

**UNITED
NATIONS**



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-09-92-T
Date: 6 April 2016
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Bakone Justice Moloto
Judge Christoph Flügge

Registrar: Mr John Hocking

Decision of: 6 April 2016

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**DECISION ON ZORAN STANKOVIĆ'S EXPERTISE
PURSUANT TO RULE 94 *BIS***

Office of the Prosecutor

Mr Peter McCloskey
Mr Alan Tieger

Counsel for Ratko Mladić

Mr Branko Lukić
Mr Miodrag Stojanović

I. PROCEDURAL HISTORY AND SUBMISSIONS

1. On 16 February 2016, pursuant to Rule 94 *bis* (A) of the Tribunal's Rules of Procedure and Evidence ("Rules"), the Defence provided notice of its disclosure ("First Notice")¹ of an expert report authored by Dr Zoran Stanković, entitled "Forensic Analysis of Reports Relating to the Exhumation of the Tomašica Gravesite, Prijedor, Bosnia – 2013/14" ("First Expert Report").² The Defence seeks admission of the First Expert Report.³

2. On 8 March 2016, pursuant to Rule 94 *bis* (A) of the Rules, the Defence provided notice of its disclosure ("Second Notice")⁴ of a second expert report authored by Dr Zoran Stanković, entitled "Prof. Dr Dušan Dunjić on the Forensic Analysis of the Reports on the Exhumation of Mass Graves From the Srebrenica Area and Eastern Bosnia" ("Second Expert Report").⁵ The Defence requests the Chamber to find that Dr Stanković is an expert in wartime forensic medicine and seeks admission of the Second Expert Report, Stanković's *curriculum vitae*, and the underlying expert report of Dunjić.⁶

3. On 17 March 2016, the Prosecution filed a response to both of the Defence's notices of disclosure ("Response").⁷ The Prosecution submits that it neither challenges the witness's qualifications nor the relevance of the reports, but it does not accept the conclusions of the reports and therefore wishes to cross-examine the witness.⁸

II. APPLICABLE LAW

4. Rule 94 *bis* provides:

(A) The full statement and/or report of any expert witness to be called by a party shall be disclosed within the time-limit prescribed by the Trial Chamber or by the pre-trial Judge.

(B) Within thirty days of disclosure of the statement and/or report of the expert witness, or such other time prescribed by the Trial Chamber or pre-trial Judge, the opposing party shall file a notice indicating whether:

¹ Defence Notice of Disclosure of Expert Report (As To Tomašica) of Zoran Stanković Pursuant to Rule 94*bis*, 16 February 2016.

² Annex A to First Notice.

³ First Notice, para. 21.

⁴ Defence Notice of Disclosure of Dr. Zoran Stanković's Commentary on D. Dušan Dunjić's Forensic Report (As To Srebrenica and Eastern Bosnia), Pursuant to Rule 94*bis*, 8 March 2016.

⁵ Annex B to Second Notice.

⁶ Second Notice, para. 21.

⁷ Prosecution Response to Defence Notice of Disclosure of Expert Reports of Zoran Stanković Pursuant to Rule 94*bis*, 17 March 2016.

⁸ Response, para. 3.

- (i) it accepts the expert witness statement and/or report; or
- (ii) it wishes to cross-examine the expert witness; and
- (iii) it challenges the qualifications of the witness as an expert or the relevance of all or parts of the statement and/or report and, if so, which parts.

(C) If the opposing party accepts the statement and/or report of the expert witness, the statement and/or report may be admitted into evidence by the Trial Chamber without calling the witness to testify in person.

5. The Chamber further recalls and refers to the applicable law set out in a previous decision.⁹

III. DISCUSSION

6. According to his *curriculum vitae*, Stanković has a degree from the Medical Faculty in Niš.¹⁰ He defended his doctoral thesis, “Problems in the Forensic Medical Examination of Bodies in Wartime Conditions”, at the Military Medical Academy where he had previously completed his specialisation in forensic medicine.¹¹ Before becoming the head of the Military Medical Academy in 2002, Stanković worked as a forensic doctor and later served as the head of different departments within its Institute of Pathology and Forensic Medicine.¹² Stanković has lectured across Europe on war victims in the territory of the former Yugoslavia in a variety of academic institutions and public fora.¹³ The Chamber considers that through his education and experience, Stanković has developed a level of specialised knowledge and skill in wartime forensic medicine, qualifying him as an expert in that field. It therefore finds that Stanković can testify as an expert in wartime forensic medicine as it is relevant to the indictment. Based on the foregoing, the Chamber is satisfied that Stanković qualifies as an expert within the meaning of Rule 94 *bis* of the Rules.

7. Given that the Prosecution has requested to cross-examine the witness, the Chamber will defer its decision on the admission into evidence of Stanković’s reports, his *curriculum vitae*, and Dunjić’s report until the conclusion of Stanković’s testimony.

⁹ Decision on Defence Request to Disqualify Richard Butler as an Expert and Bar the Prosecution from Presenting his Reports, 19 October 2012, paras 4-9.

¹⁰ Annex B to First Notice, p. 1; Annex A to Second Notice, p. 1.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

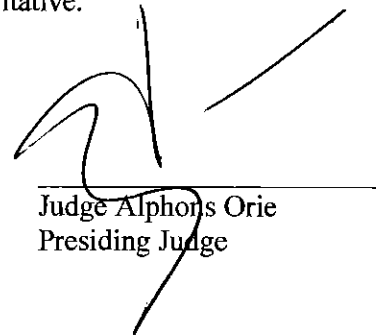
IV. DISPOSITION

8. For the foregoing reasons, and pursuant to Rules 54 and 94 *bis* of the Rules, the Chamber

DECIDES that Zoran Stanković qualifies as an expert under Rule 94 *bis* of the Rules; and

DEFERS its decision on admission into evidence of Stanković's reports, his *curriculum vitae*, and Dunjić's report until the conclusion of Stanković's testimony.

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



Judge Alphons Orié
Presiding Judge

Dated this sixth day of April 2016
At The Hague
The Netherlands

[Seal of the Tribunal]