



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: 14 December 2009
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 John Hocking

Order of: 14 December 2009

THE PROSECUTOR

v.

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

PUBLIC

**ORDER ON URGENT DEADLINE FOR FILING THE REPORT OF AN
EXPERT WITNESS FOR THE CHAMBER**

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”);

PROPRIO MOTU,

NOTING the “Order for the Production of Additional Evidence and for the Appointment of an Expert Witness for the Chamber” rendered *proprio motu* publicly by the Chamber on 9 September 2008 (“Decision of 9 September 2008”), wherein the Chamber ordered, pursuant to Rules 54, 94 *bis* and 98 of the Rules of Procedure and Evidence (“Rules”), the appointment of an expert entrusted with drawing up a report to enlighten the Chamber as to the authenticity of the videotape marked as IC 00820 from the television channel ORF 2 (“Videotape 1”), as well as the videotape marked as IC 00821 from the television channel RTV Mostar (*Radio Televizija Mostar*),

NOTING the letter from the Registry of the Tribunal (“Registry”) of 15 October 2008 appointing Dr Heinrich Pichler as an expert (“Expert”) in accordance with the Decision of 9 September 2008,

NOTING the interim report of the Expert of 15 January 2009 (“Interim Report”),

NOTING the email from the Registry of 21 April 2009 informing the Chamber that the television channel RTV Mostar did not submit the original and unaltered video material of Videotape 2 necessary for the Expert to be able to analyse its authenticity,

NOTING the “Request for Assistance to the Republic of Bosnia and Herzegovina” rendered *proprio motu* publicly by the Chamber on 7 May 2009, wherein, in application of Article 29 (2) of the Statute of the Tribunal and Rules 33 (A) and 54 of the Rules, the Chamber sought the assistance of the authorities of the Federation of Bosnia and Herzegovina in obtaining the original and unaltered video material of Videotape 2 from RTV Mostar,

NOTING the confidential letter from the Embassy of Bosnia and Herzegovina in the Kingdom of the Netherlands of 19 June 2009, filed on 23 June 2009, forwarding a letter from the RTV Mostar of 16 June 2009 in which RTV Mostar indicated that it

was not in possession of the original and unaltered video material of Videotape 2 and that the material was no longer available,

NOTING the “Second Request for Assistance to the Federation of Bosnia and Herzegovina” rendered *proprio motu* publicly by the Chamber on 15 July 2009 (“Chamber’s Second Request for Assistance”), wherein the Chamber again sought the assistance of the authorities of the Federation of Bosnia and Herzegovina in obtaining additional explanations from RTV Mostar regarding the unavailability of the original and unaltered video material of Videotape 2,

NOTING the letter from the Liaison Officer to the Tribunal of 9 September 2009, filed on 10 September 2009, containing the explanations of RTV Mostar to the Chamber’s Second Request for Assistance, in which RTV Mostar confirms that it is not in possession of the original and unaltered video material of Videotape 2 and that the material is no longer available,

NOTING the confidential letter from the Liaison Officer to the Tribunal of 11 September 2009, filed on 15 September 2009, containing the notes of an interview conducted with an RTV Mostar cameraman concerning the original and unaltered video material of Videotape 2,

NOTING the confidential letter from RTV Mostar of 12 September 2009, filed on 18 September 2009, containing additional explanations to the Chamber’s Second Request for Assistance,

NOTING the email sent from the Registry to the Expert on 18 September 2009, wherein the Registry informs him of the unavailability of the original and unaltered video material of Videotape 2 and transmits to him the Chamber’s instructions for filing his final expert report despite the unavailability of the material,

NOTING the email sent from the Registry to the Expert on 6 October 2009, wherein the Registry transmits the Chamber’s instructions for the Expert to file his final expert report by the end of October 2009 at the latest,

NOTING the reminders sent from the Registry to the Expert on 13 and 20 October 2009, as well as on 11 and 17 November 2009,

CONSIDERING that to date, despite the many reminders from the Registry, the Expert has not filed his final report,

CONSIDERING that the Chamber therefore finds it necessary to notify the Expert, by means of an order, of the time limit for filing his final expert report,

CONSIDERING that, since almost three months have passed between the first email from the Registry on 18 September 2009 requesting the delivery of the final expert report in accordance with the Chamber's instructions and this Order, the Chamber holds that a time limit of a maximum of eight days from the issuance of this Order is sufficient to allow the Expert to deliver his final report and execute the task requested in the Decision of 9 September 2009,

CONSIDERING that, should there be failure to execute this Order within the prescribed time limit, the Chamber will find itself obliged to conclude that the Expert is incapable of executing the task entrusted to him and will take the measures necessary in such circumstances,

FOR THE FOREGOING REASONS,

PURSUANT TO Rules 54, 94 *bis* and 98 of the Rules,

CALLS UPON the Expert to file his final expert report within eight days from the date of this Order, that is, no later than 22 December 2009,

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

/signed/

Judge Jean-Claude Antonetti

Presiding Judge

Done this fourteenth day of December 2009

At The Hague (The Netherlands)

[Seal of the Tribunal]