



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: 13 May 2008  
Original: English

**BEFORE THE PRE-APPEAL JUDGE**

Before: Judge Theodor Meron, Pre-Appeal Judge  
Registrar: Mr. Hans Holthuis  
Decision of: 13 May 2008

**PROSECUTOR**

v.

**MOMČILO KRAJIŠNIK**

**PUBLIC**

**DECISION ON KRAJIŠNIK MOTION FOR EXTENSION TO  
FILE A REPLY**

**The Office of the Prosecutor**

Mr. Peter Kremer QC

**The Accused**

Mr. Momčilo Krajišnik

**Counsel for the Appellant on the Matter of JCE**

Mr. Alan M. Dershowitz

**Amicus Curiae**

Mr. Colin Nicholls QC

**I, THEODOR MERON**, Judge of 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 (“International Tribunal”) and Pre-Appeal Judge in the present case,

**BEING SEIZED** of the “Motion of Momčilo Krajišnik to Reschedule the Filing of His Brief in Reply to the Prosecution’s Response to His Appellate Brief”, filed on 9 May 2008 (“Motion”), in which the Appellant, Momčilo Krajišnik, (“Mr. Krajišnik”) argues that an extension of the deadline for submission of his reply in the Appeal from Trial Judgement is appropriate because he has not yet received a BCS translation of the supplementary brief that Mr. Alan Dershowitz submitted and that finalization of the reply brief is not possible when a critical document is not available to Mr. Krajišnik in a language that he understands;

**NOTING** the Prosecution’s Response<sup>1</sup> (“Response”), which argues that the Motion should be denied because the Appeals Chamber has already stated that it will not make allowance for the time to translate the supplementary submissions and because of the principle of the unity of client and counsel;<sup>2</sup>

**RECALLING** that the Prosecution filed the “Prosecution Response to Appeal by Momčilo Krajišnik to the ICTY Judgement of 27 September 2006” on 12 March 2008, that Mr. Krajišnik received the BCS translation of that document on 29 April 2008, and that, in light of the 15-day limit for submission of replies,<sup>3</sup> Mr. Krajišnik’s reply is therefore due on 14 May 2008;

**RECALLING** that the Appeals Chamber permitted Mr. Dershowitz to file a supplementary brief on behalf of Mr. Krajišnik with respect to the issue of Joint Criminal Enterprise but underscored that Mr. Krajišnik and Mr. Dershowitz “must speak with a single voice”<sup>4</sup> and explicitly held that “there shall be no allowance for any time to translate the [supplementary] submissions, which shall all be in an official language of the Tribunal”;<sup>5</sup>

**CONSIDERING** that Mr. Dershowitz submitted the supplementary brief on 4 April 2008 and that the Registry filed the brief on 7 April 2008;<sup>6</sup>

<sup>1</sup> Prosecution Response to Motion of Momčilo Krajišnik to Reschedule the Filing of His Brief in Reply to the Prosecution’s Response to His Appellate Brief, 9 May 2008.

<sup>2</sup> Response, paras 3, 5.

<sup>3</sup> Rule 113 of the Rules of Procedure and Evidence.

<sup>4</sup> Decision on Prosecution’s Motion for Clarification and Reconsideration of the Decision of 28 February 2008, 11 March 2008, para. 9.

<sup>5</sup> Decision on Momčilo Krajišnik’s Motion to Reschedule Status Conference and Permit Alan Dershowitz to Appear, 28 February 2008, para. 12.

<sup>6</sup> Brief on Joint Criminal Enterprise on Behalf of Momčilo Krajišnik, 7 April 2008.

**CONSIDERING** that the International Tribunal must presume that counsel and clients communicate adequately with one another about the contents of submissions and that, in any case, Mr. Krajišnik has already had over a month to work with a translator provided by the International Tribunal to understand the precise contents of a submission that is less than 30 pages long;<sup>7</sup>

**CONSIDERING** further, that on 29 April 2008 Mr. Krajišnik received the BCS translation of the Prosecution brief that triggered the 15-day deadline of Rule 113 of the Rules and that Mr. Krajišnik nonetheless waited nine days, *i.e.*, until 8 May 2008, before indicating any potential concerns about the briefing schedule;

**CONSIDERING** that Mr. Krajišnik still has the ability to consult with a translator provided by the International Tribunal;<sup>8</sup>

**NOTING** that Mr. Krajišnik and the Prosecution received oral notification of the content of the present decision on 9 May 2008, thereby giving Mr. Krajišnik as much time as possible to consult with his translator;

**HEREBY DISMISSES** the Motion.

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

Dated this 13th day of May 2008,  
At The Hague, The Netherlands.



Judge Theodor Meron  
Pre-Appeal Judge

[Seal of the Tribunal]

<sup>7</sup> See Decision on Krajišnik Request and on Prosecution Motion, 11 September 2007 ("Decision of 11 September 2007"), para. 44.

<sup>8</sup> See Decision of 11 September 2007, para. 44.