

TABLE OF CONTENTS

Table of Contents	5
Preface	7
Part 1/ Preliminary Matters	
1. Jurisdiction	
Decision on Assigned <i>Pro Bono</i> Counsel Motion Challenging Jurisdiction, <i>Prosecutor v. Bošković and Tarčulovski</i> , Case No. IT-04–82-PT, T. Ch. II, 8 September 2006	9
Commentary <i>Keiko Ko</i>	16
Part 2/ Procedural Matters	
2. Counsel	
Decision on Complaint Against Defence Counsel Slobodan Stojanović, <i>Prosecutor v. Zoran Žigić a/k/a “Ziga”</i> , Case No. IT-98–30/1-A, A. Ch., 4 Jul 2006	19
Commentary <i>Adam Wolrich</i>	25
Decision on Assignment of Counsel, <i>Prosecutor v. Šešelj</i> , Case No. IT-03–67-PT, T. Ch. I, 21 August 2006	29
Commentary <i>Adam Wolrich</i>	45
3. Rule 11bis referral	
Decision on Appeal Against Decision on Referral Under Rule 11bis, <i>Prosecutor v. Ljubičić</i> , Case No. IT-00–41-AR11bis.1, A. Ch., 4 July 2006	51
Decision on Savo Todović’s Appeals Against Decisions on Referral Under Rule 11bis, <i>Prosecutor v. Rašević and Todović</i> , Case No. IT-97–25/1-AR11bis.1 and IT-97–25/1-AR11bis. 2, A. Ch., 4 September 2006	63
Commentary <i>Kjell Anderson</i>	92
4. Admissibility of Evidence	
Reasons for Decision Denying Defence Motion Regarding Chamber Witnesses Biljana Plavšić and Branko Đerić and Decision on Admission into Evidence of Biljana Plavšić’s Statement and Book Extracts, <i>Prosecutor v. Krajišnik</i> , Case No. IT-00–39-T, T. Ch. I, 14 August 2006	97
Decision on Prosecution’s Confidential Motion for Admission of Written Evidence In Lieu of <i>Viva Voce</i> Testimony Pursuant to Rule 92bis, <i>Prosecutor v. Popović et al.</i> , Case No. IT-05–88-T, T. Ch. II, 12 September 2006	103
Separate Opinion of Judge Kimberly Prost	129
Commentary <i>Kelly Pitcher</i>	131
	5

5. Judicial Notice

Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts with Annex, *Prosecutor v. Popović et al.*, Case No. IT-05–88-T, T. Ch. II, 26 September 2006 139

Decision on Prosecution Motion for Judicial Notice of Facts of Common Knowledge Pursuant to Rule 94(A), *Prosecutor v. Popović et al.*, Case No. IT-05-88-T, T. Ch. I, 26 September 2006 169

Commentary *Koen Vriend* 175

6. Witnesses

Decision on Evidence Tendered Through Sandra Mitchell and Frederick Abrahams, *Prosecutor v. Milutinović et al.*, Case No. IT-05–87-T, T. Ch. III, 1 September 2006 181

Decision on Appeal Against Trial Chamber’s Decision on the Evidence of Witness Milan Babić, *Prosecutor v. Martić*, Case No. IT-95–11-AR73.2, A. Ch., 14 September 2006 195

Commentary *Amy DiBella* 204

7. Contempt

Judgement, *Prosecutor v. Jović*, Case No. IT-95–14 and IT-95–14/2-R77, T. Ch. III, 30 August 2006 209

Judgement, *Prosecutor v. Marijačić and Rebić*, Case No. IT-95–14-R77.2-A, A. Ch., 27 September 2006 223

Commentary *Kai Ambos and Stefanie Bock* 235

Part 3/ Judgements

8. Judgements

Judgement, *Prosecutor v. Krajišnik*, Case No. IT-00–39-T, T. Ch. I, 27 September 2006 241

Commentary *Yannis Naziris* 514

Index 521

Contributors and Editors 523

INDEX

A	
adequate time	74
adjudicated facts.....	140
adversarial proceedings.....	199
armed conflict.....	392
assigned pro bono counsel	10
assignment of counsel	29
attack.....	393
B	
Beara.....	103, 139, 169
Borovčanin	103, 139, 169
Boškoski	9
C	
civilian population	393
closed session order.....	231
common knowledge	169
complicity in genocide.....	419
contempt.....	213
crimes against humanity.....	392
cross-examination of the experts	129
D	
deportation	405
destruction of cultural monuments	409
destruction of private property.....	408
disruptive behaviour	39
distinct, concrete, and identifiable	142
E	
extradition	54
F	
forced labour	406
forced transfer	405
G	
genocide.....	419
Gvero	103, 139, 169
H	
human shields	406
I	
interests of justice	146
International Covenant on Civil and Political Rights	
Article 14.....	32
intimidation	41
J	
Jović.....	209
judicial notice of adjudicated facts.....	139
jurisdiction	13
K	
Krajišnik	97, 241
L	
laws on extradition.....	54
Lazarević	181
Ljubičić.....	51
Lukić.....	181
M	
Marijačić.....	223
Martić	195

Miletić.....	103, 139, 169
Milutinović.....	181
murder.....	396
N	
Nikolić.....	103, 139, 169
O	
Ojdanić.....	181
oral evidence.....	184
P	
Pandurević.....	103, 139, 169
Pavković.....	181
perpetrator's knowledge.....	394
persecution.....	402
plunder of property.....	407
Popović.....	103, 139, 169
pro bono counsel.....	9
proof of facts.....	184
proposed fact.....	173
R	
Rašević.....	63
Rebić.....	223
referral.....	51, 63
restrictive and discriminatory measures.....	403
Rules of Procedure and Evidence ICTY	
Rule 11 <i>bis</i>	51, 63
Rule 77.....	229
Rule 77(A).....	213
Rule 89.....	184
Rule 89(C).....	173
Rule 92 <i>bis</i>	103, 129, 184
Rule 94(A).....	169
Rule 94(B).....	140
Rule 94 <i>bis</i>	129
Rule 98.....	100
Rule 108.....	22
S	
sacred sites.....	409
Šainović.....	181
self-representation.....	32
Šešelj.....	29
slandorous comments.....	41
Statute of the ICTY	
Article 5.....	392
Article 20(1).....	197
Article 21(4)(e).....	197
Article 21.....	32
T	
Tarčulovski.....	9
Todović.....	63
U	
undue delay.....	56
unlawful detention.....	405
V	
viva voce testimony.....	103
W	
widespread or systematic.....	393
Z	
Žigić.....	19

CONTRIBUTORS AND EDITORS

Kai Ambos Legal education at the universities of Freiburg, Oxford (UK) and Munich 1984–1990. First State Exam in Bavaria, 1990; Second State Exam in Baden-Wuerttemberg, 1994. LL.D. 1992 and Habilitation (Post-Doc) at the Ludwig-Maximilians-University of Munich, 2001 (*venia legendi* in Criminal Law, Criminal Procedure, Criminology, Comparative Law and Public International Law). Former senior research fellow at the Max-Planck Institute for Foreign and International Criminal Law and senior research assistant at the University of Freiburg im Breisgau, Germany. Acting Professor in Freiburg, summer term 2002 and winter term 2002/2003, Calls to chairs from the universities of Göttingen and Graz. Since May 2003 Chair of Criminal Law, Criminal Procedure, Comparative Law and International Criminal Law at the Georg-August-University Göttingen, Germany. Head of the Department of “Foreign and International Criminal Law”, Institute of Criminal Law and Justice at the University of Göttingen. Responsible for the Master Programs since April 2006. Judge at the District Court (Landgericht) of Lower Saxony in Göttingen since 24 March, 2006. Dean of Students of the Faculty of Law at the University of Göttingen between April 2008 and 2010.

Kjell Anderson holds a doctorate in human rights law from the Irish Centre for Human Rights at the National University of Ireland. He is currently a member of the advisory board of the International Association of Genocide Scholars.

Stefanie Bock studied law at the University of Hamburg and holds a PhD in criminal law from the same University. She has worked as a research assistant at the Universities of Hamburg and Göttingen and as an intern at the International Criminal Court. At present, she is a senior research assistant of Professor Dr. Kai Ambos, Department for Foreign and International Criminal Law, University of Göttingen and an Assistant Professor at the same department. Her main fields of research are international criminal law, European criminal law and victimology with a special focus on the procedural role of victims in (international) criminal proceedings.

Amy DiBella currently practices criminal defense in the United States and she is a former intern of the Office of Public Counsel for Defence at the ICC. She received her J. D. from the University of Pittsburgh where she was awarded the Faculty Award for Excellence in Legal Scholarship for her paper “The Right to Confrontation; Reconciling the Constitution with International Criminal Proceedings”. She received her LL.M. in the International Law of Human Rights and Criminal Justice from Utrecht University where she wrote her thesis on “Statements of guilt and the presumption of innocence; a comparative approach for the International Criminal Court”.

André Klip is Professor of Criminal Law, Criminal Procedure and International Criminal Law at Maastricht University. He is a Judge at the 's-Hertogenbosch Court of Appeal (since 2002). He is president of the Dutch section of the international association of penal law. He is also a member of the standing committee of experts in international immigration, refugee and criminal law, a member of the editorial board of ‘Delikt en Delinkwent- Tijdschrift voor Srafrecht’, as well as of the ‘International Criminal Law Review’ and co-editor of the ‘Commentary on Dutch Law on International Cooperation in Criminal Matters’. In 2009 he published ‘European Criminal Law. An Integrative Approach’, Intersentia, Antwerp.

Keiko Ko is Professor of Law at Mie University, Japan. She studied law at Sophia University and at Sophia Graduate School of Law in Tokyo. She was a Visiting Scholar at Columbia Law School in 2002 (Abe Fellowship, Social Science Research Council) and in 2008 (Fulbright Research Grant). She is a Council Member of the Japanese Society of International Law. Since 2007, she has been working as an advisor to the Japanese Delegation to the Assembly of State Parties to the International Criminal Court.

Yannis Naziris is an attorney and a doctoral candidate at Aristotle University in the field of international criminal law, currently associated with the University’s Criminal Law department. He has lectured and

written on criminal law, criminal procedure, and international criminal law. He is co-author of the treatise *War Crimes* (published in Greek under the auspices of the Defense Analyses Institute), identifying the steps necessary to ensure the effective harmonization of Greek law with international humanitarian law generally, as well as with the ICC Statute in particular.

Kelly Pitcher studied law at the University of Kent (1999–2002), the University of Aberdeen (2002–2003) and the University of Amsterdam (2007–2009). She has previously worked with counsel representing accused at the UN International Criminal Tribunal for the former Yugoslavia (2004–2007) and at an international law firm in the Netherlands (2007–2009) and is currently working at the University of Amsterdam. In addition to undertaking PhD research in the field of international criminal procedure, she teaches subjects in Dutch criminal law.

Göran Sluiter is Professor of International Criminal Law at the University of Amsterdam (since 2006) and lawyer at Böhler Advocaten since (since 2010). He has been a judge at the Utrecht district court from 2004 to 2009. In the past, he has worked for the Department of international law, the Netherlands Institute of Human Rights and the Willem Pompe Institute of Criminal Law and Criminology at Utrecht University. His doctoral dissertation is entitled 'International Criminal Adjudication and the Collection of Evidence: Obligations of States' (Intersentia, 2002), for which he received the Max van der Stoep human rights award. He is a member of the editorial committees of the 'Journal of International Criminal Justice' and the 'International Criminal Law Review'.

Koen Vriend holds a Master's degree in Holocaust and Genocide Studies (2005, University of Amsterdam) and a Master's degree in International Public Law (2009, University of Amsterdam). He is a PhD-candidate at the Amsterdam Center for International Law. His research concerns the relationship between the shortening of the evidentiary process in (international) criminal law and the fair trial rights of the accused. He also teaches Dutch criminal law.

Adam Wolrich received his Juris Doctorate from the University of Florida College of Law. Mr. Wolrich has several years of experience practicing criminal law as prosecutor for the Bronx County District Attorney's Office and the New York City Office of the Special Narcotics Prosecutor. Mr. Wolrich has also been employed as a litigator for a large corporate law firm. He is currently pursuing an LLM in international criminal law at the University of Amsterdam and a Masters in Public Administration at Columbia University's School of International and Public Affairs.