

**ANNOTATED LEADING CASES OF  
INTERNATIONAL CRIMINAL TRIBUNALS**

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THE FORMER YUGOSLAVIA 2003-2004**

**André KLIP and Göran SLUITER (eds.)**



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## PREFACE

This is the nineteenth 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 6 December 2003 up to and including 20 June 2004. It is the eleventh in the series containing decisions of the ICTY.

The present volume is in its approach and structure similar to the previous 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 with 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 as 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 involve ensuring that the texts in this series are 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 regarding 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 at 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, 'Preliminary Matters', includes decisions on jurisdiction (1), matters regarding the indictment (2) and provisional release (3).

Part 2 deals with procedural matters. Under heading 4 are included decisions regarding the presentation of evidence. Admissibility of evidence is the topic of heading 6. Judicial notice, as a device to shorten the evidentiary process, has gained in importance at the ICTY and decisions in that area are incorporated under heading 6. An important decision on fitness to stand trial, in the Strugar case, follows under heading 7. Decisions related to the appointment and position of counsel are grouped under heading 8. Under headings 9 and 10, the reader will find decisions related to impartiality and contempt of court respectively.

Part 3, 'Judgement and Sentencing', contains ten judgements and covers by far the largest part of this volume. It contains judgements on a motion for acquittal (11), trial and appeals judgements (12) and sentencing judgements (13). As mentioned above, judgements are by definition included in this series, because of their importance, both from a factual and legal perspective.

Part 4, 'Post Conviction or Acquittal Issues and Detention Matters', deals with decisions regarding treatment of detainees (14) and a decision on an application for early release (15).

We owe acknowledgements to many persons without whom we could not have completed this nineteenth volume. These include the Press and Information Office of the ICTY, which offered generous assistance in obtaining all the hard copies of decisions. Our publisher Intersentia, in particular Hans Kluwer, Tom Scheirs and Isabelle Van Dongen, facilitated our work. We also acknowledge the work of our (former) student assistants, Thom Dieben, Mariam Pathan (Maastricht) and Robbert-Jan Winters (Amsterdam), who assisted with the corrections of the text and without whom we would not be able to publish this series. The Netherlands School of Human Rights Research stimulated our work. Professor 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 on 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, December 2009