



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: 9 September 2008  
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 Hans Holthuis

**Order of:** 9 September 2008

**THE PROSECUTOR**

v.

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

***PUBLIC***

**ORDER FOR THE PRODUCTION OF ADDITIONAL EVIDENCE AND FOR  
THE APPOINTMENT 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***

**CONSIDERING** that on 9 May 2008 Counsel for the Accused Praljak (“the Praljak Defence”) requested the leave of the Chamber to admit a report entitled “Analysis of the Destruction of the Old Bridge According to Accessible Video Tapes”, prepared by Slobodan Janković (“the Report”) in accordance with the procedure under Rule 94 *bis* of the Rules of Procedure and Evidence (“the Rules”),<sup>1</sup>

**CONSIDERING** that by Response of 5 June 2008 the Office of the Prosecutor (“the Prosecution”) objected to the admission of the Report, challenged the expert qualifications of Slobodan Janković as well as the relevance of his conclusions, and requested leave, as necessary, to cross-examine this expert in accordance with Rule 94 *bis* (B) of the Rules,<sup>2</sup>

**CONSIDERING** that by oral decision of 16 June 2008 the Chamber held that Slobodan Janković was, *prima facie*, authorized to give expert evidence on the subject matter raised in the Report, but that Slobodan Janković had to appear before the Tribunal, in particular to be cross-examined by the Prosecution,<sup>3</sup>

**CONSIDERING** that Slobodan Janković appeared before the Chamber as an expert witness on 30 June and 1 July 2008,

**CONSIDERING** that during the testimony of Slobodan Janković, some questions, and even doubts, arose as to the authenticity of the videotapes or, at the very least, the chronology of the images broadcast;<sup>4</sup> that the Praljak Defence requests the admission

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<sup>1</sup> Slobodan Praljak’s Submission of the Expert Reports of Slobodan Janković, 9 May 2008, Annex B.

<sup>2</sup> Prosecution’s Notice pursuant to Rule 94 *bis* (B) regarding Accused Praljak’s Expert Witness Slobodan Janković, 5 June 2008, para. 3.

<sup>3</sup> Transcript in French (“T(F)”), pp. 29318-29320.

<sup>4</sup> IC 00823. An interruption in video recording IC 00820 in particular was noted by the Prosecution, the Chamber and the witness himself during his testimony, T(F) pp. 30141-30148 and 30177-30179.

of these videotapes, which were marked as IC 00820 and IC 00821 (“Videotapes”), and form the basis for the Report,<sup>5</sup>

**CONSIDERING** that the Chamber, which is required to rule on the admission of the Report, first feels it necessary to have a clear understanding about the authenticity of the Videotapes which served as the basis for the preparation of the Report,

**CONSIDERING** that in accordance with Rule 54 of the Rules the Chamber may *proprio motu* issue such orders for the production of materials as may be necessary for the purposes of an investigation or the conduct of the trial,

**CONSIDERING** that in accordance with the second sentence of Rule 98 of the Rules, read in conjunction with Rule 94 *bis* of the Rules, the Chamber may *proprio motu* summon expert witnesses,<sup>6</sup>

**CONSIDERING** that for the purposes of an expert opinion on the authenticity of the Videotapes in question, the Chamber considers it necessary to obtain the original video material, that is the unaltered videotape, from the Austrian television station ORF 2, a version of which was marked as IC 00820; as well as the unaltered videotape from the TV Mostar television station, a version of which was marked as IC 00821,<sup>7</sup>

**CONSIDERING** that the establishment of the authenticity of the Videotapes could assist the Chamber in deciding on the admission of the Report,

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<sup>5</sup> IC 00823.

<sup>6</sup> *The Prosecutor v. Milomir Stakić*, Case No. IT-97-24-T, Order pursuant to Rule 98 to Appoint a Forensic Handwriting Examiner, 28 June 2002; *The Prosecutor v. Milomir Stakić*, Case No. IT-97-24-T, Order pursuant to Rule 98 to Appoint a Forensic Document Examiner, 28 June 2002; Confirmed by

**FOR THESE REASONS**

**IN ACCORDANCE WITH** Rules 54, 98 and 94 *bis* of the Rules,

**ORDERS** as follows:

1. The Registrar of the Tribunal shall appoint, after seeking the opinion of the Praljak Defence, an expert tasked with obtaining, as quickly as possible, the additional evidence mentioned in paragraph 2 below and analyzing the authenticity of the Videotapes;
2. With the assistance of the Registrar of the Tribunal, the appointed expert shall contact the ORF 2 and TV Mostar television stations in order to secure the following: (1) the original and unaltered video material, as recorded by the cameras and (2) the videotapes broadcast by the ORF 2 and TV Mostar television stations;
3. The appointed expert shall prepare a report addressing the following questions and instructions:
  - (i) Are the videotapes that were broadcast by the ORF 2 and TV Mostar television stations identical to the original video material as recorded by the cameras and, if not, to which extent were they altered?
  - (ii) Are the Videotapes marked as IC 00820 and IC 00821, which served as the basis for the preparation of the Report, identical to the videotapes broadcast by the ORF 2 and TV Mostar television stations and, if not, to which extent were they altered?
  - (iii) Are the images on each Videotape continuous or discontinuous?
  - (iv) In cases where the images are discontinuous, which images have been deleted and/or added to the Videotapes?
  - (v) In cases where the images have been altered, a detailed, image-by-image description of the alteration in question should be given.

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the Appeals Chamber: *The Prosecutor v. Milomir Stakić*, Case No. IT-97-24-T-A, Judgement, 22 March 2006, paras. 156-158.

<sup>7</sup> IC 00823, 3D 03208; 3D 03209.

4. The expert shall provide his/her report to the Chamber as quickly as possible, and in any case no later than one month after obtaining the video material from the ORF 2 and TV Mostar television stations;

5. The other parties shall file their observations within two weeks following the receipt of the expert's report.

**AND REQUESTS** the Registrar of the Tribunal to keep the Chamber and the Parties informed of the progress of the measures ordered above and to provide the expert report to them as soon as it becomes available.

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

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Jean-Claude Antonetti  
Presiding Judge

Done this ninth day of September 2008  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**