



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-04-74-T
Date: 27 September 2007
Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti
Judge Árpád Prandler
Judge Stefan Trechsel
Reserve Judge Antoine Kesia-Mbe Mindua

Registrar: Mr Hans Holthuis

Order of: 27 September 2007

THE PROSECUTOR

v.

**Jadranko PRLIĆ
Bruno STOJIĆ
Slobodan PRALJAK
Milivoj PETKOVIĆ
Valentin ČORIĆ
Berislav PUŠIĆ**

PUBLIC

SCHEDULING ORDER

The Office of the Prosecutor:

Mr Kenneth Scott
Mr Douglas Stringer

Counsel for the Accused:

Mr Michael Karnavas and Ms Suzana Tomanović for Jadranko Prlić
Ms Senka Nožica and Mr Karim A.A. Khan for Bruno Stojić
Mr Božidar Kovačić and Ms Nika Pinter for Slobodan Praljak
Ms Vesna Alaburić and Mr Nicholas Stewart for Milivoj Petković
Ms Dijana Tomašegović-Tomić and Mr Dražen Plavec for Valentin Čorić
Mr Fahrudin Ibrišimović and Mr Roger Sahota for Berislav Pušić

1. TRIAL CHAMBER III (“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”), **proprio motu**, renders this order for the purpose of organising the trial phase following the presentation of the Prosecution’s case.

2. The Chamber recalls that this issue was raised with the Parties during a meeting held pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence (“Rules”) on 9 July 2007 in the presence of the Chamber’s senior legal officer. During this meeting the Parties put forth arguments concerning the presentation of oral arguments pursuant to Rule 98 *bis* and the submission of exhibit and witness lists pursuant to Rule 65 *ter* (G) of the Rules. Counsel for the Accused Prlić, Čorić and Pušić informed the Chamber’s senior legal officer that they would need two hours each to present their oral arguments, while Counsel for the Accused Stojić, Praljak and Petković expect they will need from three to four hours each.¹ Counsel for the Accused Stojić furthermore announced that they would like to submit certain parts of their arguments in writing.² For its part, the Prosecution requested the Chamber to ask the Defence to present an outline of their line of reasoning before presenting their oral submissions so that the Prosecution would be able to prepare itself.³ Counsel for the Accused also indicated that they would need from four to six months between the presentation of their oral submissions pursuant to Rule 98 *bis* of the Rules and the filing of exhibit and witness lists pursuant to Rule 65 *ter* (G) of the Rules.⁴

3. In order to ensure the fair and expeditious conduct of the proceedings, the Chamber deems it necessary to inform the Parties here and now of the deadlines for presentation of their oral submissions pursuant to Rule 98 *bis* of the Rules, the filing of lists pursuant to Rule 65 *ter* (G) of the Rules, the date of the pre-defence conference pursuant to Rule 73 *ter* of the Rules and the beginning of the presentation of the Defence case. The Chamber starts from the hypothesis that the Defence will file motions pursuant to Rule 98 *bis* of the Rules and that there will be a phase in which the Defence presents its case after a decision by the Chamber in this regard. The

¹ Trial transcript of 9 July 2007, pp. 479-481.

² Trial transcript of 9 July 2007, pp. 479 and 480.

³ Trial transcript of 9 July 2007, pp. 482 and 483.

⁴ Trial transcript of 9 July 2007, pp. 485-488.

Chamber notes that this hypothesis is envisaged solely in order to organize the conduct of the proceedings should the Chamber decide to continue the trial after rendering a decision pursuant to Rule 98 *bis* of the Rules.

4. The Chamber notes that according to the Registry's breakdown of 21 September 2007,⁵ the Prosecution has another 64 hours available to complete the presentation of its case against the Accused. The Chamber considers that this phase of the proceedings should therefore end around mid-December 2007 and that the oral submissions pursuant to Rule 98 *bis* of the Rules could be presented as of 7 January 2008.

5. The Chamber recalls pursuant to Rule 98 *bis* of the Rules that the submissions presented in view of this Rule are to be presented solely in oral form. The Chamber will therefore not allow written submissions in this regard.

6. The Chamber recalls that it is aware of the Defence's heavy work load at this phase of the proceedings. Preparing the cross-examination of Prosecution witnesses and responding to motions requesting the admission of exhibits presented by the Prosecution requires time, which could cause certain difficulties with regard to preparing filings pursuant to Rule 65 *ter* (G) of the Rules. The Chamber notes, however, that according to the Tribunal's jurisprudence, it falls upon the Accused to prepare their defence all throughout the trial and with regard to all the counts against them.⁶ Thus, the Accused must not wait for a decision to be pronounced pursuant to Rule 98 *bis* of the Rules in order to commence the preparation of their defence. Such preparation should actually commence at the pre-trial phase.⁷

7. Pursuant to Articles 20 (1) and 21 (4) of the Statute, the Chamber must ensure that a trial is both fair and expeditious, and that the Defence has adequate time to prepare its defence. In case of conflict, the Chamber deems that considerations linked to the fairness of the trial must take precedence over those linked to its expeditiousness. In making its scheduling decision, the Chamber also bears in mind the fact that by

⁵ *Prosecutor v. Prlić et al.: Time monitoring; period ending 13 September 2007.*

⁶ *Prosecutor v. Milan Milutinović et al*, IT-05-87-T. Order on close of Prosecution case-in-chief, Rule 98 *bis* proceedings, and Defence Rule 65 *ter* filings, 5 March 2007, para. 4; *Prosecutor v. Milan Milutinović et al*, IT-05-87-T, Decision on joint Defence motion to postpone trial schedule, 23 May 2007, para. 3.

⁷ *Ibid.*

allowing sufficient time for the preparation of the Defence case, its conduct will be all the more efficient. Consequently, the Chamber considers it adequate and sufficient to grant a time-limit of approximately one month between the end of the presentation of oral submissions pursuant to Rule 98 *bis* and the filing of lists pursuant to Rule 65 *ter* (G) of the Rules.

8. Furthermore, for the sake of efficiency, the Chamber invites the Accused to present joint witnesses, in particular joint expert witnesses.

9. The Chamber shall render other orders and decisions on the presentation of the Defence case in due time.

FOR THE FOREGOING REASONS,

PURSUANT TO Articles 20 and 21 of the Statute of the Tribunal and Rules 54, 65 *ter*, 73 *ter* and 98 *bis* of the Rules,

ORDERS AS FOLLOWS:

End of the Presentation of the Prosecution's Case

a. The presentation of the Prosecution's case will end no later than 13 December 2007.

Presentation of Submissions Pursuant to Rule 98 *bis* of the Rules

b. Submissions pursuant to Rule 98 *bis* of the Rules will be presented orally from 7 January 2008 to 16 January 2008 at the latest. Each Accused will have three hours to present their submissions, unless the Accused decide to divide up the allocated time differently. The Prosecution will have no more than nine hours for its response. There will be no reply.

Filing of Lists Pursuant to Rule 65 *ter* (G) of the Rules

c. The Accused will submit exhibit and witness lists as provided under Rule 65 *ter* (G) of the Rules on 21 February 2008. Each Accused will file:

i. A list of witnesses they intend to call, specifying:

- The name or pseudonym of each one, including the name of the Accused should they wish to appear as a witness in their own defence pursuant to Rule 85 (C) of the Rules;
- A summary of the facts about which each witness will testify;
- The paragraphs of the Indictment and the counts on which each witness will be heard;
- The total number of witnesses;
- Whether the witness is to be heard in person or whether reference will be made to a written statement or transcript of testimony previously given in other proceedings before the Tribunal in application of Rule 92 *bis*, Rule 92 *ter* or Rule 92 *quater*, and;
- The expected duration of each deposition and the expected total length of the presentation of the defence case.

ii. A list of exhibits they intend to present in support of their case, indicating through which witness, as appropriate, they intend to present them. The same day, the Accused will disclose to the Prosecution copies of the exhibits in question (translated into English as needed).

iii. A list of expert witnesses that the Accused intend to call in support of their case along with their *curriculum vitae* and expert reports.

iv. As far as possible, each Accused should also indicate on the lists filed pursuant to Rule 65 *ter* (G) of the Rules the witnesses and exhibits that will be presented by their co-Accused.

Pre-defence Conference

d. The pre-defence conference pursuant to Rule 73 *ter* of the Rules will take place on 6 March 2008.

Beginning of the Presentation of the Defence Case

e. The presentation of the Defence case will begin on 9 March 2008.

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

/signed/

Jean-Claude Antonetti

Presiding Judge

Done this twenty-seventh day of September 2007

At The Hague

The Netherlands

[Seal of the Tribunal]