



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: 31 May 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: 31 May 2016

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

**DECISION ON THE ADMISSION OF ZORAN STANKOVIĆ'S
EXPERT REPORT**

Office of the Prosecutor
Mr Peter McCloskey
Mr Alan Tieger

Counsel for Ratko Mladić
Mr Branko Lukić
Mr Miodrag Stojanović

I. PROCEDURAL HISTORY

1. On 16 February 2016, pursuant to Rule 94 *bis* of the Tribunal's Rules of Procedure and Evidence ("Rules"), the Defence filed a notice of disclosure of an expert report authored by Zoran Stanković, entitled "Forensic Analysis of Reports Relating to the Exhumation of the Tomašica Gravesite, Prijedor, Bosnia – 2013/14", dated 10 December 2015.¹ On 17 March, the Prosecution responded.² On 6 April, the Chamber issued its decision granting Stanković the status of an expert in the field of wartime forensic medicine and deferred its decision on the admission into evidence of his expert report until the conclusion of his testimony.³

2. Stanković testified on 18 through 21 and 25 April 2016.⁴ On 18 April, the witness referred to some handwritten markings he had made on his expert report. Such markings were minimal, concerned corrections of mostly minor errors and were read out by the witness and interpreted in court.⁵ The Prosecution cross-examined the witness on 21 and 25 April.⁶ On 9 and 17 May, the Chamber requested, by email, that the Defence indicate whether it intended to upload a new version of the expert report containing the witness's handwritten annotations and their English translations, but to date, the Chamber has not received a response. In the absence of such response, the Chamber understands that the Defence does not wish to tender the expert report with the handwritten annotations.

II. SUBMISSIONS OF THE PARTIES

3. The Defence submits that Stanković's expert report falls within the scope of his recognized expertise and is relevant and probative.⁷ Specifically, the Defence submits that the report examines the methodology and findings of three expert reports authored by Prosecution expert witness John Clark and will therefore assist the Chamber in analyzing the weight to be given to those reports.⁸ The Prosecution submits that while it does not challenge the relevance of the report, it wishes to cross-examine the witness, as it does not accept the conclusions of the expert report.⁹

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

² Prosecution Response to Defence Notice of Disclosure of Expert Reports of Zoran Stanković Pursuant to Rule 94*bis*, 17 March 2016 ("Response").

³ Decision on Zoran Stanković's Expertise Pursuant to Rule 94 *bis*, 6 April 2016.

⁴ T. 43245-43321, 43323-43402, 43407-43478, 43483-43566, 43568-43624.

⁵ T. 43258-43259.

⁶ T. 43483-43566, 43568-43590.

⁷ Notice, paras 8-9, 13-19.

⁸ Notice, paras 13-14, 18-19.

⁹ Response, para. 3.

III. APPLICABLE LAW

4. The Chamber recalls and refers to the applicable law on the admission of expert evidence as set out in a previous decision.¹⁰

IV. DISCUSSION

5. The Chamber considers that the content of the expert report, which examines the methodology and findings contained in Clark's three expert reports relating to the exhumation of the Tomašica gravesite in Prijedor Municipality in 2013 to 2014,¹¹ falls within the scope of Stanković's recognized expertise in the field of wartime forensic medicine. As the report challenges the conclusions contained in Clark's reports, which relate to Counts 1, 3, and 4 through 6 of the Indictment, the report is relevant to the charges set out in the Municipalities component of the Indictment. Furthermore, as the report was authored by a recognized expert who testified about its methodology and conclusions and provides a list of the sources used by its author, the Chamber finds the report to be of probative value for the purpose of its admission into evidence. Accordingly, the Chamber will admit Stanković's expert report into evidence.

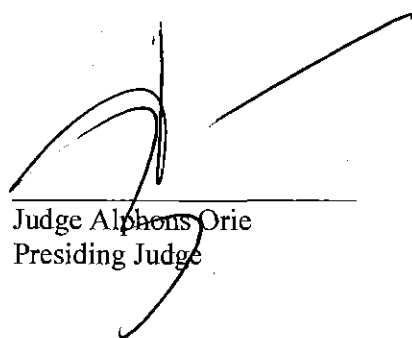
¹⁰ Decision on Defence Request to Disqualify Richard Butler as an Expert and Bar the Prosecution from Presenting His Reports, 19 October 2012, paras 4-9.

¹¹ Exhibits P7443, P7444, and P7445.

V. DISPOSITION

6. For the foregoing reasons, pursuant to Rule 89 (C) of the Rules, the Chamber
ADMITS into evidence Stanković's expert report, marked for identification as D1447.

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



Judge Alphons Orie
Presiding Judge

Dated this Thirty-first day of May 2016
At The Hague
The Netherlands

[Seal of the Tribunal]