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INTERNATIONAL CRIMINAL TRIBUNALS**

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PREFACE

This is the fifteenth volume in the series “Annotated Leading Cases of International Criminal Tribunals” and contains the most important decisions of the International Criminal Tribunal for the former Yugoslavia (ICTY) from 14 October 2003 until 5 December 2003. It is the ninth volume in the series containing decisions of the ICTY, which indicates the abundant production of that institution.

Fully engaged in its Completion Strategy, the ICTY is highly productive in the period covered by this volume. From 14 October 2003 until 5 December 2003, a relatively short period, the ICTY issued a variety of decisions, including four judgements.

The present volume is in its approach and structure similar to the previous fourteen volumes. Thus, the book contains the full text of all the decisions and judgements, including separate, concurring and dissenting opinions, as well as annexes to the decisions. As in the previous volumes, the editors have ensured that the decisions are fully identical to the *written* original text as issued by the ICTY Press and Information Office and which bears the signatures of the Judges. We are aware that more and more decisions are available on the internet. However, only the written decisions bearing the signatures of the Judges can be considered authoritative versions. In the course of our editorial work on this and previous volumes, we have discovered inconsistencies between the written original version of the decision and the internet version, if the latter is available at all. Much of our editorial efforts consist in making the texts in this series identical to the written original version.

We could only include the full text of the decisions in this volume by reducing their original format. Still, we wanted the reader to be able to identify the page number of the original text, which is throughout the text put in brackets []. We are again very happy that a number of scholars in the field of international criminal law were prepared to write interesting and stimulating commentaries to the decisions.

A few words regarding the selection of decisions may give the user insight into our working method. In principle, we select all final judgements. In addition, we publish decisions taken in any stage of the procedure that are important for other reasons: because they deal with a specific legal question, because they are representative of a specific type of decision or because they enter new legal waters. Of course, we cannot publish all decisions. As a result we may not publish decisions in which issues have been decided in a way similar or identical to a decision that has already been selected.

The decisions are presented in different parts and under different headings.

Part 1 deals with preliminary matters, and contains – in this relatively short period – a single decision dealing with a request for provisional release, a recurring problematic issue in international criminal proceedings.

Part 2 is entitled procedural matters and deals with a variety of issues.

Under heading 2 we have grouped three decisions dealing with issues related to defence, including disciplinary measures taken against defence counsel. These decisions demonstrate how the law of the ICTY is developing and how it will have to be able to respond to problems which are frequently encountered in national criminal jurisdictions, but not (yet) quite common in international criminal trials.

Heading 3 bears a familiar title, ‘admissibility of evidence’. Intrinsic in every criminal justice system is the (fierce) battle over admissibility of information into evidence. This is no different for international criminal

justice systems, be it that these struggles tend to take on a different dimension, given the unique nature of evidence collected as well as a significant number of unique contextual factors.

Part 3, containing a number of judgements, covers by far the largest part of this volume. Given the fact that voluminous judgements were handed down shortly one after another it explains why this volume covers a relatively short period only. As mentioned above, judgements are by definition included in this series, because of their importance, both from a factual and legal perspective. However, this only concerns final judgements, not the judgement contained under heading 4, judgement on motions for acquittal. Their importance for international criminal law is not by definition significant, as is now evidenced by the practice of rendering such decisions orally. These judgements will in the future only be selected when they address important legal issues.

Under heading 5 the reader finds two fully-fledged Trial Chamber judgements in the cases of Simić/Tadić/Zarić and Galić. Sentencing judgements, following a plea of guilt, are set out under heading 6 and concern the accused Banović and Nikolić.

Part 4 is relatively new in this series, but will remain of vital importance, and deals with post-conviction or acquittal issues. Under heading 7 the reader finds the most typical example of such issues: early release.

We owe acknowledgements to many persons without whom we could not have completed this eleventh volume. These include our publisher Intersentia, in particular Hans Kluwer and Isabelle van Dongen, our student assistants Thom Dieben (Maastricht) and Hadassa Noorda (Amsterdam), who assisted with the corrections of the text and the Netherlands School of Human Rights Research, which greatly facilitated our work. Christian Chartier and his staff from the ICTY Press and Information Office have helped us in obtaining all the hard copies of decisions. Steven Freeland from the University of Western Sydney, Australia, offered tremendous help by correcting our English. Last but not least, we wish to thank the distinguished authors for their commentaries to the decisions.

We hope that this volume will contribute to the further dissemination of the important work of the ICTY and that it will provide access to its decisions to practitioners, academics and students.

André Klip and Göran Sluiter
Maastricht/Amsterdam, April 2008