



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: 22 November 2007
English
Original: FRENCH

TRIAL CHAMBER III

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

Registrar: M. Hans Holthuis

Date: 22 November 2007

THE PROSECUTOR

vs.

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

PUBLIC

Second Modified 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

TRIAL CHAMBER III (“the 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 (“the Tribunal”),

SEIZED of the *Prosecution notice of the need to extend its case-in-chief to no later than 31 January 2008 and request for modification of the trial calendar* », filed by the Office of the Prosecutor (“the Prosecution”) confidentially on 9 November 2007 (“the Request”), in which it asks that the Chamber modify the Scheduling Order issued by the Chamber on 22 October 2007 (“the Modified Scheduling Order”) and to put back the date for the end of the presentation of its case-in-chief until 31 January 2008,

NOTING the oral response of counsel for the Accused Prlić and counsel for the Accused Petković of 12 November 2007, by which they informed the Chamber that they do not object to the Request,¹

NOTING the confidential *Response of the Accused Stojić, Ćorić and Pušić to Prosecution notice of the need to extend its case-in-chief to no later than 31 January 2008 and request for modification of the trial calendar* filed jointly by counsel for the Accused Stojić, Ćorić and Pušić (“the Joint Defence”) on 12 November 2007 (“the Joint Response”) in which the joint Defence objects to the Request and asks, in the alternative, should the Chamber decide to grant it, that the Chamber consider a period of six weeks between the end of the Prosecution case-in-chief and the presentation of the oral arguments in accordance with Rule 98 *bis* of the Rules of Procedure and Evidence (“the Rules”), as well one month between the end of the presentation of the arguments further to Rule 98 *bis* of the Rules and the filing of the lists in accordance with Rule 65 *ter* (G) of the Rules,

NOTING *Slobodan Praljak’s response to Prosecution notice of the need to extend its case-in-chief to no later than 31 January 2008 and request for modification of the trial calendar*, filed confidentially by counsel for the Accused Praljak (“the Praljak Defence”) on 13 November 2007 (“the Praljak Response” in which it objects to the Request,

NOTING the Scheduling Order issued by the Chamber on 27 September 2007 (“the Scheduling Order”) in which the Chamber *inter alia* set the date for the end of the Prosecution case-in-chief at 13 December 2007,

¹ French transcript, pp. 24291 and 24292.

NOTING the Modified Scheduling Order in which the Chamber modified the Scheduling Order but kept the date of 13 December 2007 for the end of the Prosecution case-in-chief,

CONSIDERING that in support of the Request, the Prosecution submits that according the count of hours prepared by the Registry on 17 October 2007, it still has 48 hours and 46 minutes for presenting its evidence; that it had hoped to be able to complete its case-in-chief on 13 December 2007 but that unforeseen events require that it request that this date be extended,

CONSIDERING that the joint Defence and the Praljak Defence submit that the Prosecution has not demonstrated due diligence in the presentation of its case-in-chief insofar as there were long periods without any witnesses, insofar as it kept the most important witnesses for the end of its case-in-chief, insofar as it filed a great many applications requesting the admission of a great number of pieces of evidence only at the end of its case-in-chief, insofar as it did not plan for time to call the witnesses presented under Rule 92 *bis* of the Rules whose appearance for cross-examination the Chamber is now requesting,

CONSIDERING moreover that the Praljak Defence points out that putting back the date for the end of the Prosecution case-in-chief infringes the right of the accused to be tried within a reasonable time,

CONSIDERING that the joint Defence also points out that the Chamber had granted the Prosecution additional time to present its case-in-chief on the ground that the Prosecution had requested the possibility of calling a certain number of witnesses, witnesses whom, at the current phase of the trial, it longer seems to want to call,

CONSIDERING lastly that the joint Defence is asking that the unused hearing time, that is the days when the Prosecution did not present witnesses even though a courtroom was available, be deducted from its time,

CONSIDERING that the Chamber has reduced the time allocated to the Prosecution to present its case-in-chief from 400 to 293 hours,²

² Revised version of the Decision Adopting Guidelines on the Trial Proceedings, 28 April 2006; Decision on Adoption of New Measures to Bring the Trial to and End within a Reasonable Time, 13 November 2006.

CONSIDERING that subsequently the Chamber granted the Prosecution an additional 23 hours on the ground that the Prosecution wished call certain witnesses, as indicated in an updated witness list, and that it stated that it needs additional time to do so,³

CONSIDERING that in the Scheduling Order, the Chamber considered that the presentation of the Prosecution was to be completed around mid-December 2007,

CONSIDERING however that for many reasons, linked *inter alia* to the health and availability of the Prosecution witnesses and to difficulties in respect of cooperation with certain States, the Prosecution will be unable to complete its case-in-chief on 13 December 2007,

CONSIDERING therefore that the Chamber decides to set the final date for the completion of the Prosecution case-in-chief as 24 January 2008 and to put back the time for the presentation of the oral submissions pursuant to Rule 98 *bis* of the Rules, the filing of the lists in accordance with Rule 65 *ter* (G) of the Rules, the pre-Defence conference pursuant to Rule 73 *ter* of the Rules and the commencement of the Defence case, as indicated below,

CONSIDERING that mindful of the need to ensure that the right of the Accused to a fair and expeditious trial not be infringed, the Prosecution case-in-chief will end on 24 January 2008, whether or not the Prosecution has used all the hours it has been granted,

CONSIDERING that with the exception of several witnesses who will be called to appear in January 2008, the Prosecution case-in-chief should be completed before the start of the Christmas 2007 judicial recess,

CONSIDERING that in so doing the Parties will be able to prepare their oral submissions under 98 *bis* of the Rules starting in mid-December 2007,

CONSIDERING therefore that the Chamber does not consider it necessary to grant a time period between the end of the Prosecution evidence and the presentation of the oral submissions pursuant to Rule 98 *bis* of the Rules,

CONSIDERING lastly that the Chamber has already considered it sufficient to grant a time period of about one month between the end of the presentation of the oral submission under Rule 98 *bis* and the filing of the lists pursuant to Rule 65 *ter* (G) of the Rules,⁴

³Decision Allocating Additional Time for Completion of Case-in-Chief, 22 August 2007.

FOR THESE 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,

PARTIALLY GRANTS the Request,

RECALLS that, in accordance with Rule 98 *bis* of the Rules, the submissions presented under this Rule shall be presented only orally and that the Chamber will not permit the filing of any written submissions in this respect,

MODIFIES the Modified Scheduling Order,

DECIDES that the Prosecution case-in-chief will end on 24 January 2008 at the latest,

DECIDES that all the following deadlines will be put back as indicated in the modified schedule below **AND**

ADOPTS the following modified schedule:

Completion of the Prosecution case-in-chief

- a. The presentation of the Prosecution case-in-chief will end on 24 January 2008 at the latest.

Presentation of the submissions pursuant to Rule 98 *bis* of the Rules

- b. The submissions pursuant to Rule 98 *bis* of the Rules will be presented orally from 28 January 2008 to 6 February 2008 at the latest. Each Accused will have three hours to present his submissions, unless the Accused decide to distribute the time allocated differently. The Prosecution will have no more than nine hours for its response. There will be no reply.

⁴ Ordonnance portant calendrier, par. 7.

Filing of the lists pursuant to Rule 65 *ter* (G) of the Rules

- c. The Accused will file the lists of exhibits and witnesses as provided in Rule 65 *ter* (G) of the Rules on 3 March 2008. They will each have:
- i. A list of the witnesses they intend to call which will state:
 - The name or pseudonym of each one; including the name of the Accused should he wish to appear as a witness for his own defence, in accordance with Rule 85 (C) of the Rules;
 - A summary of the facts on which each witness will testify;
 - The paragraphs of the Indictment and the counts to which each witness will testify;
 - The total number of witnesses;
 - If the witness will testify in person, or if pursuant to Rule 92 *bis*, Rule 92 *ter* or Rule 92 *quater*, a written statement or the transcript of testimony previously given in other proceedings before the Tribunal will be used;
 - The anticipated length of each testimony and the total anticipated length of the presentation of the Defence evidence.
 - ii. A list of the exhibits which they intend to present in support of the evidence they will use with an indication of which witness, if such is the case, they will present it through. On the same day, the Accused will provide to the Prosecution copies of the exhibits in question (with translation into English if needed).
 - iii. A list of the expert witnesses whom the Accused intend to present in support of their evidence and the *curriculum vitae* of those expert witnesses and the expert reports.

- iv. To the extent possible, each Accused must indicate on his lists filed under Rule 65 *ter* (G) the witnesses and exhibits which will also be presented by his co-Accused.

Pre-Defence Conference

- d. The pre-Defence conference pursuant to Rule 73 *ter* of the Rules will be held on 13 March 2008.

Commencement of the presentation of the Defence case

- e. The presentation of the Defence case will commence on 17 March 2008.

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

Jean-Claude Antonetti
Presiding Judge of the la Chamber

Done this 22nd day of November 2007
At The Hague, The Netherlands

[Seal of the Tribunal]