

**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
Opinion of: 1 March 2007

THE PROSECUTOR

v.

**Jadranko PRLIĆ
Bruno STOJIC
Slobodan PRALJAK
Milivoj PETKOVIĆ
Valentin ĆORIĆ
Berislav PUŠIĆ**

**SEPARATE OPINION OF JUDGE JEAN-CLAUDE ANTONETTI,
PRESIDING JUDGE OF THE TRIAL CHAMBER, REGARDING THE
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
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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 Ćorić
Mr Fahrudin Ibrišimović and Mr Roger Sahota for Berislav Pušić

In their “Decision Following the Appeals Chamber Decision of 6 February Concerning Appeal against Reducing Time for the Prosecution Case” dated 1 March 2007, the Judges of the Chamber responded to the Appeals Chamber’s request to reassess whether the reduction of time imposed on the Prosecution for the presentation of its evidence allows it to do so in a fair manner, taking into consideration the complexity and number of issues to be litigated in the present case,

Taking into consideration the importance of the issue raised by the Prosecution and the Appeals Chamber, I find that I should present my personal opinion.

Article 20 (1) of the Statute stipulates that the Trial Chambers shall ensure that a trial is fair and expeditious. In this sense, the Chamber applied a number of measures aimed at rendering the presentation of evidence more effective, always respecting the rights of the Defence and the need for a fair trial. For instance, in order to help the Parties focus more on substantive issues during a hearing, the Chamber issued a number of decisions requesting that procedural issues be submitted in written form in order to carefully use the hearing time for the merits of the case.

If the Trial Chamber has the specific responsibility to ensure that the trial is expeditious, then it falls upon the Prosecution to also conform to this requirement. The Prosecution considers that it must have sufficient time to present its case. Without contesting this legitimate aim, the manner in which the Prosecution presents its case and makes use of the time allocated to it should be studied.

At the present stage of the trial, the Chamber is of the opinion that the total time left to the Prosecution allows it to present its case without adversely affecting it. I find, however, that the Prosecution should still try to find a more efficient method of work which would allow it to greatly accelerate the presentation of its evidence.

Thus, in order to be better prepared for the examination of witnesses and allow for a considerable saving of time, the Prosecution should select relevant witnesses and determine the order in which they will appear; ask essential questions related to the Indictment; make the best balance between oral witness testimonies and written evidence pursuant to Rule 92 *bis* and *ter* procedures.

Likewise, I find that the Prosecution should control examinations-in-chief better and avoid, as much as possible, asking systematically the same questions and presenting documents which have already been admitted and presented to other witnesses.

The Prosecution has various options for saving time. Confronted with an important trial as regards the amount of evidence and the number of witnesses, it should adopt a new approach, different from the previous one, in order to present its evidence within an acceptable period of time.

Finally, the time allocated to the Prosecution should enable it to complete its task within this time, in full conformity with the rules of procedural fairness. It may happen, however, that, due to new circumstances, the Prosecution will be led to request an extension of its time. The Trial Chamber has always shown a high degree of flexibility and has not refrained from amending some decisions in the interests of the trial and the Parties. Therefore, the Judges of the Trial Chamber shall examine each justified request of this type with utmost attention.

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

[Seal of the Tribunal]