



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-95-14-T

Date: 17 June 1999

English
Original: French

IN THE TRIAL CHAMBER

Before: Judge Claude Jorda, Presiding
Judge Mohamed Shahabuddeen
Judge Almiro Simões Rodrigues

Registrar: Mr. Jean-Jacques Heintz, Deputy Registrar

Decision of: 17 June 1999

THE PROSECUTOR

v.

TIHOMIR BLAŠKIĆ

**ORDER RELATIVE TO THE TESTIMONY
OF GENERAL MILIVOJ PETKOVIĆ**

The Office of the Prosecutor:

Mr. Mark Harmon
Mr. Andrew Cayley
Mr Gregory Kehoe

Defence Counsel:

Mr. Anto Nobile
Mr Russell Hayman

TRIAL CHAMBER I 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 (hereinafter “the Tribunal”),

NOTING the correspondence from the Deputy Minister of Justice and the Head of the Office for Co-operation with the Tribunal of the Government of the Republic of Croatia sent on 1 June 1999 (hereinafter “the correspondence”),

PURSUANT to the Decision of Trial Chamber I in respect of the appearance of General Milivoj Petković (hereinafter “the Witness”) rendered on 25 March 1999 (hereinafter “the Decision of 25 March 1999”),

PURSUANT to the Order of Trial Chamber I of 21 May 1999 summoning General Milivoj Petković as a witness of the Trial Chamber (hereinafter “the Order of 21 May 1999”),

PURSUANT to Articles 20 and 22 of the Statute and Rules 54, 69, 75, 79 and 90 of the Rules of Procedure and Evidence (hereinafter “the Rules”),

CONSIDERING that, through its correspondence, the Republic of Croatia requests that the testimony of General Petković be heard via video-link from Croatia; that, in this respect, it refers to the current situation in the territory of the former Yugoslavia and the key command position of General Petković on the border between Croatia and the Federal Republic of Yugoslavia,

CONSIDERING that the Republic of Croatia requests moreover that General Petković enjoy all protective measures available to the Tribunal,

CONSIDERING that, in its Decision of 25 March 1999, the Trial Chamber states the “need to ensure, if necessary, the protection of the witnesses for their appearance before the Tribunal”,

CONSIDERING that Rule 75 of the Rules expressly provides that the Judges may order “appropriate measures for the privacy and protection of victims and witnesses”,

CONSIDERING that in accordance with Rule 90(A) of the Rules “witnesses shall, in principle, be heard directly by the Chambers [...]”,

CONSIDERING moreover that, pursuant to that same Rule, a video-link testimony may be authorised only in exceptional circumstances or in the interests of justice,

CONSIDERING that the Trial Chamber must evaluate the reasons why the Witness is not in a position to appear before the Tribunal or refuses to appear before it; that in the present case, it considers that the reasons provided by the Republic of Croatia are such as to justify the Witness’ being authorised to testify from a distance,

CONSIDERING that any request for additional protective measures for the Witness must be provided in a reasoned application and must specify the nature of the measures requested; that, in the present case, no other specific measure has in fact been requested other than that a representative of the Croatian Ministry of Defence and Counsel for the Republic of Croatia be permitted to be present during his testimony,

CONSIDERING that the procedure used during the video-link testimony of a Trial Chamber witness is identical in all aspects to that of testimony given in person,

FOR THE FOREGOING REASONS,

AUTHORISES General Petković to testify via video-link from Zagreb,

STATES that the video-link testimony shall take place on 23 June 1999 at 10.00 hours,

STATES that the Witness will be heard from premises specially fitted out for this purpose and of whose exact location he will be informed in good time and **ORDERS** that no person other than the Witness and the members of the Registry of the Tribunal shall be present in the aforementioned premises during the testimony,

AUTHORISES a representative of the Government of the Republic of Croatia (in the case in point, Commander Stipan Udiljak) and Counsel for that Government to be present before the Trial Chamber, at the seat of the Tribunal, and to address it, if necessary, in the absence of the parties, in order to present any reasoned request which they deem preserves the higher interests which they have been assigned to protect,

STATES that, in accordance with the Order of 21 May 1999, the testimony must, *inter alia*, cover,

1) the organisation and the structure of the HVO forces (in particular their deployment on the ground, their assets as compared with those of the Army of Bosnia and Herzegovina and their communications systems as well as the operations of the channels of authority: the chain, or chains, of command and in particular the determination of the operative zones, the authority of military commanders or of civilian officials over the military, military police, paramilitary and other armed forces in the region as well as any role played by the political leaders in this respect and the disciplinary procedures),

2) the principal subjects of the meetings in which the Witness participated and, if necessary, communications, attitudes, proposals or other matters raised during those meetings, in particular, by the accused or his representatives, as well as the correspondence or discussions between the accused and the Witness, in particular in the following areas: a) inquiries into the crimes perpetrated *inter alia* at Ahmići (and, within this context, the meeting of 30 April 1993 at Vitez and the report sent by the accused to the Witness on 24 April 1993); b)

incidents pitting the members of the HVO and the army of Bosnia and Herzegovina against each other during the conflict in the Central Bosnian zone (and in particular the fighting at the explosives factory in Vitez); c) arrangement, organisation, implementation, respect and application of the cease-fires; d) displacements of populations, status of the refugees, exchange of prisoners;

3) the Witness' perception of the accused's character both professionally and personally,

STATES that, pursuant to the Order of 21 May 1999, the Witness shall first make a spontaneous statement not to exceed one hour and fifteen minutes, insofar as is possible; that, although he may make use of notes, he may not read a pre-prepared statement; that the parties shall each have approximately 45 minutes to ask their questions, the scope of which must be limited to the initial testimony of the Witness; that, lastly, the Witness may bring it to the attention of the Judges that requested information is, in whole or in part, confidential,

STATES that the testimony shall be given under the supervision of the Trial Chamber, which reserves the right to rule on any possible dispute,

INVITES the Registrar to take all the necessary measures to execute this Order; in particular, the Registrar or her representative shall ensure that the Witnesses has been properly identified, shall explain the procedures to him, shall verify that the Witness has taken an oath and shall, at all times, keep the Trial Chamber informed of the conditions in the premises.

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

Done this seventeenth day of June 1999,
At The Hague,
The Netherlands.

(signed)

Claude Jorda,
Presiding Judge, Trial Chamber I

(Seal of the Tribunal)