



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 No. IT-98-30/1-T

Date 21 July 2000

English  
Original: French

**IN THE TRIAL CHAMBER**

**Before:** Judge Almiro Rodrigues, Presiding  
Judge Fouad Riad  
Judge Patricia Wald

**Registrar:** Mrs. Dorothee de Sampayo Garrido-Nijgh

**Decision of:** 21 July 2000

**THE PROSECUTOR**

v.

**MIROSLAV KVOČKA  
MILOJICA KOS  
MLAĐO RADIĆ  
ZORAN ŽIGIĆ  
DRAGOLJUB PRCAĆ**

**DECISION ON THE DEFENCE OF ALIBI FOR THE ACCUSED ZORAN ŽIGIĆ**

**The Office of the Prosecutor:**

**Ms. Brenda Hollis  
Mr. Michael Keegan  
Mr. Kapila Waidyaratne**

**Defence Counsel:**

**Mr. Krstan Simić for Miroslav Kvočka  
Mr. Zarko Nikolić for Milojica Kos  
Mr. Toma Fila for Mlado Radić  
Mr. Simo Tosić for Zoran Žigić  
Mr. Jovan Simić for Dragoljub Prcać**

**TRIAL CHAMBER I** of the 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 (“the Tribunal”);

**NOTING** the “Motion Regarding the Defence of Alibi for Accused Zoran Žigić” dated 26 June 2000 (“The Motion”) in which the Defence of Zoran Žigić requests that he be allowed to raise a defence of alibi for the facts he is accused of in paragraph 34 (d) of the Indictment and indicates the particulars of three potential alibi witnesses;

**HAVING HEARD** the parties during the status conferences dated 14 June and 4 July 2000;

**CONSIDERING** that, pursuant to Rule 67(A), the Defence is required to notify the Prosecutor of its intent to offer a defence of alibi “as early as reasonably practicable and in any event prior to the commencement of the trial”; that the trial started on 28 February 2000; that the Prosecution was provisionally notified of Žigić’s intent to use an alibi defence on 13 June 2000, the final notification coinciding with the official filing of the Motion on 26 June 2000;

**CONSIDERING** that, contrary to what the Defence contends, Rule 67(B) does not authorise an accused to put forward witnesses in support of a defence of alibi when the Prosecution has not been notified within the time frame stipulated in Rule 67(A); that this paragraph merely specifies that Rule 67(A) should not be read as limiting the right of the accused to testify for his own defense, which is guaranteed in Rule 85(C) of the Rules;

**CONSIDERING**, however, that Rule 127(A) authorises the Chamber to enlarge any time prescribed under the Rules upon showing of good cause by motion;

**CONSIDERING** that the Defence argues that the defence of alibi will be used to defend what it considers the gravest offence charged against the accused;

**CONSIDERING** that the Prosecution stated that it would not suffer any prejudice if the Chamber allowed Zigić to present a defence of alibi and that it would be able to respond to the defence without being granted any additional time and that it appears that the trial will not be delayed by the granting of this motion;

**PURSUANT** to Articles 20(1), 21(2) and 21(4)(e) of the Statute;

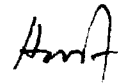
**PURSUANT** to Rules 54, 67 and 127 of the Rules of Procedure and Evidence;

**FOR THE FOREGOING REASONS,**

**AUTHORIZES** the Defence of accused Zoran Žigić to pursue a defense of alibi for the facts referred to in Paragraph 34 (d) of the indictment and to call the witnesses listed in the Motion.

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

Done this Twenty-first day of July 2000,  
At The Hague  
The Netherlands.



Almiro Rodrigues  
Presiding Judge

**[Seal of the Tribunal]**