

**UNITED
NATIONS**



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: 31 October 2008
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: 31 October 2008

PROSECUTOR

v.

MOMČILO KRAJIŠNIK

CONFIDENTIAL

**DECISION ON *AMICUS CURIAE'S* REQUEST REGARDING ATTENDANCE
AT EVIDENTIAL HEARINGS ON 3 AND 5 NOVEMBER 2008**

The Office of the Prosecutor

Mr. Peter Kremer QC

The Appellant

Mr. Momčilo Krajišnik

Counsel for the Appellant on the Matter of JCE

Mr. Alan M. Dershowitz
Mr. Nathan Z. Dershowitz

Amicus Curiae

Mr. Colin Nicholls QC

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 *Amicus Curiae*’s “Request Regarding Attendance at Evidentiary Hearings on 3 and 5 November 2008”, filed confidentially on 30 October 2008 (“Request”), wherein *Amicus Curiae* requests to be excused from attending the evidentiary hearing scheduled on 3 November 2008 during which Messrs. George Mano and Stefan Karganović will give *viva voce* evidence (“Evidentiary Hearing”);

NOTING *Amicus Curiae*’s submission that he is unable to cross-examine Messrs. George Mano and Stefan Karganović because doing so would raise a conflict of interest in respect of Mr. Stefan Karganović’s credibility,¹ and because the factual and evidential issues likely to be raised during their testimony will fall outside *Amicus Curiae*’s mandate;²

CONSIDERING that Messrs. George Mano and Stefan Karganović were both called as witnesses by the Appeals Chamber, and not by either of the Parties;³

CONSIDERING that *Amicus Curiae* was appointed by the Appeals Chamber to assist the Chamber;⁴

CONSIDERING that the Appeals Chamber cannot say at this stage in what respects *Amicus Curiae* might be required to give that assistance;

REJECTS the Request.

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

Dated this thirty-first day of October 2008, At The Hague,

The Netherlands.



Judge Fausto Pocar
Presiding

[Seal of the Tribunal]

¹ Request, para. 1(a)(i); Notification Regarding Cross-Examination of George Mano, Stefan Karganović and Radovan Karadžić (confidential), 20 October 2008 (“Notification”), para. 6.

² Request, para. 1(a)(ii); Notification, paras 4-5.

³ Decision on Prosecution’s Motion to Adduce Rebuttal Material (confidential), 8 October 2008, paras 10-11.

⁴ Decision on Momčilo Krajišnik’s Request to Self-Represent, On Counsel’s Motion in Relation to Appointment of *Amicus Curiae*, and On the Prosecution Motion of 16 February 2007, 11 May 2007, para. 19.