



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-98-29/1-T
Date: 14 March 2007
Original: English

IN TRIAL CHAMBER III

Before: Judge Patrick Robinson, Presiding
Judge Antoine Kesia-Mbe Mindua
Judge Frederik Harhoff

Registrar: Mr. Hans Holthuis

Decision of: 14 March 2007

PROSECUTOR

v.

DRAGOMIR MILOŠEVIĆ

DECISION ON EXPERT REPORTS

The Office of the Prosecutor:

Mr. Alex Whiting
Mr. Stefan Waespi
Ms. Carolyn Edgerton
Mr. John Docherty

Counsel for the Accused:

Mr. Branislav Tapušković
Ms. Branislava Isailović

TRIAL CHAMBER III (“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 “Prosecution Notice of Rule 94 *bis* Disclosure of Expert Report of Richard J. Higgs”, filed on 13 February 2007 and “Prosecution Notification of Rule 94 *bis* Disclosure of Expert Report of First Lieutenant Patrick J. van der Wijden [*sic*]” filed confidentially on 13 February 2007;

NOTING the “Defence Response Following Disclosure of Richard J. Higgs Expert Report”, filed on 5 March 2007, in which the Defence states that it wants to cross-examine Richard Higgs;

NOTING the “Defence Response Following Disclosure of Patrick J. van der Wijden’s [*sic*]Expert Report”, filed on 5 March 2007, in which the Defence states that it wants to cross-examine Patrick van der Weijden;

RECALLING the Trial Chamber’s “Decision on Admission of Expert Report of Robert Donia” filed on 15 February 2007, in which there is an analysis by the Trial Chamber of the case law of the Tribunal regarding the admission of expert reports;

CONSIDERING that the information contained in the Report by Richard Higgs concerning his professional career demonstrates the qualifications and knowledge of Richard Higgs pertaining to mortars and that Richard Higgs can therefore be considered an expert within the meaning of Rule 94 *bis* of the Rules of Procedure and Evidence (“Rules”);

CONSIDERING that the *curriculum vitae* of Patrick van der Weijden, as attached to his Report, demonstrates his qualifications and knowledge pertaining to sniping and that Patrick van der Weijden can therefore be considered an expert within the meaning of Rule 94 *bis*;

CONSIDERING that the contents of both Reports fall within the expertise of Richard Higgs and Patrick van der Weijden, respectively, and that reliability of the Reports is strengthened by the information about the sources used by the experts and detailed references to these sources;

FURTHER CONSIDERING that the Reports are relevant to the instant case and have probative value;

FOR THE FOREGOING REASONS,**PURSUANT TO** Rules 89(C) and 94 *bis* of the Rules,**ORDERS** as follows:

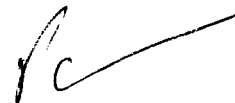
1. The expert report of Richard Higgs is admitted into evidence pursuant to Rule 94 *bis*;
2. Richard Higgs is permitted to appear as an expert witness for the Prosecution;
3. If the Prosecution wishes to lead evidence from Richard Higgs during examination-in-chief, such examination shall not exceed one and a half hours;
4. Should the Prosecution not wish to lead evidence-in-chief from Richard Higgs, the Prosecution shall ensure that he is available to the Defence for cross-examination;
5. Any cross-examination of Richard Higgs shall not exceed two and a half hours;

AND ORDERS as follows:

1. The expert report of Patrick van der Weijden is admitted into evidence pursuant to Rule 94 *bis* of the Rules;
2. Patrick van der Weijden is permitted to appear as an expert witness for the Prosecution;
3. If the Prosecution wishes to lead evidence from Patrick van der Weijden during examination-in-chief, such examination shall not exceed one and a half hours;
4. Should the Prosecution not wish to lead evidence-in-chief from Patrick van der Weijden, the Prosecution shall ensure that he is available to the Defence for cross-examination;
5. Any cross-examination of Patrick van der Weijden shall not exceed two and a half hours.

The Trial Chamber requests the Registry to assign an exhibit number to the Report by Richard Higgs and to the Report by Patrick van der Weijden.

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



Judge Patrick Robinson
Presiding

Dated this fourteenth day of March 2007

At The Hague

The Netherlands

[Seal of the Tribunal]