

Blaskic Case

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In the series of decisions, which relate to protective measures for witnesses, the most interesting is the one in which the Trial Chamber rejected the prosecutor's request for an investigation into the disclosure of the identity and statements of a witness (Croatian opposition politician Stipe Mesic) to some Croatian newspapers.

The request was rejected on the grounds that "the said witness was not covered by any protective measures," and "that it would be extremely difficult to determine who is responsible for such a disclosure."

The case deserves some attention. Stipe Mesic, as Croatia's representative on the presidency, had been the last president of the presidency of the former Socialist Federative Republic of Yugoslavia, from July to September 1991. After that he served as a high-level functionary in the newly-independent Croatia, but he soon fell out with Croatian President Franjo Tudjman and went over to the opposition.

By some inexplicable means, the transcript of his interview with the Hague Tribunal investigators, in which he talks of the disintegration of Yugoslavia and Croatia's role in the war in Bosnia, reached the pages of the Croatian regime press, where it was described as "high treason". An investigation into who leaked such a confidential Tribunal document would not perhaps be as "extremely difficult" as the judges concluded.

It is already known who - other than the Tribunal itself - had copies of that document: Mesic himself and General Blaskic's defence, led by the Zagreb lawyer Anto Nobile. There will be no investigation, however, and it remains to be seen whether Mesic, after being publicly denounced as a "traitor to Croatia", will appear before the Tribunal as a witness.

Trial Chamber I also rejected the defence motion for dismissal of the amended indictment against Blaskic. But it found that some of modifications the prosecutor had made to the indictment did not comply with the court order requiring the prosecution to be more specific in the charges against the general.

However, "out of a concern that the trial begin without undue delay," the Chamber decided not to grant the prosecutor additional time to satisfy the obligations with which she had not complied. It concluded: "At trial, the defence will have the opportunity to contest the admissibility of the evidence relating to the amendments to the indictment which the Trial Chamber may not have granted."

Also in connection with the Blaskic case, last Friday two officials of the government of the Federation of Bosnia and Herzegovina were due to appear before the Trial Chamber presided over by Judge Gabrielle Kirk McDonald. The two officials are Mato Tadic, Minister of Justice, and Stjepan Ivankovic, Director of the War Archive of the Croatian Community of Herceg-Bosna. This is a continuation of the drama over the subpoena duces tecum instructing the Bosnian authorities to hand over certain documents which the prosecution believes to contain evidence relevant to the Blaskic case.

A similar subpoena was also sent to the Croatian government, which challenged the Tribunal's right to issue court orders, under threat of penalty, to sovereign states. That subpoena has been suspended until the Trial Chamber decides whether or not the Tribunal has the right to do so. A public hearing on the issue was held on April 16 and 17 (see Update 24) but no decision has been announced so far.

Given that the Republic of Bosnia and Herzegovina is not challenging the Tribunal's right to issue such orders, the subpoena it received is still in force, but to no effect: neither of the two officials appeared before Judge McDonald on Friday. Nor have the documents requested been turned over to the OTP, as prosecutor Mark Harmon informed the Trial Chamber.

Once this had been publicly established, on the request of the prosecutor, the hearing continued in camera.

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