

TABLE OF CONTENTS

Table of Contents	5
Preface	11
Part 1/ Preliminary Matters	
1. Indictment	
Decision on Motion by the Accused to Dismiss all Charges Against Him (Submission 387) and its Addendum (Submission 391), <i>Prosecutor v. Šešelj</i> , Case No. IT-03-67-T, T. Ch. III, 18 September 2008.. ..	13
Decision on Slobodan Prljak’s Motion for Clarification of the Time Frame of the Alleged Joint Criminal Enterprise, <i>Prosecutor v. Prlić et al.</i> , Case No. IT-04-74-T, T. Ch. III, 15 January 2009.. ..	23
Separate Opinion of Judge Antonetti	29
Separate Opinion of Judge Trechsel	31
Decision on Prosecution Motion to Amend the First Amended Indictment, <i>Prosecutor v. Karadžić</i> , Case No. IT-95-5/18-PT, T. Ch. III, 16 February 2009.....	33
Commentary <i>Tim Vis</i>	44
2. Provisional Release	
Decision on Prljak’s Appeal of the Trial Chamber’s 2 December 2008 Decision on Provisional Release, <i>Prosecutor v. Prlić et al.</i> , Case No. IT-04-74-AR65.11, A. Ch., 16 December 2008.	55
Partly Dissenting Opinion of Judge Güney	61
Reasons for Decision on Prosecution’s Appeal of the Trial Chamber’s 10 December 2008 Decision on Prlić Provisional Release During Winter Recess and Corrigendum, <i>Prosecutor v. Prlić et al.</i> , Case No. IT-04-74-AR65.13, A. Ch., 20 January 2009.	63
Commentary <i>Alberto di Martino</i>	67
Decision on Submissions of the Accused Concerning Legality of the Arrest, <i>Prosecutor v. Tolimir</i> , Case No. IT-05-88/2-PT, T. Ch. II, 18 December 2008.	75
Commentary <i>Alberto di Martino</i>	81
3. Jurisdiction	
Decision on Tolimir’s “Interlocutory Appeal Against the Decision of the Trial Chamber on the Part of the Second Preliminary Motion Concerning the Jurisdiction of the Tribunal”, <i>Prosecutor v. Tolimir</i> , Case No. IT-05-88/2-AR72.1, A. Ch., 25 February 2009.....	83
Commentary <i>Emily Amick</i>	87

Part 2/ Procedural Matters

4. Evidence

Decision on Petković’s and Praljak’s Appeals Against the Trial Chamber’s Decision Adopting Guidelines for the Presentation of Defence Evidence, *Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR73.8, A. Ch., 18 July 2008. 91

Decision on Bajrush Morina’s Request for a Declaration of Inadmissibility and Exclusion of Evidence, *Prosecutor v. Haraqija et al.*, Case No. IT-04-84-R77.4, T. Ch. I, 28 August 2008. 97

Decision on the Prosecution’s Appeal Against the Trial Chamber’s Order to Call Alibi Rebuttal Evidence During the Prosecution’s Case in Chief, *Prosecutor v. Lukić et al.*, Case No. IT-98-32/1-AR73.1, A. Ch., 16 October 2008. 105

Decision on Accused’s Second Motion for Inspection and Disclosure: Immunity Issue, *Prosecutor v. Karadžić*, Case No. IT-95-5/18-PT, T. Ch. III, 17 December 2008. 113

Decision on Jadranko Prlić’s Consolidated Interlocutory Appeal Against the Trial Chamber’s Orders of 6 and 9 October 2008 on Admission of Evidence, *Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR73.13, A. Ch., 12 January 2009. 121

Decision on Gvero’s Motion for the Admission of Evidence Pursuant to Rule 92 *quater*, *Prosecutor v. Popović et al.*, Case No. IT-05-88-T, T. Ch. II, 3 February 2009. 131

Decision on Mrkšić’s Second Rule 115 motion, *Prosecutor v. Mrkšić*, Case No. IT-95-13/1-A, A. Ch., 13 February 2009. 141

Commentary *Ana María Torres Chedraui* 150

5. Translation

Decision on Slobodan Praljak’s Appeal Against the Trial Chamber’s Decision of 16 May 2008 on Translation of Documents, *Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR73.9, A. Ch., 4 September 2008. 161

Decision on Slobodan Praljak’s Appeal of the Trial Chamber’s 13 October 2008 Order Limiting the Translation of Defence Evidence, *Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR73.12, A. Ch., 5 December 2008. 169

Commentary *Jennifer Easterday*. 178

6. Witnesses

Decision on Slobodan Praljak’s Appeal of the Trial Chamber’s Decision on the Direct Examination of Witnesses dated 26 June 2008, *Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR73.11, A. Ch., 11 September 2008. 183

Decision on Appellant Momčilo Krajišnik’s Motion to Call Radovan Karadžić Pursuant to Rule 115, *Prosecutor v. Krajišnik*, Case No. IT-00-39-A, A. Ch., 16 October 2008. 191

Decision on Protective Measures for Witnesses, *Prosecutor v. Karadžić*, Case No. IT-95-5/18-PT, T. Ch. III, 30 October 2008. 199

Commentary *Joseph William Davids* 211

7. Organisation and Expediting Proceedings

Decision on Prosecution Motion Concerning Use of Leading Questions, the Attribution of Time to the Defence Cases, the Time Allowed for Cross-Examination by the Prosecution, and Associated Notice Requirements, <i>Prosecutor v. Prlić et al.</i> , Case No. IT-04-74-T, T. Ch. III, 4 July 2008.....	217
Dissenting Opinion of Judge Antonetti.....	227
Decision on Stojan Župljanin’s Motion for Joinder, <i>Prosecutor v. Stanišić et al. / Prosecutor v. Karadžić</i> , Case No. IT-08-91-PT and IT-95-5/18-PT, Specially Appointed Chamber, 6 January 2009.....	231
Commentary <i>Michele Caianiello</i>	240

8. Counsel and Self-Representation

Decision on Prosecution’s Appeal Against Trial Chamber’s Order on Contact Between the Accused and Counsel During an Accused’s Testimony Pursuant to Rule 85(C), <i>Prosecutor v. Prlić et al.</i> , Case No. IT-04-74-AR73.10, A. Ch., 5 September 2008.....	247
Joint Declaration of Judge Shahabuddeen and Judge Vaz.....	254
Decision on Prosecution’s Appeal Against the Trial Chamber’s Order Regarding the Resumption of Proceedings, <i>Prosecutor v. Šešelj</i> , Case No. IT-03-67-AR73.8, A. Ch., 16 September 2008.....	255
Decision on Momčilo Krajišnik’s Motion to Present Additional Evidence and to Call Additional Witnesses Pursuant to Rule 115, and to Reconsider Decision not to Call Former Counsel, <i>Prosecutor v. Krajišnik</i> , Case No. IT-00-39-A, A. Ch., 6 November 2008.....	265
Redacted Version of the “Redacted Version of the ‘Decision on Prosecution Motion to Terminate the Accused’s Self-Representation’ Filed Confidentially and <i>Ex Parte</i> on 25 November 2008”, <i>Prosecutor v. Šešelj</i> , Case No. IT-03-67-T, T. Ch. III, 27 November 2008.....	273
Decision on Joint Defence Motion to Prohibit Use of Defence Documents by the Prosecution, <i>Prosecutor v. Gotovina et al.</i> , Case No. IT-06-90-T, T. Ch. I, 5 December 2008.....	279
Decision on Prosecution Motion for Adjournment, <i>Prosecutor v. Šešelj</i> , Case No. IT-03-67-T, T. Ch. III, 11 February 2009.....	285
Dissenting Opinion of Judge Antonetti.....	288
Commentary <i>Heather Stevenson</i>	294

9. Contempt and Disciplinary Warning

Redacted Version of the “Decision on Motions by the Prosecution and the Accused to Instigate Contempt Proceedings Against Ms. Dahl (from the Office of the Prosecutor) and Mr. Vučić (Associate of the Accused)” dated 10 June 2008, <i>Prosecutor v. Šešelj</i> , Case No. IT-03-67-T, T. Ch. III, 8 July 2008.....	301
Judgement on Allegations of Contempt, <i>Prosecutor v. Haxhiu</i> , Case No. IT-04-84-R77.5, T. Ch. I, 24 July 2008.....	313
Judgement on Allegations of Contempt, <i>Prosecutor v. Haraqija et al.</i> , Case No. IT-04-84-R77.4, T. Ch. I, 17 December 2008.....	325

Decision on Allegations on Contempt, <i>Prosecutor v. Šešelj</i> , Case No. IT-03-67-R77.2, T. Ch. II, 21 January 2009.....	353
Decision on Urgent Defence Motion Requesting an Order to the <i>Amicus Curiae</i> to Take and Disclose Proposed Witness Statements, <i>The Case against Hartmann</i> , Case No. IT-02-54-R77.5, Specially Appointed Chamber, 29 January 2009.....	359
Joint Decision on Defence Motion for Reconsideration and Defence Motion for Voir-Dire Hearing and Termination of Mandate of the <i>Amicus</i> Prosecutor, <i>The Case against Hartmann</i> , Case No. IT-02-54-R77.5, Specially Appointed Chamber, 29 January 2009.	363
Reasons for Decision on the Defence Motion for Stay of Proceedings for Abuse of Process, <i>The Case against Hartmann</i> , Case No. IT-02-54-R77.5, Specially Appointed Chamber, 3 February 2009.....	369
Order Issuing a Warning to the Prosecution, <i>Prosecutor v. Prlić et al.</i> , Case No. IT-04-74-T, T. Ch. III, 5 February 2009.	375
Separate Opinion of Judge Antonetti	377
Commentary <i>Mariam Pathan</i>	380
10. Judicial Notice	
Decision on Motion for Judicial Notice of ICTY Convictions, <i>Prosecutor v. Perišić</i> , Case No. IT-04-81-PT, T. Ch. I, 25 September 2008.....	391
Commentary <i>Adam Wolrich</i>	396
11. Detention Issues	
Decision on Vojislav Šešelj's Appeal Against the 11 August 2008 Decision of the UNDU's Acting Commanding Officer, <i>Prosecutor v. Šešelj</i> , Case No. IT-03-67-T, President, 23 October 2008.	399
Decision on Borovčanin's Motion for Custodial Visit, <i>Prosecutor v. Popović et al.</i> , Case No. IT-05-88-T, T. Ch. II, 17 December 2008.....	405
Decision on Radovan Karadžić's Request for Reversal of Denial of Contact with Journalist, <i>Prosecutor v. Karadžić</i> , Case No. IT-95-5/18-PT, Vice-President, 12 February 2009.....	413
Commentary <i>Gerard de Jonge</i>	419
12. Disqualification	
Decision on Motion for Disqualification, <i>The Case against Lukić et al.</i> , Case No. IT-98-32/1-T, Vice-President, 12 January 2009.	423
Decision on Accused Motion for Adequate Facilities and Equality of Arms: Legal Associates, <i>Prosecutor v. Karadžić</i> , Case No. IT-95-5/18-PT, T. Ch. III, 28 January 2009.....	429
Decision on Motion for Disqualification, <i>Prosecutor v. Hartmann</i> , Case No. IT-02-54-R77.5, President, 18 February 2009.....	439
Commentary <i>Gaetano Best</i>	442

Part 3/ Judgements**13. Judgements**

Judgement, <i>Prosecutor v. Strugar</i> , Case No. IT-01-42-A, A. Ch., 17 July 2008.....	449
Commentary <i>Rebecca Mori</i>	580
Separate Opinion of Judge Shahabuddeen.....	552
Joint Dissenting Opinion of Judges Meron and Kwon.....	559
Judgement, <i>Prosecutor v. Delić</i> , Case No. IT-04-83-T, T. Ch. I, 15 September 2008.....	587
Dissenting Opinion of Judge Moloto.....	713
Commentary <i>Cassandra Steer</i>	729
Judgement, <i>Prosecutor v. Martić</i> , Case No. IT-95-11-A, A. Ch., 8 October 2008.....	739
Separate Opinion of Judge Schomburg.....	828
Commentary <i>Katarina Škrbec</i>	842

Part 4/ Post-Conviction and Acquittal Issues**14. Pardon and Commutation of Sentence**

Decision of the President on the Application for Pardon or Commutation of Sentence of Pavle Strugar, <i>Prosecutor v. Strugar</i> , Case No. IT-01-42-ES, President, 16 January 2009.....	849
Decision of the President on the Application for Pardon or Commutation of Sentence of Vladimir Šantić, <i>Prosecutor v. Kupreškić et al.</i> , Case No. IT-95-16-ES, President, 16 February 2009.....	853
Commentary <i>Denis Abels</i>	857
Index	861
Contributors and Editors	865