



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 ČORIĆ  
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 Čorić  
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 2<sup>1</sup> 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

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<sup>1</sup> 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,<sup>2</sup>

**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,<sup>3</sup>

**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,

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<sup>2</sup> See notably the Expert Report, pp. 2-4.

<sup>3</sup> 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.

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Judge Jean-Claude Antonetti

Presiding Judge

Done this fifth day of February 2010

At The Hague

The Netherlands

**[Seal of the Tribunal]**