



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: 23 May 2001

Original: ENGLISH

IN THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Decision of: 23 May 2001

PROSECUTOR

v.

MOMČILO KRAJIŠNIK
&
BILJANA PLAVŠIĆ

**DECISION ON MOTION FROM BILJANA PLAVŠIĆ
TO DISMISS OR FOR ALTERNATIVE RELIEF**

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 a “Motion to Dismiss or for Alternative Relief” filed on behalf of the accused, Biljana Plavšić, on 2 May 2001 (“the Motion”), in which the accused seeks to have the Indictment against her dismissed, or alternatively to have the proceedings stayed until additional resources are provided for her defence, and that her case be tried separately from that of her co-accused Momčilo Krajišnik, for the following reasons:

- (a) the International Tribunal is unable to provide the accused with the minimal resources required to enable her to defend herself;
- (b) the Office of the prosecutor (“Prosecution”) has estimated the documentation relating to this case to amount to up to 3 million pages;
- (c) the Defence has inadequate resources compared with those of the Office of the Prosecutor (“Prosecution”) which gives rise to an inequality of arms; and
- (d) the lack of resources available to the accused and the imbalance in resources between the parties offends Articles 20 and 21 of the Statute of the International Tribunal (“Statute”) and necessitates the relief sought,

NOTING the “Prosecution’s Response to Biljana Plavšić’s Motion to Dismiss or for Alternative Relief” filed by the Prosecution on 11 May 2001, in which the Prosecution submits that the Motion be rejected for the following reasons:

- (a) neither Article 20 nor Article 21 of the Statute provides for the Trial Chamber to grant any ruling or relief;
- (b) in respect of the resource issues, the Defence should have made appropriate representations and submissions to the Registrar in accordance with the Directive on Assignment of Defence Counsel,
- (c) the timetable for these proceedings not being final and the Defence having failed to pursue the appropriate course with respect to resource issues, the relief sought in respect of time and resources is premature;
- (d) with respect to the equality of arms, the Prosecution has different responsibilities to the Defence and a direct comparison between total time and resources available to the parties is inappropriate in this jurisdiction; and

- (e) with respect to the request for a stay of proceedings, such a request is a question of timing for determination by the Trial Chamber and the question of separate trials has been finally determined by the Trial Chamber,

NOTING “Biljana Plavšić’s Reply to Prosecution’s Response to Her Motion to Dismiss or for Alternative Relief” filed by the Defence on 18 May 2001 without having sought leave to reply, in which the accused re-states that relief is available for violations of Articles 20 and 21 of the Statute and re-stating the accused’s position,

CONSIDERING that the accused should avail herself of the appropriate procedures for the application for further resources for the preparation of her defence,

CONSIDERING that the Prosecution has clarified the quantity of likely documentary disclosure in these proceedings at around 200,000 pages,

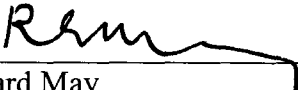
CONSIDERING that the Trial Chamber has ruled on the issue of joinder in both its “Decision on Motion for Joinder” on 23 February 2001 and its “Decision on Motion for Separate Trial” on 27 April 2001,

CONSIDERING FURTHER that the relief sought by the accused in respect of dismissal of the Indictment or a stay of proceedings is premature at this stage of the proceedings,

PURSUANT TO RULES 54 AND 73 of the Rules of Procedure and Evidence of the International Tribunal

HEREBY DENIES the Motion but will keep the matter of resources under review to ensure that the Defence will be in a proper position to proceed to trial.

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


Richard May
Presiding

Dated this twenty-third day of May 2001
At The Hague
The Netherlands

[Seal of the Tribunal]