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-03-67-T

Date: 29 September 2011

Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: **Judge Jean-Claude Antonetti, Presiding**
Judge Frederik Harhoff
Judge Flavia Lattanzi

Registrar: **Mr John Hocking**

Decision of: **29 September 2011**

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

DECISION ON MOTION BY ACCUSED TO DISCONTINUE PROCEEDINGS

The Office of the Prosecutor

Mr Mathias Marcussen

The Accused

Mr Vojislav Šešelj

I INTRODUCTION

1. Trial Chamber III ("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 ("Tribunal"), and seized of the Motion, filed as a confidential document[1] by Vojislav Šešelj ("Accused") on 8 July 2011 and as a public document on 13 July 2011, to discontinue proceedings because of an abuse of process committed by the Tribunal ("Motion").[2]

II PROCEDURAL BACKGROUND

2. At the hearing of 20 October 2009, the Accused presented to the Chamber an oral motion to discontinue his trial for abuse of process due to serious violations of his rights committed by the Prosecutor and, notably, of his right to a trial within a reasonable time ("Oral Request").[3]

3. In its Decision of 10 February 2010,[4] the Chamber dismissed the Oral Request of the Accused.[5] The Chamber deemed that there was no abuse of process and, more specifically, that the right of the Accused to be tried without undue delay had not been violated, when one takes into account the complexity of the case, the number of witnesses heard and exhibits tendered before the Chamber, the conduct of the parties and the serious nature of the charges against the Accused.[6]

4. On 8 July 2011, the Office of the Prosecutor ("Prosecution") filed as a confidential document[7] a motion in which the Prosecution asked the Chamber to dismiss the Motion due to its formal defect and, in particular, due to the Accused

[1] The English translation of the Motion was filed on 8 July 2011 and a public unredacted version was filed on 12 July 2011 at the request of the Chamber.
[2] English translation of the original BCS entitled "Motion to Discontinue the Proceedings Due to Flagrant Violation of the Right to a Trial within a Reasonable Period in the Context of the Doctrine of Abuse of Process", confidential, 8 July 2011. A unredacted public version was filed on 13 July 2011. The Accused filed the Motion in BCS on 14 June 2011.
[3] Hearing of 20 October 2009, transcript in French ("T(F)"), 14756-14762.
[4] "Decision on Oral Request of the Accused for Abuse of Process", public, 10 February 2010.
[5] Decision of 10 February 2010, para. 32.
[6] Decision of 10 February 2010, paras 28-32.
[7] The Prosecution filed an unredacted public version of the Motion of 8 July 2011, on 20 July 2011. The Accused received the BCS translation of the unredacted public version of the Motion of 8 July on 27 July 2011, *see* Procès-verbal of Reception filed as a public document on 29 July 2011.

exceeding the word limit allowed or, in the alternative, to be allowed to exceed the word limit set in the "Practice Direction on the Length of Briefs and Motions" ("Direction")[8] of the Tribunal to respond to the Motion ("Motion of 8 July 2011").[9]

5. On 22 July 2011, the Prosecution filed as a confidential document[10] its response to the Motion ("Response"),[11] in which it reiterated its request to be allowed to exceed the word limit allowed and requested that the Chamber dismiss the Motion on the ground that the right of the Accused to be tried within a reasonable period had not been violated.[12]

6. On 25 July 2011, the Prosecution filed as a confidential document a corrigendum to the Response ("Corrigendum").[13]

7. The Accused did not reply to the Motion of 8 July 2011 within the 14-day time limit from the time he received the BCS version, which he was allowed to do under Rule 126 *bis* of the Rules of Procedure and Evidence ("Rules").[14]

III ARGUMENTS OF THE PARTIES

(1) Motion

[8] "Practice Direction on the Length of Briefs and Motions" (IT/184, Rev. 2), 16 September 2005.
[9] "Prosecution's Motion to Dismiss the Accused's Motion to Discontinue the Proceedings, or, in the Alternative, Prosecution's Request to Exceed the Word Limit in Its Response", confidential, 8 July 2011.
[10] The Prosecution filed a redacted public version of its Response on 26 July 2011. The Accused received the BCS translation of the redacted public version of its Response on 5 August 2011, *see* Procès-verbal of Reception filed as a public document on 10 August 2011.
[11] "Prosecution's Response to the Accused's July 2011 Motion to Discontinue the Proceedings", confidential, 22 July 2011. The Accused received the BCS translation of the confidential version of the Response on 5 August 2011, *see* Procès-verbal of Reception filed as a confidential document on 10 August 2011.
[12] Response, paras 1, 55 and 56.
[13] "Corrigendum to Prosecution's Response to the Accused's July 2011 Motion to Discontinue the Proceedings", confidential, 25 July 2011. The Accused received the BCS translation of the confidential version of the Corrigendum on 5 August 2011, *see* Procès-verbal of Reception filed as a confidential document on 10 August 2011.
[14] On 15 July 2011 the Accused received the BCS translation of the confidential version of the Motion of 8 July 2011, *see* Procès-verbal of Reception filed as a confidential document on 27 July 2011. The Accused had until 29 July 2011 to respond.

8. In his Motion the Accused requested that the Chamber discontinue the trial on the basis of the doctrine of abuse of process, claiming serious violations of his rights.[15] More specifically, he states that the excessive length of his detention,[16] without the Chamber reaching the Judgement phase[17] or rendering a decision on the issue of length,[18] constitutes a violation of his right to be tried within a reasonable time.[19] The Accused concludes that his detention of more than eight years is completely unjustified.[20]

9. In support of his Motion, the Accused refers specifically to the case-law of the ECHR on the right of the accused to be tried without undue delay, the reasonableness of the length of detention of an accused and the protection of the accused's liberty

[15] *See*, in particular, Motion, paras 1, 8, 15, 16, 19, 21 to 23, 26, 27, 30, 43, 45, 60, 63, 66 and 73 to 77. More specifically, the Accused invokes Articles 20 and 21 of the Statute of the Tribunal ("Statute"), Rules 15 *bis* (D), 54, 65 *ter* (B), 72 (B), 73 (B), 73 *bis* (B) and (D), 81 *bis*, 90 (F), 98 *ter* (C), 108, 111, 116 *bis* and 117 (B) of the Rules, the case-law of the International Court of Justice (*Bosnia and Herzegovina v. Serbia and Montenegro*) and the case of the "maxi-trial" against Sicilian organised crime conducted by two anti-Mafia Judges in Palermo in 1986. The Accused also cites the legal standards applicable to the Tribunal, to the International Tribunal for Rwanda ("ICTR"), the European Court of Justice, the European Court of Human Rights ("ECHR") and national courts such as those in the United States of America, Germany, France, United Kingdom and Serbia.

[16] Motion, paras 15, 16, 19, 20 and 73. The Accused invokes the standards applicable to the rights of the accused to be tried within a reasonable period by the ECHR (Articles 5.3 and 6.1 of the European Convention for the Protection of Human Rights) and those dealt with in common law doctrines in the United States. In support of his argument, he also cites the 6th Amendment of the United States Constitution, Article 104 of the Basic Law of the Federal Republic of Germany 23 May 1949, Article 14.3(c) of the International Covenant on Civil and Political Rights, Article 8.1 of the American Convention on Human Rights, Article 7.2(d) of the African Charter on Human and People's Rights, Article 47 of the Charter of Fundamental Rights of the European Union, Principles 37 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and Article 6.1 of the Convention of the Commonwealth of Independent States. The Accused also invokes ICTR case-law (Case No. ICTR-00-55, *The Prosecutor v. Tharcisse Muvunyi*), *see* more specifically on this point paras 9 to 13, 23 to 26, 62 and 74 to 77 of the Motion. The Chamber notes that to date the longest trial excluding the appeal stage at the ICTR lasted ten years, *see* Case No. 98-42-T, *The Prosecutor v. Pauline Nyiaramasuhuko et al.*

[17] Motion, paras 1, 3, 10, 19 to 22, 24, 25, 29, 30 , 36, 42, 72, 73, 75 and 76. The Chamber notes that the proceedings for contempt initiated against the Accused, Case No. IT-03-67-R77.2-A, the Appeals Chamber upheld the sentence of 15 months in prison set by the Trial Chamber, *see The Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-R77.2-A, 19 May 2010, redacted public version.

[18] Motion, paras 16, 17, 20 and 21.

[19] *See* in particular Motion, paras 1, 8, 15, 16, 19, 21 to 23, 26, 27, 30, 43, 45, 60, 63, 66 and 73 to 77. The Accused invokes more specifically Articles 20 and 21 of the Statute of the Tribunal ("Statute"), Rules 15 *bis* (D), 54, 65 *ter* (B), 72 (B), 73 (B), 73 *bis* (B) and (D), 81 *bis*, 90 (F), 98 *ter* (C), 108, 111, 116 *bis* and 117 (B) of the Rules, case-law of the International Court of Justice (*Bosnia and Herzegovina v. Serbia and Montenegro*) and the case of the "maxi-trial" against Sicilian organised crime conducted by two anti-Mafia Judges in Palermo in 1986. The Accused also cites the legal standards applicable to the Tribunal, to the International Tribunal for Rwanda ("ICTR"), the European Court of Justice, the European Court of Human Rights ("ECHR") and national courts such as those in the United States of America, Germany, France, United Kingdom and Serbia.

[20] Motion, paras 1, 15, 17, 18, 19, 20, 62 and 73.

against any interference by the state.[21] The Accused invokes in particular the *Erdem v. Germany* Judgement of 5 July 2011 in which the ECHR recalled that the lawfulness of continuing detention is assessed in light of the specific characteristics of a case and only considerations showing that there is a public interest[22] or the existence of a flight risk are likely to merit continuing preventive detention of an Accused.[23] In this respect, the Accused argues that there is no consideration involving public interest or any risk of flight that would justify the duration of his continuing detention without a Judgement being rendered.[24] The Accused also refers to judgements in which the ECHR justified the length of detention of certain accused because they were complex cases, which also supports the excessive nature of the length of his own detention.[25]

10. Moreover, the Accused states that the right of accused to be tried within a reasonable time is better protected in national law, notably in Serbia, France, Germany and the United Kingdom, citing more specifically the practices of these jurisdictions in matters concerning the length of preventive detention of a suspect or accused at different stages of the court proceedings.[26]

2) Response of the Prosecution

11. In its Response, the Prosecution firstly recalls that in the Motion of 8 July 2011 it first requested that the Chamber dismiss the Motion on the ground that the Accused had not respected the word limit set by the Direction or, in the alternative, that it be granted an extension of the word limit allowed for its response to the Motion.[27] The Prosecution reiterates its request to exceed the word limit in its Response because this would allow it to show the weak points in the Motion.[28]

12. Secondly, the Prosecution requests that the Chamber dismiss the Motion on the ground that no violation of the right of the Accused to be tried within a reasonable

[21] Motion, paras 14 to 22.
[22] Motion, paras 16 and 17.
[23] Motion, paras 18 and 19.
[24] Motion, paras 16 and 19.
[25] Motion, para. 22.
[26] Motion, para. 73.
[27] Response, para. 5. The Chamber notes that in the Prosecution's Motion of 8 July 2011, it requested that the Chamber dismiss the Motion on the ground that, at 22,000 words, it exceeded the limit of 3,000 words set by the Direction of the Tribunal, *see* Motion of 8 July 2011, paras 2 to 4.
[28] Response, paras 5 to 7.

time was established in the Decision of 10 February 2010, nor has any violation arisen since the date when the said Decision was rendered, rendering inapplicable the abuse of process doctrine in this particular case.[29] The Prosecution states that, like the Chamber, it made sure throughout the trial to respect the right of the Accused to be tried within a reasonable time.[30] In this respect, the Prosecution also argues that, during the trial, the Accused refused to use the mechanisms available through the Rules that guarantee the right of the accused to be tried within a reasonable time.[31] Moreover, the Prosecution argues more specifically that the conduct of the Accused and the exercise of his right to self-representation affected the length of the trial.[32]

13. With respect to the law applicable at the Tribunal, the Prosecution further recalls that it is undeniable that general rules on human rights are binding on the Tribunal, but also states that although other international institutions and instruments may have a persuasive effect on the Chambers, the Tribunal is bound by its statutory norms and case-law.[33]

14. The Prosecution argues that, with respect to the matter of a reasonable length of time for a trial and of provisional detention, this delay is assessed on a case-by-case basis and recalls that Article 21 (4) (c) of the Statute, which guarantees the right of an accused to be tried without undue delay, does not prohibit the delay that is likely to occur during a trial and does not decree any time limits for the length of detention.[34] More specifically, the Prosecution states that, in its assessment of delay in a trial or in provisional detention, a Chamber must take into account, among other things, the conduct of the parties and the circumstances surrounding the breaks in the continuity of proceedings.[35]

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[29] Response, paras 1, 4, 55 and 56.
[30] Response, para. 4.
[31] Response, para. 2.
[32] Response, para. 3.
[33] Response, paras 8, 9 and 55.
[34] Response, paras 10 and 12. The Prosecution invokes ICTR case-law in *The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze & Anatole Nsengiyumva* (Case No. ICTR-98-41-T), *The Prosecutor v. Prosper Muginareza* (Case No. ICTR-99-50-T), *The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barajagwiza & Hasan Ngeze* (Case No. ICTR-99-52-A), *The Prosecutor v. Arsene Ntahobali* (Case No. ICTR-97-21-T), *The Prosecutor v. Nyiramasuhuko, Ntahobali, Nsabimana, Nteziryayo, Kanyabashi, Ndayambaje* (Case No. ICTR-98-42-T) and *The Prosecutor v. André Rwamakuba* (Case No. ICTR-98-44C-PT).
[35] Response, paras 10 and 11. The Prosecution invokes ICTR case-law in *The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze & Anatole Nsengiyumva* (Case No. ICTR-98-41-T), *The*

15. The Prosecution, moreover, recalls that certain circumstances warrant a provisional detention in the pre-trial period and that, under Rule 65 (B) of the Rules, all accused may seize the Chamber of a request for provisional release.[36] The Prosecution also maintains that a period of preventive detention in the pre-trial stage of five years or less is not considered to be excessive.[37]

16. Finally, the Prosecution alleges that the length of the Accused's detention respects the standards in force at the Tribunal and the norms of international humanitarian law.[38] The Prosecution recalls on this point that, on three occasions, the Chamber has dismissed the argument of the Accused that the length of his pre-trial preventive detention was excessive.[39] The Prosecution recalls the procedural background of the phases of interruption of the trial and the conduct of the Accused since his voluntary surrender in 2003.[40] The Prosecution thus argues that the Accused chose not to exercise his right to appeal his detention between 23 February 2003 and 14 June 2004, and again between 2005 and 2011 in that he neither put forward a request for provisional release during those periods, nor lodged an appeal against subsequent decisions rendered by the Chamber pursuant to Rule 65 (B) of the Rules and, notably, the "Decision on the Defence Motion for Provisional Release" of 23 July 2004.[41] The Prosecution additionally considers that the length of preventive detention of the Accused in the pre-trial phase is reasonable in light of standards applicable in regional institutions such as the ECHR.[42] Finally, the Prosecution argues that the Chamber weighed up the rights of the Accused, such as the guarantees provided in Articles 20 and 21 of the Statute, when it decided to adjourn the hearings

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Prosecutor v. Prosper Muginareza (Case No. ICTR-99-50-T), *The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza & Hasan Ngeze* (Case No. ICTR-99-52-A), *The Prosecutor v. Arsene Ntahobali* (Case No. ICTR-97-21-T), *The Prosecutor v. Nyiramasuhuko, Ntahobali, Nsabimana, Nteziryayo, Kanyabashi, Ndayambaje* (Case No. ICTR-98-42-T) and *The Prosecutor v. André Rwamakuba* (Case No. ICTR-98-44C-PT).

[36] Response, paras 15 and 16.

[37] Response, para. 17. The Prosecution cites case-law of the Tribunal (*The Prosecutor v. Tihomir Blaškić*, Case No. IT-95-14-T), of the ICTR (*The Prosecutor v. Prosper Muginareza*, Case No. ICTR-99-50-T), of the European Commission of Human Rights (*Ferrari-Bravo v. Italy*, No. 9627/81, Report of the European Commission, 14 March 1984 and *Ventura v. Italy*, No. 7438/76, Report of the European Commission, 15 December 1980) and of the ECHR (*W v. Switzerland*, No. 14379/88. Judgement of 26 January 1993).

[38] Response, paras 48 to 53.

[39] Response, paras 19 to 21 and 49.

[40] Response, paras 22 to 26, 28 and 29.

[41] Response, paras 2, 18 to 21, 50 and 52.

[42] Response, para. 53.

of some witnesses from February 2009 to November 2010.[43] The Prosecution recalls that in the Decision of 10 February 2010, the Chamber concluded that the right of the Accused to be tried within a reasonable time had not been violated and dismissed the request of the Accused to discontinue proceedings because of abuse of process.[44] The Prosecution also states that the Accused chose not to request certification to appeal this decision.[45]

17. The Prosecution moreover argues that the trial has not had any undue delays since the Decision of 10 February 2010.[46] The Prosecution therefore contests that any abuse of process has occurred since the Decision of 10 February 2010 in which the Chamber dismissed the Accused's request in respect of an abuse of process in the previous period.[47] The Prosecution recalls that, since that Decision, the Chamber has heard several witnesses and ruled on complex procedural matters.[48] With respect to the motions on which the Chamber ruled since February 2010, the Prosecution holds that the fact that the Accused and his assistants do not work in either of the two official languages of the Tribunal has had an impact on the processing of these motions and on the scheduling of the 98 *bis* hearing.[49] The Prosecution also argues that the conduct of the Accused over matters concerning the admission of evidence and the contempt proceedings initiated against him have delayed the progress of the proceedings.[50]

IV APPLICABLE LAW

[43] Response, para. 54. *See* "Decision on Prosecution Motion for Adjournment with Dissenting Opinion of Judge Antonetti in Annex", public, 11 February 2009 and "Public Version of the 'Consolidated Decision on Assignment of Counsel, Adjournment and Prosecution Motion for Additional Time' with Separate Opinion of Presiding Judge Antonetti in Annex", public, 24 November 2009.
[44] Response, paras 30 to 34.
[45] Response, para. 27. The Prosecution also recalls the procedural background of the phases of interruption of the trial and the conduct of the Accused since his voluntary surrender in 2004, *see* in particular the Response, paras 22-26, 28 and 29.
[46] Response, paras 1 and 30 to 34. The Prosecution argues that in its Decision of 10 February 2010 the Chamber dismissed the allegations by the Accused of abuse of process allegedly caused by the length of his trial and his preventive detention during the pre-trial phase.
[47] Response, paras 35 to 47.
[48] Response, paras 35 to 47.
[49] Response, paras 38 to 40.
[50] Response, paras 41 to 47.

18. Pursuant to Article 21 of the Statute, all accused are entitled to a number of procedural guarantees, including the right to be tried within a reasonable time and to a fair trial.

19. According to Tribunal and ICTR case-law, Judges may decide that "proceedings that have been lawfully initiated may be terminated after an indictment has been issued if improper or illegal procedures are employed in pursuing an otherwise lawful process".[51]

20. In *The Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-I, the Appeals Chamber of the Tribunal deemed that the discontinuation of a trial could be considered in only two situations: (i) where a fair trial for the Accused is impossible, usually for reasons of delay; and (ii) where the trial of the Accused is marred by procedures contravening the court's sense of justice.[52]

21. The Appeals Chamber specified that only exceptional cases of human rights violations may justify a court setting aside its jurisdiction. In most cases, such a decision would in effect be disproportionate to the prejudice caused to the Accused.[53] The threshold, when considering whether violations of the rights of the defence are sufficiently serious to allow a Chamber to use its discretionary power to end a trial, is very high.[54]

V DISCUSSION

(1) On Exceeding the Number of Words in the Motion and the Response

22. The Chamber deems that the Prosecution has reiterated its request to exceed the number of words, presented in its Motion of 8 July 2011,[55] in its Response by

[51] In this respect, *The Prosecutor v. Jean-Bosco Barayagwiza*, Case No. ICTR-97-19-AR72, 3 November 1999, para. 74 ("*Barayagwiza* Judgement").
[52] *The Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-AR73.4, "Decision on Karadžić's Appeal of Trial Chamber's Decision on Alleged Holbrooke Agreement", public, 12 October 2009 ("*Karadžić* Decision"), para 45.
[53] *Karadžić* Decision, para. 46.
[54] *Karadžić* Decision, paras 45 and 47; *see* also the *Barayagwiza* Judgement, para. 77.
[55] Motion of 8 July 2011, 2 to 4.

invoking its wish to ensure a proper conduct of the trial and to respect the time-limit for the response which it was granted pursuant to Rule 126 *bis* of the Rules.[56]

23. The Chamber deems that the Motion, which has 21,985 words, considerably exceeds the 3,000-word limit set by the Direction.[57]

24. Nonetheless, in light of the circumstances in this instance and the object of the Motion, the Chamber holds that there is reason to allow, *ex post factum* and exceptionally, the Accused and the Prosecution to exceed the number of words allowed for the Motion and the Response.

25. The Chamber will therefore consider the Motion and the Response, and finds that the Motion of 8 July 2011 has become moot.

(2) On Abuse of Process

26. Firstly, with respect to the argument of the Prosecution that the Accused's exercise of his right to self-representation has affected the conduct of the trial,[58] the Chamber recalls that the right of an Accused to represent himself is guaranteed under Article 21 (4) (d) of the Statute, and that the simple exercise of this right cannot in itself be invoked as leading automatically to a delay in the proceedings.

27. Furthermore, the Chamber recalls that in the Decision of 10 February 2010, dismissing the Oral Request of the Accused with regard to an abuse of process, it had emphasised that the international and European case-law clearly established that there was no predetermined time-limit beyond which a trial would be considered unfair due to undue delay.[59] Moreover, the Chamber had frequently shown on this matter that it constantly ensured the respect of the rights of the defence, such as the one recognised under Article 21 (4) (c) of the Statute.[60] For the purpose of the present Decision, the Chamber will not reiterate these arguments.

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[56] Response, para. 5.
[57] Direction, Section (C), 5 and 7.
[58] Response, para. 3.
[59] Decision of 10 February 2010, paras 28 to 30.
[60] Decision of 10 February 2010, paras 28 to 30.

28. Moreover, the Chamber deems that the Accused had not requested certification to appeal the Decision of 10 February 2010 or asked the Chamber to reconsider. Therefore, the Chamber finds that the Accused had not exercised his right to challenge the decision of the Chamber on the non-existence of abuse of process before 10 February 2010 and will only examine the Motion for the period after 10 February 2010.

29. The Chamber notes that, in order to support the abuse of process, in his Motion the Accused simply lists the articles and rules of the Statute and Rules and of international instruments on the protection of human rights, as well as their case-law guaranteeing his right to be tried within a reasonable time, without providing concrete examples of violations that had occurred in the proceedings invoked against him, except for the fact that these proceeding are still ongoing.

30. The Chamber also deems that the Accused limits himself in his Motion to denouncing the length of his detention, comparing it to those of accused who were tried by various international and national courts, whose complexity cannot be compared to this case, and by invoking the speed of international proceedings that are not of a criminal nature and that are mainly conducted without the appearance of witnesses. The Chamber also notes that there have been some trials, especially at the ICTR, that lasted much longer than this case and to which the Accused avoids referring.[61]

31. The Chamber further notes that since 10 February 2010, there have been no particular delays to the trial or any suspensions. Finally, the Chamber deems that since 10 February 2010 the Accused has still not seized the Chamber of a request for provisional release pursuant to Rule 65 (B) of the Rules. Consequently, the Chamber finds that the Accused does not present any evidence in his Motion that would lead to conclude that an abuse of process had occurred and, more specifically, the excessive nature of his detention in light of procedural developments in the case that arose after 10 February 2010.

32. Consequently, the Chamber deems that the Motion should be dismissed.

[61] *See* in particular, *The Prosecutor v. Pauline Nyiaramasuhuko et al.* (Case No. 98-42-T).

VI DISPOSITION

33. For the foregoing reasons,

PURSUANT TO Articles 20 and 21 of the Statute and Rules 54 and 73 (A) of the Rules,

DECLARES that the Motion of 8 July 2011 **HAS BECOME MOOT,**

ALLOWS the number of words in the Motion and Response to be exceeded,

DISMISSES the Motion.

The President of the Chamber, Judge Jean-Claude Antonetti, attaches a separate opinion to the present Decision.

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

/signed/
Jean-Claude Antonetti
Presiding Judge

Done this twenty-ninth day of September 2011
At The Hague
The Netherlands

[Seal of the Tribunal]