



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-00-39-A
Date: 23 November 2007
Original: English

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Andrézia Vaz
Judge Theodor Meron

Registrar: Mr. Hans Holthuis

Decision of: 23 November 2007

PROSECUTOR

v.

MOMČILO KRAJIŠNIK

PUBLIC

**DECISION ON MOTION REQUESTING PERMISSION FOR
AMICUS CURIAE TO FILE SUBMISSION ON MATTERS
ARISING OUT OF APPELLANT'S APPEAL BRIEF,
PROSECUTION RESPONSE AND APPELLANT'S REPLY**

The Office of the Prosecutor:

Mr. Peter Kremer
Ms. Christine Dahl

The Accused:

Mr. Momčilo Krajišnik

Amicus Curiae:

Mr. Colin Nicholls QC

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THE APPEALS 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 (“Appeals Chamber” and “Tribunal”, respectively),

NOTING the Judgement issued in the present case by Trial Chamber I on 27 September 2006;

BEING SEIZED of a “Motion Requesting Permission for Amicus Curiae to File Submission on Matters Arising Out of Appellant’s Appeal Brief, Prosecution Response and Appellant’s Reply” filed by *amicus curiae* on 6 November 2007 (“*Amicus Motion*”), whereby *amicus curiae* requests the Appeals Chamber’s “permission to file a submission on matters arising out of the [Krajišnik’s] Appeal Brief, the Prosecution’s Response Brief and the [Krajišnik’s] Reply Brief”;¹

NOTING that the *Amicus Motion* relies on the role of *amicus curiae* to “protect the interests of [Krajišnik]”² as well as on the “object and purpose of the Appeals Chamber’s appointment of *amicus curiae*”;³

NOTING that the Office of the Prosecutor (“Prosecution”) opposes the *Amicus Motion* on the grounds that:

1. the *Amicus Motion* goes beyond the scope of the role of *amicus curiae* as defined in the Decision on Momčilo Krajišnik’s request to Self-Represent, on Counsel’s Motions in Relation to Appointment of *amicus curiae*, and on the Prosecution Motion of 16 February 2007, issued by the Appeals Chamber on 11 May 2007 (“11 May 2007 Decision”);⁴ and that
2. the Decision on Krajišnik Request and on Prosecution Motion issued by the Appeals Chamber on 11 September 2007 (“11 September 2007 Decision”) does not support the *Amicus Motion*, since it restricted to “rare occasions” the possibility for *amicus curiae* to file submissions, and did not extend to the filing of submissions on Krajišnik’s appeal;⁵

NOTING that Mr. Krajišnik did not respond to the *Amicus Motion*, and that *amicus curiae* did not file a reply to the Prosecution Response;

¹ *Amicus Motion*, para. 3. The Appeals Chamber notes that the *Confidential* “Appeal by Momčilo Krajišnik to the ICTY Judgement of 27 September 2006” was filed on 16 November 2007.

² *Amicus Motion*, para. 5.

³ *Ibid.*

⁴ Prosecution Response to Motion Requesting Permission for Amicus Curiae to File Submission on Matters Arising Out of Appellant’s Appeal Brief, Prosecution Response and Appellant’s Reply (“Prosecution Response”), 9 November 2007, paras 2-8.

⁵ Prosecution Response, paras 2, 9-10.

CONSIDERING that the 11 May 2007 Decision, in delineating the role of *amicus curiae*, states that he would be allowed to make submissions “similar to those which a party would make (including a notice of appeal, appeal brief, response brief, and reply brief) [...]”, but that nothing in the 11 May 2007 Decision could be interpreted as giving *amicus curiae* an automatic right to file any other submission;⁶

CONSIDERING FURTHER that, in the 11 September 2007 Decision, the Appeals Chamber ruled that “there may be *rare occasions* where [...] it is appropriate for *amicus curiae* to make a filing in relation to a Prosecution response to a motion brought by Mr. Krajišnik”;⁷


NOTING that *amicus curiae* does not, in the *Amicus Motion*, identify any specific issue that it wishes to raise and that he therefore fails to show that his request should be allowed in the interest of justice;

FOR THE FOREGOING REASONS,

DENIES the *Amicus Motion*.

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

Done this 23th day of November 2007,
At The Hague,
The Netherlands.



Judge Fausto Pocar
Presiding

[Seal of the Tribunal]

⁶ 11 May 2007 Decision, para. 21 (emphasis added).

⁷ 11 September 2007 Decision, para. 50 (emphasis added).