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20 SEPTEMBER 2005 ~~20 SEPTEMBER 2005~~

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**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-95-14-R77.3
Case No. IT-95-14-R77.4
Case No. IT-95-14 & 14/2- R77

**THE PROSECUTOR
OF THE TRIBUNAL**

AGAINST

**JOSIP JOVIĆ
STJEPAN ŠEŠELJ
MARIJAN KRŽIĆ
DOMAGOJ MARGETIĆ**

CONSOLIDATED INDICTMENT

The Prosecutor of the International Criminal Tribunal for the former Yugoslavia ("the Tribunal"), pursuant to her authority under Article 18 of the Statute of the Tribunal and Rule 77 of the Rules of Procedure and Evidence of the Tribunal, charges:

**JOSIP JOVIĆ
STJEPAN ŠEŠELJ
MARIJAN KRŽIĆ
DOMAGOJ MARGETIĆ**

with **CONTEMPT OF THE TRIBUNAL** punishable under the Tribunal's inherent power, Rule 77(A), Rule 77(A)(ii) and Rule 77 (A)(iv) of the Rules of Procedure and Evidence of the Tribunal.

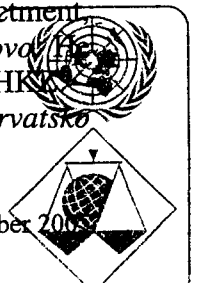
THE ACCUSED

Josip JOVIĆ (hereinafter "**JOVIĆ**"). At all times relevant to this indictment, **JOVIĆ** was editor-in-chief of *Slobodna Dalmacija* (daily newspaper in Split, Croatia).

Stjepan ŠEŠELJ (hereinafter "**ŠEŠELJ**"). At all times relevant to this indictment, **ŠEŠELJ** was the publisher of the Zagreb-based weekly publication *Hrvatsko Slovo*, was a member of the editorial board of *Hrvatsko Slovo* and the director of HKP Hrvatsko Slovo D.O.O., a business entity which manages the administration of *Hrvatsko*

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Slovo. He also was a founder and the principle director of the Croatian Cultural Foundation, the business entity responsible for publishing *Hrvatsko Slovo*.

Marijan KRIŽIĆ (hereinafter “**KRIŽIĆ**”). At all times relevant to this indictment, **KRIŽIĆ** was editor-in-chief of the Zagreb-based weekly publication *Hrvatsko Slovo*.

Domagoj MARGETIĆ (hereinafter “**MARGETIĆ**”). At all times relevant to this indictment, **MARGETIĆ** was editor-in-chief of *Novo Hrvatsko Slovo* and the former editor-in-chief of the Zagreb-based weekly publication *Hrvatsko Slovo*.

CHARGES

COUNT 1

CONTEMPT OF THE TRIBUNAL

(Josip JOVIĆ)

- 1) On 19 April 1997, the Office of the Prosecutor (“OTP”) took a statement (hereinafter “the Statement”) of a sensitive witness (“the WITNESS”) for the case *The Prosecutor v. Tihomir BLAŠKIĆ*, IT-95-14-A (“the *BLAŠKIĆ* case”).
- 2) On 6 June 1997, the *BLAŠKIĆ* Trial Chamber (hereinafter “the Trial Chamber”) ordered protective measures for the WITNESS. The OTP had requested the measures after the Statement was leaked to and published by Croatian newspapers. The Trial Chamber ordered that, as of the date of the order, “the accused, his counsels and their representatives not disclose to the public or to the media the name of the witnesses residing in the territory of the former Yugoslavia or any information which would permit them to be identified, unless absolutely necessary for the preparation of the defence”.
- 3) From 16 to 19 March 1998, the WITNESS testified at the Tribunal. It was in closed session, as ordered by the Trial Chamber after having heard the parties on the issue in private session, on 16 March 1998.
- 4) From 27 to 30 November 2000, *Slobodna Dalmacija* published excerpts of the WITNESS’ Statement (as opposed to the transcripts of his testimony) given on 19 April 1997. In the 27 and the 28 November 2000 issues, the newspaper expressly revealed the WITNESS’ identity and the fact that he testified from 16 to 19 March 1998.
- 5) On 01 December 2000, the OTP filed a “Notice of Breach of Security in Respect of Private Session Hearings” seeking an order against *Slobodna Dalmacija* and *Globus* (a Croatian weekly) to cease and desist publishing confidential statements.
- 6) The same day, 01 December 2000, the Trial Chamber granted the OTP’s motion and ordered “the Immediate Cessation of Violations of Protective Measures for Witnesses” (hereinafter “the 2000 Cease & Desist Order”). It ordered that the publication of statements and testimonies of any protected witnesses should cease immediately and stated that publication of this information could expose its

publishers to contempt charges. The Trial Chamber also requested the Registrar to serve the decision on *Globus* and *Slobodna Dalmacija* by facsimile.

- 7) Between 01 December 2000 and 03 December 2000, the 2000 Cease & Desist Order was served on *Globus* and *Slobodna Dalmacija*.
- 8) *Slobodna Dalmacija* printed the 2000 Cease & Desist Order in its 3 December 2000 issue ("ICTY has forbidden to proceed with publishing ***Name redacted***'s testimony to Slobodna (Dalmacija) / Haaski sud Slobodnoj zabranio daljnje objavljivanje ***Name redacted*** svjedocenja"). In an accompanying editorial ("Aggression on a legal state / Agresija na pravnu drzavu!"), it stated that the Order was arrogant and constituted meddling in the sovereignty of Croatia and aggression against the legal state. On the same day *Slobodna Dalmacija* published an article ("Prosecutor: I am asking for the closed session for prosecution witness, because he is being threatened / Tuzitelj: Za svjedoka optuzbe trazim zatvorenu sjednicu jer mu prijete") containing excerpts of closed session transcripts of the WITNESS' testimony in the *BLAŠKIĆ* case, in violation of the 2000 Cease & Desist Order.
- 9) On 04 December 2000, *Slobodna Dalmacija* published an editorial ("Slobodna Dalmacija is to receive Hague indictment / Slobodnoj Dalmaciji stize haaska tuzba") in which **JOVIĆ** stated that the order was shocking and would decide whether to continue to publish the transcripts after studying all the legal aspects of the ban.
- 10) On 06 December 2000, *Slobodna Dalmacija* published ("Defense counsel Hayman: ***Name redacted*** is going to lie to the media that he has nothing to do with Blaškić trial / Branitelj Hayman: ***Name redacted*** ce lagati medijima kako nema veze s procesom Blaskiću") closed session transcripts from the *BLAŠKIĆ* trial, March 16, 1998. In another article ("Six reasons why Slobodna (Dalmacija) is publishing ***Name redacted***'s testimony / Sest razloga zasto Slobodna objavljuje ***Name redacted*** svjedocenje"), **JOVIĆ** stated that the newspaper would continue publishing the closed session transcripts despite the 01 December 2000 order. The content of this article shows that **JOVIĆ** had full knowledge of the contemptuous nature of those publications and the fact that he could be held in contempt of the Tribunal as a consequence.
- 11) On 07 December 2000, *Slobodna Dalmacija* published closed session transcripts from the *BLAŠKIĆ* trial, 17 March 1998, as well as an article ("Tudjman ordered me to depose Stjepan Kljucic / Tudman mi je naredio da smijenim Stjepana Kljuica!") identifying the WITNESS by name.
- 12) From 08 December to 24 December and from 27 December to 29 December 2000, *Slobodna Dalmacija* continued to publish articles on a daily basis, containing excerpts of closed session transcripts of the WITNESS' testimony in the *BLAŠKIĆ* trial, despite the Court Order issued on 01 December 2000.
- 13) As editor-in-chief of *Slobodna Dalmacija* from 27 November 2000 to 29 December 2000, **JOVIĆ** knowingly and wilfully interfered with the administration of justice by publishing the identity of a protected ICTY witness, by publishing the fact that the witness testified in closed session at the Tribunal,

and by publishing excerpts of that testimony and by violating the 2000 Cease & Desist Order.

- 14) By these acts and omissions, **JOVIĆ** committed or otherwise aided and abetted in the commission of:

Count 1: Contempt of the Tribunal, punishable under the Tribunal's inherent power, Rule 77(A), Rule 77(A)(ii) and Rule 77(A)(iv) of the Rules of Procedure and Evidence of the Tribunal.

COUNT 2
CONTEMPT OF THE TRIBUNAL
(Stjepan ŠEŠELJ and Marijan KRIŽIĆ)

- 15) Paragraphs 1 – 13 are incorporated herein by reference.
- 16) On 26 November 2004, the Zagreb-based weekly newspaper *Hrvatsko Slovo*, published by HKZ-Hrvatsko Slovo d.o.o., printed excerpts of the testimony of the WITNESS and revealed his identity. *Hrvatsko Slovo* indicated that the issue of 26 November 2004 was the first of ten issues which would feature such excerpts.
- 17) At the time of this publication there were three existing applicable court orders:
- a) The decision of Trial Chamber I on the requests of the Prosecutor of 12 and 14 May 1997 in respect of the protection of witnesses, dated 6 June 1997;
 - b) The oral orders for closed session issued by the Court on the first day of the WITNESS' testimony before the ICTY. References to those orders are recorded daily on the transcripts of his four day testimony;
 - c) The Trial Chamber's Order for the Immediate Cessation of Violations of Protective Measures for Witnesses dated 1 December 2000.
- 18) The 26 November 2004 issue of *Hrvatsko Slovo* acknowledges that published extracts were taken from transcripts of testimony delivered in non-public proceedings before the Tribunal. The published extracts include the oral orders that the testimony be held in closed session.
- 19) On 1 December 2004, the Prosecutor filed before the Duty Judge an Urgent Motion for an Order for the Immediate Cessation of Violations of Protective Measures. In her Motion, the Prosecutor requested the Duty Judge to issue an Order against HKZ-Hrvatsko Slovo d.o.o., **ŠEŠELJ** and **MARGETIĆ** (erroneously believing that he was the editor-in-chief of *Hrvatsko Slovo*) to cease further publication of statements or testimonies of the WITNESS concerned, or of any protected witness.
- 20) On 2 December 2004, the Duty Judge granted the Prosecutor's Motion and ordered HKZ-Hrvatsko Slovo d.o.o. and all its employees, including **ŠEŠELJ** and

MARGETIĆ to cease publication in *Hrvatsko Slovo* and in any other publications, and to desist from the further publication of statements or testimonies of the WITNESS concerned, or of any protected witness ("2004 Cease and Desist Order"). The Republic of Croatia was directed to serve the Cease and Desist Order on HKZ-Hrvatsko Slovo d.o.o., ŠEŠELJ and MARGETIĆ.

- 21) On 3 December 2004, *Hrvatsko Slovo* again published excerpts of the closed-session testimony of the WITNESS.
- 22) On 3 December 2004, upon receipt of the Cease and Desist Order, ŠEŠELJ dispatched a letter to the Ministry of Justice, Department of Cooperation with International Criminal Courts, indicating that *Hrvatsko Slovo* would comply with the Cease and Desist Order.
- 23) In its 10 December 2004 edition, *Hrvatsko Slovo* published the Cease and Desist Order, side-by-side with an article identifying the WITNESS.
- 24) In its 17 December 2004 edition, *Hrvatsko Slovo* again published an article identifying the WITNESS.
- 25) As respectively publisher and editor-in-chief of *Hrvatsko Slovo* from 26 November to 17 December 2004, ŠEŠELJ and KRIŽIĆ knowingly and wilfully interfered with the administration of justice by publishing the identity of a protected ICTY witness, by publishing the fact that the witness testified in closed session at the Tribunal, and by publishing excerpts of that testimony and by violating both the 2000 and 2004 Cease & Desist Orders.
- 26) By these acts and omissions, ŠEŠELJ and KRIŽIĆ committed or otherwise aided and abetted in the commission of:

Count 2: Contempt of the Tribunal, punishable under the Tribunal's inherent power, Rule 77(A), Rule 77(A)(ii) and Rule 77(A)(iv) of the Rules of Procedure and Evidence of the Tribunal.

**COUNT 3
CONTEMPT OF THE TRIBUNAL
(Domagoj MARGETIĆ)**

- 27) Paragraphs 1 – 13 and 15 – 25 inclusive are incorporated herein by reference.
- 28) On 4 December 2004, MARGETIĆ, representing himself as editor-in-chief of a publication called *Novo Hrvatsko Slovo*, dispatched a letter to the President of the Tribunal in which he asserted:
 - a) That he had received information on the Tribunal's order for him [MARGETIĆ] to stop publishing the testimony of the WITNESS;
 - b) That he did not recognize the Tribunal or its orders;

- c) That he would not obey the order; and
 - d) That he would publish a special edition of *Novo Hrvatsko Slovo* on 8 December 2004 containing in its entirety the testimony given in closed session by the WITNESS before the Tribunal.
- 29) On 10 December 2004, **MARGETIĆ** in *Novo Hrvatsko Slovo* published further excerpts of closed-session testimony of the WITNESS.
- 30) As editor-in-chief of *Novo Hrvatsko Slovo* from 4 December 2004 to 10 December 2004, **MARGETIĆ** knowingly and wilfully interfered with the administration of justice by publishing the identity of a protected ICTY witness, by publishing the fact that the witness testified in closed session at the Tribunal, and by publishing excerpts of that testimony and by violating both the 2000 and 2004 Cease and Desist Orders.
- 31) By these acts and omissions, **MARGETIĆ** committed or otherwise aided and abetted in the commission of:

Count 3: Contempt of the Tribunal, punishable under the Tribunal's inherent power, Rule 77(A), Rule 77(A)(ii) and Rule 77(A)(iv) of the Rules of Procedure and Evidence of the Tribunal.

Respectfully submitted this 12th day of September, 2005



 Carla Del Ponte
 Prosecutor

The Hague
 The Netherlands

