



United Nations
Nations Unies



International
Criminal Tribunal
for the former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

Press Release . Communiqué de presse

(Exclusively for the use of the media. Not an official document)

REGISTRY

GREFFE

The Hague, 20 May 2003
JL/P.I.S./753-e

TRIAL CHAMBER GRANTS ADDITIONAL 100 TRIAL DAYS FOR THE PROSECUTION TO COMPLETE ITS CASE IN THE MILOŠEVIĆ TRIAL

Please find below the verbatim text of the oral Decision on the Prosecution's Rule 73 bis application, read out by Presiding Judge May on Tuesday 20 May 2003

We'll begin today by giving the Trial Chamber's oral ruling on the Prosecution motion under Rule 73 bis to vary the number of witnesses and the length of time available to present evidence.

On the 10th of April, 2002, the Trial Chamber ordered that the Prosecution should finish its case within one year of that date, that is, 14 months from the commencement of the trial. The Trial Chamber expressed the view that no trial should last longer than that.

On the 25th of the same month, the Appeals Chamber rejected the Prosecution's application for leave to file an interlocutory appeal against the order finding no error in the Trial Chamber's exercise of discretion or prejudice to the Prosecution, but noting that a Trial Chamber may always reconsidering its decision.

At the Pre-Trial Conference for the Croatia and Bosnia part of the case on the 25th of July last year, the Trial Chamber, under Rule 73 bis (C) set the number of Prosecution witnesses at a total of 177, and under Rule 73 bis (E), the time available to the Prosecution for presenting evidence as until the 16th of May of this year. The Trial Chamber said that if circumstances altered during the trial, the Prosecution might apply for variation of the order, such variation only to be made for good cause.

The Prosecution complains that the original order created what they call an anomaly by setting the number of witnesses and fixing a time available. No anomaly was created. The order was perfectly plain. A hundred and seventy-seven witnesses might be called, and the time available was until 16th of May, 2003.

Additional days have been added to the time available brought about by the ill health of the accused. On the 2nd April this year, this was announced to be an additional 54 days, which it is now calculated would result in a finishing date of the 5th September of this year.

As of 16th May, the Prosecution has called 179 witnesses, including 55 in the Bosnia and Croatia part. There have been 192 days of hearing, 95 in the Bosnia and Croatia part.

The Prosecution now applies for an order varying that of the 25th of July to allow its case to continue until the Trial Chamber has heard the evidence of all its witnesses in a schedule to its motion or the witnesses whom the Trial Chamber decides should be heard. Moreover, the Trial Chamber should dispense with any fixed date by which the Prosecution case must be concluded.

There are now some 118 witnesses left on the schedule I've just referred to, estimated to take about 119 days. The Prosecution also asked for a period to call Rule 92 bis witnesses and estimates it could finish its case in January or February next year.

The ground on which the Prosecution seeks this variation is that it is in the interests of justice, under Rule 73 bis (F), to do so, in the circumstances which have become clearer as the trial has progressed. Thus while the Trial Chamber could only make a projection in April 2002, it is now in a better position to make the assessment. The Prosecution claims that it has made every effort to meet the

Internet address: <http://www.un.org/ictv>

Public Information Services/Press Unit

Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands
Tel.: +31-70-512-5356; 512-5343 Fax: +31-70-512-5355

timetable and it cannot resolve the time difficulties without being obliged to abandon significant portions of its core case.

The Prosecution also applies to the Chamber to vary the number of witnesses and says that it will continue to substitute new witnesses if such become available.

The *amici* submit that the motion should be denied since if granted, it would make the Prosecution case excessively long and oppressive to an accused having to cope with this length of trial. They also assert that the amount of exhibits would become unmanageable. They submit that the Prosecution has not showed good cause for variation so late in the trial, having had sufficient notice of the Trial Chamber's view of the trial given, and further submit that it would be wrong for the Trial Chamber to indicate which witnesses should be heard since this would involve the Trial Chamber in the Prosecution of the accused. The Prosecution should be ordered to supply a final list of witnesses in order to enable the accused to have adequate time for preparation of his defence.

The background to the application is Article 21 of the Statute, which provides that the Trial Chamber 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. This, of course, means a trial that is fair to both Prosecution and Defence and expeditious for both. However, the Trial Chamber has a wider public duty to ensure that a trial is expeditious and does not consume too much in the way of international time and resources.

Against this background, Rule 73 *bis* (F) provides that during the trial, the Trial Chamber may grant the Prosecution's request for additional time to present evidence if this is in the interests of justice. Therefore, in the present days, the Trial Chamber must be satisfied that it is in the interest of justice to vary its original order of the 25th July. Put another way, has the Prosecution shown any good cause for the Trial Chamber to vary its original order? Alternatively, have the circumstances altered in such a way that the order should be varied?

It is not possible to say, as the Prosecution submits that the Trial Chamber was not fully informed when it made its original decision. At the time, the trial had been under way for five months. The Prosecution could not complain if there were no extension of time, since it has known for more than a year there would be a time limit and what it was. On the other hand, the Trial Chamber must consider whether it is in the interests of justice so to limit the Prosecution case that it is not able to call as many witnesses as possible relating to its core case.

The Trial Chamber has come to the conclusion that it would be in the interests of justice to allow some variation in the time limit to allow the Prosecution more time to call further witnesses it regards as essential. However, the Trial Chamber is also of the view that if granted in full, the Prosecution case would become excessively long and oppressive to all concerned, in particular the accused who has to meet this case and mount a defence.

Therefore, a balance has to be struck in the interests of justice. In doing so, the Trial Chamber considers in the circumstances of this case that it would be more convenient to express the variation in terms of hearing days rather than to set a time limit as in the original order. Accordingly, the order of the 25th July will be varied to allow the Prosecution 100 days from the 16th May this year as the time available for presenting its evidence. There will be no variation in the order concerning the number of witnesses, but the Trial Chamber has in mind that the Prosecution has not yet identified all its witnesses and that without such a list, it is difficult for the accused adequately to prepare his defence. The Prosecution has indicated that it will finalise the list shortly. The Trial Chamber will keep this matter under review.
