



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-01-42/2-I

Date: 31 January 2008

Original: English

BEFORE THE REFERRAL BENCH

Before: Judge Alphons Orie, Presiding
Judge O-Gon Kwon
Judge Kevin Parker

Registrar: Mr. Hans Holthuis

Order of: 31 January 2008

PROSECUTOR

v.

VLADIMIR KOVAČEVIĆ

CONFIDENTIAL

ORDER TO THE PROSECUTION

The Office of the Prosecutor

Mr. Serge Brammertz

THE REFERRAL BENCH 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”);

NOTING that on 17 November 2006 the Referral Bench referred the present case to the authorities of the Republic of Serbia in order that those authorities forthwith refer the case to the appropriate court for trial within the Republic of Serbia, and further ordered the Prosecution to file an initial report to the Referral Bench on the progress made by the Prosecutor of the Republic of Serbia in the prosecution of Vladimir Kovačević (“Accused”) six weeks after transfer of the evidentiary material and, thereafter, every three months, including information on the course of the proceedings before the competent national court after commencement of trial, such reports to comprise or include any reports received by the Prosecution from the international organisation monitoring or reporting on the proceedings;¹

NOTING the “Prosecutor’s Third Progress Report,” filed on 14 December 2007, where it is reported that on 29 October 2007 the Belgrade Military Medical Commission (“Commission”), following an order by the Presiding Judge of the Out of Trial Chamber of the Belgrade District Court (“District Court”), concluded the following:²

- Kovačević’s mental disability is of a chronicle [sic] nature, so no significant improvement is expected;
- The Accused is not capable to stand trial; and
- At the time of the commission of the alleged crime, the Accused was accountable;

NOTING that in light of the Commission’s findings on 5 December 2007 the District Court dismissed the indictment against the Accused pursuant to Article 349(1) of the Criminal Procedure Code of the Republic of Serbia;³

NOTING the Prosecution’s submission that:

unless ordered otherwise by the Referral Bench, this constitutes, for the time being, the [Prosecution’s] final report in the *Kovačević* case in light of the [...] dismissal of the indictment. [The Prosecution] will, however, remain in close contact with the [War Crimes Prosecutor’s Office of the Republic of Serbia] and the [Organization for the Co-operation and Security in Europe] regarding the monitoring of the Accused’s mental health and future procedural steps. In case the proceedings against the Accused before the War Crimes Trial Chamber resume, the

¹ *Prosecutor v. Vladimir Kovačević*, Case No. IT-01-42/2-I, Decision on referral of case pursuant to Rule 11bis with confidential and partly ex parte annexes, filed on 17 November 2006.

² *Prosecutor v. Vladimir Kovačević*, Case No. IT-01-42/2-I, Prosecutor’s third progress report, filed on 14 December 2007 (“Third Progress Report”), para. 9.

³ Third Progress Report, para. 10.

[Prosecution] will immediately notify the Referral Bench and from then on again submit regular progress reports.⁴

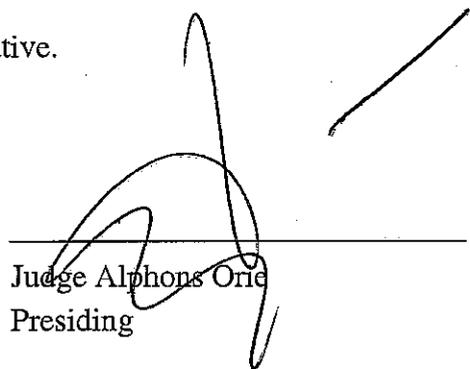
CONSIDERING that the trial in the present case is not imminent in light of the dismissal of the indictment;

PURSUANT to Rule 11 *bis* of the Rules of Procedure and Evidence;

ORDERS the Prosecution:

- to suspend further reporting to the Referral Bench, pursuant to the order of 17 November 2006 until further order;
- to continue to monitor the situation of the Accused, in particular with regard to his health, his fitness to stand trial and any procedural developments affecting him;
- to inform the Referral Bench immediately of any relevant change in this respect.

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



 Judge Alphons Orie
 Presiding

Dated this 31st day of January 2008
 At The Hague
 The Netherlands

[Seal of the Tribunal]

⁴ Third Progress Report, para. 12.