



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-T

Date: 25 February 2004

Original: ENGLISH

IN THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Order of: 25 February 2004

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**ORDER RESCHEDULING AND SETTING THE TIME AVAILABLE TO
PRESENT THE DEFENCE CASE**

Office of the Prosecutor:

Mr. Geoffrey Nice
Ms. Hildegaard Uertz-Retzlaff
Mr. Dermot Groome

Amici Curiae:

Mr. Steven Kay
Mr. Branislav Tapušковиć
Prof. Timothy McCormack

The Accused:

Mr. Slobodan Milošević

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 (“International Tribunal”),

BEING SEISED OF a “Prosecution Notification of the Completion of its Case and Motion for the Admission of Evidence in Written Form”, filed on 25 February 2004 (“Motion”), in which the Prosecution “**closes** the case by this filing on the basis of all evidence already adduced including that filed for consideration and admission in written form to date (even if not presently ruled on), such as the document collections filed on 17 February 2004, and to be submitted soon, notably the documents dealt with in Trial Chamber’s order of 12 February 2004, together with such items of written evidence submitted with or by this filing and referred to in paragraphs 5-18 [of the Motion] below”,¹

NOTING the “Order Concerning the Preparation and Presentation of the Defence Case”, issued by the Trial Chamber on 17 September 2003 (“Order”), in which the Trial Chamber set out the procedures to be followed by the Accused in relation to the preparation and presentation of the Defence case, and “Further Scheduling Order on Defence Case”,

CONSIDERING that the illness of the Accused and the content of the Prosecution Motion have affected the date on which the prosecution case is to conclude and it is therefore necessary to reschedule the dates leading up to the commencement of the Defence case,

CONSIDERING Rule 73 *ter*, which provides for the Trial Chamber to set the number of witnesses the Accused may call and the time available for the Accused to present his evidence,²

¹ Motion, para. 4. Footnotes omitted.

² **Rule 73 *ter* (Pre-Defence Conference)** reads as follows in its entirety:

(A) Prior to the commencement by the defence of its case the Trial Chamber may hold a Conference.

(B) In the light of the file submitted to the Trial Chamber by the pre-trial Judge pursuant to Rule 65 *ter* (L)(ii), the Trial Chamber may call upon the defence to shorten the estimated length of the examination-in-chief for some witnesses.

RECALLING the statement of the Trial Chamber during the Status Conference on 2 September 2003, concerning these matters:

There is one other matter that we should deal with, Mr. Milosevic, to give you some indication of the way in which an order will be made in relation to the number of witnesses and also the time that you will have available.

As far as the number of witnesses are concerned, that will be based upon the number of the witnesses who the Prosecution call, as you yourself have anticipated. Allowance, of course, will be made for a number of witnesses, not many to date, but a number of witnesses who have not been called to testify orally but have given evidence by way of transcript or by way of written statement.

Secondly, as to the time available, that too will be based upon the time which the Prosecution have had to present their case, the time spent on examination-in-chief, and re-examination in the case of the witnesses. That will be calculated on the basis of the log being kept by the Registry.

The position also is this: That allowance will have to be made and will be made for those witnesses whose evidence in chief has been given under the Rule which I've mentioned and has therefore been curtailed.

All those are calculations which we will make in due course. I should of course add that the Prosecution will be subject to the same rules as the Defence in relation to the length of cross-examination.

CONSIDERING the Trial Chamber determined that the appropriate method for limiting the length of the Prosecution case pursuant to Rule 73 *bis* is by fixing the number of days available to the Prosecution to lead its evidence, and that this same method would be appropriate for determining the length of the Defence case,

CONSIDERING that the Accused should have the same time as the Prosecution had to present his (the Accused) case in chief, the Trial Chamber has arrived at the following calculation:

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- (C) In the light of the file submitted to the Trial Chamber by the pre-trial Judge pursuant to Rule 65 *ter* (L)(ii), the Trial Chamber, after having heard the defence, shall set the number of witnesses the defence may call.
 - (D) After commencement of the defence case, the defence may, if it considers it to be in the interests of justice, file a motion to reinstate the list of witnesses or to vary the decision as to which witnesses are to be called.
 - (E) After having heard the defence, the Trial Chamber shall determine the time available to the defence for presenting evidence.
 - (F) During a trial, the Trial Chamber may grant a defence request for additional time to present evidence if this is in the interests of justice.

- (1) The Prosecution spent approximately 360 hours presenting its case in chief, or approximately 90 sitting days, which will be the amount of time for the Accused to present his case in chief;
- (2) However, to that is added two-thirds of that time for cross-examination of Defence witnesses and administrative matters, which amounts to approximately 240 hours, or 60 sitting days; and
- (3) Therefore, the Accused shall have 150 sitting days in which to present his case, which shall be subject to adjustment depending on the time taken in cross-examination and administrative matters,


PURSUANT to Rules 54, 65 *ter* and 73 *ter* of the Rules

HEREBY ORDERS:

- (1) Any Motion under Rule 98 *bis* shall be filed by the Accused or *Amici Curiae* by Monday, 8 March 2004;
- (2) The Prosecution shall file its Response to any Rule 98 *bis* Motion by Monday, 22 March 2004;
- (3) The material the Accused is required to produce under Rule 65 *ter* (G), shall be filed by Monday, 12 April 2004;
- (4) A Pre-Defence Conference shall be held on Monday, 17 May 2004, at 10am;
- (5) The Defence case shall commence on Tuesday, 8 June 2004, and the Trial Chamber will sit in that week on Tuesday, 8 to Thursday, 10 June 2004;
- (6) The Accused shall have 150 days to present his case, as set out above; and

(7) Further orders relevant to the Defence case will be made in due course.

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



Patrick Robinson
Judge

Dated this twenty-fifth day of February 2004
At The Hague
The Netherlands

[Seal of the Tribunal]