



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-03-67-T  
Date: 10 March 2008  
Original: ENGLISH  
French

**IN TRIAL CHAMBER III**

**Before:** Judge Jean-Claude Antonetti, presiding  
Judge Frederik Harhoff  
Judge Flavia Lattanzi

**Registrar:** Mr Hans Holthuis

**Decision of:** 10 March 2008

**THE PROSECUTOR**

v.

**VOJISLAV ŠEŠELJ**

***PUBLIC DOCUMENT***

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**DECISION ON THE EVIDENCE OF WITNESS VILIM KARLOVIĆ  
PURSUANT TO RULE 92 *TER* OF THE RULES OF PROCEDURE AND  
EVIDENCE**

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**The Office of the Prosecutor**

Mr Daryl Mundis

**The Accused**

Mr Vojislav Šešelj

**TRIAL CHAMBER III** (“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”);

**SEIZED** of the oral motion by the Office of the Prosecutor (“Prosecution”) presented on 6 March 2008 (“Motion”) to hear Witness Viliam Karlović according to the procedure provided in Rule 92 *ter* of the Rules of Procedure and Evidence of the Tribunal (“Rules”);<sup>1</sup>

**NOTING** Rule 92 *ter* of the Rules;

**CONSIDERING** that in the Decision on the Prosecution's Consolidated Motion pursuant to Rules 89 (F), 92 *bis*, 92 *ter* and 92 *quater* of the Rules of Procedure and Evidence, rendered confidentially by the Chamber on 7 January 2008 (“First Decision”), the Chamber (i) set out the admissibility criteria concerning Prosecution requests for the admission of transcripts of evidence and of statements in other cases,<sup>2</sup> and (ii) denied the admission of transcripts of evidence, in particular for Witness Viliam Karlović, because of a demonstrated lack of relevance and in view of their volume;<sup>3</sup>

**CONSIDERING** that the Accused has reiterated on several occasions his objection in principle to the application of Rule 92 *ter* of the Rules;<sup>4</sup>

**CONSIDERING** that in the First Decision the Chamber held that

if the Prosecution were to file [a motion tailored specifically to the requirements of the case against the Accused], the Chamber would then analyse it in the light of the above criteria, notably its relevance, in particular, taking into consideration, if need be, the response by the Accused within a 14-day time-limit running from his reception of the BCS translation of the motion and all the statements, both new and old, for which admission is requested;<sup>5</sup>

<sup>1</sup> Hearing of 6 March 2008, Transcript in French (“T(F)”) 4650.

<sup>2</sup> Decision on the Prosecution's Consolidated Motion pursuant to Rules 89 (F), 92 *bis*, 92 *ter* and 92 *quater* of the Rules of Procedure and Evidence (“First Decision”), 7 January 2008, paras. 46-51.

<sup>3</sup> First Decision, para. 52.

<sup>4</sup> See in particular the hearing of 6 March 2008, T(F) 4645.

<sup>5</sup> First Decision, paras. 53, 54.

**CONSIDERING** that the Chamber is not satisfied that Vilim Karlović's new statement, which the Prosecution disclosed to it on 6 March 2008,<sup>6</sup> meets the criteria set out in the First Decision since it deals with fundamental issues raised in the Indictment on which the Chamber will be required to rule<sup>7</sup> and on which, to date, no *viva voce* witness has been heard by the Chamber;

**FOR THESE REASONS**

**IN ACCORDANCE** with Rules 54 and 92 *ter* of the Rules;

**DENIES** the motion and **ORDERS** that Witness Vilim Karlović appear *viva voce*.

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

/signed/

Jean-Claude Antonetti  
Presiding Judge

Done this tenth day of March 2008  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

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<sup>6</sup> Hearing of 6 March 2008, T(F) 4650.

<sup>7</sup> See in particular the Statement of 5 March 2008, paras. 11, 15, 19, 35, 43-46, 51, 53, 58, 69-70, 86, 90, 95, 98-99, 108.