

(b) Constitutional and Institutional Developments

*Compiled by Åsa Rydberg**

1. JUDGE JORDA CHOSEN AS NEW PRESIDENT OF THE ICTY

On 16 November 1999, during the Twenty-first Plenary Session of the International Criminal Tribunal for the former Yugoslavia (ICTY), the Judges chose Judge Jorda as the new President of the ICTY.¹ Judge Jorda took over the presidency from Judge Gabrielle Kirk McDonald, who left the ICTY at the end of the first term of her presidency.² A French national, President Jorda has been a Judge at the ICTY since January 1994. Since October 1995, he has been the Presiding Judge of Trial Chamber I of the ICTY.³

The Judges also chose Judge Florence Ndepele Mwachande Mumba as Vice-President of the ICTY.⁴ Judge Mumba of Zambia joined the ICTY as a Judge on 17 November 1997.⁵

In accordance with the Rules of Procedure and Evidence (Rules), the President and the Vice-President were each elected for a two-year term.⁶

2. COMPOSITION OF THE CHAMBERS

Pursuant to Article 14 of the Statute of the ICTY, the President of the ICTY shall be a member of the Appeals Chamber and shall preside over its proceedings.⁷ Thus, following the election of Judge Jorda as President of the ICTY, the Chambers are now composed as follows. The Appeals Chamber consists of Judge Claude Jorda, Presiding, (France), Judge Mohamed Shahabuddeen (Guy-

* Associate Legal Officer, Registry of the International Criminal Tribunal for the former Yugoslavia, The Hague, The Netherlands. The selection of events and the interpretation of these are those of the author and do not necessarily represent those of the International Tribunal or the United Nations.

1. ICTY Press release 449, 16 November 1999.

2. ICTY Press release 385, 16 March 1999, Å. Rydberg, *Constitutional and Institutional Developments*, 12 LJIL 451 (1999).

3. ICTY Press release 449, 16 November 1999.

4. *Id.*

5. *Id.*

6. Rules 18 and 20 of the Rules of Procedure and Evidence of the International Tribunal, UN Doc. IT/32 Rev.17.

7. The Appeals Chamber is common to both the ICTY and the International Criminal Tribunal for Rwanda (ICTR), but the Judges sit on the appeals proceedings either as members of the ICTY or as members of the ICTR. They must accordingly be sworn in for both institutions. Given this, Judge Jorda, President of the ICTY, was sworn in as a member and President of the ICTR Appeals Chamber on 24 November 1999. ICTY Press release 451, 26 November 1999.

ana), Judge Lal Chand Vorah (Malaysia), Judge Tieya Wang (China) and Judge Rafael Nieto-Navia (Colombia). Trial Chamber I consists of Judge Almiro Simões Rodrigues, Presiding, (Portugal), Judge Fouad Abel-Monem Riad (Egypt) and Judge Patricia Wald (United States of America). Trial Chamber II consists of Judge Antonio Cassese, Presiding, (Italy)⁸, Judge Florence Ndepele Mwachande Mumba (Zambia) and Judge David Hunt (Australia). Trial Chamber III consists of Judge Richard George May, Presiding, (United Kingdom), Judge Mohamed Bennouna (Morocco) and Judge Patrick Lipton Robinson (Jamaica).⁹

3. NEW JUDGE APPOINTED

Pursuant to Article 13(3) of the Statute of the ICTY, the Secretary-General of the United Nations, Mr. Kofi Annan, appointed Professor Fausto Pocar of Italy as a Judge of the ICTY.¹⁰ Professor Pocar will succeed Judge Cassese on 1 February 2000, and will serve the remainder of his term of office until 16 November 2001.¹¹

4. AMENDMENTS TO THE RULES OF PROCEDURE AND EVIDENCE

During the Twenty-first Plenary Session the Judges of the ICTY adopted three new Rules of the Rules of Procedure and Evidence, Rules 15 *bis*, 54 *bis* and 71 *bis*.¹² In addition, 28 Rules were amended.¹³ Most of the changes are aimed at speeding up the proceedings and making more efficient use of the court time.¹⁴

Rule 15 *bis* provides for the procedure to be followed when a Judge is unable to continue sitting on a part-heard case in order to allow some flexibility in the appropriate circumstances.¹⁵ Rule 54 *bis* concerns Orders directed to states for the production of documents. This includes the procedure to be followed when a state raises an objection to an Order for the production of documents on the

8. As noted below under 3. New Judge Appointed, Judge Cassese will be succeeded by Professor Pocar on 1 February 2000.

9. UN Doc. IT/138/Rev.1. ICTY Press release 450, 18 November 1999.

10. ICTY Press release 461, 6 January 2000.

11. *Id.* ICTY Press release 435, 8 September 1999. Å. Rydberg, *Constitutional and Institutional Developments*, 12 LJIL 932 (1999).

12. UN Doc. IT/161. Pursuant to Sub-rule 6(D) of the Rules, the amendments entered into force on 7 December 1999, seven days after the date of issue of the official document. The amended and new Rules are issued in UN Doc. IT/32 Rev.17.

13. *Id.* Rules 2, 10, 15, 28, 33, 50, 62, 65, 65 *bis*, 65 *ter*, 66, 71, 72, 73 *bis*, 73 *ter*, 75, 77 *bis*, 85 (French only), 90, 91, 94 *ter*, 98 *bis*, 105 (English only), 108, 108 *bis*, 111, 112, and 116 *bis* were amended.

14. ICTY Press release 453, 8 December 1999.

15. *Id.*

grounds that disclosure would prejudice its national security. Rule 71 *bis* concerns testimony by video-conference link.

5. LETTER TO THE SECURITY COUNCIL CONCERNING OUTSTANDING ISSUES OF STATE NON-COMPLIANCE

In a final report to the President of the Security Council, Judge Gabrielle Kirk McDonald, then President of the ICTY, raised the outstanding issues of state non-compliance with Article 29 of the Statute of the ICTY.¹⁶ Referring to her and her predecessor's numerous reports to the Security Council, the President noted that state non-compliance and related matters remain unsolved and implored the Security Council to take effective measures necessary to bring the recalcitrant States back into the fold of law-abiding nations.¹⁷

16. Press release 444, 2 November 1999. *See also* the President's Address to the General Assembly, ICTY Press release 445, 8 November 1999.

17. *Id.* The President referred specifically to non-compliance by the Federal Republic of Yugoslavia, the Republic of Croatia, Bosnia and Herzegovina and the Bosnian Serb entity in Bosnia and Herzegovina. *See also* Å. Rydberg, *Constitutional and Institutional Developments*, 12 LJIL 248 (1999) and Å. Rydberg, *Constitutional and Institutional Developments*, 12 LJIL 932 (1999).