



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-05-88/2-T

Date: 26 May 2010

Original: English

IN TRIAL CHAMBER II

Before: Judge Christoph Flügge, Presiding
Judge Antoine Kesia-Mbe Mindua
Judge Prisca Matimba Nyambe

Registrar: Mr. John Hocking

Order/Decision: 26 May 2010

PROSECUTOR

v.

ZDRAVKO TOLIMIR

PUBLIC

**DECISION ON ZDRAVKO TOLIMIR'S SUBMISSION CONCERNING
THE POSSIBLE TRIAL SCHEDULE FOR JUNE**

Office of the Prosecutor
Mr. Peter McCloskey

The Accused
Zdravko Tolimir

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 (“Chamber” and “Tribunal”, respectively);

BEING SEISED OF “Zdravko Tolimir’s Submission Concerning the Possible Trial Schedule for June” submitted by the Accused Zdravko Tolimir (“Accused”) on 10 May 2010 and filed in the English version on 13 May 2010 (“Motion”);

NOTING the Accused’s submission that the following circumstances should be considered when determining the pace of the trial; (i) the Accused’s sleep deprivation resulting from half hourly checks at the Detention Unit (“UNDU”);¹ (ii) the large volume of Rule 92 *ter* witnesses which requires an increased amount of preparation prior to proceedings in the courtroom;² (iii) the need for a review of, *inter alia*, the large quantity of recent disclosure by the Prosecution and in particular, the confidential material from the *Krstić, Blagojević and Jokić*, and *Popović et al.* cases;³ (iv) the need for a review of the Judgement in the *Popović et al.* case, expected to be issued on 10 June 2010;⁴ (v) the unresolved issue concerning the engagement of additional defence team members, a matter currently pending before the President;⁵ and, (vi) the fact that in other cases of self-represented accused a practice has been established to sit two to three trial days per week.⁶

NOTING the Accused’s submission that for the reasons set out above, the Trial Chamber should continue the current practice of sitting only two days a week;⁷

NOTING the “Prosecution’s Response to Zdravko Tolimir’s Submission Concerning the Possible Trial Schedule for June” filed on 18 May 2010 (“Response”), whereby the Prosecution submits that (i) on the basis of medical reports and records that it has been privy to, it can see no valid medical reason for UNDU’s continuance of half hourly medical checks of the Accused;⁸ (ii) a trial schedule of two sitting days a week creates substantial difficulties in securing witness appearances and, as the parties have previously been alerted to expect to sit for more days in June, the Prosecution has already scheduled witnesses for the month of June accordingly;⁹ (iii) with respect to staffing issues,

¹ Motion, paras. 3, 8.

² Motion, paras. 4-5, 9, 13.

³ Motion, paras. 6, 7.

⁴ Motion, para. 10.

⁵ Motion, para. 12.

⁶ Motion, para. 11.

⁷ Motion, para. 15.

⁸ Response, paras. 3-4.

⁹ Response, paras. 5-6.

the Accused has elected to represent himself so that if the proceedings are unduly delayed as a result of this choice, the status of self-representation may have to be revisited;¹⁰ and, finally (iv) now that the Accused has linked his health to the trial schedule and placed the issue before the Chamber, any increased sittings should be based upon an assessment of the Accused's physical conditions and capacities as a self-represented Accused.¹¹

CONSIDERING that the pace of this trial must be determined on the basis of the trial proceedings in the instant case and the individual circumstances of the Accused, and should not be affected by the practice applied in cases of other self-represented accused before the Tribunal;

CONSIDERING that in view of the large amount of confidential materials which have recently been disclosed to the Defence as well as the expressed need of the Accused to review the *Popović et al.* Judgement after its issuance on 10 June 2010, sitting four days each week in June would be unduly burdensome for the Accused;

NOTING that the Chamber has recently been advised that an additional defence team member has been assigned to the Accused's defence team;¹²

NOTING particularly the submission by the Prosecution that it has already scheduled a significant amount of witnesses for the month of June due to the anticipation of more frequent sitting days during this month;

NOTING that the Chamber must ensure the fair trial rights of the Accused as well as taking into account the need for an expeditious trial;

CONSIDERING that the Chamber deems it appropriate, under these circumstances, to increase the number of sitting days to three days a week until the summer recess, whereafter the Chamber intends to increase the number of trial sitting days;

CONSIDERING that in the context of the above consideration, the Chamber is not of the view, as proposed by the Prosecution, that a review of the Accused's medical status or his capacities as a self-represented Accused is required for the purposes of this decision;

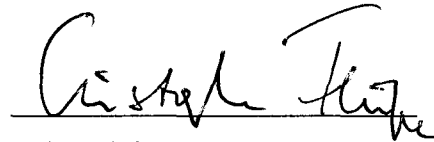
¹⁰ Response, para. 7.

¹¹ Response, para. 6.

PURSUANT to Rule 54 of the Rules of Procedure and Evidence;

HEREBY DENIES the Motion in part and **DECIDES** that the Chamber shall sit on three days each week until the summer recess.

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



Judge Christoph Flügge

Presiding Judge

Dated this twenty-sixth day of May 2010
At The Hague
The Netherlands

[Seal of the Tribunal]

¹² Email from Office of Legal Aid and Detention Matters to Senior Legal Officer on 19 May 2010.