

**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-04-74-T
Date: 1 March 2007
Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti, Presiding
Judge Árpád Prandler
Judge Stefan Trechsel
Reserve Judge Antoine Kesia-Mbe Mindua
Registrar: Mr Hans Holthuis
Decision of: 1 March 2007

THE PROSECUTOR

v.
Jadranko PRLIĆ
Bruno STOJIĆ
Slobodan PRALJAK
Milivoj PETKOVIĆ
Valentin ČORIĆ
Berislav PUŠIĆ

**DECISION FOLLOWING THE APPEALS CHAMBER
DECISION OF 6 FEBRUARY 2007 CONCERNING APPEAL AGAINST
REDUCING TIME FOR THE PROSECUTION CASE**

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Daryl Mundis

Counsel for the Accused:

Mr Michael Karnavas and Ms Suzana Tomanović for Jadranko Prlić
Ms Senka Nožica and Mr Peter Murphy for Bruno Stojić
Mr Božidar Kovačić and Ms Nika Pinter for Slobodan Praljak
Ms Vesna Alaburić and Mr Nicholas Stewart for Milivoj Petković
Ms Dijana Tomašegović-Tomić and Mr Dražen Plavec for Valentin Čorić
Mr Fahrudin Ibrišimović and Mr Roger Sahota for Berislav Pušić

TRIAL CHAMBER III (“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”);

SEIZED of the “Decision on Prosecution Appeal Concerning the Trial Chamber’s Ruling Reducing Time for the Prosecution Case” rendered by the Appeals Chamber on 6 February 2007 (“Appeals Chamber Decision”), whereby it remanded to the Trial Chamber, for its renewed assessment, its “Decision on Adoption of New Measures to Bring the Trial to an End Within a Reasonable Time” rendered on 13 November 2006 (“Decision of 13 November 2006”),

NOTING the “Prosecution Submission Concerning Decision on Prosecution Appeal on Reduction of Time” filed by the Office of the Prosecutor (“Prosecution”) on 9 February 2007,

NOTING the “Joint Defence Response to Prosecution Submission Concerning Decision on Prosecution Appeal on Reduction of Time” dated 15 February 2007,

CONSIDERING that the Appeals Chamber did not take a position on whether the reduction of 107 hours for the presentation of the Prosecution case would actually affect its right to present its case,¹ but only noted that the Chamber did not present sufficient reasoning in support of its Decision of 13 November 2006; and that, consequently, it requested that the Trial Chamber reassess whether the reduction of time imposed on the Prosecution for the presentation of its case would allow it to do so in a fair manner, in light of the complexity and number of issues to be litigated in the present case,²

CONSIDERING that, in order to reach its Decision of 13 November 2006, the Chamber took due notice of the complexity and number of issues to be litigated in the case, after having thoroughly studied the following documents: first, the Amended Indictment of 16 November 2005 (“Indictment”); second, pre-trial briefs filed by the Prosecution on 19 January 2006 and by the Defence on 14 and 15 February 2006 and on 27 March 2006; third, summaries of the facts on which Prosecution witnesses will testify and which were compiled pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence (“Rules”); fourth, the tables submitted by the Prosecution on 4 September 2006; fifth, the points that the Parties brought to the Chamber’s attention at the hearing of 6 November 2006 regarding the time allocated to the Prosecution for the presentation of its evidence; and sixth, the number and content of the statements by witnesses who have already testified and the documentary evidence already submitted during the trial;

CONSIDERING that the Chamber has reassessed the reduction of time imposed on the Prosecution in light of all the above-cited documents and new information collected since its Decision of 13 November 2006 to date, which support the Chamber’s conclusions set forth in the above-cited decision,

¹ Decision of the Appeals Chamber, paras. 16 and 17.

² *Id.*, paras. 16 and 24.

CONSIDERING that the Chamber also took due notice of the observations put forward by the Parties on 9 and 15 February 2007 and does not deem it necessary to hear them again on the issue in dispute,

CONSIDERING that the Chamber has noted that, from the beginning of the trial to 28 February 2007, during about 167 hearing hours dedicated to the presentation of the Prosecution evidence, the Prosecution has already called no less than 98 witnesses, whose statements referred to a large part of the Indictment, more specifically the allegations concerning the municipalities of Prozor, Gornji Vakuf, Mostar, Jablanica, Stolac, Ljubuški and Čapljina, the Heliodrom camp and the prisons in Dretelj and Gabela; that the Prosecution also called several other witnesses, whose statements are concerned with the nature of the conflict in Bosnia and Herzegovina and the responsibility of the Accused,

CONSIDERING that, by applying the Decision of 13 November 2006, the Prosecution still has about 126 hours – or 43% of the total time assigned – to present its evidence on the remaining parts of the Indictment, primarily the ones related to the events occurring in the municipality of Vareš and in the camp in Vojno, and also on the other issues involving the responsibility of the Accused,

CONSIDERING that, at the hearing of 14 February 2007, the Prosecution itself stated that it expected to complete the presentation of its evidence on the allegations concerning various municipalities, towards the end of March 2007,

CONSIDERING that the Prosecution was also invited to present written evidence, in accordance with Rule 92 *bis* and *quater* of the Rules, which it already did for certain allegations concerning the municipalities of Prozor³ and Gornji Vakuf⁴,

CONSIDERING that the Chamber was prepared for the Prosecution to proceed in the same way for the other municipalities, provided that the requirements stipulated in Rule 92 *bis* and *quater* are respected,

CONSIDERING that, moreover, the Chamber took judicial notice of 182 facts taken from the *Prosecutor v. Mladen Naletilić and Vinko Martinović* and the *Prosecutor v. Tihomir Blaškić*⁵ cases and of 88 facts taken from the *Prosecutor v. Aleksovski*, the *Prosecutor v. Kupreškić et al.*, the *Prosecutor v. Kordić and Čerkez* and the *Prosecutor v. Naletilić and Marinović*⁶ cases, amounting to a total of 270 facts,

CONSIDERING that the Chamber has finally taken several measures allowing the Prosecution to maximize the time allocated to it by authorising it to make extensive use of the procedure described in Rule 92 *ter* of the Rules,⁷

³ Decision on Prosecution Motion for Admission of Eleven Pieces of Evidence Pursuant to Rule 92 *bis* of the Rules, 14 February 2007, whereby the Chamber admitted 11 pieces of evidence related to Prozor municipality. Only one witness will be cross-examined.

⁴ Decision on Prosecution's Motion for Admission of Evidence Pursuant to Rule 92 *bis* (A) and (B) (Gornji Vakuf), 28 February 2007. The Chamber admitted five witness statements and two transcripts of evidence concerning the municipality of Gornji Vakuf.

⁵ Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts of 14 and 23 June 2006, 7 September 2006.

⁶ Decision on Motion for Judicial Notice of Adjudicated Facts Pursuant to Rule 94(B), 14 March 2006.

⁷ Decision of 13 November 2006, para. 5.

CONSIDERING that of the 98 witnesses already examined, 42 were examined according to this procedure, 29 of them since the decision of 13 November 2006, which saved about 45 hours⁸ of the hearing time initially anticipated by the Prosecution in the list compiled pursuant to Rule 65 *ter* of the Rules,

CONSIDERING that in order to accelerate the proceedings whilst allowing the Prosecution to present its case equitably, the Chamber authorised it, under certain conditions, to present documentary evidence without presenting it to a Witness, while not prejudicing the right of the Defence to contest such evidence in writing,

CONSIDERING that, in any case, the Chamber indicated in its decision of 13 November 2006 that it “reserves the right to modify the measures adopted by this decision should new circumstances arise”,⁹

CONSIDERING, more specifically, that at the expiry of the time allocated to the Prosecution for the presentation of its case, as designated in the Decision of 13 November 2006, it will still be entitled to move for an extension if it considers that new circumstances request it; and that the Chamber will examine this request with utmost care, bearing in mind the demands of the Tribunal’s mission and, more specifically, the Accused’s right to a fair trial and the legitimate rights of the victims,

CONSIDERING that, on the basis of all these considerations, the Chamber is convinced that the time limit imposed on the Prosecution allows it to complete the presentation of its case in full conformity with the rules of procedural fairness, which is also in conformity with the requirements of the Appeals Chamber,

FOR THE FOREGOING REASONS,

PURSUANT TO Articles 20 and 21 of the Statute and Rules 54 and 90 (F) of the Rules,

MAINTAINS the Decision of 13 November 2006, having reassessed it in accordance with the Appeals Chamber’s decision.

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

/signed/

Judge Jean-Claude Antonetti
Presiding Judge

Done this first day of March 2007
At The Hague
The Netherlands

⁸ The Prosecution’s estimation, given in the list compiled pursuant to Rule 65 *ter* of the Rules, of the total time needed for the examination of all the witnesses who were examined before 28 February 2007 pursuant to the Rule 92 *ter* procedure was approximately 68 hours. According to the Registrar’s calculation, the time that was actually spent for the examination of these witnesses in court was about 23 hours, which represents a saving of about 45 hours for the Chamber. This calculation does not include the time dedicated to the examination of Witness CP, whose statement was to be presented pursuant to Rule 92 bis of the Rules originally.

⁹ Decision of 13 November 2006, para. 23.

[Seal of the Tribunal]