



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 February 2010
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: 5 February 2010

THE PROSECUTOR

v.

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

PUBLIC

**ORDER FOLLOWING THE FILING OF A REPORT BY 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,

SEIZED of the “Order for the Production of Additional Evidence and for the Appointment of an Expert Witness for the Chamber”, rendered publicly by the Chamber *proprio motu* on 9 September 2008 (“Order of 9 September 2008”), by way of which 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 preparing a report to enlighten the Chamber as to the authenticity of the videotape marked as IC 00820 (“Videotape 1”) from the ORF 2 television channel as well as the videotape marked as IC 00821 (“Videotape 2”) from the RTV Mostar television channel (together “Videotapes”),

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 Order of 9 September 2008,

NOTING the interim report of the Expert of 15 January 2009,

NOTING the “Request for Assistance to the Republic of Bosnia and Herzegovina”, rendered publicly by the Chamber *proprio motu* on 7 May 2009 (“Chamber’s First Request for Assistance”), in which, pursuant to 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 order to obtain the original and unedited video material of Videotape 2¹ from RTV Mostar,

NOTING the confidential letter, dated 19 June 2009, from the Embassy of Bosnia and Herzegovina to the Kingdom of the Netherlands, filed on 23 June 2009, notably forwarding a letter from RTV Mostar of 16 June 2009 in which RTV Mostar indicates

¹ The Chamber notes that in the Chamber’s First Request for Assistance, it erroneously attributed reference number IC 00820 to the videotape from the RTV Mostar television channel and reference number IC 00821 to the videotape from the ORF 2 television channel. In the *ecourt* system, the videotape from the RTV Mostar television channel is marked as IC 00821 and the videotape from the ORF 2 television channel is marked as IC 00820.

that it is not in possession of the original and unedited video material of Videotape 2 and that the material is no longer available,

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

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

NOTING the confidential letter from the Liaison Officer of 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 unedited video material of Videotape 2,

NOTING the confidential letter dated 12 September 2009 from RTV Mostar, filed on 18 September 2009, containing further explanations following the Chamber’s Second Request for Assistance,

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

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

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

NOTING the “Order on Urgent Deadline for Filing the Report of an Expert Witness for the Chamber”, rendered publicly by the Chamber on 14 December 2009, in which the Chamber called upon the Expert to file his final expert report no later than 22 December 2009,

NOTING that the final expert report was filed by the Expert on 22 December 2009 (“Expert Report”),

CONSIDERING that in the Expert Report, the Expert indicates that he was unable to assess the authenticity of Videotape 2 for the reasons set out in his Expert Report,²

CONSIDERING that, on the other hand, the Expert has provided his conclusions on the assessment of the authenticity of Videotape 1,

CONSIDERING that the Chamber recalls that it ordered an expert study on the authenticity of the Videotapes to assist the Chamber in deciding on the admission of the report entitled “Analysis of the Destruction of the Old Bridge According to Accessible Video Tapes”, prepared by Slobodan Janković (“Janković Report”), and based on the Videotapes,³

CONSIDERING that before ruling on the admission of the Janković Report, the Chamber wishes to elicit the observations of the parties on the Expert Report,

CONSIDERING that consequently the Chamber invites the parties to file their observations on the Expert Report within 15 days of this decision, that is 19 February 2010 at the latest,

FOR THE FOREGOING REASONS,

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

² See notably the Expert Report, pp. 2-4.

³ Order of 9 September 2008, p. 3.

INVITES the parties to file their observations on the Expert Report no later than 19 February 2010.

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

/signed/

Judge Jean-Claude Antonetti
Presiding Judge

Done this fifth day of February 2010
At The Hague
The Netherlands

[Seal of the Tribunal]