



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: 22 April 2005
Original: English

IN THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Decision of: 22 April 2005

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**OMNIBUS ORDER ON MATTERS ARISING OUT OF
STATUS CONFERENCE ON THE DEFENCE CASE**

Office of the Prosecutor:

Ms. Carla Del Ponte
Mr. Geoffrey Nice

The Accused:

Mr. Slobodan Milošević

Court Assigned Counsel:

Mr. Steven Kay, QC
Ms. Gillian Higgins

Amicus Curiae:

Prof. Timothy 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”),

Proprio motu

NOTING the oral submissions made by the parties at the Status Conference held on 14 April 2005 and the Prosecution Notes provided in advance of the Status Conference,

CONSIDERING that it is appropriate to set out certain matters and make certain orders, which are not intended to be exhaustive of the matters raised during the Status Conference,

NOTING that the Accused has considerable legal and administrative assistance at his disposal in the form of, *inter alia*, three legal associates, court assigned counsel and the Registry,

CONSIDERING

- (1) the statistics provided to the parties and referred to during the course of the Status Conference, which show that only one-third of the Prosecution witnesses gave evidence entirely *viva voce* and that over 15% of its testimonial evidence was admitted in writing without cross-examination of the witnesses;
- (2) the importance of the Accused taking advantage of the Rules of Procedure and Evidence which provide for the admission of the evidence of a witness to be given by way of written statement in lieu of oral testimony, namely Rules 92*bis* and 89(F), and that the use of these provisions in no way violates the statutory requirements of a public hearing, these statements being available to the public;
- (3) the concerns expressed by the Accused that the Prosecution has been using substantially more than the time allocated to it for cross-examination, and that the Trial Chamber will ensure that the Accused will have the 360 hours allocated to him for the presentation of his case;¹
- (4) that the Accused indicated, not for the first time, at the Status Conference that he intends to apply for an extension of the time available to him to present his case; and
- (5) that the Trial Chamber will take into consideration the failure by the Accused to make use of Rules 92*bis* and 89(F) in determining any such request,

¹ See “Order Re-Scheduling and Setting the Time Available to Present the Defence Case”, issued on 25 February 2004.

CONSIDERING that

- (1) the final trial briefs should be filed and the closing arguments held shortly after the conclusion of the evidence;
- (2) the final trial briefs should address all issues raised by the evidence and relevant to the charges set out in the indictments, and closing arguments should be confined to relevant matters raised by the evidence; and
- (3) the Trial Chamber will fix the time allowed to the parties for closing arguments in a later order,

CONSIDERING that it is in the interests of justice that Court Assigned Counsel should be entitled to make final submissions on questions of both fact and law in the form of a final trial brief under Rule 86,

NOTING the submissions by the Prosecution that any Motion on rebuttal might be made in stages,

CONSIDERING that it is a matter for the Prosecution to determine when it is appropriate to make a Motion to lead rebuttal evidence,

NOTING the specific declaration by the Accused that he will not be giving sworn evidence in his own case, nor making an unsworn statement,

NOTING that, despite being cautioned on several occasions by the Trial Chamber, the Accused has to date failed to make the relevant arrangements and/or applications for certain witnesses identified on his Rule 65*ter* witness list who will require governmental waivers, subpoenas or special procedures,² and that he must ensure that the applications are made in time for the witnesses to be called within the time allocated for the presentation of the defence case,

CONSIDERING that the Trial Chamber will in due course seek advice from the Accused's treating cardiologist as to whether it is appropriate to extend the sitting times,

NOTING

- (1) the undertaking by the Accused to compile a list of experts he intends to call and to submit that to the Trial Chamber to enable a programme to be set under Rule 94*bis*; and
- (2) order (7) of the Trial Chamber's Omnibus Order of 17 June 2004, requiring the Accused, pursuant to Rule 94 *bis*, to serve any expert reports six weeks before the date on which it is anticipated the expert will testify,

NOTING the undertaking by the Accused to produce more detailed summaries of witnesses who the Accused notifies will be called in his periodic witness lists,

PURSUANT TO Articles 20 and 21 of the Statute of the International Tribunal ("Statute") and Rules 54, 86 and 94 *bis* of the Rules of Procedure and Evidence of the International Tribunal ("Rules")

HEREBY ORDERS AS FOLLOWS:

- (1) The final trial briefs shall be filed within seven days, and closing arguments held 14 days, after the conclusion of the evidence in this case, and the Trial Chamber will fix the time allowed to the parties for closing arguments in a later order;
- (2) Court Assigned Counsel will be entitled to make final submissions on questions of both fact and law in the form of a final trial brief under Rule 86;
- (3) The Trial Chamber will make no order in relation to when and in what manner the Prosecution should apply to the Chamber to lead rebuttal evidence; and
- (4) The Accused shall provide a list of experts he intends to call and submit that to the Trial Chamber within 14 days; and

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



Judge Robinson
Presiding

Dated this twenty-second day of April 2005
At The Hague
The Netherlands

[Seal of the Tribunal]

² See, for example, T. 32128-32133; 33360-33364; 34643-34648.
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