



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-04-81-PT
Date: 16 March 2007
Original: English

IN THE TRIAL CHAMBER

Before: Judge Patrick Robinson, Pre-Trial Judge
Registrar: Mr. Hans Holthuis
Decision of: 16 March 2007

PROSECUTOR

v.

MOMČILO PERIŠIĆ

DECISION ON VARIATION OF WORK PLAN

The Office of the Prosecutor:

Mr. Mark Harmon
Ms. Susan Somers

Counsel for Momčilo Perišić:

Mr. James Castle

I, Patrick Robinson, 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”),

BEING SEISED of the Prosecution and Defence Joint Application to Modify Terms of Work Plan, filed on 16 March 2007, wherein the Parties request the Trial Chamber to modify the Work Plan as follows: to file a joint submission indicating agreement on matters of law one month subsequent to the filing of the Defence’s pre-trial brief; to file a joint submission indicating agreement on matters of fact a reasonable period of time subsequent to the Trial Chamber’s Rule 73*bis* decision; and, to file Rule 92 *bis*, *ter* and *quater* motions following the transfer of this case to a Trial Chamber at the end of the pre-trial phase,¹

CONSIDERING the Order following a Status Conference, filed on 11 October 2006 (“Order”), to which the Work Plan was attached, which provides that the Parties file a joint submission setting out agreement on matters of law and what points have not been agreed upon and why by 19 March 2007,²

CONSIDERING that the Work Plan provides that the Office of the Prosecutor (“Prosecution”) is to file a Motion identifying witnesses to be called under Rule 92 *bis*, and identifying which *viva voce* witnesses would be called in accordance with Rule 92 *ter* (“Prosecution Motion”) no later than 2 April 2007,³

CONSIDERING that there is a body of case law favouring the disposal of Motions pursuant to Rule 92 *bis*, 92 *ter* and 92 *quater* of the Rules of Procedure and Evidence (“Rules”), involving as it does a critical examination of the content of the evidence and manner in which it is to be presented at trial, by the Trial Chamber that will hear the case,⁴

CONSIDERING that a date for the commencement of trial has not yet been set for this case,

¹ Prosecution and Defence Joint Application to Modify Terms of Work Plan, filed on 16 March 2007, para. 16.

² *Prosecutor v Perisic*, Order Following Status Conference, IT-04-81 PT, 11 October 2006

³ *Ibid.*

⁴ See e.g. *Prosecutor v. Zeljko Mejakic et al.*, Case No. IT-02-65-PT, Decision on Prosecution’s motion for admission of trial transcripts and statements pursuant to Rule 92 *bis* and Rule 89(F) and protective measures, 22 October 2004; *Prosecutor v. Sefer Halilović*, Case No.: IT-01-48-PT, Order on Prosecution application for admission of evidence under Rule 92 *bis*, 22 October 2004; *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on the admission of

CONSIDERING that the Work Plan calls for this case to be ready for trial no later than 30 April 2007, which is less than 30 days from the date that the Prosecution Motion was scheduled to be filed and, therefore, no significant delay would be encountered in delaying the Prosecution Motion until the case is trial ready,

CONSIDERING that granting the Joint Application to Modify the Terms of the Work Plan will not delay the orderly and timely completion of pre-trial preparation of this case, and that there are reasons which appear to be sound contained in the application for modifying the Work Plan as requested,

PURSUANT TO Rules 54 and 65 *ter*(D)(ii) of the Rules,

HEREBY MODIFIES the Work Plan, attached to the Order Following Status Conference of 11 October 2006, as follows:

- 1) the Parties are ordered to file a joint submission indicating agreement on matters of law by 30 April 2007;
- 2) the Parties are ordered to file a joint submission indicating agreement on matters of fact no later than 14 days subsequent to the Trial Chamber's issuance of its Rule 73 *bis* decision or order; and
- 3) the Prosecution are to file any Rule 92 *bis*, *ter* and *quater* motions by 30 April 2007.

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



Patrick Robinson
Pre-Trial Judge

Dated this sixteenth day of March 2007
At The Hague
The Netherlands

[Seal of the Tribunal]

rule 92 *bis* written statements, 4 April 2006; *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on the admission of rule 92 *bis* witness transcripts, 4 April 2006.