



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: 7 October 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:** 7 October 2010

**PROSECUTOR**

v.

**VESELIN ŠLJIVANČANIN**

**PUBLIC**

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**DECISION ADDRESSING VARIOUS PROSECUTION  
SUBMISSIONS**

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**The Office of the Prosecutor:**

Ms. Helen Brady  
Mr. Paul Rogers

**Counsel for Veselin Šljivančanin:**

Mr. Novak Lukić  
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** the “Decision with Respect to Veselin Šljivančanin’s Application for Review” (“Review Decision”) filed on 14 July 2010, which granted Veselin Šljivančanin’s (“Šljivančanin”) request for a review hearing (“Review Hearing”) with respect to his conviction on appeal for aiding and abetting murder as a violation of the laws or customs of war,<sup>1</sup> and the “Order Regarding Prosecution’s Motion for Extension of Time” (“Extension Decision”) filed on 23 July 2010, in which the Appeals Chamber directed the parties to submit, by 10 September 2010, “a list of evidence and witnesses, if any, each proposes to introduce at the Review Hearing”;<sup>2</sup>

**NOTING** that, pursuant to the Extension Decision, Šljivančanin confidentially filed “Veselin Šljivančanin’s List of Evidence and Witnesses” (“Šljivančanin Submission”) on 10 September 2010, in which he asked to adduce the evidence of three witnesses;<sup>3</sup>

**RECALLING** the “Decision on Admission of Evidence and Scheduling Order” (“Scheduling Decision”) filed on 21 September 2010, which, *inter alia*, admitted certain exhibits identified by the Office of the Prosecutor (“Prosecution”); granted the Prosecution’s request to call Reynaud Theunens (“Theunens”) as an expert witness during the Review Hearing; instructed the Registrar of the Tribunal (“Registrar”) to assign exhibit numbers to the admitted exhibits; and denied Šljivančanin’s request to adduce the evidence of the three witnesses identified in the Šljivančanin Submission;<sup>4</sup>

**BEING SEISED** of the “Prosecution’s Motion to Exclude Witnesses” (“Motion to Exclude”) filed confidentially by the Prosecution on 21 September 2010, the “Prosecution’s Notice of Submitting Admitted Exhibits, Notice of Lifting of Confidentiality, and Request to Change Status of Exhibit” (“Request to Change Status”) filed by the Prosecution on 29 September 2010, and the “Motion for Clarification on Admission of Theunens’ *Curriculum Vitae*” (“Motion for Clarification”) filed by the Prosecution on 5 October 2010;

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<sup>1</sup> See Review Decision, pp. 3-4. See also *Prosecutor v. Mile Mrkšić and Veselin Šljivančanin*, Case No. IT-95-13/1-A, Judgement, 5 May 2009, para. 103, pp. 169-170. Judges Pocar and Vaz dissented on entering the new conviction.

<sup>2</sup> Extension Decision, p. 2. See also Review Decision, p. 4.

<sup>3</sup> Šljivančanin Submission, para. 2.

<sup>4</sup> See Scheduling Decision, p. 2.

**NOTING** the “Response on Behalf of Veselin Šljivančanin to Prosecution Motion for Clarification” (“Response to Motion for Clarification”) filed by Šljivančanin on 6 October 2010;<sup>5</sup>

**NOTING** that, in the Motion to Exclude, the Prosecution asks that the evidence of the three witnesses identified in the Šljivančanin Submission be excluded;<sup>6</sup>

**CONSIDERING** that the Scheduling Decision denied Šljivančanin’s request to adduce the evidence of the three witnesses identified in the Šljivančanin Submission,<sup>7</sup> the Prosecution has since acknowledged that the Motion to Exclude was “superseded by the Appeals Chamber’s order”,<sup>8</sup> and the Appeals Chamber therefore considers the Motion to Exclude moot;

**NOTING** that, in the Request to Change Status, the Prosecution requests that the Appeals Chamber change the status of an admitted exhibit, Exhibit RP6, to “public”, as there are no longer grounds to keep it under seal;<sup>9</sup>

**NOTING** that, in the Motion for Clarification, the Prosecution submits that the Scheduling Decision did not expressly address the Prosecution’s request to have Theunens’s present *curriculum vitae* (“Theunens CV”) admitted into evidence, and further submits that the Theunens CV may be “a necessary adjunct” to a report by Theunens, which has already been admitted as Exhibit RP7;<sup>10</sup>

**NOTING** that the Prosecution considers that the Appeals Chamber’s Scheduling Decision “implicitly required” admission of the Theunens CV;<sup>11</sup>

**NOTING** that Šljivančanin does not object to the Prosecution’s request to have the Theunens CV admitted into evidence;<sup>12</sup>

**CONSIDERING** that it is appropriate to consider the Theunens CV in connection with Exhibit RP7;

**FOR THE FOREGOING REASONS,**

**DISMISSES** the Motion to Exclude as moot;

<sup>5</sup> The Appeals Chamber notes that Šljivančanin has not yet responded to the Motion to Exclude or the Request to Change Status, but considers that he is not prejudiced by the Appeals Chamber’s disposition of these applications in the absence of such response.

<sup>6</sup> Motion to Exclude, paras 1, 2, 11.

<sup>7</sup> Scheduling Decision, p. 2.

<sup>8</sup> Response to Motion on Behalf of Veselin Šljivančanin Concerning the 12 October Review Hearing, 5 October 2010, para. 9.

<sup>9</sup> Request to Change Status, paras 4-6.

<sup>10</sup> Motion for Clarification, para. 2.

<sup>11</sup> Motion for Clarification, para. 2.

<sup>12</sup> Response to Motion for Clarification, para. 2.

**GRANTS** the Motion for Clarification and **ADMITS** as an exhibit the Theunens CV;

**GRANTS** the Request to Change Status; and

**INSTRUCTS** the Registrar to assign an exhibit number to the admitted exhibit and to change the status of Exhibit RP6 to “public”.

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

Dated this 7th day of October 2010,  
At The Hague,  
The Netherlands.



Judge Theodor Meron  
Presiding Judge

[Seal of the Tribunal]