



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-04-74-T  
Date: 5 June 2008  
Original: ENGLISH  
French

**IN TRIAL CHAMBER III**

**Before:** Judge Jean-Claude Antonetti  
Judge Árpád Prandler  
Judge Stefan Trechsel  
Reserve Judge Antoine Kesia-Mbe Mindua

**Registrar:** Mr Hans Holthuis

**Decision of:** 5 June 2008

**THE PROSECUTOR**

**v.**

**Jadranko PRLIĆ  
Bruno STOJIĆ  
Slobodan PRALJAK  
Milivoj PETKOVIĆ  
Valentin ĆORIĆ  
Berislav PUŠIĆ**

***PUBLIC***

**DECISION REGARDING QUESTIONS ASKED BY THE JUDGES DURING  
THE EXAMINATION OF A WITNESS IN COURT**

**The Office of the Prosecutor:**

Mr Kenneth Scott  
Mr Douglas Stringer

**Counsel for the Accused:**

Mr Michael Karnavas and Ms Suzana Tomanović for Jadranko Prlić  
Ms Senka Nožica and Mr Karim A. A. Khan for Bruno Stojić  
Mr Božidar Kovačić and Ms Nika Pinter for Slobodan Praljak  
Ms Vesna Alaburić and Mr Nicholas Stewart for Milivoj Petković  
Ms Dijana Tomašegović-Tomić and Mr Dražen Plavec for Valentin Ćorić  
Mr Fahrudin Ibrišimović and Mr Roger Sahota for Berislav Pušić

**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 a motion for clarification of the Chamber’s practice in relation to the mode of questions put to witnesses by the Judges of the Chamber during the direct or cross-examination by the Parties, presented by the Office of the Prosecutor (“Prosecution”) during the hearing of 29 May 2008 (“Motion”),<sup>1</sup>

**CONSIDERING** that Counsel for the Accused Stojić and Petković (“Stojić and Petković Defences”) joined the Motion,<sup>2</sup>

**NOTING** the “Decision on the Mode of Interrogating Witnesses”, rendered by the Chamber on 10 May 2007 (“Decision of 10 May 2007”), in which the Chamber took note of the remarks of the parties related to the mode of examining witnesses, while recalling that under Rules 85 (B), 90 (F) and (H) of the Rules of Procedure and Evidence (“Rules”), a Judge may at any stage put any question to a witness,<sup>3</sup>

**CONSIDERING** that in support of the Motion, the Prosecution argues in particular that the long and frequent interventions by the Judges affect the very quality of the examination of a witness by the parties,<sup>4</sup>

**CONSIDERING** that the Prosecution as well as the Stojić and Petković Defences have proposed to the Chamber that it wait for each party respectively to complete its examination of the witness before it puts questions to that witness,<sup>5</sup>

**CONSIDERING** that the Chamber, having analyzed the arguments of the parties, first decides to maintain the Decision of 10 May 2007,

**CONSIDERING** that, this being the case, in order to allow the parties to conduct the examination of witnesses effectively, the Judges may put their questions to the witness after each party has finished the direct or cross-examination of the witness,

<sup>1</sup> Transcript in French (“T(F)”) pp. 28793 and 28794.

<sup>2</sup> T(F) pp. 28794 and 28795.

<sup>3</sup> Decision of 10 May 2007, pp. 3 and 5.

<sup>4</sup> T(F) p. 28794.

<sup>5</sup> T(F) pp. 28793 and 28795.

**CONSIDERING** nonetheless that the Chamber recalls that pursuant to Rule 85 (B) of the Rules, the Judges are entitled to ask questions at any stage,

**CONSIDERING** in particular that in the interests of judicial economy, the Judges will not wait for the end of the examination of a witness by a party if they wish to question a witness about a document; they will do so at the time that the document is discussed in court,

**FOR THESE REASONS,**

**IN ACCORDANCE** with Rules 85(B), 90 (F) and (H) of the Rules,

**MAINTAINS** the Decision of 10 May 2007,

**DECIDES** that the Judges will put their questions to the witnesses in court in the manner described in this decision.

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

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Jean-Claude Antonetti  
Presiding Judge

Done this fifth day of June 2008  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**