



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-03-68-T
Date: 21 March 2006
Original: English

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Presiding
Judge Hans Henrik Brydesholt
Judge Albin Eser

Registrar: Mr. Hans Holthuis

Decision of: 21 March 2006

PROSECUTOR

v.

NASER ORIĆ

**DECISION ON PROSECUTION MOTION
SEEKING LEAVE TO FILE A *CORRIGENDUM*
TO PROSECUTION FINAL BRIEF**

The Office of the Prosecutor:

Ms. Patricia Sellers Viseur
Mr. Gramsci di Fazio
Ms. JoAnne Richardson
Mr. José Doria

Counsel for the Accused:

Ms. Vasvija Vidović
Mr. John Jones

TRIAL CHAMBER II (“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 (“Tribunal”):

BEING SEIZED of the “Urgent Motion Regarding Prosecution’s Breach of Scheduling Order for Case Completion” (“Defence Motion”), filed by counsel for Naser Orić (“Defence”) on 20 March 2006;

NOTING the “Prosecution Response to Urgent Motion Regarding Prosecution’s Breach of Scheduling Order for Case Completion” (“Prosecution Response”), filed by the Office of the Prosecutor (“Prosecution”) on 20 March 2006;

ALSO BEING SEIZED of the “Prosecution Motion to Request Leave to File a *Corrigendum* to the Prosecution’s Final Brief” (“Prosecution Motion”), filed on 20 March 2006, with confidential Annex A¹ and Annex B²;

NOTING this Trial Chamber’s Scheduling Order for Case Completion of 9 February 2006 (“Scheduling Order”), in which both the Prosecution and the Defence were ordered to file their final briefs no later than 17 March 2006, and responses to each other’s closing briefs no later than 24 March 2006;

NOTING that a document purporting to be the Prosecution’s final brief, with the acknowledgement of numerous errors, faulty formatting and absence of indexes, and using the word ‘draft’ on top of each page without intending the document to be filed as a ‘draft’,³ was filed on Friday, 17 March 2006 (“17 March filing”);

FINDING that it is in the interest of justice to accept the *corrigendum* attached as Annex B to the Prosecution Motion and filed on Monday, 20 March 2006 (“20 March filing”), as the Prosecution Final Brief;

ACKNOWLEDGING that the Prosecution’s handling of this matter causes inconvenience to the Defence, which needs to be addressed;

¹ Annex A contains a non-exhaustive list of the corrections the Prosecution has made to its final brief filed on 17 March 2006.

² Annex B contains a corrected version of the Prosecution’s final brief filed on 17 March 2006.

³ Prosecution Response, para. 5.

FINDING that the Prosecution shall, in order to minimise this inconvenience, provide the Defence and the Trial Chamber with a synopsis detailing which paragraphs of the 20 March filing correspond to those in the 17 March filing, by no later than Friday, 24 March 2006;

CONSIDERING that the Prosecution has not recorded the changes made to the 17 March filing, and that the non-exhaustive list of changes provided as Annex A to the Prosecution Motion is insufficient to apprise the Defence of all changes made, the Trial Chamber finds it appropriate that the Prosecution seek a technical solution which would allow retroactively tracking all changes that have been made, and report back to the Trial Chamber on the feasibility of such a task by no later than Friday, 24 March 2006;

FINDING that, to further minimise inconvenience as the Defence has already started to prepare its response to the Prosecution's Final Brief on the basis of the 17 March filing, the Defence will be allowed to refer to the 17 March filing in its response to the Prosecution Final Brief, as well as during closing arguments, if they so prefer;

CONSIDERING that the Prosecution's 20 March filing necessarily entails an extension of time for the Defence to be able to file its response to the Prosecution's Final Brief, to which the Prosecution has already agreed;

CONSIDERING FURTHER that, in view of the extension of time referred to in the previous paragraph, the Scheduling Order regarding presentation of closing arguments shall be modified granting one additional day to the Defence following the Prosecution closing argument, in which it may further prepare its argument, if the Defence request so;

PURSUANT TO Rules 54, 86, 126*bis* and 127 of the Tribunal's Rules of Procedure and Evidence

HEREBY DISPOSES of the Prosecution Motion, the Defence Motion and the Prosecution Response as follows:

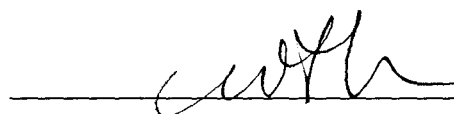
1. The Prosecution shall file a synopsis detailing which paragraphs of the 20 March filing correspond to those in the 17 March filing by Friday, 24 March 2006. The Prosecution is also ordered to seek a technical solution to retroactively track all changes that have been made to the 20 March filing, and report back to the Trial Chamber by Friday, 24 March 2006.
2. The time-limit for the Defence to file any response to the Prosecution's final brief is extended to Monday, 27 March 2006.
3. The time-limit for the Prosecution to file any response to the Defence's final brief remains unchanged, *i.e.*, Friday, 24 March 2006.
4. The Scheduling Order regarding presentation of closing arguments shall be modified granting one additional day to the Defence following the Prosecution closing argument, if the Defence request so.

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

Dated this twenty-first day of March 2006

At The Hague

The Netherlands



Carmel Agius

Presiding Judge

[Seal of the Tribunal]