

IT-04-81-PT
D 12106 - D 12104
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**UNITED
NATIONS**



International Tribunal for the Prosecution of
Persons Responsible for Serious Violations of
International Humanitarian Law Committed in
the Territory of Former Yugoslavia since 1991

Case No. IT-04-81-PT

Date: 8 July 2008

Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding Judge
Judge Christine Van Den Wyngaert
Judge Bakone Justice Moloto

Registrar: Mr. Hans Holthuis

Order of: 8 July 2008

PROSECUTOR

v.

MOMČILO PERIŠIĆ

PUBLIC

**ORDER FOR THE PROSECUTION TO PROVIDE DOCUMENTS
TO THE DEFENCE IN A LANGUAGE THE ACCUSED
UNDERSTANDS**

The Office of the Prosecutor

Mr. Mark Harmon

Counsel for the Accused

Mr. James Castle
Mr. Novak Lukić

TRIAL CHAMBER I (“Trial 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”);

BEING SEISED OF the “Prosecution’s Motion for Admission of Evidence Pursuant to Rules 89 and 92 *quater* with Confidential Annexes A, B and C”, filed partly confidentially on 1 May 2007 (“Rule 92 *quater* Motion”) whereby the Prosecution seeks the admission of a certain number of written statements, transcripts and associated exhibits (“Documents”) pursuant to Rules 89 and 92 *quater* of the Rules of Procedure and Evidence (“Rules”);

NOTING the “Response to Prosecution’s Motion for Admission of Evidence Pursuant to Rules 89 and 92 *quater* with Annex A and Confidential Annex B”, filed partly confidentially by the Defence on 19 June 2007 (“Response”), whereby the Defence, *inter alia*, objects to the admission of several Documents, identified in Confidential Annex A of its Response, that have not been translated into a language that the Accused understands;¹

NOTING that pursuant to Rule 66(A)(ii) of the Rules, the Prosecutor shall make available to the defence all the transcripts and written statements taken pursuant to Rule 92 *quater*, in a language which the accused understands;

NOTING that in order to fulfil the purpose of disclosure under Rule 66(A)(ii), transcripts may be disclosed in audio format in order to ensure that the material is made available to the accused in a language he understands;²

NOTING the obligation that falls upon the Trial Chamber pursuant to Article 20 of the Statute of the Tribunal, to ensure that the trial is fair and expeditious and that the proceedings are conducted in accordance with the Rules, with full respect for the rights of the accused;

PURSUANT to Article 20 of the Statute and Rules 54, 66, 89 and 92 *quater* of the Rules;

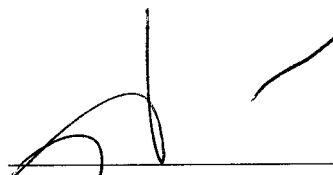
¹ The Defence objects to admission of those proposed portions of transcripts for which the prosecution has provided no B/C/S translation, by reference to the general objections it raised in its “Response to Prosecution’s Motion for Admission of Evidence Pursuant to Rules 92 *bis* and 92 *ter*” filed partly confidentially on 19 June 2007. See Response, para. 17.

² See *Prosecutor v Vojislav Šešelj*, Case No. IT-03-67-PT, Decision on Provision of Previous Testimony in Audio Format, 22 November 2006, para. 15; *Prosecutor v Krajišnik*, Case No. IT-00-39-T, Oral Ruling, T.4993-4999, 30 July 2004; *Prosecutor v Popović et al.*, Case No. IT-05-88-PT, Decision on Joint Defence Motions Requesting the Translation of the Pre-Trial Brief and Specific Motions, 24 May 2006, para. 16.

ORDERS the Prosecution to provide the Defence, by no later than 18 August 2008:

- (i) with the relevant portions of the original BCS audio recordings of testimony, which correspond to the excerpts of transcript of testimony, except for the redacted portions, which lack translation as identified in Confidential Annex A of the Defence Response; and
- (ii) with those witness statements identified in Confidential Annex A of the Defence Response in a language which the Accused understands, where the original audio recording of the interview is not available.

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



Judge Alphons Orie
Presiding Judge

Dated this eighth day of July 2008

At The Hague

The Netherlands

[Seal of the Tribunal]