



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-08-91-PT

Date: 16 January 2009

Original: English

IN TRIAL CHAMBER II

Before: Judge O-Gon Kwon, Presiding
Judge Kimberly Prost
Judge Ole Bjørn Støle

Registrar: Mr. John Hocking, Acting Registrar

Decision: 16 January 2009

PROSECUTOR

v.

**MIĆO STANIŠIĆ
STOJAN ŽUPLJANIN**

PUBLIC

**DECISION ON STOJAN ŽUPLJANIN'S MOTION FOR
THE TRIAL CHAMBER TO RECONSIDER ITS
DECISION OF 15 DECEMBER 2008**

The Office of the Prosecutor:

Mr Thomas Hannis

Counsel for the Accused:

Mr Slobodan Zečević and Mr Slobodan Cvijetić for Mićo Stanišić
Mr Tomislav Višnjić and Mr Igor Pantelić for Stojan Župljanin

TRIAL CHAMBER II (“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 (“Tribunal”);

BEING SEISED of “Stojan Župljanin’s Motion for the Trial Chamber to Reconsider its Decision of 15 December 2008”, filed by Counsel for Stojan Župljanin (“Župljanin Defence”) on 12 January 2009 (“Motion”), in which the Župljanin Defence requests an extension of time in order to file a final notice under Rule 94*bis* of the Rules of Procedure and Evidence (“Rules”) “until 1 June 2009, and in any event a significant time after the Prosecution has supplied of a cross-referenced indictment and a pre-trial brief”;¹

NOTING the “Prosecution’s Response to Stojan Župljanin’s Motion for the Trial Chamber to reconsider its Decision of 15 December 2008”, filed on 13 January 2009 (“Response”), in which the Prosecution asserts that it has complied with the Chamber’s orders and that whether or not to grant an extension of time to the Župljanin Defence is a matter for the Chamber’s discretion;²

RECALLING the Chamber’s “Decision on Stojan Župljanin’s Motion requesting an order that the Prosecution clarify its Motion of 19 November 2008”, filed on 15 December 2008 (“Decision of 15 December 2008”), in which the Prosecution was ordered to provide to the Župljanin Defence and the Chamber cross-references to the relevant provisions in the Consolidated Indictment³ by 19 December 2008, and the Župljanin Defence was ordered to file its response to the Prosecution’s 29 February 2008 Motions⁴ no later than 26 January 2009;⁵

NOTING the “Prosecution’s Submission in Response to Decision on Stojan Župljanin’s Motion Requesting an Order that the Prosecution Clarify its Motion of 19 November 2008, with Confidential Annexes”, filed on 19 December 2008 (“Submission of 19 December 2008”), in which the Prosecution submits that it has updated the cross-references to the Consolidated Indictment in the Annexes to four of its 29 February 2008 Motions,⁶ and that no revision to the annexes of the

¹ Motion, para 18.

² Response, para 3 *et seq.*

³ Consolidated Indictment, 29 September 2008 (“Consolidated Indictment”).

⁴ The five 29 February 2008 Motions are “Motion to amend its Rule 65*ter* Witness List, With Confidential Annexes”, “Prosecution Motion for Admission of Transcripts and Written Transcripts in Lieu of Viva Voce Testimony Pursuant to Rule 92*bis*”, “Prosecution Motion for Admission of Evidence Pursuant to Rule 92*ter*”, “Prosecution Motion for Admission of Evidence Pursuant to Rule 92*quater*”, “Prosecution Notice of Disclosure of Expert Witness Statements under Rule 94*bis*”, all filed on 29 February 2008 (“29 February 2008 Motions”).

⁵ Decision of 15 December 2008, p 4.

⁶ Submission of 19 December 2008, para 2.

Prosecution's Notice of Disclosure of Expert Witness Statements Under Rule 94bis is provided as the original annexes do not contain cross-references to the prior operative indictment;⁷

CONSIDERING that cross-references to the Consolidated Indictment relating to expert witness statements can be found in Confidential Annex 1, Confidential Annex 2 and Confidential Annex 6 to the Prosecution's Submission of 19 December 2008;

NOTING that on 2 December 2008 the Župljanin Defence has been provided with a copy of the Prosecution's Rule 94bis Notice with respect to the proposed expert evidence and that, in the Prosecution's submission, the expert statements and reports had been disclosed to the Župljanin Defence in July 2008;

NOTING the Župljanin Defence's obligation to file, within 30 days of disclosure of expert witness statements and reports, a notice under Rule 94bis(B) of the Rules, indicating whether it accepts the expert witnesses statements and whether it wishes to cross-examine the said expert witnesses;

CONSIDERING that a voluminous amount of material relating to 12 expert witnesses has been disclosed to the Župljanin Defence on 2 December 2008, simultaneously with extensive material under Rules 92bis, 92ter and 92quater of the Rules;

FINDING that, due to the amount of material disclosed to the Župljanin Defence, an extension of time relating to the filing of a notice under Rule 94bis of the Rules will be in the interests of justice;

PURSUANT TO Rules 54, 94bis, and 127(A) of the Rules,

GRANTS the Motion **IN PART**; and

ORDERS the Župljanin Defence to file a notice under Rule 94bis(B) of the Rules by 27 February 2009.

⁷ *Ibid*, para 4.

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



Judge O-Gon Kwon
Presiding

Dated this sixteenth day of January 2009

At The Hague

The Netherlands

[Seal of the Tribunal]