



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-96-23/2-PT  
Date: 5 October 2004  
Original: English

**THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL**

**Before: Judge Theodor Meron, President**

**Registrar: Mr. Hans Holthuis**

**Order of: 5 October 2004**

**THE PROSECUTOR**

**v.**

**Radovan STANKOVIĆ**

**ORDER TRANSFERRING A MOTION PURSUANT TO RULE 11bis**

**The Office of the Prosecutor**

Carla Del Ponte, Prosecutor  
Jan Wubben, Senior Trial Attorney

**Counsel for the Defence:**

Milenko Radović

1. On 21 September 2004, the Prosecutor filed a motion pursuant to Rule 11bis (A) of the Rules of Procedure and Evidence (“Rules”) requesting that I appoint a Trial Chamber to review a motion for the purpose of referring this case to the authorities of Bosnia and Herzegovina.<sup>1</sup> In the substantive filing that accompanied the motion, the Prosecution indicated her intention to seek transfer to the Special War Crimes Chamber of the State Court of Bosnia and Herzegovina.<sup>2</sup>

2. On 27 September 2004, I issued a Preliminary Order in response to the Prosecutor’s request.<sup>3</sup> In that Preliminary Order, I noted that upon my recent receipt of a similar 11 bis motion in *Prosecutor v. Mejakić et al*, No. IT-02-65-PT, I had asked the Prosecutor to respond to the possibility that Bosnia and Herzegovina “might not be prepared to receive 11 bis transfers at the present time.”<sup>4</sup> I therefore declared my intention to postpone my ruling in the present case until I received the prosecution’s supplementary motion in *Mejakić*.

3. On 29 September 2004, the Prosecutor filed her Response to my Preliminary Order in *Mejakić*.<sup>5</sup> In her Response, the Prosecutor states that as it is expected that the Special War Crimes Chamber of the Bosnia and Herzegovina State Court will be operational in January 2005, it is not premature for a Trial Chamber to consider the substantive motion, and there are good reasons of “coherent planning and efficient judicial management, both at the Tribunal and in BiH,” for a Trial Chamber doing so.<sup>6</sup>

4. In light of the Response of the Prosecutor, and the issues she raises I have determined to transfer the Motion to the same Trial Chamber that was constituted for the *Mejakić* case in my Order of 4 October 2004.<sup>7</sup>

<sup>1</sup> Motion by the the Prosecutor under Rule 11bis of Rules of Procedure and Evidence for Referral of Indictment to Another Court, 21 September 2004 (“Motion”).

<sup>2</sup> Request by the Prosecutor under Rule 11bis of the Rules of Procedure and Evidence (RPE) for Referral of the Indictment to the State of Bosnia and Herzegovina, Partly Confidential (Confidential Annexes II and III), 21 September 2004, par 1.

<sup>3</sup> Preliminary Order In Response to the Prosecutor’s Request Under Rule 11bis, 27 September 2004 (“Preliminary Order”).

<sup>4</sup> Preliminary Order, para. 3.

<sup>5</sup> Supplementary Motion by the Prosecutor Under Rule 11bis, *Prosecutor v. Mejakić et al*, No. IT-02-65-PT, 29 September 2004 (“Response”).

<sup>6</sup> Response, pars 8, 10.

<sup>7</sup> Order Appointing a Trial Chamber For the Purpose of Determining Whether the Indictment Should be Referred to Another Court Under Rule 11bis, 4 October 2004.

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

Dated this 5<sup>th</sup> day of October 2004,  
At The Hague,  
The Netherlands.



Judge Theodor Meron  
President

[Seal of the Tribunal]