



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-00-39 & 40-PT

Date: 8 May 2001

Original: ENGLISH

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**IN THE TRIAL CHAMBER**

**Before:** Judge Richard May, Presiding  
Judge Patrick Robinson  
Judge Mohamed Fassi Fihri

**Registrar:** Mr. Hans Holthuis

**Decision of:** 8 May 2001

**PROSECUTOR**

v.

**MOMČILO KRAJIŠNIK  
&  
BILJANA PLAVŠIĆ**

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**DECISION ON MOTION FROM MOMČILO KRAJIŠNIK TO COMPEL  
THE PROSECUTION TO PROVIDE PARTICULARS**

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**Office of the Prosecutor:**

Mr. Mark Harmon  
Mr. Nicola Piacente

**Counsel for the Accused:**

Mr. Deyan Brashich, for Momčilo Krajišnik  
Mr. Robert. J. Pavich, for Biljana Plavšić

**THIS TRIAL CHAMBER** 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 (“International Tribunal”),

**BEING SEISED** of the “Motion to Compel Prosecution to Provide Particulars”, filed by the Defence for Krajišnik on 17 April 2001 (“the Motion”),<sup>1</sup> in which the accused seeks to compel the Office of the Prosecutor (“Prosecution”) to provide particulars “as to any overt act by the Accused evidencing ‘participating, initiating, planning, instigating, ordering, committing or otherwise aiding and abetting’ the various crimes charged”, arguing that:

- (a) there is jurisprudence from the cases of *Prosecutor v. Delalić & Ors.* and *Prosecutor v. Tadić* to suggest that a motion for particulars is available to parties in proceedings before the International Tribunal, and that is especially so in this proceeding given the volume of discovery made;
- (b) despite the Trial Chamber’s “Decision Concerning Preliminary Motion on the Form of the Indictment” rendered on 1 August 2000 in this proceeding (“1 August Decision”), the Defence has recently been reconstituted, this proceeding has been joined with that of Biljana Plavšić and that given the timetable for trial there is very restricted time in which to prepare a defence; and
- (c) the Pre-Trial Brief is not a substitute for discovery and will not be provided in time for the Defence to prepare its case,

**NOTING** the “Prosecution’s Response to Defence’s Motion for Further Particulars” filed by the Prosecution on 24 April 2001 (“the Response”),<sup>2</sup> in which the Prosecution opposes the Motion, arguing that:

- (a) the accused has already made a motion for particulars pursuant to Rule 72 on 8 June 2000, in which it raised materially the same arguments as in the instant Motion and the Trial Chamber ruled on the original motion, and, therefore the Defence is not entitled to raise these adjudicated issues again;

<sup>1</sup> The Defence had filed a “Defence Request Directed to the Prosecution for a First Set of Particulars as to the Consolidated Indictment Dated March 9, 2001” on 6 April 2001. The Motion seeks an order from the Chamber compelling the OTP to provide the particulars requested.

<sup>2</sup> The OTP filed a *Corrigendum* on 25 April 2001 correcting an error in the title to its filing of 24 April 2001.

- (b) it is not settled law that an accused may bring a motion for further and better particulars before the International Tribunal and there are strong arguments mitigating against this;
- (c) the Defence have already been provided with adequate particulars in the Indictment, as confirmed by the 1 August Decision,

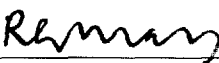
**CONSIDERING** that the Trial Chamber has considered a motion by this accused pursuant to Rule 72 and in its 1 August Decision rejected the accused's request for further particulars on the basis that the Indictment did not lack precision, that the facts were sufficiently pleaded in the Indictment and that the Prosecution will be required to set out in its Pre-Trial Brief details of the offences allegedly committed and the precise role of the accused,

**CONSIDERING** that the Defence will have three months from the date of filing of the Prosecution Pre-Trial Brief to prepare and file its Pre-Trial Brief,

**PURSUANT TO RULE 54 OF THE RULES**

**HEREBY DENIES** the Motion.

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

  
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Richard May  
Presiding

Dated this eighth day of May 2001  
At The Hague  
The Netherlands

[Seal of the Tribunal]