



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: 11 November 2002
Original: English

IN THE TRIAL CHAMBER

Before: Judge Richard May, Presiding
Judge Patrick Robinson
Judge O-Gon Kwon

Registrar: Mr. Hans Holthuis

Order of: 11 November 2002

PROSECUTOR

v.

**MOMČILO KRAJIŠNIK
&
BILJANA PLAVŠIĆ**

**DECISION ON KRAJIŠNIK MOTION FOR ACCESS TO
EX PARTE FACTUAL BASIS OF PLAVŠIĆ PLEA**

The Office of the Prosecutor:

Mr. Mark Harmon
Mr. Alan Tieger

Counsel for the Accused:

Mr. Deyan Brashich and Mr. Nikola Kostich, for Momčilo Krajišnik
Mr. Robert J. Pavich, Mr. Eugene O'Sullivan and Mr. Peter Murphy, 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 (“the International Tribunal”),

BEING SEISED of a “Motion for Access to *ex parte* Factual Basis Submission in Support of Plea Made by Biljana Plavšić”, filed by the Defence for the accused Momčilo Krajišnik (“Defence”) on 16 October 2002 (“Motion”), in which the Defence seeks access to the *ex parte* factual basis for the accused Biljana Plavšić’s plea of guilty, on the basis that:

- (a) it is entitled to the factual basis as it deals with the culpability of the accused Biljana Plavšić as it relates to the charges against the accused Momčilo Krajišnik;
- (b) it is entitled to such information to prepare a defence and to investigate the facts adduced therein; and
- (c) it is entitled to “any proceeding had or information made”, with some exceptions, in this consolidated prosecution,

NOTING the “Prosecution’s Response to Krajišnik’s Motion for Access to Plavšić Factual Basis” filed by the Prosecution on 30 October 2002, (“the Response”), in which it submits that the Motion should be denied on the basis that there is a minimum time before which the Factual Basis will become public (at the time of the sentencing hearing scheduled for 16 and 17 December 2002) and the potential security risk to Biljana Plavšić in disclosing it to the Defence at this stage is too great,

CONSIDERING that the release of the Factual Basis to the Defence at this stage would increase the security risk to the accused Biljana Plavšić,

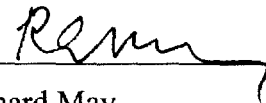
CONSIDERING that the Factual Basis of the plea will be made public at the time of the sentencing hearing on 16 and 17 December 2002 and that no prejudice to the accused Momčilo Krajišnik arises from waiting until that time,

CONSIDERING that any prejudice which may be caused can be dealt with by way of application by the Defence after public disclosure of the factual Basis has been made,

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

HEREBY DENIES the Motion.

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



Richard May
Presiding

Dated this eleventh day of November 2002
At The Hague
The Netherlands

[Seal of the Tribunal]