



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: 17 June 2004
Original: English

IN THE TRIAL CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge O-Gon Kwon
Judge Iain Bonomy

Registrar: Mr. Hans Holthuis

Decision of: 17 June 2004

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**OMNIBUS ORDER ON MATTERS DEALT WITH
AT THE PRE-DEFENCE CONFERENCE**

The Office of the Prosecutor

Ms. Carla Del Ponte
Mr. Geoffrey Nice
Mr. Dermot Groome
Ms. Hildegard Uertz-Retzlaff

The Accused

Mr. Slobodan Milošević

Amici Curiae

Mr. Steven Kay, QC
Prof. Timothy L.H. McCormack

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”),

NOTING the following filings:

- (1) Confidential “Prosecution Submissions in Relation to Defence Rule 65 *ter* (G) Filings and Additional Discussion Points for Pre-Defence Conference with Confidential Attachments A – C and Confidential and *Ex Parte* Attachment D”, filed by the Prosecution on 7 June 2004;
- (2) “Amici Curiae Reply to Prosecution Submissions in Relation to Defence Rule 65 *ter* (G) Filings and Additional Discussion Points for Pre-Defence Conference with Confidential Attachments A – C and Confidential and *Ex Parte* Attachment D”, filed by the *Amici Curiae* on 10 June 2004;
- (3) Confidential “Prosecution’s Reply to Amici Curiae Response to Prosecution’s Submissions in Relation to Defence Rule 65 *ter* (G) Filings and Additional Discussion Points for Pre-Defence Conference with Confidential Attachments A – C and Confidential and *Ex Parte* Attachment D”, filed by the Prosecution on 16 June 2004,

NOTING the oral submissions made by the parties and *Amici Curiae* at the Pre-Defence Conference held today,

CONSIDERING that the Trial Chamber made a number of orders during the course of the Pre-Defence Conference and that it is appropriate to set these out in a written Order,

PURSUANT TO Articles 20 and 21 of the Statute of the International Tribunal (“Statute”) and Rules 54, 54 *bis*, 65, 65 *ter*, 73 *ter*, 94 *bis* and 127 of the Rules of Procedure and Evidence of the International Tribunal (“Rules”)

HEREBY CONFIRMS ITS ORDERS AS FOLLOWS:

- (1) The Trial Chamber adheres to its order limiting the Accused to 150 sitting days in the presentation of his case. The Trial Chamber notes that it does not seek to limit the number of witnesses the Accused may call, but encourages him to make use of the procedures available under Rules 92 *bis* and 89(F), and whilst placing no limit on the specific number of witnesses the Accused may call, the evidence led must be relevant and not overly cumulative;
- (2) The Trial Chamber requires the Accused to present his evidence in an orderly manner, bringing witnesses on an indictment by indictment basis, except for overlapping witnesses;
- (3) The Trial Chamber requires the Accused to produce: (a) within seven days, a list of his first 50 witnesses and the likely order in which they will be called; and, (b) during the course of the proceedings, a weekly list of witnesses to be provided on the last sitting day of each week for the following week's hearings, these lists to contain the name and Rule 65 *ter* number of each witness, as well as the estimated time the witness will take in evidence-in-chief;
- (4) The Trial Chamber requires the Accused, where possible, to provide to the Prosecution the date of birth of each witness on his 65 *ter* list;
- (5) The Trial Chamber requires the Accused forthwith to comply with the Trial Chamber's "Order to the Accused on Protective Measures for Defence Witnesses", issued on 27 May 2004;
- (6) The Trial Chamber does not require the Accused to produce more detailed witness summaries than those provided in his Rule 65 *ter* filing, but notes the inherent power of the Trial Chamber to make a further order to regulate procedure at any stage;
- (7) Subject to Order (8) below, pursuant to Rule 94 *bis*, the Trial Chamber requires the Accused to serve on the Prosecution and *Amici Curiae* any expert reports six weeks before the date on which it is anticipated the expert will testify;
- (8) In respect of witnesses identified on the Rule 65 *ter* list as 1114 and 1115, whose expert reports will be translated into English by 1 July 2004, the Trial Chamber reduces the period in which the Prosecution is required file its notice under Rule 94 *bis* (C) from 30 days to 15 days;
- (9) The Trial Chamber requires the Accused to disclose to the Prosecution copies of all exhibits on his Rule 65 *ter* list within seven days;
- (10) The Trial Chamber requires the Accused, when ordered by the Trial Chamber, to make written filings;

- (11) The Accused shall indicate whether he intends to give evidence, when he intends to do so and how long he anticipates his evidence would take;
- (12) The Trial Chamber allows the Accused to make an opening statement at the commencement of his case for up to four hours, and notes that the Prosecution will not be given an opportunity to respond;
- (13) The Trial Chamber refuses to allow the Prosecution to call the five witnesses it did not call at the end of its case, and notes its powers under Rule 98;
- (14) The Trial Chamber will not allow the Prosecution to call any of the so-called "List B" witnesses, and notes its powers under Rule 98;
- (15) Having regard to the difficulties experienced by the Prosecution in securing a constitutional expert, the Trial Chamber will issue an order, requiring submissions from the parties on certain constitutional issues in due course;
- (16) The Trial Chamber refuses to allow the Prosecution to call C-1249 or C-1250 to authenticate intercepts not admitted during the Prosecution case;
- (17) With regard to the submissions made by the Accused at the Rule 15 *bis* hearing on 25 March 2004, the decisions on which were remitted by the President to the Trial Chamber,
 - (a) Taking account of the time lost by the Accused owing to ill health, the Trial Chamber notes it has made adequate adjustment to the period for the Accused to prepare his defence and refuses to alter its ruling for the commencement of the Defence case on 5 July 2004;
 - (b) The Trial Chamber notes the determination made in Order (1) above;
 - (c) The Trial Chamber refuses the Accused's renewed application for provisional release;
- (18) The Trial Chamber requires the Accused to make a separate written application with respect to each witness for whom he seeks a subpoena, setting out the reasons for, and his submissions in support of, his application;
- (19) The Trial Chamber notes that, in light of the terms of Rule 54 *bis*, it is not in a position to consider the Accused's oral application for the production of documents or information from States, and that he should make his application in writing and comply with any other procedural requirements;
- (20) The Trial Chamber requires the Registrar, within seven days, to provide to the Trial Chamber a report on the number of working days lost by the Accused due to illness and the occasions on which the Accused's legal associates were prevented from visiting him on account of his illness. On the basis of this report, the trial

Chamber will determine if flexibility is needed in relation to any difficulties experienced by the Accused in the presentation of his case.

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



Judge Robinson
Presiding

Dated this seventeenth day of June 2004
At The Hague
The Netherlands

[Seal of the Tribunal]