



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-95-13/1-R.1
Date: 5 May 2010
Original: English

BEFORE THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Mehmet Güney
Judge Fausto Pocar
Judge Liu Daqun
Judge Andréia Vaz

Registrar: Mr. John Hocking

Decision of: 5 May 2010

PROSECUTOR

v.

VESELIN ŠLJIVANČANIN

PUBLIC

**DECISION RESPONDING TO PROSECUTION'S MOTION
SEEKING CLARIFICATION ON SCHEDULING ORDER FOR
HEARING REGARDING VESELIN ŠLJIVANČANIN'S
APPLICATION FOR REVIEW**

The Office of the Prosecutor:

Mr. Peter Kremer, QC

Counsel for Veselin Šljivančanin:

Mr. Novak Lukić and Mr. Stéphane Bourgon

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);

RECALLING that the Appeals Chamber is seised of the “Application on Behalf of Veselin Šljivančanin for Review of the Appeals Chamber Judgment of 5 May 2009” (“Review Motion”) filed by Veselin Šljivančanin (“Šljivančanin”) on 28 January 2010;

RECALLING the “Scheduling Order for Hearing Regarding Veselin Šljivančanin’s Application for Review” (“Scheduling Order”) issued by the Appeals Chamber on 20 April 2010;

BEING SEISED of the “Prosecution’s Motion Seeking Clarification on Scheduling Order for Hearing Regarding Veselin Šljivančanin’s Application for Review” (“Motion”) filed by the Office of the Prosecutor (“Prosecution”) on 22 April 2010;

NOTING that the Motion seeks confirmation that the Hearing of 3 June 2010 is not the hearing addressed by the last part of Rule 120 of the Rules of Procedure and Evidence (“Rules”);¹ seeks clarification as to whether an evidentiary hearing during which the Prosecution may call rebuttal witnesses and make submissions regarding the content of testimony by Miodrag Panić (“Panić”) will be held, should the Appeals Chamber proceed with a hearing as envisaged under Rule 120 of the Rules;² and requests that Panić’s examination be limited to “the context and the content of the conversation between [Mile] Mrkšić and Šljivančanin [. . .] on the evening of 20 November 1991”, and the reasons why Panić now offers this information, excluding “broader testimony” about other issues;³

NOTING the “Response to Prosecution’s Motion Seeking Clarification on Scheduling Order for Hearing Regarding Veselin Šljivančanin’s Application for Review” (“Response”) filed by Šljivančanin on 26 April 2010;⁴

NOTING that Šljivančanin contends that the Appeals Chamber provided “sufficient information concerning the 3 June hearing”,⁵ specifies that the purpose of the hearing is to assess “the

¹ Motion, paras 1-2.

² *Id.*, para. 2.

³ *Id.*, paras 4-5.

⁴ The “Prosecution’s Reply in Support of its Motion Seeking Clarification” was filed on 27 April 2010.

⁵ Response, para. 1.

evidentiary value and relevance of Panić's testimony",⁶ and maintains that the Prosecution is provided with the opportunity to call rebuttal witnesses within the context of the Scheduling Order;⁷

RECALLING that the Scheduling Order clearly specified that the Hearing will assess both "(1) the evidentiary value and relevance, if any, of Panić's testimony; and (2) whether Panić's testimony constitutes a new fact".⁸

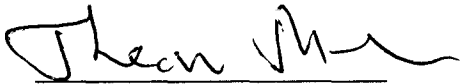
UNDERSCORING, that the scope of the Hearing will be limited to the above-mentioned topics and no others;

NOTING that the Hearing is not the hearing envisaged by Rule 120 of the Rules, and that should such a hearing take place, the procedures set out in the Rules will be followed;

EMPHASIZING that the present order in no way expresses the Appeals Chamber's views on any aspect of the Review Motion;

HEREBY REAFFIRMS, Judge Pocar dissenting, the Scheduling Order.

Dated this 5th day of May 2010,
At The Hague,
The Netherlands.



Judge Theodor Meron
Presiding Judge

[Seal of the Tribunal]

⁶ *Id.*, para. 2.

⁷ *Id.*, para. 3.

⁸ Scheduling Order, p. 1 (internal citations and quotations omitted).