



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: 7 August 2008
Original: English

Before: Judge O-Gon Kwon, Duty Judge
Registrar: Mr. Hans Holthuis
Order of: 7 August 2008

PROSECUTOR

v.

MOMČILO KRAJIŠNIK

PUBLIC

ORDER FOR THE PROSECUTION TO FILE A RESPONSE

The Office of the Prosecutor:

Mr. Peter Kremer QC

The Accused:

Mr. Momčilo Krajišnik

Counsel for the Appellant on the Matter of JCE:

Mr. Alan M. Dershowitz

Amicus Curiae:

Mr. Colin Nicholls QC

I, O-GON KWON, Judge 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 (“International Tribunal”), acting in my current capacity as Duty Judge;

NOTING the “Motion for an Order Directing the Prosecution to Identify Specific References in the Record and to Provide the References, and Copies Thereof, to Mr. Krajišnik and his Counsel” (“Motion”) filed on behalf of Mr. Momčilo Krajišnik (“Applicant”) on 6 August 2008, in which the Applicant requests an order requiring the Prosecution to disclose the specific findings and/or record references which the Prosecution intends to cite at the appeals hearing in order to prove the Applicant’s link to the crimes;¹

NOTING that, pursuant to Rule 28(D)(ii) and (F) of the Rules, where a case has already been assigned to the Appeals Chamber and an application is made within the normal Registry hours and the Appeals Chamber is unavailable, it shall be dealt with by the Duty Judge if he is satisfied as to its urgency or that it is otherwise appropriate to do so in the absence of the Appeals Chamber;

CONSIDERING that this case has been assigned to a bench of the Appeals Chamber but that the International Tribunal is currently in court recess and the Appeals Chamber remains unavailable until the end thereof;

CONSIDERING that the time limit for filing a response to the Motion would ordinarily expire on 18 August 2008,² and the hearing in this case is scheduled for 21 August 2008,³ and that the matter at hand is therefore one of urgency;

FINDING therefore that I am competent to issue an order in advance of a decision on the Motion;

NOTING that, pursuant to “Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the International Tribunal”, dated 16 September

¹ Motion, paras 2 and 3.

² See “Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings before the International Tribunal”, dated 16 September 2005 (“Practice Direction”), para. 13.

³ See “Scheduling Order for Appeals Hearing” issued in the present case on 18 July 2008, p. 2.

2005 (“Practice Direction”), the Prosecution has *prima facie* ten days in which to file a response to the Motion;⁴

NOTING that the Appeals Chamber or a Pre-Appeal Judge may vary any time limit prescribed under the Practice Direction;⁵

NOTING the “Scheduling Order for Appeals Hearing” issued in the present case on 18 July 2008 (“Scheduling Order”), which sets Thursday 21 August 2008 as the date of the appeals hearing in the present case;

CONSIDERING that if the Prosecution takes the full ten days to file a response to the Motion, such response would be filed on 18 August 2008, just three days before the scheduled appeals hearing;

CONSIDERING that three days is not enough time for the Appeals Chamber to meaningfully decide upon the Motion, and, if so decided, for the granting of the Motion to have any meaningful effect;

FINDING that it is in the interests of justice to vary the time limit prescribed under the Practice Direction for the Prosecution to file a response to the Motion;

FOR THE FOREGOING REASONS

ORDER that the Prosecution file any response to the Motion by 12 noon on Monday 11 August 2008.

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



O-Gon Kwon
Duty Judge

Dated this seventh day of August 2008
At The Hague
The Netherlands

[Seal of the Tribunal]

⁴ Practice Direction, para. 13.

⁵ Practice Direction, para. 19.