



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-02-54-A-R77.2
Date: 29 January 2003
Original: English
French

IN THE APPEALS CHAMBER

Before: Judge Claude Jorda, Presiding
Judge Mohamed Shahabuddeen
Judge David Hunt
Judge Fausto Pocar
Judge Theodor Meron

Registrar: Mr Hans Holthuis

Decision of: 29 January 2003

THE PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

SCHEDULING ORDER

The Office of the Prosecutor:

Mr Geoffrey Nice
Mr Norman Farrell

Counsel for Witness K12:

Ms Rebecca Heemsker

THE APPEALS 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 (hereinafter “the Tribunal”),

NOTING the Prosecution’s Notice of Appeal against the Trial Chamber’s Finding in the Matter of Witness K12 filed by the Office of the Prosecutor (hereinafter “the Prosecution”) on 3 December 2002 pursuant to Rule 77(J) of the Rules of Procedure and Evidence of the International Tribunal (hereinafter “the Notice of Appeal” and “the Rules” respectively) in which the Prosecution appeals the Decision rendered by Trial Chamber III on 21 November 2002¹ setting aside (by a majority vote) a previous finding of contempt² against Prosecution Witness K12,

NOTING the Defence Response to the Prosecution’s Notice of Appeal against the Trial Chamber’s Finding in the Matter of Witness K12 filed by counsel for Witness K12 (hereinafter “the Defence”) on 12 December 2002 (hereinafter “the Response”),

NOTING the Prosecution’s Reply to Defence Response to Notice of Appeal against the Trial Chamber’s Finding in the Matter of Witness K12 or alternatively Request for Extension of Time to File Appeal by the Prosecution filed on 17 December 2002 (hereinafter “the Reply”),

CONSIDERING that in the Notice of Appeal the Prosecution states in particular that, pursuant to Rule 111 of the Rules, it has the right to file its Appellant’s brief within seventy-five days of filing of the Notice of Appeal,

CONSIDERING that the Defence holds, in particular, that since Rule 116 *bis* of the Rules sets out that Rules 109 to 114 shall not apply to appeals in matters of contempt, the Prosecution erred in its interpretation of the Rules and that, consequently, an extension of the time-limit for the filing of its Appellant’s brief need not be granted and that the appeal should be rejected on the grounds that it is not sufficiently reasoned because the Notice of appeal is the definitive document presented by the Prosecution,

¹ *The Prosecutor v. Slobodan Milošević*, case no: IT-02-54T-R77, Decision of the Trial Chamber regarding Witness K12, 21 November 2002.

² The sanction to be imposed has not been decided.

CONSIDERING that, in its Reply, the Prosecution states, in particular that (1) uncertainties persist as to the procedure to be followed for the filing of written submissions in respect of an appeal in a case of contempt and (2) that the Notice of appeal was duly filed according to Rules 77(J) and 108 of the Rules although it acknowledges that Rule 111 does not apply to appeals brought against a Decision rendered pursuant to Rule 77 of the Rules; and that, should it have erred in its interpretation of the Rules it is seeking an extension of the time-limit for the filing of its Appellant's brief pursuant to Rule 127 of the Rules,

CONSIDERING that the Prosecution duly filed its Notice of appeal pursuant to Rule 77(J) of the Rules and that, consequently, the Appeals Chamber is seized of an appeal in this case,

CONSIDERING that the parties disagree about the schedule to be drawn up for the filing of the briefs,

CONSIDERING that briefs would be useful to the Appeals Chamber for ruling on the appeal,

PURSUANT to Rule 127 of the Rules,

ORDERS:

- 1) that the Prosecution file its Appellant's brief within 7 days from the date that this Order is filed,
- 2) that the Defense respond within 10 days,
- 3) that the Prosecution reply within 4 days.

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

Done this twenty-ninth day of January 2003
At The Hague
The Netherlands

(signed)

Claude Jorda
President

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[Seal of the Tribunal]