

IT-01-42-A
1748 - A 1742
15 September 2006

1748
113.

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

Case No : IT-01-42-A

IN THE APPEALS CHAMBER

BEFORE: Judge Fausto Pocar, Presiding
Judge Mehmet Güney
Judge Andréia Vaz
Judge Theodor Meron
Judge Wolfgang Schomburg

REGISTRAR: Mr. Hans Holthuis

DATE FILED: 15th of September 2006

THE PROSECUTOR

V.

PAVLE STRUGAR

**DEFENCE NOTICE
OF
WITHDRAWING APPEAL**

THE OFFICE OF THE PROSECUTOR:

Ms. Helen Brady
Ms. Michelle Jarvis
Mr. Xavier Tracol

COUNSEL FOR GEN. PAVLE STRUGAR:

Mr. Goran Rodić
Mr. Vladimir Petrović

II DISCUSSION

4. During the Appeal proceedings in this case, the parties have, under the guidance of the Pre-Appeals Judge, contemplated on numerous occasions the venue in which the said process should proceed.

5. The parties have debated the said issue in detail during the status conferences held on the 12th of December 2005 and 31st of August 2006, as well as on the Rule 65^{ter} conferences held on the 30th of March and 11th of May 2006.

6. Moreover, on the 8th of May 2006, a conclusion was reached by the Government of the Republic of Montenegro (hereinafter "Montenegro"), in accordance with the instructions of the Pre-Appeals Judge issued at the Rule 65^{ter} conference held on the 30th of March 2006.

7. On the 11th of September 2006, the Defence has filed its "Defence Notice with Confidential Annex", whereby it has submitted the latest medical reports pertaining to the state of health of General Strugar. These medical reports are the findings of neuropsychiatry, neuropsychology, urology and orthopaedics physicians respectively.

8. General Strugar has evaluated the hitherto course of the Appeal proceedings. He has decided to withdraw his appeal to the Trial Chamber Judgment dated the 31st of January 2005. General Strugar's authorization to his counsel to withdraw the Appeal on the Judgment dated the 31st of January 2005 is annexed hereto.

9. General Strugar has reached such a decision based on extraordinary humanitarian circumstances that exist in his case. The said extraordinary humanitarian circumstances relate to his overall complex and poor state of health, old age and family situation.²

10. General Strugar has reached the aforesaid decision after being informed that there exist no legal impediments which could prevent him from serving the remainder of his prison sentence in Montenegro.³

11. By this decision, the Defence submits that the conditions for General Strugar's swift transfer to serve the remainder of his prison sentence in Montenegro are fulfilled, in context with the discussions from the previous status and Rule 65^{ter} conferences.


² The aforesaid can be seen through adequate evidence contained in the case.

³ Transcript from status conference held on the 31st of August 2006, p. 61, lines 17 – 25.


III CONCLUSION

12. The Defence therefore, pursuant to the will and decision of General Strugar, hereby withdraws the Appeal on the Judgment dated the 31st of January 2005.

Counsel for the Accused:



GORAN RUDIĆ
Lead Counsel



VLADIMIR PETROVIĆ
Co-Counsel

Dated this fifteenth day of the month of September, the year MMVI
In The Hague
The Kingdom of the Netherlands

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ANNEX

THE OFFICE OF THE PROSECUTOR:

Ms. Helen Brady
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Mr. Xavier Tracol

COUNSEL FOR GEN. PAVLE STRUGAR:

Mr. Goran Rodić
Mr. Vladimir Petrović

On the 2nd of May 2005 and the 8th of July 2005, I have submitted a notice of appeal and appeal brief respectively, against the Judgment of the Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia dated the 31st of January 2005, pursuant to which I was found guilty and sentenced to a prison sentence in the duration of 8 years.

I herewith authorize my counsel, Goran Rodić, Attorney-at-Law and Vladimir Petrović, Attorney-at-Law, to fully withdraw the Appeal that was filed by the Defence against the Judgment dated the 31st of January 2005.

I hereby confirm that I am informed and aware of all of the legal consequences of my above decision, including the fact that, once the Appeal is withdrawn, there is no possibility of subsequent reconsideration of the Judgment, pursuant to which I am convicted, in the Appellate proceedings, and having the same abolished or altered in my favor.

In The Hague, 15th of September 2006

/signed/

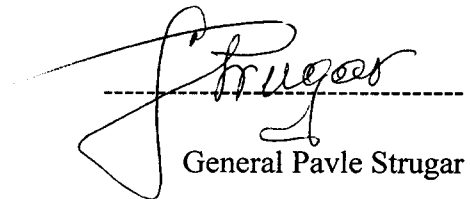
General Pavle Strugar

Na Presudu Pretresnog veća Medjunarodnog Tribunala za bivšu Jugoslaviju od 31.01.2005. godine kojom sam oglašen krivim i osuđen na kaznu zatvora u trajanju od 8 godina, uložio sam najavu žalbe dana 02.03.2005., te žalbeni podnesak dana 08.07.2005. godine.

Ovim ovlašćujem moje braniocice, advokate Gorana Rodica i Vladimira Petrovica da u celosti povuku žalbu koja je izjavljena od strane odbrane na Presudu od 31.01.2005. godine.

Ovim takođe potvrđujem da sam upoznat sa svim pravnim posledicama moje odluke iz prethodnog stava, uključujući i činjenicu da nakon povlačenja žalbe ne postoji pravna mogućnost da se presuda kojom sam osuđen ponovno razmatra u žalbenom postupku, i ukine ili preinaci u moju korist.

U Hagu, 15.09.2006. godine



General Pavle Strugar