



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: IT-95-11-PT
Date: 7 September 2004
Original: English

BEFORE THE PRE-TRIAL JUDGE

Before: Judge Joaquín Martín Canivell
Registrar: Mr Hans Holthuis
Order of: 7 September 2004

THE PROSECUTOR

v.

Milan MARTIĆ

**DECISION ON DEFENCE'S MOTION FOR EXTENSION OF TIME TO FILE PRE-
TRIAL BRIEF**

Office of the Prosecutor:

Ms. Hildegard Uertz-Retzlaff

Counsel for the Defence:

Mr. Predrag Milovančević

I, JOAQUÍN MARTÍN CANIVELL, Judge in Trial Chamber I (“the 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 Tribunal”);

NOTING the decision of 23 May 2003 of the Presiding Judge of the Chamber to appoint me as the Pre-Trial Judge in the case *The Prosecutor vs. Milan Martić* (“the Accused”);

NOTING that the Prosecution filed its Pre-Trial Brief on 7 May 2004;

NOTING that, during the last Status Conference of 20 May 2004, I set a deadline for the submission of the Defence Pre-Trial Brief on 15 September 2004,¹ confirmed by a written order signed by the Presiding Judge on 24 August 2004 (“Order”);²

BEING SEIZED of the “Defence’s motion for extension of time to file pre-trial brief”, filed on 24 August 2004 (“Motion”) and the “Corrigendum to Defence’s Motion for Extension of Time to File Pre-Trial Brief” filed on 27 August 2004 (“Corrigendum”), whereby the Defence seeks a suspension of the Order “until the requests of the Defence for a proper ranking of the case and for addition allotment are resolved”;

NOTING the “Prosecution’s Response to Defence’s Motion for Extension of Time to File Pre-Trial Brief”, filed on 2 September 2004, whereby the Prosecution opposes the Motion;

CONSIDERING that the Defence argues that a large amount of material was disclosed by the Prosecution after it had declared, at the status conference of 22 January 2004, to have completed its disclosure obligations under Rules 66 and 68 of the Rules of Procedure and Evidence (“Rules”),³ that the Defence did not receive any funds in February and April 2004,⁴ and that it intends to challenge on appeal the ranking attributed to the case by the Registry⁵ and has submitted a request to the Registry to obtain additional resources;⁶

CONSIDERING that the Defence further points out that it already specified, at the status conference of 20 May 2004, that it would be ready to file the pre-trial brief by 15 September only if additional resources were granted;⁷

¹ Transcript, p. 144

² Scheduling Order Setting Time for Submission of Defence Pre-Trial Brief.

³ Motion, para. 13.

⁴ Motion, para. 10.

⁵ Motion, para. 12.

⁶ Motion, para. 13.

⁷ Motion, para. 21.

CONSIDERING that the Defence finally notes that the Pre-Trial Conference has not yet been scheduled and that an extension of time for the filing of the Pre-Trial Brief would not postpone the commencement of the trial;⁸

CONSIDERING that, under Rule 127 of the Rules, “a Trial Chamber may, on good cause being shown by motion, (i) enlarge or reduce any time prescribed by or under Rules”;

RECALLING the vital role of the allocation of resources to the Defence in ensuring a fair and expeditious trial;

NOTING, however, that the assigned counsel agreed to represent Mr. Rajić, being aware of the system of remuneration for assigned counsel; that no change in the terms of representation or in the initial agreement has subsequently occurred;

CONSIDERING that the Appeals Chamber has decided, in a similar situation, that counsel are required to fulfil their obligations to the International Tribunal,⁹ that counsel are furthermore under a professional obligation to comply at all times with the Statute, the Rules, the Code of Professional Conduct or any other applicable law including such rulings as to conduct and procedure as may be issued by the Tribunal in its proceedings;¹⁰

CONSIDERING further that the Defence requested certification to appeal the “Decision on Defence’s Motion for Review of Registrar’s Decision not to Rank the Case to Level III of Complexity” dated 1 July 2004; that certification was granted on 27 July 2004 (“Decision for Review of Registrar’s Decision”);¹¹

CONSIDERING that, under Rule 73 (C), “if certification is given, a party shall appeal to the Appeals Chamber within seven days of the filing of the decision to certify”;

CONSIDERING that no appeal was filed by the Defence as of today and that the Decision for Review of Registrar’s Decision has therefore become final;

CONSIDERING that a large amount of additional documents were provided to the Defence in May 2004 and that an extension of time would not delay the commencement of trial;

⁸ Motion, para. 18.

⁹ See *The Prosecutor v. Milan Milutinović, Dragoljub Ojdanić, Nikola Šainović*, Decision on Interlocutory Appeal for Additional Funds, 13 November 2003, IT-99-37-AR73.2, para. 22.

¹⁰ Code of professional conduct, Article 20.

¹¹ Certification for Appeal of Decision on Defence’s Motion for Review of Registrar’s Decision not to Rank the Case to Level III Complexity, 27 July 2004.

CONSIDERING therefore that good cause has been shown and that it is in the interests of justice to grant the requested extension of time;

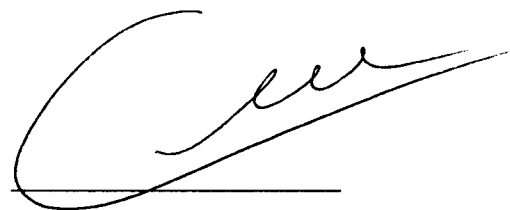
FOR THE FOREGOING REASONS,

PURSUANT to Rules 65ter (F) and 127 of the Rules;

HEREBY GRANTS additional time to the Defence and **ORDERS** the Defence to file its Pre-Trial Brief by 1 November 2004;

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

Dated this Seventh Day of September 2004,
At The Hague,
The Netherlands.



Judge Joaquín Martín Canivell

Pre-Trial Judge

[Seal of the Tribunal]