

DEVANT LA CHAMBRE PRÉLIMINAIRE DES
CHAMBRES EXTRAORDINAIRES AU SEIN DES TRIBUNAUX
CAMBODGIENS (CETC)

Dossier pénal N° 002/19-09-2007-CETC-BCJI(CP04)

Nom de l'affaire : KHIEU SAMPHAN

Déposé auprès de : LA CHAMBRE PRÉLIMINAIRE

Date du dépôt : Le 08 octobre 2008

Déposé par : La Défense

Langues : Français

Type de document : PUBLIC

ឯកសារដើម	
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL	
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):	
..... 08 / OCT / 2008	
ពេលវេលា (Time/Heure): 16:00	
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: C.A. FAY	

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ថ្ងៃ ខែ ឆ្នាំ ឯកសារច្បាប់ (Certified Date/Date de certification):	
..... 09 / 10 / 2008	
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: UCH ARUN	

I- DOCUMENTS JUDICIAIRES

- 1) Réquisitoire Introductif, 18 juillet 2007, *non inclus- Document judiciaire D3*
- 2) Ordonnance de placement en détention provisoire, 19 novembre 2007, *non inclus- Document judiciaire C26*
- 3) Mémoire en appel de l'ordonnance de placement en détention provisoire en date du 19 novembre 2007, 21 décembre 2007, *non inclus- document judiciaire C26/I/3*
- 4) Décision relative à la demande d'ajournement de l'audience consacrée à l'examen de l'appel interjeté contre l'ordonnance de placement en détention provisoire, 23 avril 2008, *non inclus- Document judiciaire C26/I/25*
- 5) Instructions à la défense concernant l'appel contre la détention provisoire, *non inclus- Document Judiciaire C26/I/27*
- 6) Communication de la position de la défense à la Chambre Préliminaire concernant l'appel de M. KHIEU Samphan contre l'ordonnance de placement en détention provisoire, *Document judiciaire C26/I/28*
- 7) Ordonnance des Co- Juges d'instruction sur les droits et les obligations en matière de traduction, 19 juin 2008, *non inclus- Document judiciaire A190*
- 8) Mémoire en appel de la défense contre le rejet de la demande de traduction du dossier pénal de M. KHIEU Samphan, 22 juillet 2008, *non inclus- Document judiciaire A190/I/1*
- 9) Instructions sur la suite des procédures relatives à l'appel contre l'ordonnance de placement en détention provisoire, 02 octobre 2008, *non inclus- Document judiciaire C26/I/29*
- 10) Rapport d'expertise de M. KHIEU Samphan du 22 mai 2008, *non inclus- Document judiciaire B9/I*
- 11) Rapport médical du 04 juin 2008, Service de médecine A- *non inclus- Document judiciaire B10*
- 12) Rapport d'expertise neurologique, *non inclus- Document judiciaire B11*

II- DROIT CAMBODGIEN**Textes**

- 13) Accord sur les CETC, *non inclus- Document de la Cour*
- 14) Règlement Intérieur sur les CETC, *non inclus- Document de la Cour*

III- DROIT INTERNATIONAL

Jurisprudence

➤ *Tribunal Pénal International pour l'Ex-Yougoslavie (TPIY)*

- 15) TPIY, *Le Procureur c. Strugar*, IT-01-42-A, Retrait de l'appel de l'accusation contre le jugement de la Chambre de Première instance II du 31 janvier 2005, 15 septembre 2006.
- 16) TPIY, *Le Procureur c. Strugar*, IT-01-42-A, Notification du retrait d'appel de la défense, 15 septembre 2006.
- 17) Voir par exemple, TPIY, *Le Procureur c. Cermak et al*, IT-06-90-AR65.2, Notification de retrait d'appel, 18 Janvier 2008.

IT-06-90-AR65.2
A26 - A25
18 January 2008

26
MB

**UNITED
NATIONS**



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-06-90-AR65.2
Date: 18 January 2008
Original: English

BEFORE THE APPEALS CHAMBER

Registrar: Mr. Hans Holthuis

Motion: 18 January 2008

PROSECUTOR

v.

ANTE GOTOVINA, IVAN ČERMAK AND MLADEN MARKAČ

PUBLIC
NOTICE OF WITHDRAWAL OF APPEAL

The Office of the Prosecutor:

Mr. Alan Tieger
Mr. Marks Moore

Counsel for the Accused:

For Ante Gotovina: Mr. Gregory Kehoe, Mr. Luka S. Mišetić and Mr.
Payam Akhavan
For Ivan Čermak: Mr. Cedo Prodanović and Ms. Jadranka Sloković
For Mladen Markač: Mr. Goran Mikuličić

NOTICE OF WITHDRAWAL OF APPEAL

1. In accordance with a specific request of the Accused, the Defence for General Markač hereby respectfully informs the Appeals Chamber that it withdraws its "Defence Interlocutory Appeal Against Duty Judge's Order for the Arrest and Transfer of Accused Mladen Markač from Provisional Release" of 4 January 2008.

Word Count: 48

Dated: 18 January 2008

Respectfully submitted,



Mr. Goran Mikuličić
Counsel for Mladen Markač

IT-01-42-A
A 1751-A 1750
15 September 2006

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KB.

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 Andrézia Vaz
Judge Theodor Meron
Judge Wolfgang Schomburg

Registrar: Mr. Hans Holthuis

Date Filed: 15 September 2006

THE PROSECUTOR

v.

PAVLE STRUGAR

WITHDRAWAL OF PROSECUTION'S APPEAL AGAINST THE JUDGEMENT
OF TRIAL CHAMBER II DATED 31 JANUARY 2005

The Office of the Prosecutor:

Ms. Carla Del Ponte
Ms. Helen Brady

Counsel for Defence

Mr. Goran Rodić
Mr. Vladimir Petrović

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

Case No. IT-01-42-A

THE PROSECUTOR


v.

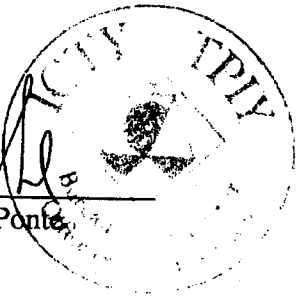
PAVLE STRUGAR

WITHDRAWAL OF PROSECUTION'S APPEAL AGAINST THE JUDGEMENT
OF TRIAL CHAMBER II DATED 31 JANUARY 2005

1. The Prosecution hereby notifies the Appeals Chamber and the respondent Pavle Strugar of the withdrawal of its appeal against the Judgement of Trial Chamber II dated 31 January 2005.¹ The Prosecution's appeal is contained in the Notice of Appeal dated 2 March 2005² and the Prosecution's Appellant's Brief dated 17 May 2005.³
2. On the basis that Pavle Strugar has withdrawn his appeal against the Judgement, the Prosecution hereby withdraws its own appeal in this case. This withdrawal is based on the exceptional humanitarian circumstances pertaining to Pavle Strugar, in particular his advanced age, poor state of health and general condition.

Word count: 102 words


Carla Del Ponte
Prosecutor



Dated this 15th day of September 2006
At The Hague, The Netherlands

¹ RP D 5836 to D 5606.

² RP A 49 to A 45.

³ RP A 158 to A 70.

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

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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.

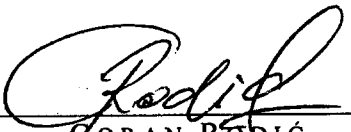
² The aforesaid can be seen through adequate evidence contained in the case.

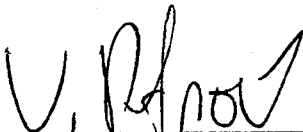
³ Transcript from status conference held on the 31st of August 2006, p. 61, lines 17 – 25.

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

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

ANNEX

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

7-01-42-A

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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

T-01-42-A

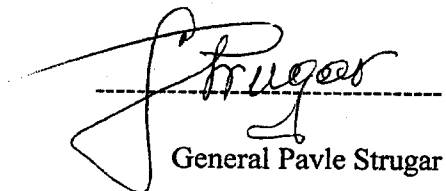
1742

Na Presudu Pretresnog veka Medjunarodnog Tribunala za bivsu Jugoslaviju od 31.01.2005. godine kojom sam oglasen krivim i osudjen na kaznu zatvora u trajanju od 8 godina, ulozio sam najavu zalbe dana 02.03.2005., te zalbeni podnesak dana 08.07.2005. godine.

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

Ovim takodje potvrđujem da sam upoznat sa svim pravnim posledicama moje odluke iz prethodnog stava, ukljucujuci i cinjenicu da nakon povlacenja zalbe ne postoji pravna mogucnost da se presuda kojom sam osudjen ponovno razmatra u zalbenom postupku, i ukine ili preinaci u moju korist.

U Hagu, 15.09.2006. godine



General Pavle Strugar