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20 September 2006

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**UNITED
NATIONS**



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-01-42-A
Date: 20 September 2006
Original: English

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mehmet Güney
Judge Andréia Vaz
Judge Theodor Meron
Judge Wolfgang Schomburg

Registrar: Mr. Hans Holthuis

Decision of: 20 September 2006

PROSECUTOR

v.

PAVLE STRUGAR

**FINAL DECISION ON “DEFENCE NOTICE OF
WITHDRAWING APPEAL” AND “WITHDRAWAL OF
PROSECUTION’S APPEAL AGAINST THE JUDGEMENT OF
TRIAL CHAMBER II DATED 31 JANUARY 2005”**

The Office of the Prosecutor:

Ms. Carla del Ponte
Ms. Helen Brady

Counsel for Pavle Strugar:

Mr. Goran Rodić
Mr. Vladimir Petrović

THE APPEALS CHAMBER of the International Criminal 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”);

NOTING the “Judgement” rendered by Trial Chamber II on 31 January 2005 in the case *Prosecutor v. Pavle Strugar*, Case No. IT-01-42-T (“Trial Judgement”);

NOTING the “Defence Notice of Appeal”, filed publicly by Pavle Strugar on 2 March 2005, and the “Prosecution’s Notice of Appeal”, filed publicly by the Prosecution on the same day;

BEING SEIZED OF the “Defence Notice of Withdrawing Appeal” and the “Withdrawal of Prosecution’s Appeal against the Judgement of Trial Chamber II dated 31 January 2005”, filed by Pavle Strugar and the Prosecution, respectively, on 15 September 2006 (“Defence Notice of Withdrawing Appeal” and “Prosecution Notice of Withdrawing Appeal”, respectively);

NOTING that “based on extraordinary humanitarian circumstances that exist in his case”, namely Pavle Strugar’s “poor state of health, old age and family situation, [t]he Defence [...], pursuant to the will and decision of General Strugar, hereby withdraws the Appeal on the Judgement dated the 31st of January 2005”;¹

CONSIDERING that Pavle Strugar, when authorizing his defence counsel to withdraw his appeal in a personally signed annex to the Defence Notice of Withdrawing Appeal, confirmed the following: “I am aware of all of the legal consequences of [the notice of withdrawal], including the fact that, once the Appeal is withdrawn, there is no possibility of subsequent reconsideration of the Judgment, pursuant to which I am convicted, in the Appellate proceedings, and having the same abolished or altered in my favor”;

NOTING that the Prosecution stated that “[o]n the basis that Pavle Strugar has withdrawn his appeal against the Judgement, the Prosecution hereby withdraws its own appeal in this case”, referring to “the exceptional humanitarian circumstances pertaining to Pavle Strugar, in particular his advanced age, poor state of health and general condition”;²

NOTING that the parties have discussed the consequences of an unconditioned withdrawal of an appeal finally in the status conference of 31 August 2006;³

¹ Defence Notice of Withdrawing Appeal, paras 9, 12.

HEREBY

DECIDES to accept the Defence Notice of Withdrawing Appeal and the Prosecution Notice of Withdrawing Appeal, and **THEREBY DECLARES** the appellate proceedings in this case to be concluded;

DECLARES that the sentence of eight years imposed on Pavle Strugar in the Trial Judgement has become final;

RULES that Pavle Strugar is entitled to credit being given under Rules 101(C) and 107 of the Rules of Procedure and Evidence (“Rules”) for the period he has already spent in the custody of the International Tribunal;

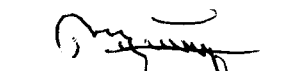
ORDERS, in accordance with Rules 103(C) and 107 of the Rules, that Pavle Strugar is to remain in the custody of the International Tribunal pending his transfer to the State in which his sentence will be served.

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

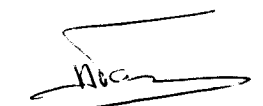
Dated this twentieth day of September 2006,
At The Hague,
The Netherlands.



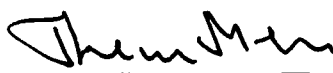
Judge Fausto Pocar
Presiding



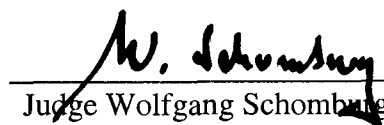
Judge Mehmet Güney



Judge Andréia Vaz



Judge Theodor Meron



Judge Wolfgang Schomburg

[Seal of the International Tribunal]

² Prosecution Notice of Withdrawing Appeal, para. 2.

³ T. 31. August 2006, pp. 61-65.