



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: 27 March 2008
Original: English

IN THE APPEALS CHAMBER

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

Registrar: Mr. Hans Holthuis

Decision of: 27 March 2008

PROSECUTOR

v.

MOMČILO KRAJIŠNIK

PUBLIC

**DECISION ON MR. KRAJIŠNIK'S MOTION TO
RESCHEDULE THE DEADLINE FOR SUBMISSION OF
MR. DERSHOWITZ'S SUPPLEMENTARY BRIEF**

The Office of the Prosecutor

Mr. Peter Kremer, QC

The Accused

Mr. Momčilo Krajišnik

Amicus Curiae

Mr. Colin Nicholls, QC

672

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),

BEING SEIZED OF the “Motion of Momčilo Krajišnik to Reschedule the Filing of Mr. Alan Dershowitz’s Submission on Joint Criminal Enterprise”, filed on 26 March 2008 (“Motion”);¹

NOTING that the Prosecution has not yet filed a Response;

RECALLING that the Appeals Chamber has permitted a supplementary submission by Alan Dershowitz (“Mr. Dershowitz”) on behalf of Momčilo Krajišnik (“Mr. Krajišnik”) on the sole issue of Joint Criminal Enterprise and that such submission is presently due on 31 March 2008;²

NOTING that Mr. Krajišnik submits that after consultation with the parties at the status conference, which is scheduled for 31 March 2008, the Appeals Chamber should determine a new deadline for Mr. Dershowitz’s submission;³

NOTING that Mr. Krajišnik argues that rescheduling the deadline for submission of Mr. Dershowitz’s supplementary brief is appropriate because the United States Office of Foreign Assets Control (OFAC) blocked the transfer of the funds by which Mr. Krajišnik sought to pay Mr. Dershowitz and, furthermore, that it would be unfair for Mr. Dershowitz to have to submit his supplementary brief without having an adequate opportunity to consult with his client;⁴

CONSIDERING that Mr. Krajišnik attempted to transfer funds from a Bosnian bank account to Mr. Dershowitz on 27 February 2008 and that Mr. Krajišnik learned on 29 February 2008 that OFAC blocked the transfer;⁵

CONSIDERING that OFAC explained on 6 March 2008 the procedure for applying for a license to clear the funds;⁶

CONSIDERING that OFAC might take up to 60 days to evaluate the application;⁷

¹ The Motion was submitted on 20 March 2008 but because of the Easter holiday was not translated and filed until 26 March 2008.

² Decision on Momčilo Krajišnik’s Motion to Reschedule Status Conference and Permit Alan Dershowitz to Appear, 28 February 2008 (“Decision of 28 February 2008”), paras 10-12, 14. See also Decision on Prosecution’s Motion for Clarification and Reconsideration of the Decision of 28 February 2008, 11 March 2008, paras 9-10, 12.

³ See Motion, pp. 3-4.

⁴ Motion, pp. 2-3 & Exhibit 2.

⁵ Motion, p. 2.

⁶ Motion, p. 2 & Exhibit 4.

⁷ Motion, p. 2 & Exhibit 5.

CONSIDERING that while the Registry has communicated with the United States Embassy at The Hague and sought an expeditious resolution of this issue, the Appeals Chamber will not countenance delays that are contingent on the payment of fees pursuant to a private arrangement between an accused and his counsel;

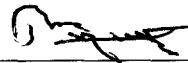
RECALLING in this regard, that since the Appeals Chamber issued the Decision of 28 February 2008, Mr. Krajišnik and Mr. Dershowitz have already had more than adequate opportunity to communicate about the supplementary brief, either in person or by telephone, and that any decision on their part to postpone such communications cannot now be the basis for further delays;

RECALLING FURTHER that the Appeals Chamber has consistently made clear that it will not allow the supplementary briefing schedule to cause undue delays in the appeal proceedings;⁸

HEREBY DENIES the Motion, such that the supplementary submission by Mr. Dershowitz is still due on 31 March 2008, and **RECALLS** that such a supplementary submission will not be acceptable unless and until Mr. Dershowitz complies with the Appeals Chamber's earlier directive that Mr. Dershowitz file a power of attorney.⁹

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

Dated this 27th day of March 2008,
At The Hague, The Netherlands.



Judge Mehmet Güney
On behalf of the Presiding Judge

[Seal of the Tribunal]

⁸ Decision of 28 February 2008, paras 9, 12.

⁹ See Decision of 28 February 2008, para. 14.