



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-97-24-PT
Date: 22 March 2002
Original: ENGLISH

IN TRIAL CHAMBER II

Before: Judge Wolfgang Schomburg, Presiding Judge
Judge Florence Ndepele Mwachande Mumba
Judge Carmel A. Agius

Registrar: Mr. Hans Holthuis

Order of: 22 March 2002

PROSECUTOR

v.

MILOMIR STAKIĆ

**DECISION ON PROSECUTION'S MOTION FOR RECONSIDERATION OF TRIAL
DATE AND FINAL SCHEDULING ORDER**

The Office of the Prosecutor:

Ms. Joanna Korner
Mr. Nicholas Koumjian

Counsel for the Accused:

Mr. Branko Lukić
Mr. John Ostojic

TRIAL CHAMBER II 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 Provisional Scheduling Order of 19 February 2002 in which the pre-trial Judge in this case set the provisional date for the start of trial in this case for 16 April 2002,

BEING SEISED of the “Prosecution's Motion for Reconsideration of Trial Date” (“Motion”), filed on 20 March 2002 pursuant to Rule 73 of the Rules of Procedure and Evidence of the International Tribunal (“Rules”),

CONSIDERING that the initial Indictment against Milomir Stakić (“the accused”) was confirmed on 13 March 1997,

CONSIDERING that the accused was arrested on 22 March 2001 and was transferred to the seat of the International Tribunal on 23 March 2001,

NOTING that the accused made his initial appearance on 28 March 2001,

CONSIDERING that at the Status Conference of 14 November 2001, the pre-trial Judge of Trial Chamber I, Judge Rodrigues, informed the parties that the date for the start of trial in this case was 25 February 2002, and that at the Rule 65 *ter* meeting of 8 January 2002, the Senior Legal Officer of Trial Chamber II reiterated that the trial in this case was scheduled to start on 25 February 2002,

NOTING the “Prosecution’s Motion for a Joint Hearing on Evidence Common to the Cases of *Prosecutor v. Brđanin and Talić* and *Prosecutor v. Stakić*” of 8 January 2002,

REMINDING the Prosecution that the trial of *Prosecutor v. Brđanin and Talić* was scheduled to commence on 21 January 2002 at the time that motion was filed, that the initial Indictment in that case was filed on 14 March 1999, that Radoslav Brđanin was arrested on 6 July 1999 and made his initial appearance on 12 July 1999, and that Momir Talić was arrested on 25 August 1999 and made his initial appearance on 31 August 1999,

CONSIDERING the “Decision on Prosecution’s Motion for a Joint Hearing” of 11 January 2002 dismissed the Prosecution’s motion for a joint hearing, for the reasons that “a joinder would inevitably delay the start of the case of *Prosecutor v. Brdanin and Talić*” and “it is not in the interest of justice to delay the start of this trial,” and that “due to budgetary problems the trial of *Prosecutor v. Milomir Stakić* cannot start according to the envisaged court schedule of the International Tribunal, there is no basis for a joint hearing,”

NOTING that the trial of *Prosecutor v. Brdanin and Talić* commenced on 23 January 2002,

CONSIDERING FURTHER that at the Status Conference of 18 January 2002, the pre-trial Judge informed the parties that “due to budgetary problems, the International Tribunal has no means to start a sixth case,” but that in the event that the budgetary problems were resolved quickly, the parties and the Trial Chamber should “try to do what we can, envisaging late February as the starting day for this trial,”

NOTING that on 14 February 2002, the pre-trial Judge held a Rule 65 *ter*(I) meeting with the parties in which the pre-trial Judge and the parties discussed various means by which witnesses could give evidence in order to avoid witnesses in this case and the case of *Prosecutor v. Brdanin and Talić* appearing twice before the International Tribunal,

NOTING FURTHER that at the Rule 65 *ter*(I) meeting of 14 February 2002, the pre-trial Judge informed the parties that the trial should be provisionally scheduled to commence on 16 April 2002, and that the parties affirmed that they were prepared to start trial on that date,

NOTING that at the Status Conference of 18 February 2002, the pre-trial Judge formally informed the parties that the trial was provisionally scheduled to commence on 16 April 2002, and that neither party expressed any difficulty with commencing trial on 16 April 2002,

RECALLING the Provisional Scheduling Order of 19 February 2002 in which the provisional date for the start of trial in this case was set for 16 April 2002,

NOTING that the outcome of the Rule 65*ter*(I) meeting of 14 February 2002 and the Status Conference of 18 February 2002 was the “Prosecution’s Motion to Take Depositions for Use at Trial,” filed on 15 March 2002, in which the Prosecution seeks an order authorising it to take depositions in The Hague and Banja Luka of certain witnesses,

CONSIDERING that the budget of the International Tribunal was approved on 18 March 2002, thereby allowing for this trial to commence on 16 April 2002,

CONSIDERING FURTHER that the necessary steps to ensure that this trial commences on 16 April 2002 were taken immediately, *inter alia*, the President of the International Tribunal submitted a request to the Secretary-General of the United Nations to appoint two *ad litem* judges to serve on this case, pursuant to Article 13 *ter*(2) of the Statute of the International Tribunal,

NOTING that the Motion states: "At the status conference on 18 February 2002, the Pre-trial Judge set a provisional trial date of 16 April 2002. Judge Schomburg indicated that a prerequisite for this date was a "positive decision on the budget in New York not later than March 15,"

CONSIDERING that the difference of one business day in approving the budget qualifies as *quantité négligeable* only,

NOTING that in the Motion, the "Prosecution would ask the Pre-trial Judge to consult with defence counsel, who we are told will be in The Hague the first week of April, and consider setting a trial date in June,"

NOTING FURTHER that in the Motion, the Prosecution informed the Trial Chamber that "Nicholas Koumjian, Trial Attorney in the Office of the Prosecutor, spoke by telephone to Branko Lukić, counsel for the accused. Mr. Lukić informed Mr. Koumjian that the defence would have no objection to the date for starting the trial being changed from April to June 2002,"

RECALLING that it is not for the Prosecution to seek to alter decisions of the Trial Chamber by discussing other dates for the commencement of trial with the Defence,

CONSIDERING that the nature of this Motion requires an immediate decision by the Trial Chamber,

CONSIDERING that the Prosecution has had sufficient time to prepare its case, since it had been announced on 14 November 2001 that the trial would commence on 23 February 2002, and that the parties were duly informed to be prepared to start trial on that date,

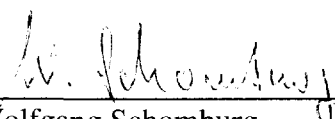
CONSIDERING that it is for the Prosecution to make the necessary arrangements to prepare their case, including the calling of witnesses,

RECALLING that the Trial Chamber will always assist the parties where necessary and possible to overcome the inherent problems of an International Tribunal working permanently with separate cases based, in part, on common evidence,

HEREBY DECIDES that the Motion is **DENIED**, and

HEREBY ORDERS that the Pre-Trial Conference provisionally scheduled for 10 April 2002 will take place on 10 April 2002, and that the trial will commence on **16 April 2002**.

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



Wolfgang Schomburg
Presiding Judge

Dated this twenty-second day of March 2002
At The Hague
The Netherlands

[Seal of the Tribunal]