



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: 26 September 2007

Original: English

IN THE TRIAL CHAMBER

Before: Judge Patrick L. Robinson, Presiding
Judge Krister Thelin
Judge Frank Höpfel

Registrar: Mr. Hans Holthuis

Order of: 26 September 2007

PROSECUTOR

v.

MOMČILO PERIŠIĆ

PUBLIC AND EX PARTE

**FURTHER DECISION ON SECOND PROSECUTION APPLICATION PURSUANT
TO RULE 54 BIS**

The Office of the Prosecutor

Mr. Mark B. Harmon

The Republic of Serbia

THIS TRIAL 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 the “Prosecution’s request for a hearing in respect of the Republic of Serbia’s non-compliance with requests for assistance”, filed on 29 June 2007 (“Motion”),¹ wherein the Office of the Prosecutor (“Prosecution”) requests a hearing be held to present evidence that the Republic of Serbia has not complied with Request for Assistance (“RFA”) 1029-A, and that the Republic of Serbia has not fully complied with RFA 1350,²

NOTING the “Decision on Second Prosecution Application Pursuant to Rule 54 *BIS*”, issued on 20 July 2007 (“Chamber’s Decision”), in which this Chamber invited the Republic of Serbia to re-examine its compliance with the subject RFAs and to file a report with the Chamber no later than 9 August 2007, and further ordered the Prosecution to file a response to the report of the Republic of Serbia no later than 16 August 2007,

NOTING that, pursuant to this Chamber’s Decision of 20 July 2007, the Republic of Serbia submitted its report on 8 August 2007, which was filed with the Tribunal on 13 August 2007, and detailed the efforts which the Republic of Serbia had undertaken to comply with RFA 1029-A and 1350³ and in which the Republic of Serbia states that RFA 1029-A is “highly imprecise both in comparison to the preceding RFA 1029, and to the other Prosecution’s RFAs in general”⁴,

NOTING that the Prosecution filed its response to the Republic of Serbia’s Report on 17 August 2007⁵ (“Prosecution Response”), in which the Prosecution requests that the Chamber issue a decision ordering the Republic of Serbia to provide final responses to RFA 1029-A and RFA 1350 no later than 27 August 2007, ordering the Prosecution to file a supplemental response on the issue of whether the Republic of Serbia has complied with RFA 1029-A and RFA 1350 by 14 September 2007, and to reserve any decision on the

¹ The cover page of the Motion was corrected. See “Prosecution’s corrigenda to cover page of request for a hearing in respect of the Republic of Serbia’s non-compliance with requests for assistance,” 2 July 2007.

² Motion, para. 1.

³ “Republic of Serbia’s Report to the Trial Chamber’s Decision on Second Prosecution Application Pursuant to Rule 54 *BIS*” (“Republic of Serbia’s Report”), 13 August 2007.

⁴ Republic of Serbia’s Report, para. 4.

⁵ “Prosecution’s Response to Republic of Serbia’s Report Re The Trial Chamber’s Decision on Second Prosecution Application Pursuant to Rule 54*BIS*”, 17 August 2007, filed *Ex Parte* and Confidential.

Prosecution's application for an order pursuant to Rule 54 *bis* until after these reports have been received,⁶

NOTING this Chamber's Further Decision on Second Prosecution Application Pursuant to Rule 54 *bis* in which the Republic of Serbia was invited to file a further report on the progress being made with respect to the RFAs 1029-A and 1350 by 27 August 2007, and the Prosecution to respond to that report by 14 September 2007,⁷

NOTING that the Republic of Serbia filed its report on 27 August 2007 with the Chamber, and indicated that it had fully complied with RFA 1029-A and that it anticipated being able to provide the documents necessary by 14 September 2007,⁸

NOTING the Prosecution filed its Supplemental Response on 14 September 2007,⁹ reporting that it is satisfied that Serbia has fully complied with RFA 1029-A,¹⁰ and requested that the Prosecution be permitted to file a supplemental report on 28 September 2007 concerning compliance with RFA 1350,¹¹

CONSIDERING that the Trial Chamber recognises the importance of full compliance with RFA 1350,

CONSIDERING, however, that the Republic of Serbia has complied with RFA 1029-A, and appears to be making reasonable efforts at this time to comply with RFA 1350 submitted by the Prosecution,

PURSUANT TO Article 29 of the Statute of the Tribunal and Rules 54 and 54 *bis* of the Rules of Procedure and Evidence of the Tribunal,

HEREBY URGES the Prosecution and the Republic of Serbia to continue to resolve the matters remaining in RFA 1350, and **ORDERS** the Prosecution to file a supplemental

⁶ Prosecution Response, para. 15.

⁷ "Further Decision on Second Prosecution Application Pursuant to Rule 54 *bis*, 24 August 2007.

⁸ Republic of Serbia's Responses to Trial Chamber's Further Decision on Second Prosecution Application Pursuant to Rule 54 *bis*, 27 August 2007.

⁹ Prosecution's Supplemental Response on the Compliance of the Republic of Serbia in Respect of RFA 1029-A and RFA 1350, 14 September 2007.

¹⁰ *Ibid.*, para. 6.

¹¹ *Ibid.*, para. 7.

response on the compliance of the Republic of Serbia with RFA 1350 by 28 September 2007.

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



Patrick Robinson
Presiding
Pre-Trial Judge

Dated this 26th day of September 2007
At The Hague
The Netherlands

[Seal of the Tribunal]