



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-PT

Date: 9 December 2009

Original: English

IN TRIAL CHAMBER II

Before: Judge Kimberly Prost, Presiding
Judge Christoph Flüge
Judge Antoine Kesia-Mbe Mindua

Registrar: Mr. John Hocking

Decision of: 9 December 2009

PROSECUTOR

v.

ZDRAVKO TOLIMIR

PUBLIC

**DECISION WITH REASONS TO FOLLOW ON PROSECUTION MOTION
TO AMEND THE SECOND AMENDED INDICTMENT**

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 (“Tribunal”);

BEING SEISED OF the “Prosecution’s Motion to Amend the Second Amended Indictment”, filed confidentially on 4 November 2009 (“Motion”);

NOTING the “Response to the Prosecution’s Motion to Amend the Second Amended Indictment”, submitted in BCS by the Accused on 24 November 2009 and filed confidentially in English on 2 December 2009 (“Response”);

CONSIDERING that the Third Amended Indictment proposed in the Motion¹ contains new charges and that the material supporting those new charges was attached to the Motion;²

CONSIDERING that it is in the interests of justice and the efficient and expeditious conduct of proceedings to issue immediately a Decision with written reasons to follow on the Motion and to issue orders in regard to the scheduling of hearings;

CONSIDERING that it is in the interests of justice for the amendments proposed in the Motion to be allowed, provided that the start of the trial is postponed;

CONSIDERING that the Prosecution has disclosed to the Accused all material and statements referred to in Rule 66(A)(i) of the Rules of Procedure and Evidence supporting the proposed Third Amended Indictment;

PURSUANT TO Rules 50, 65*bis*, 72, 73*bis* and 84 and paragraph (C)(7) of the Practice Direction on the Length of Briefs and Motions (“Practice Direction”),

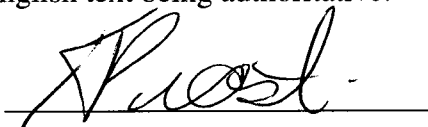
- (1) **GRANTS** leave to the Prosecution to exceed the word limit of the Practice Direction for the purposes of the Motion;
- (2) **GRANTS** leave to the Accused to exceed the word limit of the Practice Direction for the purposes of the Response;
- (3) **GRANTS** the Motion, with written reasons to follow, and **ORDERS** that the Third Amended Indictment, which has been filed as Appendix A to the Motion, shall be the Operative Indictment and is hereby designated as public;

¹ Motion, Appendix A.

² Motion, Appendix D.

- (4) **ORDERS** that the hearing scheduled as a Pre-Trial Conference for Wednesday 16 December 2009 at 2.15 p.m. in Courtroom 1³ shall be redesignated as a Status Conference and that a further appearance shall be held at this Status Conference to enable the Accused to enter a plea on the new charges;
- (5) **ORDERS** that the Accused may file preliminary motions pursuant to Rule 72 in respect of the new charges within 30 days of the service of the translation of the present Decision on the Accused;
- (6) **ORDERS** that the Pre-Trial Conference scheduled for Wednesday 16 December 2009⁴ and the Opening Statement of the Prosecution scheduled for 17 December 2009⁵ be postponed for a period of at least two months until a date to be decided.

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



Kimberly Prost
Presiding Judge

Dated this 9th day of December 2009
At The Hague
The Netherlands

[Seal of the Tribunal]

³ Scheduling Order, 12 November 2009, p. 1.

⁴ *Ibid.*

⁵ *Ibid.*