



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: IT-01-42-PT
Date: 28 December 2001
Original: English

DUTY JUDGE

Before: Judge David Hunt
Registrar: Mr Hans Holthuis
Decision of: 28 December 2001

PROSECUTOR

v

Pavle STRUGAR

DECISION ON MOTION BY DEFENCE FOR EXTENSION OF TIME

The Office of the Prosecutor:

Ms Joanna Korner

Counsel for the Accused:

Mr Goran Rodić
Mr Vladimir Petrović

1. The accused, Pavle Strugar (“Strugar”), has applied for an extension of time in which to file a preliminary motion in relation to the indictment.¹ Strugar entered a plea to the indictment on 25 October last,² but was granted provisional release on 20 November and he was released on 1 December.³ Disclosure pursuant to Rule 66(A)(i) of the Rules of Procedure and Evidence (“Rules”) was completed on 4 December,⁴ thus fixing Strugar’s time limit for filing a preliminary motion as 3 January 2002.

2. The basis for the application is that Strugar has been receiving medical treatment which was not completed until 25 December, when implanted J stents were removed.⁵ It is said that Strugar’s counsel have been unable to discuss the disclosed material with him due to his medical condition, but they expect to be able to do so “in days to come”.⁶ The supporting material is said to very voluminous, and that discussion of that material and “other aspects important for filing a preliminary motion” will not be possible before the expiration of that time limit.⁷ An extension of that time limit until 18 January is sought.⁸

3. The Motion does not identify the nature of the preliminary motion which it is contemplated will be filed. It is not immediately apparent from the Motion how it could be necessary to discuss the supporting material with Strugar before filing a preliminary motion which challenged either the form of the indictment or the jurisdiction of the Tribunal, as the validity of each depends upon the sufficiency of what is pleaded, not upon the sufficiency of the supporting material.⁹ Nevertheless, it is always the wiser course for counsel to consult their client fully before embarking upon a step as significant as filing a preliminary motion, with the delays which such a process may well entail. Some delay is reasonable, in the circumstances which have been outlined, for that consultation to take place. Moreover, the prosecution has, very fairly, indicated orally that it does not object to the relief sought. Good cause has therefore been established for the relief sought.

4. Accordingly, pursuant to Rule 127, I enlarge the time prescribed by Rule 72 for the filing of a preliminary motion to 18 January 2002.

¹ Defence Request for Extension of Time, 27 Dec 2001 (“Motion”).

² Motion, par 1.

³ *Ibid*, par 2.

⁴ *Ibid*, par 3.

⁵ *Ibid*, par 5.

⁶ *Ibid*, par 6.

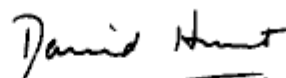
⁷ *Ibid*, par 7.

⁸ *Ibid*, par 9.

⁹ *Prosecutor v Brđanin*, Case IT-99-36-PT, Decision on Motion to Dismiss Indictment, 5 Oct 1999; pars 10-23; interlocutory appeal unsuccessful: Decision on Interlocutory Appeal from Decision on Motion to Dismiss Indictment Filed Under Rule 72, 16 Nov 1999.

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

Dated this 28th day of December 2001,
At The Hague,
The Netherlands.



Judge David Hunt
Duty Judge

[Seal of the Tribunal]