



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-04-81-PT
Date: 20 July 2007
Original: English

IN THE TRIAL CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge Krister Thelin
Judge Frank Höpfel

Registrar: Mr. Hans Holthuis

Decision: 20 July 2007

PROSECUTOR

v.

MOMČILO PERISIĆ

PUBLIC AND EX PARTE

**DECISION ON SECOND PROSECUTION APPLICATION PURSUANT TO
RULE 54 *BIS***

The Office of the Prosecutor:

Mr. Mark B. Harmon
Ms. Susan L. Somers

Republic of Serbia

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 (“Tribunal”),

BEING SEISED of the “Prosecution’s request for a hearing in respect of the Republic of Serbia’s non-compliance with requests for assistance”, filed on 29 June 2007 (“Motion”),¹ whereby the Office of the Prosecutor (“Prosecution”) requests that a hearing be held to present evidence that the Republic of Serbia has not complied with certain Requests for Assistance (“RFA”),

RECALLING the previous Prosecution application pursuant to Rule 54 *bis* of 13 February 2007 (“First Application”),² at which point numerous RFA’s were outstanding,

RECALLING the scheduling order for further filings of 14 March 2007³ and the decision issued on 18 April 2007,⁴ the subsequent report filed by the Republic of Serbia on 21 May 2007,⁵ and the Prosecution’s response to the report from the Republic of Serbia filed on 29 May 2007,⁶

CONSIDERING that upon receipt of a confidential and *ex parte* report submitted by the Prosecution on 7 June 2007, it became apparent to this Chamber that the Prosecution was receiving documents identified in Requests for Assistance previously reported in the First Application as outstanding,

NOTING that the Republic of Serbia in its report of 21 May 2007 submits that both RFA 1029-A and RFA 1350 have been complied with,⁷

NOTING that the Prosecution submitted in response to that report as well as in its Motion that RFA 1029-A has not been complied with and that RFA 1350 has not fully been complied with,⁸

¹ The cover page of the Motion was later corrected: *see* Prosecution’s corrigenda to cover page of request for a hearing in respect of the Republic of Serbia’s non-compliance with requests for assistance, 2 July 2007.

² Prosecution’s application for an order pursuant to Rule 54 *bis* directing the Government of the Republic of Serbia to comply with outstanding requests for assistance, 13 February 2007.

³ Scheduling Order for further filings and hearing on Prosecution Application pursuant to Rule 54 *bis*, 14 March 2007.

⁴ Decision on Prosecution application pursuant to Rule 54 *bis*, 18 April 2007

⁵ Republic of Serbia’s report pursuant to Trial Chamber’s order of 18 April 2007, 21 May 2007, and Confidential Annex to Republic of Serbia’s report pursuant to Trial Chamber’s order of 18 April 2007 (54bis proceedings), dated 21 May 2007 and filed on 4 June 2007,

⁶ Prosecution’s response to Republic of Serbia’s report pursuant to Trial Chamber’s order of 18 April 2007, 29 May 2007.

⁷ Republic of Serbia’s report pursuant to Trial Chamber’s order of 18 April 2007, 21 May 2007, and Confidential Annex to Republic of Serbia’s report pursuant to Trial Chamber’s order of 18 April 2007 (54bis proceedings), dated 21 May 2007 and filed on 4 June 2007, para. 3.

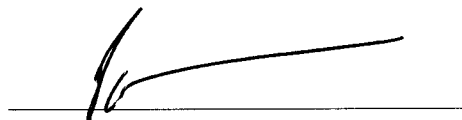
CONSIDERING that the Trial Chamber recognises the importance of compliance with RFA 1029-A and RFA 1350,

CONSIDERING however that the Republic of Serbia has recently made efforts to comply with most RFA's submitted to it by the Prosecution in this case,

PURSUANT TO Article 29 of the Statute of the Tribunal and Rules 54 and 54 *bis* of the Rules of Procedure and Evidence of the Tribunal,

HEREBY INVITES the Republic of Serbia to re-examine its compliance with RFA 1029-A and RFA 1350, to directly liaise with the Prosecution on this matter and to file a report on the outstanding RFA's with the Trial Chamber by 9 August 2007, and **ORDERS** the Prosecution to file a response to the aforementioned report no later than 16 August 2007.

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



Judge Patrick Robinson
Presiding

Dated this twentieth day of July 2007
At The Hague
The Netherlands

[Seal of the Tribunal]

⁸ Motion, para. 1; Prosecution's response to Republic of Serbia's report pursuant to Trial Chamber's order of 18 April 2007, 29 May 2007, paras 2 (b), 11, 12, 16.