

**UNITED  
NATIONS**

IT-95-14/2-A  
A 6053 - A 6050  
17 MARCH 2003

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**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-95-14/2-A  
Date: 17 March 2003  
Original: English**

**IN THE APPEALS CHAMBER**

**Before: Judge David Hunt, Pre-Appeal Judge**

**Registrar: Mr Hans Holthuis**

**Decision of: 17 March 2003**

**PROSECUTOR**

**v**

**DARIO KORDIĆ & MARIO ČERKEZ**

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**SCHEDULING ORDER**

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**Counsel for the Prosecutor  
Mr Norman Farrell**

**Counsel for Dario Kordić  
Mr Mitko Naumovski**

**Counsel for Mario Čerkez  
Mr Božidar Kovačić**

I, Judge Hunt, Pre-Appeal Judge in this case,

**NOTING** the “Appellant and Respondent Dario Kordić’s Motion to Set Deadlines for the Filing and Resolution of Rule 115 Submissions, and to Assign a Date for Oral Argument of the Appeals by All Parties”, filed on 24 January 2003 (“Motion”), whereby Dario Kordić (“Kordić”) seeks an order of the Appeals Chamber setting a deadline for the filing and disposition of any submissions to be made by the parties for the admission of additional evidence pursuant to Rule 115 (motions, responses and replies) and to set a firm date for a hearing of the appeal;

**NOTING** that, in his Motion, Kordić also seeks an order setting a deadline by which the Prosecution must complete its disclosure;<sup>1</sup>

**NOTING** “Mario Čerkez’s Notice of Joinder in Dario Kordić’s Motion to Set Deadlines for the Filing and Resolution of Rule 115 Submissions, and to Assign a Date for Oral Argument of the Appeals by All Parties”, filed on 28 February 2003, whereby Mario Čerkez (“Čerkez”) incorporates and adopts the arguments and suggestions made by Kordić in his Motion;

**NOTING** the “Prosecutor’s Consolidated Response to Dario Kordić’s Motion to Set Deadlines for the Appeal and to Mario Čerkez’s Notice of Joinder”, filed on 3 February 2003 (“Prosecution’s Response”), in which the Prosecution acknowledges the rights of Kordić and Čerkez to a fair and expeditious appeal and submits that this right has not been violated in this case;

**NOTING** that, in its Response, the Prosecution points out that its disclosure obligations pursuant to Rule 68 are ongoing and that the Defence has been informed about the delay in so doing and about the reasons for such delay;<sup>2</sup>

**NOTING**, finally, that the Prosecution says that it would in principle welcome the setting of deadlines in this appeal and generally supports the Defence’s suggestions to that effect, although it suggested some modifications of the timetable proposed by the Defence;<sup>3</sup>

**NOTING** the “Notice of the Present Status of Disclosure and Related Matters”, filed by Kordić on 6 February 2003, in which the Prosecution said that it was hoping to have completed its disclosure

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<sup>1</sup> Motion, par 48.

<sup>2</sup> Prosecution’s Response, pars 2 and 4.

<sup>3</sup> Prosecution’s Response, pars 3, 7-9.

of Rule 68 material by the end of February and made further submissions as to the procedure to follow in relation to Rule 115 matters;

**NOTING** that, during the Status Conference of 7 February 2003, the Defence was reminded that they are expected to have started reviewing the material already disclosed and that they would only be given a very short time within which to file their Rule 115 applications once the disclosure is completed;<sup>4</sup>

**NOTING** the “Prosecution’s Notice of Completion of Pending Rule 68 Reviews and Disclosure”, filed on 5 March 2003, and the “Prosecution’s Further Notice of Completion of Pending Rule 68 Reviews and Disclosure”, filed on 7 March 2003, whereby the Prosecution informed the Appeals Chamber that, but for one document, it had completed its Rule 68 disclosure;

**NOTING** that, in his Motion, Kordić said that he would need a “maximum of 40 days following the completion of the Prosecution’s final Rule 66(A) and 68 disclosures” to file his Rule 115 applications, or that he would do so no later than 24 March 2003;<sup>5</sup>

**NOTING** “Mario Čerkez’s Notice Regarding Time Needed to File Rule 115 Application”, filed on 11 March 2003, in which Čerkez says that he will be in a position to file his Rule 115 application “at the latest on 14 April 2003”;<sup>6</sup>

**CONSIDERING** that, as the Defence was told on 7 February 2003, the Defence may not wait until disclosure is completed to start reviewing the material, but that they must do so on an ongoing basis as the material is being disclosed to them;

**CONSIDERING** that, until it is known what is involved in the Rule 115 applications, it is premature to set dates for hearings under Rule 115 or the appeal hearing;

**CONSIDERING** that, for the same reason, it is also premature to set a deadline for the Prosecution to respond to the Rule 115 applications and that, once the Rule 115 applications will have been filed, further orders will be made for the Prosecution to do so and for the Defence to reply;

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<sup>4</sup> T 73-76.

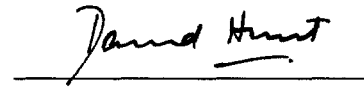
<sup>5</sup> Motion, pars 48-49.

<sup>6</sup> Par 7.

**CONSIDERING** that the obligations imposed upon the Prosecution by Rule 68 are continuing obligations, and that Kordić's request to set a deadline for completion of disclosure has in any event, but for one document, become moot;

**HEREBY ORDER** that Kordić and Čerkez file their Rule 115 application no later than 7 April 2003, and **DENY** all other requests as being premature.

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



David Hunt  
Pre-Appeal Judge

Done this 17<sup>th</sup> day of March 2003,  
At The Hague,  
The Netherlands.

[Seal of the Tribunal]