

IT-03-67-PT
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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-03-67-PT

Date: 19 October 2006

Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Patrick Robinson
Judge Frank Höpfel

Registrar: Mr Hans Holthuis

Decision of: 19 October 2006

PROSECUTOR

v.

VOJISLAV ŠEŠELJ

DECISION ON DEFENCE MOTION FOR VARIATION OF TRIAL SCHEDULING

Office of the Prosecutor

Ms Hildegard Uertz-Retzlaff
Mr Dan Saxon
Mr Ulrich Müssemer

Counsel for the Accused

Mr David Hooper
Mr Andreas O'Shea

I. INTRODUCTION

1. The Trial Chamber is seised of the “Defence Motion for Variation of Trial Scheduling Order” (“Motion”) filed on 11 October 2006.
2. In the Motion, the Defence requests that the trial schedule be varied so as to permit less time in court during the initial phase of the trial. The Defence suggests that the Chamber sit two days per week in November and three days per week in December.¹
3. The Defence explains that the extensive evidence and material that has been recently served on it, as well as the organization of necessary administrative functions, has meant that the Defence needs more time to prepare in order to be sufficiently ready for trial.² The proposed schedule would give the Defence that additional time to prepare during the non-court sitting days, while ensuring that the commencement of the trial is not further delayed.³
4. The Prosecution opposes the schedule proposed by the Defence,⁴ and submits that such a schedule would force Prosecution witnesses to either travel back and forth to the Tribunal in an effort to complete their testimonies or compel them to remain in The Hague for extensive periods of time. In addition, the Prosecution argues that this schedule would require extensive planning to effectuate security measures for certain witnesses and their relatives during their extended travel time or extended stays.⁵

II. DISCUSSION

5. Article 20 (1) of the Tribunal’s Statute has bearing on this matter in that it states that the Trial Chambers shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the Rules of Procedure and Evidence, with full respect for the rights of the accused and due regard for the protection of victims and witnesses.
6. The Trial Chamber is mindful of the fact that Counsel for the defence was assigned on 30 August 2006 and, therefore, the relatively short amount of time the Defence has had at its disposal.⁶ The Trial Chamber is also aware of the amount of material and evidence recently disclosed to the Defence and the outstanding motions and administrative issues that need to be dealt with by the Defence before the trial starts, as scheduled on 2 November 2006.

¹ Motion, para. 3

² Ibid., para. 2

³ Ibid., para. 3

⁴ Prosecution’s Response to “Defence Motion for Variation of Trial Scheduling Order” filed on 12 October 2006, para. 2

⁵ Ibid., para. 3

⁶ Decision by the Registry on 30 August 2006.

7. The Trial Chamber accepts that the Defence request for more time is made in good faith, and finds that the relief requested should be granted. The advantage of the schedule proposed by the Defence is that it would not delay the beginning of the trial. Further, the proposed schedule will operate only for a short period of time and would, as such, not affect the overall expeditiousness or fairness of the trial proceedings.

8. As for the protection and convenience of witnesses, the Trial Chamber emphasizes that while granting the Defence request, it will take a flexible approach to hearing witnesses during this period of time to avoid the witnesses being exposed to additional risks or being inconvenienced. Therefore, the two- and three-day schedules for November and December respectively will be applied as averages and, if necessary, the Trial Chamber will sit an additional consecutive third day per week in November and an additional consecutive fourth day per week in December, if this facilitates the completion of the testimony of a witness.

9. The Trial Chamber further advises the Prosecution to schedule its witnesses so as to avoid, to the extent possible, the situations mentioned by the Prosecution in its Response, where witnesses must either repeatedly travel to the seat of the Tribunal or stay in The Hague for extended periods of time in order to be able to conclude their testimonies.

FOR THE FOREGOING REASONS THE CHAMBER HEREBY

GRANTS the Motion, subject to the conditions specified in the present decision.

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



Judge Alphons Orié
Presiding Judge

Dated this 19th day of October 2006
The Hague
The Netherlands

[Seal of the Tribunal]