February 2000, Trial Chamber II (Judges Hunt (Presiding), Mumba and Pocar) granted in part the preliminary motion on the form of the indictment, filed by Krnojelac on 14 October 1999.

The Trial Chamber ordered the Prosecution within 30 days to further amend the indictment, dated 21 July 1999, so as to: (1) Plead the specific acts on the part of the accused by which he is alleged to bear individual responsibility, (a) by way of his personal participation in the acts which constitute the crimes charged, and (b) by way of aiding and abetting responsibility for the acts of others; (2) Identify the victims under the heading “Beatings upon arrival in the prison yard” so far as it is possible to do so; (3) Identify the detainees and the prison guards referred to in the paragraphs under the heading “Beatings associated with the Canteen” so far as it is possible to do so; (4) Clarify what is being alleged by the statement, “in accordance with a pattern established by Milorad Krnojelac in concert with other high-level prison staff” in paragraph 5.22 of the indictment; and, (5) With regard to paragraph 5.24 of the indictment, clarify whether the individual responsibility on the part of the accused is restricted to aiding and abetting responsibility.

1.5. The Prosecutor v. Mitar Vasiljević, Case No. IT-98-32

Mitar Vasiljević was detained by SFOR on 25 January 2000, and subsequently transferred to the UN Detention Unit later the same day. On 28 January 2000, the accused pleaded “not guilty” to all counts charged against him in the indictment, confirmed on 26 October 1998.

The indictment charges Mitar Vasiljević on the basis of individual criminal responsibility with crimes against humanity (extermination; persecutions on political, racial and religious grounds; murder; inhumane acts) and violations of the laws or customs of war (murder; violence to life and person) for his alleged involvement in a paramilitary unit working with the Serb police and military units to rid the area in and around the eastern Bosnian town of Višegrad of all non-Serbs, between May 1992 and October 1994.

5. ICTY Press Release CC/P.I.S./483-E/F, 29 March 2000.

**1.6. The Prosecutor v. Vinko Martinović and Mladen Naletilić,
Case No. IT-98-34**

On 17 January 2000, the Registrar issued a decision on the request submitted by Martinović for review of the decision dated 21 December 1999, in which the accused's request for assignment of counsel was granted in part.⁶

The Registrar considered that the right of the accused to an effective defence shall not be affected while the accused's financial situation is being re-examined in view of the above request. Considering, however, that the accused continues to have the burden of proof that he fulfils the requirement of indigence, the Registrar decided that all costs and expenses of legal representation for Martinović necessarily and reasonably incurred shall be temporarily borne by the Tribunal for a period not exceeding 30 days. In the meantime, the Deputy Registrar invited the accused to provide the Registry with more information to support his claim for legal aid at the Tribunal.

On 15 February 2000, Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald) rejected the motion on the form of the indictment, filed by Martinović on 4 October 1999.

Martinović had objected to the indictment, dated 21 December 1998, on the basis that: certain factual allegations in the indictment are "incorrect" or that no evidence has been offered to support them; he should not have been charged with more than one offence based on the same underlying facts; those portions of the indictment charging him with responsibility under both Article 7(1) and (3) of the Statute of the Tribunal are defective because, in his view, Article 7(3) does not provide a separate ground for command responsibility, and liability can be based only on Article 7(1); and, portions of the indictment are unclear, more specific details are needed to enable him to prepare his defence.

Rejecting these objections as a basis for dismissing or amending the indictment, the Trial Chamber noted that the defence has extensive witness statements as well as supporting materials in its possession, and may seek further particulars from the Prosecution. In addition the Trial Chamber noted that the parties will be asked to address the issue of cumulative charging in their final pre-trial briefs.

On 21 March 2000, Mladen Naletilić, also known as "Tuta", was transported from Zagreb into the custody of the Tribunal in The Hague.⁷ His transfer had been delayed due to health problems, however following an examination by an independent medical team on 24 and 25 February 2000, the accused was deemed fit to travel.

At his initial appearance hearing on 24 March 2000, Mladen Naletilić pleaded "not guilty" to all charges in the indictment against him.

6. See ICTY Weekly Update 107, 23 December 1999.

7. ICTY Press Release JL/P.I.S./480-E, 21 March 2000.

The indictment, confirmed on 21 December 1998, charges Mladen Naletilić on the basis of individual criminal responsibility and superior criminal responsibility with crimes against humanity (persecutions on political, racial and religious grounds; inhumane acts; murder; torture), grave breaches of the 1949 Geneva Conventions (inhuman treatment; wilful killing; torture; wilfully causing great suffering or serious injury to body or health; unlawful transfer of a civilian; extensive destruction of property), and violations of the laws or customs of war (cruel treatment; unlawful labour; murder; wanton destruction not justified by military necessity; plunder of public or private property; seizure, destruction or wilful damage done to institutions dedicated to religion) for his alleged role as commander of the special unit "Kažnjenička Bojna" (Convicts' Battalion, "KB") between April 1993 and at least January 1994.

**1.7. The Prosecutor v. Radislav Brđanin and Momir Talić,
Case No. IT-99-36**

On 1 February 2000, Judge Hunt, the pre-trial Judge, issued a decision on three motions filed by Talić, namely, (1) motion to dismiss the indictment, dated 14 October 1999, (2) motion for release, dated 18 January 2000, and (3) motion dated 25 January 2000 seeking leave to reply to the Prosecution's response to the second motion filed on 21 January 2000.

Dismissing the first motion on the basis that, in light of the decisions given upon various applications by Brđanin challenging the lawfulness of his detention, there is no argument available to Talić in support of the motion.⁸

With regard to the second motion, Talić submitted that, prior to the amended indictment of 17 December 1999, he was detained pursuant to an order issued by the Trial Chamber on 31 August 1999 following his initial appearance. That order being based upon the indictment confirmed on 14 March 1999. Following the filing of the amended indictment, the order made on 31 August 1999 was deprived of any judicial value along with the original redacted indictment.

Dismissing the second motion, Judge Hunt stated that the replacement of the original redacted indictment has no effect upon the operation of the order for detention. Detention remains lawful, with or without a formal order, by virtue of the Rules and Procedure and Evidence of the Tribunal, until an order for the release of the accused is made by a Trial Chamber.

Judge Hunt granted Talić leave to reply to the Prosecutor's response sought in the third motion.

On 1 March 2000, a Bench of the Appeals Chamber (Judges Vohrah (Presiding), Wang and Nieto-Navia) rejected Talić's application for leave to appeal the second part of the decision.

8. See ICTY Weekly Update 105, 10 December 1999; 102, 19 November 1999; 97, 15 October 1999.

The Bench considered that the request arose from a misunderstanding by Talić of the terms of the Rules and Procedure and Evidence regarding arrest, detention, and the amendment of indictments, as noted in the Trial Chamber's decision, and therefore Talić had failed to establish the existence of an issue of general importance to proceedings before the Tribunal or in international law generally.

On 9 March 2000, the Trial Chamber dismissed a motion for a separation of trials, filed by Talić on 9 February 2000.

The Trial Chamber considered that the joint trial of Talić and Brđanin did not cause any conflict of interest or serious prejudice to either accused, and a separate trial would be contrary to the interests of justice.

2. CASES AT THE TRIAL STAGE

2.1. **The Prosecutor v. Dario Kordić and Mario Čerkez,** **Case No. IT-95-14/2**

On 18 January 2000, Trial Chamber III (Judges May (Presiding), Bennouna and Robinson) issued its decision on Kordić's *ex parte* application, filed on 1 November 1999, for issuance of an Order to the United Nations Protection Force (UNPROFOR), represented by the Under-Secretary-General for Peacekeeping Operations, compelling the production of documents and other materials.

Bernard Miyet, the Under-Secretary-General for Peacekeeping Operations for the United Nations, had filed a response to the application on 10 January 2000, stating that, subject to certain conditions, UNPROFOR did not raise any objection to the issuance of an order by the Trial Chamber in accordance with the defence application. Noting the response the Trial Chamber requested UNPROFOR to produce to the defence certain documents within 60 days, subject to conditions detailed in the decision.

On 27 January 2000, the Trial Chamber issued its decision on Kordić's *ex parte* application for issuance of an Order to the Netherlands compelling the production of documents and other materials, filed on 15 December 1999 and for which oral arguments were heard on 14 January 2000.

Considering the assurances of the Netherlands Government with respect to the availability of the documents, and accepting the arguments of the Government that certain material sought is either not in its possession (but that it is prepared to conduct further searches in respect of the contemporaneous diaries, journals or other written record of daily activities and events maintained by the Dutch army or intelligence personnel deployed in central Bosnia requested by the defence) and/or lacks the required level of specificity, the Trial Chamber rejected the defence application with respect to 12 of the 13 categories of documents requested. However, with respect to the contemporaneous diaries, etc. the

Trial Chamber ordered the defence to further specify what is requested and to co-operate with the Government for the production of these documents.

On 17 March 2000, Kordić and Čerkez filed motions for a Judgement of acquittal following the close of the Prosecution case-in-chief on 9 March 2000.

In their respective accompanying briefs (Kordić's was filed confidentially) the accused argued that the evidence submitted by the Prosecution is insufficient to sustain a conviction on the offences for which the accused have been charged and there is therefore no case to answer on those counts. The accused asked that charges against them be dismissed. Kordić requested that he be released forthwith from custody.

A hearing on this matter was held on 30 March 2000.

2.2. The Prosecutor v. Dragoljub Kunarac and Radomir Kovač, Case No. IT-96-23 and Zoran Vuković, Case No. IT-96-23/1

On 9 February 2000, Trial Chamber II (Judges Hunt (Presiding), Mumba and Pocar) denied a request for joinder filed by Vuković on 1 February 2000.

Vuković had requested that he be tried jointly with Kunarac and Kovač and that the commencement of the trial of the two co-accused, presently 20 March 2000, be postponed until 2 May 2000.

The Trial Chamber first held that Kunarac, Kovač and Vuković have not remained co-accused as the Third Amended Indictment against Kunarac and Kovač, dated 1 December 1999, and the separate indictment against the five remaining accused, including Vuković, dated 7 October 1999, had replaced the original indictment charging all accused jointly.

Therefore, considering whether Vuković should be joined to the Third Amended Indictment, the Trial Chamber was of the view that a joinder of trials is not in the interests of justice, but noted that if Vuković is ready for trial by 20 March 2000 he may file a renewed request for joinder.

On 10 February 2000, Vuković filed an agreement for a joint trial of Kunarac, Kovač and Vuković indicating that he will be ready for trial on 20 March 2000 and waiving his right to preliminary motions on the indictment. On 15 February 2000, the Trial Chamber granted this motion for joinder.

In light of this order, on 16 February 2000, the Trial Chamber ordered that the case against Vuković be severed from the indictment against the accused Janković, Janjić, Zelenović and Stanković (the latter being assigned as case number IT-96-23/2) and that the Prosecutor file a redacted indictment containing only the facts and charges against Vuković. The redacted indictment, filed on 21 February 2000, was entitled IT-96-23/1. All documents filed in the proceedings against Kunarac, Kovač and Vuković carry the combined case number IT-96-23 & IT-96-23/1.

On 14 February 2000, the Registrar denied Kovač's renewed request for assignment of Mr. Milan Vujin as his defence counsel, filed on 7 February 2000.

Considering that the accused is currently represented by Mr. Momir Kolesar and Mr. Vladimir Domazet, the Registrar found that the interests of justice do not permit the assignment of counsel who has been convicted of contempt of the Tribunal⁹ notwithstanding an application for leave to appeal against the convicting Judgement filed confidentially by Mr. Vujin on 5 February 2000.

Subsequently on 28 February 2000, Kovač filed an appeal with the President of the Tribunal, Judge Claude Jorda, against the Registrar's decision.

On 11 March 2000, Mr. Momir Kolesar, defence counsel for Kovač, sent a request to the Registrar for Mr. Milan Vujin to be allowed to act as *pro bono* co-counsel on Kovač's defence team. The Registrar referred the matter to Trial Chamber II which, on 14 March 2000, denied the request.

Considering that Mr. Vujin has been found in contempt of the Tribunal and is therefore no longer fit to appear before the Tribunal, the Trial Chamber was of the opinion that Mr. Vujin could not be given the right of audience and that it would be failing in its duty to protect the interests of the accused, Kovač, if it allowed Mr. Vujin to appear before it. Trial Chamber II further stated that this decision applies regardless of Mr. Vujin's pending appeal against the Judgement of the Appeals Chamber.

On 14 March 2000 the defence filed a joint confidential motion requesting that the press and public be excluded from parts of the proceedings when certain specified Prosecution witnesses testify. The Trial Chamber issued its decision on 22 March 2000.

Denying the request the Trial Chamber was of the view that it is of great importance for proceedings before the Tribunal to be as public as possible and non-public proceedings should be the exception. The Trial Chamber stated that "over and above the reasons that public proceedings facilitate public knowledge and understanding and may have a general deterrent effect, the public should have the opportunity to assess the fairness of the proceedings. Justice should not only be done, it should also be seen to be done".

On 20 March 2000, Judge Rodrigues, exercising the functions of the President of the Tribunal, issued a decision on the application filed by Kovač on 28 February 2000.¹⁰

Declaring that the President does not have competence to revise the decision of the Registrar on the position of Mr. Milan Vujin as counsel for Kovač, dated 14 February 2000, Judge Rodrigues further stated that this matter had already been decided upon by Trial Chamber II on 14 March 2000.

A pre-trial conference took place on 2 March 2000 and the trial commenced as scheduled on 20 March 2000.

On 29 March 2000, the Trial Chamber granted in part a confidential joint motion of the defence for the presence of defence experts during the trial.

9. See 4.4. The Prosecutor v. Duško Tadić, Case No. IT-94-1, below.

10. See above.

In the motion the accused applied, firstly, for three medical experts to be permitted access to the statements of five witnesses who are presently the subject of protective orders, and secondly, for the medical experts to be permitted to examine these witnesses. The issue was also raised as to whether the medical experts could give evidence in the trial.

Considering that expert medical evidence is not required in relation to the evidence of witnesses to crimes such as rape, torture, outrages upon personal dignity and enslavement, and the circumstances in which expert medical evidence would even be relevant are rare, the Trial Chamber stated that it would not be appropriate to permit a medical examination unless there is shown to be a reasonable likelihood in a particular case that it will assist the accused.

Thus, the Trial Chamber ordered that the defence may disclose the witness statements of the five witnesses to Prof. Dr. Dušan Dunjić, a forensic expert; Dr. Aleksandar Jovanović, a neuro-psychiatrist; and Dr. Milan Kostić, a psychologist, and, if it considers necessary, may call any or all of these medical experts to testify as expert witnesses.

With regard to physical examinations of the witnesses, the Trial Chamber held that the defence must apply on an individual basis, showing good cause, for leave to physically examine one or more of the witnesses. The Prosecution will be given an opportunity to respond to such applications.

2.3. The Prosecutor v. Miloslav Kvočka, Mlado Radić, Milojica Kos and Zoran Žigić, Case No. IT-98-30

On 2 February 2000, Trial Chamber III (Judges May (Presiding), Bennouna and Robinson) denied a request for provisional release filed by Kvočka on 12 January 2000.

In reaching its decision the Trial Chamber, considering the offences for which the accused is charged to be the gravest offences under international humanitarian law, took into account the legitimate concerns expressed by the Prosecution regarding the likelihood that the accused may pose a danger to victims, witnesses or other persons. In addition the Trial Chamber was not satisfied that the accused, if released, would appear for trial.

On 3 February 2000, Judge Mumba, the Vice-President of the Tribunal, ordered that the *Kvočka & others* case be transferred from Trial Chamber III to Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald) with immediate effect.

The trial of Miloslav Kvočka, Mlado Radić, Milojica Kos and Zoran Žigić subsequently commenced on 28 February 2000.

2.4. The Prosecutor v. Radislav Krstić, Case No. IT-98-33

On 28 January 2000, Trial Chamber I (Judges Rodrigues (Presiding), Riad and Wald) dismissed Krstić's motion on the form of the indictment with regard to counts 7 and 8, filed on 24 December 1999.

In the motion Krstić had submitted that the supporting material to counts 7 & 8, which were added in an amended indictment dated 22 November 1999, do not support the conclusion that Krstić was responsible as a commander for the deportation or forced transfer of Bosnian Muslims from Srebrenica between 11 July and 13 July 1995, and further that the Prosecution is obliged to submit evidence of the deportation and has failed to do so.

Krstić's second objection was that the acts underlying counts 7 & 8 (deportation/forcible transfer) are identical with those underlying count 6 (persecution), and that he should be charged with one or the other (persecution or deportation/forcible transfer) but not both.

The Trial Chamber dismissed Krstić's first objection on the basis that a motion on the form of the indictment is not an appropriate way to challenge evidence and proof of the facts alleged in the indictment is a matter for trial. The Trial Chamber further stated that although the Prosecution must plead the material facts in sufficient detail to inform the defendant of the nature and causes of the charges against him, it need not include in the indictment all the evidence it intends to use to support those charges.

With regard to the second objection, the Trial Chamber was of the opinion that the Statute of the Tribunal contains broad groups of offences sharing certain general ingredients and the charges objected to are not so clear-cut as to require the counts to be pleaded in the alternative at this time. Therefore this objection was also dismissed.

The pre-trial conference took place in closed session on 6 and 7 March 2000. The trial commenced on 13 March 2000.

3. CASES AT THE APPEAL STAGE

3.1. The Prosecutor v. Goran Jelisić, Case No. IT-95-10

On 21 March 2000, the Appeals Chamber (Judges Shahabuddeen (Presiding), Vohrah, Wang, Nieto-Navia and Wald) ordered the Defence not to raise arguments in its Appellant brief relating to the acquittal on the count of genocide.

Jelisić had filed a notice of cross-appeal against the Trial Chamber's oral Judgement of 19 October 1999, acquitting him of genocide and finding him guilty of crimes against Humanity and violations of laws or customs of war, and a notice of appeal against the sentence and Judgement handed down on 14 December 1999, in which Jelisić was sentenced to 40 years' imprisonment. The

notices of appeal were filed on 26 October 1999 and 15 December 1999 respectively.

On 20 December 1999, the Prosecution filed a motion for clarification of the right of Jelisić to file two notices of appeal. In response to this motion the defence requested the Trial Chamber to strike out the Prosecution's notice of appeal against the acquittal, filed on 21 October 1999, on the basis that the Prosecution had not served it on the defence directly.

In its decision the Trial Chamber held that an acquitted person has no right to appeal acquittals, however, stated that the defence may seek to support the acquittal on additional grounds in its Respondent's brief if the Prosecutor relies on a particular ground to reverse the acquittal in her Appellant's Brief.

With regard to the defence request for the striking out of the Prosecutor's notice of appeal, the Trial Chamber denied the request considering that the notice was delivered in good time to the defence via the Registry.

3.2. The Prosecutor v. Tihomir Blaškić, Case No. IT-95-14

On 3 March 2000, Trial Chamber I (Judges Jorda (Presiding), Rodrigues and Shahabuddeen) found Blaškić guilty on the basis of his individual and superior criminal responsibility of all the counts charged in the indictment against him (bar one (Count 2) that was withdrawn by the Prosecutor) and handed down a sentence of 45 years' imprisonment.¹¹

On 17 March 2000, Blaškić filed a notice of appeal against the Judgement and sentence. The Prosecution did not file a notice of appeal.

3.3. The Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Vladimir Šantić, Drago Josipović, Dragan Papić, Case No. IT-95-16

On 14 January 2000, Trial Chamber II (Judges Cassese (Presiding), May and Mumba) rendered its Judgement on the six accused who were charged in connection with their role in the attack on the village of Ahmići in central Bosnia on 16 April 1993.¹²

The accused were sentenced as follows:

1. Zoran Kupreškić, HVO soldier, GUILTY of persecution as a crime against humanity; NOT GUILTY with regard to murder and inhumane acts as crimes against humanity. Sentenced to 10 years imprisonment.

11. ICTY Press Release JL/P.I.S./474-E, 3 March 2000.

12. ICTY Press Release JL/P.I.S./462-E, 14 January 2000.

2. Mirjan Kupreškić, HVO soldier, GUILTY of persecution as a crime against humanity; NOT GUILTY with regard to murder and inhumane acts as crimes against humanity. Sentenced to 8 years imprisonment.
3. Vlatko Kupreškić, Police Operations Officer, GUILTY of aiding and abetting persecution as a crime against humanity; NOT GUILTY with regard to murder and inhumane acts as crimes against humanity and murder and cruel treatment as violations of the laws or customs of war. Sentenced to 6 years imprisonment.
4. Drago Josipović, HVO soldier, GUILTY of persecution as a crime against humanity; GUILTY of murder and inhumane acts as crimes against humanity; NOT GUILTY (for reasons of law) with regard to violations of the laws or customs of war (murder and cruel treatment). Sentenced to 10 years, 15 years and 10 years imprisonment respectively, to be served concurrently (15 years imprisonment).
5. Vladimir Šantić, Military Police Commander and Commander of the “Jokers”, GUILTY of persecution as a crime against humanity; GUILTY of murder and inhumane acts as crimes against humanity; NOT GUILTY (for reasons of law) of violations of the laws or customs of war (murder and cruel treatment). Sentenced to 25 years, 15 years and 10 years respectively, to be served concurrently (25 years imprisonment).
6. Dragan Papić was charged under count 1 in the indictment with persecution as a crime against humanity. However, the Trial Chamber found that, “none of the Prosecution evidence is sufficient to establish that you were an active participant in the attack on Ahmići [...] or in any of the events preceding this attack.” The Trial Chamber therefore acquitted Papić and ordered his immediate release.

Vladimir Šantić (24 January 2000), Vlatko Kupreškić (25 January 2000), Drago Josipović (26 January 2000), Zoran Kupreškić (26 January 2000) and Mirjan Kupreškić (28 January 2000) have filed notices of appeal against the Judgement. The Prosecution filed a notice of appeal against the Trial Chamber’s findings regarding Josipović and Šantić on 31 January 2000.

3.4. The Prosecutor v. Anto Furundžija, Case No. IT-95-17/1

On 2 March 2000, the Appeals Chamber heard oral submissions in Furundžija’s appeal against the Judgement handed down by Trial Chamber II (Mumba (Presiding), Cassese and May) on 10 December 1998.¹³

13. ICTY Press Release CC/PIU/372-E, 10 December 1998.

3.5. The Prosecutor v. Zejnil Delalić, Zdravko Mucić, Hazim Delić and Esad Landžo, Case No. IT-96-21

On 30 December 1999, the Appeals Chamber (Judges Hunt (Presiding), Riad, Wang, Nieto-Navia, Bennouna) denied Mucić's request for provisional release, filed on 17 December 1999, in which the appellant sought provisional release for one week to take care of his elderly father.

In its decision, the Trial Chamber stated that it was not satisfied that Mucić, if released, would appear for appeal proceedings and would not pose a danger to any victim, witness or other person.

On 14 February 2000, the Appeals Chamber granted the motion to admit as additional evidence the expert opinion of Sr. Francisco Villalobos Brenes, an expert on the Law of Costa Rica, filed by Landžo on 24 January 2000.

Landžo sought to have admitted as additional evidence an "expert opinion" on the interpretation of certain Articles of the Constitution of Costa Rica, prepared by Sr. Brenes, a member of the Bar of Costa Rica and an Adjunct Professor at the Faculty of Law of the University of Costa Rica. This material relates to Landžo's second ground of appeal against the Judgement handed down by Trial Chamber II *quater* (Judges Karibi-Whyte (Presiding), Odio Benito and Jan) on 16 November 1998, which concerned with the ineligibility of one of the members of the Trial Chamber to serve as a Judge.

4. COMPLETED CASES**4.1. The Prosecutor v. Duško Tadić, Case No. IT-94-1**

On 14 January 2000, the Appeals Chamber (Judges Shahabuddeen (Presiding), Mumba, Cassese, Wang and Nieto-Navia) heard oral arguments on the appeal against the sentence handed down by the Trial Chamber on 14 July 1997,¹⁴ and the appeal against sentence on the additional counts handed down by the Trial Chamber on 11 November 1999.¹⁵

On 26 January 2000, the Appeals Chamber sentenced Tadić to a maximum of 20 years' imprisonment, and ordered that Tadić should serve a minimum of 10 years' imprisonment to run from the date of the first sentencing judgement of 14 July 1997, thus ending no earlier than 14 July 2007.¹⁶

The Appeals Chamber considered that the time spent by the accused in detention in Germany and in the ICTY's Detention Unit since his transfer in April 1995 is to be deducted, that is, 5 years 11 months, and 14 days. Tadić remained

14. ICTY Press Release CC/PIO/226-E, 14 July 1997.

15. ICTY Press Release JL/P.I.S./447-E, 11 November 1999.

16. ICTY Press Release CC/P.I.S./465-E, 26 January 2000.

in the United Nations Detention unit awaiting transfer to a state to serve his sentence.

On 31 January 2000, the Appeals Chamber (Judges Shahabuddeen (Presiding), Cassese, Nieto-Navia, Mumba and Hunt) rendered its Judgement in the contempt of court proceedings against Mr. Milan Vujin, the former counsel for Tadić.¹⁷

The allegations of contempt arose from Mr. Vujin's conduct between September 1997 and April 1998, when he was acting as lead counsel on behalf of Tadić in connection with the appeals against the Judgement of 7 May 1997 and the Sentencing Judgement of 14 July 1997. The Appeals Chamber also admitted evidence in relation to events which occurred outside that period in order "to demonstrate a particular course of conduct or to explain the events which took place within that period".

The Appeals Chamber found unanimously: "that the Respondent put forward to it in support of the Rule 115 application a case which was known to him to be false in relation to the weight to be given to statements made by Mlado Radić and in relation to the responsibility of Goran Borovnica for the killing of the two Muslim policemen", and that the Respondent "manipulated Witnesses A and B by seeking to avoid any identification by them in statements of their evidence of persons who may have been responsible for the crimes for which Tadić had been convicted."

The Trial Chamber was satisfied beyond reasonable doubt that this conduct constituted contempt of the Tribunal and thus ordered Mr. Vujin to pay a fine of 15,000 Dutch guilders to the Registry of the Tribunal within 21 days; directed the Registrar "to consider striking" Mr. Vujin off the list of assigned counsel and "reporting" his conduct to the professional body to which he belongs; and, ordered that various documents pertaining to the case be made public where possible.

On 7 February 2000 Mr. Vujin filed an application for leave to appeal the Judgement. Judges Jorda (Presiding), Bennouna and Pocar were subsequently assigned to a Bench of the Appeals Chamber for the purpose of deciding on the application.

4.2. The Prosecutor v. Zlatko Aleksovski, Case No. IT-95-14/1

On 9 February 2000, the Appeals Chamber (Judges May (Presiding), Mumba, Hunt, Wang and Robinson), heard the oral arguments on the appeals filed by the parties against the Judgement rendered by Trial Chamber I on 7 May 1999.

At the conclusion of the hearing the Appeals Chamber issued an oral Judgement dismissing all grounds of appeal filed by Aleksovski, allowing the Prosecution appeal against sentence and ordered Aleksovski be returned to custody.

17. ICTY Press Release CC/P.I.S./467-E, 31 January 2000.

The Appeals Chamber reserved its decision on the Prosecution appeal against Judgement.¹⁸

On 24 March 2000, the Appeals Chamber rendered its reasoned written Judgement increasing Aleksovski's sentence to seven years' imprisonment, to run from 24 March 2000 with a deduction of three years and 12 days, that being the time Aleksovski has already served in detention.¹⁹

Aleksovski remained in the United Nations Detention unit awaiting transfer to a state to serve his sentence.

4.3. The Prosecutor v. Dragan Papić, Case No. IT-95-16

Dragan Papić was released from the United Nations Detention Unit on 14 January 2000 pursuant to the order for his immediate release issued by the Trial Chamber in light of the Judgement rendered on that day in which Papić was found not guilty.²⁰

As the Prosecution did not file a notice of appeal against the acquittal all proceedings against Dragan Papić are now completed.

18. ICTY Press Release CC/P.I.S./469-E, 9 February 2000.

19. ICTY Press Release CC/P.I.S./ 481-E, 24 March 2000.

20. See above 3.3. The Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Vladimir Šantić, Drago Josipović, Dragan Papić, Case No. IT-95-16.