



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: 1 August 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:** 1 August 2001

**PROSECUTOR**

v.

**MOMČILO KRAJIŠNIK  
&  
BILJANA PLAVŠIĆ**

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**DECISION ON MOMČILO KRAJIŠNIK'S  
NOTICE OF MOTION TO STRIKE**

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**Office of the Prosecutor:**

Mr. Mark Harmon  
Mr. Alan Tieger

**Counsel for the Accused:**

Mr. Deyan Brashich, for Momčilo Krajišnik  
Mr. Robert. J. Pavich and Mr. Eugene O'Sullivan, 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 “Notice of Motion to Strike”, filed by the Defence for Momčilo Krajišnik on 17 July 2001 (“the Motion”), in which the accused seeks to have the words “ordered”, “ordering”, “committed” and “committing” removed from the consolidated indictment on the basis that the indictment does not intend to charge that Momčilo Krajišnik physically perpetrated or personally ordered offences set out in the consolidated indictment, and that the material supporting the consolidated indictment fails to elicit evidence supporting the proposition that the accused ordered the perpetration of offences,

**NOTING** the “Prosecution’s Response to Defence’s Motion to Strike” filed by the Office of the Prosecutor (“Prosecution”) on 31 July 2001, in which the Prosecution submits that the Motion should be denied on the basis that it should have been made pursuant to Rule 72 and is therefore out of time, and that a correct interpretation of the jurisprudence of the International Tribunal requires such a ruling,

**CONSIDERING** that:

- (a) The Trial Chamber has already issued a “Decision Concerning Preliminary Motion on the Form of the Indictment” on 1 August 2000, in which it held that considerations of whether the supporting material sustains any aspect of the consolidated indictment is not a matter for consideration in preliminary motions, that the consolidated indictment was sufficiently pleaded with respect to the accused’s role and responsibility and that the Prosecution will be required to set out in its pre-trial brief the details of the offences allegedly committed and the precise role of the accused;
- (b) The Appeals Chamber rejected the application for leave to appeal of Mr. Krajišnik from the Trial Chamber’s decision;
- (c) The Trial Chamber has issued a “Decision on Motion from Momčilo Krajišnik to Compel the Prosecution to Provide Particulars” on 8 May 2001, in which it reaffirmed its decision in its 1 August Decision and denied the Motion which sought particulars of any overt act by the accused evidencing, *inter alia*, committing or ordering the offences alleged;

- (d) The Trial Chamber has furthermore issued a "Decision on Motion from Momčilo Krajišnik to Compel Prosecution to Provide Identity of Subordinates" on 19 July 2001, in which the Chamber denied the Motion and noted that it amounted to yet another request for particulars on which it had twice already ruled;
- (e) The Prosecution is required to file its pre-trial brief on 31 August 2001 and that the Prosecution will at that time be required to set out in detail the offences which the accused has allegedly committed as well as his role in those offences;

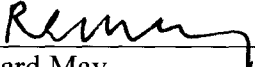
**CONSIDERING** that this Motion amounts to a fourth attempt by the accused to obtain particulars which the Trial Chamber has ruled are not required to be provided by the Prosecution at this stage of the proceedings,

**CONSIDERING** that this Motion constitutes a waste of the resources of all parties concerned, as well as those of the Trial Chamber,

**PURSUANT TO RULES 54 AND 73 OF THE RULES**

**HEREBY DENIES** the Motion.

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

  
Richard May  
Presiding

Dated this first day of August 2001  
At The Hague  
The Netherlands

[Seal of the Tribunal]