



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-01-42-A
Date: 23 June 2008
Original: English

IN THE APPEALS CHAMBER

Before: Judge Andréia Vaz, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Theodor Meron
Judge O-Gon Kwon

Registrar: Mr. Hans Holthuis

Order of: 23 June 2008

PROSECUTOR

v.

PAVLE STRUGAR

PUBLIC

**ORDER TO THE DEFENCE OF PAVLE STRUGAR
FOR FILING OF MEDICAL REPORT**

The Office of the Prosecutor:

Ms. Helen Brady
Ms. Michelle Jarvis
Mr. Xavier Tracol
Ms. Laurel Baig

Counsel for Pavle Strugar:

Mr. Goran Rodić
Mr. Vladimir Petrović

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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 “International Tribunal”, respectively),

NOTING the appeals¹ against the Judgement rendered in this case by Trial Chamber II on 31 January 2005 (“Trial Judgement”);²

NOTING that the oral arguments of the parties were heard by the Appeals Chamber on 23 April 2008 (“Appeals Hearing”);

NOTING that, at the Appeals Hearing, the Defence for Pavle Strugar’s (“Defence”) argued that his health had been deteriorating during the period following the trial proceedings, up to and including the appeal proceedings, and that the Appeals Chamber should regard this situation as a mitigating factor when deciding on the sentence;³

NOTING that the Prosecution submitted that it was within the Appeals Chamber’s discretion to “consider evidence that [Pavle Strugar]’s health ha[d] significantly worsened since trial”;⁴

NOTING that, in support of its argument, the Defence referred to, *inter alia*, a medical report on the health situation of Pavle Strugar prepared by Dr. Falke, United Nations Detention Unit, on 21 January 2008 (“Falke Report”);⁵

NOTING that the Falke Report has never been filed before the Appeals Chamber;

CONSIDERING that the Falke Report would complement the Defence’s submissions on this matter;

¹ Defence Notice of Appeal, 2 March 2005 and Defence Appeal Brief, 8 July 2005 (“Pavle Strugar’s Appeal”); Defence Response Brief, 27 June 2005 (filed confidentially and made public by oral decision of the then Pre-Appeal Judge (Status Conference, 30 June 2005, T.6 (closed session), lines 8-10)); Defence Brief in Reply, 1 September 2005; Prosecution’s Notice of Appeal, 2 March 2005 and Prosecution Appellant Brief, 17 May 2005 (“Prosecution’s Appeal”) (*see also* Book of Authorities for Prosecution Appeal Brief, 17 May 2005 and Addendum to “Book of Authorities for Prosecution Appeal Brief”, 12 July 2005); Prosecution Brief in Response, 17 August 2005 (*see also* Book of Authorities for Prosecution Response Brief, 17 August 2005); Prosecution Brief in Reply, 12 July 2005; Prosecution’s Addendum on Recent Case-Law Pursuant to Order of 23 August 2007, 1 October 2007 (jointly “Appeals”) reopened on 7 June 2007 (*Prosecutor v. Pavle Strugar*, Case No. IT-01-42-Misc.1, Decision on Strugar’s Request to Reopen Appeal Proceedings).

² *Prosecutor v. Pavle Strugar*, Case No. IT-01-42-T, Judgement, 31 January 2005.

³ AT. 109-111, 116-117.

⁴ AT. 194-195 with reference to *Prosecutor v. Zdravko Mucić et al.*, Case No. 96-21-Abis, Judgement on Sentence Appeal Judgement, 8 April 2003, paras 11-15.

⁵ AT. 110.


EMPHASISING that the present Order in no way expresses the Appeals Chamber's views on the merits of the submissions on this matter;

PURSUANT TO Rules 54, 98, and 107 of the Rules of Procedure and Evidence,

HEREBY ORDERS the Defence to confidentially file the Falke Report, and any other subsequent reports from Dr. Falke now in the possession of the Defence, (without any further written submissions) no later than 27 June 2008.

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

Dated this 23rd day of June 2008,
At The Hague, The Netherlands.



Judge Andréia Vaz, Presiding

[Seal of the International Tribunal]