



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: 21 November 2008
Original: ENGLISH
French

IN TRIAL CHAMBER III

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

Registrar: Mr Hans Holthuis

Order of: 21 November 2008

THE PROSECUTOR

v.

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

PUBLIC

**ORDER ON MODALITIES OF THE TESTIMONY OF EXPERT WITNESS
SVETLANA RADOVANOVIĆ**

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 the partly confidential “Prosecution’s Motion Seeking One Additional Hour for the Cross-Examination of Defence Expert Witness Svetlana Radovanović”, filed by the Office of the Prosecutor (“Prosecution”) on 18 November 2008 (“Prosecution Motion”), in which the Prosecution requests the Chamber to grant it three hours to cross-examine Expert Witness Svetlana Radovanović during her appearance,

SEIZED of “Jadranko Prlić’s Motion to Add Exhibits to the Rule 65 *ter* Exhibit List” filed confidentially by Counsel for the Prlić Defence (“Prlić Defence”) on 10 November 2008 (“Prlić Defence Motion”) in which the Prlić Defence requests leave of the Chamber to add five documents¹ (“Proposed Exhibits”) to its list of exhibits filed pursuant to Rule 65 *ter* of the Rules of Procedure and Evidence (“65 *ter* List”) that were used by Witness Svetlana Radovanović in the preparation of her demographic expert report,

NOTING the demographic expert report (“Jadranko Prlić’s submission of the expert report of Svetlana Radovanović”) filed by the Prlić Defence on 20 October 2008 in accordance with Rule 94 *bis* (A) of the Rules of Procedure and Evidence (“Rules”),

NOTING the Oral Decision rendered by the Chamber on 4 November 2008 in which it scheduled the beginning of the possible testimony of Svetlana Radovanović for 24 November 2008,²

NOTING the schedule of witnesses for the Prlić Defence dated 10 November 2008 which indicates that the Prlić Defence plans to examine Svetlana Radovanović for two hours,³

¹ 1D 03999, 1D 03100, 1D 03101, 1D 03102 and 1D 03103.

² Oral Decision regarding the appearance of Prlić Defence expert witness Svetlana Radovanović, 4 November 2008, Transcript in French, p. 34170.

³ Schedule of witnesses for the Prlić Defence sent by email to the Chamber on 11 October 2008.

NOTING the notices by Counsel for the Petković Defence (“Petković Defence”), Praljak Defence (“Praljak Defence”) and Prosecution, filed with the Registry in accordance with Rule 94 *bis* (B) of the Rules on 30 October⁴ and 6⁵ and 13 November 2008,⁶ respectively, informing the Chamber of their intention to cross-examine Witness Svetlana Radovanović,

CONSIDERING that Counsel for the Accused Stojić, Ćorić and Pušić did not file any notice informing the Chamber of their intention to cross-examine Witness Svetlana Radovanović,

CONSIDERING that the Chamber hereby decides to render a decision jointly on the Prosecution Motion and Prlić Defence Motion since both of these motions concern Witness Svetlana Radovanović,

CONSIDERING that in anticipation of Witness Svetlana Radovanović’s appearance, the Chamber must first make a determination as to the expert status of the said witness, whose appearance is scheduled for 24 to 27 November 2008,

CONSIDERING that the Chamber may rule on the Prosecution Motion and on the Prlić Defence Motion only after this determination has been made,

CONSIDERING that as regards the expert status of Witness Svetlana Radovanović, the Chamber notes that the Prosecution does not take a position on this issue in its Notice,

CONSIDERING that after reviewing the expert report and the *curriculum vitae* of Svetlana Radovanović, attached in the annex to the report, the Chamber considers that Svetlana Radovanović is *prima facie* qualified to testify as an expert on demographic issues in Bosnia and Herzegovina and to give an opinion on the expert conclusions provided by Expert Witness Ewa Tabeau, who appeared before the Chamber on 23 and 30 August 2007 as a witness for the Prosecution,

⁴ Notice by Milivoj Petković in Relation to the Prlić Defence Expert Witness Svetlana Radovanović, 30 October 2008, (“Petković Notice”).

⁵ Slobodan Praljak’s Notice of Intent to Cross-examine Jadranko Prlić’s Expert Witness Milan Civkl, Jadranko Prlić’s Expert Witness Svetlana Radovanović, and Bruno Stojić’s Expert Witness Dr. Davor Marjan, 6 November 2008, (“Praljak Notice”).

⁶ Prosecution Notice pursuant to Rule 94 *bis* (B) regarding Accused Prlić’s Expert Witness Svetlana Radovanović, (“Prosecution Notice”) 13 November 2008.

CONSIDERING that as a result Witness Svetlana Radovanović is authorized to appear as an expert and that the Prlić Defence shall have two hours to conduct its direct examination and possible re-examination,

CONSIDERING that in the Prosecution Motion it is indicated that the Prosecution requests leave of the Chamber to cross-examine Witness Svetlana Radovanović for three hours,⁷

CONSIDERING that on 19 November 2008, the Chamber's legal officer sent an email on behalf of the Chamber to the Defence teams asking them whether they intended to file a response to the Prosecution Motion and, where appropriate, to file it before 20 November 2008,

CONSIDERING that none of the Defence teams filed a response,

CONSIDERING that in support of the Prosecution Motion, the Prosecution alleges that because Svetlana Radovanović's expert report is 39 pages long, it will need three hours to carry out its cross-examination,

CONSIDERING that the Chamber holds that the witness is not a factual but rather expert witness; that the content of the demographic expert report is relevant to the case, in particular as regards the testimony of Ewa Tabeau and that, consequently, the Prosecution needs sufficient time to carry out its cross-examination,

CONSIDERING that the Chamber therefore grants the Prosecution three hours to conduct its cross-examination,

CONSIDERING that with respect to the cross-examination to be carried out by the Praljak and Petković Defences, the Chamber assumes that, in the absence of any specific and reasoned request, it is appropriate to follow the Chamber's practice which is to grant the Defence teams, for their cross-examination, half of the time allocated for the direct examination,

CONSIDERING that the Chamber therefore decides that the Praljak and Petković Defence teams will have one hour to share among themselves,

⁷ Prosecution Motion, para. 1.

CONSIDERING furthermore that in the Prlić Defence Motion, the Prlić Defence requests leave of the Chamber to add the Proposed Exhibits to its 65 *ter* List,

CONSIDERING that in an email of 20 November 2008 the Prosecution informed the Chamber that it did not intend to file a response to the Prlić Defence Motion,

CONSIDERING that Counsel for the other Defence teams did not file a response to the Prlić Defence Motion,

CONSIDERING that in its Motion the Prlić Defence submits that the Proposed Exhibits are an integral part of the expert report prepared by Svetlana Radovanović in October 2008 and that they were disclosed to the Parties on 29 October and 6 November 2008,

CONSIDERING that the Chamber finds that the Proposed Exhibits are *prima facie* relevant and have some probative value,

CONSIDERING that the Chamber further holds that the fact that the Proposed Exhibits were used in preparing Svetlana Radovanović's expert report necessitates their addition to the 65 *ter* List,

CONSIDERING that the Chamber therefore finds that it is in the interests of justice to add them to the 65 *ter* List,

FOR THESE REASONS,

IN ACCORDANCE with Rules 65 *ter*, 89 (C), 90 (F) and 94 *bis* of the Rules,

DECIDES to join the Prosecution Motion and the Prlić Defence Motion,

DECIDES that Witness Svetlana Radovanović shall appear before the Chamber as an expert witness from 24 to 27 November 2008,

DECIDES that the Prlić Defence shall have two hours to conduct its direct examination and possible re-examination of Witness Svetlana Radovanović,

GRANTS the Prosecution Motion and grants the Prosecution three hours to cross-examine Witness Svetlana Radovanović,

DECIDES that together the Petković and Praljak Defence teams shall have one hour to cross-examine Witness Svetlana Radovanović, **AND**

GRANTS the Prlić Defence Motion and grants it leave to add Exhibits 1D 03099, 1D 03100, 1D 03101, 1D 03102 and 1D 03103 to the 65 *ter* List.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-first day of November 2008
At The Hague
The Netherlands

[Seal of the Tribunal]