

UNITED  
NATIONS

IT-98-29-PT  
D 2097-D 2092  
16 NOVEMBER 2001

2097  
Rij



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: IT-98-29-PT  
Date: 16 November 2001  
Original: English

IN THE TRIAL CHAMBER

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

**Registrar:** Mr Hans Holthuis

**Order of:** 16 November 2001

**PROSECUTOR**

v

**STANISLAV GALIĆ**

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**DECISION**

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Office of the Prosecutor:

Mr. Mark Ierace

Counsel for the Defence:

Ms. Mara Pilipović

**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 (“International Tribunal”);

**NOTING** the Scheduling Order, dated 5 October 2001, by which the Chamber ordered that the Prosecution and the Defence file their pre-trial briefs on 15 October and 23 October 2001, respectively, and that the Pre-Trial Conference (“PTC”) take place on 8 November 2001;

**NOTING** the Schedule of Facts Stipulated to by the Parties filed by the Prosecution on 26 October 2001;

**NOTING** the Prosecution’s list of 217 witnesses filed on 29 October 2001, which can be divided into the following categories: fact witnesses (general facts/specific facts), witnesses on the role of General Galić, expert witnesses, and witnesses pursuant to Rule 92 *bis*; and the Prosecution’s list of 5107 exhibits filed on 31 October 2001;

**NOTING** the PTC held on 8 and 12 November 2001, during which the following items were discussed:

- points of agreement between the parties;
  - the list of Prosecution witnesses;
  - the list of documents or other evidentiary material that the Prosecution intends to tender at Trial;
- and,
- additional questions raised by the parties.

**CONSIDERING** that, regarding points of agreement between the parties, the Trial Chamber, given the arguments of the Defence in its pre-Trial brief, asked the parties if they were on agreement with the following points:

- (1) that General Galić was appointed Commander of the Sarajevo Romanija Corps (SRK) on the 10<sup>th</sup> of September, 1992;
- (2) that at the time of the appointment of General Galić as Commander of the Corps, all the units of the Corps were assigned along the separation lines in and around Sarajevo and their responsibility was to defend those positions;
- (3) that throughout the period covered by the indictment, the task of the SRK was to defend the separation lines;
- (4) that General Galić was the Corps Commander throughout the period relevant to the indictment;

- (5) that during the period relevant to the indictment, the SRK was attacking military targets in and around Sarajevo;
- (6) that the conflict in the urban part of the city caused casualties within the civilian population and damage to civilian buildings;
- (7) that there were snipers and that the snipers caused civilian casualties.

**CONSIDERING** that the parties agreed on points 1 and 4, and on point 2 in as far as it is relevant to the trial; and that the parties further agreed on point 6 formulated in the following terms: “that the conflict in the entire territory of the city of Sarajevo caused casualties within the civilian population and damage to civilian buildings”;

**CONSIDERING** that the Prosecution agreed to the formulation of point 5, whilst the Defence objected to the phrase “ in and around Sarajevo”; and that no agreement was reached on points 3 and 7;

**CONSIDERING** that, regarding the Prosecution’s list of witnesses, the Chamber considers that, when calling a witness to testify in person before the Trial Chamber, the parties must take into account the principle of sound administration of justice; that, in particular, parties should to the extent feasible avoid calling witnesses whose testimony is repetitive either with respect to facts already adjudicated by the Tribunal, or evidence already presented in other cases, or with respect to other witnesses in the same case; that, in this sense, the Chamber has requested that the Prosecution reduce the number of witnesses to be called at Trial and that those which are not retained be put on a reserve list; and that the Prosecution has agreed to reduce the number and to submit a revised list of witnesses;

**CONSIDERING** that, regarding the Prosecution’s exhibit list, the Chamber considers that the parties should to the extent feasible avoid tendering exhibits with respect to facts already adjudicated by the Tribunal, or evidence already presented in other cases, such as those referring to the general political and military context of the conflict in Bosnia-Herzegovina; that the Chamber further considers that the Prosecution should to the extent feasible avoid tendering exhibits that do not have a direct bearing on the charges against General Galić and on his role in the events of the siege of Sarajevo; that the Chamber has, for these reasons, and due to their large number, requested that the Prosecution reduce the number of documents or other evidentiary material that it intends to tender at trial; and that the Prosecution has agreed to reduce the number of exhibits and to submit a revised exhibit list;

**CONSIDERING** that the Defence pointed out that Prosecution did not respect the time-limit of six-weeks pursuant to Rule 65 *ter* (E) regarding the filing of the list of witnesses and the list of exhibits, and that, for this reason, the Defence did not receive the witness or exhibit list in due time for its consideration;

**CONSIDERING** that it is utterly unacceptable that, at such a stage of the proceedings, the Prosecution is yet to disclose approximately 1900 documents to the Defence; that, under the circumstances, while these documents should be made available to the Defence as soon as practicable, the Prosecution should not be entitled to tender any of these documents, unless it can demonstrate that the document was not available to the Prosecution prior to 1 October 2001;

**NOTING** Rule 65 *ter* (B), whereby “the pre-Trial Judge shall ensure that the proceedings are not unduly delayed and shall take any measure necessary to prepare the case for a fair and expeditious trial”; and Rule 65 *ter* (N), whereby, “upon report of the pre-trial Judge, the Trial Chamber shall decide, should the case arise, on sanctions to be imposed on a party which fails to perform its obligations pursuant to the present Rule. Such sanctions may include the exclusion of testimonial or documentary evidence”;

**CONSIDERING** that the Chamber finds it necessary to provide the parties with general guidelines on procedural aspects to ensure an expeditious trial;

**PURSUANT** to Articles 20 and 21 of the Statute as well as Rules 54, 65 *ter*, 92 *bis* and 94 *bis* of the Rules;

**FOR THE FOREGOING REASONS**

**ORDERS** that:

- (i) regarding the points of agreement, the Parties shall submit a joint document of stipulated facts, signed by both parties, as soon as possible and not later than within ten days of this decision; that this document shall state all the agreed points, including those contained in the document on stipulated facts submitted by the Prosecution on 26 October, those agreed during the PTC and other new points which the parties may consider of relevance to this trial;
- (ii) regarding the presentation of evidence, the Prosecution shall have a total of seventy court days of four hours each, i.e., a maximum of 280 hours, to present its case-in-chief; this period shall include the opening statement of the Prosecution, as well as the time spent in

cross-examination, re-examination, the questions of the judges, and the discussion and decision on procedural questions; that the Defence shall bear in mind that it will have as a maximum a similar amount of time at its disposal for the presentation of its case-in-chief; and that this limited time does not include a possible on-site visit of the Trial Chamber to Sarajevo, which will be decided upon later by the Trial Chamber seized of the case;

- (iii) regarding the expert witnesses, each statement of an expert witness must contain an executive summary; and that, when a party opposes the statement of the expert witness, rather than calling the expert for cross-examination, it shall consider submitting a counter-statement of an expert witness to contradict the points it objects;
- (iv) regarding the witnesses pursuant to Rule 92 *bis*, the parties shall submit written statements or transcripts of each concerned witness to the Trial Chamber, which will later decide if the witness should be called for the purpose of being cross-examined;
- (v) each party shall communicate to its counter-party the list of names and pseudonyms of the witnesses due to testify at least seven days prior to the scheduled date of their appearance at trial;
- (vi) regardless of the existence of the obligation to reciprocally disclose evidentiary material, the documents or other evidentiary material that have yet not been disclosed by the Prosecution to the Defence, and that were known or had been made available to the Prosecution prior to 1 October 2001, shall not be admitted as evidence at trial, unless otherwise later decided by the Trial Chamber seized of the case;

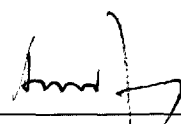
**RECOMMENDS** that:

- (i) the cross-examination of a witness shall not exceed the time of the examination-in-chief;
  - (ii) all documents and other evidentiary material are to be tendered into evidence pre-numbered in consultation with the Registry;
  - (iii) the parties shall refrain from tendering written statements of witnesses (other than those corresponding to Rule 92 *bis*) into evidence and, rather, direct the Judges and the opposing party to the relevant part(s) of the statement, which shall be, when necessary, made available to the Judges, the parties, the Registry and the interpreters;
  - (iv) all documents or other evidentiary material to be tendered into evidence and that go directly to the role of the accused or the material facts being pleaded are to be submitted to the Trial Chamber in the French, English and B/C/S languages; however, the parties should avoid
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making improper use of the translation resources of the Tribunal, and, thus, should give preference to the translation of those documents which are essential and pertinent to the trial in course; in specific cases, for example, regarding documents of great length, and following consultation of its counter party, a party should only request the translation of the relevant passages of such text;

- (v) an expert witness of the opposite party can be present during the testimony of the experts of the other party but shall not be allowed to testify or comment thereon;
- (vi) the parties should endeavour to take all steps to preserve the public character of the proceedings before the Chamber and to ensure, in particular, that witnesses be granted only those specific protective measures, such as face or voice distortion, that they deem necessary for their protection; closed sessions should only be ordered on an exceptional basis, after the Trial Chamber has been presented by the parties with all of the necessary information underlying an assessment of the necessity of such an extreme measure.

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

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Almiro Rodrigues  
Presiding Judge, Trial Chamber

Done this 16th November 2001  
At The Hague,  
The Netherlands.