



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-00-39-A
Date: 25 May 2007
Original: English

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Mohamed Shahabuddeen
Judge Mehmet Güney
Judge Andréia Vaz
Judge Theodor Meron

Registrar: Mr. Hans Holthuis

Decision of: 25 May 2007

PROSECUTOR

v.

MOMČILO KRAJIŠNIK

PUBLIC

**DECISION REGARDING REGISTRY SUBMISSION OF 18
MAY 2007**

The Office of the Prosecutor:

Mr. Peter Kremer
Ms. Christine Dahl

The Accused

Momčilo Krajišnik

Previously Assigned Counsel for Mr. Krajišnik

Mr. Colin Nicholls

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),

NOTING the “Registry Submission Pursuant to Rule 33(B) of the Rules and Request for Clarification Regarding the Appointment of Amicus Curiae” (“Registry Submission”), filed 18 May 2007;¹

NOTING that the Registry Submission requests the Appeals Chamber to clarify two issues in relation to the “Decision on Momčilo Krajišnik’s Request to Self-Represent, on Counsel’s Motions in Relation to Appointment of *Amicus Curiae*, and on the Prosecution Motion of 16 February 2007” (“Decision”), issued on 11 May 2007;

OBSERVING that as to the first issue, the Registry asks the Appeals Chamber to confirm “that [t]he Tribunal is to bear the cost of the appointment of *amicus curiae* in this case”;²

OBSERVING that as to the second issue, the Registry asks the Appeals Chamber to confirm “[t]hat the [Registry’s] understanding as regards the role of *amicus curiae* in these proceedings is correct”;³

FURTHER OBSERVING that the Registry gives its understanding of the role of *amicus curiae* in this case in paragraphs 5-6 of the Registry Submission;⁴

CONSIDERING that the Registry’s understanding is correct with regard to both issues;

¹ The Appeals Chamber has also taken note of the “Addendum to Registry Submission Pursuant to Rule 33(B) of the Rules and Request for Clarification Regarding the Appointment of *Amicus Curiae*” (“Addendum”), filed on 23 May 2007 by the Registry, which contains correspondence from Mr. Nicholls to the Registry.

² Registry Submission, para. 7(a).

³ Registry Submission, para. 7(b).

⁴ In combination, these paragraphs read:

The Decision specifies the role of *amicus curiae* in the proceedings as someone who will argue and make submissions to the Appeals Chamber in the interests of the Appellant, while working independently and without instruction from him. The Appeals Chamber further specified that *amicus curiae* is not required to conduct any new factual investigations and that s/he is not a party to the proceedings. In addition, while *amicus curiae* is to make submissions to the Appeals Chamber similar to those which a party would make, the word counts for *amicus curiae* are limited to two-thirds of those available to the parties to the proceedings. Finally, *amicus curiae* is required to attend Status Conferences in person or via tele-conference, and to appear at the oral hearing of the appeal. In light of the above, it is the Registrar’s understanding that while *amicus curiae* is required to make submissions in favour of the Appellant, his/her role in these appellate proceedings is more limited than that of defence counsel, as s/he will not be representing the Appellant.

The Appeals Chamber takes no position on whether or how these factors should affect the level of funding available to *amicus curiae* (an issue raised in the Addendum). The Appeals Chamber considers the Registry more suited to resolve such issues, at least at this point in time.

FURTHER NOTING that the Registry also asks the Appeals Chamber “to set a new deadline for Mr. Nicholls to file a new Notice of Appeal and/or Response Brief as *amicus curiae*, should he accept the appointment as *amicus curiae*”;

CONSIDERING that in the Decision, the Appeals Chamber specified that should Mr. Nicholls serve as *amicus curiae*, then the Notice of Appeal and the Response Brief filed by Mr. Nicholls in his earlier role as Assigned Counsel for Momčilo Krajišnik would be deemed to be the Notice of Appeal and the Response Brief of *amicus curiae* unless, within one week of the issuance of the Decision, Mr. Nicholls filed a new Notice of Appeal and/or Response Brief;⁵

CONSIDERING that the delays caused by the need for clarification and discussions between Mr. Nicholls and the Registry justify an extension of this deadline;

FURTHER CONSIDERING that once the Registry and Mr. Nicholls receive today’s decision, they should be in a position to resolve swiftly whether Mr. Nicholls will accept the appointment as *amicus curiae*;

HEREBY CLARIFIES the Decision by specifying that the Tribunal is to bear the cost of the appointment of *amicus curiae* and that the Registry’s understanding of the role of *amicus curiae*, as set forth in paragraphs 5-6 of the Registry Submission, is accurate;

MODIFIES the timetable given in the Decision, such that Mr. Nicholls, should he become *amicus curiae*, has two weeks from today to file a new Notice of Appeal and/or Response Brief as *amicus curiae*;⁶ and

STATES that if Mr. Nicholls becomes *amicus curiae* but does not file such documents by two weeks from today, then the Notice of Appeal and the Response Brief filed by Mr. Nicholls in his earlier role as Assigned Counsel for Momčilo Krajišnik will be deemed to be the Notice of Appeal and the Response Brief of *amicus curiae*.

⁵ Decision, paras 23 and 27.

⁶ The Appeals Chamber notes that in the Addendum, Mr. Nicholls suggests that, should he become *amicus curiae*, a new deadline applicable to the filing of the Appeal Brief might prove appropriate. The Appeals Chamber disagrees and considers that the deadline set out in the Decision provides ample time for this filing.

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

Dated this 25th day of May 2007,
At The Hague, The Netherlands.



Fausto Pocar
Presiding Judge

[Seal of the Tribunal]