



**International Tribunal for the
Prosecution of Persons Responsible
for Serious Violations of International
Humanitarian Law Committed in the
Territory of the Former Yugoslavia
Since 1991**

Case: IT-99-36-PT

Date: 21 September 2001

Original: English

IN TRIAL CHAMBER II

**Before: Judge David Hunt, Presiding
Judge Florence Ndepele Mwachande Mumba
Judge Liu Daqun**

Registrar: Mr Hans Holthuis

Decision of: 21 September 2001

PROSECUTOR

v

Radoslav BRĐANIN & Momir TALIĆ

DECISION ON FORM OF THIRD AMENDED INDICTMENT

The Office of the Prosecutor:

**Ms Joanna Korner
Mr Andrew Cayley
Mr Nicolas Koumjian
Ms Anna Richterova
Ms Ann Sutherland**

Counsel for Accused:

**Mr John Ackerman for Radoslav Brđanin
Maitre Xavier de Roux and Maitre Michel Pitron for Momir Talić**

1. The prosecution has now filed the fourth version of its indictment in this case.¹ This was in response to the decision of the Trial Chamber in relation to the third version, in which a number of defects in its form were demonstrated.² The accused Momir Talić (“Talić”) has now filed an objection to the form of the Current Indictment.³

2. The prosecution did not at first file a response to that Motion,⁴ but did so – when reminded – some days late.⁵ Talić has pointed out that no request has been made by the prosecution for any extension of time,⁶ but he does not suggest that the Trial Chamber should for that reason ignore the Response which was filed. In any event, as the English translation of the Motion was filed during the Tribunal’s official court recess, sufficient good cause has been shown for recognising this Response as having been validly filed. Although courtesy demands that the prosecution should at least have complied with the terms of Rule 127 of the Tribunal’s Rules of Procedure and Evidence (“Rules”) by seeking such an order by way of motion, the Response is recognised as having been validly filed.

3. There have now been a large number of decisions given in which the nature of these proceedings, and of the charges laid, has been fully explained. It is unnecessary to repeat what has already been said. The Current Indictment has not altered the charges laid, nor has it significantly added to the material facts pleaded. It is convenient, therefore, to turn to the issues raised by Talić in his Motion.

4. In the June 2001 Decision, the Trial Chamber made the following order:⁷

The prosecution, if such be its case, is ordered to plead expressly that Momir Talić is criminally responsible for the crimes committed by units of the 1st Krajina Corps outside its geographical area of responsibility, upon the basis that he was in effective control of those units when they did so, and to identify with sufficient detail the areas outside that geographical area where, it is alleged, the units of the 1st Krajina Corps committed such crimes.

The background to that order is discussed at pars 15-17 of that Decision.

¹ Third Amended Indictment, 16 July 2001 (“Current Indictment”).

² Decision on Form of Further Amended Indictment and Prosecution Application to Amend, 26 June 2001 (“26 June 2001 Decision”).

³ Preliminary Motion Based on the Defects in the Form of the Indictment of 16 July 2001, 30 July 2001 (“Motion”).

⁴ The English translation was filed on 16 August 2001, so that the time for a response expired on 30 August 2001: Order for Filing Motions, 31 Aug 1999, as varied by the Decision on Motion to Translate Procedural Documents into French, 16 Dec 1999, par 5.

⁵ Prosecution’s Response to “Preliminary Motion Based on the Defects in the Form of the Indictment of 16 July 2001” Filed by the Accused Momir Talić, 4 Sept 2001 (“Response”).

⁶ Memorandum on the Prosecutor’s Response of 4 September 2001, 6 Sept 2001, par 3.

⁷ 26 July 2001 Decision, par 81(2).

5. In the Current Indictment, the prosecution has pleaded that Talić, as Commander of the 1st Krajina Corps, directly or through other identified classes of persons commanded all units of that Corps and units attached to it, that he directly controlled the work of the Corps Command and that he was responsible for the overall state and conduct of the Corps.⁸ The area defined as the geographical area of the Corps' responsibility is alleged to have "evolved" in 1992. All but two of the municipalities which formed the ARK as defined in par 4 of the indictment are alleged to have fallen directly within that area of responsibility of the Corps, or to have been included within that area as it expanded in 1992 or to have been municipalities where units of the Corp operated in 1992.⁹ Three particular additional municipalities are identified as places where the Corps operated during 1992 and as being outside that defined geographical area of the responsibility of the Corps (Bosanska Krupa, Bosanski Novi and Ključ).¹⁰ The indictment alleges that Talić, as the Commander of the JNA 5th Corps/1st Krajina Corps and as a member of the ARK Crisis Staff, used forces under his command, in co-ordination at times with police, paramilitary units, forces from other JNA/VRS Corps, and other civilian bodies, to carry out a plan to establish and secure a Serb state and to separate the ethnic communities in Bosnia and Herzegovina.¹¹ Talić is also alleged to have been personally responsible for ensuring that units under his command respected and applied the rules of international law governing the conduct of warfare.

6. Talić complains in his Motion that the Current Indictment still remains insufficiently precise. Although Talić accepts that he may be criminally responsible in his capacity as Commander of the 1st Krajina Corps for acts of individuals over whom he had effective control, irrespective of where the acts were committed, he claims that the indictment seeks to make him responsible for crimes "supposed to have been committed outside *his* area of responsibility".¹² That is not a correct interpretation of the indictment. The allegation is that the 1st Krajina Corps acted outside the area defined as *its* geographical area of responsibility, but it is also specifically alleged that Talić was responsible for those acts. Sufficient particularity is provided for that allegation in the passages from the Current Indictment to which reference is made in par 5, *supra*.

7. Talić also complains that the Current Indictment has merely alleged that the crimes were committed by the "Bosnian Serb forces", defined (in par 8) as the army, the paramilitaries, the

⁸ Current Indictment, par 20.

⁹ *Ibid*, par 23.

¹⁰ *Ibid*, par 23.1.

¹¹ *Ibid*, par 24.

¹² Motion, par I.1. (The emphasis has been added.)

territorial defence, the police units and the civilians armed by those forces, and that it does not state which units committed which crimes in the three additional municipalities in which the Corps is alleged to have operated,¹³ or when each such municipality fell within the area of responsibility of the 1st Krajina Corps.¹⁴

8. The prosecution, however, seeks to make Talić responsible for these crimes not only as the Commander of the 1st Krajina Corp but also as a member of the ARK Crisis Staff. Whether or not it has sufficiently identified in the Current Indictment the basis upon which he is alleged to be responsible as a member of the ARK Crisis Staff for actions done as a result of its decisions is the subject of a separate complaint, to be dealt with shortly. If the prosecution succeeds in demonstrating this second basis of responsibility, it would appear to demonstrate the responsibility of Talić for not only the acts of the 1st Krajina Corps but also for those of the other “Bosnian Serb forces”. If the prosecution does not succeed in demonstrating this second basis of responsibility, it may well be unable to demonstrate his responsibility for the acts of the other “Bosnian Serb forces”.¹⁵ That is a problem which may arise at the trial, but it does not give rise to a defect in the *form* of the indictment. If the information which Talić seeks is not apparent from the witness statements made available by the prosecution to the accused in accordance with Rule 66(A), his remedy is to request the prosecution to supply particulars of the statements upon which it relies to prove the specific material facts in question. If the prosecution’s response to that request is unsatisfactory, then and only then, he may seek an order from the Trial Chamber that such particulars be supplied.¹⁶

9. The complaints in relation to the prosecution’s response to the order made in par 81(2) of the 26 July 2001 Decision are rejected.

10. The Trial Chamber also made this order in that Decision:¹⁷

The prosecution is ordered to identify with some precision in its indictment the basis or bases upon which it seeks to make Momir Talić criminally responsible as a member of the Crisis Staff of the Autonomous Region of Krajina.

The background to this order is discussed at pars 20-21 of that Decision. It was pointed out that, if the prosecution case was limited (as it appeared then to be) to the fact that Talić merely

¹³ *Ibid*, par I.1.

¹⁴ *Ibid*, par I.2.

¹⁵ 26 June 2001 Decision, par 20.

¹⁶ Decision on Objections by Momir Talić to the Form of the Amended Indictment, 20 Feb 2001, par 50; 26 June 2001 Decision, par 19.

¹⁷ 26 June 2001 Decision, par 81(3).

implemented the policies of the ARK Crisis Staff as the Commander of the 1st Krajina Corps, there may well be a problem for the prosecution in establishing the responsibility of Talić for crimes committed by persons who were not under his authority as such Commander. It was also pointed out that, if it were part of the prosecution case that Talić participated in the decisions of the ARK Crisis Staff, this is a material fact which must be pleaded expressly.¹⁸

11. The prosecution has claimed that its response to this order is to be found in par 20.1 of the Current Indictment.¹⁹ There is no allegation in par 20.1 that Talić participated in the decisions of the ARK Crisis Staff, so that (in these circumstances) both Talić and the Trial Chamber should have been entitled to assume that the prosecution either cannot establish that fact or does not intend to lead any evidence of that fact.

12. Paragraph 20.1 states:

20.1 As Commander of the 1st Krajina Corps, General Momir Talić's membership of the ARK Crisis Staff and his implementation of its decisions aided and abetted the fulfillment of its policies.

It is difficult to understand what was meant by this paragraph as a matter of ordinary English usage. The most that can be made out of it is that Talić's membership of the ARK Crisis Staff and his implementation of its policies as the Commander of the 1st Krajina Corps aided and abetted the ARK Crisis Staff in the fulfillment of its policies. Such a statement gives no clear idea of the basis upon which the prosecution seeks to make Talić criminally responsible *as a member of the ARK Crisis Staff*, as opposed to as the Commander of the 1st Krajina Corps. It is ambiguous in many ways:

- (i) Is the initial clause "As Commander of the 1st Krajina Corps" intended to govern both Talić's membership of the ARK Crisis Staff and his implementation of its decisions?
- (ii) Is it to be established that he implemented its decisions otherwise than as the Commander of the 1st Krajina Corps?
- (iii) Is it being alleged that Talić's membership of the ARK Crisis Staff, without more, made him *individually* responsible for actions taken to implement its decisions by persons other than members of the 1st Krajina Corps?

Paragraph 20.1 provides no answer to the problems as to just how Talić is alleged to be responsible for the acts of persons who were not under his authority as the Commander of the 1st Krajina Corps. An indictment cannot be permitted to contain so many unanswered ambiguities, to be resolved at

¹⁸ *Ibid*, par 20.

¹⁹ Document accompanying the Current Indictment, 16 July 2001, par 3.

the trial only according to how the prosecution's case may turn out in the course of the evidence. An accused person is entitled to know in advance of the trial the nature of the case he has to meet. The Current Indictment manifestly does not satisfy that entitlement upon this issue.

12. An attempt was made at the recent Status Conference to elicit from the prosecution's Senior Trial Attorney just what the prosecution case is to be in relation to this issue. Notwithstanding the failure of the prosecution to comply with the order, made in the 26 June 2001 Decision, to plead as a material fact that Talić participated in the decisions of the ARK Crisis Staff if that were part of the prosecution case, it was stated by counsel that Talić did attend some meetings of the Crisis Staff and that, if he were not present, other members of his staff attended (presumably in his place).²⁰ Counsel was unable to state whether it was part of the prosecution case that Talić implemented any of the decisions of the ARK Crisis Staff otherwise than as the Commander of the 1st Krajina Corps,²¹ but she offered this statement of the prosecution case:²²

[...] our case will be that in order for the regional Crisis Staff in the autonomous region of Krajina to have the full authority, it required to have on its committee, as it were – one put it that way – on the Crisis Staff, the man in command of the armed forces for that area, and that by joining the ARK Crisis Staff, Talić lent his authority to that of the Crisis Staff as a whole.

She pointed out that Talić did not remove himself from the Crisis Staff or not attend.²³ She added:²⁴

We rely on his membership to add weight to it [the ARK Crisis Staff], but then assisting in carrying out the decisions which required military involvement.

And again:²⁵

Membership of this particular governmental body [ARK Crisis Staff] gave it – it was because it contained all the leading, as it were, figures from all walks of life, gave it the authority to have its decisions carried out.

And finally:²⁶

[Talić] Allowed his name to be used to give weight to the decisions which were then carried out, and therefore allied himself with those decisions.

13. Counsel obviously had some difficulty in formulating the prosecution's case, and it may be that it could be more clearly expressed after some greater thought is given to it. The Trial Chamber makes it clear once more that it regards a statement of the basis or bases upon which the prosecution

²⁰ Status Conference, 6 Sept 2001, Transcript p 361.

²¹ *Ibid*, p 363.

²² *Ibid*, p 363.

²³ *Ibid*, p 364.

²⁴ *Ibid*, p 364.

²⁵ *Ibid*, p 365.

²⁶ *Ibid*, p 365.

seeks to make Talić criminally responsible as a member of the Crisis Staff of the Autonomous Region of Krajina as a material fact which *must* be pleaded in the indictment. The prosecution is directed once more to plead such a statement in the indictment, so that the issue at the trial is a clear one. If the prosecution does not do so this time, it will be called upon to show cause why the whole of its case relating to Talić's membership of that Crisis Staff should not be struck out.

14. Talić asserts that mere membership of a Crisis Staff is neutral. He says that the body was of a type adopted throughout Bosnia for organising the various territories when a crisis arose, and that such membership becomes relevant only where it can be demonstrated that he was responsible in some way for the policies which it laid down.²⁷ This is the same point as that raised by the Trial Chamber in the 20 February Decision, and it should largely be answered by the amendments ordered to be made to the Current Indictment. Whether or not the prosecution case as outlined at the recent Status Conference would be sufficient in law to establish Talić's individual responsibility is not a suitable issue to be determined in an objection to the *form* of the indictment.

15. After two unsuccessful attempts to plead its common purpose case, the prosecution has finally settled upon a case in which the criminal object of the joint criminal enterprise is alleged to be the permanent forcible removal of Bosnian Muslim and Bosnian Croat inhabitants from the territory of the planned Serbian State by the commission of all the crimes charged in the indictment except the second count (complicity in genocide) – although it does include the first count (genocide).²⁸ Counsel for the prosecution suggested that the logic of the inclusion of one but not the other of the counts involving genocide is that there cannot be a common purpose to be complicit in genocide.²⁹ Whatever one may make of that explanation, if there be an illogicality its existence does not, in this present case, provide a defect as to the *form* of the indictment.

16. The 26 June 2001 Decision required the prosecution, in the event that it relied upon *any* of the crimes charged in the indictment as falling within the object of the joint criminal enterprise, to plead that the accused had the state of mind required for that crime.³⁰ The prosecution asserts that it has complied with that order by the inclusion of pars 27.1-27.4 of the Current Indictment, which incorporate pars 17-26. Paragraph 27.1 contains this very general statement:

The purpose of the joint criminal enterprise was the permanent forcible removal of Bosnian Muslim and Bosnian Croat inhabitants from the territory of the planned Serbian state by the commission of the crimes alleged in Count 1 and Counts 3 to 12 inclusive. **Radoslav**

²⁷ Motion, par II.

²⁸ Current Indictment, par 27.1.

²⁹ Status Conference, 6 Sept 2001, Transcript p 367.

³⁰ 26 June 2001 Decision, par 81(4)(b).

BRĐANIN and **Momir TALIĆ** and the other participants in the joint criminal enterprise each shared the intent and state of mind required for the commission of each of these crimes.

Talić complains that this is not a compliance with the order which was made.³¹ He says that the indictment must charge him, for example, as having the specific intention to destroy in whole or in part a national, ethnical, racial or religious group as such, in support of the common purpose to commit genocide.³²

17. Counsel for the prosecution first responded by asserting that the jurisprudence of the Tribunal permits the prosecution to plead only the material facts without reference to the state of mind required for any particular crime.³³ She did not identify the decision upon which she relied, but there was no appeal by the prosecution against the order made by this Trial Chamber that it plead that the accused had the state of mind required for each of the crimes which are alleged to fall within the common purpose.³⁴ Then counsel asserted that the prosecution had indeed pleaded such a state of mind in par 36 of the Current Indictment. The relevant part of that paragraph is in the following terms:

[...] **Radoslav BRĐANIN** and **Momir TALIĆ** acting individually or in concert with each other and also with others in the Bosnian Serb leadership, planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation, or execution of a campaign designed to destroy Bosnian Muslims and Bosnian Croats, in whole or in part, as national, ethnical, racial or religious groups, as such [...]

The reference to the “*campaign being designed to destroy [etc]*” is not necessarily an allegation that Talić had the relevant intention, although this may be yet another illustration of poor pleading. The prosecution would have perhaps been wiser to point to par 28 (in the “General Allegations” section), which states:

All acts or omissions charged as Genocide or Complicity in Genocide, were committed with intent to destroy, in whole or in part, Bosnian Muslims and Bosnian Croats, a national, ethnical or religious group, as such.

One problem here is that par 28 is not incorporated by reference in par 27.1. Another is that it does not unequivocally state that Talić had this intention, as the prosecution was ordered to state.

18. Whatever one may think of these references to the genocide count, there is no identification anywhere of the state of mind required for the other crimes which are alleged to have fallen within

³¹ Motion, pars III.5-6.

³² *Ibid*, pars III.5-6. See *Prosecutor v Jelisić*, Case IT-95-10-A, Judgment, 5 July 2001, pars 44-45.

³³ Status Conference, 6 Sept 2001, Transcript p 368.

³⁴ It would seem that counsel was referring to *Prosecutor v Kordić*, Case IT-95-14/2-PT, Decision on Defence Application for Bill of Particulars, 2 Mar 1999, par 8. But, where the state of mind is an ingredient of the crime to be proved, that state of mind is itself a material fact, and it must be pleaded. The issue is discussed in the 26 June 2001 Decision, at par 33.

the common purpose. For example, a discriminatory intent is an indispensable ingredient for the crime of persecution (Count 3),³⁵ but such an allegation is nowhere to be found in relation to Talić in the Current Indictment.³⁶ Another example is in relation to wilful killing (Count 5), where the act causing the death of the victim must be shown to have been done with an intention (a) to kill, or (b) to inflict grievous bodily harm, or (c) to inflict serious injury in the reasonable knowledge that such act or omission was likely to cause death.³⁷ That allegation is nowhere to be found in the Current Indictment either. It is unnecessary to multiply the examples further.

19. The very general allegation in par 27.1 is not sufficient. The prosecution must plead in terms the relevant state of mind required for each crime alleged to fall within the object of the joint criminal enterprise. The absence of such a material fact in relation to each of the crimes alleged to have fallen within the common purpose (other than, perhaps, genocide) is no mere technicality, and Talić is entitled to complain of the failure by the prosecution to comply with the order which was made. Although the facts and circumstances upon which the prosecution relies to establish such a state of mind are matters of evidence, and therefore need not be pleaded,³⁸ the state of mind itself is a material fact, and it *must* be pleaded.³⁹

20. The prosecution has not complied with the order made by the Trial Chamber that it plead that the accused had the state of mind required for each of the crimes charged which are alleged to fall within the common purpose. Talić objects to the prosecution being given another chance to plead the indictment properly.⁴⁰ However, this Tribunal does not exist to punish a party's non-cooperation, even a party's recalcitrance such as the prosecution has been exhibiting in this case. The Tribunal exists in order to administer justice, and it must endeavour to do what is proper to ensure that the cases of *all* parties may be put forward – provided, of course, that the conduct of the

³⁵ *Prosecutor v Tadić*, Case IT-94-1-A, Judgment [on Conviction Appeal], 15 July 1999, par 305.

³⁶ Paragraph 29 of the Current Indictment alleges: "All acts and omissions charged as Crimes against humanity were part of a widespread or systematic attack directed against the Bosnian Muslim and Bosnian Croat civilian populations of Bosnia and Herzegovina." This suffers from the same defects as the allegation in par 28: see par 17 of the text of this Decision, *supra*.

³⁷ There is no difference of consequence between the crimes of wilful killing and murder: *Prosecutor v Delalić et al* Case IT-96-31-T, Judgment, 16 Nov 1998, par 433. Many decisions of this Tribunal and of the ICTR have adopted a definition of murder which requires only one or two of these three states of mind. The relevant states of mind have nevertheless been expressed in this way, sometimes in differing terms but to substantially the same effect, in these decisions: *Prosecutor v Akayesu*, Judgment, Case ICTR-96-4-T, 2 Sept 1998, par 589; *Prosecutor v Delalić et al*, pars 424, 433-435, 439; *Prosecutor v Kayishema & Ruzindana*, Case ICTR-95-1-T, 21 May 1999, par 140; *Prosecutor v Rutaganda*, Case ICTR-96-3-T, 6 Dec 1999, par 80; *Prosecutor v Jelisić*, Judgment, Case IT-95-10-T, 14 Dec 1999, par 35; *Prosecutor v Musema*, Case ICTR-96-13-T, 27 Jan 2000, par 215; *Prosecutor v Blaškić*, Judgment, Case IT-95-14-T, 3 Mar 2000, pars 153, 181; *Prosecutor v Krstić*, Case IT-98-33-T, Judgment, 2 Aug 2001, par 485.

³⁸ 26 June Decision, par 33.

³⁹ *Ibid*, par 33.

⁴⁰ Motion, par V.

offending party does not, by that conduct, prejudice the other party. If the prosecution now does what it has been ordered to do, without further avoidance of its responsibilities, the accused are not prejudiced. However, if by reason of the failure of the prosecution once more to comply with the orders of the Trial Chamber in relation to the form of the indictment, the accused lose the benefit of the trial date fixed for January 2002, the prosecution cannot continue to be uncooperative with impunity. As stated at the recent Status Conference, if the trial does not commence in January, there is not presently another trial date available until September 2002. In those circumstances, it may become necessary for the Trial Chamber to take steps in order to avoid an abuse of the Tribunal's procedures.

21. Next, Talić complains that the Current Indictment is confused.⁴¹ He points out that, in addition to pleading that all of the crimes charged (other than that in Count 2) fell within the object of the joint criminal enterprise, the prosecution has also pleaded:

- (i) that the crimes charged in Counts 3 to 7 inclusive and Counts 10-12 inclusive "were also the natural and foreseeable consequences" of the acts upon which it relies for Counts 8 and 9 (which allege deportation, as a crime against humanity, and forcible transfer, as an inhumane act also amounting to a crime against humanity);⁴²
- (ii) that the accused were aware that these crimes were the possible consequence of those acts;⁴³ and
- (iii) that, despite their awareness of the possible consequences, the two accused knowingly and wilfully participated in the joint criminal enterprise.⁴⁴

Talić says, in effect, that the same crimes cannot both fall within the object of the joint criminal enterprise and go beyond the object of that enterprise but nevertheless be natural and foreseeable consequences of that enterprise.⁴⁵

22. As a proposition of law, the proposition for which Talić contends would appear to be correct. There is, however, nothing to stop the prosecution from relying upon alternative cases, so that, if the Trial Chamber does not accept its principal case that the two accused intended the crimes charged in Counts 3 to 7 inclusive and Counts 10-12 inclusive (that is, a Category 1 joint criminal enterprise case), the prosecution relies in the alternative upon a case that the two accused intended the crimes charged in Counts 8 and 9 (as a Category 1 joint criminal enterprise case) and upon the

⁴¹ *Ibid*, par III.7.

⁴² Current Indictment, par 27.3.

⁴³ *Ibid*, par 27.3.

⁴⁴ *Ibid*, par 27.4.

⁴⁵ Motion, par III.7.

other counts as a Category 3 joint criminal enterprise case. The prosecution is in error to say (in par 27.3) that these were cumulative bases for criminal responsibility, but it may certainly rely upon them in the alternative. The indictment must be amended to make this clear.

23. There are other complaints made by Talić in relation to the form of the Current Indictment, but these are either repetitions of previous complaints which have earlier been rejected by the Trial Chamber or of such a nature that they do not warrant separate consideration.

Disposition

24. Accordingly, the prosecution is ordered:

- (1) to plead as a material fact in the indictment a statement of the basis or bases upon which it seeks to make Momir Talić criminally responsible as a member of the Crisis Staff of the Autonomous Region of Krajina otherwise than by carrying out its decisions as the Commander of the 1st Krajina Corps;⁴⁶
- (2) to plead as a material fact that the accused had the relevant state of mind required for each crime alleged to fall within the object of the joint criminal enterprise, and to do so in terms;⁴⁷ and
- (3) to make clear that the case put in par 27.3 is an alternative, not a cumulative, case.⁴⁸

The amended indictment is to be filed within fourteen days of the date of this order.

Warning

25. Rule 72 gives to an accused thirty days in which to file a preliminary motion challenging the form of the indictment. Because the trial is presently fixed to commence in January 2002, if either of the accused seek to challenge the form of the new indictment to be filed by the prosecution as a result of this present decision, it is suggested that he does so with some expedition, and that he does not wait until that thirty day period is about to expire. If he does wait, complaints about the lateness of the indictment being settled will not be sympathetically received.

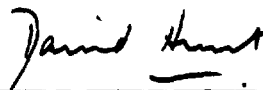
⁴⁶ Paragraph 13, *supra*.

⁴⁷ Paragraphs 19-20, *supra*.

⁴⁸ Paragraph 22, *supra*.

Done in English and French, the English text being authoritative.

Dated this 21st day of September 2001,
At The Hague,
The Netherlands.



Judge David Hunt
Presiding Judge

[Seal of the Tribunal]