



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-02-54-T
Date: 14 May 2002
Original: English

IN THE TRIAL CHAMBER

Before: Judge Richard May, Presiding
Judge Patrick Robinson
Judge O-Gon Kwon

Registrar: Mr. Hans Holthuis

Decision of: 14 May 2002

PROSECUTOR

v.

SLOBODAN MILOŠEVIĆ

**DECISION ON PROSECUTION MOTION FOR VARIATION
OF AN ORDER OF THE TRIAL CHAMBER**

The Office of the Prosecutor

Mr. Geoffrey Nice
Mr. Dirk Ryneveld
Ms. Hildegaard Uertz-Retzlaff
Mr. Dermot Groome

The Accused

Slobodan Milošević

Amici Curiae

Mr. Steven Kay
Mr. Branislav Tapušković
Mr. Michail Wladimiroff

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 (“International Tribunal”),

BEING SEISED of the “Prosecution’s Motion for Variation of an Order of the Trial Chamber”, filed by the Office of the Prosecutor (“Prosecution”) on 22 April 2002 (“the Motion”), in which the Prosecution seeks an order that the cross-examination of witnesses on matters of fact by the *amici curiae* be curtailed and only allowed in exceptional circumstances to be determined on a case by case basis, on the grounds that:

- (a) the accused adequately cross-examines such witnesses, taking up approximately 50% of court time;
- (b) further cross-examination by the *amici curiae*, said to take up approximately 5% of court time, does not materially assist the Trial Chamber and does not improve the fairness of the trial in this respect; and
- (c) the interests of all parties in a fair and expeditious trial militates in favour of the restriction of cross-examination by the *amici curiae*,

NOTING the “Response by the Amici Curiae to Prosecution’s Motion for Variation of an Order of the Trial Chamber”, filed by the *amici curiae* on 26 April 2002, in which the *amici curiae* submit that;

- (a) they have been appointed, *inter alia*, to conduct cross-examination of witnesses as appropriate;
- (b) the Prosecution has not shown failings by the Trial Chamber in the discharge of its obligation to control the cross-examination of witnesses by the *amici curiae*; and
- (c) the issue of cross-examination of witnesses should be dealt with by the Chamber on a witness by witness basis unless the Chamber wishes to review the overall scope and role of the *amici curiae*,

NOTING the “Order Inviting Designation of *Amici Curiae*” issued by the Trial Chamber on 30 August 2001, in which the Trial Chamber specifies the kind of assistance it seeks from the *amici curiae*, which includes “cross-examining witnesses as appropriate”,

CONSIDERING the obligation on the Trial Chamber to ensure a fair and expeditious trial,

CONSIDERING that the *amici curiae* have limited their cross-examination of witnesses to what is appropriate and that the Trial Chamber considers the cross-examination so undertaken to have been of assistance to the Trial Chamber in ensuring the fairness of the proceedings and in particular in ensuring that witness testimony is properly tested,

CONSIDERING that the Trial Chamber has controlled cross-examination by the *amici curiae* as appropriate,

CONSIDERING FURTHER that whilst cross-examination by the *amici curiae* has and will inevitably consume some court time, that time has been minimal,

PURSUANT TO Rule 54 of the Rules of Procedure and Evidence of the International Tribunal

HEREBY DENIES the Motion.

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



Richard May
Presiding

Dated this fourteenth day of May 2002
At The Hague
The Netherlands

[Seal of the Tribunal]